

# NORTH CAROLINA REGISTER

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June 16, 2008

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## **Contact List for Rulemaking Questions or Concerns**

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

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

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(919) 733-0928

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116 West Jones Street

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Raleigh, North Carolina 27603-8005

(919) 733-0640 FAX

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(919) 807-4740

### **Governor's Review**

Reuben Young

reuben.young@ncmail.net

Legal Counsel to the Governor

(919) 733-5811

116 West Jones Street(919)

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### **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

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contact: Karen Cochrane-Brown, Staff Attorney

karenc@ncleg.net

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### **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

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NC League of Municipalities

(919) 715-4000

215 North Dawson Street

Raleigh, North Carolina 27603

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**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2008 – December 2008

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 31st legislative day of the session beginning:	270 <sup>th</sup> day from publication in the Register
22:13	01/02/08	12/06/07	01/17/08	03/03/08	03/20/08	05/01/08	05/13/08	09/28/08
22:14	01/15/08	12/19/07	01/30/08	03/17/08	03/20/08	05/01/08	05/13/08	10/11/08
22:15	02/01/08	01/10/08	02/16/08	04/01/08	04/21/08	06/01/08	01/2009	10/28/08
22:16	02/15/08	01/25/08	03/01/08	04/15/08	04/21/08	06/01/08	01/2009	11/11/08
22:17	03/03/08	02/11/08	03/18/08	05/02/08	05/20/08	07/01/08	01/2009	11/28/08
22:18	03/17/08	02/25/08	04/01/08	05/16/08	05/20/08	07/01/08	01/2009	12/12/08
22:19	04/01/08	03/10/08	04/16/08	06/02/08	06/20/08	08/01/08	01/2009	12/27/08
22:20	04/15/08	03/25/08	04/30/08	06/16/08	06/20/08	08/01/08	01/2009	01/10/09
22:21	05/01/08	04/10/08	05/16/08	06/30/08	07/21/08	09/01/08	01/2009	01/26/09
22:22	05/15/08	04/24/08	05/30/08	07/14/08	07/21/08	09/01/08	01/2009	02/09/09
22:23	06/02/08	05/09/08	06/17/08	08/01/08	08/20/08	10/01/08	01/2009	02/27/09
22:24	06/16/08	05/23/08	07/01/08	08/15/08	08/20/08	10/01/08	01/2009	03/13/09
23:01	07/01/08	06/10/08	07/16/08	09/02/08	09/22/08	11/01/08	01/2009	03/28/09
23:02	07/15/08	06/23/08	07/30/08	09/15/08	09/22/08	11/01/08	01/2009	04/11/09
23:03	08/01/08	07/11/08	08/16/08	09/30/08	10/20/08	12/01/08	01/2009	04/28/09
23:04	08/15/08	07/25/08	08/30/08	10/14/08	10/20/08	12/01/08	01/2009	05/12/09
23:05	09/02/08	08/11/08	09/17/08	11/03/08	11/20/08	01/01/09	01/2009	05/30/09
23:06	09/15/08	08/22/08	09/30/08	11/14/08	11/20/08	01/01/09	01/2009	06/12/09
23:07	10/01/08	09/10/08	10/16/08	12/01/08	12/22/08	02/01/09	05/2010	06/28/09
23:08	10/15/08	09/24/08	10/30/08	12/15/08	12/22/08	02/01/09	05/2010	07/12/09
23:09	11/03/08	10/13/08	11/18/08	01/02/09	01/20/09	03/01/09	05/2010	07/31/09
23:10	11/17/08	10/24/08	12/02/08	01/16/09	01/20/09	03/01/09	05/2010	08/14/09
23:11	12/01/08	11/05/08	12/16/08	01/30/09	02/20/09	04/01/09	05/2010	08/28/09
23:12	12/15/08	11/20/08	12/30/08	02/13/09	02/20/09	04/01/09	05/2010	09/11/09

## 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.

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

**EXECUTIVE ORDER NO. 141  
PROCLAMATION OF A STATE OF DISASTER  
FOR BERTIE AND ONSLOW COUNTIES**

**WHEREAS**, I have determined that a State of Disaster, as defined in N.C.G.S. §§166A-6, exists in the State of North Carolina, specifically Bertie and Onslow counties, as a result of tornadoes and severe weather on May 8-11, 2008;

**WHEREAS**, on May 11, 2008, Bertie and Onslow counties proclaimed a local State of Emergency;

**WHEREAS**, pursuant to N.C.G.S. §166A-6, the criteria of a Type I disaster are met including the following: (1) receipt of the preliminary damage assessment from the Secretary of Crime Control and Public Safety; (2) Bertie and Onslow counties declared a local state of emergency pursuant to N.C.G.S §§166A-8 and forwarded a written copy of the declaration to the Governor; (3) the preliminary damage assessment meets or exceeds the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

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

Section 1. Pursuant to N.C.G.S. §§166A-6, a State of Disaster is hereby declared for Bertie and Onslow counties.

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

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

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

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

Section 6. This Type I Disaster Declaration shall expire 30 days after issuance of the state of disaster and Type I disaster proclamation for Bertie and Onslow counties issued on May 20, 2008, unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first

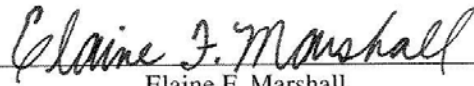
issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this the twentieth day of May in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.



  
Michael F. Easley  
Governor

ATTEST:

  
Elaine F. Marshall  
Secretary of State

**NOTICE OF EXTENDED COMMENT PERIOD**

**Proposed Reclassification of Horsepasture River  
Rule 15A NCAC 02B .0303 Little Tennessee River Basin and Savannah River Drainage Area and  
15A NCAC 02B .0225 Outstanding Resource Waters**

A Notice of Text was previously published in the 22:19 issue of the NC Register for this proposed reclassification, and it included notice of a public hearing, which was held on April 22, 2008, as well as a comment period, which is to end on June 2, 2008. Subsequent to that notice, the Division of Water Quality (DWQ) received a request for additional time in order to analyze existing data. Based on this request, DWQ will extend the comment period for 30 days in order to provide further opportunity for comments on the proposed reclassification to be submitted. Comments received during the April 1, 2008 – June 2, 2008 comment period will remain in the hearing record.

The EMC is very interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are strongly encouraged to make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the published text of the proposed rule, unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (see General Statute 150B 21.2 (g)). Written comments may be submitted to Elizabeth Kountis of the Water Quality Planning Section of the Division of Water Quality at the postal address, e-mail address, or fax number listed in this notice. The comment period ends July 1, 2008, and this proposed reclassification is scheduled to appear on the agenda of the September 2008 EMC meeting.

**Address:**            **Elizabeth Kountis**  
                         **DENR/Division of Water Quality, Planning Section**  
                         **1617 Mail Service Center**  
                         **Raleigh, NC 27699-1617**  
                         **Phone (optional) (919)733-5083 extension 369**  
                         **Fax (optional): (919)715-5637**  
                         **E-Mail (optional): elizabeth.kountis@ncmail.net**



**SUMMARY OF NOTICE OF  
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY**

**RW HOLDING, LLC**

Pursuant to N.C.G.S. § 130A-310.34, RW Holdings, 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 Greensboro, Guilford County, North Carolina. The Property, which is the former site of the R. W. McCollum Company's operations, consists of approximately 6.5 acres and is located at 107 W. Meadowview Road. Environmental contamination exists on the Property in groundwater. RW Holding, LLC has committed itself to redevelop the Brownfields Property as a tanker trailer cleaning and repair facility, a trucking dispatch terminal, office space and, possibly, truck wash and diesel repair facilities, or other commercial uses if DENR approves same. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and RW Holding, 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 Reference Desk of the Greensboro Public Library, 219 North Church Street, Greensboro, NC 27402 by contacting Business Librarian Martha Thomas Larson at (336) 373-4559, (336) 335-5416 (fax) or martha.thomas@greensboro-nc.gov; or at the offices of the NC Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net or at (919) 508-8411.

Written public comments 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 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 RW Holding, 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 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 of submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on June 17, 2008. All such comments and requests should be addressed as follows:

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

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

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

**TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Tobacco Trust Fund Commission intends to amend the rules cited as 02 NCAC 57 .0204, .0207, .0209, .0304, .0306, .0308 and repeal the rules cited as 02 NCAC 57 .0206 and .0305.*

**Proposed Effective Date:** October 1, 2008

**Public Hearing:**

**Date:** July 1, 2008

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

**Location:** NCDA & CS, Hall of Fame Room, 2 West Edenton Street, Raleigh, NC 27601

**Reason for Proposed Action:**

*02 NCAC 57 .0204 & .0304 – A flexible grant cycle more effectively matches available funds with agricultural risk. Amendment to allow TTFC to establish grant cycles and also clarifies the process for submission of grants.*

*02 NCAC 57 .0206 & .0305 – Repeals the out of cycle criteria which becomes unnecessary once the grant cycle is flexible. A flexible grant cycle to be set by the TTFC is desirable to better match the available funds with agricultural needs.*

*02 NCAC 57 .0207 & .0306 – Allows staff to notify grant recipients regarding incomplete applications and clarifies Grant Review Committee role.*

*02 NCAC 57 .0209 & .0308 – Establishes reporting requirements for grants.*

**Procedure by which a person can object to the agency on a proposed rule:** *An individual may object to the agency on the proposed rules by submitting written comments on the proposed rules. They may also object by attending the public hearing and personally voice their objections during that time.*

**Comments may be submitted to:** *William Upchurch, Executive Director, 1080 Mail Service Center, Raleigh, NC 27699-1080, phone (919) 733-2160, fax (919) 733-2510, email tobaccotrustfund@ncmail.net*

**Comment period ends:** August 15, 2008

**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 57 - TOBACCO TRUST FUND COMMISSION**

**SECTION .0200 - COMPENSATORY PROGRAM GRANTS**

**02 NCAC 57 .0204 APPLICATIONS FOR GRANTS**

(a) The Commission shall designate specific dates for submission of grant applications based on the amount of funds available. Grant application submission dates will be announced by the Commission at least 30 days before the date applications are due.

(a)(b) Grant proposals shall be typed or printed and an original and four five copies timely submitted to the Commission at Post Office Box 27647, Raleigh, North Carolina 27611 by hand-delivery, by a designated delivery service authorized pursuant to G.S. 1A-1, Rule 4, or by U.S. Mail. Applications shall be deemed timely submitted if delivered by hand to the Commission's physical office and signed for by Commission staff before 5:00 p.m. on the submission date; or by designated delivery service, whereby the parcel bears a shipping date on or before the submission date; or by placing into the U.S. Mail, addressed to 1080 Mail Service Center, Raleigh, NC 27699, and postmarked on or before the submission date. Applicants may also provide an electronic courtesy copy in a format such as a formatted diskette or via email using in Microsoft Word, Word or Adobe Acrobat. For grant applications submitted in the Year 2002, completed grant proposals postmarked later than October 1, 2002, will be considered in the subsequent funding year. For all grant proposals submitted after 2002, completed grant proposals postmarked later than August 1 of any funding year will be considered in the subsequent funding year.

(b)(c) To be eligible for consideration for funding, applicants shall complete the Tobacco Trust Fund Grant Application Form which shall contain the following information:

- (1) Names, mailing addresses, telephone numbers, ~~and signatures; signatures and driver's license number or federal identification number of the applicant;~~
- (2) If the applicant is an organization, consortium, cooperative or other entity representing multiple eligible beneficiaries, a description of the applying organization including history, mission statement, fiscal information, audit statements (if available), organizational goals and members of the Board of Directors. If the applicant involves more than one organization, person or entity, it shall identify participating organizations, persons or entities and define their roles in completing the Compensatory Program;
- (3) A description of the Compensatory Program, its goals and objectives, and the manner in which it will accomplish its goals and objectives, including how the applicant will quantify actual losses due to the Master Settlement Agreement that are not compensated by payments from the National Tobacco Grower Settlement Trust;
- (4) A detailed statement of the projected cost of the Compensatory Program, including any administrative costs and including expected funding from any other source;
- (5) A description of how the project will be completed including time lines;
- (6) A description of the accounts that will be set up and used and an assurance that all accounts can be audited by the Commission or the State Auditor;
- (7) An explanation of how the project's results will be evaluated;
- (8) At least two references who may be contacted by the Commission;
- (9) Any other information required by G.S. 143, Article 75 or these Rules in order to make a decision on the grant proposal;
- (10) An explanation of how the project will enhance North Carolina's tobacco-related economy for the common good; and
- (11) A list and history of the applicant's past projects funded by grants or awards.

~~(e)~~(d) As a condition of applying for a compensatory program or of receiving a grant for a compensatory program, applicants or grantees must allow the Commission or the Commission staff to make site visits at the Commission's convenience.

Authority G.S. 143-718.

**02 NCAC 57 .0206 OUT OF CYCLE AWARD OF GRANTS**

~~The Commission may consider and award grants for compensatory programs out of cycle if the following conditions are met:~~

- ~~(1) The requested program will respond to a~~

- ~~serious and unforeseen threat to the public health, safety or welfare; or~~
- ~~(2) The requested program is required in response to a recent change in federal or State budgetary policy; or~~
- ~~(3) The requested program is in response to a disaster as that term is defined in G.S. 166, Article 1; or~~
- ~~(4) The Commission determines that awarding a grant or grants out of cycle is in the public interest.~~

Authority G.S. 143-718.

**02 NCAC 57 .0207 REVIEW OF PROPOSALS**

- (a) The Executive Director of the Commission and his or her staff or designee shall screen applications to see if they are complete. ~~The Executive Director~~ Commission staff shall notify applicants if the grant application is incomplete.
- (b) Applications that have been deemed complete will be forwarded to one or more ~~Compensatory Program Grant Review~~ Grant Review Committees of the Commission. ~~Compensatory Program~~ The Grant Review Committee members shall ~~include Commissioners and may include invited outsiders who have particular expertise in technical areas.~~ Comprise the Commission.
- (c) During the review and evaluation of proposals, the ~~Compensatory Program Grant Review~~ Grant Review Committees may solicit information from persons who have expertise in technical or specialized areas or request that the Commission staff or designee make reports on any site visits that may be required for full consideration of the grant proposal. The ~~Compensatory Program Grant Review~~ Grant Review Committees will make recommendations to the Commission. Scoring and rating of proposals may be determined by using any consistent rating methodology, including adjectival, numerical or ordinal rankings.
- (d) The Commission will receive the suggestions of the Grant Review Committees and will evaluate proposals based on the beneficial impact of the request on the State's tobacco-related economy. In making this evaluation the Commission may consider who will benefit from the grant, how many will benefit from the grant, the cost of administering the grant and whether the grant will benefit tobacco dependent economies of the State in a measurable manner. Proposals will be given a preference for statewide impact and for containing a delivery mechanism to intended beneficiaries.
- (e) No grant may be awarded for a project that is unlawful.

Authority G.S. 143-718.

**02 NCAC 57 .0209 REPORTING**

- (a) Successful applicants shall submit written progress reports at ~~six month~~ three month intervals or upon completion of the project, whichever is sooner. Written reports shall describe the status of the Compensatory Program, progress toward achieving program objectives, notable occurrences and any significant problems encountered and steps taken to overcome the problems. Upon completion of the Compensatory Program, the successful applicant must make a final written report to the

Commission which final report shall include an evaluation of the success of the program.

(b) A representative of the Commission shall review the progress reports for completeness which shall include a showing of how the project is meeting its stated goals and performance standards. If the representative finds that the report is deficient in showing how the project is meeting its stated goals and performance standards, the grantee will be notified of the deficiency and must provide a changed and corrected report within 30 working days. If a corrected or changed report is not received in the specified time the Commission may withhold the next grant payment.

Authority G.S. 143-718.

**SECTION .0300 – QUALIFIED AGRICULTURAL PROGRAM GRANTS**

**02 NCAC 57 .0304 APPLICATIONS FOR GRANTS**

(a) The Commission shall designate specific dates for submission of grant applications based on the amount of funds available. Grant application submission dates shall be announced by the Commission at least 30 days before the date applications are due.

~~(a)(b)~~ Grants proposals shall be typed or printed and an original and four five copies timely submitted to the Commission at Post Office Box 27647, Raleigh, North Carolina 27611. by hand-delivery, by a designated delivery service authorized pursuant to G.S. 1A-1, Rule 4, or by U.S Mail. Applications shall be deemed timely submitted if delivered by hand to the Commission's physical office and signed for by Commission staff before 5:00 p.m. on the submission date; or by designated delivery service, which package bears a shipping date on or before the submission date; or by placing into the U.S. Mail, addressed to 1080 Mail Service Center, Raleigh, NC 27699 and postmarked on or before the submission date. Applicants may also provide an electronic courtesy copy formatted in Microsoft Word or Adobe Acrobat to the Commission. ~~For grant applications submitted in the Year 2002, completed grant proposals postmarked later than October 1, 2002, will be considered in the subsequent funding year. For all grant proposals submitted after 2002, completed grant proposals postmarked later than August 1 of any funding year will be considered in the subsequent funding year.~~

~~(b)(c)~~ To be eligible for consideration for funding, applicants shall complete the Tobacco Trust Fund Grant Application Form which shall contain the following information:

- (1) Names, mailing addresses, telephone numbers, and signatures and driver's license number or federal identification number of the applicant;
- (2) A description of the applying organization including history, mission statement, fiscal information, audit statements (if available), organizational goals and a list of the members of the Board of Directors. If the applicant involves more than one person, organization or entity, the applicant shall identify participating persons, organizations or entities and define their roles in completing the grant;

- (3) A description of the Qualified Agricultural Program, its objectives and the manner in which it will accomplish the requirement that the Qualified Agricultural Program foster the vitality and solvency of the tobacco-related segment of the State's agricultural economy;
  - (4) A detailed statement of the projected cost of the Qualified Agricultural Program, including any administrative costs and including expected funding from any other source;
  - (5) A description of how the project will be completed including time lines;
  - (6) A description of the accounts that will be set up and used and an assurance that all accounts can be audited by the Commission or the State auditor;
  - (7) An explanation of how the project's results will be evaluated;
  - (8) At least two references which the Commission may contact;
  - (9) Any other information required by G.S. 143, Article 75 or by these Rules in order to make a decision on the grant proposal; ~~and~~
  - (10) An explanation of how the project will enhance North Carolina's tobacco-related economy for the common good; and
  - ~~(10)~~(11) A list and history of the applicant's past projects funded by grants or awards.
- ~~(e)(d)~~ As a condition of applying for the grant or of receiving a grant, applicants or grantees must allow the Commission or the Commission staff to make site visits at the Commission's convenience.

Authority G.S. 143-718.

**02 NCAC 57 .0305 OUT OF CYCLE CONSIDERATION OF GRANTS**

~~The Commission may consider and award grants out of cycle if the following conditions are met:~~

- ~~(1) The grant will respond to a serious and unforeseen threat to the public health, safety or welfare; or~~
- ~~(2) The grant is required in response to a recent change in federal or State budgetary policy; or~~
- ~~(3) The grant is in response to a disaster as that term is defined in G.S. 166, Article 1; or~~
- ~~(4) The Commission determines that awarding a grant or grants out of cycle is in the public interest.~~

Authority G.S. 143-718.

**02 NCAC 57 .0306 REVIEW OF PROPOSALS**

- (a) The Executive Director of the Commission and his or her staff or designee shall screen applications to see if they are complete. ~~The Executive Director Commission staff~~ shall notify applicants if the grant application is incomplete.
- (b) Applications that have been deemed complete will be forwarded to one or more Grant Review Committees of the

Commission. Grant Review Committee members shall ~~include Commissioners and may include invited outsiders who have particular expertise in technical areas~~ comprise the Commission.

(c) During the review and evaluation of grant proposals, the Grant Review Committees may solicit information from persons who have expertise in technical or specialized areas or request that the Commission staff or designee make reports on any site visits that may be required for full consideration of the grant proposal. The Grant Review Committees will make recommendations to the Commission based on its review and evaluation. Scoring and ranking of proposals may be determined by using any consistent rating methodology, including adjectival, numerical or ordinal rankings.

(d) The Commission will evaluate grant proposals and recommendations made to it by the Review Committees based on the beneficial impact of the grant request on the solvency and vitality of the tobacco-related segment of the State's agricultural economy.

(e) In making this evaluation the Commission may consider who will benefit from the grant, how many will benefit from the grant, how the grant project will alleviate or avoid unemployment, stabilize local tax bases, encourage the economic stability of participants in the State's agricultural economy or encourage the optimal use of natural resources in the tobacco-related segment of the State's agricultural economy. Proposals will be given a preference for statewide impact, for containing a delivery mechanism to intended beneficiaries, for providing alternate markets for tobacco or for providing for diversification of the tobacco crop or the tobacco grower.

(f) No grant shall be awarded that is unlawful.

Authority G.S. 143-718.

**02 NCAC 57 .0308 REPORTING**

(a) Grantees shall submit written progress reports at ~~six month~~ three month intervals or upon completion of the project, whichever is sooner. Written reports shall describe the status of the grant projects, progress toward achieving project objectives, notable occurrences and any significant problems encountered and steps taken to overcome the problems. Upon completion of the project, the grantee must make a final written report to the Commission which final report shall include an evaluation of the success of the project.

(b) A representative of the Commission shall review the progress reports for completeness which shall include a showing of how the project is meeting its stated goals and performance standards. If the representative finds that the report is deficient in showing how the project is meeting its stated goals and performance standards, the grantee will be notified of the deficiency and must provide a changed and corrected report within 30 working days. If a corrected or changed report is not received within the specified time, the Commission may withhold the next payment under the grant.

Authority G.S. 143-718.

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Correction intends to adopt the rules cited as 05 NCAC 01F .0101 - .0102, .0201.*

**Proposed Effective Date:** November 1, 2008

**Public Hearing:**

**Date:** July 16, 2008

**Time:** 2:30 p.m.

**Location:** DOC – Controller's Office Conference Room; 2020 Yonkers Road, Raleigh, NC 27604

**Reason for Proposed Action:** *Establishing the Department of Correction's main business location; establishing the Department of Correction's cost of copies for public records; and establishing the procedures for submitting a rule-making petition to the Department of Correction, along with the Department's procedures for considering a rule-making petition, as required by G.S. 150B-20.*

**Procedure by which a person can object to the agency on a proposed rule:** *Anyone who wishes to object to the proposed rules shall send a written objection to: Joan Elizabeth Taylor, Department of Correction – Controller's Office, 2020 Yonkers Road, MSC 4220, Raleigh, NC 27699-4220*

**Comments may be submitted to:** *Joan Elizabeth Taylor, 2020 Yonkers Road, MSC 4220, Raleigh, NC 27699-4220, phone (919) 716-3368, Fax (919) 716-3979, email jtaylor@doc.state.nc.us.*

**Comment period ends:** September 2, 2008

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

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

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

**CHAPTER 01 – DEPARTMENTAL RULES**

**SUBCHAPTER 01F – GENERAL ADMINISTRATION**

**TITLE 05 – DEPARTMENT OF CORRECTION**

SECTION .0100 – GENERAL

05 NCAC 01F .0101 LOCATION

(a) The principal place of business for the Department of Correction (DOC) is located at 214 West Jones Street, Raleigh, North Carolina. The mailing address is 4201 Mail Service Center, Raleigh, NC 27699-4201.

(b) DOC information may be obtained from the agency's website at: [www.doc.state.nc.us](http://www.doc.state.nc.us).

(c) DOC business office hours for the public are 8:00 a.m. to 5:00 p.m. Monday through Friday.

*Authority G.S. 143B-10; 143B-260; 143B-261.1.*

05 NCAC 01F .0102 COST OF COPIES

(a) Copies of any documents on file with the Department of Correction (DOC) that are public records are available in the following forms at the following costs:

- (1) loose-leaf documents at a cost of ten cents (.10) per page;
- (2) diskette/CD Rom at a cost of twenty-five cents (\$.25) each;
- (3) digital video disk (DVD) at a cost of fifty cents (\$.50) each; and
- (4) documents available in an electronic format transmitted via email at no charge.

(b) Certified copies of any public document on file with DOC are available at a cost of one dollar (\$1.00) per certification in addition to the loose-leaf copying costs. Diskette certification is not available.

(c) A service charge may be applied, based on the actual costs to DOC, for requests requiring an extensive use of information technology resources, use of DOC staff or supervisory time (requests which cause DOC to incur additional costs beyond the normal course of business) based on the following rates:

- (1) information technology staff time shall be charged at a rate of thirty-nine dollars (\$39.00) per hour;
- (2) administrative staff time shall be charged at a rate of twelve dollars (\$12.00) per hour; and
- (3) supervisory time shall be charged at a rate of twenty dollars (\$20.00) per hour.

(d) Postage shall be paid by requestor.

*Authority G.S. 132-6.2; 143B-10; 150B-19.*

SECTION .0200 – PETITION FOR RULEMAKING

05 NCAC 01F .0201 FILING A PETITION FOR RULE-MAKING

(a) Any person may petition the Department of Correction (DOC) to adopt a new rule, or amend or repeal an existing rule by submitting a rule-making petition to DOC. The petition shall be addressed to: The North Carolina Department of Correction Controller's Office 2020 Yonkers Road; MSC 4220 Raleigh, North Carolina 27699-4220.

(b) The petition shall be labeled "Petition for Rule-making" and must include the following information:

- (1) the name(s) and address(es) of the petitioners;

- (2) a citation to any rule for which an amendment or repeal is requested;
- (3) a draft of the proposed text of the requested rule or amended rule;
- (4) an explanation of why the new rule or amendment or repeal of an existing rule is requested;
- (5) the effect of the new rule, amendment, or repeal on the procedures of DOC;
- (6) a fiscal note on the impact of the proposed rule on existing practices in the area involved, including cost factors and basis of analysis; and
- (7) any other information the person submitting the petition considers relevant.

(c) The Secretary or his/her designee shall consider all the information submitted with a petition, along with any other relevant information, and shall make a decision regarding a petition within 30 days from the date the petition was received.

(d) If a petition is denied, the Secretary or his/her designee shall notify the petitioner in writing, stating the reason(s) for the denial. If a petition is granted, DOC shall notify the petitioner of the decision and shall initiate rule-making proceedings in accordance with the requirements of Article 2A of the Administrative Procedures Act.

*Authority G.S. 150B-18; 150B-19; 150B-20; 150B-21.*

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 10A NCAC 41A .0502.*

**Proposed Effective Date:** *November 1, 2008*

**Public Hearing:**

**Date:** *July 14, 2008*

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

**Location:** *Cardinal Room, Bldg. 5605 Six Forks Road, Raleigh, NC*

**Reason for Proposed Action:** *In June 2007, a North Carolina Medicaid Special bulletin was published, revising the reimbursement schedule for administration of childhood immunizations. The new fee schedule was effective July 1, 2007. The requested permanent changes to 10A NCAC 41A .0502C(1) are proposed to ensure that our rules are consistent with the current guidelines from the state's Medicaid program. In addition, in December of 2007 a temporary rule, reflecting the requested change, was adopted. Previously, the Division of Medical Assistance administration fees were consistent with those of the Health Care Financing Administration, but currently they are not.*

**Procedure by which a person can object to the agency on a proposed rule:** *Objections may be submitted in writing to Chris G. Hoke, JD, the rule-making coordinator, during the public comment period. Additionally, objections may be made verbally and/or in writing at the public hearing for this rule.*

**Comments may be submitted to:** *Chris G. Hoke, JD, 1915 MSC, Raleigh, NC 27699-1915, phone (919) 707-5006, email chris.hoke@ncmail.net*

**Comment period ends:** *August 15, 2008*

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

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

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

**Fiscal Note posted at:**  
[http://www.osbm.state.nc.us/files/pdf\\_files/DHHS06012008.pdf](http://www.osbm.state.nc.us/files/pdf_files/DHHS06012008.pdf)

**CHAPTER 41 – HEALTH: EPIDEMIOLOGY**

**SUBCHAPTER 41A – COMMUNICABLE DISEASE CONTROL**

**SECTION .0500 – PURCHASE OF VACCINE**

**10A NCAC 41A .0502 VACCINE FOR PROVIDERS OTHER THAN LOCAL HEALTH DEPARTMENTS**

(a) The Division of Public Health shall provide vaccines required by law free of charge to the following providers for administration to individuals who need vaccines to meet the requirement of G.S. 130A-152, 130-155.1 and 10A NCAC 41A .0401:

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

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

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

- (1) Charge vaccine administration fees at no more for a single dose of vaccine than the rate rates established by the Health Care Financing Administration (HCFA); Charge no more than double the HCFA rate as a reasonable fee for the administration of two or more vaccines given at a single visit. State's Medicaid program. The rate established by HCFA is published in the Federal Register (59FR50235), and is incorporated herein by reference along with any subsequent amendments and editions. The HCFA rate State's Medicaid rates may be inspected at the Division of Public Health. Copies may also be obtained from the Division of Public Health at no charge;
- (2) Provide all vaccines needed during a visit unless a specific contraindication exists to one or more of the vaccine;
- (3) Charge no office fee in addition to an administration fee for an immunization-only visit;
- (4) Agree not to charge an administration fee to an individual who states that they are unable to pay;
- (5) Impose no condition as a prerequisite to receiving vaccine;
- (6) The providers shall submit a monthly doses administered report by the tenth of each month electronically through the North Carolina Immunization Registry or on a form provided by the Immunization Section.
- (7) Report adverse vaccine reactions through the Vaccine Adverse Event Reporting System (VAERS);
- (8) Provide the latest edition of the applicable Important Information Statement (IIS), or Vaccine Information Statement (VIS) to the parent, guardian, or person standing in loco parentis for each dose of vaccine administered; document this action within the patient's permanent medical record; retain the documentation for a period of 10 years following the end of the calendar year in which the vaccine dose was administered, or for 10 years following the recipient's age of majority, whichever is longer; upon request, furnish copies of the documentation to the local health department or the Division. Keep a record of the vaccine manufacturer, lot number, and date of administration for each dose of vaccine administered;

- (9) Allow periodic inspection of their vaccine supplies and records by the Division of Public Health and

- Substantive ( $\geq$ \$3,000,000)
- None

- (10) Comply with the rules of this Section.

CHAPTER 16 – ACTUARIAL SERVICES DIVISION

SECTION .0400 – CREDIT LIFE ACCIDENT AND HEALTH RATE DEVIATION

(d) A provider who fails to submit timely and accurate reports as required each month shall have vaccine shipments withheld until that month's report is received by the Immunization Section.

Authority G.S. 130A-433.

11 NCAC 16 .0403 CALCULATION PROCEDURE AND DATA REQUIREMENTS FOR RATE DEVIATIONS

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Insurance intends to amend the rules cited as 11 NCAC 16 .0403; 18 .0118.

An insurer requesting a rate deviation shall submit to the Department of Insurance the following information, the results of each calculation as follows and the corresponding data required to perform each calculation in accordance with this Rule, clearly identified for each case for which the insurer is requesting a rate deviation:

Proposed Effective Date: October 1, 2008

Public Hearing:

Date: July 8, 2008

Time: 10:00 a.m.

Location: 4009 Dobbs Building, 430 N. Salisbury St., Raleigh, NC 27603

Reason for Proposed Action: Technical corrections to comply with up-to-date actuarial standards.

Procedure by which a person can object to the agency on a proposed rule: The Department of Insurance will accept written objections to these rules until the expiration of the comment period on August 15, 2008.

Comments may be submitted to: Ellen K. Sprenkel, 1201 Mail Service Center, Raleigh, NC 27699-1201, phone (919) 733-4529, email esprenkel@ncdoi.net

Comment period ends: August 15, 2008

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

- (1) Identification of the class of business and plan of insurance associated with the case.
- (2) Identification of the single or multiple account case. For a multiple account case, identification of each case.
- (3) For the case, calculate the incurred loss ratio at the current North Carolina approved rate as defined in Rule .0401(15) of this Section.
- (4) For the case, calculate the credibility factor using the credibility formula as defined in 11 NCAC 16 .0401(6).
- (5) Multiply Item (3) of this Rule by Item (4) of this Rule.
- (6) For the class of business, calculate the class of business incurred loss ratio at current North Carolina approved rate as defined in 11 NCAC 16 .0401(16).
- (7) For the class of business, calculate the credibility factor using the credibility formula as defined in 11 NCAC 16 .0401(6).
- (8) Multiply Item (7) of this Rule by the quantity one minus Item (4) of this Rule, e.g. Item (7) of this Rule x [1 - Item (4) of this Rule].
- (9) Multiply Item (6) of this Rule by Item (8) of this Rule.
- (10) Multiply the quantity one minus Item (4) of this Rule by the quantity one minus Item (7) of this Rule, e.g. [1 - Item (4) of this Rule] x [1 - Item (7) of this Rule].
- (11) Multiply .60 by Item (10) of this Rule.
- (12) Add Items (5), (9) and (11) of this Rule.
- (13) Calculate the expense ratio as defined in 11 NCAC 16 .0401(9).
- (14) Calculate the benchmark loss ratio as defined in 11 NCAC 16 .0401(11).
- (15) The rate adjustment factor is equal to Item (12) of this Rule divided by Item (14) of this Rule; however, if the rate adjustment factor is greater than or equal to 0.95 and less than or equal to 1.05, then the rate adjustment factor shall be set equal to the number one.



- (16) The maximum approved rate in effect for a period of 12 months is equal to the current North Carolina approved rate for the case multiplied by Item (15) of this Rule.

Authority G.S. 58-2-40; 58-57-35(a); 58-57-70.

**CHAPTER 18 – MULTIPLE EMPLOYER WELFARE ARRANGEMENTS**

**11 NCAC 18 .0118 MAXIMUM NET RETENTION STANDARD**

(a) The specific maximum net retention limit for any MEWA, associated with the period of time that the excess insurance coverage is in force, shall be calculated in the following manner:

- (1) Determine the total expected dollar value of claims.
- (2) Determine the total surplus at the beginning of the period of time that the excess insurance coverage is scheduled to be in force.
- (3) Multiply Subparagraph (a)(1) of this Rule by ~~five~~one percent and add that product to Subparagraph (a)(2) of this Rule.
- (4) Multiply the result of the calculation in Subparagraph (a)(3) of this Rule times itself.
- (5) Multiply Subparagraph (a)(1) of this Rule by the number 3.4.
- (6) Divide the product of the calculation in Subparagraph (a)(4) of this Rule by the product of the calculation in Subparagraph (a)(5) of this Rule.

(b) The specific maximum net retention limit shall not exceed the lesser of:

- (1) The amount in Subparagraph (a)(6) of this Rule;
- (2) Twenty-five thousand dollars (\$25,000); or
- (3) The specific maximum net retention limit determined by or for the MEWA in accordance with sound actuarial principles.

(c) The aggregate maximum net retention shall not exceed the lesser of:

- (1) One hundred twenty-five percent of Subparagraph (a)(1) of this Rule; or
- (2) The aggregate maximum net retention limit determined by or for the MEWA in accordance with sound actuarial principles.

(d) The Commissioner may approve a specific maximum net retention limit or an aggregate maximum net retention limit or both in excess of those calculated pursuant to this Rule, upon application to the Commissioner and the Commissioner's determination that the increase would not inhibit the ability of the MEWA to perform its present and future contractual obligations to policyholders and participants under the MEWA's plan.

Authority G.S. 58-2-40; 58-49-40(c).

**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 the rules cited as 15A NCAC 02C .0102-.0103, .0105, .0107-.0114, .0116-.0119.*

**Proposed Effective Date:** January 1, 2009

**Public Hearing:**

**Date:** July 17, 2008

**Time:** 7:00 p.m.

**Location:** Martin County Community College – Teaching Auditorium, 1161 Kehukee Park Road, Williamston, NC 27892

**Public Hearing:**

**Date:** July 22, 2008

**Time:** 7:00 p.m.

**Location:** Western Piedmont Community College – Moore Hall, 1001 Burkemont Avenue, Morganton, NC 28655

**Public Hearing:**

**Date:** July 24, 2008

**Time:** 7:00 p.m.

**Location:** Archdale Building – Ground Floor Hearing Room, 512 N. Salisbury Street, Raleigh, NC 27604

**Public Hearing:**

**Date:** July 29, 2008

**Time:** 7:00 p.m.

**Location:** Cape Fear Community College – North Campus BB&T Auditorium, 4500 Blue Clay Road, Castle Hayne, NC 28429

**Reason for Proposed Action:** *In order to protect public health and the state's groundwater resources from adverse effects of improperly constructed, operated, maintained, or abandoned wells, NCGS 87-87 directs the Environmental Management Commission (EMC) to adopt rules governing the location, construction, repair, and abandonment of wells, the operation of water wells or well systems with a designed capacity of 100,000 gallons per day or greater, and the installation and repair of pumps and pumping equipment. In fulfillment of the EMC's charge, the well construction rules in 15A NCAC 2C .0100 establish minimum construction standards for water supply wells and certain other types of wells. These rules were last revised in 2002. Since that time, it has become evident that several revisions are needed in order to provide clarifications, address new well construction materials, and provide better protection of public health and groundwater quality. Effective, clear and comprehensive well construction rules are critical in carrying out the EMC's charge of preserving and protecting the waters of the state from contamination and protecting human health. These well construction standards, by regulating the location, construction and abandonment of water wells, help prevent contamination of the resource and protect human health.*

Beginning on July 1, 2008, local health departments will use these rules, either as they stand, or as a baseline for more protective standards, to regulate proper well construction and abandonment in order to assure that groundwaters of the state are protected and provide for safe water supplies for North Carolina's growing population.

**Procedure by which a person can object to the agency on a proposed rule:** A person may submit objections concerning the proposed revisions to Subchapter 2C (15A NCAC 2C) to the Aquifer Protection Section of the NCDENR-Division of Water Quality. Such correspondence should be brought to the attention of: Michael Cunningham, NCDENR/DWQ – Aquifer Protection Section, 1636 Mail Service Center, Raleigh, NC 27699-1636, phone (919)715-0588, email [mike.cunningham@ncmail.net](mailto:mike.cunningham@ncmail.net). Oral comments may be made during the public hearings. An appointed Hearing Officer may limit the length of time you are allowed to speak at a public hearing so that all who wish to speak at a public hearing may do so. Written copies of oral statements made at public hearings are requested to be submitted to the Hearing Officer at the hearing. All written comments must be submitted by August 15, 2008. An objection lodged at public hearing to the Subchapter 2C .0100 rules must be submitted in writing.

**Comments may be submitted to:** Michael Cunningham, NCDENR/DWQ – Aquifer Protection Section, 1636 Mail Service Center, Raleigh, NC 27699-1636, fax (919)715-0588, email [mike.cunningham@ncmail.net](mailto:mike.cunningham@ncmail.net).

**Comment period ends:** August 15, 2008

**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** – 15A NCAC 02C .0113
- Local** – 15A NCAC 02C .0105, .0107, .0109
- Substantive** (≥\$3,000,000) – 15A NCAC 02C .0100 (Cumulative over Section)
- None**

**Fiscal Note posted at:**

<http://www.osbm.state.nc.us/files/pdf-files/DENR06012008.pdf>

**SUBCHAPTER 02C - WELL CONSTRUCTION STANDARDS**

**SECTION .0100 - CRITERIA AND STANDARDS APPLICABLE TO WATER-SUPPLY AND CERTAIN OTHER TYPE WELLS**

**15A NCAC 02C .0102 DEFINITIONS**

The terms used in this Subchapter shall be as defined in G.S. 87-85 and as follows. ~~As used herein,~~ unless the context otherwise requires:

- (1) "Abandon" means to discontinue the use of and to seal ~~the a~~ well according to the requirements of 15A NCAC 02C .0113 of this Section.
- (2) "Access port" means an opening in the well casing or well head installed for the primary purpose of determining the position of the water level in the ~~well.~~ well or to facilitate disinfection.
- (3) "Agent" means any person who by mutual and legal agreement with a well owner has authority to act in his behalf in executing applications for permits. The agent may be either general agent or a limited agent authorized to do one particular act.
- (4) ~~"Annular Space"~~ "Annular Space" means the space between the casing and the walls of the borehole or outer casing, or the space between a liner pipe and well casing.
- ~~(4)(5)~~ "ASTM" means the American Society for Testing and Materials.
- ~~(5)(6)~~ "Casing" means pipe or tubing constructed of specified materials and having ~~specified~~ weights, weights as specified in the rules of this Subchapter, that is installed in a borehole, during or after completion of the borehole, to support the side of the hole and thereby prevent caving, to allow completion of a well, to prevent formation material from entering the well, to prevent the loss of drilling fluids into permeable formations, and to prevent entry of contamination.
- ~~(6)(7)~~ "Clay" means a substance comprised of natural, inorganic, ~~finely ground~~ fine-grained crystalline mineral fragments which, when mixed with water, forms a pasty, moldable mass that preserves its shape when air dried.
- ~~(7)(8)~~ "Commission" means the North Carolina Environmental Management Commission or its successor, unless otherwise indicated.
- ~~(8)(9)~~ "Consolidated rock" means rock that is firm and coherent, solidified or cemented, such as granite, gneiss, limestone, slate or sandstone, that has not been decomposed by weathering.
- ~~(9)(10)~~ "Contaminate" and "Contamination" means mean the introduction of foreign materials of such nature, quality, and quantity into the groundwaters as to exceed the groundwater

quality standards specified in 15A NCAC 02L (Classifications and Water Quality Standards Applicable to the Groundwaters of North Carolina).

[Note: As specified in 15A NCAC 02L .0202(b)(3), where naturally occurring substances exceed the established standard, the standard shall be the naturally occurring concentration as determined by the Director.]

- (10) ~~"Department" means the Department of Environment and Natural Resources.~~
- (11) ~~"Designed capacity" shall mean means~~ that capacity that is equal to the yield that is specified by the well owner or his agent prior to construction of the well.
- (12) ~~"Director" means the Director of the Division of Water Quality. Quality or the Director's delegate.~~
- (13) ~~"Division" means the Division of Water Quality.~~
- (14) ~~"Domestic use" means water used for drinking, bathing, or other household purposes, livestock, or gardens.~~
- (15) ~~"Formation Material" means naturally occurring material generated during the drilling process that is composed of sands, silts, clays or fragments of rock and which is not in a dissolved state.~~
- (16) ~~"GPM" and "GPD" mean gallons per minute and gallons per day, respectively.~~
- (17) ~~"Grout" shall mean and include the following: means a material approved in accordance with Rule .0107(e) of this Section for use in sealing the annular space of a well or liner or for sealing a well during abandonment.~~
  - (a) ~~"Neat cement grout" means a mixture of not more than six gallons of clear, potable water to one 94 pound bag of portland cement. Up to five percent, by weight, of bentonite clay may be used to improve flow and reduce shrinkage.~~
  - (b) ~~"Sand cement grout" means a mixture of not more than two parts sand and one part cement and not more than six gallons of clear, potable water per 94 pound bag of portland cement.~~
  - (c) ~~"Concrete grout" means a mixture of not more than two parts gravel to one part cement and not more than six gallons of clear, potable water per 94 pound bag of portland cement. One hundred percent of the gravel must pass through a one half inch mesh screen.~~
  - (d) ~~"Gravel cement grout, sand cement grout or rock cutting cement grout" means a mixture of not more than two parts gravel and sand or rock cuttings~~

to one part cement and not more than six gallons of clear, potable water per 94 pound bag of portland cement.

- (e) ~~"Bentonite grout" means the mixture of no less than one and one half pounds of commercial bentonite with sufficient clear, potable water to produce a grout weighing no less than 9.4 pounds per gallon of mixture. Non organic, non toxic substances may be added to improve particle distribution and pumpability. Bentonite grout may only be used in those instances where specifically approved in this Section and only as recommended by the manufacturer.~~
- (f) ~~"Specialty grout" means a mixture of non-organic, non-toxic materials with characteristics of expansion, chemical resistance, rate or heat of hydration, viscosity, density or temperature sensitivity applicable to specific grouting requirements. Specialty grouts may not be used without prior approval by the Director. Approval of the use of specialty grouts shall be based on a demonstration that the mixture will not adversely impact human health or the environment.~~
- (18) ~~"Liner pipe" means pipe that is installed inside a completed and cased well for the purpose of preventing the entrance of contamination into the well or for repairing ruptured ruptured, corroded or punctured casing or screens.~~
- (19) ~~"Monitoring well" means any well constructed for the primary purpose of obtaining samples of groundwater or other liquids for examination or testing, or for the observation or measurement of groundwater levels. This definition excludes lysimeters, tensiometers, and other devices used to investigate the characteristics of the unsaturated zone but includes piezometers, a type of monitor well constructed solely for the purpose of determining groundwater levels.~~
- (20) ~~"Owner" means any person who holds the fee or other property rights in the well being constructed. A well is real property and its construction on land rests ownership in the land owner in the absence of contrary agreement in writing. [Note: Absent a contrary agreement in writing, the Department will presume that the well owner and the land owner are the same person.]~~
- (21) ~~"Pitless adapters" or "pitless units" are devices specifically manufactured to the standards specified under 15A NCAC 2C .0107(i)(5) of~~

- ~~this Section 15A NCAC 02C .0107(j)(5)~~ for the purpose of allowing a subsurface lateral connection between a well and plumbing appurtenances.
- (22) "Public water system" means a water system as defined in 15A NCAC 18C (Rules Governing Public Water Supplies).
- (23) "Recovery well" means any well constructed for the purpose of removing contaminated groundwater or other liquids from the subsurface.
- (24) "Saline" means having a chloride concentration of more than 250 milligrams per liter.
- (25) "Secretary" means the Secretary of the Department of Environment and Natural Resources or the Secretary's delegate.
- ~~(24)~~(26) "Settleable solids" means the volume of solid particles in a well-mixed one liter sample which will settle out of suspension, in the bottom of an Imhoff Cone, after one hour.
- ~~(25)~~(27) "Site" means all contiguous property under the same ownership or all contiguous property wherein wells are under the same ownership, the land or water area where any facility, activity or situation is physically located, including adjacent or nearby land used in connection with the facility, activity or situation.
- ~~(26)~~(28) "Specific capacity" means the yield of the well expressed in gallons per minute per foot of draw-down of the water level (gpm/ft.dd), (gpm/ft. dd) per unit of time.
- ~~(27)~~(29) "Static water level" means the level at which the water stands in the well when the well is not being pumped and is expressed as the distance from a fixed reference point to the water level in the well.
- ~~(28)~~(30) "Suspended solids" means the weight of those solid particles in a sample which are retained by a standard glass microfibre filter, with pore openings of one and one-half microns, when dried at a temperature of 103 to 105 degrees Fahrenheit.
- ~~(29)~~(31) "Temporary well" means a well, other than a water supply well, that is constructed to determine aquifer characteristics, and which will be ~~properly~~ permanently abandoned or converted to a permanent well within five days (120 hours) of the completion of drilling of the borehole.
- ~~(30)~~(32) "Turbidity" means the cloudiness in water, due to the presence of suspended particles such as clay and silt, that may create esthetic problems or analytical difficulties for determining contamination. ~~Turbidity, measured in Nephelometric Turbidity Units (NTU), is based on a comparison of the cloudiness in the~~

- ~~water with that in a specially prepared standard.~~
- ~~(31)~~(33) "Vent" means an opening in the well casing or well head, installed for the purpose of allowing changes in the water level in a well due to natural atmospheric changes or to pumping. A vent ~~can~~ may also serve as an access port.
- (34) "Water supply well" means any well intended or usable as a source of water supply, G.S. 87-85 notwithstanding.
- ~~(32)~~ "Well" means any excavation that is cored, bored, drilled, jetted, dug or otherwise constructed for the purpose of locating, testing, developing, draining or recharging any groundwater reservoirs or aquifer, or that may control, divert, or otherwise cause the movement of water from or into any aquifer.
- ~~(33)~~(35) "Well capacity" shall mean the maximum quantity of water that a well will yield continuously as determined by methods outlined in 15A NCAC 02C .0110.
- (36) "Well contractor" means a person who undertakes to perform a well contractor activity or who undertakes to personally supervise or personally manage the performance of a well contractor activity on the person's own behalf or for any person, firm, or corporation. As used herein, "well contractor" shall be deemed to include a person who constructs, repairs, or abandons a well that is located on land owned or leased by that person.
- ~~(34)~~(37) "Well head" means the upper terminal of the well including adapters, ports, valves, seals, and other attachments.
- ~~(35)~~(38) "Well system" means two or more ~~cross-connected wells,~~ wells connected to the same distribution or collection system or, if not connected to a distribution or collection system, two or more wells serving the same site.
- ~~(36)~~(39) "Yield" means the amount of water or other fluid that can be extracted from a well under a given set of conditions.

*Authority G.S. 87-85; 87-87; 143-214.2; 143-215.3.*

**15A NCAC 02C .0103 PUMP INSTALLER REGISTRATION**

**Pump Installer Registration:**

- ~~(a)~~(4) All persons, firms, or corporations engaged in the business of installing or repairing pumps ~~or other equipment in wells or pumping equipment~~ shall register ~~bi-annually~~ with the Department, Department by completing and submitting to the Department a registration form provided by the Department for this purpose.
- ~~(b)~~(2) Registration shall be accomplished. After initial registration, each pump installer shall renew registration during the period from April 1 to April 30 of every odd-numbered year,

by completing and submitting to the ~~department~~ Department a registration form provided by the ~~department~~ Department for this purpose.

~~(c)(3)~~ Upon receipt of a properly-completed application form, the Department shall issue a certificate of registration to the applicant. ~~the applicant will be issued a certificate of registration.~~

(d) Certification as a well contractor in accordance with 15A NCAC 27 shall be deemed to constitute registration in accordance with this Rule.

Authority G.S. 87-87.

**15A NCAC 02C .0105 PERMITS**

(a) It is the finding of the Commission that the entire geographical area of the state is vulnerable to groundwater pollution from improperly located, constructed, operated, altered, or abandoned ~~non-water supply wells and water supply wells not constructed in accordance with the standards set forth in 15A NCAC 2C .0107 of this Section.~~ wells. Therefore, in order to ensure reasonable protection of the groundwater resources, prior permission from the ~~Division~~ Department ~~must~~ shall be obtained for the construction of the types of wells enumerated in Paragraph (b) of this Rule.

(b) No person shall locate or construct any of the following wells until a permit has been issued by the ~~Director~~ Department:

- (1) any water-well or well system with a ~~design~~ designed capacity of 100,000 gallons per day (gpd) or greater;
- (2) any well added to an existing system where the total ~~design~~ designed capacity of such existing well system and added well will equal or exceed 100,000 gpd;
- (3) any monitoring ~~well~~, well or monitoring well system, including temporary wells, constructed to assess the impact of an activity not permitted by the state, ~~when if~~ installed on property other than that on which the unpermitted activity took place;
- (4) any recovery well;
- ~~(5) any well for recharge or injection purposes;~~
- ~~(6)(5)~~ any well with a design deviation from the standards specified under the rules of this ~~Subchapter~~ Subchapter, including wells for which a variance is required.

~~(c) The Director may delegate, through a Memorandum of Agreement, to another governmental agency, the authority to permit wells that are an integral part of a facility requiring a permit from the agency. Provided, however, that the permittee comply with all provisions of this Subchapter, including construction standards and the reporting requirements as specified in 15A NCAC 2C .0114. In the absence of such agreement, all wells specified in Paragraph (b) of this Rule require a well construction permit in addition to any other permits.~~

(d) The Department shall issue permits for wells used for recharge or injection purposes in accordance with 15A NCAC 02C .0200.

(e) The Department shall issue permits for private drinking water wells in accordance with 15A NCAC 02C .0300, including private drinking water wells with a designed capacity greater than 100,000 gallons per day and private drinking water wells for which a variance is required.

~~(d)(f)~~ An application for a permit shall be submitted by the owner or his agent. In the event that the permit applicant is not the owner of the property on which the well or well system is to be constructed, the permit application ~~must~~ shall contain written approval from the property owner and a statement that the applicant assumes total responsibility for ensuring that the well(s) will be located, constructed, maintained and abandoned in accordance with the requirements of this Subchapter.

~~(e)(g)~~ The application shall be submitted to the ~~Division~~ Department on forms furnished by the ~~Division~~ Department, and shall include the following:

- ~~(1) For all wells:~~
  - ~~(A)(1)~~ the owner's name ~~name~~; ~~(facility name);~~
  - ~~(B)(2)~~ the owner's mailing address ~~(facility address);~~ and proposed well site address;
  - ~~(C)(3)~~ description of the well type and activity requiring a permit;
  - ~~(D)(4)~~ facility site location (map);
  - ~~(E)(5)~~ a map of the ~~facility and general site area~~, site, to scale, showing the locations of:
    - ~~(i)(A)~~ all property boundaries, at least one of which is referenced to a minimum of two landmarks such as identified roads, intersections, streams or lakes within 500 feet of proposed well or well system;
    - ~~(ii)(B)~~ all existing wells, identified by type of use, within 500 feet of proposed well or well system;
    - ~~(iii)(C)~~ the proposed well or well system;
    - ~~(iv)(D)~~ any test borings within 500 feet of proposed well or well system; and
    - ~~(v)(E)~~ all sources of known or potential groundwater contamination (such as septic tank systems; pesticide, chemical or fuel storage areas; animal feedlots; landfills or other waste disposal areas) within 500 feet of the proposed well site; well.
  - ~~(F)(6)~~ the well ~~drilling~~ contractor's name and state certification number, if known; and
  - ~~(G)(7)~~ construction diagram of the proposed well(s) including specifications describing all materials to be used, methods of construction and means for assuring the integrity and quality of the finished well(s).

~~(2)(h)~~ For water supply wells or well systems with a designed capacity of 100,000 gpd or greater the application shall include, in addition to the information required in ~~Subparagraph (e)(1) Paragraph (g)~~ of this Rule:

- ~~(A)(1)~~ the number, yield and location of existing wells in the system;
- ~~(B)(2)~~ the ~~design~~ designed capacity of the proposed well(s);

- (3) for wells to be screened in multiple zones or aquifers, measurement of the static water level and measurements of pH, specific conductance, and concentrations of sodium, potassium, calcium, magnesium, sulfate, chloride, and carbonates from each aquifer or zone from which water is proposed to be withdrawn;
- (4) a copy of any water use permit required pursuant to G.S. 143-215.15; and
- ~~(C)~~(5) any other well construction information or site specific information deemed necessary by the Director Department for the protection of human health and the environment.

~~(3)~~(i) For those monitoring wells with a design deviation from the specifications of 15A NCAC 2C .0108 of this Section, in addition to the information required in ~~Subparagraph (e)(1) Paragraph (g)~~ of this Rule:

- ~~(A)~~(1) a description of the subsurface conditions sufficient to evaluate the site. Data from test borings, ~~wells~~ wells, and pumping tests, etc., tests may be required as necessary;
- ~~(B)~~(2) a description of the quantity, character and origin of the contamination;
- ~~(C)~~(3) justification for the necessity of the design deviation; and
- ~~(D)~~(4) any other well construction information or site specific information deemed necessary by the Director Department for the protection of human health and the environment.

~~(4)~~(j) For those recovery wells with a design deviation from the specifications in 15A NCAC 2C .0108 of this Section, in addition to the information required in ~~Subparagraph (e)(1) and Parts (e)(3)(A), (B) and (C) Paragraphs (g) and (i)~~ of this Rule, the application shall describe the disposition of any fluids recovered if the disposal of those fluids will have an impact on any existing wells other than those installed for the express purpose of measuring the effectiveness of the recovery well(s).

~~(f)~~(k) In the event of an emergency, monitoring wells or recovery wells may be constructed after verbal approval is provided by the ~~Director or delegate-Director~~. After-the-fact applications shall be submitted by the ~~driller well contractor~~ or owner within ten days after construction begins. The application shall include construction details of the monitoring well(s) or recovery well(s) and include the name of the person who gave verbal approval and the time and date that approval was given.

~~(g)~~(l) ~~It shall be the responsibility of the~~The well owner or his agent ~~to shall~~ see that a permit is secured prior to the beginning of construction of any well for which a permit is required under the rules of this Subchapter.

Authority G.S. 87-87; 143-215.1.

**15A NCAC 02C .0107 STANDARDS OF CONSTRUCTION: WATER-SUPPLY WELLS**

(a) Location.

- ~~(1)~~ The well shall not be located in an area generally subject to flooding. Areas which have a propensity for flooding include those

~~with concave slope, alluvial or colluvial soils, gullies, depressions, and drainage ways;~~

- (1) A water supply well shall not be located within a wetland as defined in 15A NCAC 02B .0202 or any area where surface water or runoff will accumulate around the well.
- (2) The minimum horizontal separation between a well, ~~intended for a single family residence or other non-public water system,~~ water supply well and potential sources of groundwater contamination, ~~which exists for which a permit has been issued or which exists~~ at the time the well is constructed, ~~shall be~~ as follows unless otherwise specified:
  - (A) Septic tank and ~~drainfield~~ drainfield, including drainfield repair area  
100 ft-feet
  - (B) Other subsurface ground absorption waste disposal system 100 ft-feet
  - (C) Industrial or municipal ~~sludge spreading residuals disposal~~ or wastewater-irrigation sites 100 ft-feet
  - (D) ~~Water tight~~ sewage Sewage or liquid-waste collection or transfer facility constructed to water main standards in accordance with 15A NCAC 02T .0305(g)(2) or 15A NCAC 18A .1950(e), as applicable  
50 ft-feet
  - (E) Other sewage and liquid-waste collection or transfer facility  
100 ft-feet
  - (F) Cesspools and privies 100 ft-feet
  - (G) Animal feedlots or manure piles  
100 ft-feet
  - (H) Fertilizer, pesticide, herbicide or other chemical storage areas  
100 ft-feet
  - (I) Non-hazardous waste storage, treatment or disposal lagoons  
100 ft-feet
  - (J) Sanitary ~~landfills~~ landfills, municipal solid waste landfill facilities, incinerators, construction and demolition (C&D) landfills and other disposal sites except Land Clearing and Inert Debris landfills 500 ft-feet
  - (K) ~~Other non-hazardous solid waste landfills, such as Land Clearing and Inert Debris (LCID) landfills~~  
100 ft-feet
  - (L) Animal ~~barns~~ barns, watering troughs, or animal feeding areas 100 ft-feet
  - (M) Building foundations, excluding the foundation of a structure housing the well head 25 ft-feet
  - (N) Surface water bodies which act as sources of groundwater recharge, such as ponds,

- lakes and reservoirs 50 ft.-feet
- (O) All other surface water bodies, such as brooks, creeks, streams, rivers, sounds, bays and tidal estuaries 25 ft.-feet
- (P) Chemical or petroleum fuel underground storage ~~tank~~stank ~~systems~~ regulated under 15A NCAC 02N:
- (i) with secondary containment 50 ft.-feet
- (ii) without secondary containment 100 ft.-feet
- (Q) Above ground or underground storage tanks which contain petroleum fuels used for heating equipment, boilers or ~~furnaces~~ furnaces, except tanks used solely for storage of propane, natural gas, or liquefied petroleum gas 50 ft.-feet
- (R) ~~Underground tanks used solely for storage of liquefied petroleum gas, propane, or natural gas~~ 25 feet
- (S) ~~Gravesites~~ 50 feet
- ~~(R)~~(T) All other potential sources of groundwater contamination 50 ft.-feet
- (3) For a well serving a single-family dwelling where lot size or other fixed conditions preclude the separation distances specified in Subparagraph (a)(2) of this Rule, the required horizontal separation distances shall be the maximum possible but shall in no case be less than the following:
- (A) ~~Septic tank and drainfield~~ drainfield, including drainfield repair areas, except sapolite systems as defined in 15A NCAC 18A .1956(6) 50 ft.-feet
- (B) ~~Water tight sewage~~ Sewage or liquid-waste collection or transfer facility constructed to water main standards in accordance with 15A NCAC 02T .0305(g)(2) or 15A NCAC 18A .1950(e), as applicable 25 ft.-feet
- (C) ~~Animal barns~~ barns, watering troughs, or animal feeding areas 50 ft.-feet
- ~~(D) Cesspool or privies -50 ft.~~
- Minimum separation distances for all other potential sources of groundwater contamination shall be those specified in Subparagraph (a)(2) of this Rule.
- ~~(4) A well or well system, serving more than one single family dwelling but with a designed capacity of less than 100,000 gpd, must meet the separation requirements specified in Subparagraph (a)(2) of this Rule;~~
- ~~(4)(5) In addition to the minimum separation distances specified in Subparagraph (a)(2) of~~ this Rule, a A-well or well system with a designed capacity of 100,000 gpd or greater must shall be located a sufficient distance from known or anticipated sources of groundwater contamination so as to prevent a violation of applicable groundwater quality standards, resulting from the movement of contaminants, in response to the operation of the well or well system at the proposed rate and schedule of pumping; pumping.
- ~~(6) Actual separation distances must conform with the most stringent of applicable federal, state or local requirements;~~
- ~~(7) Wells drilled for public water supply systems regulated by the Division of Environmental Health shall meet the siting and all other requirements of that Division.~~
- [Note: More stringent separation distances and siting requirements may be specified in other federal, state, or local regulations]
- (b) Source of water.
- (1) The source of water for any well intended for domestic use shall not be from a water bearing zone or aquifer that is known to be contaminated;
- (2) In designated areas described in 15A NCAC 02C .0117 of this Section, the source shall be greater than 35 feet below land surface;
- (3) In designated areas described in 15A NCAC 02C .0116 of this Section, the source may be less than 20 feet below land surface, but in no case less than 10 feet below land surface; ~~and~~
- ~~(4) For wells constructed with separation distances less than those specified in Subparagraph (a)(2) of this Rule based on lot size of other fixed conditions as specified in Subparagraph (a)(3) of this Rule, the source shall be greater than 35 feet below land surface except in areas described in Rule .0116 of this Section; and~~
- ~~(4)(5) In all other areas the source shall be at least 20 feet below land surface.~~
- (c) Drilling Fluids and Additives. Drilling Fluids and Additives shall not contain organic or toxic substances or include water obtained from surface water bodies or water from a non-potable supply and may be comprised only of:
- (1) the formational material encountered during drilling; or
- (2) materials manufactured specifically for the purpose of borehole conditioning or water well construction.
- (d) Casing.
- (1) If steel casing is ~~used; used, then:~~
- (A) The casing shall be new, seamless or electric-resistance welded galvanized or black steel pipe. Galvanizing shall be done in accordance with requirements of ~~ASTM A 120; ASTM A53/A53M-07;~~

**PROPOSED RULES**

- (B) The casing, threads and couplings shall meet or exceed the specifications of ASTM A 53, A 120 or A 589; ASTM A53/A53M-07 or A589/A589M-06;
- (C) The minimum wall thickness for a given diameter shall equal or exceed that specified in Table 1;

TABLE 1: MINIMUM WALL THICKNESS FOR STEEL CASING:

Nominal Diameter (in.)(inches)	Wall Thickness (in.)(inches)
For <del>3-1/2"</del> <u>3.5 inch</u> or smaller pipe, schedule 40 is required	
4	0.142
5	0.156
<del>5-1/2"</del> <u>5.5</u>	0.164
6	0.185
8	0.250
10	0.279
12	0.330
14 and larger	0.375

- (D) Stainless steel casing, threads, and couplings shall conform in specifications to the general requirements in ~~ASTM A 530~~ ASTM A530/A530M-04a and also shall conform to the specific requirements in the ASTM standard that best describes the chemical makeup of the stainless steel casing that is intended for use in the construction of the well;
- (E) Stainless steel casing shall have a minimum wall thickness that is equivalent to standard schedule number 10S; and
- (F) Steel casing shall be equipped with a drive shoe if the casing is driven in a consolidated rock formation. The drive shoe shall be made of forged, high carbon, tempered seamless steel and shall have a beveled, hardened cutting edge. ~~A drive shoe shall not be required for wells in which a cement or concrete grout surrounds and extends the entire length of the casing.~~
- (2) If Thermoplastic Casing is ~~used;~~ used, then:
- (A) the casing shall be new;
- (B) the casing and joints shall meet or exceed all the specifications of ~~ASTM F 480-81~~ ASTM F480-06b, except that the outside diameters shall not be restricted to those listed in ~~F 480;~~ ASTM F480-06b; and
- (C) the maximum depth of installation for a given SDR or Schedule number shall not exceed that listed in Table 2 unless the well ~~drilling contractor can provide~~ provides the Division, Department, upon request, with written documentation from the manufacturer of the casing stating that the casing may safely be used at the depth at which it is to be installed.

TABLE 2: ~~Maximum allowable depths (in feet) of Installation of Thermoplastic Water Well Casing~~

number	Nominal Diameter (in inches)												
	2	2.5	3	3.5	4	5	6	8	10	12	14	16	
Schedule	40	485	635	415	315	253	180	130	85	65	65	50	50



**PROPOSED RULES**

Schedule	80	1460	1685	1170	920	755	550	495	340	290	270	265	255
SDR Number	All Diameters (in inches)												
SDR 41	20												
SDR 32.5	50												
SDR 27.5	100												
SDR 26	95												
SDR 21	185												
SDR 17	355												
SDR 13.5	735												

TABLE 2: Maximum allowable depths (in feet) of Installation of Thermoplastic Water Well Casing

<u>Nominal Diameter (inches)</u>	<u>Maximum Depth (in feet) for Schedule 40</u>	<u>Maximum Depth (in feet) for Schedule 80</u>	<u>Maximum Depth (in feet) for SDR 21</u>	<u>Maximum Depth (in feet) for SDR 17</u>	<u>Maximum Depth (in feet) for SDR 13.5</u>
<u>2</u>	<u>485</u>	<u>1460</u>			
<u>2.5</u>	<u>635</u>	<u>1685</u>			
<u>3</u>	<u>415</u>	<u>1170</u>			
<u>3.5</u>	<u>315</u>	<u>920</u>			
<u>4</u>	<u>253</u>	<u>755</u>			
<u>5</u>	<u>180</u>	<u>550</u>			
<u>6</u>	<u>130</u>	<u>495</u>			
<u>8</u>	<u>85</u>	<u>340</u>			
<u>10</u>	<u>65</u>	<u>290</u>			
<u>12</u>	<u>65</u>	<u>270</u>			
<u>14</u>	<u>50</u>	<u>265</u>			
<u>16</u>	<u>50</u>	<u>255</u>			

All Diameters    185                      355                      735

- (D) ~~Thermoplastic casing with wall thickness less than that corresponding to SDR 21 or Schedule 40 shall not be used.~~
- (D) ~~The top of the casing shall be terminated by the drilling contractor at least twelve inches above land surface.~~
- (E) For wells in which the casing will extend into consolidated rock, thermoplastic casing shall be equipped with a coupling, or other device approved by the manufacturer of the casing, that is sufficient to protect the physical integrity of the thermoplastic casing during the processes of seating and grouting the casing and subsequent drilling operations.
- (F) Thermoplastic casing shall not be driven into ~~consolidated rock~~ any formation.
- (3) In constructing any well, all water-bearing zones that are known to contain ~~polluted, contaminated,~~ saline, or other non-potable water shall be ~~adequately~~ cased and ~~cemented off~~ grouted so that ~~pollution~~ contamination of overlying and underlying groundwater zones shall not occur.
- (4) Every well shall be cased so that the bottom of the casing extends to a minimum depth as follows:
  - (A) Wells located within the area described in ~~45A NCAC 02C~~ Rule .0117 of this Section shall be cased from land surface to a depth of at least 35 feet.
  - (B) Wells located within the area described in ~~45A NCAC 02C~~ Rule .0116 of this Section shall be cased from land surface to a depth of at least 10 feet.
  - (C) ~~Wells constructed with separation distances less than those specified in Subparagraph (a)(2) of this Rule based on lot size of other fixed conditions as specified in Subparagraph (a)(3) of this Rule shall be cased from land surface to a depth of at least 35 feet except in areas described in Rule .0116 of this Section.~~
  - (~~C~~) (D) Wells located in any other area shall be cased from land surface to a depth of at least 20 feet.
- (5) The top of the casing shall be terminated by the ~~drilling well contractor~~ at least 12 inches above land ~~surface.~~ surface, regardless of the method of well construction and type of pump to be installed.
- (6) The casing in wells constructed to obtain water from a consolidated rock formation shall meet the requirements specified in Subparagraphs (d)(1) through (d)(5) of this Rule and shall be:
  - (A) adequate to prevent any formational material from entering the well in excess of the levels specified in Paragraph (h) of this Rule; and
  - (B) firmly seated at least five feet into the rock.
- (7) The casing in wells constructed to obtain water from an unconsolidated rock formation (such as gravel, sand or shells) shall extend at least one foot into the top of the water-bearing formation.
- (8) Upon completion of the well, the well shall be sufficiently free of obstacles including formation material as necessary to allow for the installation and proper operation of pumps and associated equipment.
- (9) ~~Prior to removing his equipment from the site, the well contractor shall seal the top of the casing with a water-tight cap or well seal to preclude the entrance of contaminants into the well.~~
- (e) Allowable Grouts.
  - (1) One of the following grouts shall be used wherever grout is required by a rule of this Section. Where a particular type of grout is specified by a Rule of this Section, no other type of grout shall be used.
    - (A) Neat cement grout shall consist of a mixture of not more than six gallons of clear, potable water to one 94 pound bag of Portland cement. Up to five percent, by weight, of bentonite may be used to improve flow and reduce shrinkage. If bentonite is used, additional water may be added at a rate not to exceed 0.6 gallons of water for each pound of bentonite.
    - (B) Sand cement grout shall consist of a mixture of not more than two parts sand and one part cement and not more than six gallons of clear, potable water per 94 pound bag of Portland cement.
    - (C) Concrete grout shall consist of a mixture of not more than two parts gravel or rock cuttings to one part cement and not more than six gallons

of clear, potable water per 94 pound bag of Portland cement. One hundred percent of the gravel or rock cuttings must be able to pass through a one-half inch mesh screen.

(D) Bentonite slurry grout shall consist of a mixture of not more than 20 gallons of clear, potable water to one 50 pound bag of commercial sodium bentonite. Non-organic, non-toxic substances may be added to bentonite slurry grout mixtures to improve particle distribution and pumpability. Bentonite slurry grout may only be used in accordance with the manufacturer's written instructions.

(E) Bentonite chips or pellets shall consist of pre-screened sodium bentonite chips or compressed sodium bentonite pellets with largest dimension of at least one-fourth (1/4) inch but not greater than one-fifth (1/5) of the width of the annular space into which they are to be placed. Bentonite chips or pellets shall be hydrated in place. Bentonite chips or pellets may only be used in accordance with the manufacturer's written instructions.

(F) Specialty grout shall consist of a mixture of non-organic, non-toxic materials with characteristics of expansion, chemical-resistance, rate or heat of hydration, viscosity, density or temperature-sensitivity applicable to specific grouting requirements. Specialty grouts may not be used without prior approval by the Secretary. Approval of the use of specialty grouts shall be based on a demonstration that the finished grout has a permeability less than 10<sup>-6</sup> centimeters per second and will not adversely impact human health or the environment.

(2) With the exception of bentonite chips or pellets, the liquid and solid components of all grout mixtures shall be thoroughly blended prior to emplacement below land surface.

(3) No fly ash, other coal combustion byproducts, or other wastes may be used in any grout.

(e)(f) Grouting. Grout emplacement.

(1) Casing shall be grouted to a minimum depth of twenty feet below land surface except that:

(A) In those areas designated by the Director to meet the criteria of 15A NCAC 02C Rule .0116 of this Section, grout shall extend to a depth of two feet above the screen or, for

open end wells, to the bottom of the casing, but in no case less than 10 feet.

(B) In those areas designated in 15A NCAC 02C Rule .0117 of this Section, grout shall extend to a minimum of 35 feet below land surface.

(C) The casing shall be grouted as necessary to seal off, from the producing zone(s), all aquifers or zones with water containing organic or other contaminants of such type and quantity as to render water from those aquifers or zones unsafe or harmful or unsuitable for human consumption and general use.

(2) For large diameter wells cased with concrete pipe or ceramic tile of a pipe diameter equal to or greater than 20 inches, the following shall apply:

(A) The diameter of the bore hole shall be at least six inches larger than the outside diameter of the casing;

(B) The annular space around the casing shall be filled with a cement type grout to a depth of at least 20 feet, excepting those designated areas specified in 15A NCAC 02C .0116 and 15A NCAC 02C .0117 of this Section. The grout shall be placed in accordance with the requirements of this Paragraph.

(2) In addition to the grouting required by Subparagraph (f)(1) of this Rule, the casing shall be grouted as necessary to seal off all aquifers or zones that are known to contain contaminated, saline, or other non-potable water so that contamination of overlying and underlying aquifers or zones shall not occur.

(3) Bentonite slurry grout may be used in that portion of the borehole that is at least three feet below land surface. That portion of the borehole above the bentonite grout, up to land surface, from land surface to three feet below land surface shall be filled with a concrete or cement-type grout, grout, or bentonite chips or pellets that are hydrated in place.

(4) Grout shall be placed around the casing by one of the following methods:

(A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the annular area space around the casing and overflows at the surface; or

(B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the annular space which can be raised as the grout

is applied. The grout hose or pipe shall remain submerged in grout during the entire application; or

- (C) Other. Grout may be emplaced in the annular space by gravity flow in such a way to ensure complete filling of the ~~space to a maximum depth of 20 feet below land surface.~~ space. Gravity flow shall not be used if water or any visible obstruction is present in the upper 20 feet of annular space at the time of grouting.

- (5) ~~If a rule of this Section requires grouting of the casing to a depth greater than 20 feet below land surface, the pumping or pressure method shall be used to grout that portion of the borehole deeper than 20 feet below land surface.~~

- ~~(5)(6)~~ If an outer casing is installed, it shall be grouted by either the pumping or pressure method.

- ~~(6)(7)~~ The liquid and solid components of all ~~grout mixtures~~ cement grouts, concrete grouts, and bentonite slurry grouts shall be thoroughly blended prior to emplacement below land surface.

- ~~(8)~~ Bentonite chips or pellets shall be used in compliance with all manufacturer's instructions including pre-screening the material to eliminate fine-grained particles, installation rates, hydration methods, tamping, and other measures to prevent bridging.

- ~~(9)~~ Bentonite grout shall not be used to seal zones of water with a chloride concentration of 1,500 parts per million or greater.

- ~~(7)(10)~~ The well shall be grouted within ~~five working~~ seven days after the casing is set.

- ~~(8)(11)~~ No additives which will accelerate the process of hydration shall be used in grout for thermoplastic well casing.

- ~~(9)(12)~~ Where grouting is required by the provisions of this Section, the grout shall extend outward in all directions from the casing wall to a minimum thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater; excepting, however, that ~~large diameter bored wells shall meet the requirements of Subparagraph (e)(2) of this Rule.~~ in wells with casing diameters of 20 inches or greater, the grout shall extend outward in all directions from the casing wall a minimum of three inches.

~~(f)(g)~~ Well Screens.

- (1) The well, if constructed to obtain water from an unconsolidated rock formation, shall be equipped with a screen that will prevent the entrance of formation material into the well

after the well has been developed and completed by the well contractor.

- (2) The well screen shall be of a design to permit the optimum development of the aquifer with minimum head loss consistent with the intended use of the well. The openings shall be designed to prevent clogging and shall be free of rough edges, irregularities or other defects that may accelerate or contribute to corrosion or clogging.

- (3) Multi-screen wells shall not connect aquifers or zones which have differences in water quality which would result in contamination of any aquifer or zone.

~~(g)(h)~~ Gravel-and Sand-Packed Wells.

- (1) In constructing a gravel-or sand-packed well:

(A) The packing material shall be composed of quartz, granite, or similar mineral or rock material and shall be clean, of uniform size, water-washed and free from clay, silt, or other deleterious material.

(B) The size of the packing material shall be determined from a grain size analysis of the formation material and shall be of a size sufficient to prohibit the entrance of formation material into the well in concentrations above those permitted by Paragraph (h) of this Rule.

(C) The packing material shall be placed in the annular space around the screens and casing by a fluid circulation ~~method,~~ preferably through a conductor pipemethod to ensure accurate placement and avoid bridging.

(D) The packing material shall be disinfected.

(E) Centering guides ~~must~~ shall be installed within five feet of the top packing material to ensure even distribution of the packing material in the borehole.

- (2) The packing material shall not connect aquifers or zones which have differences in water quality that would result in ~~deterioration~~ contamination of the water quality in any aquifer or zone.

~~(h)~~ Well Development.

~~(i)(4)~~ All water supply wells shall be developed by the well ~~driller;~~ contractor. Development shall include removal of formation materials, mud, drilling fluids and additives such that the water contains no more than:

- ~~(2)~~ ~~Development shall include removal of formation materials, mud, drilling fluids and additives such that the water contains no more than:~~

- ~~(1)(A)~~ five milliliters per liter of settleable solids; and

~~(2)(B)~~ 10 NTUs of turbidity as suspended solids.  
 (3) Development ~~shall does not~~ require efforts to reduce or eliminate the presence of dissolved constituents which are indigenous to the ground water quality in that area. ~~Typical dissolved constituents include, but are not limited to, aluminum, calcium, chloride, iron, magnesium, manganese, sodium and sulphate.~~

~~(4)(j)~~ Well Head Completion.

(1) Access Port. Every water supply well ~~and such other wells as may be specified by the Commission~~ shall be equipped with a usable access port or air line. The access port shall be at least one half inch inside diameter opening so that the position of the water level can be determined at any time. ~~Such~~The port shall be installed and maintained in such manner as to prevent entrance of water or foreign material.

(2) Well Contractor Identification Plate.

(A) An identification plate, showing the ~~drilling well~~ contractor and certification number and the information specified in Part (i)(2)(E) of this Rule, shall be installed on the well within 72 hours after completion of the drilling.

(B) The identification plate shall be constructed of a durable weatherproof, rustproof metal, or ~~equivalent material approved by the Director.~~ other material approved by the Department as equivalent.

(C) The identification plate shall be ~~securely permanently~~ attached to either the aboveground portion of the well casing, surface grout pad or enclosure floor around the casing where it is readily ~~visible, visible and in a manner that does not obscure the information on the identification plate.~~

(D) The identification plate shall not be removed by any person.

(E) The identification plate shall be stamped or otherwise imprinted with permanent legible markings to show the:

- (i) total depth of well;
- (ii) casing depth ~~(ft.)~~(feet) and inside diameter ~~(in.)~~(inches);
- (iii) screened intervals of screened wells;
- (iv) packing interval of gravel-or sand-packed wells;
- (v) yield, in gallons per minute (gpm), or specific capacity in gallons per minute per

foot of drawdown (gpm/ft.-dd);

(vi) static water level and date measured; ~~and~~

(vii) date well ~~completed.~~ completed; and

(viii) the well construction permit number or numbers, if such a permit is required.

(3) Pump Installer Identification Plate.

(A) An identification plate, showing the name and registration number or well contractor certification number of the pump installation contractor, and the information specified in Part (i)(3)(D) of this Rule, shall be ~~securely~~ permanently attached to either the aboveground portion of the well casing, surface grout pad or the enclosure ~~floor~~ floor, if present, where it is readily visible and in a manner that does not obscure the information on the identification plate within 72 hours after completion of the pump installation;

(B) The identification plate shall be constructed of a durable waterproof, rustproof metal, or ~~equivalent material approved by the Director;~~ other material approved by the Department as equivalent;

(C) The identification plate shall not be removed by any person; and

(D) The identification plate shall be stamped or otherwise imprinted with ~~permanent legible,~~ permanent, legible markings to show the:

- (i) date the pump was installed;
- (ii) the depth of the pump intake; and
- (iii) the horsepower rating of the pump.

(4) Valved flow. Every artesian well that flows under natural artesian pressure shall be equipped with a valve so that the flow can be completely stopped. Well owners ~~shall bear~~ responsible for the installation, operation and maintenance of the valve.

(5) Pitless adapters or pitless units ~~shall bear~~ allowed as a method of well head completion under the following conditions:

(A) The pitless device ~~shall be~~ is manufactured ~~specifically~~ for the purpose of water well construction;

(B) Design, installation and performance standards ~~shall bear~~ those specified in PAS 1 (Pitless Adapter Standard No. 1)-PAS-97(04) as adopted by the

Water System Council's Pitless Adapter Division;

- (C) The pitless device shall be compatible with the well casing;
- (D) The top of the pitless device unit shall extend ~~extends~~ at least eight ~~12~~ inches above land surface;
- (E) The excavation surrounding the casing and pitless device is filled with grout from the top of the casing grout to the land surface;
- ~~(E)~~(F) The pitless device unit shall have an access port.

- (6) All openings for piping, wiring, and vents shall enter into the well at least 12 inches above land surface, except where pitless adapters or pitless units are used, and shall be adequately sealed to preclude the entrance of contaminants into the well.

Authority G.S. 87-87; 87-88.

**15A NCAC 02C .0108 STANDARDS OF CONSTRUCTION: WELLS OTHER THAN WATER SUPPLY**

(a) No well shall be located, constructed, operated, or repaired in any manner that may adversely impact the quality of groundwater.

(b) Injection wells shall conform to the standards set forth in Section .0200 of this Subchapter.

(c) Monitoring wells and recovery wells shall be located, designed, constructed, operated and abandoned with materials and by methods which are compatible with the chemical and physical properties of the contaminants involved, specific site conditions and specific subsurface conditions. ~~Specific construction standards will be itemized in the construction permit, if such a permit is required, but the following general requirements will apply:~~

- (1) ~~The borehole shall not penetrate to a depth greater than the depth to be monitored or the depth from which contaminants are to be recovered.~~
- (2) ~~The well shall not hydraulically connect:~~
  - (A) ~~separate aquifers; or~~
  - (B) ~~those portions of a single aquifer where known or suspected contamination would occur in separate and definable layers within the aquifer.~~
- (3) ~~The well construction materials shall be compatible with the depth of the well and the contaminants to be monitored or recovered.~~
- (4) ~~The well shall be constructed in such a manner that water or contaminants from the land surface cannot migrate along the borehole annulus into any packing material or well screen area.~~
- (5) ~~Packing material placed around the screen shall extend at least one foot above the top of~~

~~the screen. Unless the depth of the screen necessitates a thinner seal; a one foot thick seal, comprised of bentonitic clay or other material approved by the Director, shall be emplaced directly above and in contact with the packing material.~~

- ~~(6) Grout shall be placed in the annular space between the outermost casing and the borehole wall from the land surface to the top of the bentonite clay seal above any well screen or to the bottom of the casing for open end wells. To provide stability for the well casing, the uppermost three feet of grout below land surface must be a concrete or cement type grout.~~
  - ~~(7) All wells shall be secured, with a locking well cap, to reasonably ensure against unauthorized access and use.~~
  - ~~(8) All wells shall be afforded reasonable protection against damage during construction and use.~~
  - ~~(9) Any wells that would flow under natural artesian conditions shall be valved so that the flow can be regulated.~~
  - ~~(10) The well casing shall be terminated no less than 12 inches above land surface datum unless both of the following conditions are met:~~
    - ~~(A) site specific conditions directly related to business activities, such as vehicle traffic, would endanger the physical integrity of the well; and~~
    - ~~(B) the well head is completed in such a manner so as to preclude surficial contaminants from entering the well.~~
  - ~~(11) Each well shall have securely affixed an identification plate constructed of a durable material and shall contain the following information:~~
    - ~~(A) drilling contractor, or pump installation contractor, name and applicable certification or registration numbers;~~
    - ~~(B) date well completed;~~
    - ~~(C) total depth of well;~~
    - ~~(D) a warning that the well is not for water supply and that the groundwater may contain hazardous materials; and~~
    - ~~(E) depth(s) to the top(s) and bottom(s) of the screen(s).~~
  - ~~(12) Each well shall be developed such that the level of turbidity or settleable solids does not preclude accurate chemical analyses of any fluid samples collected.~~
- (d) Monitoring well and recovery well boreholes shall not penetrate to a depth greater than the depth to be monitored or the depth from which contaminants are to be recovered. Any portion of the borehole that extends to a depth greater than the depth to

be monitored or the depth from which contaminants are to be recovered shall be grouted completely to prevent vertical migration of contaminants.

(e) The well shall not hydraulically connect:

- (A) separate aquifers; or
- (B) those portions of a single aquifer where known or suspected contamination would occur in separate and definable layers within the aquifer.

(f) The well construction materials shall be compatible with the depth of the well and any contaminants to be monitored or recovered.

(g) The well shall be constructed in such a manner that water or contaminants from the land surface cannot migrate along the borehole annulus into any packing material or well screen area.

(h) In non-water supply wells, packing material placed around the screen shall extend at least one foot above the top of the screen. Unless the depth of the screen necessitates a thinner seal: a one foot thick seal, comprised of chip or pellet bentonite or other material approved by the Department as equivalent, shall be emplaced directly above and in contact with the packing material.

(i) In non-water supply wells, grout shall be placed in the annular space between the outermost casing and the borehole wall from the land surface to the top of the bentonite seal above any well screen or to the bottom of the casing for open end wells. The grout and method of emplacement of the grout shall comply with Paragraphs (e) and (f) of Rule .0107 of this Section except that the upper three feet of grout shall be concrete or cement grout.

(j) If the well penetrates any water-bearing zone that is known to contain contaminated or saline water, the well shall be grouted within one day after the casing is set but in no case shall any well remain ungrouted for more than seven days after the casing is set.

(k) All non-water supply wells, including temporary wells, shall be secured with a locking well cap to ensure against unauthorized access and use.

(l) All non-water supply wells shall be equipped with a steel outer well casing or flush-mount cover, set in concrete, and other measures sufficient to protect the well from damage by normal site activities.

(m) Any well that would flow under natural artesian conditions shall be valved so that the flow can be regulated.

(n) In non-water supply wells, the well casing shall be terminated no less than 12 inches above land surface unless all of the following conditions are met:

- (1) site-specific conditions directly related to business activities, such as vehicle traffic, would endanger the physical integrity of the well; and
- (2) the well head is completed in such a manner so as to preclude surficial contaminants from entering the well.

(o) Each non-water supply well shall have permanently affixed an identification plate. The identification plate shall be constructed of a durable waterproof, rustproof metal, or other material approved by the Department as equivalent and shall contain the following information:

- (1) well contractor name and certification number;
- (2) date well completed;
- (3) total depth of well;
- (4) a warning that the well is not for water supply and that the groundwater may contain hazardous materials;
- (5) depth(s) to the top(s) and bottom(s) of the screen(s); and
- (6) the well identification number or name assigned by the well owner.

(p) Each non-water supply well shall be developed such that the level of turbidity or settleable solids does not preclude accurate chemical analyses of any fluid samples collected or adversely affect the operation of any pumps or pumping equipment.

~~(q)~~ Wells constructed for the purpose of monitoring or testing for the presence of liquids associated with tanks regulated under 15A NCAC 02N (Criteria and Standards Applicable to Underground Storage Tanks) shall be constructed in accordance with 15A NCAC 02N .0504.

~~(r)~~ Wells constructed for the purpose of monitoring for the presence of vapors associated with tanks regulated under 15A NCAC 02N shall:

- (1) be constructed in such a manner as to prevent the entrance of surficial contaminants or water into or alongside the well casing; and
- (2) be provided with a lockable cap in order to reasonably ensure against unauthorized access and use.

~~(s)~~ Temporary wells and all other non-water supply wells shall be constructed in such a manner as to preclude the vertical migration of contaminants within and along the borehole channel.

~~(t)~~ For monitoring, sand-or gravel packed wells, centering guides must be evenly distributed in the borehole, shall be installed within five feet of the top packing material to ensure even distribution of the packing material in the borehole.

Authority G.S. 87-87; 87-88.

**15A NCAC 02C .0109 PUMPS AND PUMPING EQUIPMENT**

(a) The pumping capacity of the pump shall be consistent with the intended use and yield characteristics of the well.

(b) The pump and related equipment for the well shall be conveniently located to permit easy access and removal for repair and maintenance.

(c) The base plate of a pump placed directly over the well shall be designed to form a watertight seal with the well casing or pump foundation.

(d) In installations where the pump is not located directly over the well, the annular space between the casing and pump intake or discharge piping shall be closed with a watertight seal, seal preferably designed specifically for this purpose.

(e) The well shall be properly vented at the well head shall be equipped with a screened vent to allow for the pressure changes within the well except when if a suction lift type pump or single-pipe jet pump is used, used or if the well flows under natural pressure. For wells located within the 100-year floodplain, the

vent opening shall be located at least 12 inches above the base flood elevation and reinforced or attached to a structure to prevent damage by floodwaters or the vent opening shall be downturned and equipped with a check valve to prevent the entrance of floodwaters but allow venting of the well when not flooded.

(f) A hose bibb shall be installed at the well head by the person installing the pump in any private drinking water well shall install a threadless sampling tap at the wellhead for obtaining water samples, samples except:

- (1) In the case of suction pump or offset jet pump installations the hose bibb threadless sampling tap shall be installed on the return (pressure) side of the jet pump piping, piping, and
- (2) In the case of pitless adapter installations, the threadless sampling tap shall be located immediately upstream of the water storage tank.

The threadless sampling tap shall be turned downward, located a minimum of twelve inches above land surface, floor, or well pad, and positioned such that a water sample can be obtained without interference from any part of the wellhead.

(g) A priming tee shall be installed at the well head in conjunction with offset jet pump installations.

(h) Joints of any suction line installed underground between the well and pump shall be tight under system pressure.

(i) The drop piping and electrical wiring used in connection with the pump shall meet all applicable underwriters specifications.

(j) Contaminated water shall not be used for priming the pump.

(k) If the wellhead is equipped with a threaded hose bibb in addition to the threadless sampling tap, the hose bibb shall be fitted with a backflow preventer or vacuum breaker.

*Authority G.S. 87-87; 87-88.*

**15A NCAC 02C .0110 WELL TESTS FOR YIELD**

(a) Every water supply domestic well shall be tested for capacity by a method and for a period of time as specified in this Rule, one of the following methods:

(b) The permittee may be required as a permit condition to test any well for capacity by a method stipulated in the permit.

(c) Standard methods for testing domestic well capacities include:

- (1) Pump Method
  - (A) select a permanent measuring point, such as the top of the casing;
  - (B) measure and record the static water level below or above the measuring point prior to starting the pump;
  - (C) measure and record the discharge rate at intervals of 10 minutes or less;
  - (D) measure and record water levels using a steel or electric tape at intervals of 10 minutes or less;
  - (E) continue the test for a period of at least one hour; and

(F) make measurements within an accuracy of plus or minus one inch.

(2) Bailer Method

(A) select a permanent measuring point, such as the top of the casing;

(B) measure and record the static water level below or above the measuring point prior to starting the bailing procedure;

(C) bail the water out of the well as rapidly as possible for a period of at least one hour; determine and record the bailing rate in gallons per minute at the end of the bailing period; and

(D) measure and record the water level immediately after stopping bailing process.

(3) Air Rotary Drill Method

(A) measure and record the amount of water being injected into the well during drilling operations;

(B) measure and record the discharge rate in gallons per minute at intervals of one hour or less during drilling operations;

(C) after completion of the drilling, continue to blow the water out of the well for at least 30 minutes and measure and record the discharge rate in gallons per minute at intervals of 10 minutes or less during the period; and

(D) measure and record the water level immediately after discharge ceases.

(4) Air Lift Method Method. Measurements shall be made through a pipe placed in the well. The pipe shall have a minimum inside diameter of at least five-tenths of an inch and shall extend from top of the well head to a point inside the well that is below the bottom of the air line.

(A) Measurements shall be made through a pipe placed in the well;

(B) The pipe shall have a minimum inside diameter of at least five tenths of an inch and shall extend from top of the well head to a point inside the well that is below the bottom of the air line;

(A)(C) Measure and record the static water level prior to starting the air compressor;

(B)(D) Measure and record the discharge rate at intervals of 10 minutes or less;

(C)(E) Measure and record the pumping level using a steel or electric tape at intervals of 10 minutes or less; and

(D)(F) Continue the test for a period of at least one hour.



(b)(4) Public, Industrial and Irrigation Wells. Every ~~public, industrial and or irrigation well or well serving a public water supply system~~ upon completion, shall be tested for capacity by the ~~drilling well contractor (except when if the owner specifies another agent)~~ by the following or equivalent method:

- (1) The water level in the well to be pumped and any observation wells shall be measured and recorded prior to starting the test.
- (2) The well shall be tested by a pump of sufficient size and lift capacity to ~~satisfactorily~~ test the yield of the well, consistent with the well diameter and purpose.
- (3) The pump shall be equipped with sufficient throttling devices to reduce the discharge rate to approximately 25 percent of the maximum capacity of the pump.
- (4) The test shall be conducted for a period of at least 24 hours without interruption. ~~interruption and shall be continued for a period of at least four hours after the pumping water level stabilizes (ceases to decline). When~~If the total water requirements for wells ~~other than public, community or municipal supply wells not serving a public water supply system~~ are less than 100,000 gpd, the well shall be tested for a period and in a manner to ~~satisfactorily~~ show the capacity of the well, or that the capacity of the well is sufficient to meet the intended purpose.
- (5) The pump discharge shall be set at a constant rate or rates that can be maintained throughout the testing period. If the well is tested at two or more pumping rates (a step-drawdown test), pumping at each pumping rate shall continue to the point that the pumping water level shall be stabilized declines no more than 0.1 feet per hour for a period of at least four hours for each pumping rate.
- (6) The pump discharge rate shall be measured by an orifice meter, flowmeter, weir, or equivalent metering device. The metering device shall have an accuracy within plus or minus five percent.
- (7) The discharge rate of the pump and time shall be measured and recorded at intervals of 10 minutes or less during the first two hours of the pumping period for each pumping rate. If the pumping rate is relatively constant after the first two hours of pumping, discharge measurements and recording may be made at longer time intervals but not to exceed one hour.
- (8) The water level in each well and time shall be measured and recorded at intervals of five minutes or less during the first hour of pumping and at intervals of 10 minutes or less during the second hour of pumping. After the second hour of pumping, the water level in each well shall be measured at such intervals

that the lowering of the pumping water level does not exceed three inches between measurements.

- (9) A reference point for water level measurements (preferably the top of the casing) shall be selected and recorded for the pumping well and each observation well to be measured during the test. All water level measurements shall be made from the selected reference points.
- (10) All water level measurements shall be made with a steel or electric tape or equivalent measuring device.
- (11) All water level measurements shall be made within an accuracy of plus or minus one inch.
- (12) After the completion of the pumping period, measurements of the water level recovery ~~rate, rate~~ in the pumped ~~well, well~~ shall be made for a period of at least two hours in the same manner as the drawdown.

Authority G.S. 87-87; 87-88.

**15A NCAC 02C .0111 DISINFECTION OF WATER SUPPLY WELLS**

(a) Any person constructing, repairing, testing, or performing maintenance, or installing a pump in a water supply well shall disinfect the well upon completion of construction, repairs, testing, maintenance, or pump installation. All water supply wells shall be disinfected upon completion of construction, maintenance, repairs, pump installation and testing as follows:

(b) Any person disinfecting a well shall perform disinfection in accordance with the following procedures:

- (1) Chlorination.
  - (A) Chlorine Hypochlorite shall be placed in the well in sufficient quantities to produce a chlorine residual of at least 100 parts per million (ppm) in the well. ~~A chlorine solution may be prepared by dissolving high test calcium hypochlorite (trade names include HTH, Chlor-Tab, etc.) in water. Do not use stabilized~~ Stabilized chlorine tablets or hypochlorite products containing fungicides, algacides, or other disinfectants, disinfectants shall not be used. Chlorine test strips or other quantitative test methods shall be used to confirm the concentration of the chlorine residual. Follow manufacturers directions with storing, transporting, and using calcium hypochlorite products. [Note: About three ounces of hypochlorite containing 65 percent to 75 percent available chlorine is needed per 100 gallons of water for at least a 100 ppm chlorine residual. As

an example, a well having a diameter of six inches, has a volume of about 1.5 gallons per foot. If the well has 200 feet of water, the minimum amount of hypochlorite required would be 9 ounces. (1.5 gallons/foot x 200 feet = 300 gallons at 3 ounces per 100 gallons; 3 ounces x 3 = 9 ounces.)]

- (B) The ~~chlorine~~ hypochlorite shall be placed in the well by one of the following or equivalent methods:
- (i) ~~Chlorine tablets~~ Granular hypochlorite may be dropped in the top of the well and allowed to settle to the bottom; or
  - (ii) ~~Chlorine~~ Hypochlorite solutions shall be placed in the bottom of the well by using a bailer or by pouring the solution through the drill rod, hose, or pipe placed in the bottom of the well. The solution shall be flushed out of the drill rod, hose, or pipe by using water or air.
- (C) ~~Agitate the~~ The water in the well shall be agitated or circulated to ensure thorough dispersion of the chlorine.
- (D) The well casing, pump column and any other equipment above the water level in the well shall be thoroughly rinsed with the chlorine solution as a part of the disinfecting process.
- (E) The chlorine solution shall stand in the well for a period of at least 24 hours.
- (F) The well shall be pumped until there is no detectable total chlorine residual in water pumped from the well the system is clear of the chlorine before the system well is placed in use.
- (2) Other materials and methods of disinfection, at least as effective as those in Item (1) of this Rule, may be used upon prior approval by the ~~Director~~ Department.

Authority G.S. 87-87; 87-88.

**15A NCAC 02C .0112 WELL MAINTENANCE: REPAIR: GROUNDWATER RESOURCES**

(a) Every well shall be maintained by the owner in a condition whereby it will conserve and protect the groundwater resources, and whereby it will not be a source or channel of contamination or pollution to the water supply or any ~~aquifer~~ aquifer, or the well shall be permanently abandoned in accordance with the requirements of 15A NCAC 02C .0113(b).

(b) Dewatering wells shall be permanently abandoned in accordance with the requirements of 15A NCAC 02C .0113(b) within 30 days of completion of the dewatering activity.

(c) The well owner shall not place new potential sources of groundwater contamination closer to the well than the separation distances specified in Rule .0107(a)(2) or .0107(a)(3) of this Section, as applicable.

~~(d)(b)~~ All materials used in the maintenance, replacement, or repair of any well shall meet the requirements for new installation.

~~(e)(e)~~ Broken, punctured or otherwise defective or unserviceable casing, screens, fixtures, seals, or any part of the well head shall be repaired or replaced, or the well shall be permanently abandoned pursuant to the requirements of ~~15A NCAC 02C .0113~~ Rule .0113(b) of this Section.

~~(f)(d)~~ National Science Foundation NSF International (NSF) approved PVC pipe rated at 160 PSI may be used for liner casing pipe. The annular space around the liner casing shall be at least five-eighths inches and shall be completely filled with ~~neat cement~~ a cement-type grout. The well liner shall be completely grouted within 10 working days after collection of water samples or completion of other testing to confirm proper placement of the liner or within 10 working days after the liner has been ~~installed~~ installed if no sampling or testing is performed.

(g) All well repairs shall be completed with the wellhead, or the top of the pitless unit, if so equipped, terminating at least 12 inches above land surface. Any grout excavated or removed as a result of the well repair shall be replaced in accordance with Rule .0107(f) of this Section.

Authority G.S. 87-87; 87-88.

**15A NCAC 02C .0113 ABANDONMENT OF WELLS**

(a) Any well which is temporarily removed from service ~~has been temporarily abandoned~~, shall be temporarily abandoned in accordance with one of the following procedures:

- (1) Upon temporary removal from service or prior to being put into service, the well shall be sealed with a water-tight cap or seal compatible with the casing and installed so that it cannot be removed easily by hand without the use of hand tools or power tools.
- (2) The well shall be maintained whereby it is not a source or channel of contamination during temporary abandonment.
- ~~(3) Every temporarily abandoned well shall be protected with a casing.~~

(b) Permanent abandonment of wells other than bored or hand dug wells shall be performed in accordance with the following procedures: ~~Any well which has been abandoned permanently shall be abandoned in accordance with the following procedures:~~

- ~~(1) Procedures for permanent abandonment of wells, other than bored and hand dug wells:~~
- ~~(A)(1)~~ All casing and screen materials may be removed prior to initiation of abandonment procedures if such removal will not cause or contribute to contamination of the groundwaters. ~~Any casing not grouted in~~

- accordance with 15A NCAC 2C .0107(e) of this Section shall be removed or properly grouted.
- (2) Any casing installed after January 1, 1972 and not grouted in accordance with Rule .0107(f) of this Section shall be removed or grouted prior to abandonment.
- (3) Any casing installed prior to January 1, 1972 and not grouted in accordance with Rule .0107(f) of this Section shall be either:
- (A) removed or grouted prior to abandonment; or
- (B) the uppermost three feet of casing shall be removed and the surrounding materials excavated down to the top of the remaining well casing, including the material extending to a width of at least 12 inches outside of the well casing. Cement-type grout or bentonite slurry grout shall be pumped into any open annular space around the remaining casing.
- (B)(4) The entire depth of the well shall be sounded before it is sealed to ensure freedom from obstructions that may interfere with sealing operations.
- (C)(5) Using a hypochlorite solution (such as HTH), disinfect the well. Except in the case of temporary wells and monitoring wells, the well shall be disinfected in accordance with 15A NCAC 2C .0111. Rule .0111(b)(1)(A) through .0111(b)(1)(C) of this Section if the well is contaminated with coliform or pathogenic microorganisms. Do not use a common commercial household liquid bleach, as this is too weak a solution to ensure proper disinfection.
- (6) Wells constructed prior to January 1, 1972 in which the casing has not been removed or grouted shall be completely filled with cement or bentonite slurry grout. Following filling of the well and removal of the upper three feet of casing in accordance with Part (3)(B) of this Paragraph, a six-inch thick concrete or cement grout plug shall be placed on top of the remaining casing such that it covers the entire excavated area above the top of the casing, including the area extending to a width of at least 12 inches outside the well casing. The remainder of the excavation above the concrete or cement plug shall be filled with grout or soil.
- (D)(7) In the case of gravel-packed wells in which the casing and screens have not been removed, neat-cement, or bentonite grout/bentonite slurry grout shall be injected into the well completely filling it from the bottom of the casing to the top.
- (E)(8) Wells, other than "bored" wells, Wells constructed in unconsolidated formations shall be completely filled with cement grout, or bentonite grout by introducing it through a pipe extending to the bottom of the well which can be raised as the well is filled.
- (F)(9) Wells constructed in consolidated rock formations or that penetrate zones of consolidated rock may be filled with cement grout, bentonite grout, sand, gravel or drill cuttings opposite the zones of consolidated rock. The top of the cement grout, bentonite grout, any sand, gravel or cutting fill shall terminate at least 10 feet below the top of the consolidated rock or five feet below the bottom of casing. Cement grout or bentonite grout. Grout shall be placed beginning 10 feet below the top of the consolidated rock or five feet below the bottom of casing and extend five feet above the top of consolidated rock. The remainder of the well, above the upper zone of consolidated rock, shall be filled with cement grout or bentonite grout up to land surface. For any well in which the depth of casing or the depth of the bedrock is not known or cannot be confirmed, then the entire length of the well shall be filled with cement grout or bentonite grout up to land surface.
- (G)(10) Temporary wells, wells, or monitor wells; wells or test borings:
- (A)(i) less than 20 feet in depth and which do not penetrate the water table shall be abandoned by filling the entire well up to land surface with cement grout, dry clay, bentonite grout, or material excavated during drilling of the well and then compacted in place; and
- (B)(ii) greater than 20 feet in depth or that penetrate the water table shall be abandoned by completely filling with a bentonite or cement - type grout.
- (2) For bored wells or hand dug wells, constructed into unconsolidated material:
- (A) For wells that do not have standing water in them at any time during the year:
- (i) Remove all plumbing or piping entering the well, along with any obstructions in the well;
- (ii) Remove as much of the well casing as possible and then fill the entire well up to land surface with cement grout, concrete grout, bentonite grout, dry clay, or material excavated during drilling of the well and then compacted in place.

- (B) ~~For wells that do have standing water in them during all or part of the year:~~
- (i) ~~Remove all plumbing or piping into the well, along with any obstructions inside the well; and~~
- (ii) ~~Remove as much of the well tile casing as possible, but no less than to a depth of three feet below land surface;~~
- (iii) ~~Remove all soil or other subsurface material present down to the top of the remaining well casing, and extending to a width of at least 12 inches outside of the well casing on all sides;~~
- (iv) ~~Using a hypochlorite solution (such as HTH), disinfect the well in accordance with 15A NCAC 2C .0111 of this Subchapter. Do not use a common commercial household liquid bleach, as this is too weak a solution to ensure proper disinfection;~~
- (v) ~~Fill the well up to the top of the remaining casing with cement grout, concrete grout, bentonite grout, dry clay, or material excavated during drilling of the well and then compacted in place;~~
- (vi) ~~Pour a one foot thick concrete grout or cement grout plug that fills the entire excavated area above the top of the casing, including the area extending on all sides of the casing out to a width of at least 12 inches on all sides; and~~
- (vii) ~~Complete the abandonment process by filling the remainder of the well above the concrete or cement plug with additional concrete grout, cement grout, or soil.~~

(c) For bored wells or hand dug wells, constructed into unconsolidated material:

- (1) The well shall be disinfected in accordance with Rule .0111(b)(1)(A) through .0111(b)(1)(C) of this Section if the well is contaminated with coliform or pathogenic microorganisms.
- (2) All plumbing or piping in the well and any other obstructions inside the well shall be removed from the well.
- (3) The uppermost three feet of well casing shall be removed from the well.
- (4) All soil or other subsurface material present down to the top of the remaining well casing shall be removed, including the material extending to a width of at least 12 inches outside of the well casing;
- (5) The well shall be filled to the top of the remaining casing with grout, dry clay, or

material excavated during drilling of the well. If dry clay or material excavated during construction of the well is used, it shall be emplaced in lifts no more than five feet thick, each compacted in place prior to emplacement of the next lift.

- (6) A six-inch thick concrete grout plug shall be placed on top of the remaining casing such that it covers the entire excavated area above the top of the casing, including the area extending to a width of at least 12 inches outside the well casing; and
- (7) The remainder of the well above the concrete plug shall be filled with grout or soil.

~~(d)(e)~~ Any well which acts as a source or channel of contamination shall be repaired or permanently abandoned within 30 days of receipt of notice from the ~~department~~ Department.

~~(e)(d)~~ The ~~drilling well~~ contractor shall permanently abandon any well in which the casing has not been installed or from which the casing has been removed, prior to removing his equipment from the site.

~~(f)(e)~~ The owner shall ~~be~~ responsible for permanent abandonment of a well except that:

- (1) the well ~~driller~~ contractor is responsible for well abandonment if abandonment is required because the ~~driller well~~ contractor improperly locates, constructs, repairs or completes the well; or
- (2) the person who installs, repairs or removes the well pump is responsible for well abandonment if that abandonment is required because of improper well pump installation, repair or removal.

Authority G.S. 87-87; 87-88.

**15A NCAC 02C .0114 DATA AND RECORDS REQUIRED**

(a) Well Cuttings.

- (1) Samples of formation cuttings shall be collected by the well contractor and furnished to the Division from any well when such samples are requested by the Division prior to completion of the drilling or boring activities.
- (2) Samples or ~~representatives~~ representative cuttings shall be obtained for depth intervals of 10 feet or less beginning at the land surface. Representative cuttings shall also be collected at depths of each significant change in formation.
- (3) Samples of cuttings shall be placed in containers furnished by the Division and such containers shall be filled, sealed and ~~properly~~ labeled with indelible-type markers, showing the well owner, well number if applicable, and depth interval the sample represents.
- (4) Each set of samples shall be placed in a ~~suitable~~ container(s) showing the location,

owner, well number if applicable, ~~driller, well contractor,~~ depth interval, and date.

- (5) Samples shall be retained by the ~~driller well contractor~~ until delivery instructions are received from the Division or for a period of at least 60 days after the well record form (GW-1), indicating said samples are available, has been received by the Division.
- (6) The furnishing of samples to any person or agency other than the Division ~~shall does~~ not constitute compliance with the department's request and shall not relieve the ~~driller well contractor~~ of his obligation to the ~~department.~~ Division.

(b) Reports.

- (1) Any person completing or abandoning any well shall submit to the Division a record of the construction or abandonment. For ~~public~~ water supply wells, a copy of each completion or abandonment record shall also be submitted to the Health Department responsible for the county in which the well is located. The record shall be on forms provided by the Division and shall include certification that construction or abandonment was completed as required by ~~these Rules~~this Section, the owner's name and address, ~~well location, latitude and longitude~~ of the well with a position accuracy of 100 feet, diameter, depth, yield, and any other information the Division may ~~reasonably require, require~~ as necessary to depict the location and construction details of the well.
- (2) The certified record of completion or abandonment shall be submitted within a period of thirty days after completion or abandonment.
- (3) The furnishing of records to any person or agency other than the Division ~~shall does~~ not constitute compliance with the reporting requirement and shall not relieve the ~~driller well contractor~~ of his obligation to the ~~Department.~~ Division.

Authority G.S. 87-87; 87-88.

**15A NCAC 02C .0116 DESIGNATED AREAS: WATER SUPPLY WELLS CASED TO LESS THAN 20 FEET**

(a) In some areas the best or only source of potable water supply exists between ten and twenty feet below the surface of the land. In consideration of this, ~~the Director may designate areas of the state where water supply wells may be cased to a depth less than twenty feet.~~ feet in the following areas: ~~To make this determination, the Director will find:~~

- (1) ~~that the only or best source of drinking water exists between a depth of ten and twenty feet below the surface of the land;~~
- (2) ~~that utilization of said source of water is in the best interest of the public.~~

- (1) in Currituck County in an area between the sound and a line beginning at the end of SR 1130 near Currituck Sound, thence north to the end of SR 1133, thence north to the end of NC 136 at the intersection with the sound;
- (2) on the Outer Banks from the northern corporate limit of Nags Head on Bodie Island, south to Ocracoke Inlet;
- (3) all areas lying between the Intracoastal Waterway and the ocean from New River Inlet south to New Topsail Inlet;
- (4) all areas lying between the Intracoastal Waterway and the ocean from the Cape Fear River south to the South Carolina line.

(b) The Director may designate additional areas of the state where water supply wells may be cased to a depth less than 20 feet. To designate such areas, the Director shall find:

- (1) that the only or best source of drinking water in the area exists between a depth of 10 and 20 feet below the surface of the land; and
- (2) that utilization of this source of water in the area is in the best interest of the public.

(b) ~~The following areas are so designated:~~

- (1) ~~in Currituck County on Terres Quarter Island and in an area between the sound and a line beginning at the end of SR 1130 near Currituck Sound, thence north to the end of SR 1133, thence north to the end of NC 3 at the intersection with the sound;~~
- (2) ~~on the Outer Banks from the northern corporate limit of Nags Head on Bodie Island, south to Ocracoke Inlet;~~
- (3) ~~all areas lying between the Interoastal Waterway and the ocean from New River Inlet south to New Topsail Inlet;~~
- (4) ~~all areas lying between the Interoastal Waterway and the ocean from the Cape Fear River south to the South Carolina line.~~

(c) In all other areas, the source of water shall be at least 20 feet below land surface, except when adequate quantities of potable water cannot be obtained below a depth of twenty feet, and at sites not within areas designated in ~~Subparagraph Paragraphs~~ (b) or (c) of this Rule the source of water may be obtained from unconsolidated rock formations at depths less than twenty feet provided that:

- (1) the well ~~driller contractor~~ can show to the satisfaction of the ~~Division, Department,~~ that sufficient water of acceptable quality for the intended use is not available to a minimum depth of fifty feet; and
- (2) the proposed source of water is the maximum feasible depth above fifty feet, but in no case less than ten ~~feet.~~ feet; and
- (3) the regional office of the ~~department shall be~~ Department is notified prior to the construction of a well obtaining water from a depth between 10 and 20 feet below land surface.

Authority G.S. 87-87.

**15A NCAC 02C .0117 DESIGNATED AREAS:  
WATER SUPPLY WELLS CASED TO MINIMUM  
DEPTH OF 35 FEET**

~~(a) Water supply wells. Wells drilled in constructed in the following areas or within 400 feet of the following areas underlain by metavolcanic rocks identified on the 1985 State Geologic Map as bedded argillites of the Carolina Slate Belt shall be cased to a minimum depth of 35 feet. feet. These areas are generally described as follows:~~

- (1) Anson County generally west of a line beginning at the intersection of the runs of the Pee Dee River and Buffalo Creek, thence generally northeast to SR 1627, thence generally south along SR 1627 to the intersection with SR 1632, thence generally west along SR 1632 to the intersection with US 52, thence generally south along US 52 to the intersection with SR 1418, thence generally southwest along SR 1418 to the intersection of NC 218, thence south along NC 218 to the intersection with US 74, thence generally west along US 74 to the intersection of SR 1251, thence generally southwest along SR 1251 to the intersection with SR 1240, thence generally southeast along SR 1240 to the intersection with SR 1252, thence generally south along SR 1252 to the intersection with SR 1003, thence generally west along SR 1003 to the Union County line;
- (2) Cabarrus County generally east of a line beginning at the intersection of SR 1113 and the Union County line, thence generally northeast along SR 1113 to the intersection with SR 1114, thence generally east along SR 1114 to the Stanly County line, thence generally northeast along the county line to the intersection with SR 1100, thence generally northeast along SR 1100 to the intersection of with SR 2622, thence generally southeast along SR 2622 to the intersection with SR 2617, thence generally northeast along SR 2617 to the intersection with SR 2611, thence generally north along SR 2611 to the intersection with NC 73, thence generally east along NC 73 to the intersection with SR 2453, thence generally northeast along SR 2453 to the intersection with SR 2444, thence generally northeast along SR 2444 to the Rowan County line;
- (3) Davidson County generally east of a line starting at the intersection of the runs of Abbotts Creek and the Yadkin River in High Rock Lake, thence generally north along Abbotts Creek to NC 8 bridge, thence generally north along NC 8 to the intersection with Interstate 85, thence generally northeast along Interstate 85 to the intersection with US 64, thence generally southeast along US 64 to the Randolph County line;

- (4) Montgomery County generally west of a line beginning at the intersection of SR 1134 with the Randolph County line, thence generally south along SR 1134 to the intersection with SR 1303, thence generally south along SR 1303 to the intersection with NC 109, thence generally southeast along NC 109 to the intersection with SR 1150, thence generally south along SR 1150 to the intersection with NC 73, thence generally southeast along NC 73 to the intersection with SR 1112, thence generally east along SR 1112 to the intersection with SR 1130, thence generally northeast along SR 1130 to the intersection with SR 1132, thence generally southeast along SR 1132 to the intersection with SR 1174, thence generally east along SR 1174 to the intersection with NC 109, thence generally north along NC 109 to the intersection with SR 1546, generally southeast along SR 1546 to the intersection of SR 1543, thence generally south along SR 1543 to the intersection with ~~NC 73, NC 731,~~ thence generally west along ~~NC 73-NC 731~~ to the intersection with SR 1118, thence generally southwest along SR 1118 to the intersection with SR 1116, thence generally west along SR 1116 to the intersection with NC 109, thence generally south along NC 109 to the intersection with the Richmond County line;
- (5) Randolph County generally west of a line beginning at the intersection of US 64 with the Davidson County line, thence generally east along US 64 to the intersection with NC 49, thence generally southwest along NC 49 to the intersection with SR 1107, thence generally south along SR 1107 to the intersection with SR 1105, thence southeast along SR 1105 to the intersection with the Montgomery County line;
- (6) Rowan County generally east of a line beginning at the intersection of SR 2352 with the Cabarrus County line, thence generally northeast along SR 2352 to the intersection with SR 2353, thence generally north along SR 2353 to the intersection with SR 2259, thence generally northeast along SR 2259 to the intersection with SR 2142 ~~with the Cabarrus County line~~, thence north along SR 2142 to the intersection with SR 2162, thence generally northeast along SR 2162 to the intersection with the run of the Yadkin River in High Rock Lake;
- (7) Union County generally east of a line beginning at the intersection of SR 1117 with the South Carolina-North Carolina State line, thence generally north along SR 1117 to the intersection with SR 1111, thence generally northwest along SR 1111 to the intersection

with NC 75, thence generally northwest along NC 75 to the intersection with NC 16, thence generally north along NC 16 to the intersection with SR 1008, thence generally northeast along SR 1008 to the intersection with SR 1514, thence generally north along SR 1514 to the intersection with SR 1520, thence generally northeast along SR 1520 to the intersection with NC 218, thence generally east along NC 218 to the intersection with US 601, thence generally north along US 601 to the intersection with SR 1600, thence generally northeast along SR 1600 to the intersection with the Cabarrus County line; and

(8) Stanly County -- all.

~~(b) The roads describing the boundaries of the designated areas do not necessarily coincide with the rock unit boundaries. Therefore, any well drilled within 400 feet of a road described as a boundary of a designated area shall be cased to the same minimum depth as those within the described area.~~

Authority G.S. 87-87.

**15A NCAC 02C .0118 VARIANCE**

(a) The ~~Director~~ Secretary may grant a variance from any construction standard under the rules of this Section. Any variance ~~will~~ shall be in writing, and ~~may~~ shall be granted upon oral or written application to the ~~Director~~ Secretary, by the person responsible for the construction of the well for which the variance is sought, if the ~~Director~~ Secretary finds facts to support the following conclusions:

- (1) that the use of the well will not endanger human health and welfare or the groundwater;
- (2) that construction in accordance with the standards was not technically feasible in such a manner as to afford a reasonable water supply at a reasonable cost.

(b) The ~~Director~~ Secretary may require the variance applicant to submit such information as ~~he~~ the Secretary deems necessary to make a decision to grant or deny the variance. The ~~Director~~ Secretary may impose such conditions on a variance or the use of a well for which a variance is granted as he deems necessary to protect human health and welfare and the groundwater resources. The findings of fact supporting any variance under this Rule shall be in writing and made part of the variance.

(c) The ~~Director~~ Secretary shall respond in writing to a request for a variance within 30 days from the receipt of the variance request.

(d) A variance applicant who is dissatisfied with the decision of the ~~Director~~ Secretary may commence a contested case by filing a petition under G.S. 150B-23 within 60 days after receipt of the decision.

Authority G.S. 87-87; 87-88; 150B-23.

**15A NCAC 02C .0119 DELEGATION**

(a) The ~~Director~~ Secretary is delegated the authority to grant permission for well construction under G.S. 87-87.

(b) The ~~Director~~ Secretary is delegated the authority to give notices and sign orders for violations under G.S. 87-91.

~~(e) The Director is delegated the authority to request the Attorney General to institute civil actions under G.S. 87-95.~~

~~(c)(d) The Director~~ Secretary is authorized to subdelegate, to an official of the ~~Division~~, Department, the granting of a variance from any construction standard, or the approval of alternate construction methods or materials, specified under the Rules of this Section.

(d) The Secretary may delegate, through a Memorandum of Agreement, to another governmental agency, the authority to permit wells that are an integral part of a facility requiring a permit from the agency. Provided, however, that the permittee comply with all provisions of this Subchapter, including construction standards and the reporting requirements as specified in 15A NCAC 02C .0114.

Authority G.S. 143-215.3(a)(1).

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to adopt the rules cited as 15A NCAC 07J .1201-.1206 and amend the rule cited as 15A NCAC 07H .0306.*

**Proposed Effective Date:** *October 1, 2008*

**Public Hearing:**

**Date:** *July 7, 2008*

**Time:** *5:00 p.m.*

**Location:** *Surf City Community Center, 201 Community Center Drive, Surf City, NC 28445*

**Public Hearing:**

**Date:** *July 8, 2008*

**Time:** *5:00 p.m.*

**Location:** *Carolina Beach Town Hall, 1121 N. Lake Park Blvd., Carolina Beach, NC 28428*

**Public Hearing:**

**Date:** *July 14, 2008*

**Time:** *5:00 p.m.*

**Location:** *Brunswick County Association of REALTORS Meeting Facility, 101 Stone Chimney Road, Supply, NC 28462*

**Public Hearing:**

**Date:** *July 15, 2008*

**Time:** *5:00 p.m.*

**Location:** *NOAA/NC Coastal Reserve Auditorium, 101 Pivers Island, Beaufort, NC 28516*

**Public Hearing:**

**Date:** *July 16, 2008*

**Time:** *5:00 p.m.*

**Location:** *Kill Devil Hills Town Hall "The Meeting Room", 102 Town Hall Drive (off Colington Road), Kill Devil Hills, NC 27948*

**Public Hearing:**

**Date:** July 24, 2008

**Time:** 5:00 p.m.

**Location:** Holiday Inn Brownstone Hotel, 1707 Hillsborough Street, Raleigh, NC 27605

**Reason for Proposed Action:**

**15A NCAC 07H .0306** – The proposed rule change amends language in this rule pertaining to setbacks for oceanfront development. In addition, the amended language establishes setback requirements based on building size, and creates the opportunity for communities to receive a static line exception from the Coastal Resource Commission for new construction on previously undevelopable lots as well as redevelopment on lots located adjacent to large-scale beach nourishment projects.

**15A NCAC 07J .1201 –.1206** Section .1200 represents new rules that are necessary to define the process of requesting a static line exception, the review and approval of the request, the necessity and frequency for progress reports in order to keep the static line exception active, and how such an exception shall expire or be revoked.

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

**Comments may be submitted to:** Jim Gregson, 400 Commerce Avenue, Morehead City, NC 28557, phone (252)808-2808, fax (252)247-3330.

**Comment period ends:** August 15, 2008

**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 07 - COASTAL MANAGEMENT**

**SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

**SECTION .0300 - OCEAN HAZARD AREAS**

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

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

~~(1) If neither a primary nor frontal dune exists in the AEC on or landward of the lot on which the development is proposed, the development shall be landward of the erosion setback line. The erosion setback line shall be set at a distance of 30 times the long term annual erosion rate from the first line of stable natural vegetation or measurement line, where applicable. In areas where the rate is less than two feet per year, the setback line shall be 60 feet from the vegetation line or measurement line, where applicable.~~

(1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the static vegetation line or the measurement line, whichever is applicable. The setback distance shall be determined by both the size of development and the shoreline erosion rate as defined in 15A NCAC 07H .0304. Development size shall be defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. The calculation of total floor area shall be based on the following criteria:

- (A) The total square footage of heated or air-conditioned living space;
- (B) The total square footage of parking elevated above ground level;
- (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load bearing; and
- (D) Roof-covered porches and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

(2) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This shall include roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean



hazard setback shall be established based on the following criteria:

- (A) A building or other structure less than 5,000 square feet shall require a minimum setback factor of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet shall require a minimum setback factor of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
- (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet shall require a minimum setback factor of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
- (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet shall require a minimum setback factor of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
- (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet shall require a minimum setback factor of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
- (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet shall require a minimum setback factor of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
- (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet shall require a minimum setback factor of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
- (H) A building or other structure greater than or equal to 100,000 square feet shall require a minimum setback factor of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
- (I) Infrastructure that is linear in nature such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water and sewer shall require a minimum setback factor of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

(J) Parking lots greater than or equal to 5,000 square feet shall require a setback factor of 120 feet or 60 times the shoreline erosion rate, whichever is greater; and

(K) Notwithstanding any other setback requirement of 15A NCAC 07H .0306(a)(2), a building or other structure greater than or equal to 5,000 square feet in a community meeting the criteria set forth in 15A NCAC 07H .0306(a)(8) as well as the requirements in 15A NCAC 07J .1200 shall require a minimum setback factor of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater, shall be measured landward from either the static vegetation line or the vegetation line, whichever is farther landward.

(2)(3) If a primary dune exists in the AEC on or landward of the lot on which the development is proposed, the development shall be landward of the crest of the primary dune or the ~~long-term erosion setback line, ocean hazard setback,~~ whichever is farthest from the ~~first line of stable natural vegetation line, static vegetation line~~ or measurement line, ~~where~~ whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located seaward oceanward of the primary dune. In such cases, the development ~~shall~~ may be located landward of the ~~long-term erosion ocean hazard setback line and~~ but shall not be located on or ~~in front~~ oceanward of a frontal dune. The words "existing lots" in this Rule shall mean a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership.

(3)(4) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot on which the development is proposed, the development shall be set landward of the frontal dune or landward of the ~~long-term erosion ocean hazard setback line,~~ whichever is farthest from the ~~first line of stable natural vegetation line, static vegetation line~~ or measurement line, ~~where~~ whichever is applicable.

(4) ~~Because large structures located immediately along the Atlantic Ocean present increased risk of loss of life and property, increased potential~~

for eventual loss or damage to the public beach area and other important natural features along the oceanfront, increased potential for higher public costs for federal flood insurance, erosion control, storm protection, disaster relief and provision of public services such as water and sewer, and increased difficulty and expense of relocation in the event of future shoreline loss, a greater oceanfront setback is required for these structures than is the case with smaller structures. Therefore, in addition to meeting the criteria in this Rule for setback landward of the primary or frontal dune or both the primary and frontal dunes, for all multi-family residential structures (including motels, hotels, condominiums and motelminiums) of more than 5,000 square feet total floor area, and for any non-residential structure with a total area of more than 5,000 square feet, the erosion setback line shall be twice the erosion setback as established in Subparagraph (a)(1) of this Rule, provided that in no case shall this distance be less than 120 feet. In areas where the rate is more than 3.5 feet per year, this setback line shall be set at a distance of 30 times the long term annual erosion rate plus 105 feet.

- (5) If neither a primary nor frontal dune exist in the AEC on or landward of the lot on which development is proposed, the structure shall be landward of the ocean hazard setback.
- ~~(5)~~(6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the principal structure total floor area and both shall meet the setback requirements established in Paragraph (a) of this Rule and Rule .0309(a) of this Section. 15A NCAC 07H .0309(a). The enclosure of existing roof covered porches shall be exempt from this requirement if the footprint is not expanded, modifications to existing foundations are not required and the existing porch is located landward of the vegetation line or measurement line which ever is applicable. New development landward of the applicable setback may be cosmetically, but shall not be structurally, attached to an existing structure that does not conform with current setback requirements.
- ~~(6)~~(7) Established common-law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways.
- (8) Beach fill as defined in this Section represents a temporary response to coastal erosion, and compatible beach fill as defined in 15A NCAC 07H .0312 can be expected to erode at least as

fast as, if not faster than, the pre-project beach. Furthermore, there is no assurance of future funding or beach-compatible sediment for continued beach fill projects and project maintenance. Therefore, development setbacks measured from an established vegetation line in areas that have received beach fill may, over time, be located so as to be closer to the shoreline and more vulnerable to natural hazards along the oceanfront. Therefore, development setbacks in areas that have received large-scale beach fill shall be measured landward from the static vegetation line as defined in this Section. If development landward of the large-scale beach fill project does not meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraph (a)(1) of this Rule, a local government or community may petition the Coastal Resources Commission for a "static line exception" in accordance with 15A NCAC 07J .1200 to allow development of property that lies both within the jurisdictional boundary of the petitioner as well as the boundaries of the large-scale beach fill project. If the request is approved, the Coastal Resources Commission may allow development under the following conditions:

- (A) The local government or community provides evidence of a long-term commitment to beach fill as required under 15A NCAC 07J .1201;
- (B) A minimum of five years has passed since the onset of the initial large-scale beach fill construction associated with the static vegetation line as defined in 15A NCAC 07H .0305;
- (C) Development shall meet all setback requirements from the vegetation line defined in this Rule;
- (D) Total floor area of a building shall be no greater than 2,500 square feet;
- (E) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
- (F) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, may extend oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building

or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater;

- (G) With the exception of swimming pools, the development defined in 15A NCAC 07H .0309(a) may be allowed oceanward of the static vegetation line;
- (H) Development shall not be eligible for the exception defined in 15A NCAC 07H .0309(b); and
- (I) Issuance, revocation, and expiration of the static line exception shall occur under the conditions defined in 15A NCAC 07J .1200.

(b) In order to avoid weakening the protective nature of ocean beaches and primary and frontal dunes, no development shall be permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon which would adversely affect the integrity of the dune. Other dunes within the ocean hazard area shall not be disturbed unless the development of the property is otherwise impracticable, and any disturbance of any other dunes shall be allowed only to the extent allowed by ~~Rule .0308(b) of this Section.~~ 15A NCAC 07H .0308(b).

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

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

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

(f) Development shall comply with general management objective for ocean hazard areas set forth in ~~Rule .0303 of this Section.~~ 15A NCAC 07H .0303.

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

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

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

(i) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment

from the applicant to DCM that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

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

(k) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in ~~07H .0308(a)(2)(B).~~ 15A NCAC 07H .0308(a)(2)(B). The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under ~~Rule .0308(a)(2) of this Section.~~ 15A NCAC 07H .0308(a)(2).

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

**SUBCHAPTER 07J - PROCEDURES FOR PROCESSING AND ENFORCEMENT OF MAJOR AND MINOR DEVELOPMENT PERMITS, VARIANCE REQUESTS, APPEALS FROM PERMIT DECISIONS, DECLARATORY RULINGS, AND STATIC LINE EXCEPTIONS**

**SECTION .1200 – STATIC VEGETATION LINE EXCEPTION PROCEDURES**

**15A NCAC 07J .1201 REQUESTING THE STATIC LINE EXCEPTION**

(a) Any local government or permit holder of a large-scale beach fill project, herein referred to as the petitioner, that is subject to a static vegetation line pursuant to 15A NCAC 07H .0305, may petition the Coastal Resources Commission for an exception to the static line in accordance with the provisions of this Section.

(b) A petitioner shall be eligible to submit a request for a static vegetation line exception after five years have passed since the completion of construction of the initial large-scale beach fill project as defined in 15A NCAC 07H .0305 that required the creation of a static vegetation line. For a static vegetation line in existence prior to the effective date of this Rule, the award-of-contract date of the initial large-scale beach fill project, or the date of the aerial photography or other survey data used to define

the static vegetation line, whichever is most recent, shall be used in lieu of the completion of construction date.

(c) A static line exception request applies to the entire static vegetation line within the jurisdiction of the petitioner including segments of a static vegetation line that are associated with the same large-scale beach fill project. If multiple static vegetation lines or line segments within the jurisdiction of the petitioner are associated with different large-scale beach fill projects, then the static line exception defined in 15A NCAC 07H .0305 and the procedures outlined in this Section shall be considered separately for each large-scale beach fill project.

(d) A static line exception request shall be made in writing by the petitioner responsible for the management and maintenance of the long-term, large-scale beach fill project(s). For the purpose of this Rule, long-term refers to a period of no less than 30 years from the date of the static line exception request. A complete static line exception request shall include the following:

- (1) A summary of all beach fill projects in the area for which the exception is being requested including the initial large-scale beach fill project associated with the static vegetation line, subsequent maintenance of the initial large-scale projects(s) and beach fill projects occurring prior to the initial large-scale projects(s). To the extent historical data allows, the summary shall include construction dates, contract award dates, volume of sediment excavated, total cost of beach fill project(s), funding sources, maps, design schematics, pre-and post-project surveys and a project footprint;
- (2) Plans and related materials including: reports, maps, tables and diagrams for the design and construction of the initial large-scale beach fill project that required the static vegetation line, subsequent maintenance that has occurred and planned maintenance needed to achieve a design life providing no less than 30 years of shore protection from the date of the static line exception request. The plans and related materials shall be designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for said work;
- (3) Documentation, including maps, geophysical and geological data, to delineate the location and volume of compatible sediment as defined in 15A NCAC 07H .0312 necessary to construct and maintain the large-scale beach fill project defined in Part 2 of this Rule over its design life. This documentation shall be designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for said work; and
- (4) Identification of the financial resources or funding bases necessary to fund the large-scale beach fill project over its design life.

(e) A static line exception request shall be submitted to the Director of the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557. Written acknowledgement of the receipt of a completed static line exception request, including notification of the date of the meeting at which the request will be considered by the Coastal Resources Commission, shall be provided to the petitioner by the Division of Coastal Management.

(f) The Coastal Resources Commission shall consider a static line exception request no later than the second scheduled meeting following the date of receipt of a complete request by the Division of Coastal Management, except when the petitioner and the Division of Coastal Management agree upon a later date.

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

**15A NCAC 07J .1202 REVIEW OF THE STATIC LINE EXCEPTION REQUEST**

(a) The Division of Coastal Management shall prepare a written report of the static line exception request to be presented to the Coastal Resources Commission. This report shall include:

- (1) A description of the area affected by the static line exception request;
- (2) A summary of the large-scale beach fill project that required the static vegetation line as well as the completed and planned maintenance of the project(s);
- (3) A summary of the evidence required for a static line exception; and
- (4) A recommendation to grant or deny the static line exception.

(b) The Division of Coastal Management shall provide the petitioner requesting the static line exception an opportunity to review the report prepared by the Division of Coastal Management no less than 10 days prior to the meeting at which it is to be considered by the Coastal Resources Commission.

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

**15A NCAC 07J .1203 PROCEDURES FOR APPROVING THE STATIC LINE EXCEPTION**

(a) At the meeting that the static line exception is considered by the Coastal Resources Commission, the following shall occur:

- (1) The Division of Coastal Management shall orally present the report described in 15A NCAC 07J .1202.
- (2) A representative for the petitioner may provide written or oral comments relevant to the static line exception request. The Chairman of the Coastal Resources Commission may limit the time allowed for oral comments.
- (3) Additional parties may provide written or oral comments relevant to the static line exception request. The Chairman of the Coastal Resources Commission may limit the time allowed for oral comments.

(b) The Coastal Resources Commission shall authorize a static line exception request following affirmative findings on each of the conditions contained in 15A NCAC 07H .0306(a)(8)(A).

The final decision of the Coastal Resources Commission shall be made at the meeting at which the matter is heard or in no case later than the next scheduled meeting. The final decision shall be transmitted to the petitioner by registered mail within 10 business days following the meeting at which the decision is reached.

(c) The decision to authorize or deny a static line exception is a final agency decision and is subject to judicial review in accordance with G.S. 113A-123 and G.S. 150B-23.

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

**15A NCAC 07J .1204 REVIEW OF THE LONG-TERM BEACH-FILL PROJECT AND APPROVED STATIC LINE EXCEPTIONS**

(a) Progress Reports. The petitioner that received the static line exception shall provide a progress report to the Coastal Resources Commission at intervals no greater than every five years from date the static line exception is authorized. The progress report shall address the three conditions defined in 15A NCAC 07H .0306(a)(8)(A) and be submitted in writing to the Director of the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557. The Division of Coastal Management shall provide written acknowledgement of the receipt of a completed progress report, including notification of the meeting date at which the report shall be presented to the Coastal Resources Commission to the petitioner.

(b) The Coastal Resources Commission shall review a static line exception authorized under 15A NCAC 07J .1203 at intervals no greater than every five years from the initial authorization in order to renew its findings for each of the conditions defined in 15A NCAC 07H .0306(a)(8)(A). The Coastal Resources Commission shall also consider the following conditions:

- (1) Design changes to the initial long-term beach fill project defined in 15A NCAC 07J .1201(d)(2) provided that said changes are designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for said work;
- (2) Design changes to the location and volume of compatible sediment, as defined by 15A NCAC 07H .0312, necessary to construct and maintain the large-scale beach fill project defined in 15A NCAC 07J .1202(d)(2), including design changes defined in this Rule provided that said changes have been designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for said work; and
- (3) Changes in the financial resources or funding bases necessary to fund the long-term beach fill project defined in 15A NCAC 07H .0306(a)(8)(A). If the project has been amended to include design changes defined in this Rule, then the Coastal Resources Commission shall consider the financial

resources or funding bases necessary to fund said changes.

(c) The Division of Coastal Management shall prepare a written summary of the progress report and present it to the Coastal Resources Commission no later than the second scheduled meeting following the date the report was received, except when a later meeting is agreed upon by the local government or community submitting the progress report and the Division of Coastal Management. This written summary shall include a recommendation from the Division of Coastal Management on whether the conditions defined in 15A NCAC 07H .0306(a)(8)(A) as well as this Rule have been met. The petitioner submitting the progress report shall be provided an opportunity to review the written summary prepared by the Division of Coastal Management no less than 10 days prior to the meeting at which it is to be considered by the Coastal Resources Commission.

(d) The following shall occur at the meeting at which the Coastal Resources Commission reviews the static line exception progress report:

- (1) The Division of Coastal Management shall orally present the written summary of the progress report as defined in this Rule.
- (2) A representative for the petitioner may provide written or oral comments relevant to the static line exception progress report. The Chairman of the Coastal Resources Commission may limit the time allowed for oral comments.
- (3) Additional parties may provide written or oral comments relevant to the static line exception progress report. The Chairman of the Coastal Resources Commission may limit the time allowed for oral comments.

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

**15A NCAC 07J .1205 REVOCATION AND EXPIRATION OF THE STATIC LINE EXCEPTION**

(a) The static line exception shall be revoked immediately if the Coastal Resources Commission determines, during the review of the petitioner's progress report identified in 15A NCAC 07J .1204, that any of the conditions under which the static line exception is authorized, as defined in this Section, no longer exist.

(b) The static line exception shall expire immediately at the end of the design life of the long-term beach fill project defined in 15A NCAC 07H .0306(a)(8)(A) and 15A NCAC 07J .1201(d) including subsequent design changes to said project as defined in 15A NCAC 07J .1204(b).

(c) In the event a progress report is not received by the Division of Coastal Management within five years from either the static line exception or the previous progress report, the static line exception shall be revoked automatically at the end of the five-year interval defined in 15A NCAC 07J .1204(b) for which the progress report was not received.

(d) The revocation or expiration of a static line exception is considered a final agency decision and is subject to judicial review in accordance with G.S. 113A-123 and G.S. 150B-23.

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

15A NCAC 07J .1206 LOCAL GOVERNMENTS AND COMMUNITIES WITH STATIC VEGETATION LINES AND STATIC LINE EXCEPTIONS

A list of static vegetation lines in place for petitioners and the conditions under which the static vegetation lines exist, including the date(s) the static line was defined, shall be maintained by the Division of Coastal Management. A list of static line exceptions in place for petitioners and the conditions under which the exceptions exist, including the date the exception was granted, the dates the progress reports were received, the design life of the long-term beach fill project and the potential expiration dates for the static line exception, shall be maintained by the Division of Coastal Management. Both the static vegetation line list and the static line exception list shall be available for inspection at the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557.

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

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10B .0302, 0303.

Proposed Effective Date: November 1, 2008

Public Hearing:

Date: July 14, 2008

Time: 7:00 p.m.

Location: Graham County Courthouse, 1 Court Square, Graham, NC 27253

Reason for Proposed Action: These rules are enacted consistent with provisions of Session Law 2006-125.

Procedure by which a person can object to the agency on a proposed rule: Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for this rule. For this rule, the contact person is Kate Pipkin.

Comments may be submitted to: Kate Pipkin, 1722 Mail Service Center, Raleigh, NC 27699-1722

Comment period ends: August 15, 2008

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written

objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

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

CHAPTER 10 – WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B – HUNTING AND TRAPPING

SECTION .0300 – TRAPPING

15A NCAC 10B .0302 OPEN SEASONS

(a) General. Subject to the restrictions set out in Paragraph (b) of this Rule, the following seasons for taking fur-bearing animals as defined in G.S. 113-129(7a), coyotes, and groundhogs shall apply as indicated, all dates being inclusive:

- (1) November 1 through the last day of February except for that part of the state described in Subparagraph (2) of this Paragraph.
(2) December 1 through the last day of February in and east of Hertford, Bertie, Martin, Pitt, Greene, Lenoir, Duplin, Pender and New Hanover counties.
(3) Trapping coyotes is allowed during times and with methods described by local laws in counties where local laws have established fox trapping seasons even when those seasons fall outside the regular trapping seasons described above.
(4) Nutria may be trapped east of I-77 at any time.

(b) Restrictions. It is unlawful to trap raccoon in and west of Madison, Buncombe, Henderson and Polk counties.

(c) County-specific seasons. There is an open season for trapping gray and red foxes in Alamance County from November 1 through the last day of February.

Note: See 15A NCAC 10D .0102(f) for other trapping restrictions on game lands.

Authority G.S. 113-134; 113-291.1; 113-291.2; S.L. 2006-125.

15A NCAC 10B .0303 BAG LIMITS

There shall be no restrictions on bag limits of furbearers, coyotes, or groundhogs except that a season limit of five otters shall apply to otters trapped in and west of Stokes, Forsyth, Davie, Iredell, and Mecklenburg counties. There are no restrictions on bag limits of foxes in Alamance County.

Note: Where local laws govern trapping, or are in conflict with these regulations, the local law shall prevail.

Authority G.S. 113-134; 113-291.2; S.L. 2006-125.

SUBCHAPTER 18A – SANITATION

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SECTION .2600 – THE SANITATION OF FOOD SERVICE ESTABLISHMENTS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rules cited as 15A NCAC 18A .2606, .3606.

Proposed Effective Date:

15A NCAC 18A .2606 – July 1, 2009

15A NCAC 18A .3606 – January 1, 2009

Public Hearing:

Date: July 9, 2008

Time: 10:00 a.m.

Location: 2728 Capital Boulevard, Room 1a201, Raleigh, NC

Reason for Proposed Action:

15A NCAC 18A .2606 - Change grading points

15A NCAC 18A .3606 – Change grading points and remove language regarding certificate points

Procedure by which a person can object to the agency on a proposed rule: Any objections to these rules may be submitted in writing via mail, delivery service, hand deliver or email to: Kristina V. Nixon, R.S., DENR Division of Environmental Health, P.O. Box 722, Edenton, NC 27932, phone (252)724-0177, email kristi.nixon@ncmail.net.

Comments may be submitted to: Kristina V. Nixon, R.S., DENR Division of Environmental Health, P.O. Box 722, Edenton, NC 27932, phone (252)724-0177, email kristi.nixon@ncmail.net.

Comment period ends: August 15, 2008

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 18 - ENVIRONMENTAL HEALTH

15A NCAC 18A .2606 GRADING

(a) The sanitation grading of all restaurants, food stands, drink stands and meat markets shall be based on a system of scoring wherein all establishments receiving a score of at least 90 percent shall be awarded Grade A; all establishments receiving a score of at least 80 percent and less than 90 percent shall be awarded Grade B; all establishments receiving a score of at least 70 percent and less than 80 percent shall be awarded a Grade C. Permits shall be revoked for establishments receiving a score of less than 70 percent. The Sanitation Inspection of Restaurants or other Food Handling Establishments shall be used to document points assessed for violation of the rules of this Section as follows:

- (1) Violation of Rules .2608, .2612, .2615 or .2622, Rule .2616, of this Section related to personnel with infectious or communicable diseases restricted food from approved sources, free of spoilage, adulteration or contamination shall equal no more than 3 5 percent.
(2) Violation of Rules .2608, .2609, .2610, .2611, .2612, .2613, .2614, .2622, Rule .2616 or .2632 of this Section related to proper employee tobacco or beverage use potentially hazardous food temperatures or time requirements for food during storage, preparation, display, service or transportation shall equal no more than 3 5 percent.
(3) Violation of Rules .2608, .2609, .2610, .2611, .2612, .2613, .2614, .2622 and .2632, .2616 or .2625 of this Section related to hands clean and properly washed food storage, thawing, and preparation, cooking, handling, display, service, or transportation in a manner to prevent contamination, adulteration, or spoilage shall equal no more than 4 5 percent.
(4) Violation of Rule .2609 .2611 of this Section related to minimal bare hand contact with foods re-serving food shall equal no more than 3 5 percent.
(5) Violation of Rule .2609 .2625 of this Section related to lavatory facilities provided accurate thermometer availability shall equal no more than 3 percent.
(6) Violation of Rule .2610 Rules .2608, .2612, .2615, and .2622, of this Section related to food obtained from approved source written notice to customers about use of clean plates for return trips to buffet shall equal no more than 4 4 percent.
(7) Violation of Rule .2609 .2610 of this Section related to food received at proper temperature properly labeling or storage of dry food shall equal no more than 3 2 percent.

**PROPOSED RULES**

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| <p>(8) Violation of <del>Rules .2608, and .2615</del> <u>Rule .2616</u> of this Section related to <u>food in good condition, safe, and unadulterated</u> <del>personnel with infections or communicable diseases restricted</del> shall equal no more than <u>3 5</u> percent.</p> <p>(9) Violation of <del>Rule .2609 .2612,</del> of this Section related to <u>shellstock tags retained proper handwashing or good hygienic practices</u> shall equal no more than <u>2 5</u> percent.</p> <p>(10) Violation of <del>Rule</del> <u>Rules .2608 .2616 .2610, .2612, .2614, .2615 and .2622</u> of this Section related to food protected during storage, handling, display, service &amp; transportation <del>clean clothes or hair restraints</del> shall equal no more than <u>3 4</u> percent.</p> <p>(11) Violation of <del>Rules .2618 or .2619 .2617, .2618, .2619, and .2622</del> of this Section related to food contact surfaces cleaned <del>or</del> <u>and</u> sanitized, by approved methods; <u>and sanitizers sanitizing solution</u> required shall equal no more than <u>3 5</u> percent.</p> <p>(12) Violation of <del>Rules .2618, or .2619 .2608, and .2611</del> of this Section related to <u>proper handling of returned, previously served, and adulterated food</u> <del>approved utensil washing facilities of sufficient size, with accurate thermometers or test methods available or used</del> shall equal no more than <u>2 3</u> percent.</p> <p>(13) Violation of <del>Rules .2617, .2618, or .2622</del> <u>Rule .2609,</u> of this Section related <u>proper cooking time and temperature</u> <del>to food contact surfaces</del> shall equal no more than <u>4 3</u> percent.</p> <p>(14) Violation of <del>Rules .2601, .2608, .2617 or .2624</del> <u>Rule .2609</u> of this Section related to <u>proper cooling food service equipment NSF or equal or approved utensils</u> shall equal no more than <u>4 2</u> percent.</p> <p>(15) Violation <del>Rule .2618 .2609</del> of this Section related to <u>proper reheating air drying clean equipment or utensils</u> shall equal no more than <u>3</u> percent.</p> <p>(16) Violation of <del>Rule .2620 .2609</del> of this Section related to the <u>proper hot holding temperatures storage of single service utensils</u> shall equal no more than <u>4 2</u> percent.</p> <p>(17) Violation of <del>Rules .2617 or .2622 .2609, and .2612</del> of this Section related to <u>proper cold holding temperatures</u> <del>non food contact surfaces clean or in good repair</del> shall equal no more than <u>4 2</u> percent. .</p> <p>(18) Violation of <del>Rules .2618 or .2623</del> <u>Rule .2609</u> of this Section related to <u>time as a public health control; approved procedures available source of water supply, hot or cold water under pressure, or meets water temperature requirements</u> shall equal no more than <u>3 5</u> percent.</p> <p>(20)(19) Violation of <del>Rules .2624, or .2625 .2618, and .2633</del> of this Section related to <u>toxic</u></p> | <p><del>substances properly identified, stored, used lavatory or toilet facilities approved, accessible, or in good repair</del> shall equal no more than <u>2 3 4</u> percent.</p> <p>(19)(20) Violation of <del>Rule .2623 .2612</del> of this Section related to <u>consumer advisory provided</u> <del>eros connections or other potential sources of contamination</del> shall equal no more than <u>2 5</u> percent.</p> <p>(21) Violation of <del>Rules .2609, .2624, or .2625 .2618, .2622, and .2623</del> of this Section related to source in accordance with 15A NCAC 18A.1700; hot and cold water under pressure and meets temperature requirements <del>lavatory facilities or toilet facilities with self-closing doors, fixtures or rooms clean, mixing faucet, soap, towels, dryer, or sign</del> shall equal no more than <u>3 2</u> percent.</p> <p>(22) Violation of <del>Rules .2612, .2613, or .2626</del> <u>Rule .2609</u> of this Section related to <u>refrigeration and freezer capacity sufficient wastewater discharged into approved, properly operating wastewater treatment and disposal system; other by products disposed of properly</u> shall equal no more than <u>1 5</u> percent.</p> <p>(23) Violation of <del>Rule .2626 .2609</del> of this Section related to <u>proper cooling methods used garbage cans, containerized systems properly maintained, cleaning facilities provided or contract maintained for cleaning</u> shall equal no more than <u>2</u> percent.</p> <p>(24) Violation of <del>Rule .2633 .2609</del> of this Section related to <u>proper thawing methods used</u> <del>animal or pest presence</del> shall equal no more than <u>1 4</u> percent.</p> <p>(25) Violation of <del>Rule .2633 .2609</del> of this Section related to <u>thermometers provided and accurate self-closing doors or screened windows</u> shall equal no more than <u>1 2</u> percent.</p> <p>(26) Violation of <del>Rule .2633 .2610</del> of this Section related to <u>dry food stored properly and labeled accordingly</u> <del>pest breeding places or rodent harborages</del> shall equal no more than <u>1</u> percent.</p> <p>(27) Violation of <del>Rules .2613, .2624, .2627, or .2628, Rules .2612 and .2615</del> of this Section related to <u>original labeled container for storage of milk &amp; shellfish</u> <del>floors, walls, or ceilings properly constructed</del> shall equal no more than <u>1 2</u> percent.</p> <p>(28) Violation of <del>Rules .2613, .2624, .2627, or .2628</del> <u>Rule .2633</u> of this Section related to <u>insects, rodents, and animals not present</u> <del>floors, walls, or ceilings clean or in good repair</del> shall equal no more than <u>2 4</u> percent.</p> <p>(29) Violation of <del>Rule .2630 .2616</del> of this Section related to <u>clean clothes, hair restraints lighting or ventilation that meets illumination or shield requirements</u> shall equal no more than <u>1</u> percent.</p> |
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**PROPOSED RULES**

- (30) Violation of ~~Rule .2634~~ Rules .2617, and .2633 of this Section related to linens, clothes and aprons clean, properly used and stored ~~ventilation clean or in good repair~~ shall equal no more than 1 percent.
- (31) Violation of ~~Rule .2633~~ .2609 of this Section related to washing fruits and vegetables storage or labeling of toxic substances shall equal no more than 1 5 percent.
- (32) Violation of ~~Rules .2620, 2632, or .2633~~ Rule .2633 of this Section related to not used for domestic purposes outside premise clean, storage spaces clean, or storage above the floor shall equal no more than 1 percent.
- (33) Violation of ~~Rule .2633~~ Rules .2620, and .2622 of this Section related to in-use utensils properly stored storage space not used for domestic purpose shall equal no more than 1 percent.
- (34) Violation of ~~Rule .2633~~ Rules .2620, and .2622 of this Section related to utensils and equipment properly stored, air-dried, handled work clothing and linen properly handled or stored and proper storage of mops, brooms and hoses shall equal no more than 1 percent.
- (35) Violation of Rules 2612, .2618, and .2620 of this Section related to single use/single service articles properly stored, handled, used shall equal no more than 1 percent.
- (36) Violation of Rule .2617 of this Section related to food contact & non-food contact surfaces easily cleanable & in good repair shall equal no more than 1 percent.
- (37) Violation of Rule .2618 of this Section related to approved warewashing facilities of sufficient size shall equal no more than 1 percent.
- (38) Violation of Rules .2618, and .2619 of this Section related to warewashing facilities maintained, test strips used shall equal no more than 1 percent.
- (39) Violation of Rules .2612, .2613, .2617, .2618, .2620, and .2621 of this Section related to food service equipment and utensils approved shall equal no more than 1 percent.
- (40) Violation of Rules .2617, and .2618 of this Section related to non-food surfaces clean shall equal no more than 1 percent.
- (41) Violation of Rule .2626 of this Section related to wastewater discharged into approved, properly operating wastewater treatment & disposal system, other by-products disposed of properly shall equal no more than 3 percent.
- (42) Violation of Rule .2623 of this Section related to no cross connections shall equal no more than 2 3 percent.
- (43) Violation of Rules .2624, and .2625 of this Section related to toilet & lavatory facilities: supplied, properly constructed, clean, good repair, signs provided shall equal no more than 2 percent.
- (44) Violation of Rule .2626 of this Section related to garbage properly handled and disposed; containers properly maintained shall equal no more than 1 percent.
- (45) Violation of Rules .2627, and .2628 of this Section related to floors, walls, ceilings, properly constructed, clean, in good repair shall equal no more than 1 percent.
- (46) Violation of Rules .2630, and .2631 of this Section related to meets illumination requirements; shielded; lighting & ventilation clean and in good repair shall equal no more than 1 percent.
- (47) Violation of Rules .2632, and .2633 of this Section related to storage space clean, storage above floor, approved storage for brooms, mops, hoses, and other items shall equal no more than 1 percent.
- (48) Violation of Rule .2633 of this Section related to doors self-closing where required; all windows screened shall equal no more than 1 percent.
- (49) Violation of Rule .2606 of this Section related to food safety training shall equal no more than 2 percent.

One half of the percent value may be assessed for any rule violation in this Section based on the severity or recurring nature of the violation.

(b) The grading of restaurants, food stands, drink stands and meat markets shall be based on the standards of operation and construction as set forth in Rules .2607 through .2644 of this Section. ~~An establishment shall receive a credit of two points on its score for each inspection if a~~ A manager or other employee responsible for operation of that establishment and who is employed full time in that particular establishment must, in the past three years, have ~~has~~ successfully completed in the past three years a food service sanitation program approved by the Department and passed an American National Standards Institute (ANSI) accredited examination. An initial food service sanitation program shall include a minimum of six contact hours and a food service recertification program shall include a minimum of three contact hours. Request for approval of food service sanitation programs and recertification programs shall be submitted in writing to the Division of Environmental Health. The course shall include a minimum of 12 contact hours and provide instruction Instruction in the following subject areas: areas shall be provided:

- (1) basic food safety;
- (2) requirements for food handling personnel;
- (3) basic HACCP;
- (4) purchasing and receiving food;
- (5) food storage;
- (6) food preparation and service;
- (7) facilities and equipment;
- (8) cleaning and sanitizing;
- (9) pest management program; and
- (10) regulatory agencies and inspections.

Evidence that a person has completed such a program and examination shall be maintained at the establishment and provided to the Environmental Health Specialist upon request. ~~An establishment shall score at least 70 percent on an inspection in order to be eligible for this credit.~~

~~(c) The posted numerical grade shall not be changed as a result of a food sampling inspection. If a food service establishment does not have a manager or other employee who meets the food service sanitation program requirements because the person terminates employment with the food service establishment, the owner or operator shall have 90 days after the termination date to comply with the food service sanitation program requirements in Paragraph (b) of this Rule.~~

(d) Risk Category I establishments, defined in 10A NCAC 46 .0213, are exempt from the food service sanitation program requirements of Paragraph (b) of this Rule.

~~(e)(d)~~ The posted grade card shall be black on a white background. All graphics, letters, and numbers for the grade card shall be approved by the State. The alphabetical and numerical sanitation score shall be 1.5 inches in height. No other public displays representing sanitation level of the establishment may be posted by the local health department, except for sanitation awards issued by the local health department. Sanitation awards shall be in a different color and size from the grade card and must be clearly labeled as an award.

~~(f)(e)~~ Nothing herein shall affect the right of a permit holder to a reinspection pursuant to Rule .2604 of this Section.

~~(g)(f)~~ Nothing herein shall prohibit the Department from immediately suspending or revoking a permit pursuant to G.S. 130A-23(d).

*Authority G.S. 130A-248.*

**SECTION .3600 – RULES GOVERNING THE  
SANITATION OF RESIDENT CAMPS**

**15A NCAC 18A .3606 GRADING**

(a) The sanitation grading of all resident camps shall be based on a system of scoring wherein all resident camps receiving a score of at least 90 percent shall be awarded Grade A; all resident camps receiving a score of at least 80 percent and less than 90 percent shall be awarded Grade B; all resident camps receiving a score of at least 70 percent and less than 80 percent shall be awarded Grade C. Permits shall be revoked for establishments receiving a score of less than 70 percent. The Sanitation Inspection of Resident Camps shall be used to document points assessed for violation of the Rules of this Section as follows:

- (1) Violation of Rule .3608 of this Section regarding site factors for camp facilities and activities and actual or potential health hazards shall be assessed a value of one point.
- (2) Violation of Rule .3609 of this Section regarding water supply, hot and cold water heating facilities in food preparation, utensil and hand washing, and areas required for cleaning shall be assessed a value of three points.

- (3) Violation of Rule .3609(d) of this Section regarding cross-connections shall be assessed a value of three points.
- (4) Violation of Rule .3610 of this Section regarding wastewater disposal shall be assessed a value of four points.
- (5) Violation of Rule .3611 of this Section regarding solid waste storage and cleaning facilities shall be assessed a value of two points.
- (6) Violation of Rule .3612 of this Section regarding swimming pools shall be assessed a value of one point.
- (7) Violation of Rule .3613(1) and (2) of this Section regarding camp building floors walls and ceilings construction, cleanliness and repair shall be assessed a value of one point.
- (8) Violation of Rule .3613(3) of this Section regarding lighting and ventilation adequacy and repair shall be assessed s value of one point.
- (9) Violation of Rule .3614(a) and (c) of this Section regarding sleeping quarters and lodging arrangement, cleanliness and repair shall be assessed a value of two points.
- (10) Violation of Rule .3614(b) of this Section regarding effective vermin exclusion shall be assessed a value of two points.
- (11) Violation of Rule .3614(d) of this Section regarding storage and handling of clean and dirty linen and clothing shall be assessed a value of one point.
- (12) Violation of Rule .3615(a), (b), (c) and (d) of this Section regarding approval, accessibility, adequateness, cleanliness and repair of lavatories, bathing and toilet facilities shall be assessed a value of two points.
- (13) Violation of Rule .3615(e) of this Section regarding cleanliness, repair of laundry facilities and handling of clean and soiled laundry shall be assessed a value of one point.
- (14) Violation of Rule .3616 of this Section regarding approval and cleanliness of drinking water facilities shall be assessed a value of two points
- (15) Violation of Rule .3617(a) and (d) of this Section regarding storage and handling of pesticides and potentially hazardous materials shall be assessed a value of two points.
- (16) Violation of Rule .3617(b) and (e) of this Section regarding cleanliness of the premises and repair of protective enclosures shall be assessed a value of one point.
- (17) Violation of Rule .3617(c) of this Section regarding location of animal stables and approved manure storage and removal shall be assessed a value of two points.
- (18) Violation of Rule .3618(a) of this Section regarding size and construction of food service

- facilities and dining halls shall be assessed a value of one point.
- (19) Violation of Rule .3618(b) of this Section regarding catering of camp food service shall be assessed a value of two points.
- (20) Violation of Rule .3619 of this Section regarding field sanitation standards and procedures shall be assessed a value of three points.
- (21) Violation of Rule .3620(a) and (c) of this Section regarding food service employee clothing, hair restraints and use of tobacco shall be assessed a value of one point.
- (22) Violation of Rule .3620(b) or (e) of this Section regarding employee handwashing shall be assessed a value of four points.
- (23) Violation of Rule .3620(d) of this Section regarding exclusion of persons with a communicable or infectious disease that can be transmitted by food shall be assessed a value of three points.
- (24) Violation of Rule .3621 of this Section regarding food source, wholesomeness, handling, service and transportation shall be assessed a value of four points.
- (25) Violation of Rule .3622(a) through (f) of this Section regarding food protection during service and storage shall be assessed a value of three points.
- (26) Violation of Rule .3622(g) of this Section regarding storage of dry foods shall be assessed a value of one point.
- (27) Violation of Rule .3623 of this Section regarding milk and milk products shall be assessed a value of two points.
- (28) Violation of Rule .3624 of this Section regarding the source, storage and handling of ice shall be assessed a value of two points.
- (29) Violation of Rule .3625 of this Section regarding shellfish and crustacea meat shall be assessed a value of two points.
- (30) Violation of Rule .3626(a), (b), and (c) of this Section regarding refrigeration and thawing of foods shall be assessed a value of two points.
- (31) Violation of Rule .3626(d) of this Section regarding the protection of food from cross contamination by use of sanitized or gloved hands or utensils, sanitized surfaces and washing of produce shall be assessed a value of three two points.
- (32) Violation of Rule 3626(e) through (m) of this Section regarding time and temperature requirements of foods during storage, preparation, cooking, display, service, and transportation shall be assessed a value of four points.
- (33) Violation of Rule 3626 (n) of this Section regarding food thermometers shall be assessed a value of two points.
- (34) Violation of Rule .3627 of this Section regarding re-service of foods shall be assessed a value of two points.
- (35) Violation of Rule .3628 of this Section regarding equipment and utensil construction, repair and cleanliness shall be assessed a value of three points.
- (36) Violation of Rule .3629(a) through (c), (e), (f), (k) and (n) of this Section regarding washing, rinsing and sanitizing of utensils and equipment shall be assessed a value of four points.
- (37) Violation of Rule .3629(d), (g) through (j), (l), and (o) of this Section regarding approved dishwashing facilities and methods shall be assessed a value of three points.
- (38) Violation of Rule 3629(m) regarding the hot water heating facilities for food service needs shall be assessed a value of three points.
- (39) Violation of Rule .3630 in this Section regarding storage and handling of utensils and equipment shall be assessed a value of two points.
- (40) Violation of Rule .3631 of this Section regarding food service area storage spaces shall be assessed a value of one point.
- (41) Violation of Rule .3632 of this Section regarding food service area lighting shall be assessed a value of one point.
- (42) Violation of Rule .3633 of this Section regarding food service ventilation shall be assessed a value of one point.
- (43) Violation of Rule .3634 of this Section regarding approved and properly located hand washing lavatory facilities in food service areas shall be assessed a value of three points.
- (44) Violation of Rule .3635 of this Section regarding the food service area toilet facilities shall be assessed a value of one point.
- (45) Violation of Rule .3636 of this Section regarding food service area floor construction, cleanliness and repair shall be assessed a value of one point.
- (46) Violation of Rule .3637 of this Section regarding food service area wall and ceiling construction, cleanliness and repair shall be assessed a value of one point.
- (47) Violation of Rule .3638(a) through (c) of this Section regarding use of trip kitchens, residential style educational kitchens and domestic kitchens shall be assessed a value of one point.
- (48) Violation of Rule .3638(d) through (g) of this Section regarding toxic materials, food service laundry, mop and broom storage shall be assessed a value of one point.
- (49) Violation of Rule .3638(h) and (i) of this Section regarding live animals and pest control

measures in food service areas shall be assessed a value of two points.

(50) Violation of this Rule related to food safety training shall equal no more than one point.

(b) The grading of resident camps shall be based on the standards of operation and construction as set forth in Rules .3608 through .3638 of this Section. A manager or other employee responsible for operation of that establishment and who is employed full time in that particular establishment must, in the past three years, have successfully completed a food service sanitation program approved by the Department and passed an American National Standards Institute (ANSI) accredited examination. An initial food service sanitation program shall include a minimum of six contact hours and a food service recertification program shall include a minimum of three contact hours. Request for approval of food service sanitation programs and recertification programs shall be submitted in writing to the Division of Environmental Health. Instruction in the following subject areas shall be provided:

- (1) basic food safety;
- (2) requirements for food handling personnel;
- (3) basic HACCP;
- (4) purchasing and receiving food;
- (5) food storage;
- (6) food preparation and service;
- (7) facilities and equipment;
- (8) cleaning and sanitizing;
- (9) pest management program; and
- (10) regulatory agencies and inspections.

(c) Evidence that a person has completed such a program and examination shall be maintained at the establishment and provided to the Environmental Health Specialist upon request. ~~An establishment shall score at least 70 percent on an inspection in order to be eligible for this credit.~~

(d) The posted grade card shall be black on a white background. All graphics, letters and numbers for the grade card shall be approved by the State. The alphabetical and numerical sanitation score shall be 1.5 inches in height. No other public displays representing sanitation level of the establishment shall be posted by the local health department, except for sanitation awards issued by the local health department. Sanitation awards shall be in a different color and size from the grade card and must be labeled as an award.

(e) Nothing in this Rule shall affect the right of a camp manager to a reinspection pursuant to Rule .3605 of this Section.

(f) Nothing in this Rule shall prohibit the Department from immediately suspending or revoking a permit pursuant to G.S. 130A-23(d).

*Authority G.S. 130A-23; 130A-235; 130A-248; 130A-249.*

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

**CHAPTER 16 – BOARD OF DENTAL EXAMINERS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to adopt the rule cited as*

*21 NCAC 16B .0310 and amend the rules cited as 21 NCAC 16I .0104; 16R .0106; 16T .0102.*

**Proposed Effective Date:** *October 1, 2008*

**Public Hearing:**

**Date:** *July 10, 2008*

**Time:** *7:00 p.m.*

**Location:** *Dental Board office, 507 Airport Boulevard, Ste. 105, Morrisville, NC 27560*

**Reason for Proposed Action:**

**21 NCAC 16B .0310** – *The Board proposes to adopt to require individuals who have failed certain portions of a Board approved examination to undergo remediation. The Board's present remediation rule, 21 NCAC 16B .0406, applies only to individuals who fail portions of examinations that are actually conducted by the Dental board, as opposed to examinations given by other testing agencies.*

**21 NCAC 16I .0104** – *The Board proposes to amend to give one hour of continuing education credit annually to hygienists who perform at least five hours of dental hygiene on a volunteer basis.*

**21 NCAC 16R .0106** – *The Board proposes to amend to give up to two hours of continuing education credit annually to dentists who provide dental services on a volunteer basis. The credit is to be given on a ratio of 1:5, with one hour credit given for every five hours of volunteer work.*

**21 NCAC 16T .0102** – *The Board proposes to amend to clarify that dentists must produce a patient's radiographs within 30 days of receiving a request for the record and that the dentist may not make production of the radiographs contingent upon payment of services or dental treatment.*

**Procedure by which a person can object to the agency on a proposed rule:** *Objections to the rule may be made in writing directed to Bobby D. White, Chief Operations Officer, 507 Airport Blvd. Ste 105, Morrisville, NC 27560. Objections will also be received at the public hearing.*

**Comments may be submitted to:** *Bobby D. White, 507 Airport Boulevard, Ste. 105 Morrisville, NC 27560*

**Comment period ends:** *August 15, 2008*

**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 16B – LICENSURE DENTISTS**

**SECTION .0300 – APPLICATION FOR LICENSURE**

**21 NCAC 16B .0310 REEXAMINATION**

(a) Any applicant who has failed the clinical portion of a Board approved examination three times, regardless of having passed the written portion of the examination, shall successfully complete a Board approved course of study in clinical dentistry encompassing at least one academic year. The course of study shall be in the area(s) of deficiency exhibited on the examination and shall provide additional experience and expertise in clinical dentistry for the applicant. The applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.

(b) Any applicant who has passed the written examination but has failed the clinical examination must also re-take the written examination unless the applicant successfully passes the clinical examination within one year after passing the written examination. The Board will not accept scores from the written portion of the examination that are more than one year old.

(c) Any applicant who has failed the written portion of the examination may retake the written portion of the examination two additional times during the twelve month period from the date of the initial examination. The applicant must wait a minimum of 72 hours before attempting to retake a written examination.

(d) Any applicant who has failed the written portion of the examination three times shall successfully complete an additional Board approved course of study in the area(s) of deficiency exhibited on the examination. Such applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.

*Authority G.S. 90-28; 90-30; 90-48.*

**SUBCHAPTER 16I – ANNUAL RENEWAL OF DENTAL HYGIENIST LICENSE**

**SECTION .0100 – ANNUAL RENEWAL**

**Note: The text in italics is pending approval by the Rules Review Commission.**

**21 NCAC 16I .0104 REPORTING CONTINUING EDUCATION**

(a) The number of hours completed to satisfy the continuing education requirement shall be indicated on the renewal application form submitted to the Board and certified by the hygienist. Upon request by the Board or its authorized agent, the

hygienist shall provide official documentation of attendance at courses indicated. Such documentation shall be provided by the organization offering or sponsoring the course. Documentation must include:

- (1) the title;
- (2) the number of hours of instruction;
- (3) the date of the course attended;
- (4) the name(s) of the course instructor(s); and
- (5) the name of the organization offering or sponsoring the course.

(b) All records, reports and certificates relative to continuing education hours must be maintained by the licensee for at least two years and shall be produced upon request of the Board or its authorized agent.

(c) Dental hygienists shall receive four hours credit per year for continuing education when engaged in the following:

- (1) service on a full-time basis on the faculty of an educational institution with direct involvement in education, training, or research in dental or dental auxiliary programs; or
- (2) affiliation with a federal, state or county government agency whose operation is directly related to dentistry or dental auxiliaries.

Verification of credit hours shall be maintained in the manner specified in this Rule.

(d) Evidence of service or affiliation with an agency as specified in Paragraph (c) of this Rule shall be in the form of verification of affiliation or employment which is documented by a director or an official acting in a supervisory capacity.

*(e) Hygienists who work at least 20 hours per week in an institution or entity described in (c)(1) or (2) of this Rule shall receive two hours credit per year for continuing education.*

*(f) Hygienists may receive one hour of continuing education credits per year for performing at least five hours of dental hygiene on a volunteer basis at any state, city or county operated site approved by the Dental Board. Credit will not be given for less than five hours of volunteer work.*

*Authority G.S. 90-225.1.*

**SUBCHAPTER 16R – CONTINUING EDUCATION REQUIREMENTS: DENTISTS**

**SECTION .0100 – CONTINUING EDUCATION**

**Note: The text in italics is pending approval by the Rules Review Commission.**

**21 NCAC 16R .0106 EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION**

(a) Dentists may request exemption from continuing education requirements by submitting evidence in writing to the Board of retirement or semi-retirement from the practice of dentistry. A retired dentist is a dentist who never practices dentistry. A semi-retired dentist is a dentist who practices on an occasional basis not to exceed 100 clock hours in a calendar year. A dentist who can demonstrate a disabling condition may request a variance in continuing education hours during a particular period. Written

documentation of a disabling condition that interferes with the dentist's ability to complete the required hours shall be provided to the Board. The Board may grant or deny requests for variance in continuing education hours based on a disabling condition on a case by case basis, taking into consideration the particular disabling condition involved and its affect on the dentist's ability to complete the required hours. In considering the request, the Board may require additional documentation substantiating any specified disability.

(b) In those instances where continuing education is waived and the exempt individual wishes to resume practice, the Board shall require continuing education courses in accordance with Rule .0103 of this Section when reclassifying the licensee. The Board may require those licensees who have not practiced dentistry for a year or more to undergo a bench test prior to allowing the licensee to resume practice when there is indication of inability to practice dentistry.

(c) Dentists shall receive 10 hours credit per year for continuing education when engaged in any of the following:

- (1) service on a full-time basis on the faculty of an educational institution with direct involvement in education, training, or research in dental or dental auxiliary programs; or
- (2) affiliation with a federal, state or county government agency whose operation is directly related to dentistry or dental auxiliaries. Verification of credit hours shall be maintained in the manner specified in Rule .0105 of this Section.

(d) Dentists who work at least 20 hours per week in an institution or entity described in (c) (1) or (2) of this Rule shall receive five hours credit per year for continuing education.

(e) Dentists may receive up to two hours of continuing education credits per year for providing dental services on a volunteer basis at any state, city or county operated site approved by the Dental Board. Credit will be given at ratio of 1:5, with one hour credit given for every five hours of volunteer work.

Authority G.S. 90-31.1; 90-38.

**SUBCHAPTER 16T – PATIENT RECORDS**

**SECTION .0100 – PATIENT RECORDS**

**21 NCAC 16T .0102 TRANSFER OF RECORDS UPON REQUEST**

A dentist shall, upon request by the patient of record, provide original or copies of radiographs and a summary of the treatment record to the patient or to a licensed dentist identified by the patient. A fee may be charged for duplication of radiographs and diagnostic materials. The treatment summary and radiographs shall be provided within 30 days of the request and shall not be contingent upon current, past or future dental treatment or payment of services.

Authority G.S. 90-28; 90-48.

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**CHAPTER 38 – BOARD OF OCCUPATIONAL THERAPISTS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Occupational Therapy intends to amend the rules cited as 21 NCAC 38 .0201, .0304.*

**Proposed Effective Date:** November 1, 2008

**Public Hearing:**

**Date:** July 21, 2008

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

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

**Reason for Proposed Action:** *These amendments are being submitted to better implement and interpret the North Carolina Occupational Therapy Practice Act.*

**Procedure by which a person can object to the agency on a proposed rule:** *Any person may object to either of these proposed amendments by submitting a written statement to Charles P. Wilkins at P.O. Box 2280, Raleigh, NC 27602, postmarked on or before September 7, 2008.*

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

**Comment period ends:** September 7, 2008

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

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

**Fiscal Impact:**

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

**SECTION .0200 – APPLICATION FOR LICENSE**

**21 NCAC 38 .0201 APPLICATION PROCESS**

(a) Each applicant, including those trained outside the United States or its territories, for an occupational therapist or occupational therapy assistant license shall complete an

application form provided by the Board. This form shall be submitted to the Board and shall be accompanied by:

- (1) one head and shoulders photograph (passport type), taken within the past six months, of the applicant of acceptable quality for identification, two inches by two inches in size;
- (2) the proper fees, as required by 21 NCAC 38 .0204;
- (3) evidence from the National Board for Certification of Occupational Therapy (NBCOT) of successful completion of the certification examination administered by it. Evidence of successful completion of the NBCOT certification examination shall be accepted as proof of graduation from an accredited curriculum and successful completion of field work requirements;
- (4) two signed statements on forms provided by the Board attesting to the applicant's good moral character; and
- (5) successful completion of a jurisprudence exam administered by the Board.

(b) An applicant previously licensed in any state or country re-entering the field of occupational therapy after not practicing occupational therapy for more than 24 months shall complete 90 days of supervised field work and shall provide to the Board:

- (1) a written plan for 90 days of supervised fieldwork within 10 days of securing employment; and
- (2) monthly documentation confirming that the supervised fieldwork is being provided.

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

**SECTION .0300 – LICENSING**

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

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

- (1) writing a check given to the Board in payment of required fees which is returned unpaid;
- (2) allowing an unlicensed occupational therapist or occupational therapy assistant to practice under the licensee's supervision or control;
- (3) making any false statement or giving any false information in connection with an application for a license or renewal of a license or any investigation by the Board or the Board's designee;
- (4) committing a crime the circumstances of which relate to the occupational therapy profession;
- (5) violating any federal or state statute or rule which relates to the occupational therapy profession;

- (6) practicing occupational therapy while the licensee's ability to practice was impaired by alcohol or other drugs or a physical or mental disability or disease;
- (7) engaging in sexual misconduct. For the purposes of this Paragraph, sexual misconduct includes:
  - (A) Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while an Occupational Therapist or Occupational Therapy Assistant/patient relationship exists with that person;
  - (B) Making sexual advances, requesting sexual favors or engaging in physical contact of a sexual nature with patients or clients;
- (8) obtaining or attempting to obtain payment by fraud or deceit;
- (9) violating any Order of the Board;
- (10) failing to properly make the disclosures required by 21 NCAC 38 .0305;
- (11) abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of ~~such care-care~~;
- (12) recording or communicating false or misleading data, measurements or notes regarding a patient;
- (13) delegating responsibilities to a person when the licensee delegating knows or has reason to know that the competency of that person is impaired by physical or psychological ailments, or by alcohol or other pharmacological agents, prescribed or not;
- (14) practicing or offering to practice beyond the scope permitted by law;
- (15) accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;
- (16) performing, without supervision, professional services which the licensee is authorized to perform only under the supervision of a licensed professional;
- (17) harassing, abusing, or intimidating a patient either physically or verbally;
- (18) failure to exercise supervision over persons who are authorized to practice only under the supervision of the licensed professional;
- (19) promoting an unnecessary device, treatment intervention or service for the financial gain of the practitioner or of a third party;
- (20) delegating professional responsibilities to a person when the licensee delegating the responsibilities knows or has reason to know that the person is not qualified by training, by

experience, or by licensure to perform the responsibilities;

- (21) billing or charging for services or treatments not performed; or
- (22) making treatment recommendations based on the extent of third party benefits instead of the patient's condition.

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

(c) When a person licensed to practice occupational therapy is also licensed in another jurisdiction and that other jurisdiction takes disciplinary action against the licensee, the North Carolina Board of Occupational Therapy may summarily impose the same or lesser disciplinary action upon receipt of the other jurisdiction's actions. The licensee may request a hearing. At the hearing the issues shall be limited to:

- (1) whether the person against whom action was taken by the other jurisdiction and the North Carolina licensee are the same person;
- (2) whether the conduct found by the other jurisdiction also violates the North Carolina Occupational Therapy Practice Act; and
- (3) whether the sanction imposed by the other jurisdiction is lawful under North Carolina law.

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

**TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Community Colleges intends to adopt the rule cited as 23 NCAC 02C .0110.*

**Proposed Effective Date:** October 1, 2008

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): To demand a public hearing please send the written demand to Q. Shante Martin, NC community College System, 200 West Jones Street, MSC 5001, Raleigh, NC 27699-5001 or by e-mailing the demand to martins@nccommunitycolleges.edu. Demands must be received within 15 days of the publication of the proposed rule in the North Carolina Register.*

**Reason for Proposed Action:** *The purpose of establishing accountability and audit responsibilities is to ensure collaborations among local trustees, presidents, the State board of Community Colleges and the System Office in fulfilling responsibilities relating to accountability for college operations, timely and up-to-date training so that well-informed decisions can be made; and minimizing audit and risk management issues for the colleges.*

**Procedure by which a person can object to the agency on a proposed rule:** *Written objections shall be addressed to President, NC Community College System Office, 5001 MSC, Raleigh, NC 27699-5001 within the comment period, and must be post marked by 11:59 p.m. on the day of the comment period.*

**Comments may be submitted to:** *Q. Shante Martin, 200 West Jones Street, 5001 MSC, Raleigh NC 27699-5001; phone (919) 807-6961; fax (919) 807-7171; email martins@nccommunitycolleges.edu*

Comment period ends: August 15, 2008

**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 – COMMUNITY COLLEGES**

**SUBCHAPTER 02C – COLLEGES: ORGANIZATION AND OPERATIONS**

**SECTION .0100 – TRUSTEES AND COLLEGES**

**23 NCAC 02C .0110 ACCOUNTABILITY AND AUDIT RESPONSIBILITIES**

(a) The purpose of establishing accountability and audit responsibilities is to ensure collaboration among local trustees, presidents, the State Board of Community Colleges and the System Office in fulfilling responsibilities relating to the following:

- (1) accountability for college operations;
- (2) timely and up-to-date training so that well-informed decisions can be made; and
- (3) minimizing audit and risk management issues for the colleges.

(b) Each local board of trustees shall include responsibilities for accountability and audit in their bylaws.

(c) Local trustees assigned accountability and audit responsibilities shall review the following documents listed in



Subparagraphs (1) through (22) of this Paragraph and identify any potential risks and/or concerns to their respective colleges:

- (1) Strategic Plan/Institutional Effectiveness Plan (G.S. 115D-31.3/SACS)
- (2) Performance Measures Report (to include Critical Success Factors) (G.S. 115D-31.3 and 23 NCAC 02E .0205(b), (c), and (d))
- (3) Internal Audit Plan (Accountability Credibility Plan for Continuing Education) (23 NCAC 02E .0305)
- (4) Business Continuity Plan (2004 State Auditor Requirement)
- (5) FTE/Enrollment Management (Annual Statistical Reports)
- (6) Captive/Co-Opted Instruction (23 NCAC 02E .0403)
- (7) Education Services for Minors (Huskins/Concurrent Enrollment/Joint High School Programs) G.S. 115D-5(b) and (23 NCAC 02C .0305)
- (8) Instructional Service Agreements with other Colleges (23 NCAC 02E .0604)
- (9) Optional Fees Schedule (23 NCAC 02D .0201(c))
- (10) Tuition and/or Registration Fee Waivers (G.S. 115D, G.S. 115B, and 23 NCAC 02D .0202 and 02D .0203)
- (11) Certification/Licensure Program Compliance (23 NCAC 02C .0301(b), 02D .0325, and 02E .0405)
- (12) College Personnel Policies (23 NCAC 02C .0210)
- (13) Evaluation of President (23 NCAC 02C .0209)
- (14) Training of Local Business Office Employees (2005 State Auditor's Report)
- (15) Tech Prep Articulation Agreements (Federal Carl Perkins Voc. Ed. Act/SBCC)
- (16) Information Technology Plan (State ITS Office)
- (17) Basic Skills Plan (U.S. Dept. of Ed.)
- (18) Program Review Summary (for establishment and disestablishment of programs) (23 NCAC 02E .0205(a))
- (19) Southern Association of Colleges and Schools Reviews (SACS) (U.S. Dept. of Ed./Trustees Manual)

(20) Facilities Master Plan (to include study of existing programs, expansion to create capacity for new programs, resource needs and matching facility needs) (SACS)

(21) Facilities Utilization Report (UNC-GA)

(22) Board Assessments/Evaluations (NCACCT)

(d) Local trustees assigned accountability and audit responsibilities shall report the potential risks and/or concerns that are identified in the documents listed in Subparagraphs (c)(1) through (c)(22) of this Rule to the full local board of trustees with specific procedures and/or actions for the resolution of the identified risks and/or concerns. The report and procedures and/or actions for resolution shall be detailed in each local board of trustees meeting minutes.

(e) Local trustees assigned accountability and audit responsibilities shall review the following audit reports listed in Subparagraphs (1) through (3) of this Paragraph and report any audit concerns/exceptions to the full local board of trustees with specific procedures and/or actions for the resolution of the audit concerns/exceptions. The report and procedures and/or actions for resolution shall be detailed in each local board of trustees meeting minutes:

(1) State of North Carolina Audits – Financial and Operational (State Auditor's Office and Office of the State Controller)

(2) Equipment Audits (State Auditor's Office)

(3) Federal Audits – Reviews and Results (U.S. Dept. of Ed.)

(f) The Audit Services unit of the System Office shall review internal processes and procedures for the documents listed in Subparagraphs (c)(1) through (c)(22) of this Rule and for the audit reports listed in Subparagraphs (d)(1) through (d)(3) of this Rule. After reviewing internal processes and procedures, the Audit Services unit of the System Office shall provide feedback to the State Board of Community Colleges' Accountability and Audit and Policy Committees for action as needed to ensure that appropriate internal controls are maintained.

(g) Verification of local board and System Office accountability and audit reviews shall be included in college Program Audits and System Office performance audits.

(h) Each local board of trustees shall implement the accountability and audit responsibilities of this section as of the date this Rule is adopted.

*Authority G.S. 115-5.*

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**CONTESTED CASE DECISIONS**

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

**OFFICE OF ADMINISTRATIVE HEARINGS**

*Chief Administrative Law Judge  
JULIAN MANN, III*

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

**ADMINISTRATIVE LAW JUDGES**

Beecher R. Gray	Randall May
Selina Brooks	A. B. Elkins II
Melissa Owens Lassiter	Joe Webster
Don Overby	Shannon Joseph

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><u>ALCOHOL BEVERAGE CONTROL COMMISSION</u></b>				
ABC Commission v. Agustin Zeferino Hernandez, T/A El Pujido	06 ABC 2275	Chess	10/09/07	
ABC Commission v. La Fiesta Mexicana II, Inc., T/A La Fiesta Mexicana	07 ABC 0149	Gray	04/19/07	
ABC Commission v. NK Group, Inc., T/A NK Food Mart,	07 ABC 0163	Overby	04/18/07	
ABC Commission v. 703 Jonestown, Inc., T/A Red Rooster	07 ABC 0305	Webster	10/04/07	
ABC Commission v. Donna Darlene Johnston, T/A Wagon Wheel	07 ABC 0738	Webster	09/20/07	
ABC Commission v. Jamal Kamel Hajeh, T/A Pleasant Grove Grocery	07 ABC 0883	Morrison	09/11/07	
ABC Commission v. Jayshreeben Jagishchand Shah, T/A Jay's Grocery #3	07 ABC 1180	Overby	01/11/08	
ABC Commission v. Agustin Zeferino Hernandez	07 ABC 1366	Overby	11/30/07	
ABC Commission v. Francisco Jubier Fuentes T/A Monte del Rey	07 ABC 1644	Gray	03/28/08	
ABC Commission v. Jenny S. Chanthalacksa, T/A JB Food Mart	07 ABC 1941	Brooks	04/30/08	

A list of Child Support Decisions may be obtained by accessing the OAH Website: [www.ncoah.com/decisions](http://www.ncoah.com/decisions).

**BOARD FOR LICENSING OF GEOLOGISTS**

Gary Cox, License #1099 v. Licensing of Geologists, Board for	07 BOG 1065	Gray	02/8/08	
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**BOARD OF NURSING**

Kenneth C. Johnson v. Board of Nursing	07 BON 1679	Overby	12/13/07	
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**CRIME VICTIMS COMPENSATION**

Pricilla McAllister v. Crime Victims Compensation Commission	06 CPS 1166	Webster	06/14/07	
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Michael Shaw v. Crime Victims Compensation Commission	07 CPS 0485	Webster	01/29/08	
Robert White, Jr., v. Crime Victims Compensation Commission	07 CPS 0497	Webster	09/12/07	
Mercer L. Tyson v. Victim and Justice Services	07 CPS 0919	Gray	03/04/08	
Angelina Cooper v. Crime Victims Compensation Commission	07 CPS 1271	Lassiter	04/22/08	
Renee L. Hunter	07 CPS 1408	Joseph	10/24/07	
Martha M. McMillan v. Victim and Justice Services	07 CPS 1560	Overby	12/18/07	
Eric Triplett v. Victim and Justice Services	07 CPS 1561	Lassiter	12/14/07	

Maria S. Riah v. Victims and Justice Services	08 CPS 0248	Gray	04/28/08	
Nelson A. Park IV v. Victim and Justice Services	08 CPS 0312	Overby	03/19/08	

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

DAG, Food and Drug Protection Division, Pesticide Section v. Jeffrey A. Oxley	06 DAG 0636	Webster	10/04/07	
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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Hanson Hill Rest Home and Faiger Blackwell v. DHHS, DFS, Adult Care Licensure Section	03 DHR 0945	Overby	04/16/07	
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**CONTESTED CASE DECISIONS**

Drake Groves and Progressive Child Care, Inc., v. DHHS, Div. Child Development	05 DHR 0656	Elkins	03/07/08		
Sherrri Groves and Play Penz Child Care, Inc., v. DHHS, Div. Child Development	05 DHR 0656	Elkins	03/07/08		
Claude Hayes v. DHHS, DFS, Health Care Personnel Registry	05 DHR 1672	Elkins	02/14/08		
Autumn Green Adult Care Home, Patricia L. Tiller v. DHHS, DFS, Adult Care Licensure Section	04 DHR 1508	Gray	01/03/08		
Autumn Green Adult Care Home, Patricia L. Tiller v. DHHS, DFS, Adult Care Licensure Section	04 DHR 1771	Gray	01/03/08		
Autumn Green Adult Care Home, Patricia L. Tiller v. DHHS, DFS, Adult Care Licensure Section	04 DHR 2324	Gray	01/03/08		
Autumn Green Adult Care Home, Patricia L. Tiller v. DHHS, DFS, Adult Care Licensure Section	05 DHR 0305	Gray	01/03/08		
Regina Hampton v. Health Care Personnel Registry	06 DHR 0247	Webster	12/31/07		
Paul Avery Morton II v. DHHS	06 DHR 0345	Chess	01/11/08		
Mary Elizabeth Matthews v. DHHS, Division of Medical Assistance	06 DHR 0485	Mann	10/01/07		
Kristen Valerie Kennedy v. Div. of Mental Health/Development Disabilities/ Substance Abuse Services at Dix	06 DHR 0984	Mann	05/08/07		
Eyvette Abbott, Robbie Wilson Community Services, Inc., v. DHHS (DMH/DD/SAS)	06 DHR 1139	Webster	06/06/07		
Amran Hussein, Trading as Laurinburg Food Mart v. DHHS, Div. of Public Health	06 DHR 1569	Webster	04/17/07		
David Taylor Jr., V. DMA, Developmental Disabilities and Substance Abuse Services	06 DHR 1597	Overby	11/27/07		
James Hampton for South Haven Assisted Living v. DHHS, DFS, Mental Health Licensure and Certification Section	06 DHR 1783	Gray	04/23/07		
Burnell Yancey, Jr. v. DHHS, Div. of Medical Assistance	06 DHR 1817	Elkins	05/29/07	22:01 NCR	82
Nidal Dahir, DHHS, Division of Public Health	06 DHR 1916	Lassiter	05/14/07		
Malissa Scott v. DHHS, DFS	06 DHR 2122	Elkins	12/19/07		
Mary K. Short for Kathryn M. Short v. DHHS, Division of Mental Health, Developmental Disabilities and Substance Abuse	06 DHR 2282	Gray	05/18/07		
Egusta Ford v. DMA, Third Party Recovery	06 DHR 2364	Gray	05/14/07		
Gladys Duggan v. DHHS	06 DHR 2381	Brooks	03/03/08		
Comillous Parks v. DHHS	06 DHR 2388	Joseph	02/12/08		
Stacey M Saylor v. Health Care Personnel Registry	06 DHR 2413	Gray	09/24/07		
Koala Day Care Centers, Inc. (6519), Alfred J. Bost, Sharon Purdie v. CACFP	06 DHR 2428	Webster	12/17/07		
Eunice Hardister v. Health Care Personnel Registry	07 DHR 0029	Overby	01/10/08		
Annette L. Gwynn v. DHHS, Division of Medical Assistance	07 DHR 0030	Webster	06/08/07		
John A. Millan and Cornelia D. Millan v. DHHS	07 DHR 0031	Gray	05/23/07		
Doris Durden/MID #945-63-2642K v. DHHS	07 DHR 0055	Overby	06/04/07		
Grandfather Home for Children, Inc., v. DHHS, DFS, DMA, Developmental Disabilities and Substance Abuse Services	07 DHR 0252	Overby	02/19/08	22:22 NCR	1998
Rita Amirahmadi v. DHHS, Division of Medical Assistance	07 DHR 0250	Elkins	06/05/07		
Linda S. Little, Littles Day Care	07 DHR 0266	Overby	05/23/07		
Kareem S. Scott v. DHHS, DFS	07 DHR 0300	Webster	05/11/07		
Chequita Bratcher Carpenter v. DHHS, DFS, Health Care Personnel Registry Section	07 DHR 0318	Chess	10/31/07		
Peter Emeka Nwankwo v. DHHS	07 DHR 0355	Overby	05/04/07		
Geraldine Fenner v. DHHS	07 DHR 0367	Overby	05/23/07		
Annette L. Gwyn v. DHHS/Division of Medical Assistance	07 DHR 0382	Lassiter	04/16/07		
Scottie Dean Beck v. DHHS	07 DHR 0399	Gray	12/04/07		
Jessie Duncan v. DHHS	07 DHR 0424	Elkins	06/08/07		
Leonard Atkins Jr. v. Rowan County DSS (Ms. Tate)	07 DHR 0464	Gray	06/07/07		
Visitacion T Uy v. DHHS/Division of Medical Assistance	07 DHR 0489	Overby	05/10/07		
Dorothy Sue Johnson v. DHHS, DFS	07 DHR 0502	Webster	06/15/07		
Robin E. Peacock, Bridging to Success, Inc v. DHHS, DFS, Mental Health Licensure Section	07 DHR 0510	Gray	05/30/07		
Donna Carol Matthews v. DHHS, DFS	07 DHR 0517	Webster	01/22/08		
Latoya Tarell McNeill v. DHHS, DFS	07 DHR 0567	Overby	01/18/08		
Samantha A. Amerson v. DHHS	07 DHR 0578	Overby	06/15/07		
Sandra Leathers v. DHHS, Division of Child Development	07 DHR 0612	Gray	11/02/07		
Anna Trask v. DHHS, Health Care Personnel Registry	07 DHR 0661	Overby	06/15/07		
Stacey M. Saylor v. Health Care Personnel Registry	07 DHR 0662	Gray	09/24/07		
Michelle Keller v. Department of Social Services	07 DHR 0698	Gray	01/02/08		
Carmalitta M. Taylor v. DHHS	07 DHR 0832	Lassiter	08/22/07		
Carolyn Tolson v. DHHS	07 DHR 0850	Lassiter	08/22/07		
Dorothy Rose, Willie Rose, v. DHHS	07 DHR 0859	Lassiter	10/08/07		
Linda Thompson v. DHHS	07 DHR 0862	Lassiter	08/29/07		
Barbara F. Lewis v. Division of Child Development, DHHS	07 DHR 0941	Overby	12/04/07		
Abundance Safe Haven Inc., Girls I, Terron H. Simpson v. DHHS	07 DHR 1004	Elkins	10/03/07		
Keith Beddingfield c/o Thyllis Smith ATFTTH Staff, Value Options, Inc.	07 DHR 1059	Overby	10/04/07		
Tonya Thompson v. DHHS	07 DHR 1062	Gray	09/07/07		
Triangle Alternatives Inc., Dorothy George v. OAH, DHHS Emery E Milliken	07 DHR 1081	Elkins	10/03/07		

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General Counsel			
Jonnie B. Davis v. DHHS, Dorothea Dix Hospital	07 DHR 1116	Joseph	03/04/08
Gina Fuller v. Value Options	07 DHR 1137	Overby	10/04/07
Marcia Barksdale v. OAH	07 DHR 1138	Elkins	12/03/07
Cynthia Penniegraft Hodges v. DHHS, DFS	07 DHR 1156	Elkins	12/17/07
Kroger Pharmacy v. DHHS	07 DHR 1159	Elkins	10/25/07
Betty Bennett parent of Shantel Boyce v. Medicaid	07 DHR 1193	Overby	10/03/07
Darryl A. Penn v. DHHS, Division of Child Development	07 DHR 1202	Lassiter	04/18/08
Sherri L. Gabel v. Onslow County Department of Social Services	07 DHR 1203	Webster	10/24/07
Gloria Ramseur v. Third Party Recovery	07 DHR 1241	Gray	01/17/08
K&A Food Mart, Hani A. Nahhas v. DHHS, WIC Section	07 DHR 1252	Elkins	12/07/07
Heavenly Healthcare, AD Fulton v. NC DHHS/Division of Medical Asst.	07 DHR 1262	Overby	10/04/07
Terry Johnson, SEBHS/Damien McLean, Shartario Stephens v. DHHS, Div Medical Assistance	07 DHR 1301	Gray	10/24/07
Kids Academy, Dawanda Bridges v. DHHS, Div. of Public Health, Child and Adult Care Food Program	07 DHR 1342	Gray	10/19/07
Erica Smith v. Medicaid/Value Options	07 DHR 1395	Elkins	12/17/07
Carolina Disestive Care, PLLC and Gastroenterology Specialists DHHS, DHSR, Certificate of Need	07 DHR 1415	Gray	01/03/08
Nicole Rivers, Raleera Dixon v. Medicaid	07 DHR 1424	Lassiter	01/09/08
Dorothy Ross, Willie Ross v. DHHS	07 DHR 1433	Gray	11/29/07
Arc Services, Inc & The Arc of Stanly County, Inc v. DHHS	07 DHR 1443	Lassiter	11/30/07
Michael J. Graves v. DHHS, DFS, Mental Health Licensure and Certification Section	07 DHR 1468	Overby	10/10/07
Beacon Child Care Center, DHHS, Division of Public Health, Child and Adult Care Food Program	07 DHR 1470	Elkins	10/16/07
Mary Holder v. DFS/Investigation Unit, Tori R. Green	07 DHR 1489	Elkins	12/17/07
Vanessa Arnold v. DHHS, DMA	07 DHR 1501	Gray	02/01/08
Teresa B. Balch v. Division of Medical Assistance	07 DHR 1502	Overby	12/20/07
Jerry L. Martin, Arlene N. Martin v. DHHS	07 DHR 1505	Overby	12/18/07
Amjad Al-Fuqaha v. Rowan County Health Dept	07 DHR 1512	Overby	01/14/08
Joey Tillman v. Value Options	07 DHR 1518	Webster	12/17/07
Lula U Nunn (Kadijia . Nunn) v. DHHS/DMA	07 DHR 1547	Joseph	01/07/08
Lula U Nunn (Kadijia . Nunn) v. DHHS/DMA	07 DHR 1548	Joseph	01/07/08
James C. Davis v. Burke County Dept. of Social Services	07 DHR 1562	Gray	03/28/08
Bernice Smith, d/b/a, Smith's Daycare v. DHHS, Div. of Child Development	07 DHR 1571	Joseph	01/08/08
Liliam Ibekwere for Lillian's Prince and Princess, Inc. v. OAH	07 DHR 1590	Joseph	11/28/07
Wanda Boatwright, Dylan Jackson v. Power Up Youth Services v. Medicaid	07 DHR 1602	Lassiter	01/10/08
Clifton Bryan Council v. DMA	07 DHR 1609	Overby	03/20/08
Jane Bridges v. OAH	07 DHR 1614	Gray	01/07/08
Margie Alford v. DHHS	07 DHR 1666	Gray	12/03/07
New Hope Foundation, Inc., Vernestive Speller Melton v. DMA, Program Integrity	07 DHR 1677	Overby	01/30/08
Carlos Oatis, Lisa Oatis v. Div. Child Development, DHHS	07 DHR 1680	Gray	04/23/08
Julia Johnson v. Medicaid	07 DHR 1681	Joseph	12/10/07
Lekia Moore for Saiquan J Moore v. DHHS, Medical Affairs Department Value Options, Inc.	07 DHR 1688	Overby	01/09/08
Marilyn Deloris Raynor (Watford) v. DHHS, Emery Milliken	07 DHR 1706	Joseph	01/30/08
Frank Cheek v. DHHS	07 DHR 1792	Gray	01/04/08
Lawrence A. Reid v. DHHS, DMA	07 DHR 1793	Gray	01/07/08
Boyce Ballard v. DHHS, DMA	07 DHR 1794	Gray	01/07/08
John R. Fortune v. DHHS, DMA	07 DHR 1795	Gray	01/07/08
Uriel Grant (child), LaToya Miller (mother) v. DHHS	07 DHR 1851	Joseph	01/16/08
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Liliam Ibekwere for Lilian's Prince and Princess Child Development v. OAH	07 DHR 1855	Joseph	01/04/08
Michael Smith v. DHHS, DMA	07 DHR 1917	Gray	01/07/08
Josephine Mitchell v. DHHS, DMA	07 DHR 1919	Gray	01/04/08
Kelly L Preatt v. DHHS	07 DHR 1920	Gray	01/04/08
Shaylonda McKimmon/TT&T Services	07 DHR 1972	Gray	12/19/07
Meriweather Home Nursing Inc., DHHS/DMA	07 DHR 2009	Gray	04/07/08
Doris J. Mack v. DMA	07 DHR 2023	Joseph	02/01/08
Martha's Group Home, Inc., Thomas Shepard (Administrativer Penalty) v. DHHS	07 DHR 2034	Gray	01/16/08
Martha's Group Home, Inc., Thomas Shepard (Administrativer Penalty) v.	07 DHR 2035	Gray	01/16/08
Kathleen A. McElroy v. Health Care Personnel Registry	07 DHR 2070	Joseph	03/13/08
Alphonso Cherry v. DHSR	07 DHR 2076	Lassiter	03/12/08
Freedom House Recovery Center Inc., v. DHHS, Mental Health Licensure and Certification Section	07 DHR 2083	Webster	04/22/08
Brenda H. Ashley v. Medical Affairs Department Value Options Inc.	07 DHR 2173	Lassiter	03/04/08
Angela McCray v. DHHS, DMA	07 DHR 2174	Gray	02/01/08
Nakayla McBride v. Value Options DHHS	07 DHR 2247	Gray	03/18/08
James M. Powell v. Southeastern United Care v. Value Options DHHS	07 DHR 2255	Joseph	03/11/08
Jabez Home Infusion Company, Debra Cowart v. DHHS	07 DHR 2259	Lassiter	02/12/08
Jaquarius Jackson, L. Barber, v. OAH	07 DHR 2285	Webster	04/24/08
Regina Dozier v. Medicaid - Value Options	07 DHR 2328	Overby	02/11/08
Southeastern United Care, Nakayla S. McBride v. Value Options DHHS	07 DHR 2333	Gray	03/18/08
Farrakan Hemphill v. DHHS, Emery Milliken	07 DHR 2349	Overby	03/05/08
Steven Swinton v. Medical Affairs Dept. of Value Options	07 DHR 2355	Joseph	03/24/08

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Darryl Alonzo Cooper v. DHHS, Div. of Health Service Regulation	07 DHR 2358	Gray	04/03/08
Vanessa White d/b/a White Alternative v. Cumberland County Mental Health	07 DHR 2359	Overby	04/07/08
Soncieray Thompson, Patricia McRae guardian v. DHHS	07 DHR 2361	Joseph	03/11/08
Eric McRae, Patricia McRae guardian v. DHHS	07 DHR 2362	Joseph	03/11/08
Chyna M. Hill, Shelby Stywall v. Medicaid/Value Options	07 DHR 2370	May	04/01/08
Jamain L. Stockton, Antonio McConnuighy v. Medicaid? Value Options	07 DHR 2371	May	04/01/08
National Mentor Health for Teresa Cummings v. Lavette Young, Chief Hearing Office, DHHS Hearing Office	08 DHR 0005	Brooks	04/18/08
Lillie Locklear v. Value Options	08 DHR 0007	Joseph	03/11/08
Tonya Rochell Ingram v. DHHS,	08 DHR 0011	Gray	03/24/08
Beacon Child Care Center v. DHHS, Div. of Public Health, Child and Adult Care Food Program	08 DHR 0025	Overby	04/14/08
Jacob Caviness v. Value Options Medicaid	08 DHR 0027	Brooks	03/06/08
Wendell Turner v. DHHS	08 DHR 0033	Joseph	03/25/08
April Riley v. Value Options, Medical Affairs Department	08 DHR 0044	Brooks	03/06/08
Fletcher Hospital., Incorporated d/b/a Park Ridge Hospital v. DHHS, Div. of Health Service Regulation, CON Section and Mission Hospitals., Inc	08 DHR 0053	Brooks	03/06/08
Denise Davis, Daystar Residential Group Home v. DHHS	08 DHR 0075	Overby	04/29/08
Andrea Clemons v. Medicaid/DHHS	08 DHR 0076	Overby	03/05/08
Ivan S. Coleman, Cindy Grogans (parent) v. Medicaid	08 DHR 0079	Lassiter	02/26/08
Kiana Grogans, Cindy Grogans (parent) v. Medicaid	08 DHR 0080	Lassiter	02/26/08
Candida Lassiter guardian of Michael Liles v. Medicaid Value Options	08 DHR 0121	Lassiter	02/26/08
Candida Lassiter guardian of Andre Knight v. Medicaid Value Options	08 DHR 0122	Lassiter	02/26/08
Gloria White v. Value Options	08 DHR 0128	Overby	02/12/08
Naomi Williams v. DHHS, Dept. of Health Service Regulation	08 DHR 0148	Lassiter	04/21/08
Rossie Arthur/Helen Bellamy v. Value Options, DHHS	08 DHR 0160	Gray	03/13/08
Terry Cox v. DHHS	08 DHR 0165	Joseph	03/18/08
Ruth Atkinson v. Health Care Personnel Registry	08 DHR 0196	Gray	03/04/08
Lisa Dickensheets v. OAH	08 DHR 0203	Gray	04/01/08
Juanita Robinson v. DHHS, DMA	08 DHR 0214	Joseph	03/20/08
Patricia Crockett v. OAH	08 DHR 0229	Overby	04/17/08
Xavier Shamble v. Value Options	08 DHR 0237	Lassiter	03/12/08
Melinda Moran for Elinda Marie Moran	08 DHR 0243	Brooks	03/06/08
Pamela Terry CEO/License PALS Rock v. DHHS, Div. of Health Service Reg.	08 DHR 0244	Lassiter	05/05/08
Zala Obas v. Medicaid	08 DHR 0296	Joseph	03/13/08
Lashena Brooks v. Value Options, DHHS	08 DHR 0321	Gray	03/28/08
Timothy James Pedro v. Value Options	08 DHR 0404	Overby	04/15/08
Cathaline Bryant v. Value Options	08 DHR 0457	Overby	04/15/08
Wayne Hancock v. DHHS, The Beacon Center	08 DHR 0458	Gray	04/18/08
Arnease S. Herring v. Medicaid	08 DHR 0464	Gray	04/02/08
Melinda Oxendine v. Value Options	08 DHR 0493	Overby	04/17/08
Sherry Sue Leonard v. Value Options	08 DHR 0504	Brooks	04/21/08
Marina Johnson v. Cumberland County DSS v. Value Options/OAH	08 DHR 0507	Overby	04/29/08
Mary Connor, Medicaid Id 0649T v. DMA	08 DHR 0588	Overby	04/15/08
Rosa Jacobs v. DHHS	08 DHR 0609	Overby	04/24/08
Candy Perez v. Dept. of Social Services	08 DHR 0704	Gray	04/23/08
Willie McPhaul v. Value Options	08 DHR 0770	Lassiter	04/25/08
Nicholas Jurideau v. Value Options, Inc	08 DHR 0784	Lassiter	05/05/08
<b><u>DEPARTMENT OF CORRECTIONS</u></b>			
Robert Paige-El v. Supt. James Langston, DOC	08 DOC 0593	Morrison	04/04/08
<b><u>DEPARTMENT OF JUSTICE</u></b>			
Travis Dan Williams v. Criminal Justice Education and Training Standards Commission	06 DOJ 1198	Webster	04/26/07
Robert Anthony Wilson v. DOJ, Company Police Program	06 DOJ 1508	Gray	02/16/07
Jerry Hailey v. Insurance Underwriting Association	06 DOJ 1528	Gray	10/01/07
David Leonard Carter, Sr., v. Criminal Justice Education and Training Stds. Commission	06 DOJ 1914	Lassiter	02/21/08
Jeremy Shayne Pearce v. DOJ, Campus Police Program	06 DOJ 2424	Overby	04/16/07
Andre Cornelius Patterson v. Private Protective Services Board	07 DOJ 0003	Gray	05/18/07
David Keith Shelton v. Private Protective Services Board	07 DOJ 0011	Morrison	03/29/07
Larry Talbert v. Private Protective Services Board	07 DOJ 0036	Morrison	04/05/07
Patricia Ann Davis v. Criminal Justice Education and Training Standards Commission	07 DOJ 0045	Gray	04/03/07
Kristine A. Conti v. Special Police	07 DOJ 0090	Gray	12/20/07
Antonio Jose Coles v. Sheriffs' Education and Training Standards Comm.	07 DOJ 0142	Overby	04/03/07
Joseph Lester Early II v. Sheriffs' Education and Training Standards Comm.	07 DOJ 0143	Lassiter	09/28/07
David Leonard Carter, Sr., v. DOJ, Company Police Program	07 DOJ 0394	Lassiter	02/21/08
Jeffrey S. Moore v. Private Protective Services Board	07 DOJ 0468	Morrison	06/08/07
Roy Lee Burgess v. DOJ, Campus Police Program	07 DOJ 0540	Gray	09/25/07
Norman Jerome Turner v. Criminal Justice Education and Training Standards Commission	07 DOJ 0599	Overby	09/19/07
Ronald Calvin Camp Jr, Sheriffs' Education and Training Standards Comm.	07 DOJ 0727	Joseph	10/17/07
Paul James Dunn v. Sheriffs' Education and Training Standards Commission	07 DOJ 0729	Overby	09/19/07
Frank Burton Scofield v. DOJ, Company Police Program	07 DOJ 0814	Chess	10/10/07

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Maury Wills Carmon v. Sheriffs' Education and Training Standards Comm.	07 DOJ 0831	Joseph	02/14/07		
Shaun Martin Rhodes v. DOJ, Company Police Program	07 DOJ 0909	Lassiter	01/28/08		
William Brian Martin v. Alarm Systems Licensing Board	07 DOJ 0929	Gray	10/16/07		
Joseph Daniel White v. Private Protective Services Board	07 DOJ 1072	Overby	04/14/08		
Lawrence Price v. Private Protective Services Board	07 DOJ 1073	Elkins	12/04/07		
Herbert Spencer Kidwell, Jr. v. Sheriffs' Education and Training Standards Commission	07 DOJ 1133	Webster	02/21/08		
Clifton Benjamin Faulkner, Sr v. Sheriffs' Education and Training Standards Commission	07 DOJ 1134	Gray	10/17/07		
Dana M. Williams v. Private Protective Services Board	07 DOJ 1239	Morrison	09/12/07		
Timothy M. McIntyre v. Private Protective Services Board	07 DOJ 1257	Morrison	12/21/07		
Chris Ray Outen v. Criminal Justice Education & Training Standards Comm.	07 DOJ 1329	Lassiter	12/10/07		
William Brian Ivie v. Alarm Systems Licensing Board	07 DOJ 1555	Morrison	12/21/07		
Dawn Lajoy Paige v. Private Protective Services Board	07 DOJ 1557	Morrison	12/20/07		
Robert Gene Saunders Jr v. Criminal Justice Education and Training Standards Commission	07 DOJ 1658	Lassiter	01/09/08		
Audrey Lee Hunt v. Sheriffs' Education and Training Standards Commission	07 DOJ 1676	Brooks	01/11/08		
Meredith Hulbert Richards Jr v. Sheriffs' Education and Training Stds. Comm.	07 DOJ 1675	Lassiter	11/27/07		
Crystal Swaringen v. Criminal Justice Education and Training Standards Commission	07 DOJ 1713	Joseph	01/30/08		
Mark Douglas Vanzant v. Sheriffs' Education and Training Standards Comm.	07 DOJ 1763	Brooks	01/11/08		
David Dees Hill II v. Sheriffs' Education and Training Standards Comm.	07 DOJ 2331	Joseph	03/31/08		
Jonathon Blake Penny v. Private Protective Services Board	08 DOJ 0037	Overby	03/24/08		
William Trevor Jolley v. Sheriffs' Education and Training Standards Comm.	08 DOJ 0178	Brooks	04/18/08		
Robert Michael Sweet Jr., Sheriffs' Education and Training Stds. Comm.	08 DOJ 0182	Lassiter	04/21/08		
April Charmaine Davis v. Sheriffs' Education and Training Stds. Comm.	08 DOJ 0208	Gray	04/28/08		
James W. Welch v. Private Protective Services Board	08 DOJ 0632	Joseph	04/30/08		
Charles A. Bryant v. Private Protective Services Board	08 DOJ 0644	Joseph	05/01/08		
<b><u>DEPARTMENT OF TRANSPORTATION</u></b>					
Citizens for the Preservation of Willis Landing, Kenneth M. Seigler v. DOT	07 DOT 0175	Gray	03/27/07		
Samuel Petro Abraham v. DMV, Clear of Charlotte NC Courts	08 DOT 0161	Gray	03/04/08		
<b><u>DEPARTMENT OF STATE TREASURER</u></b>					
Donald C. McCaskill v. DST, Retirement Systems Division	05 DST 0251	Lassiter	01/04/08		
Martin Todd Oliver v. Teachers' and State Employees' Retirement System, Dept. of State Treasurer, Retirement Systems Division, and Sparkle Nicole Jones v. DST and Denise Virginia Lee and Arthur E. Seay, III	05 DST 1167	Elkins	12/05/08		
05 DST 1612	Gray	05/23/07			
Charles R. Franklin, Jr. v. DST, Retirement Systems Division	06 DST 1672	Overby	05/14/07	22:01 NCR	85
Elaine Scarlett v. DST, Retirement Systems Division	07 DST 0452	Webster	10/12/07		
Gilbert P Davis Jr. (LA0204530) v. DST	07 DST 0991	Lassiter	01/23/08		
Gary Lawrence Walker v. DST Retirement Systems Division	07 DST 1078	Overby	02/11/08		
<b><u>ETHICS, STATE BOARD OF</u></b>					
Johnnie Burgess v. State Ethics Commission	07 EBD 1466	Gray	02/20/08		
John Allen v. State Ethics Commission	07 EBD 1580	Gray	03/24/08		
<b><u>EDUCATION, STATE BOARD OF</u></b>					
Billy Ray Brown v. Department of Public Instruction	02 EDC 1272	Webster	06/14/07		
Lynn C. Sasser v. Board of Education	06 EDC 0044	Elkins	05/04/07		
Karen Stallings v. Board of Education	06 EDC 1725	Elkins	05/08/07	22:01 NCR	90
Phyllis Simms v. Board of Education	06 EDC 1780	Elkins	04/02/07		
Jerome A. Powers v. NCPDI	06 EDC 1785	Overby	01/24/08		
April Williams Compton v. National Board Certification Committee Public Schools of NC	06 EDC 1816	Webster	05/18/07		
Don Landrum v. DPI	06 EDC 1896	Lassiter	01/10/08		
John M. Radford, Jr., v. Dept. of Public Instruction	06 EDC 1841	Webster	08/17/07		
Vonnita Hart Taylor v Department of Public Instruction	06 EDC 2203	Webster	09/20/07		
Ms. Victoria L. Ruffin v. Board of Education	06 EDC 2218	Overby	06/01/07		
Connie R. Austin v. Dept. of Public Instruction	06 EDC 2270	Elkins	04/02/07		
Sandra B. Rayne v. State Board of Education, DPI Div. of Human Resources Management	06 EDC 2277	Lassiter	10/31/07		
Jason Forrister v. Dept. of Public Instruction	07 EDC 0054	Gray	06/22/07	22:09 NCR	888
Merredith Page v. Board of Education	07 EDC 0056	Webster	04/19/07		
Jane H. Layton v. Department of Public Instruction	07 EDC 0182	Webster	09/18/07		
Corporation for Effective Schooling d/b/a Kestrel Heights School v. Board of Education and DPI	07 EDC 0319	Elkins	10/29/07	22:14 NCR	1340
Tracey Moore v. Public Schools of NC and Durham County Schools	07 EDC 0532	Webster	04/24/08		
Jayne Ellen Miller v. Public Schools of NC	07 EDC 0539	Overby	12/19/08		
Olga Patricia Cancino v. Public Schools of NC et al.	07 EDC 0904	Chess	10/10/07		
Christopher Lee Hesse v. DPI	07 EDC 0926	Gray	12/13/07		
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Suellen Alexander v. Board of Education	07 EDC 1237	Elkins	03/17/08	
Daniel Wydo v. State Board of Education, DPI	07 EDC 1265	Gray	11/27/08	
Eric Scott Feltman by parent Edward S. Feltman v. Wilson County Board of Education	07 EDC 1304	Elkins	12/04/07	
Nathaniel J. Mewborn v. Alamance Burlington Schools	07 EDC 1413	Joseph	12/12/07	
Joshua Aaron Apple v. DPI	07 EDC 1506	Gray	04/03/08	
Tamara S. Brown v. State Board of Education	07 EDC 2077	Overby	02/19/08	
<b><u>DEPT. OF ENVIRONMENT AND NATURAL RESOURCES</u></b>				
George A. Jenkins, Jr, d/b/a Lake Juno Park, Inc., v. Dept. of Environmental Health	05 EHR 1161	Lassiter	02/16/07	
Wayne Smith, Jack in the Box, Inc. v. DENR	05 EHR 1237	Hunter	10/02/07	
Robert D. Bryant v. DENR, Division of Coastal Management and Stanley L. McCauley	05 EHR 2185	Chess	02/16/07	
Franklin Grading Co., Inc. v. DENR, Division of Air Quality	06 EHR 0239	Lassiter	10/01/07	
Wildcat Investments LLC, James Cook v. Cherokee County Health Depart.	06 EHR 0631	Gray	04/23/07	
Randy Dockery v. Cherokee County Health Department	06 EHR 0728	Gray	04/23/07	
Alan Raper v. Cherokee Health Department	06 EHR 0873	Gray	04/23/07	
Christopher Perry v. Caldwell County Health Department	06 EHR 1010	Elkins	06/05/07	
Franklin Grading Co., Inc. v. DENR, Division Air Quality	06 EHR 1525	Lassiter	10/01/07	
Robert Don Foster v. DENR, Div. of Coastal Management	06 EHR 1833	Morrison	05/11/07	22:01 NCR 95
Andrew Price v. DENR, Div. of Coastal Management and William F. Canady	06 EHR 1834	Morrison	05/11/07	22:01 NCR 95
Steven C. Bullard v. Cumberland County Health Dept.	06 EHR 2186	Gray	02/18/08	
Conrad McLean v. DENR/Division of Air Quality	06 EHR 2243	Gray	05/03/07	
Terry Collins v. DENR, Division of Waste Management	06 EHR 2414	Gray	05/01/07	
Riverwalk, LLC v. Town of Highlands	06 EHR 2420	Gray	10/01/07	
H. Johnston Sifly v. DENR, Div. of Coastal Management	07 EHR 0040	Gray	09/06/07	
NC Coastal Federation v. DENR, DWQ and Wind Over Waves, LLC	07 EHR 0077	Lassiter	12/13/07	
Paul A. Stennett v. DENR, Public Water Supply Section	07 EHR 0170	Overby	05/04/07	
Thomas E. Carr v. DENR	07 EHR 0178	Overby	02/05/08	
Daniel R. Wrobleksi v. DENR and Coastal Management	07 EHR 0217	Overby	05/08/07	
Violet Ward, David Ward v. DENR, Div. of Coastal Management and Carolina Marina and Yacht Club, LLC	07 EHR 0406	Elkins	12/03/07	22:22 NCR 2017
James Wallace v. DENR	07 EHR 0600	Elkins	09/18/07	
Max Plowman v. DENR, Division of Air Quality	07 EHR 0828	Webster	09/25/07	
Lynne E. Graham, Alston Ave Parcel v. Co. of Durham, Engineering Dept. Sedimentation & Erosion Control Division	07 EHR 0934	Gray	03/04/08	
Lynne E. Graham, Pettigrew Street Parcel v. Co. of Durham, Engineering Dept. Sedimentation & Erosion Control Division	07 EHR 0934	Gray	03/04/08	
Douglas Gilchrist v. Division of Water Quality	07 EHR 1051	Webster	01/31/08	
Robert Thomas Evans v. DENR	07 EHR 1120	Overby	01/02/08	
Andre Family LLC v. Carteret County Health Dept	07 EHR 1160	Elkins	10/25/07	
Greg Simpkins v. DENR, Division of Water Quality	07 EHR 1397	Gray	01/14/08	
James Mark Rumley v. Person County Environmental Health Dept.	07 EHR 1515	Brooks	03/06/08	
Gumby's Pizza, Chancellor Hippler v. DENR, Division Environmental Health	07 EHR 1769	Lassiter	01/29/08	
Metropolitan Group, Inc., v. Surface Water Protection Section, Division of Water Quality, DENR	07 EHR 1771	Joseph	01/28/08	
Clyde Irving Golden v. Craven County Environmental Health	07 EHR 2334	Brooks	03/27/08	
NPS Associates v. Division of Water Quality	07 EHR 2354	Overby	04/16/08	
Hiwassee Dam School NC 0120403, Terelle Beaver v. DENR, Public Water Supply Section	08 EHR 0061	Brooks	03/24/08	
<b><u>BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS</u></b>				
Board of Examiners for Engineers and Surveyors v. C. Phil Wagoner, PLS No. L-2416	07 EHR 0141	Morrison	08/21/07	
<b><u>GOVERNOR'S OFFICE</u></b>				
Jerry W. Conner (NCDOC#0085045) and James A. Campbell (NCDOC# 0063592) v. Council of State	07 GOV 0238	Morrison	08/09/07	22:04 NCR 280
James Edwards Thomas and Marcus Robinson and Archie Lee Billings v. Council of State	07 GOV 0264	Morrison	08/09/07	22:04 NCR 280
<b><u>DEPARTMENT OF INSURANCE</u></b>				
Toni W. Goodwin v. Teachers and State Employees Comprehensive Major Medical Plan	06 INS 1016	Overby	05/07/07	
Larry Miller v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1236	Overby	04/11/07	
Randall A. Meder v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1413	Overby	07/16/07	22:04 NCR 264
Barbara Smith Pearce v. State Health Plan	07 INS 0008	Overby	07/12/07	22:04 NCR 273
Phillip J. Adler and Benjamin F. Adler v. Teachers' and State Employees' Comprehensive Major Medical Plan	07 INS 0037	Overby	10/19/07	22:11 NCR 1158
Michelle H. Freeman v. Teachers' and State Employees' Comprehensive	07 INS 0712	Lassiter	01/30/08	

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Robert Francis Payne v. Teachers' and State Employees' Comprehensive	07 INS 1365	Elkins	12/11/07	
Major Medical Plan				
Elizabeth H. Davis v. Teachers' Healthcare Plan	07 INS 1511	Joseph	03/12/08	
Gina Platz v. Blue Cross Blue Shield – NC State Health Plan	07 INS 1764	Lassiter	02/22/08	
George J. Gioiella, George J. Gioiella d/b/a Carolina Educational Seminars, George J. Gioiella, Jr., v. Home Inspector Licensure Board	08 INS 0008	Joseph	03/10/08	
<b><u>LOCKSMITH LICENSING BOARD</u></b>				
Michael Taylor v. Locksmith Licensing Board	07 LLB 1217	Elkins	03/17/08	
<b><u>MISCELLANEOUS</u></b>				
Sylvia Oliver v. Superior Court Judges, Clerk of Court Judges	07 MIS 1603	Lassiter	10/18/07	
Kevin Edral Douglas v. Wake County District Attorney and Division of Motor Vehicles	07 MIS 1796	Webster	04/11/08	
<b><u>OFFICE OF ADMINISTRATIVE HEARINGS</u></b>				
Senora Kemp v. OAH	07 OAH 0776	Lassiter	09/06/07	
<b><u>OFFICE OF STATE PERSONNEL</u></b>				
Monty Steven Poarch v. Crime Control and Public Safety, State Highway Patrol	03 OSP 2004	Lassiter	09/17/07	
Willie G. Shaw v. Division of Forest Resources	05 OSP 0414	Overby	04/13/07	
Shirley Barnes v. Murdock Center	06 OSP 0230	Elkins	01/11/08	22:18 NCR 1621
Deona R. Hooper v. NCCU	06 OSP 1071	Lassiter	04/25/07	
Franklin Leaven v. DHHS, DDH	06 OSP 1132	Lassiter	10/17/07	
Gloria Woodard v. DOT	06 OSP 1388	Lassiter	02/13/08	
Wayne Bradley Johnson v. NSCU Information Technology Division	06 OSP 1511	Gray	02/19/08	22:22 NCR 2040
Patrice Bernard v. NC A&T State University	06 OSP 1550	Elkins	06/05/07	
Ernest B. Coleman v. Cherry Hospital	06 OSP 1761	Elkins	03/24/08	
Angelia Davis v. UNC-Charlotte	06 OSP 1908	Gray	03/08/07	
Toni Edwards v. UNC Greensboro Police Department	06 OSP 2219	Gray	10/04/07	
Keith Dial v. Dept. of Juvenile Justice and Delinquency Prevention	06 OSP 2346	Gray	04/20/07	
Cornelia Yvette Taylor v. Currituck County Department of Social Services	06 OSP 2384	Webster	01/07/08	
Brenda Stanley v. DOT	06 OSP 2387	Webster	01/08/08	22:22 NCR 2049
Larry L. Deyton v. Mitchell County Commission Board	06 OSP 2415	Gray	04/19/07	
Rose M. Baltezare v. City of Brevard	07 OSP 0009	Gray	04/03/07	
Dorothy H. Williams v. John Umstead Hospital	07 OSP 0265	Lassiter	04/24/07	
Pei Wang v. UNC-Chapel Hill	07 OSP 0273	Lassiter	04/19/07	
Candace R. Berguson v. Caswell County DSS and Mr. Jeff Earp, County Manager	07 OSP 0294	Lassiter	04/20/07	
Angela Townsend v. DOC	07 OSP 0365	Lassiter	01/14/08	
Karen Haas v. Crime Control and Public Safety	07 OSP 0370	Gray	11/27/07	
Shannon Harris Tadlock v. Wilson County, Department of Public Health	07 OSP 0491	Lassiter	05/07/07	
Patricia G. Flanigan v. Fayetteville State University	07 OSP 0503	Overby	05/10/07	
Tobias M. Guillaume v. FSU Police & Public Safety	07 OSP 0565	Overby	05/10/07	
Archie Andrew Copeland v. Dept. of Juvenile Justice & Delinquency Prevention	07 OSP 0976	Lassiter	08/29/07	
Patricia Bethea Williams v. NC A&T State University	07 OSP 1053	Overby	08/28/07	
Amy M. Peck v. NC A&T State University Police Department	07 OSP 1346	Lassiter	11/29/07	
Kathleen E. Kicinski v. NC A&T State University	07 OSP 1347	Lassiter	11/29/07	
Kevin Edral Douglas v. NCSU	07 OSP 1465	Joseph	12/03/07	
Bobby R. Davis v. Dept. of Labor, Bureau of Education, Training and Tech. Assistance	07 OSP 1492	Overby	01/04/08	
Terence G. Westry v. NC A&T State University	07 OSP 1497	Webster	12/17/07	
Richard Allen Kono v. DOCC and Adult Probation and Parole	07 OSP 1563	Elkins	01/29/08	
Angela N. Mewborn v. Office of State Auditor	07 OSP 1668	Lassiter	12/07/07	
Darrin Ball v. Wildlife Resources Commission	07 OSP 1678	Elkins	12/11/07	
Herman L. Colvin v. Industrial Commission	07 OSP 1724	Lassiter	01/11/08	
Samuel A. Aghimien v. DOT	07 OSP 1753	Lassiter	01/10/08	
Annie H. Davis/Christopher P. Davis v. Caswell Center DHHS/Patsy Woolard	07 OSP 1791	Webster	02/26/08	
Mahatam S. Jailall v. DPI	07 OSP 1978	Overby	12/21/07	
Warren K. Follum v. NCSU	07 OSP 2060	Webster	02/26/08	
Danny E. Caldwell v. UNC, Dept. of Public Safety	07 OSP 2119	Webster	05/06/08	
Malinda Keyes v. Office of State Auditor	07 OSP 2158	Lassiter	02/22/08	
Lasonya L. Howell v. Cherry Hospital – DHHS	07 OSP 2344	Gray	02/26/08	
Ricco A. Raynor v. Cherry Hospital	08 OSP 0013	Gray	02/26/08	
Leo Rapley v. UNC Chapel Hill	08 OSP 0153	Gray	03/24/08	
Lysheaka Pullen v. DHHS	08 OSP 0156	Gray	02/18/08	
Samuel A. Aghimien v. DOT, Aviation	08 OSP 0339	Gray	04/18/08	
John A. Marcinko v. Granville County Sheriffs' Dept.	08 OSP 0416	Morrison	04/04/08	



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**CONTESTED CASE DECISIONS**

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**SECRETARY OF STATE**

Mary C. Brandon v. Department of the Secretary of State	06 SOS 1839	Elkins	04/02/07
Samuel Abraham , pro-se v. SOS, General Counsel Ann Wall	07 SOS 0224	Overby	04/27/07
Mr. Tim Rhodes, President, Event Marketing Services, Inc. v. SOS	07 SOS 0374	Overby	06/14/07
Dayne Hodges v. SOS	07 SOS 0857	Gray	03/28/08
Angela Dozier v. SOS	07 SOS 0912	Gray	08/30/07
Timeka Rene' Jones v. SOS	07 SOS 1309	Lassiter	12/12/07

**UNC HOSPITALS**

Layton Leach v. UNC Hospital	05 UNC 0449	Bryan	09/07/07
Mary Lawson v. UNC Hospital	05 UNC 0467	Bryan	09/28/07
Kenneth Trivette v. UNC Hospitals	06 UNC 2014	Elkins	04/02/07
Mark A. Parrish v. UNC Hospitals	06 UNC 2406	Elkins	06/15/07
Carolyn Parker v. UNC Hospitals	07 UNC 0924	Lassiter	09/06/07
Debra B. Davis v. UNC Hospitals	07 UNC 1169	Brooks	10/01/07
James P. Dunn v. UNC Hospitals	07 UNC 1559	Gray	01/03/08