

NORTH CAROLINA REGISTER

VOLUME 23 • ISSUE 12 • Pages 1080 - 1209

December 15, 2008

I. EXECUTIVE ORDERS

Executive Order No. 148 1080 – 1081

II. IN ADDITION

Decision Letters on "Changes Affecting Voting" from US Attorney General 1082
Brownfields Property – PTRP Holdings, III and Piedmont Triad..... 1083
Brownfields Property – The Park Ministries, Inc..... 1084
Brownfields Property – Ingles Markets, Inc 1085
Brownfields Property – Dyestuff, LLC..... 1086
EMC Public Notice 1087 – 1088
Industrial Commission Public Notice of Rulemaking..... 1089

III. PROPOSED RULES

Administrative Hearings, Office of
Administrative Hearings, Office 1182 - 1184

Agriculture and Consumer Services, Department of
Pesticide Board 1090

Environment and Natural Resources, Department of
Environmental Management Commission 1155 – 1167
Coastal Resources Commission 1167 – 1173

Public Instruction, Department of
Education, State Board of 1173 – 1178

Labor, Department of
Department..... 1090 – 1155

Occupational Licensing Boards and Commissions
Cosmetic Art Examiners, Board of 1178 – 1180
Dental Examiners, Board of..... 1180 – 1182

IV. RULES REVIEW COMMISSION 1185 – 1201

V. CONTESTED CASE DECISIONS

Index to ALJ Decisions 1202 – 1209

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, North Carolina 27609
(919) 431-3000
(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules molly.masich@ncmail.net (919) 431-3071
Dana Vojtko, Publications Coordinator dana.vojtko@ncmail.net (919) 431-3075
Julie Edwards, Editorial Assistant julie.edwards@ncmail.net (919) 431-3073

Rule Review and Legal Issues

Rules Review Commission
1711 New Hope Church Road
Raleigh, North Carolina 27609
(919) 431-3000
(919) 431-3104 FAX

contact: Joe DeLuca Jr., Commission Counsel joe.deluca@ncmail.net (919) 431-3081
Bobby Bryan, Commission Counsel bobby.bryan@ncmail.net (919) 431-3079
Tammara Chalmers, Admin Assistant tammara.chalmers@ncmail.net (919) 431-3083

Fiscal Notes & Economic Analysis

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

contact: William Crumbley, Economic Analyst william.crumbley@ncmail.net (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)
Raleigh, North Carolina 27603

Legislative Process Concerning Rule-making

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

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

County and Municipality Government Questions or Notification

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

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

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

contact: Anita Watkins awatkins@nclm.org

NORTH CAROLINA REGISTER
Publication Schedule for January 2009 – December 2009

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 th day from publication in the Register
23:13	01/02/09	12/08/08	01/17/09	03/03/09	03/20/09	05/01/09	05/2010	09/29/09
23:14	01/15/09	12/19/08	01/30/09	03/16/09	03/20/09	05/01/09	05/2010	10/12/09
23:15	02/02/09	01/09/09	02/17/09	04/03/09	04/20/09	06/01/09	05/2010	10/30/09
23:16	02/16/09	01/26/09	03/03/09	04/17/09	04/20/09	06/01/09	05/2010	11/13/09
23:17	03/02/09	02/09/09	03/17/09	05/01/09	05/20/09	07/01/09	05/2010	11/27/09
23:18	03/16/09	02/23/09	03/31/09	05/15/09	05/20/09	07/01/09	05/2010	12/11/09
23:19	04/01/09	03/11/09	04/16/09	06/01/09	06/22/09	08/01/09	05/2010	12/27/09
23:20	04/15/09	03/24/09	04/30/09	06/15/09	06/22/09	08/01/09	05/2010	01/10/10
23:21	05/01/09	04/09/09	05/16/09	06/30/09	07/20/09	09/01/09	05/2010	01/26/10
23:22	05/15/09	04/24/09	05/30/09	07/14/09	07/20/09	09/01/09	05/2010	02/09/10
23:23	06/01/09	05/08/09	06/16/09	07/31/09	08/20/09	10/01/09	05/2010	02/26/10
23:24	06/15/09	05/22/09	06/30/09	08/14/09	08/20/09	10/01/09	05/2010	03/12/10
24:01	07/01/09	06/10/09	07/16/09	08/31/09	09/21/09	11/01/09	05/2010	03/28/10
24:02	07/15/09	06/23/09	07/30/09	09/14/09	09/21/09	11/01/09	05/2010	04/11/10
24:03	08/03/09	07/13/09	08/18/09	10/02/09	10/20/09	12/01/09	05/2010	04/30/10
24:04	08/17/09	07/27/09	09/01/09	10/16/09	10/20/09	12/01/09	05/2010	05/14/10
24:05	09/01/09	08/11/09	09/16/09	11/02/09	11/20/09	01/01/10	05/2010	05/29/10
24:06	09/15/09	08/24/09	09/30/09	11/16/09	11/20/09	01/01/10	05/2010	06/12/10
24:07	10/01/09	09/10/09	10/16/09	11/30/09	12/21/09	02/01/10	05/2010	06/28/10
24:08	10/15/09	09/24/09	10/30/09	12/14/09	12/21/09	02/01/10	05/2010	07/12/10
24:09	11/02/09	10/12/09	11/17/09	01/02/10	01/20/10	03/01/10	05/2010	07/30/10
24:10	11/16/09	10/23/09	12/01/09	01/15/10	01/20/10	03/01/10	05/2010	08/13/10
24:11	12/01/09	11/05/09	12/16/09	02/01/10	02/22/10	04/01/10	05/2010	08/28/10
24:12	12/15/09	11/20/09	12/30/09	02/15/10	02/22/10	04/01/10	05/2010	09/11/10

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. 148
PROCLAMATION OF A STATE OF DISASTER
FOR WILSON AND JOHNSTON COUNTIES

WHEREAS, I have determined that a State of Disaster, as defined in G.S. §166A-6, exists in the State of North Carolina, specifically Wilson and Johnston counties, as a result of tornadoes that caused severe damage and fatalities on November 15, 2008;

WHEREAS, on November 15, 2008, Wilson and Johnston counties proclaimed a local State of Emergency;

WHEREAS, pursuant to N.C.G.S. §166A-6, the criteria for 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) Wilson and Johnston 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 G. S. §166A-6, a State of Disaster is hereby declared for Wilson and Johnston 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 emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. This Type I Disaster Declaration shall expire 30 days after issuance of the state of disaster and Type I disaster proclamation for Wilson and Johnston counties 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.

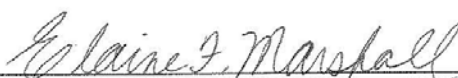
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this nineteenth day of November in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and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





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



U.S. Department of Justice

Civil Rights Division

CC:MSR:RT:cv:maf
DJ 166-012-3
2008-5030

Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

October 31, 2008

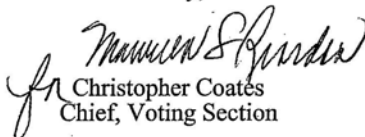
David A. Holec, Esq.
City Attorney
P.O. Box 7207
Greenville, North Carolina 27835-7207

Dear Mr. Holec:

This refers to two annexations (Ordinance Nos. 08-69 and 08-70 (2008)) and their designations to voting districts for the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 22, 2008.

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

Sincerely,


for Christopher Coates
Chief, Voting Section

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
[PTRP Holdings, LLC, PTRP Holdings II, LLC,
PTRP Holdings III, LLC and Piedmont Triad Research Park]**

Pursuant to N.C.G.S. § 130A-310.34, PTRP Holdings, LLC, PTRP Holdings II, LLC, PTRP Holdings III, LLC and Piedmont Triad Research Park ("Prospective Developers") have filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Winston-Salem, Forsyth County, North Carolina. The Property, which is a former site of R.J. Reynolds Tobacco Company operations, consists of approximately 53.2 acres and is generally bounded to the north by Martin Luther King, Jr. Drive, to the south by 3rd Street, to the east by U.S. Highway 52 and to the west by North Main Street. Environmental contamination exists on the Property in soil and groundwater. Prospective Developers have committed themselves to redevelop the Property with bio-technology research facilities, offices, retail outlets, public open areas, high-density residences, performance/concert halls, hotels, community centers, swimming pools, parking and schools. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Prospective Developers, 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 Forsyth County Central Library, 660 West Fifth Street, Winston-Salem, NC 27101, by contacting Delores Cue at that address, or at (336) 703-3073, (336) 727-2549 (facsimile) or cuedr@forsythlibrary.org; or at NC Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411, where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents.

Written public comments may be submitted to DENR within 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 the Prospective Developers, as they plan, publish this Summary in the North Carolina Register after they publish the Summary in a newspaper of general circulation serving the area in which the Property is located, and if they effect publication of this Summary in the North Carolina Register on the date they expect to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on December 16, 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

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
The Park Ministries, Inc**

Pursuant to N.C.G.S. § 130A-310.34, The Park Ministries, Inc. has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Charlotte, Mecklenburg County, North Carolina. The Property, which is the former site of Charlotte's Merchandise Mart exhibition hall, comprises 34 acres and is located at 2500 Independence Boulevard. Environmental contamination exists on the Property in groundwater and surface water. The Park Ministries, Inc. has committed itself to make no uses other than these of the Property: religious center, office, restaurant, retail and wholesale, conference/exhibition center, trade shows, educational/training programs and charity events. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and The Park Ministries, Inc., 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 Charlotte-Mecklenburg Public Library, 310 North Tryon Street, Charlotte, NC 28202 by contacting Joyce Reimann at that address, at 704-416-0152 or at jreimann@plcmc.org; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net or at (919) 508-8411.

Written public comments 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 The Park Ministries, Inc., 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 for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on December 16, 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

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY**
Ingles Markets, Incorporated

Pursuant to N.C.G.S. § 130A-310.34, Ingles Markets, Incorporated., has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Black Mountain, Buncombe County, North Carolina. The Property consists of 45.5 acres and is located at 3049 U.S. Highway 70W. Blue Ridge Broadcasting Corporation has conducted operations there since 1961. Environmental contamination exists on the Property in the soil and groundwater. Ingles Markets, Incorporated has committed itself to limit use of the Property to a refrigerated distribution center with offices, associated driveways and parking. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Ingles Markets, Incorporated, 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 Black Mountain Public Library, 105 Dougherty Street, Black Mountain, NC 28711 by contacting Denise King at that address or at (828) 250-4756; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents), at shirley.liggins@ncmail.net or at (919) 508-8411.

Written public comments may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if, *Ingles Markets, Incorporated*, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on December 16, 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

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Dyestuff, LLC**

Pursuant to N.C.G.S. § 130A-310.34, Dyestuff, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Charlotte, Mecklenburg County, North Carolina. The Property is located at 2459 Wilkinson Boulevard, Charlotte, NC 28208 and consists of a two-story (plus basement) brick building containing 56,958 square feet on a 3.136 acres parcel. Environmental contamination exists on the Property in soil and groundwater. Dyestuff, LLC has committed itself to redevelop the property for no uses other than commercial office and showroom space. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Dyestuff, 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 conditional mitigation measures; 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 Charlotte - Mecklenburg Public Library, Charlotte-Mecklenburg Public Library, 310 North Tryon Street, Charlotte, NC 28202 by contacting Joyce Reimann at that address, at 704-416-0152 or at jreimann@Mecklenburg.lib.nc.us; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net or at (919) 508-8411.

Written public comments 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 Dyestuff, 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 for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on December 16, 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

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

PUBLIC NOTICE

Notice is hereby given for an extension of the public comment period concerning the proposed amendments to modify the exemption of combustion sources from the Air Toxics rules.

This public comment period was initially noticed in Volume 23, Issue 07 of the North Carolina Register, pages 666-672, on October 1, 2008. The Environmental Management Commission received several requests for an extension of the comment period. The comment period is being extended until December 31, 2008.

PURPOSE: To extend the public comment period to receive comments on proposed amendments to the Air Toxics Rules in 15A NCAC 02Q .0701, .0702, .0706, and .0709 to modify the exemption of combustion sources.

NOTE: The proposed amendments considered in this rule-making action, if adopted, will be effective statewide; if they are later adopted by a local air pollution control agency, then that agency will enforce them in its area of jurisdiction.

COMMENT PROCEDURES: **Any person desiring to comment is requested to submit a written statement for inclusion in the record of proceedings.** The hearing record will remain open until December 31, 2008. To be included, the statement must be received by the Division by December 31, 2008.

INFORMATION: Copies of the proposed rule changes may be downloaded at <http://daq.state.nc.us/Rules/Hearing/>. Copies of the proposals may also be reviewed at the regional offices of the North Carolina Department of Environment and Natural Resources, Division of Air Quality, located at the following cities:

Asheville	828/296-4500
Fayetteville	910/433-3300
Mooresville	704/663-1699
Raleigh	919/791-4200
Washington	252/946-6481
Wilmington	910/796-7215
Winston-Salem	336/771-5000

Comments should be sent to and additional information concerning the proposals may be obtained by contacting:

Mr. Michael Abraczinskas
Division of Air Quality
1641 Mail Service Center
Raleigh, North Carolina 27699-1641
(919) 715-3743 Phone
(919) 715-7476 Fax
Michael.Abraczinskas@ncmail.net

DATE: 11/17/08



B. Keith Overcash, P.E.
Director

PUBLIC NOTICE OF RULE-MAKING BY THE
NORTH CAROLINA INDUSTRIAL COMMISSION

CONCERNING AMENDMENT OF HOSPITAL FEE SCHEDULE
FOR WORKERS' COMPENSATION CASES

NOTICE IS HEREBY GIVEN that, pursuant to N.C. Gen. Stat. §§97-26(a) and (b), and 97-80(a), the North Carolina Industrial Commission will hold a public hearing on the amendment of the Hospital Fee Schedule for Workers' Compensation cases (Section 14 Hospital and Ambulatory Surgical Center, North Carolina Industrial Commission Medical Fee Schedule) for 2009 and following.

The proposed billing methods are to become effective on or about July 17, 2009. The Commission solicits oral and written comments of all interested persons, firms, and organizations wishing to comment concerning any aspect of the proposed billing methods.

SUCH PUBLIC HEARING will be held on Tuesday, January 6, 2009, from 9:30 a.m. to 4:00 p.m. at the Industrial Commission Hearing Room, located on the second floor of the Dobbs Building, 430 N. Salisbury Street, Raleigh, NC, during which the Commission will hear the oral comments of persons scheduled to speak. Those desiring to make an oral presentation, not to exceed 10 minutes in length, should submit a request on or before Tuesday, December 30, 2008. Speakers at the public hearing are encouraged to prepare a written summary of remarks for the use of the Commission.

WRITTEN COMMENTS, REQUESTS FOR A COPY OF THE BILLING METHODS, AND REQUESTS FOR ORAL PRESENTATIONS SHOULD BE ADDRESSED TO MEREDITH HENDERSON AT 4336 MAIL SERVICE CENTER, RALEIGH, NC 27699-4336, OR MADE BY TELEPHONE CALL TO MS. HENDERSON AT (919) 807-2674. COPIES OF THE BILLING METHODS MAY ALSO BE OBTAINED ON THE INDUSTRIAL COMMISSION'S WEBSITE:

<http://www.comp.state.nc.us>

WRITTEN COMMENTS SHOULD BE FAXED TO MEREDITH HENDERSON AT (919) 715-0282 OR MAILED TO 4336 MAIL SERVICE CENTER, RALEIGH, NC 27699-4336 NO LATER THAN JANUARY 14, 2009.

The Industrial Commission proposes the following changes to the hospital fee schedule:

- The lower end cap of the DRG band for reimbursement of inpatient hospital bills will be adjusted from 77.07% to 75% of charges for hospitals other than critical access hospitals.
 - Critical access hospitals are defined by federal law and are the smallest hospitals in the State, located in rural areas.
- The reimbursement rate for outpatient hospital bills will be adjusted from 95% of charges to 79% of charges for hospitals other than critical access hospitals. For critical access hospitals, the outpatient reimbursement rate will be reduced from 95% to 87% of charges.
- The reimbursement rate for ambulatory surgical centers will be adjusted from 100% of charges to 79% of charges.

The payment rates proposed by the Commission for hospital outpatient, ambulatory surgical center, and hospital inpatient services are straightforward reductions in the discount levels that are used under the existing payment methodologies. There are no changes to the payment methodologies. The changes in the hospital outpatient rate and the ambulatory surgical center rate are reductions in the percentage discount off charges. The change in the inpatient lower end cap also is a reduction in the percentage discount off charges. All three reductions are based upon a recommendation of a majority of the members of the Hospital Fee Schedule Advisory Committee. The Commission and the Advisory Committee have reviewed data provided by the Workers Compensation Research Institute, the American Insurance Association, Key Risk Management Services, and the North Carolina Hospital Association in evaluating the appropriate levels for reimbursement. Based particularly on the representations of the North Carolina Hospital Association, the Commission is satisfied that the reductions in the percentage discounts off of charges proposed will reimburse hospitals and ambulatory surgical centers reasonable fees for their services and that injured workers will continue to be provided the standard of services and care intended by the Workers' Compensation Act.

The related fiscal note certified by the Office of State Budget and Management is posted at http://www.osbm.state.nc.us/files/pdf_files/NCIC11182008.pdf.

This the 20th day of November, 2008.

S/

PAMELA T. YOUNG
CHAIR

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**

**CHAPTER 09 - FOOD AND DRUG PROTECTION
DIVISION**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Pesticide Board intends to adopt the rule cited as 02 NCAC 09L .1807 with changes from the proposed text noticed in the Register, Volume 23, Issue 08, pages 702 - 704.

SUBCHAPTER 09L - PESTICIDE SECTION

**SECTION .1800 - WORKER PROTECTION STANDARDS
FOR AGRICULTURAL PESTICIDES**

Proposed Effective Date: April 1, 2009

Reason for Proposed Action: These revisions are required to implement the recommendations of the 2008 Governor's Task Force on Preventing Agricultural Pesticide Exposure and the requirements of Senate Bill 847, "Prevent Agricultural Pesticide Exposure".

Procedure by which a person can object to the agency on a proposed rule: Any person may object to the proposed rule(s) by submitting a written statement of objection(s) to James W. Burnette, Jr., Secretary, NC Pesticide Board, 1090 Mail Service Center, Raleigh, NC 27699-1090.

Written comments may be submitted to: James W. Burnette, 1090 Mail Service Center, Raleigh, NC 27699-1090, phone (919)733-3556, fax (919)733-9796, email james.burnette@ncagr.gov

Comment period ends: February 13, 2009

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 919-431-3000.

Fiscal Impact

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

**02 NCAC 09L .1807 SPECIFIC INFORMATION
ABOUT APPLICATIONS**

(a) Concerning application information requirements contained in 40 CFR Sections 170.122 and 170.222 the following is also required:

(1) In addition to the requirements of Sections 170.122(c)(3), and 170.222(c)(3), the specific time of day when each pesticide application was completed must be recorded immediately upon completion of the application. Each day of the application shall be recorded as a separate record.

(2) After the application information referenced in Subparagraph (a)(1) of this Rule and the other information in Sections 170.122(c) and 170.222(c) has been displayed for the required period of time in Section 170.122(b) and 170.222(b), the agricultural employer shall maintain the information for a period of two years from the specific time of day when each pesticide application was completed. Such information shall be available for inspection and copying by the Board or its agents upon their request.

(b) In addition to information contained in Section 170.224(b), the handler employer must make the agricultural owner aware of the specific time of day when each pesticide application was completed. The agricultural employer shall display the information immediately and shall make it part of the record required to be maintained in Subparagraph (a)(1) and (2) of this Rule.

Authority G.S. 143-466(a).

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Labor intends to adopt the rules cited as 13 NCAC 07F .0901-.0927.

Proposed Effective Date: April 1, 2009

Public Hearing:

Date: January 15, 2009

Time: 1:00 p.m.

Location: NC Department of Agriculture (Room 359), 2 W. Edenton St., Raleigh, NC

Reason for Proposed Action: Due to significant changes in construction consensus standards and requests from several industry stakeholders, Federal OSHA has been working since 1998 on an update to 29 CFR Part 1926, Subpart N, designed to protect employees from the hazards associated with hoisting equipment when used to perform construction activities and will affect establishments across a variety of different construction industries with work involving cranes and derricks. To that end, in July 2002, OSHA announced its intent to use the negotiated rulemaking process to revise Subpart N, and established the Cranes and Derricks Negotiated Rulemaking Advisory Committee (C-DAC). The C-DAC committee began meeting in August 2003, and completed their task in July 2004. As a result of their meetings, the C-DAC committee submitted a proposed revision to Subpart N to OSHA on July 13, 2004. After years of review, OSHA published a notice of proposed rule in the Federal Register on October 9, 2008. However, due to a number of factors affecting the federal rulemaking process, a final rule is not expected from OSHA for at least one year. As a result, NCDOL is taking a proactive approach toward protecting those in North Carolina who operate and work around cranes. N.C. Gen. Stat. § 95-131 sets forth that "[a]ll occupational safety and health standards promulgated under the federal act by the Secretary, and any modifications, revision, amendments or revocations in accordance with authority conferred by the federal act or any other federal act or agency relating to safety and health and adopted by the Secretary, shall be adopted as the rules of the Commissioner of this State unless the Commissioner decides to adopt an alternative State rule as effective as the federal requirement and providing safe and healthful employment in places of employment as required by the federal act and standards and regulations heretofore referred to and as provided by the Occupational Safety and Health Act of 1970." Therefore, NCDOL is proposing to adopt new rules for cranes and derricks that mirror the federal consensus document with some minor exceptions (e.g., organization and grouping to promote ease in reading and understanding by the regulated community in North Carolina).

Procedure by which a person can object to the agency on a proposed rule: Objections to the proposed rules may be submitted, in writing, to Erin T. Gould, Assistant Rulemaking Coordinator, via United States mail at the following address: 1101 Mail Service Center, Raleigh, North Carolina 27699-1101; or via facsimile at (919) 733-4235. Objections may also be submitted during the public hearings conducted on these rules, which are noticed above. Objections shall include the specific rule citation(s) for the objectionable rule(s), the nature of the objection(s), and the complete name(s) and contact information for the individual(s) submitting the objection. Objections must be received by 5:00 p.m. on February 13, 2009.

Comments may be submitted to: Erin T. Gould, 1101 Mail Service Center, Raleigh, NC 27699-1101, phone (919) 733-7885, fax (919) 733-4235, and email erin.gould@labor.nc.gov

Comment period ends: February 13, 2009

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 919-431-3000.

Fiscal Impact:

- ☒ **State** 13 NCAC 07F .0904-.0927
- ☒ **Local** 13 NCAC 07F .0904-.0927
- ☒ **Substantive** (\geq \$3,000,000) 13 NCAC 07F .0904-.0927
- ☒ **None** 13 NCAC 07F .0901-.0903

Fiscal Note posted at

http://www.osbm.state.nc.us/files/pdf_files/DOL11202008.pdf

**CHAPTER 07 – OFFICE OF OCCUPATIONAL SAFETY
AND HEALTH**

SUBCHAPTER 07F – STANDARDS

**SECTION .0900 – CRANES AND DERRICKS
STANDARDS**

13 NCAC 07F .0901 SCOPE

(a) This Section applies to power-operated equipment used in construction that can hoist, lower and horizontally move a suspended load. Such equipment includes: articulating cranes (such as knuckle-boom cranes); crawler cranes; floating cranes; cranes on barges; locomotive cranes; mobile cranes (such as wheel-mounted, rough-terrain, all-terrain, commercial truck-mounted, and boom truck cranes); multi-purpose machines when configured to hoist and lower (by means of a winch or hook) and horizontally move a suspended load; industrial cranes (such as carry-deck cranes); dedicated pile drivers; service/mechanic trucks with a hoisting device; a crane on a monorail; tower cranes (such as fixed jib ("hammerhead boom"), luffing boom and self-erecting); pedestal cranes; portal cranes; overhead and gantry cranes; straddle cranes; side-boom tractors; derricks; and variations of such equipment. However, items listed in Paragraph (c) of this Rule are excluded from the scope of this Section.

(b) Attachments. This Section applies to equipment included in Paragraph (a) of this Rule when used with attachments. Such

attachments, whether crane-attached or suspended include: hooks, magnets, grapples, clamshell buckets, orange peel buckets, concrete buckets, drag lines, personnel platforms, augers or drills and pile driving equipment.

(c) Exclusions. This Section does not cover:

- (1) Machinery included in Paragraph (a) of this Rule while it has been converted or adapted for a non-hoisting/lifting use. Such conversions/adaptations include power shovels, excavators and concrete pumps.
- (2) Power shovels, excavators, wheel loaders, backhoes, loader backhoes, track loaders. This machinery is also excluded when used with chains, slings or other rigging to lift suspended loads.
- (3) Automotive wreckers and tow trucks when used to clear wrecks and haul vehicles.
- (4) Service trucks with mobile lifting devices designed specifically for use in the power line and electric service industries, such as digger derricks (radial boom derricks), when used in these industries for auguring holes to set power and utility poles, or handling associated materials to be installed or removed from utility poles.
- (5) Machinery originally designed as vehicle-mounted aerial devices (for lifting personnel) and self-propelled elevating work platforms.
- (6) Telescopic/hydraulic gantry systems.
- (7) Stacker cranes.
- (8) Powered industrial trucks (forklifts).
- (9) Mechanic's truck with a hoisting device when used in activities related to equipment maintenance and repair.
- (10) Machinery that hoists by using a come-a-long or chainfall.
- (11) Dedicated drilling rigs.
- (12) Gin poles used for the erection of communication towers.
- (13) Tree trimming and tree removal work.
- (14) Anchor handling with a vessel or barge using an affixed A-frame.
- (15) Roustabouts.

(d) All rules of this Section apply to the equipment covered by this Section unless specified otherwise.

(e) The duties of controlling entities under this Section include the duties specified in 13 NCAC 07F .0912(a)(3), 13 NCAC 07F .0912(a)(5) and 13 NCAC 07F .0916(n)(2).

(f) Where provisions of this Section direct an operator, crewmember, or other employee to take certain actions, the employer shall establish, effectively communicate to the relevant persons, and enforce work rules, to ensure compliance with such provisions.

Authority G.S. 95-131.

13 NCAC 07F .0902 INCORPORATION BY REFERENCE

The provisions of Title 29, Part 1926, Subpart N of the Code of Federal Regulations promulgated as of November 15, 2007, and exclusive of subsequent amendments, are incorporated by reference except as follows:

- (1) 29 CFR 1926.550, "Cranes and Derricks," is not incorporated;
- (2) 29 CFR 1926.552, "Material hoists, personnel hoists, and elevators," is incorporated to the extent that it addresses elevators;
- (3) 29 CFR 1926.553, "Base-mounted drum hoists," is not incorporated; and
- (4) 29 CFR 1926.554, "Overhead hoists," is not incorporated.

Authority G.S. 95-131.

13 NCAC 07F .0903 DEFINITIONS

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

- (1) Assembly/Disassembly means the assembly and/or disassembly of equipment covered under this Section. With regard to tower cranes, "erecting and climbing" replaces the term "assembly," and "dismantling" replaces the term "disassembly."
- (2) Assembly/Disassembly Supervisor ("A/D Supervisor") means an individual who meets this Section's requirements for an A/D supervisor, irrespective of the person's formal job title or whether the person is non-management or management personnel.
- (3) Attachment means any device that expands the range or tasks that can be done by the equipment. Examples include: an auger, drill, magnet, pile-driver, and boom-attached personnel platform.
- (4) Audible Signal means a signal made by a distinct sound or series of sounds. Examples include sounds made by a bell, horn, or whistle.
- (5) Bird Caging means the twisting of fiber or wire rope in an isolated area in the opposite direction of the rope lay, thereby causing it to take on the appearance of a bird cage.
- (6) Blocking (also referred to as "cribbing") means wood or other material used to support equipment or a component and distribute loads to the ground. Typically used to support latticed boom sections during assembly/disassembly and under outrigger floats.
- (7) Boatswain's Chair means a single-point adjustable suspension scaffold consisting of a seat or sling (which may be incorporated into a full body harness) designed to support one employee in a sitting position.

- (8) Boom (equipment other than tower crane) means an inclined spar, strut, or other long structural member which supports the upper hoisting tackle on a crane or derrick. Typically, the length and vertical angle of the boom can be varied to achieve increased height or height and reach when lifting loads. Booms can usually be grouped into general categories of hydraulically extendible, cantilevered type, latticed section, cable supported type or articulating type.
- (9) Boom (tower cranes) means if the "boom" (i.e., principle horizontal structure) is fixed, it is referred to as a jib; if it is moveable up and down, it is referred to as a boom.
- (10) Boom Angle Indicator means a device which measures the angle of the boom relative to horizontal.
- (11) Boom Hoist Limiting Device means a device that disengages boom hoist power when the boom reaches a predetermined operating angle. It also sets brakes or closes valves to prevent the boom from lowering after power is disengaged. This includes a boom hoist disengaging device, boom hoist shut-off, boom hoist disconnect, boom hoist hydraulic relief, boom hoist kick-outs, automatic boom stop device, or derricking limiter.
- (12) Boom Length Indicator means the length of the permanent part of the boom (such as ruled markings on the boom) or, as in some computerized systems, the length of the boom with extensions/attachments.
- (13) Boom Stop means a device that restricts the boom from moving a certain maximum angle and toppling over backward. This includes boom stops, (belly straps with struts/standoff), telescoping boom stops, attachment boom stops, and backstops.
- (14) Boom Suspension Systems means a system of pendants, running ropes, sheaves, and other hardware which supports the boom tip and controls the boom angle.
- (15) Center of Gravity means the point in an object around which its weight is evenly distributed. If you could put a support under that point, you could balance the object on the support.
- (16) Certified Welder means a welder who meets nationally recognized certification requirements applicable to the task being performed.
- (17) Climbing means the process in which a tower crane is raised to a new working height, either by adding additional tower sections to the top of the crane (top climbing), or by a system in which the entire crane is raised inside the structure (inside climbing).
- (18) Come-A-Long means a mechanical device typically consisting of a chain or cable attached at each end that is use to facilitate movement of materials through leverage.
- (19) Competent Person means a person who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.
- (20) Controlled Load Lowering means lowering a load by means of a mechanical hoist drum device that allows a hoisted load to be lowered with maximum control using the gear train or hydraulic components of the hoist mechanism. Controlled load lowering requires the use of the hoist drive motor, rather than the load hoist brake, to lower the load.
- (21) Controlling Entity means a prime contractor, general contractor, construction manager or any other legal entity which has the overall responsibility for the construction of the projects, including its planning, quality and completion.
- (22) Counterweight means a weight used to supplement the weight of equipment in providing stability for lifting loads by counterbalancing those loads.
- (23) Crane Level Indicator means a device for determining true horizontal.
- (24) Crane, Articulating means a crane whose boom consists of a series of folding, pin connected structural members, typically manipulated to extend or retract by power from hydraulic cylinders.
- (25) Crane, Assist means a crane used to assist in assembling or disassembling a crane.
- (26) Crane, Crawler means equipment that has a type of base mounting which incorporates a continuous belt of sprocket driven track.
- (27) Crane, Floating (or Floating Derrick) means equipment designed by the manufacturer (or employer) for marine use by permanent attachment to a barge, pontoons, vessel or other means of flotation.
- (28) Crane, Land (or Land Derrick) means equipment not originally designed by the manufacturer for marine use by permanent attachment to barges, pontoons, vessels, or other means of flotation.
- (29) Crane, Locomotive means a crane mounted on a base or car equipped for travel on a railroad track.
- (30) Crane, Mobile means a lifting device incorporating a cable suspended latticed boom or hydraulic telescopic boom designed to be moved between operating locations by transport over the road. These are referred to in Europe as a crane mounted on a truck carrier.

- (31) Crane, Overhead and Gantry includes overhead/bridge cranes, semigantry, cantilever gantry, wall cranes, storage bridge cranes, launching gantry cranes, and similar equipment, irrespective of whether it travels on tracks, wheels, or other means.
- (32) Crane, Portal means a type of crane consisting of a rotating upperstructure, hoist machinery, and boom mounted on top of a structural gantry which may be fixed in one location or have travel capability. The gantry legs or columns usually have portal openings in between to allow passage of traffic beneath the gantry.
- (33) Crane, Side-Boom means a track-type or wheel-type tractor having a boom mounted on the side of the tractor, used for lifting, lowering, or transporting a load suspended on the load hook. The boom or hook can be lifted or lowered in a vertical direction only.
- (34) Crane, Tower means a type of lifting structure which utilizes a vertical mast or tower to support a working boom (jib) suspended from the working boom. While the working boom may be fixed horizontally or have luffing capability, it can always rotate about the tower center to swing loads. The tower base may be fixed in one location or ballasted and moveable between locations.
- (35) Critical lift means a crane lifting operation judged to involve an exceptional level of risk due to factors such as load weight, lifting height, procedural complications, or proximity to situational hazards. Critical lifts are often identified by conditions exceeding a specified percentage of the crane's rated capacity (75%), however, any more complex issues may be involved.
- (36) Crossover Points means the locations on a wire rope which is spooled on a drum where one layer of rope climbs up on and crosses over the previous layer. This takes place at each flange of the drum as the rope is spooled on the drum, reaches the flange, and begins to wrap back in the opposite direction.
- (37) Dedicated Channel means a line of communication assigned by the employer who controls the communication system to only one signal person and crane/derrick or to a coordinated group of cranes/derricks/signal person(s).
- (38) Dedicated Pile-Driver means a machine that is designed to function exclusively as a pile-driver. These machines typically have the ability to both hoist the material that will be pile-driven and to pile-drive that material.
- (39) Dedicated Spotter (power lines) means a person who meets the requirements of 13 NCAC 07F .0905 (signal person qualifications) and whose sole responsibility is to watch the separation between the power line and the equipment, the load line and the load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached.
- (40) Directly Under the Load means a part or all of an employee is directly beneath the load.
- (41) Dismantling includes partial dismantling (such as dismantling to shorten a boom or substitute a different component).
- (42) Drum Rotation Indicator means a device on a crane or hoist which indicates in which direction and at what relative speed a particular hoist drum is turning.
- (43) Electrical Contact means when a person, object, or equipment makes contact or comes in close proximity with an energized conductor or equipment that allows the passage of current.
- (44) Employer-Made Equipment means equipment designed and built by an employer for its own use.
- (45) Encroachment means when any part of the crane, load line or load (including rigging and lifting accessories) breaches a minimum clearance distance that this Section requires to be maintained from a power line.
- (46) Equipment Criteria means instructions, recommendations, limitations and specifications.
- (47) Fall Protection Equipment means guardrail systems, safety net systems, personal fall arrest systems, positioning device systems or fall restraint systems.
- (48) Fall Restraint System means a fall protection system that prevents the user from falling any distance. The system is comprised of either a body belt or body harness, along with an anchorage, connectors and other necessary equipment. The other components typically include a lanyard, and may also include a lifeline and other devices.
- (49) Fall Zone means the area (including the area directly beneath the load) in which it is reasonably foreseeable that partially or completely suspended materials could fall in the event of an accident.
- (50) Flange Points means a point of contact between rope and drum flange where the rope changes layers.
- (51) Free Fall (of the load line) means when only the brake is used to regulate the descent of the load line (the drive mechanism is not used to drive the load down faster or retard its lowering).
- (52) Free Surface Effect means uncontrolled transverse movement of liquids in

- compartments which reduce a vessel's transverse stability.
- (53) Functional testing means the testing of a crane, typically done with a light load or no load, to verify the proper operation of a crane's primary function, i.e. hoisting, braking, booming, swinging, etc. A functional test is contrasted to testing the crane's structural integrity with heavy loads.
- (54) Hoist means a mechanical device for lifting and lowering loads by winding rope onto or off of a drum.
- (55) Hoisting means the act of raising, lowering or otherwise moving a load in the air with equipment covered by this Section. As used in this Section, "hoisting" can be done by means other than wire rope/hoist drum equipment.
- (56) Insulating Link/Device means an insulating device approved by a Nationally Recognized Testing Laboratory.
- (57) Jib Stop (a.k.a. Jib Backstop) is similar to a boom stop but is for a fixed or luffing jib.
- (58) List means the angle of inclination about the longitudinal axis of a barge, pontoons, vessel or other means of flotation.
- (59) Load means the weight of the object being lifted or lowered, including the weight of the load-attaching equipment such as the load block, ropes, slings, shackles, and any other ancillary attachment.
- (60) Load Moment Indicator (also referred to as Rated Capacity Indicator) means a system which aids the equipment operator by sensing the overturning moment on the equipment, i.e. load X radius. It compares this lifting condition to the equipment's rated capacity, and indicates to the operator the percentage of capacity at which the equipment is working. Lights, bells, or buzzers may be incorporated as a warning of an approaching overload condition.
- (61) Load Moment Limiter (also referred to as Rated Capacity Limiter) means a system which aids the equipment operator by sensing the overturning moment on the equipment, i.e. load X radius. It compares this lifting condition to the equipment's rated capacity, and when the rated capacity is reached, it shuts off power to those equipment functions which can increase the severity of loading on the equipment, e.g., hoisting, telescoping out, or luffing out. Typically, those functions which decrease the severity of loading on the equipment remain operational, e.g., lowering, telescoping in, or luffing in.
- (62) Luffing Jib Limiting Device is similar to a boom hoist limiting device, except that it limits the movement of the luffing jib.
- (63) Marine Hoisted Personnel Transfer Device means a device, such as a "transfer net," that is designed to protect the employees being hoisted during a marine transfer and to facilitate rapid entry into and exit from the device. Such devices do not include boatswain's chairs when hoisted by equipment covered by this Section.
- (64) Marine Worksite means a construction worksite located in, on or above the water.
- (65) Moving Point-To-Point means the times during which an employee is in the process of going to or from a work station.
- (66) Multi-Purpose Machine means a machine that is designed to be configured in various ways, at least one of which allows it to hoist (by means of a winch or hook) and horizontally move a suspended load. For example, a machine that can rotate and can be configured with removable tongs (for use as a forklift) or with a winch pack, jib (with a hook at the end) or jib used in conjunction with a winch. When configured with the tongs, it is not covered by this Section. When configured with a winch pack, jib (with a hook at the end) or jib used in conjunction with a winch, it is covered by this Section.
- (67) Nationally Recognized Accrediting Agency means an independent organization that is widely-recognized as competent to establish standards for and assess the formal activities of testing organizations applying for or continuing their accreditation.
- (68) Nonconductive means that, because of the nature and condition of the materials, used, and the conditions of use (including environmental conditions and condition of the material), the object in question has the property of not becoming energized (that is, it has high dielectric properties offering a high resistance to the passage of current under the conditions of use).
- (69) Operational Aids means devices that assist the operator in the safe operation of the crane by providing information or automatically taking control of a crane function. These include the devices listed in 13 NCAC 07F .0917 ("listed operational aids").
- (70) Operational Controls means levers, switches, pedals and other devices for controlling equipment operation.
- (71) Pendants includes both wire and bar types. Wire type pendants mean a fixed length of wire rope with mechanical fittings at both ends for pinning segments of wire rope together. Bar type pendants mean that instead of wire rope, a bar is used. Pendants are typically used in a latticed boom crane system to easily change the length of the boom suspension

- system without completely changing the rope on the drum when the boom length is increased or decreased.
- (72) Personal Fall Arrest System means a system used to arrest an employee in a fall from a working level. It consists of an anchorage, connectors, and a body harness and may include a lanyard, deceleration device, lifeline, or suitable combination of these.
- (73) Power Lines means electrical distribution and electrical transmission lines.
- (74) Procedures include: instructions, diagrams, recommendations, warnings, specifications, protocols, and limitations.
- (75) Proximity Alarm means a device that provides a warning of proximity to a power line that has been approved by a Nationally Recognized Testing Laboratory.
- (76) Qualified Engineer means an engineer that is licensed as a professional engineer with the N.C. Licensing Board for Engineers, or an equivalent licensing organization.
- (77) Qualified Evaluator (not a third party) means a person employed by the signal person's employer who has demonstrated that he/she is competent in accurately assessing whether individuals meet the Qualification Requirements in this Section for a signal person.
- (78) Qualified Evaluator (third party) means an independent entity that is widely-recognized as having demonstrated its competence to accurately assess whether individuals meet the Qualification Requirements in this Section for a signal person.
- (79) Qualified Person means a person who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training and experience, successfully demonstrated an ability to solve/resolve problems relating to the subject matter, the work, or the project.
- (80) Qualified Rigger means a rigger who meets the criteria for a qualified person.
- (81) Range Control Warning Device means a device that can be set by an equipment operator to warn that the boom or jib tip is at a plane or multiple planes.
- (82) Rated Capacity means the maximum working load permitted by the manufacturer under specified working conditions. Such working conditions typically include a specific combination of factors such as equipment configuration, radii, boom length, and other parameters of use.
- (83) Repetitive Pickup Points means when operating on a short cycle operation, the rope being used on a single layer and being spooled repetitively over a short portion of the drum.
- (84) Rotation Resistant Rope means a type of wire rope construction which reduces the tendency of a rope to rotate about its axis under load. Usually, this consists of an inner system of core strands laid in one direction covered by an outer system of strands laid in the opposite direction.
- (85) Running Wire Rope means a wire rope that moves over sheaves or drums.
- (86) Runway means a firm, level surface designed, prepared and designated as a path of travel for the weight and configuration of the crane being used to lift and travel with the crane suspended platform. An existing surface may be used as long as it meets these criteria.
- (87) Special Hazard Warnings means warnings of site-specific hazards (for example, proximity of power lines).
- (88) Stability (flotation device) means the tendency of a barge, pontoons, vessel or other means of flotation to return to an upright position after having been inclined by an external force.
- (89) Standard Method means the hand signals established in ASME B30.3-2004 and ASME B30.5-2004.
- (90) Standing Wire Rope means a supporting wire rope which maintains a constant distance between the points of attachment to the two components connected by the wire rope.
- (91) Tagline means a rope (usually fiber) attached to a lifted load for purposes of controlling load spinning and pendular motions or used to stabilize a bucket or magnet during material handling operations.
- (92) Tender means an individual responsible for monitoring and communicating with a diver.
- (93) Tilt Up or Tilt Down Operation means raising or lowering a load from the horizontal to vertical or vertical to horizontal.
- (94) Travel Bogie (also referred to as Bogie) means an assembly of two or more axles arranged to permit vertical wheel displacement and equalize the loading on the wheels.
- (95) Trim means the angle of inclination about the transverse axis of a barge, pontoons, vessel or other means of flotation.
- (96) Two Blocking means a condition in which a component that is uppermost on the hoist line such as the load block, hook block, overhaul ball, or similar component, comes in contact with the boom tip, fixed upper block or similar component. This binds the system and continued application of power can cause failure of the hoist rope or other component.
- (97) Unavailable Procedures means procedures that are no longer available from the manufacturer, or have never been available from the manufacturer.

(98) Upperworks (also referred to as Superstructure or Upperstructure) means the revolving frame of equipment on which the engine and operating machinery are mounted along with the operator's cab. The counterweight is typically supported on the rear of the upperstructure and the boom or other front end attachment is mounted on the front.

Authority G.S. 95-131.

13 NCAC 07F .0904 OPERATOR QUALIFICATION AND CERTIFICATION

(a) The employer shall ensure that, prior to operating any equipment covered under 13 NCAC 07F .0901, the operator is either qualified or certified to operate the equipment in accordance with one of the Options in Paragraphs (b) through (e) of this Rule, or is operating the equipment during a training period in accordance with Paragraph (f) of this Rule. Exceptions: operator qualification or certification under this Rule is not required for operators of equipment with a rated hoisting/lifting capacity of 2,000 pounds or less (see 13 NCAC 07F .0910), derricks (see 13 NCAC 07F .0922), or sideboom cranes (see 13 NCAC 07F .0926).

(b) Option (1): Certification by an accredited crane/derrick operator testing organization.

(1) For a testing organization to be considered accredited to certify operators under this Section, it shall:

(A) Be accredited by a nationally recognized accrediting agency based on that agency's determination that industry recognized criteria for written testing materials, practical examinations, test administration, grading, facilities/equipment and personnel have been met.

(B) Administer written and practical tests that:

(i) Assess the operator applicant regarding, at a minimum, the knowledge and skills listed in Subparagraphs (i)(1) and (i)(2) of this Rule.

(ii) Provide different levels of certification based on equipment capacity and type.

(C) Have procedures for operators to re-apply and be re-tested in the event an operator applicant fails a test or is decertified.

(D) Have testing procedures for re-certification designed to ensure that the operator continues to meet the technical knowledge and skills requirements in Subparagraphs (i)(1) and (i)(2) of this Rule.

(E) Have its accreditation reviewed by the national recognized accrediting agency at least every three years.

(2) A certification issued under this Option is:

(A) Portable.

(B) Valid for 5 years.

(c) Option (2): Qualification by an audited employer program. The employer's qualification of its employee shall meet the following requirements:

(1) The written and practical tests shall be either:

(A) Developed by an accredited crane/derrick operator testing organization (see Paragraph (b) of this Rule), or

(B) Approved by an auditor in accordance with the following requirements:

(i) The auditor is certified to evaluate such tests by an accredited crane/derrick operator testing organization (see Paragraph (b) of this Rule).

(ii) The auditor is not an employee of the employer.

(iii) The approval shall be based on the auditor's determination that the written and practical tests meet nationally recognized test development criteria and are valid and reliable in assessing the operator applicants regarding, at a minimum, the knowledge and skills listed in Subparagraphs (i)(1) and (i)(2) of this Rule.

(2) Administration of tests.

(A) The written and practical tests shall be administered under circumstances approved by the auditor as meeting nationally recognized test administration standards.

(B) The auditor shall be certified to evaluate the administration of the written and practical tests by an accredited crane/derrick operator testing organization (see Paragraph (b) of this Rule).

(C) The audit shall be conducted in accordance with nationally recognized auditing standards.

(3) The employer program shall be audited within 3 months of the beginning of the program and every 3 years thereafter.

(4) The employer program shall have testing procedures for re-qualification designed to ensure that the operator continues to meet the technical knowledge and skills requirements in

Subparagraphs (i)(1) and (i)(2) of this Rule. The re-qualification procedures shall be audited in accordance with Subparagraphs (c)(1) and (c)(2) of this Rule.

(5) Deficiencies. If the auditor determines that there is a deficiency in the program, the employer shall ensure that:

(A) No operator is qualified until the auditor confirms that the deficiency has been corrected.

(B) The program is audited again within 180 days of the confirmation that the deficiency was corrected.

(C) The auditor files a documented report of the deficiency to the Deputy Commissioner for Occupational Safety and Health or his designee within 15 days of the auditor's determination that there is a deficiency.

(D) Records of the audits of the employer's program are maintained by the auditor for three years and are made available by the auditor to the Deputy Commissioner for Occupational Safety and Health or his designee upon request.

(6) A qualification under this Paragraph is:

(A) Not portable.

(B) Valid for five years.

(d) Option (3): Qualification by the U.S. military.

(1) For purposes of this Rule, an operator is considered qualified if he/she has a current operator qualification issued by the U.S. military for operation of the equipment.

(2) A qualification under this paragraph is:

(A) Not portable.

(B) Valid for the period of time stipulated by the issuing entity.

(e) Option (4): Licensing by a government entity.

(1) For purposes of this Rule, a government licensing department/office that issues operator licenses for operating equipment covered by this Section is considered a government accredited crane/derrick operator testing organization if the criteria in Subparagraph (e)(2) of this Rule are met.

(2) Licensing criteria.

(A) The requirements for obtaining the license include an assessment, by written and practical tests, of the operator applicant regarding, at a minimum, the knowledge and skills listed in Subparagraphs (i)(1) and (i)(2) of this Rule.

(B) The testing meets industry recognized criteria for written testing materials, practical examinations, test

administration, grading, facilities/equipment and personnel.

(C) The government authority that oversees the licensing department/office, has determined that the requirements in Parts (e)(2)(A) and (e)(2)(B) of this Rule have been met.

(D) The licensing department/office has testing procedures for re-licensing designed to ensure that the operator continues to meet the technical knowledge and skills requirements in Subparagraphs (i)(1) and (i)(2) of this Rule.

(3) A license issued by a government accredited crane/derrick operator testing organization that meets the requirements of this Option.

(A) Meets the operator qualification requirements of this Rule for operation of equipment only with the jurisdiction of the government entity.

(B) Is valid for the period of time stipulated by the licensing department/office, but no longer than five years.

(f) Pre-qualification/certification training period.

(1) An employee who is not qualified or certified under this Section is permitted to operate equipment where the requirements of Subparagraph (f)(2) of this Rule are met.

(2) An employee who has not passed both the written nor practical tests required under this Section is permitted to operate equipment as part of his/her training where the following requirements are met:

(A) The employee ("trainee/apprentice") shall be provided with sufficient training prior to operating the equipment to enable the trainee to operate the equipment safely under limitations established by this Section (including continuous supervision) and any additional limitation established by the employer.

(B) The tasks performed by the trainee/apprentice while operating the equipment shall be within the trainee's ability.

(C) Supervisor. While operating the equipment, the trainee/apprentice shall be continuously supervised by an individual ("operator's supervisor") who meets the following requirements:

(i) The operator's supervisor is an employee or agent of the trainee's/apprentice's employer.

- (ii) The operator's supervisor is either a certified operator under this Section, or has passed the written portion of a certification test under one of the Options in Paragraphs (b) through (e) of this Rule, and is familiar with the proper use of the equipment's controls.
 - (iii) While supervising the trainee/apprentice, the operator's supervisor performs no tasks that detract from the supervisor's ability to supervise the trainee/apprentice.
 - (iv) For equipment other than tower cranes: the operator's supervisor and the trainee/apprentice shall be in direct line of sight of each other. In addition, they shall communicate verbally or by hand signals. For tower cranes: the operator's supervisor and the trainee/apprentice shall be in direct communication with each other.
- (D) Continuous supervision. The trainee/apprentice shall be supervised by the operator's supervisor at all times, except for short breaks where the following are met:
- (i) The break lasts no longer than 15 minutes and there is no more than one break per hour.
 - (ii) Immediately prior to the break the operator's supervisor informs the trainee/apprentice of the specific tasks that the trainee/apprentice is to perform and limitations that he/she is to adhere to during the operator supervisor's break.
 - (iii) The specific tasks that the trainee/apprentice will perform during the operator supervisor's break are within the trainee's/apprentice's abilities.
- (E) The trainee/apprentice shall not operate the equipment in any of the following circumstances:
- (i) If any part of the equipment, load line or load (including rigging and lifting accessories), if operated up to the equipment's maximum working radius in the work zone (see 13 NCAC 07F .0913(b)(1)(A)), could get within 20 feet of a power line that is up to 350 kV, or within 50 feet of a power line that exceeds 350 kV.
 - (ii) If the equipment is used to hoist personnel.
 - (iii) In multiple-equipment lifts.
 - (iv) If the equipment is used over a shaft, cofferdam, or in a tank farm.
 - (v) For multiple-lift rigging, except where the operator's supervisor determines that the trainee's/apprentice's skills are sufficient for this high-skill work.
- (g) Under this Section, a testing entity is permitted to provide training as well as testing services as long as the criteria of the applicable accrediting agency (in the Option selected) for an organization providing both services are met.
- (h) Written tests under this Section are permitted to be administered verbally, with answers given verbally, where the operator candidate:
- (1) Passes a written demonstration of literacy relevant to the work.
 - (2) Demonstrates the ability to use the type of written manufacturer procedures applicable to the class/type of equipment for which the candidate is seeking certification.
- (i) Certification criteria. Qualifications and certifications shall be based, at a minimum, on the following:
- (1) A determination through a written test that:
 - (A) The individual knows the information necessary for safe operation of the specific type of equipment the individual will operate, including the following:
 - (i) The controls and operational/performance characteristics.
 - (ii) Use of, and the ability to calculate (manually or with a calculator), load/capacity information on a variety of configurations of the equipment.
 - (iii) Procedures for preventing and responding to power line contact.
 - (iv) Technical knowledge similar to the subject matter criteria

listed in 13 NCAC 07F .0927. Use of the requirements in 13 NCAC 07F .0927 meets the requirements of this provision.

(v) Technical knowledge applicable to:

(I) The suitability of the supporting ground and surface to handle expected loads.

(II) Site hazards.

(III) Site access.

(vi) This Section, including applicable incorporated materials.

(B) The individual is able to read and locate relevant information in the equipment manual and other materials containing information referred to in Part (i)(1)(A) of this Rule.

(2) A determination through a practical test that the individual has the skills necessary for safe operation of the equipment, including the following:

(A) Ability to recognize, from visual and audible observation, the items listed in 13 NCAC 07F .0915(d) (shift inspection).

(B) Operational and maneuvering skills.

(C) Application of load chart information.

(D) Application of safe shut-down and securing procedures.

(j) Definitions.

(1) "Portable." Any employer of an operator with a certification that is portable under this Section meets the requirements of Paragraph (a) of this Rule with respect to that operator.

(2) "Not portable." Where an operator has a qualification that is not portable under this Section, the qualification meets the requirements of Paragraph (a) of this Rule only where the operator is employed by (and operating the equipment for) the employer that issued the qualification.

(k) Phase-in.

(1) As of the effective date of this Rule, until two years after the effective date of this Rule, the following requirements apply:

(A) Operators of equipment covered by this Section are required to be competent to operate the equipment safely.

(B) Where an employee assigned to operate machinery does not have the required knowledge or ability to

operate the equipment safely, the employee shall be provided with the necessary training prior to operating the equipment. The employer shall ensure that the operator is evaluated to confirm that he/she understands the information provided in the training.

(2) The effective date of Paragraphs (a) through (j) of this Rule is two years after the effective date of this Rule.

Authority G.S. 95-131.

13 NCAC 07F .0905 SIGNAL PERSON QUALIFICATION

(a) The employer of the signal person shall ensure that each signal person meets the qualification requirements contained in Paragraph (c) of this Rule prior to giving any signals. This requirement shall be met by using either Option (1) or Option (2).

(1) Option (1) – Third party qualified evaluator. The signal person has documentation from a third party qualified evaluator showing that the signal person meets the qualification requirements contained in Paragraph (c) of this Rule.

(2) Option (2) – Employer's qualified evaluator. The employer has its qualified evaluator assess the individual and determine that the individual meets the contained in Paragraph (c) of this Rule and provides documentation of that determination. An assessment by an employer's qualified evaluator under this Option is not portable.

(3) The documentation for whichever Option is used shall be available while the signal person is employed by the employer.

(b) If subsequent actions by the signal person indicate that the individual may not meet the qualification requirements contained in Paragraph (c) of this Rule, the employer shall not allow the individual to continue working as a signal person until re-training is provided and a re-assessment is made in accordance with Paragraph (a) of this Rule that confirms that the individual meets the qualification requirements.

(c) Qualification Requirements. Each signal person shall:

(1) Know and understand the type of signals used. If hand signals are used, the signal person shall know and understand the standard method for hand signals.

(2) Be competent in the application of the type of signals used.

(3) Have a basic understanding of equipment operation and limitations, including the crane dynamics involved in swinging and stopping loads and boom deflection from hoisting loads.

(4) Know and understand the relevant requirements of 13 NCAC 07F .0905 and 13 NCAC 07F .0919.

- (5) Demonstrate that he/she meets the requirements in 13 NCAC 07F .0905(c)(1) through (c)(4) through a verbal or written test, and through a practical test.

Authority G.S. 95-131.

13 NCAC 07F .0906 MAINTENANCE AND REPAIR EMPLOYEE QUALIFICATION

(a) Maintenance, inspection and repair personnel are permitted to operate the equipment only where the following requirements are met:

- (1) The operation is limited to those functions necessary to perform maintenance, inspect or verify the performance of the equipment.
- (2) The personnel either:
 - (A) Operate the equipment under the direct supervision of an operator who meets the requirements of 13 NCAC 07F .0904 (Operator Qualification and Certification), or
 - (B) Are familiar with the operation, safe limitations, characteristics and hazards associated with the type of equipment.

(b) Maintenance and repair personnel shall meet the definition of a qualified person with respect to the equipment and maintenance/repair tasks performed.

Authority G.S. 95-131.

13 NCAC 07F .0907 TRAINING

(a) The employer shall provide training as follows:

- (1) Overhead power lines. Employees specified in 13 NCAC 07F .0913(b)(7) shall be trained in accordance with the requirements of that rule.
- (2) Signal persons. Employees who will be assigned to work as signal persons shall be trained in accordance with the requirements of 13 NCAC 07F .0905(c).
- (3) Operators.
 - (A) Operators shall be trained in accordance with the requirements of 13 NCAC 07F .0904(i). Retraining shall be provided if necessary for re-qualification or re-certification or if the operator does not pass a qualification or certification test.
 - (B) Operators shall be trained in the following practices:
 - (i) On friction equipment, whenever moving a boom off a support, first raise the boom a short distance (sufficient to take the load of the boom) to determine if the boom hoist brake needs to be adjusted. On other types of equipment, the same practice

is applicable, except that typically there is no means of adjusting the brake; if the brake does not hold, a repair is necessary.

- (ii) Where available, the manufacturer's emergency procedures for halting unintended equipment movement.

(4) Competent persons and qualified persons. Competent persons and qualified persons shall be trained regarding the requirements of this Section applicable to their respective roles.

(5) Crush/pinch points. Employees who work with the equipment shall be instructed to keep clear of holes, and crush/pinch points and the hazards addressed in 13 NCAC 07F .0916(n) (work area control).

(6) Tag-out. Operators and other employees authorized to start/energize equipment or operate equipment controls (such as maintenance and repair employees), shall be trained in the tag-out procedures in 13 NCAC 07F .0916(g).

(7) Training administration.

(A) The employer shall ensure that employees required to be trained under this Section are evaluated to confirm that they understand the information provided in the training.

(B) Refresher training in relevant topics shall be provided when, based on the conduct of the employee or an evaluation of the employee's knowledge, there is an indication that retraining is necessary.

(b) Training records.

(1) The employer shall certify that each employee has been trained by preparing a certification record which includes:

- (A) The identity of the person trained;
- (B) The signature of the employer or the qualified person who conducted the training; and
- (C) The date that training was completed.

(2) The most current certification record shall be kept available for review by the Deputy Commissioner of Labor for Occupational Safety and Health or his designee, upon request.

(3) An employer may accept training records or certificates for previous training if the employer verifies that all training and knowledge is current and applicable to the new employee's job duties.

Authority G.S. 95-131.

13 NCAC 07F .0908 FALL PROTECTION

(a) Application.

- (1) Paragraphs (b), (c)(2), (d) and (e) of this Rule apply to all equipment covered by this Section except tower cranes.
- (2) Paragraphs (c)(1), (f) and (h) of this Rule apply to all equipment covered by this Section.
- (3) Paragraph (g) of this Rule applies only to tower cranes.

(b) Boom walkways.

- (1) Equipment manufactured more than one year after the effective date of this Section with lattice booms shall be equipped with walkways on the boom(s) if the vertical profile of the boom (from cord centerline to cord centerline) is six or more feet.
- (2) Boom walkway criteria.
 - (A) The walkways shall be at least 12 inches wide.
 - (B) Guardrails, railings and other permanent fall protection attachments along walkways are:
 - (i) Not required.
 - (ii) Prohibited on booms supported by pendant ropes or bars if the guardrails/railings/attachments could be snagged by the ropes or bars.
 - (iii) Prohibited if of the removable type (designed to be installed and removed each time the boom is assembled/disassembled).
 - (iv) Where not prohibited, guardrails or railings may be of any height up to, but not more than, 45 inches.

(c) Steps, handholds, grabrails, guardrails and railings.

- (1) The employer shall maintain originally-equipped steps, handholds, ladders and guardrails/railings/grabrails in good condition.
- (2) Equipment manufactured more than one year after the effective date of this rule shall be equipped so as to provide safe access and egress between the ground and the operator work station(s), including the forward and rear positions, by the provision of devices such as steps, handholds, ladders, and guardrails/railings/grabrails. These shall meet the following criteria:
 - (A) Steps, ladders and guardrails/railings/grabrails shall meet the requirements of SAE J185-2003, except where infeasible.
 - (B) Walking/stepping surfaces, except for crawler treads, shall have slip-resistant features/properties (such as diamond plate metal, strategically

placed grip tape, expanded metal, or slip-resistant paint).

(d) For non-assembly/disassembly work, the employer shall provide and ensure the use of fall protection equipment for employees who are on a walking/working surface with an unprotected side or edge more than six feet above a lower level as follows:

- (1) When moving point-to-point:
 - (A) On non-lattice booms (whether horizontal or not horizontal).
 - (B) On lattice booms that are not horizontal.
- (2) While at a work station on any part of the equipment (including the boom, of any type), except when the employee is at or near draw-works (when the equipment is running), in the cab, or on the deck.

(e) For assembly/disassembly work, the employer shall provide and ensure the use of fall protection equipment for employees who are on a walking/working surface with an unprotected side or edge more than 15 feet above a lower level, except when the employee is at or near draw-works (when the equipment is running), in the cab, or on the deck.

(f) Anchorage criteria.

- (1) Anchorages for fall arrest and positioning device systems.
 - (A) Personal fall arrest systems and positioning systems shall be anchored to any apparently substantial part of the equipment unless a competent person, from a visual inspection, without an engineering analysis, would conclude that the applicable criteria in 29 CFR 1926.502 would not be met.
 - (B) Attachable anchor devices (portable anchor devices that are attached to the equipment) shall meet the applicable anchorage criteria in 29 CFR 1926.502.
- (2) Anchorages for restraint systems. Restraint systems shall be anchored to any part of the equipment that is capable of withstanding twice the maximum load that an employee may impose on it during reasonably anticipated conditions of use.

(g) Tower cranes.

- (1) For non-erecting/dismantling work, the employer shall provide and ensure the use of fall protection equipment for employees who are on a walking/working surface with an unprotected side or edge more than six feet above a lower level, except when the employee is at or near draw-works (when the equipment is running), in a cab, or on the deck.
- (2) For erecting/dismantling work, the employer shall provide and ensure the use of fall protection equipment for employees who are on a walking/working surface with an

unprotected side or edge more than 15 feet above a lower level.

(h) Anchoring to the load line. A fall arrest system is permitted to be anchored to the crane/derrick's hook (or other part of the load line) where the following requirements are met:

- (1) A qualified person has determined that the set-up and rated capacity of the crane/derrick (including the hook, load line and rigging) meets or exceeds the requirements in 29 CFR 1926.502(d)(15).
- (2) The equipment operator shall be at the work site and informed that the equipment is being used for this purpose.

Authority G.S. 95-131.

13 NCAC 07F .0909 DESIGN, CONSTRUCTION AND TESTING

The following requirements apply to equipment that has a manufacturer-rated hoisting/lifting capacity of more than 2,000 pounds:

- (1) The following requirements apply to equipment manufactured prior to the effective date of this Rule shall meet the applicable requirements for design, construction, and testing as prescribed in ANSI B30.5-1968, Safety Code for Crawler, Locomotive, and Truck Cranes, "PCSA Standard No. 2," the requirements in Item (2) of this Rule, or the applicable DIN standards that were in effect at the time of manufacture.
- (2) Mobile (including crawler and truck) and locomotive cranes manufactured on or after the effective date of this Rule shall meet the following portions of ANSI/ASME B30.5-2004, Safety Code for Mobile and Locomotive Cranes, as applicable:
 - (a) In section 5-1.1.1 ("Load Ratings – Where Stability Governs Lifting Performance"), Paragraphs (a) through (d) (including subparagraphs).
 - (b) In section 5-1.1.2 ("Load Ratings – Where Structural Competence Governs Lifting Performance"), Paragraph (b).
 - (c) Section 5-1.2 ("Stability (Backward and Forward))."
 - (d) In section 5-1.3.1 ("Boom Hoist Mechanism"), Paragraphs (a), (b)(1), and (b)(2), except that when using rotation resistant rope, Section 1414 (c)(4)(ii)(A) applies.
 - (e) In section 5-1.3.2 ("Load Hoist Mechanism"), Paragraphs (a)(2) through (a)(4) (including subparagraphs), (b) (including subparagraphs), (c) (first sentence only) and (d).

- (f) Section 5-1.3.3 ("Telescoping Boom").
- (g) Section 5-1.4 ("Swing Mechanism").
- (h) In section 5-1.5 ("Crane Travel"), all provisions except 5-1.5.3 (d).
- (i) In section 5-1.6 ("Controls"), all provisions except 5-1.6.1 (c).
- (j) Section 5-1.7.4 ("Sheaves").
- (k) Section 5-1.7.5 ("Sheave sizes").
- (l) In section 5-1.9.1 ("Booms"), Paragraph (f).
- (m) Section 5-1.9.3 ("Outriggers").
- (n) Section 5-1.9.4 ("Locomotive Crane Equipment").
- (o) Section 5-1.9.7 ("Clutch and Brake Protection").
- (p) In section 5-1.9.11 (Miscellaneous Equipment"), Paragraphs (a), (c), (e), and (f).

- (3) Prototype testing: mobile (including crawler and truck) and locomotive cranes manufactured on or after the effective date of this Rule shall meet the prototype testing requirements in Test Option A or Test Option B.

Note: Prototype testing of crawler, locomotive and truck cranes manufactured prior to the effective date of the Section much conform to Item (1) of this Rule.

- (a) Test Option A.
 - (i) The following applies to equipment with the cantilevered booms (such as hydraulic boom cranes): All the tests listed in SAE J1063-1993, Table 1, shall be performed to load all critical structural elements to their respective limits. All the strength margins listed in SAE J1063-1993, Table 2, shall be met.
 - (ii) The following applies to equipment with pendant supported lattice booms: All the tests listed in SAE J987-2003, Table 1, shall be performed to load all critical structural elements to their respective limits. All the strength margins listed in SAE J987-2003, Table 2, shall be met.
- (b) Test Option B. The testing and verification requirements of CEN's EN 13000 (2004) shall be met. In applying the CEN standard, the following additional requirements shall be met:

- (i) The following applies to equipment with cantilevered booms (such as hydraulic boom cranes): The analysis methodology (computer modeling) shall demonstrate that all load cases listed in the SAE J1063-1993 meet the strength margins listed in SAE J1063-1993, Table 2.
- (ii) The following applies to equipment with pendant supported lattice booms: The analysis methodology (computer modeling) shall demonstrate that all load cases listed in SAE J987-2003 meet the strength margins listed in SAE J987-2003, Table 2.
- (iii) Analysis Verification: The physical testing requirements under SAE J1063-1993 and SAE J987-2003 shall be met unless the reliability of the analysis methodology (computer modeling) has been demonstrated by a documented history of certification through strain gauge measuring or strain gauge measuring in combination with other physical testing.
- (4) All equipment covered by this Section shall meet the following requirements:
 - (a) Rated Capacity and Related Information: The information available in the cab (see 13 NCAC 07F .0916(c)) regarding "rated capacity" and related information shall include, at a minimum, the following information:
 - (i) A complete range of the manufacturer's equipment rated capacities, as follows:
 - (A) At all manufacturer's approved operating radii, boom angles, work areas, boom lengths, and configurations, jib lengths and angles (or offset).
 - (B) Alternate ratings for use and nonuse of option
 - equipment which affects rated capacities, such as outriggers and extra counterweights.
 - (ii) A work area chart for which capacities are listed in the load chart. (Note: an example of this type of chart is in ANSI/ASME B 30.5-2004, Section 5-1.1.3, Figure 11).
 - (iii) The work area figure and load chart shall clearly indicate the areas where no load is to be handled.
 - (iv) Recommended reeving for the hoist lines shall be shown.
 - (v) Recommended parts of hoist reeving, size, and type of wire rope for various equipment loads.
 - (vi) Recommended boom hoist reeving diagram, where applicable; size, type, and length of rope wire.
 - (vii) Tire pressure (where applicable).
 - (vii) Caution or warnings relative to limitations on equipment and operating procedures, including an indication of the least stable direction.
 - (ix) Position of the gantry and requirements for intermediate boom suspension (where applicable).
 - (x) Instructions for the boom erection and conditions under which the boom, or boom and jib combinations, may be raised or lowered.
 - (xi) Whether the hoist holding mechanism is automatically or manually controlled, whether free fall is available, or any combination of these.
 - (xii) The maximum telescopic travel length of each boom telescopic section.
 - (xiii) Whether sections are telescoped manually or with power.
 - (xiv) The sequence and procedure for extending and retracting the telescopic boom section.

- (xv) Maximum loads permitted during the boom extending operation, and any limiting conditions or cautions.
- (xvi) Hydraulic relief valve settings specified by the manufacturer.
- (b) Load Hooks (including latched and unlatched types), ball assemblies and load blocks shall be of sufficient weight to overhaul the line from the highest hook position for boom or boom and jib lengths and the number of parts of the line in use.
- (c) Hook and ball assemblies and load blocks shall be marked with their rated capacity and weight.
- (d) Latching Hooks:
 - (i) Hooks shall be equipped with latches, except where the requirements of the Sub-Item (4)(d)(ii) of this Rule are met.
 - (ii) Hooks without latches, or with latches removed or disabled, shall not be used unless:
 - (A) A qualified person has determined that it is safer to hoist and place the load without latches (or with the latches removed/tied-back);
 - (B) Routes for the loads are pre-planned to ensure that no employee is required to work in the fall zone except for employees necessary for the hooking or unhooking of the load; and
 - (C) The latch shall close the throat opening and be designed to retain slings or other lifting devices/accessories in the hook when the rigging apparatus is slack.
- (e) Posted Warnings. Posted Warnings required by this Section as well as those originally supplied with the equipment by the manufacturer shall be maintained in legible condition.
- (f) An accessible fire extinguisher shall be on the equipment.
- (g) Cabs. Equipment with cabs shall meet the following requirements:
 - (i) Cabs shall be designed with a form of adjustable ventilation and method for clearing the windshield for maintaining visibility and air circulation. Examples of means for adjustable ventilation include air conditioner or window that can be opened (for ventilation and air circulation); examples of means for maintaining visibility include heater (for preventing windshield icing), defroster, fan, windshield wiper.
 - (ii) Cab doors (swinging, sliding) shall be designed to prevent inadvertent opening or closing while traveling or operating the machine. Swinging doors adjacent to the operator shall open outward. Sliding operator doors shall open rearward.
 - (iii) Windows.
 - (A) The cab shall have windows in front and on both sides of the operator. Forward vertical visibility shall be sufficient to give the operator a view of the boom point at all times.
 - (B) Windows may have sections designed to be opened or readily removed. Windows with sections designed to be opened shall be designed so that they can be secured to prevent inadvertent closure.
 - (C) Windows shall be of safety glass or material with similar optical and safety properties

- that introduce no visible distortion or otherwise obscure visibility that interferes with the safe operation of the equipment.
- (iv) A clear passageway shall be provided from the operator's station to an exit door on the operator's side.
- (v) Areas of the cab roof that serve as a workstation for rigging, maintenance or other equipment-related tasks shall be capable of supporting 250 pounds without permanent distortion.
- (h) Belts, gears, shafts, pulleys, sprockets, spindles, drums, fly wheels, chains, and other parts or components that reciprocate, rotate or otherwise move shall be guarded where contact by employees (except for maintenance and repair employees) is possible in the performance of normal duties.
- (i) All exhaust pipes, turbochargers, and charge air coolers shall be insulated or guarded where contact by employees (except for maintenance and repair employees) is possible in the performance of normal duties.
- (j) Hydraulic and pneumatic lines shall be protected from damage to the extent feasible.
- (k) The equipment shall be designed so that exhaust fumes are not discharged in the cab and are discharged in a direction away from the operator.
- (l) Friction mechanisms. Where friction mechanisms (such as brakes and clutches) are used to control the boom hoist or load line hoist, they shall be:
 - (i) Of a size and thermal capacity sufficient to control loads with the minimum recommended reeving.
 - (ii) Adjustable to permit compensation for lining wear to maintain proper operation.
- (m) Hydraulic load hoists. Hydraulic drums shall have an integrally mounted holding device or internal static brake to prevent load hoist movement in the event of hydraulic failure.

- (5) The employer's obligations under Items (1) through (3) and Sub-Items (4)(g) through (4)(m) of this Rule are met where the equipment has not changed (except in accordance with 13 NCAC 07F .0911) and it can refer to documentation from the manufacturer showing that the equipment has been designed, constructed and tested in accordance with those paragraphs.

Authority G.S. 95-131.

13 NCAC 07F .0910 EQUIPMENT WITH A RATED HOISTING /LIFTING CAPACITY OF 2,000 POUNDS OR LESS

For equipment with a maximum manufacturer-rated hoisting/lifting capacity of 2,000 pounds or less:

- (1) The following Rules of this Section apply: .0901 (Scope); .0903 (Definitions); .0908 (Fall Protection); .0911 (Equipment Modifications); .0912(a) (Ground conditions); .0913 (Power line safety); .0914 (Wire rope); .0916(e) (Authority to Stop Operation); .0916(v) (Free fall/Controlled Load Lowering); .0916(cc) (Multiple Crane Lifts); .0919 (Signals); .0921 (Tower Cranes); .0922 (Derricks); .0923 (Floating Cranes & Land Cranes on Barges); .0924 (Overhead & Gantry Cranes).
Note: Under Sub-Item (2)(a) of this Rule, 13 NCAC 07F .0912(b), concerning the selection of manufacturer or employer procedures during assembly/disassembly, also applies.
- (2) Assembly/disassembly.
 - (a) 13 NCAC 07F .0912(b), concerning the selection of manufacturer or employer procedures during assembly/disassembly, applies.
 - (b) Components and Configuration.
 - (i) The selection of components and configuration of the equipment that affect the capacity or safe operation of the equipment shall be in accordance with:
 - (A) Manufacturer instructions, recommendations, limitations, and specifications. Where these are unavailable, a qualified engineer familiar with the type of equipment involved shall approve, in writing, the selection and configuration of components; or

- (B) Approved modifications that meet the requirements of 13 NCAC 07F .0911 (Equipment Modifications).
- (ii) Post assembly inspection. Upon completion of assembly, the equipment shall be inspected to ensure compliance with Sub-Item (2)(b)(i) of this Rule (see 13 NCAC 07F .0915(c) for post-assembly inspection requirements).
- (c) Manufacturer prohibitions. The employer shall comply with applicable manufacturer prohibitions.
- (3) Operation-Procedures
- (a) The employer shall comply with all manufacturer procedures applicable to the operational functions of the equipment, including its use with attachments.
- (b) Unavailable operation procedures.
- (i) Where the manufacturer procedures are unavailable, the employer shall develop and ensure compliance with all procedures necessary for the safe operation of the equipment and attachments.
- (ii) Procedures for the operational controls shall be developed by a qualified person.
- (iii) Procedures related to the capacity of the equipment shall be developed and signed by a qualified engineer familiar with the equipment.
- (c) Accessibility.
- (i) The load chart shall be available to the operator at the control station.
- (ii) Procedures applicable to the operation of the equipment, recommended operating speeds, special hazard warnings, instructions and operators manual, shall be readily available for use by the operator.
- (iii) Where rated capacities are available at the control station only in electronic form: in the event of a failure which makes the load capacities inaccessible, the operator shall immediately cease operations of follow safe shut-down procedures until the rated capacities (in electronic or other form) are available.
- (4) Safety devices and operational aids.
- (a) Originally-equipped safety devices and operational aids shall be maintained in accordance with manufacturer procedures.
- (b) Anti-two blocking. Equipment covered by this Section manufactured more than one year after the effective date of this Section shall have either an anti-two block device that meets the requirements of 13 NCAC 07F .0917(d)(3), or shall be designed so that, in the event of a two-block situation, no damage will occur and there will be no load failure (such as where the power unit will stall in the event of a two-block).
- (5) Operator qualifications. The employer shall ensure that, prior to operating the equipment, the operator is trained on the safe operation of the type of equipment the operator will be using.
- (6) Signal person qualifications. The employer shall ensure that signal persons are trained in the proper use of signals applicable to the use of the equipment.
- (7) Keeping clear of the load. 13 NCAC 07F .0916(t) applies, except for Part (t)(3)(C) (qualified rigger).
- (8) Inspections. The equipment shall be inspected in accordance with manufacturer procedures.
- (9) Hoisting personnel. Hoisting personnel using equipment covered by this section is prohibited.
- (10) Design. The equipment shall be designed by a qualified engineer.
- Authority G.S. 95-131.*
- 13 NCAC 07F .0911 EQUIPMENT MODIFICATIONS**
- (a) Modifications or additions which affect the capacity or safe operation of the equipment are prohibited except where the requirements of Subparagraphs (a)(1), (a)(2), or (a)(3) of this Rule are met.
- (1) Manufacturer review and approval.
- (A) The manufacturer approves the modifications/additions in writing.
- (B) The load charts, procedures, instruction manuals and instruction plates/tags/decals are modified as

necessary to accord with the modification/addition.

(C) The original safety factor of the equipment is not reduced.

(2) Manufacturer refusal to review request. The manufacturer is provided a detailed description of the proposed modification/addition, is asked to approve the modification/addition, but it declines to review the technical merits of the proposal or fails, within 30 days, to acknowledge the request or initiate the review, and all of the following are met:

(A) A qualified engineer who is a qualified person with respect to the equipment involved:

(i) Approves the modification/addition and specifies the equipment configurations to which that approval applies, and

(ii) Modifies load charts, procedures, instruction manuals and instruction plates/tags/decals as necessary to accord with the modification/addition.

(B) The original safety factor of the equipment is not reduced.

(3) Unavailable manufacturer. The manufacturer is unavailable and the requirements of Parts (a)(2)(A) and (a)(2)(B) of this Rule are met.

(b) Modifications or additions which affect the capacity or safe operation of the equipment are prohibited where the manufacturer, after a review of the technical safety merits of the proposed modification/addition, rejects the proposal and explains the reasons for the rejection in a written response. If the manufacturer rejects the proposal but does not explain the reasons for the rejection in writing, the employer may treat this as a manufacturer refusal to review the request under Subparagraph (a)(2) of this Rule.

(c) The provisions in Paragraphs (a) and (b) of this Rule do not apply to modifications made or approved by the U.S. military.

Authority G.S. 95-131.

13 NCAC 07F .0912 ASSEMBLY AND DISSASSEMBLY OF EQUIPMENT

(a) Ground Conditions.

(1) Definitions.

(A) "Ground Conditions" means the ability of the ground to support the equipment (including slope, compaction and firmness).

(B) "Supporting Materials" means blocking, mats, cribbing, marsh buggies (in marshes/wetlands), or similar supporting materials or devices.

(2) The equipment shall not be assembled or used unless ground conditions are firm, drained (except for marshes/wetlands), and graded to a sufficient extent so that, in conjunction (if necessary) with the use of supporting materials, the equipment manufacturer's specifications for adequate support and degree of level of the equipment are met.

(3) The controlling entity shall:

(A) Ensure that the ground preparations necessary to meet the requirements in Subparagraph (a)(2) of this Rule are provided.

(B) Inform the user of the equipment and the operator of the location of hazards beneath the equipment to set-up area (such as voids, tanks, utilities) that are identified in documents (such as site drawings, as-built drawings, and soil analyses) if they are available to the controlling entity.

(4) If there is no controlling entity for the project, the requirements in Part (a)(3)(A) of this Rule shall be met by the employer that has authority at the site to make or arrange for ground preparations needed to meet Subparagraph (a)(2) of this Rule.

(5) If the A/D supervisor or the operator determines that ground conditions do not meet the requirements in Subparagraph (a)(2) of this Rule, that person's employer shall have a discussion with the controlling entity regarding the ground preparations that are needed so that, with the use of suitable supporting materials/devices (if necessary), the requirements in Subparagraph (a)(2) of this Rule can be met.

(b) When assembling and disassembling equipment (or attachments), the employer shall comply with either:

(1) Manufacturer procedures applicable to assembly and disassembly; or

(2) Employer procedures for assembly and disassembly.

(A) When using employer procedures instead of manufacturer procedures for assembling or disassembling, the employer shall ensure that the procedures are designed to:

(i) Prevent unintended dangerous movement, and to prevent collapse, of all parts of the equipment.

(ii) Provide adequate support and stability of all parts of the equipment during the assembly/disassembly process.

(iii) Position employees involved in the assembly/disassembly

operation so that their exposure to unintended movement or collapse of part or all of the equipment is minimized.

- (B) Qualified person. Employer procedures shall be developed by a qualified person.

(c) Supervision – Competent-Qualified Person.

- (1) Assembly/disassembly shall be supervised by a person who meets the criteria for both a competent person and a qualified person, or by a competent person who is assisted by one or more qualified persons ("A/D supervisor").
- (2) Where the assembly/disassembly is being performed by only one person, that person shall meet the criteria for both a competent person and a qualified person. For purposes of this Section, that person is considered the A/D supervisor.

(d) Knowledge or Procedures. The A/D supervisor shall understand the applicable assembly/disassembly procedures.

(e) Review of Procedures. The A/D supervisor shall review the applicable assembly/disassembly procedures immediately prior to the commencement of assembly/disassembly unless the A/D supervisor has applied them to the same type and configuration of equipment (including accessories, if any) so that they are already known and understood.

(f) Crew Instructions.

- (1) Before commencing assembly/disassembly operations, the A/D supervisor shall determine that the crew members understand the following:
- (A) Their tasks;
- (B) The hazards associated with their tasks; and
- (C) The hazardous positions/locations that they need to avoid.
- (2) During assembly/disassembly operations, before a crew member takes on a different task, or when adding new personnel during the operations, the requirements in Parts (f)(1)(A) through (f)(1)(C) of this Rule shall be met with respect to the crew member's understanding regarding that task.

(g) Protecting Assembly/Disassembly Crew Members Out of Operator View.

- (1) Before a crew member goes to a location that is out of view of the operator and is either in, on or under the equipment, or near the equipment (or load) where the crew member could be injured by movement of the equipment (or load), the crew member shall inform the operator that he or she is going to that location.
- (2) Where the operator knows that a crew member went to a location covered by Subparagraph (g)(1) of this Rule, the operator shall not move

any part of the equipment (or load) until the operator.

- (A) Gives a warning that is understood by the crew member as a signal that the equipment (or load) is about to be moved and allows time for the crew member to get to a safe position; or

- (B) Is informed in accordance with a pre-arranged system of communication that the crew member is in a safe position.

(h) Working Under the Boom, Jib or Other Components.

- (1) When pins (or similar devices) are being removed, employees shall not be under the boom, jib or other components, except where the requirements of Subparagraph (h)(2) of this Rule are met.
- (2) Exception. Where the employer demonstrates that site constraints require one or more employees to be under the boom, jib or other components when pins (or similar devices) are being removed, the A/D supervisor shall implement procedures that minimize the risk of unintended dangerous movement and minimize the duration and extent of exposure under the boom.

(i) Capacity Limits. During all phases of assembly/disassembly, rated capacity limits for loads imposed on the equipment, equipment components (including rigging), lifting lugs and equipment accessories shall not be exceeded for the equipment being assembled/disassembled.

(j) Addressing Specific Hazards. The A/D supervisor supervising the assembly/disassembly operation shall address the hazards associated with the operation with methods to protect the employees from them, as follows:

- (1) Site and Ground Bearing Conditions. Site and ground bearing conditions shall be adequate for safe assembly/disassembly operations and to support the equipment during assembly/disassembly (see Paragraph (a) of this Rule for ground condition requirements).
- (2) Blocking Material. The size, amount, condition and method of stacking blocking shall be sufficient to sustain the loads and maintain stability.
- (3) Proper Location of Blocking. When used to support lattice booms or components, blocking shall be appropriately placed to:
- (A) Protect the structural integrity of the equipment; and
- (B) Prevent dangerous movement and collapse.
- (4) Verifying Assist Crane Loads. When using an assist crane, the loads that will be imposed on the assist crane at each phase of assembly/disassembly shall be verified in accordance with 13 NCAC 07F .0916(m)(3) (Rated Capacity) before assembly/disassembly

begins in order to prevent exceeding rated capacity limits for the assist crane.

- (5) Boom and Jib Pick Points. The point(s) of attachment of rigging to a boom (or boom sections or jib or jib sections) shall be suitable for preventing structural damage and facilitating safe handling of these components.

- (6) Center of Gravity.

(A) The center of gravity of the load shall be identified if that is necessary for the method of use for maintaining stability.

(B) Where there is insufficient information to accurately identify the center of gravity, measures designed to prevent unintended dangerous movement resulting from an inaccurate identification of the center of gravity shall be used.

- (7) Stability Upon Pin Removal. The boom sections, boom suspension systems (such as gantry A-frames and jib struts) or components shall be rigged or supported to maintain stability upon the removal of the pins.

- (8) Snagging. Suspension ropes and pendants shall not be allowed to catch on the boom or jib connection pins or cotter pins (including keepers and locking pins).

- (9) Struck by Counterweights. The potential for unexpected movement from adequately supported counterweights and from hoisting counterweights.

- (10) Boom Hoist Brake Failure. Where reliance is placed on the boom hoist brake to prevent boom movement during assembly/disassembly, the brake shall be tested to determine if it is sufficient to prevent boom movement. If it is not sufficient, a boom hoist pawl, other locking device/back-up braking device, or another method of preventing dangerous movement of the boom (such as blocking or using an assist crane) from a boom hoist brake failure shall be used.

- (11) Loss of Backward Stability. Backward stability shall be considered before swinging the upperworks, travel, and when attaching or removing equipment components.

- (12) Wind Speed and Weather. Wind speed and weather shall be considered so that the safe assembly/disassembly of the equipment is not compromised.

(k) Cantilevered Boom Sections. Manufacturer limitations on the maximum amount of boom supported only by a cantilevering shall not be exceeded. Where these are unavailable, a qualified engineer familiar with the type of equipment involved shall determine this limitation in writing, which shall not be exceeded.

(l) Weight of Components. The weight of the components shall be readily available.

(m) Components and Configuration.

- (1) The selection of components and configuration of the equipment that affect the capacity or safe operation of the equipment shall be in accordance with:

(A) Manufacturer instructions, limitation, and specifications. Where these are unavailable, a qualified engineer familiar with the type of equipment involved shall approve, in writing, the selection and configuration of components; or

(B) Approved modifications that meet the requirements of 13 NCAC 07F .0911 (Equipment Modifications).

- (2) Post-Assembly Inspection. Upon completion of assembly, the equipment shall be inspected to ensure compliance with Subparagraph (m)(1) of this Rule (see section 13 NCAC 07F .0915(c) for post-assembly inspection requirements).

(n) Manufacturer Prohibitions. The employer shall comply with applicable manufacturer prohibitions.

(o) Shipping Pins. Reusable shipping pins, straps, links, and similar equipment shall be removed and stowed in accordance with manufacturer instructions. Once they are removed, they must either be stowed or otherwise stored during pile driving operations.

(p) Pile Driving. Equipment used for pile driving shall not have a jib attached during pile driving operations.

(q) Outriggers. When the load to be handled and the operation radius require the use of outriggers, or at any time when outriggers are used, the following requirements shall be met:

(1) The outriggers shall be either fully extended or, if manufacturer procedures permit, deployed as specified in the load chart.

(2) The outriggers shall be set to remove the equipment weight from the wheels, except for locomotive cranes (see Subparagraph (q)(6) of this Rule for use of outriggers on locomotive cranes).

(3) When outrigger floats are used, they shall be attached to the outriggers.

(4) Each outrigger shall be visible to the operator or to a signal person during extension and setting.

(5) Outrigger blocking shall:

(A) Meet the requirements in Subparagraphs (j)(2) and (j)(3) of this Rule.

(B) Be placed only under the outrigger float/pad of the outrigger jack or, where the outrigger is designed without a jack, under the outer bearing surface of the extended outrigger beam.

(6) For locomotive cranes, when using outriggers to handle loads, the manufacturer's procedures shall be followed. When lifting loads without using outriggers, the manufacturer's

procedures shall be met regarding truck wedges or screws.

(r) Dismantling (including dismantling for changing the length of booms and jibs).

- (1) None of the pins in the pendants are to be removed (partly or completely) when the pendants are in tension.
- (2) None of the pins (top and bottom) on boom sections located between the pendant attachment points and the crane/derrick body are to be removed (partly or completely) when the pendants are in tension.
- (3) None of the pins (top and bottom) on boom sections located between the uppermost boom section and the crane/derrick body are to be removed (partly or completely) when the boom is being supported by the uppermost boom section resting on the ground (or other support).
- (4) None of the top pins on boom sections located on the cantilevered portion of the boom being removed (the portion being removed ahead of the pendant attachment points) are to be removed (partly or completely) until the cantilevered section to be removed is fully supported.

Authority G.S. 95-131.

13 NCAC 07F .0913 POWER LINE SAFETY

(a) Assembly and Disassembly of Equipment.

- (1) Before assembling or disassembling equipment, the employer shall determine if any part of the equipment, load line or load (including rigging and lifting accessories) could get, in the direction or area of assembly, closer than 20 feet of a power line that is up to 350 kV or closer than 50 feet of a power line that exceeds 350 kV during the assembly/disassembly process. If so, the employer shall meet the requirements in Option (1), Option (2), or Option (3), as follows:
 - (A) Option (1) – Deenergize and ground. Confirm from the utility owner/operator that the power line has been deenergized and visibly grounded at the worksite.
 - (B) Option (2) – Clearance. Ensure that no part of the equipment, load line or load (including rigging and lifting accessories), gets closer than 20 feet of a power line that is up to 350 kV or closer than 50 feet of a power line that exceeds 350 kV by implementing the measures specified in Subparagraph (a)(2) of this Rule.
 - (C) Option (3) – Table A clearance.

(i) Determine the line's voltage and the minimum approach distance permitted under Table A of this Rule.

(ii) Determine if any part of the equipment, load line or load (including rigging and lifting accessories), could get closer than the minimum approach distance of the power line permitted under Table A of this Rule. If so, then the employer shall follow the requirements in Subparagraph (a)(2) of this Rule to ensure that no part of the equipment, load line, or load (including rigging and lifting accessories), gets closer to the line than the minimum approach distance.

(2) Preventing encroachment/electrocution.

Where encroachment precautions are required under Option (2), or Option (3), the following requirements shall be met:

- (A) Conduct a planning meeting with the A/D supervisor, operator, assembly/disassembly crew and the other workers who will be in the assembly/disassembly area to review the location of the power line(s) and the steps that will be implemented to prevent encroachment/electrocution.
- (B) If tag lines are used, they shall be non-conductive.
- (C) At least one of the following additional measures shall be in place:
 - (i) Use a dedicated spotter who is in continuous contact with the equipment operator. The dedicated spotter shall:
 - (I) Be equipped with a visual aid to assist in identifying the minimum clearance distance. Examples of a visual aid include: a clearly visible line painted on the ground; a clearly visible line on stanchions; a set of clearly visible line-of-sight landmarks (such as a fence post behind the dedicated spotter and a building corner

- ahead of the dedicated spotter.)
- (II) Be positioned to effectively gauge the clearance distance.
- (III) Where necessary, use equipment that enables the dedicated spotter to communicate directly with the operator, in accordance with 13 NCAC 07F .0919(m) (radio, telephone, or other electronic transmission of signals).
- (IV) Give timely information to the operator so that the required clearance distance can be maintained.
- (ii) A proximity alarm set to give the operator sufficient warning to prevent encroachment.
- (iii) A device that automatically warns the operator when to stop movement, such as a range control warning device. Such a device shall be set to give the operator sufficient warning to prevent encroachment.
- (iv) A device that automatically limits range of movement, set to prevent encroachment.
- (v) An elevated warning line, barricade, or line of signs, in view of the operator, equipped with flags or similar high-visibility markings.
- (3) Assembly/disassembly below power lines prohibited. No part of a crane/derrick, load line or load (including rigging and lifting accessories), whether partially or fully assembled, is allowed below a power line unless the employer has confirmed that the utility owner/operator has deenergized and (at the worksite) visibly grounded the power line.
- (4) Assembly/disassembly inside Table A clearance prohibited. No part of a crane/derrick, load line or load (including rigging and lifting accessories), whether
- partially or fully assembled, is allowed closer than the minimum approach distance under Table A of a power line unless the employer has confirmed that the utility owner/operator has deenergized and (at the worksite) visibly grounded the power line.
- (5) Voltage information. Where Option (3) is used, the utility owner/operator of power lines shall provide the requested voltage information within two working days of the employer's request.
- (6) Power lines presumed energized. The employer shall assume that all power lines are energized unless the utility owner/operator confirms that the power line has been and continues to be deenergized and visibly grounded at the worksite.
- (7) Posting of electrocution warnings. There shall be at least one electrocution hazard warning conspicuously posted in the cab so that it is in view of the operator and (except for overhead gantry and tower cranes) at least two on the outside of the equipment.
- (b) Operation of Equipment.
- (1) Hazard assessments and precautions inside the work zone. Before beginning equipment operations, the employer shall:
- (A) Identify the work zone.
- (i) Define a work zone by demarcating boundaries (such as with flags, or a device such as a range limit device or range control warning device) and prohibit the operator from operating the equipment past those boundaries, or
- (ii) Define the work zone as the area 360 degrees around the equipment, up to the equipment's maximum working radius.
- (B) Determine if any part of the equipment, load line or load (including rigging and lifting accessories), if operated up to the equipment's maximum working radius in the work zone, could get closer than 20 feet of a power line that is up to 350 kV or closer than 50 feet of a power line that exceeds 350 kV. If so, the employer shall meet the requirements in Option (1), Option (2), or Option (3) as follows:
- (i) Option (1) – Deenergize and ground. Confirm from the utility owner/operator that the power line has been

- deenergized and visibly grounded at the worksite.
- (ii) Option (2) – Clearance.
Ensure that no part of the equipment, load line or load (including rigging and lifting accessories), gets closer than 20 feet of a power line that is up to 350 kV or closer than 50 feet of a power line that exceeds 350 kV by implementing the measures specified in Subparagraph (b)(2) of this Rule.
- (iii) Option (3) – Table A clearance.
- (I) Determine the line's voltage and the minimum approach distance permitted under Table A of this Rule.
- (II) Determine if any part of the equipment, load line or load (including rigging and lifting accessories), while operating up to the equipment's maximum working radius in the work zone, could get closer than the minimum approach distance of the power line permitted under Table A of this Rule. If so, then the employer shall follow the requirements in Subparagraph (b)(2) of this Rule to ensure that no part of the equipment, load line, or load (including rigging and lifting accessories), gets closer to the line than the minimum approach distance.
- (2) Preventing encroachment/electrocution.
Where encroachment precautions are required
- under Option (2), or Option (3), the following requirements shall be met:
- (A) Conduct a planning meeting with the operator and the other workers who will be in the area of the equipment or load to review the location of the power line(s), and the steps that will be implemented to prevent encroachment/electrocution.
- (B) If tag lines are used, they shall be non-conductive.
- (C) Erect and maintain an elevated warning line, barricade, or line of signs, in view of the operator, equipped with flags or similar high-visibility markings, at 20 feet from a power line that is up to 350 kV or 50 feet from a power line that exceeds 350 kV (if using Option (2)) or at the minimum approach distance under Table A of this Rule (if using Option (3)).
- (D) Implement at least one of the following measures:
- (i) A proximity alarm set to give the operator sufficient warning to prevent encroachment.
- (ii) A dedicated spotter who is in continuous contact with the operator. Where this measure is selected, the dedicated spotter shall:
- (I) Be equipped with a visual aid to assist in identifying the minimum clearance distance. Examples of a visual aid include: a clearly visible line painted on the ground; a clearly visible line on stanchions; a set of clearly visible line-of-sight landmarks (such as a fence post behind the dedicated spotter and a building corner ahead of the dedicated spotter).
- (II) Be positioned to effectively gauge the clearance distance.
- (III) Where necessary, use equipment that

- enables the
dedicated spotter to
communicate
directly with the
operator.
- (IV) Give timely
information to the
operator so that the
required clearance
distance can be
maintained.
- (iii) A device that automatically
warns the operator when to
stop movement, such as a
range control warning
device. Such a device shall
be set to give the operator
sufficient warning to prevent
encroachment.
- (iv) A device that automatically
limits range of movement,
set to prevent encroachment.
- (v) An insulating link/device
installed at a point between
the end of the load line (or
below) and the load.
- (E) The requirements of Part (b)(2)(D) of
this Rule do not apply to work
covered by 29 CFR 1926, Subpart V.
- (3) Voltage information. Where Option (3) is
used, operators of power lines shall provide
the requested voltage information within two
working days of the employer's request.
- (4) Operations below power lines.
- (A) No part of the equipment, load line or
load (including rigging and lifting
accessories) is allowed below a power
line unless the employer has
confirmed that the utility
owner/operator has deenergized and
(at the worksite) visibly grounded the
power line, except where one of the
exceptions in Part (b)(4)(B) of this
Rule apply.
- (B) Exceptions. Part (b)(4)(A) of this
Rule is inapplicable where the
employer demonstrates that one of
the following applies:
- (i) The work is covered by 29
CFR 1926, Subpart V.
- (ii) For equipment with non-
extensible booms: The
uppermost part of the
equipment, with the boom at
true vertical, would be more
than 20 feet below the plane
of a power line that is up to
350 kV, 50 feet below the
plane of a power line that
- exceeds 350 kV or more
than the Table A minimum
clearance distance below the
plane of the power line.
- (iii) For equipment with
articulating or extensible
booms: The uppermost part
of the equipment, with the
boom in the fully extended
position, at true vertical,
would be more than 20 feet
below the plane of a power
line that is up to 350 kV, 50
feet below the plane of a
power line that exceeds 350
kV or more than the Table A
minimum clearance distance
below the plane of the power
line.
- (iv) The employer demonstrates
that compliance with Part
(b)(4)(A) of this Rule is
infeasible and meets the
requirements of Paragraph
(c) of this Rule.
- (5) Power lines presumed energized. The
employer shall assume that all power lines are
energized unless the utility owner/operator
confirms that the power line has been and
continues to be deenergized and visibly
grounded at the worksite.
- (6) When working near
transmitter/communication towers where the
equipment is close enough for an electrical
charge to be induced in the equipment or
materials being handled, the transmitter shall
be deenergized or the following precautions
shall be taken when necessary to dissipate
induced voltages:
- (A) The equipment shall be provided with
an electrical ground.
- (B) Non-conductive rigging or an
insulating link/device shall be used.
- (7) Training.
- (A) Operators and crew assigned to work
with the equipment shall be trained
on the following:
- (i) The procedures to be
followed in the event of
electrical contact with a
power line. Such training
shall include:
- (I) Information
regarding the
danger of
electrocution from
the operator
simultaneously
touching the

- equipment and the ground.
- (II) The importance to the operator's safety of remaining inside the cab except where there is an imminent danger of fire, explosion, or other emergency that necessitates leaving the cab.
- (III) The safest means of evacuating from equipment that may be energized.
- (IV) The danger of the potentially energized zone around the equipment.
- (V) The need for crew in the area to avoid approaching or touching the equipment.
- (VI) Safe clearance distance from power lines.
- (ii) Power lines are presumed to be energized unless the utility owner/operator confirms that the power line has been and continues to be deenergized, and visibly grounded at the worksite.
- (iii) Power lines are presumed to be uninsulated unless the utility owner/operator or a registered engineer who is a qualified person with respect to electrical power transmission and distribution confirms that a power line is insulated.
- (iv) The limitations of an insulating link/device, proximity alarm, and range control (and similar) device, if used.
- (B) Employees working as dedicated spotters shall be trained to enable them to effectively perform their task, including training on the applicable requirements of this Rule.
- (8) Devices originally designed by the manufacturer for use as: a safety device (see 13 NCAC 07F .0918), operational aid, or a means to prevent power line contact or electrocution, when used to comply with this Section, shall meet the manufacturer's procedures for use and conditions of use.
- (c) Operation of Equipment Inside the Table A Zone.
 - (1) Equipment operations in which any part of the equipment, load line or load (including rigging and lifting accessories) is closer than the minimum approach distance under Table A of an energized power line is prohibited, except where the employer demonstrates that the following requirements are met:
 - (A) The employer determines that it is infeasible to do the work without breaching the minimum approach distance under Table A of this Rule.
 - (B) The employer determines that, after consultation with the utility owner/operator, it is infeasible to deenergize and ground the power line or relocate the power line.
 - (C) Minimum clearance distance.
 - (i) The power line owner/operator or qualified engineer who is a qualified person with respect to electrical power transmission and distribution determines the minimum clearance distance that shall be maintained to prevent electrical contact in light of the on-site conditions. The factors that shall be considered in making this determination include: conditions affecting atmospheric conductivity; time necessary to bring the equipment, load line and load (including rigging and lifting accessories) to a complete stop; wind conditions; degree of sway in the power line; lighting conditions, and other conditions affecting the ability to prevent electrical contact.
 - (ii) Subpart (c)(1)(C)(i) of this Rule does not apply to work covered by 29 CFR 1926, Subpart V; instead, for such work, the minimum clearance distances specified in 29 CFR 1926.950, Table V-1 apply. Employers covered by 29 CFR 1926, Subpart V are permitted to work closer than the

- distances in 29 CFR 1926.950, Table V-1 where both the requirements of this Rule and 29 CFR 1926.952(c)(2)(iii) or (iv) are met.
- (D) A planning meeting with the employer and power line operator (or qualified engineer who is a qualified person with respect to electrical power transmission and distribution) is held to determine the procedures that will be followed to prevent electrical contact and electrocution. At a minimum these procedures shall include:
- (i) If the power line is equipped with a device that automatically reenergizes the circuit in the event of a power line contact, the automatic reclosing feature of the circuit interrupting device shall be made inoperative before work begins.
 - (ii) A dedicated spotter who is in continuous contact with the operator. The dedicated spotter shall:
 - (I) Be equipped with a visual aid to assist in identifying the minimum clearance distance. Examples of a visual aid include: a clearly visible line painted on the ground; a clearly visible line on stanchions; a set of clearly visible line-of-sight landmarks (such as a fence post behind the dedicated spotter and a building corner ahead of the dedicated spotter).
 - (II) Be positioned to effectively gauge the clearance distance.
 - (III) Where necessary, use equipment that enables the dedicated spotter to communicate directly with the operator.
- (IV) Give timely information to the operator so that the required clearance distance can be maintained.
- (iii) An elevated warning line, or barricade (not attached to the crane), in view of the operator (either directly or through video equipment), equipped with flags or similar high-visibility markings, to prevent electrical contact. However, this provision does not apply to work covered by 29 CFR 1926, Subpart V.
- (iv) Insulating link/device.
- (I) An insulating link/device installed at a point between the end of the load line (or below) and the load.
 - (II) For work covered by 29 CFR 1926, Subpart V, the requirement in Subsubpart (c)(1)(D)(iv)(I) of this Rule applies only when working inside the 29 CFR 1926.950 Table V-1 clearance distances.
- (v) Non-conductive rigging if the rigging may be within the Table A distance during the operation.
- (vi) If the equipment is equipped with a device that automatically limits range of movement, it shall be used and set to prevent any part of the equipment, load line or load (including rigging and lifting accessories) from breaching the minimum approach distance established under Part (c)(1)(C) of this Rule.
- (vii) If a tag line is used, it shall be of the non-conductive type.
- (viii) Barricades forming a perimeter at least 10 feet

- away from the equipment to prevent unauthorized personnel from entering the work area. In areas where obstacles prevent the barricade from being at least 10 feet away, the barricade shall be as far from the equipment as feasible.
- (ix) Workers other than the operator shall be prohibited from touching the load line above the insulating link/device and crane.
- (x) Only personnel essential to the operation shall be permitted to be in the area of the crane and load.
- (xi) The equipment shall be properly grounded.
- (xii) Insulating line hose or cover-up shall be installed by the utility owner/operator except where such devices are unavailable for the line voltages involved.
- (E) The procedures developed to comply with Part (c)(1)(D) of this Rule are documented and immediately available on-site.
- (F) The equipment user and utility owner/operator meet with the operator and the other workers who will be in the area of the equipment or load to review the procedures that will be implemented to prevent breaching the minimum approach distance established in Part (c)(1)(C) of this Rule and prevent electrocution.
- (G) The procedures developed to comply with Part (c)(1)(D) of this Rule are implemented.
- (H) The utility owner/operator and all employers of employees involved in the work shall identify one person who will direct the implementation of the procedures. The person identified in accordance with this paragraph shall direct the implementation of the procedures and shall have the authority to stop work at any time to ensure safety.
- (I) If a problem occurs implementing the procedures being used to comply with Part (c)(1)(D) of this Rule, or indicating that those procedures are inadequate to prevent electrocution, the employer shall safely stop
- operations and either develop new procedures to comply with Part (c)(1)(D) of this Rule or have the utility owner/operator deenergize and visibly ground or relocate the power line before resuming work.
- (J) Devices originally designed by the manufacturer for use as: a safety device (see 13 NCAC 07F .0918), operational aid, or a means to prevent power line contact or electrocution, when used to comply with this Section, shall meet the manufacturer's procedures for use and conditions of use.
- (d) Equipment While Traveling.
- (1) This Paragraph establishes procedures and criteria that must be met for equipment traveling under a power line on the construction site with no load.
- (2) The employer shall ensure that:
- (A) The boom/mast and boom/mast support system are lowered sufficiently to meet the requirements of this Paragraph.
- (B) The clearances specified in Table B of this Rule are maintained.
- (C) The effects of speed and terrain on equipment movement (including movement of the boom/mast) are considered so that those effects do not cause the minimum clearance distances specified in Table B of this Rule to be breached
- (D) Dedicated spotter. If any part of the equipment while traveling will get closer than 20 feet of the power line, the employer shall ensure that a dedicated spotter who is in continuous contact with the operator is used. The dedicated spotter shall:
- (i) Be positions to effectively gauge the clearance distance.
- (ii) Where necessary, use equipment that enables the dedicated spotter to communicate directly with the operator.
- (iii) Give timely information to the operator so that the required clearance distance can be maintained.
- (E) Additional precautions for traveling in poor visibility. When traveling at night, or in conditions of poor visibility, in addition to the measures specified in Parts (d)(2)(A) through (d)(2)(D) of this Rule, the employer shall ensure that:

(i) The power lines are illuminated or another means of identifying the location of the lines shall be used.

(ii) A safe path of travel is identified and used.

<u>Table A – Minimum Clearance Distances</u> <u>Voltage</u> <u>(nominal, kV, alternating current)</u>	<u>Minimum clearance distance (feet)</u>
<u>Up to 50</u>	<u>10</u>
<u>Over 50 to 200</u>	<u>15</u>
<u>Over 200 to 350</u>	<u>20</u>
<u>Over 350 to 500</u>	<u>25</u>
<u>Over 500 to 750</u>	<u>35</u>
<u>Over 750 to 1,000</u>	<u>45</u>
<u>Over 1,000</u>	<u>(as established by a qualified engineer or by the owner or operator of the power line who is a qualified person with respect to electrical power transmission and distribution)</u>
<u>Note: The value that follows "to" is up to and includes the value. For example, over 50 to 200 means up to and including 200 kV.</u>	

Table B – Minimum Clearance Distances While Traveling
With No Load and Boom/Mast Lowered

<u>Voltage</u> <u>(nominal, kV, alternating current)</u>	<u>While Traveling Minimum Clearance Distance</u> <u>(feet)</u>
<u>Up to 0.75</u>	<u>4 (while traveling/boom lowered)</u>
<u>Over .75 to 50</u>	<u>6 (while traveling/boom lowered)</u>
<u>Over 50 to 345</u>	<u>10 (while traveling/boom lowered)</u>
<u>Over 345 to 750</u>	<u>16 (while traveling/boom lowered)</u>
<u>Over 750 to 1,000</u>	<u>20 (while traveling/boom lowered)</u>
<u>Over 1,000</u>	<u>(as established by the power line owner/operator or qualified engineer who is a qualified person with respect to electrical power transmission and distribution.</u>

Authority G.S. 95-131.

13 NCAC 07F .0914 WIRE ROPE

(a) Selection and Installation Criteria.

- (1) Selection of replacement wire rope shall be in accordance with the requirements of this Rule and the recommendations of the wire rope manufacturer, the equipment manufacturer, or a qualified person.
- (2) Boom hoist reeving.
 - (A) Fiber core ropes shall not be used for boom hoist reeving, except for derricks.
 - (B) Rotation resistant ropes shall be used for boom hoist reeving only where the requirements of Subparagraph (a)(3) of this Rule are met.
- (3) Rotation resistant ropes.
 - (A) Definitions.
 - (i) Type I rotation resistant wire rope ("Type I"). Type I rotation resistant rope is stranded rope constructed to

have little or no tendency to rotate or, if guided, transmits little or no torque. It has at least 15 outer strands and comprises an assembly of at least three layers of strands laid helically over a center in two operations. The direction of lay of the outer strands is opposite to that of the underlying layer.

- (ii) Type II rotation resistant wire rope ("Type II"). Type II rotation resistant rope is stranded rope constructed to have resistance to rotation. It has at least 10 outer strands and comprises an assembly of two or more layers of strands laid helically over a center in two or three operations. The

- direction of lay of the outer strands is opposite to that of the underlying layer.
- (iii) Type III rotation resistant wire rope ("Type III"). Type III rotation resistant rope is stranded rope constructed to have limited resistance to rotation. It has no more than nine outer strands, and comprises an assembly of two layers of strands laid helically over a center in two operations. The direction of lay of the outer strands is opposite to that of the underlying layer.
- (B) Requirements.
- (i) Types II and III with an operation design factor of less than five shall not be used for duty cycle or repetitive lifts.
- (ii) Rotation resistant ropes (including Types I, II and III) shall have an operating design factor of no less than 3.5.
- (iii) Type I shall have an operating design factor of no less than five, except where the wire rope manufacturer and the equipment manufacturer approves the design factor, in writing.
- (iv) Types II and III shall have an operating design factor of no less than five, except where the requirements of Subparagraph (a)(3)(C) of this Rule are met.
- (C) When Types II and III with an operation design factor of less than five are used (for non-duty cycle, non-repetitive lifts), the following requirements shall be met for each lifting operation:
- (i) A qualified person shall inspect the rope in accordance with Subparagraph (b)(1) of this Rule. The rope shall be used only if the qualified person determines that there are no deficiencies constituting a hazard. In making this determination, more than one broken wire in any one rope lay shall be considered a hazard.
- (ii) Operations shall be conducted in such a manner and at such speeds as to minimize dynamic effects.
- (iii) Each lift made under these provisions shall be recorded in the monthly and annual inspection documents. Such prior uses shall be considered by the qualified person in determining whether to use the rope again.
- (D) Additional requirements for rotation resistant ropes for boom hoist reeving.
- (i) Rotation resistant ropes shall not be used for boom hoist reeving, except where the requirements of Subpart (a)(3)(D)(ii) of this Rule are met.
- (ii) Rotation resistant ropes may be used as boom hoist reeving when load hoists are used as boom hoists for attachments such as luffing attachments or boom and mast attachment systems. Under these conditions, the following requirements shall be met:
- (I) The drum shall provide a first layer rope pitch diameter of not less than 18 times the nominal diameter of the rope used.
- (II) The requirements in 13 NCAC 07F .0916(v)(1) (irrespective of the date of manufacture of the equipment), and 13 NCAC 07F .0916(v)(2).
- (III) The requirements of ANSI/ASME B30.5-2004, Section 5-1.3.2(a), (a)(2) through (a)(4), (b) through (d), except that the minimum pitch diameter for sheaves used in

- multiple rope reeving is 18 times the nominal diameter of the rope used instead of the value of 16 specified in Section 5-1.3.2(d).
- (IV) All sheaves used in the boom hoist reeving system shall have a rope pitch diameter of not less than 18 times the nominal diameter of the rope used.
- (V) The operating design factor for the boom hoist reeving system shall be not less than 5.
- (VI) The operating design factor for these ropes shall be the total minimum breaking force of all parts of rope in the system divided by the load imposed on the rope system when supporting the static weights of the structure and the load within the equipment's rated capacity.
- (VII) When provided, a power-controlled lowering system shall be capable of handling rated capacities and speeds as specified by the manufacturer.
- (4) Wire rope clips used in conjunction with wedge sockets shall be attached to the unloaded dead end of the rope only, except that the use of devices specifically designed for dead-ending rope in a wedge socket is permitted.
- (5) Socketing shall be done in the manner specified by the manufacturer of the wire rope or fitting.
- (6) Prior to cutting a wire rope, seizings shall be placed on each side of the point to be cut. The length and number of seizings shall be in accordance with the wire rope manufacturer's instructions.
- (b) Inspection of Wire Ropes.
- (1) Shift inspection.
- (A) A competent person shall complete a visual inspection prior to commencement of crane operations during each shift. The inspection shall consist of observation of wire ropes (running and standing) that are reasonable likely to be in use during the shift for apparent deficiencies, including those listed in Part (b)(1)(B) of this Rule. Untwisting (opening) of wire rope or booming down is not required as part of this inspection.
- (B) Apparent deficiencies.
- (i) Category I. Apparent deficiencies in this category include the following:
- (I) Distortion of the wire rope structure such as kinking, crushing, unstranding, birdcaging, signs of core failure or steel core protrusion between the outer strands.
- (II) Corrosion.
- (III) Electric arc (from a source other than power lines) or heat damage.
- (IV) Improperly applied end connections.
- (V) Corroded, cracked, bent, or worn end connections (such as from severe service).
- (ii) Category II. Apparent deficiencies in this category are:
- (I) Visibly broken wires in running wire ropes: six randomly distributed broken wires in one rope lay or three broken wires in one strand in one rope lay, where a rope lay is the length along the rope in which one strand makes a

- complete revolution around the rope;
 - (II) Visibly broken wires in rotation resistant ropes: two randomly distributed broken wires in six rope diameters or four randomly distributed broken wires in 30 rope diameters;
 - (III) Visibly broken wires in pendants or standing wire ropes: more than two broken wires in one rope lay located in rope beyond end connections and/or more than one broken wire at an end connection; and
 - (IV) A diameter reduction of more than five percent from nominal diameter.
- (iii) Category III. Apparent deficiencies in this category include the following:
 - (I) In rotation resistant wire rope, core protrusion or other distortion indicating core failure.
 - (II) Electrical contact with a power line.
 - (III) A broken strand.
- (C) Critical Review Items. The competent person shall give particular attention to:
 - (i) Rotation resistant wire rope in use.
 - (ii) Wire rope being used for boom hoists and luffing hoists, particularly at reverse bends.
 - (iii) Wire rope at flange points, crossover points and repetitive pickup points on drums.
 - (iv) Wire rope adjacent to end connections.
 - (v) Wire rope at and on equalizer sheaves.
- (D) Removal from service.
 - (i) If a deficiency in Category I is identified, an immediate determination shall be made by the competent person as to whether the deficiency constitutes a safety hazard. If the deficiency is determined to constitute a safety hazard, operations involving use of the wire rope in question shall be prohibited until:
 - (I) The wire rope is replaced, or
 - (II) If the deficiency (other than power line contact) is localized, the problem is corrected by removing the damaged section of the wire rope; the undamaged portion may continue to be used. Joining lengths of wire rope by splicing is prohibited. Repair of wire rope that contacted an energized power line is also prohibited.
 - (ii) If a deficiency in Category II is identified, the employer shall comply with Option A or Option B, as follows:
 - (I) Option A. Consider the deficiency to constitute a safety hazard where it meets the wire rope manufacturer's established criterion for removal from service or meets a different criterion that the wire rope manufacturer has approved in writing for that specific wire rope. If the deficiency is considered a safety hazard, operations involving use of the wire rope in

- question shall be prohibited until the wire rope is replaced, or the damage is removed in accordance with all of the requirements and restrictions in Subsubpart (b)(1)(D)(i)(II) of this Rule.
- (II) Option B. Institute the alternative measures specified in Subpart (b)(1)(D)(iii) of this Rule.
- (iii) Alternative measures for a Category II deficiency. The wire rope may continue to be used if the employer ensures that the following measures are implemented:
- (I) A qualified person assesses the deficiency in light of the load and other conditions of use and determines it is safe to continue to use the wire rope as long as the conditions established under this paragraph are met.
- (II) A qualified person establishes the parameters for the use of the equipment with the deficiency, including a reduced maximum rated capacity.
- (III) A qualified person establishes a specific number of broken wires, broken strands, or diameter reduction that, when reached, will require the equipment to be taken out of service until the wire rope is replaced or the damage is removed in accordance with all of the requirements and restrictions in Subsubpart (b)(1)(D)(i)(II) of this Rule.
- (IV) A qualified person sets a time limit, not to exceed 30 days from the date the deficiency is first identified, by which the wire rope shall be replaced, or the damage removed in accordance with all of the requirements and restrictions in Subsubpart (b)(1)(D)(i)(II) of this Rule.
- (V) The workers who will conduct the shift inspections are informed of this deficiency and the measures taken under this Paragraph.
- (VI) The qualified person's findings and procedures in Subsubparts (b)(1)(D)(iii)(I) through (b)(1)(D)(iii)(IV) of this Rule are documented.
- (iv) If a deficiency in Category III is identified, operations involving use of the wire rope in question shall be prohibited until:
- (I) The wire rope is replaced, or
- (II) If the deficiency (other than power line contact) is localized, the problem is corrected by severing the wire rope in two; the undamaged portion may continue to be used. Joining lengths of wire rope

- by splicing is prohibited. Repair of wire rope that contacted an energized power line is also prohibited.
- (v) Where a wire rope is required to be removed from service under this Section, either the equipment (as a whole) or the hoist with that wire rope shall be tagged-out, in accordance with 13 NCAC 07F .0916(g)(1), until the wire rope is repaired or replaced.
- (2) Monthly inspection.
- (A) Each month an inspection shall be conducted in accordance with Subparagraph (b)(1) of this Rule (shift inspection).
- (B) Wire ropes on equipment shall not be used until an inspection under this paragraph demonstrates that no corrective action under Part (b)(1)(D) of this Rule is required.
- (C) The inspection shall be documented according to 13 NCAC 07F .0915(e)(3) (monthly inspection documentation).
- (3) Annual/comprehensive.
- (A) At least every 12 months, wire ropes in use on equipment shall be inspected by a qualified person in accordance with Subparagraph (b)(1) of this Rule (shift inspection).
- (B) In addition, at least every 12 months, the wire ropes in use on equipment shall be inspected by a qualified person, as follows:
- (i) The inspection shall be for deficiencies of the types listed in Part (b)(1)(B) of this Rule.
- (ii) The inspection shall be complete and thorough, covering the surface of the entire length of the wire ropes, with particular attention given to:
- (I) Critical review items listed in Part (b)(1)(C) of this Rule.
- (II) Those sections that are normally hidden during shift and monthly inspections.
- (III) Wire rope in contact with saddles, equalizer sheaves or other sheaves where rope travel is limited.
- (IV) Wire rope subject to reverse bends.
- (V) Wire rope passing over sheaves.
- (VI) Wire rope at or near terminal ends.
- (iii) Exception: In the event an inspection under Part (b)(3)(B) of this Rule is not feasible due to existing set-up and configuration of the equipment (such as where an assist crane is needed) or due to site conditions (such as a dense urban setting), such inspections shall be conducted as soon as it becomes feasible, but no longer than an additional 6 months for running ropes and, for standing ropes, at the time of disassembly.
- (C) If a deficiency is identified, an immediate determination shall be made by the qualified person as to whether the deficiency constitutes a safety hazard.
- (i) If the deficiency is determined to constitute a safety hazard, operations involving the use of the wire rope in question shall be prohibited until:
- (I) The wire rope is replaced, or
- (II) If the deficiency is localized, the problem is corrected by severing the wire rope in two; the undamaged portion may continue to be used. Joining lengths of wire rope by splicing is prohibited.
- (ii) If the qualified person determines that, though not presently a safety hazard, the deficiency needs to be

monitored, the employer shall ensure that the deficiency is checked in the monthly inspections.

(D) The inspection shall be documented according to 13 NCAC 07F .0915(f)(7) (annual/comprehensive inspection documentation).

(4) Rope lubricants that are of the type that hinder inspection shall not be used.

Authority G.S. 95-131.

13 NCAC 07F .0915 INSPECTIONS

(a) Modified equipment.

(1) Equipment that has had modifications or additions which affect the safe operation of the equipment (such as modifications or additions involving a safety device or operator aid, critical part of a control system, power plant, braking system, load-sustaining structural components, load hook, or in-use operating mechanism) or capacity shall be inspected by a qualified person after such modifications/additions have been completed, prior to initial use. The inspection shall meet the following requirements:

(A) The inspection shall ensure that the modifications or additions have been done in accordance with the approval obtained pursuant to 13 NCAC 07F .0911 (Equipment Modifications).

(B) The inspection shall include functional testing.

(2) Equipment shall not be used until an inspection under this paragraph demonstrates that the requirements of Part (a)(1)(A) of this Rule have been met.

(b) Repaired/adjusted equipment.

(1) Equipment that has had a repair or adjustment that relates to safe operation (such as: a repair or adjustment to a safety device or operator aid, or to a critical part of a control system, power plant, braking system, load-sustaining structural components, load hook, or in-use operating mechanism), shall be inspected by a qualified person after such a repair or adjustment has been completed, prior to initial use. The inspection shall meet the following requirements:

(A) The qualified person shall determine if the repair/adjustment meets manufacturer equipment criteria (where applicable and available).

(B) Where manufacturer equipment criteria are unavailable or inapplicable, the qualified person shall:

(i) Determine if a qualified engineer is needed to develop criteria for the repair/adjustment. If a qualified engineer is not needed, the employer shall ensure that the criteria are developed by the qualified person. If a qualified engineer is needed, the employer shall ensure that they are developed by a qualified engineer.

(ii) Determine if the repair/adjustment meets the criteria developed in accordance with Subpart (b)(1)(B)(i) of this Rule.

(iii) The inspection shall include functional testing

(iv) Equipment shall not be used until an inspection under this paragraph demonstrates that the repair/adjustment meets the requirements of Part (b)(1)(A) of this Rule (or, where applicable, Part (b)(1)(B) of this Rule).

(c) Post-assembly.

(1) Upon completion of assembly, the equipment shall be inspected by a qualified person to ensure that it is configured in accordance with manufacturer equipment criteria.

(2) Where manufacturer equipment criteria are unavailable, a qualified person shall:

(A) Determine if a qualified engineer familiar with the type of equipment involved is needed to develop criteria for the equipment configuration. If a qualified engineer is not needed, the employer shall ensure that the criteria are developed by the qualified person. If a qualified engineer is needed, the employer shall ensure that they are developed by a qualified engineer.

(B) Determine if the equipment meets the criteria developed in accordance with Part (c)(2)(A) of this Rule.

(3) Equipment shall not be used until an inspection under this paragraph demonstrates that the equipment is configured in accordance with the applicable criteria.

(d) Each shift.

(1) A competent person shall complete a visual inspection prior to commencement of crane operations during each shift. The inspection shall consist of observation for apparent deficiencies. Disassembly is not required as part of this inspection unless the results of the

visual inspection or trial operation indicate that further investigation necessitating disassembly is needed. Determinations made in conducting the inspection shall be reassessed in light of observations made during operation. At a minimum the inspection shall include the following:

- (A) Control mechanisms for maladjustments interfering with proper operation.
 - (B) Control and drive mechanisms for apparent wear of components and contamination by lubricants, water or other foreign matter.
 - (C) Air, hydraulic, and other pressurized lines for deterioration or leakage, particularly those which flex in normal operation.
 - (D) Hydraulic system for proper fluid level.
 - (E) Hooks and latches for deformation, cracks, wear, or damage such as from chemicals or heat.
 - (F) Wire rope reeving for compliance with the manufacturer's specifications.
 - (G) Wire rope, in accordance with 13 NCAC 07F .0914(b)(1).
 - (H) Electrical apparatus for malfunctioning, signs of apparent deterioration, dirt or moisture accumulation.
 - (I) Tires (when in use) for proper inflation and condition.
 - (J) Ground conditions around the equipment for proper support, including ground settling under and around outriggers and supporting foundations, ground water accumulation, or similar conditions.
 - (K) The equipment for level position, both shift and after each move and setup.
 - (L) Operator cab windows for cracks, breaks, or other deficiencies that would hamper the operator's view.
 - (M) Rails, rail stops, rail clamps and supporting surfaces when the equipment has rail traveling.
 - (N) Safety devices and operational aids for proper operation.
- (2) If any deficiency in Parts (d)(1)(A) through (d)(1)(N) of the Rule (or in additional inspection items required to be checked for specific types of equipment in accordance with other Rules of this Section) is identified, an immediate determination shall be made by the competent person as to whether the deficiency constitutes a safety hazard. If the deficiency is

determined to constitute a safety hazard, the equipment shall be removed from service until it has been corrected.

- (3) If any deficiency in Part (d)(1)(N) of this Rule (safety devices/operational aids) is identified, the action specified in 13 NCAC 07F .0917 and .0918 shall be taken prior to using the equipment.

(e) Monthly.

- (1) Each month the equipment is in service it shall be inspected in accordance with Paragraph (d) of this Rule (each shift).
- (2) Equipment shall not be used until an inspection under this paragraph demonstrates that no corrective action under Subparagraphs (d)(2) and (d)(3) of this Rule is required.
- (3) Documentation.
 - (A) The following information shall be documented by the employer that conducts the inspection:
 - (i) The items checked and the results of the inspection.
 - (ii) The name and signature of the person who conducted the inspection and the date.
 - (B) This document shall be retained for a minimum of three months.

(f) Annual/comprehensive.

- (1) At least every 12 months the equipment shall be inspected by a qualified person in accordance with Paragraph (d) of this Rule (each shift), except that the corrective action set forth in this paragraph shall apply.
- (2) In addition, at least every 12 months, the equipment shall be inspected by a qualified person for the following:
 - (A) Equipment structure (including the boom and, if equipped, the jib):
 - (i) Structural members: deformed, cracked, or corroded.
 - (ii) Bolts, rivets and other fasteners: loose, failed or corroded.
 - (iii) Welds for cracks.
 - (B) Sheaves and drums for cracks, damage, or wear.
 - (C) Parts such as pins, bearings, shafts, gears, rollers and locking devices for distortion, cracks or wear.
 - (D) Brake and clutch system parts, linings, pawls and ratchets for wear.
 - (E) Safety devices and operational aids for proper operation.
 - (F) Gasoline, diesel, electric, or other power plants for safety-related problems (such as leaking exhaust and emergency shut-down feature), condition and proper operation.

- (G) Chains and chain drive sprockets for wear of sprockets and chain stretch.
- (H) Travel steering, brakes, and locking devices, for proper operation.
- (I) Tires for damage or wear.
- (J) Hydraulic, pneumatic and other pressurized hoses, fittings and tubing, as follows:
 - (i) Flexible hose or its junction with the fittings for indications of leaks.
 - (ii) Threaded or clamped joints for leaks.
 - (iii) Outer covering of the hose for blistering, abnormal deformation or other signs of failure.
 - (iv) Outer surface of a hose, rigid tube, or fitting for indications of abrasion or scrubbing.
- (K) Hydraulic and pneumatic pumps and motors, as follows:
 - (i) Performance indicators: noise or vibration, low operating speed, abrasion or scrubbing.
 - (ii) Loose bolts or fasteners.
 - (iii) Shaft seals and joints between pump sections for leaks.
- (L) Hydraulic and pneumatic valves, as follows:
 - (i) Spools: sticking, improper return to neutral, and leaks.
 - (ii) Leaks.
 - (iii) Valve housing cracks.
 - (iv) Relief valves: failure to reach correct pressure (if there is a manufacturer procedure for checking pressure, it shall be followed).
- (M) Hydraulic and pneumatic cylinders, as follows:
 - (i) Drifting caused by fluid leaking across the piston.
 - (ii) Rod seals and welded joints for leaks.
 - (iii) Cylinder rods for scores, nicks, or dents.
 - (iv) Case (barrel) for dents.
 - (v) Rod eyes and connecting joints: loose or deformed.
- (N) Outrigger pads/floats and slider pads for wear or cracks.
- (O) Slider pads for wear or cracks.
- (P) Electrical components and wiring for cracked or split insulation and loose or corroded terminations.
- (Q) Warning labels and decals originally supplied with the equipment by the manufacturer or otherwise required under this Section: missing or unreadable.
- (R) Originally equipped operator seat: missing.
- (S) Operator seat: unusable.
- (T) Originally equipped steps, ladders, handrails, guards: missing.
- (U) Steps, ladders, handrails, guards: in unusable/unsafe condition.
- (3) This inspection shall include functional testing to determine that the equipment as configured in the inspection is functioning properly.
- (4) If any deficiency is identified, an immediate determination shall be made by the qualified person as to whether the deficiency constitutes a safety hazard or, though not yet a safety hazard, needs to be monitored in the monthly inspections.
- (5) If the qualified person determines that a deficiency is a safety hazard, the equipment shall be removed from service until it has been corrected.
- (6) If the qualified person determines that, though not presently a safety hazard, the deficiency needs to be monitored, the employer shall ensure that the deficiency is checked in the monthly inspections.
- (7) Documentation of annual/comprehensive inspection. The following information shall be documented and maintained by the employer that conducts the inspection:
 - (A) The items checked and the results of the inspection.
 - (B) The name and signature of the person who conducted the inspection and the date.
 - (C) This document shall be retained for a minimum of 12 months.
- (g) Severe Service. Where the severity of use/conditions is such that there is a reasonable probability of damage or wear (such as loading that may have exceeded rated capacity, shock loading that may have exceeded rated capacity, prolonged exposure to a corrosive atmosphere), the employer shall stop using the equipment and a qualified person shall:
 - (1) Inspect the equipment for structural damage.
 - (2) In light of the use/conditions, determine whether any items/conditions listed in Paragraph (f) of this Rule need to be inspected; if so, the qualified person shall inspect those items/conditions.
 - (3) If a deficiency is found, the employer shall follow the requirements in Subparagraphs (f)(4) through (f)(6) of this Rule.

(h) Equipment not in regular use. Equipment that has been idle for three months or more shall be inspected by a qualified person in accordance with the requirements of Paragraph (e) of this Rule (Monthly) before initial use.

(i) Any part of a manufacturer's procedures regarding inspections that relate to safe operation (such as to a safety device or operator aid, critical part of a control system, power plant, braking system, load-sustaining structural components, load hook, or in-use operating mechanism) that is more comprehensive or has a more frequent schedule than the requirements of this Rule shall be followed. Additional documentation requirements by the manufacturer are not required.

Authority G.S. 95-131.

13 NCAC 07F .0916 OPERATION OF EQUIPMENT

(a) The employer shall comply with all manufacturer procedures applicable to the operational functions of equipment, including its use with attachments.

(b) Unavailable operation procedures.

(1) Where the manufacturer procedures are unavailable, the employer shall develop and ensure compliance with all procedures necessary for the safe operation of the equipment and attachments.

(2) Procedures for the operational controls shall be developed by a qualified person.

(3) Procedures related to the capacity of the equipment shall be developed and signed by a qualified engineer familiar with the equipment.

(c) Accessibility of procedures.

(1) The procedures applicable to the operation of the equipment, including rated capacities (load charts), recommended operating speeds, special hazard warnings, instructions, and operator's manual, shall be readily available in the cab at all times for use by the operator.

(2) Where rated capacities are available in the cab only in electronic form: in the event of a failure which makes the rated capacities inaccessible, the operator shall immediately cease operations or follow safe shut-down procedures until the rated capacities (in electronic or other form) are available.

(d) The operator shall not engage in any practice that diverts his/her attention while actually engaged in operating the crane, such as the use of cell phones (other than when used for signal communications) or other attention-diverting activities.

(e) Authority to Stop Operation. Whenever there is a concern as to safety, the operator shall have the authority to stop and refuse to handle loads until safety has been ensured.

(f) Leaving the equipment unattended. The operator shall not leave the controls while the load is suspended.

(g) Tag-out.

(1) Tagging out of service equipment/functions. Where the employer has taken the equipment out of service, a tag shall be placed in the cab stating that the equipment is out of service and

is not to be used. Where the employer has taken a function(s) out of service, a tag shall be placed in a conspicuous position stating that the function is out of service and not to be used.

(2) Response to tag-out or maintenance/do not operate signs.

(A) If there is a warning (tag-out or maintenance/do not operate) sign on the equipment or starting control, the operator shall not activate the switch or start the equipment until the sign has been removed by a person authorized to remove it, or until the operator has verified that:

(i) No one is servicing, working on, or otherwise in a dangerous position on the machine.

(ii) The equipment has been repaired and is working properly.

(B) If there is a warning (tag-out or maintenance/do not operate) sign on any other switch or control, the operator shall not activate that switch or control until the sign has been removed by a person authorized to remove it, or until the operator has verified that the requirements in Subparts (g)(2)(A)(i) and (g)(2)(A)(ii) of this Rule have been met.

(h) Before starting the engine, the operator shall verify that all controls are in the proper starting position and that all personnel are in the clear.

(i) Storm Warning. When a local storm warning has been issued, the competent person shall determine whether it is necessary to implement manufacturer recommendations for securing the equipment.

(j) The operator shall be familiar with the equipment and its proper operation. If adjustments or repairs are necessary, the operator shall promptly inform the person designated by the employer to receive such information and, where there are successive shifts, to the next operator.

(k) If the competent person determines that there is a slack rope condition requiring re-spooling of the rope, it shall be verified (before starting to lift) that the rope is seated on the drum and in the sheaves as the slack is removed.

(l) The competent person shall consider the effect of meteorological conditions such as wind, rain, ice, or snow on equipment stability and rated capacity.

(m) Compliance with rated capacity.

(1) The equipment shall not be operated in excess of its rated capacity.

(2) The operator shall not be required to operate the equipment in a manner that would violate Subparagraph (m)(1) of this Rule.

(3) Load weight. The operator shall verify that the load is within the rated capacity of the

equipment by at least one of the following methods:

- (A) The weight of the load shall be determined from a reliable source (such as the load's manufacturer), by a reliable calculation method (such as calculating a steel beam from measured dimensions and a known per foot weight), or by other equally reliable means. In addition, when requested by the operator, this information shall be provided to the operator prior to the lift; or
- (B) The operator shall begin hoisting the load to determine, using a load weighing device, load moment indicator, rated capacity indicator, or rated capacity limiter, if it exceeds 75 percent of the maximum rated capacity at the longest radius that will be used during the lift operation. If it does, then the lift is considered to be a critical lift and the operator shall not proceed with the lift until he/she verifies the weight of the load in accordance with Part (m)(3)(A) of this Rule.

(n) Work Area Control.

(1) Swing radius hazards.

- (A) The requirements in Part (n)(1)(B) of this Rule apply where there are accessible areas in which the equipment's rotating superstructure (whether permanently or temporarily mounted) poses a reasonable foreseeable risk of:
 - (i) Striking and injuring an employee; or
 - (ii) Pinching/crushing an employee against another part of the equipment or another object.
- (B) To prevent employees from entering these hazard areas, the employer shall:
 - (i) Instruct employees assigned to work on or near the equipment ("authorized personnel") in how to recognize struck-by and pinch/crush hazard areas posed by the rotating superstructure.
 - (ii) Erect and maintain control lines, warning lines, railing or similar barriers to mark the boundaries of the hazard areas. Exception: where it is neither feasible to erect

such barriers on the ground nor on the equipment, the hazard areas shall be clearly marked by a combination of warning signs (such as "Danger – Swing/Crush Zone") and high visibility markings on the equipment that identify the hazard areas. In addition, the employer shall train the employees to understand what these markings signify.

(C) Protecting employees in the hazard area.

- (i) Before an employee goes to a location in the hazard area that is out of view of the operator, the employee (or someone instructed by the employee) shall ensure that the operator is informed that he/she is going to that location.
- (ii) Where the operator knows that an employee went to a location covered by Subparagraph (n)(1)(C)(i) of this Rule, the operator shall not rotate the superstructure until the operator:
 - (I) Gives a warning that is understood by the employee as a signal that the superstructure is about to be rotated and allows time for the employee to get to a safe position, or
 - (II) Is informed in accordance with a pre-arranged system of communication that the employee is in a safe position.

(2) Multiple equipment coordination. Where any part of a crane/derrick is within the working radius of another crane/derrick, the controlling entity shall institute a system to coordinate operations. If there is no controlling entity, the employers shall institute such a system.

- (o) The boom or other parts of the equipment shall not contact any obstruction.
- (p) The equipment shall not be used to drag or pull loads sideways.

- (q) On wheel-mounted equipment, no loads shall be lifted over the front area, except as permitted by the manufacturer.
- (r) The operator shall test the brakes each time a load that is 90% or more of the maximum line pull is handled by lifting the load a few inches and applying the brakes. In duty cycle and repetitive lifts where each lift is 90% or more of the maximum line pull, this requirement applies to the first lift but not to successive lifts.
- (s) Neither the load nor the boom shall be lowered below the point where less than two full wraps of rope remain on their respective drums.
- (t) Keeping Clear of the Load.
- (1) Hoisting routes that minimize the exposure of employees to hoisted loads shall be used.
 - (2) While the operator is not moving a suspended load, no employee shall be within the fall zone, except for employees:
 - (A) Engaged in hooking, unhooking or guiding a load, or
 - (B) Engaged in the initial attachment of the load to a component structure, or
 - (C) Operating a concrete hopper or concrete bucket.
 - (3) When employees are engaged in hooking, unhooking, or guiding the load, or in the initial connection of a load to a component or structure and are within the fall zone, the following criteria shall be met:
 - (A) The materials being hoisted shall be rigged to prevent unintentional displacement.
 - (B) Hooks with self-closing latches or their equivalent shall be used. Exception: "J" hooks are permitted to be used for setting wooden trusses.
 - (C) The materials shall be rigged by a qualified rigger.
 - (4) Receiving a load. Only employees needed to receive a load shall be permitted to be within the fall zone when a load is being landed.
 - (5) During a tilt-up or tilt-down operation:
 - (A) No employee shall be directly under the load.
 - (B) Only employees' essential to the operation shall be in the fall zone (but not directly under the load).
- (u) Traveling with a load.
- (1) Traveling with a load is prohibited if the practice is prohibited by the manufacturer.
 - (2) When traveling with a load, the employer shall ensure that:
 - (A) A competent person supervises the operation, determines if it is necessary to reduce rated capacity, and makes determinations regarding load position, boom location, ground support, travel route, overhead obstructions, and speed of movement necessary to ensure safety.

- (B) The determinations of the competent person required in Part (u)(2)(A) of this Rule are implemented.
 - (C) For equipment with tires, tire pressure specified by the manufacturer is maintained.
- (v) Free Fall and Controlled Load Lowering.
- (1) Boom free fall prohibitions.
 - (A) The use of equipment in which the boom is designed to free fall (live boom) is prohibited in each of the following circumstances.
 - (i) An employee is in the fall zone of the boom or load.
 - (ii) An employee is being hoisted.
 - (iii) The load or boom is directly over a power line, or over any part of the area extending the 13 NCAC 07F .0913, Table A clearance distance to each side of the power line.
 - (iv) The load is over a shaft.
 - (v) The load is over a cofferdam, except where there are no employees in the fall zone.
 - (vi) Lifting operations are taking place in a refinery or tank farm.
 - (B) The use of equipment in which the boom is designed to free fall (live boom) is permitted only where none of the circumstances listed in Part (v)(1)(A) of this Rule are present and:
 - (i) The equipment was manufactured prior to October 31, 1984, or
 - (ii) The equipment is a floating crane/derrick or a land crane/derrick on a vessel/flotation device.
 - (2) Preventing boom free fall. Where the use of equipment with a boom that is designed to free fall (live boom) is prohibited (see Part (v)(1)(A) of this Rule), the boom hoist shall have a secondary mechanism or device designed to prevent the boom from falling in the event the primary system used to hold or regulate the boom hoist fails as follows:
 - (A) Friction drums shall have:
 - (i) A friction clutch and, in addition, a braking device, to allow for controlled boom lowering.
 - (ii) A secondary braking or locking device, which is manually or automatically

engaged, to back-up the primary brake while the boom is held (such as a secondary friction brake or a ratchet and pawl device).

- (B) Hydraulic drums shall have an integrally mounted holding device or internal static brake to prevent boom hoist movement in the event of hydraulic failure.
- (C) Neither clutches nor hydraulic motors shall be considered brake or locking devices for purposes of this Section.
- (D) Hydraulic boom cylinders shall have an integrally mounted holding device.
- (3) Preventing uncontrolled retraction. Hydraulic telescoping booms shall have an integrally mounted holding device to prevent boom from retracting in the event of hydraulic failure.
- (4) Load line free fall. In each of the following circumstances, controlled load lowering is required and free fall of the load line hoist is prohibited.
 - (A) An employee is directly under the load.
 - (B) An employee is being hoisted.
 - (C) The load is directly over a power line, or over any part of the area extending the 13 NCAC 07F .0913, Table A clearance distance to each side of the power line.
 - (D) The load is over a shaft or cofferdam.

(w) Rotational speed of the equipment shall be such that the load does not swing out beyond the radius at which it can be controlled.

(x) A tag or restrain line shall be used if necessary to prevent rotation of the load that would be hazardous.

(y) The brakes shall be adjusted in accordance with manufacturer procedures to prevent unintended movement.

(z) The operator shall obey a stop (or emergency stop) signal, irrespective of who gives it.

(aa) Swinging locomotive cranes. A locomotive crane shall not be swung into a position where it is reasonably foreseeable that railway cars on an adjacent track could strike it, until it is determined that cars are not being moved on the adjacent track and that proper flag protection has been established.

(bb) Counterweight/ballast.

- (1) The following applies to equipment other than tower cranes:
 - (A) Equipment shall not be operated without the counterweight or ballast in place as specified by the manufacturer.
 - (B) The maximum counterweight or ballast specified by the manufacturer for the equipment shall not be exceeded.

- (2) Counterweight/ballast requirements for tower cranes are specified in 13 NCAC 07F .0921(b)(8).

(cc) Multiple-Crane / Derrick Lifts – Supplemental Requirements.

- (1) Plan Development. Before beginning a crane/derrick operation in which more than one crane/derrick will be supporting the load, the operation shall be planned. The planning shall meet the following requirements:
 - (A) The plan shall be developed by a qualified person.
 - (B) The plan shall be designed to ensure that the requirements of this Section are met.
 - (C) Where the qualified person determines the engineering expertise is needed for the planning, the employer shall ensure that it is provided.
- (2) Plan Implementation.
 - (A) The multiple-crane / derrick lift shall be supervised by a person who meets the criteria for both a competent person and a qualified person, or by a competent person who is assisted by one or more qualified persons.
 - (B) The supervisor shall review the plan with all employees who will be involved with the operation.
- (3) The provisions of 13 NCAC 07F .0919(k) regarding communication with multiple cranes/derricks shall apply.

Authority G.S. 95-131.

13 NCAC 07F .0917 OPERATIONAL AIDS

(a) The devices listed in this section ("listed operational aids") are required on all equipment covered by this Section, unless otherwise specified.

(b) Operations shall not begin unless the listed operational aids are in proper working order, except where the employer meets the specified temporary alternative measures. More protective alternative measures specified by the crane/derrick manufacturer, if any, shall be followed.

(c) If a listed operational aid stops working properly during operations, the operator shall safely stop operations until the temporary alternative measures are implemented or the device is again working properly. If a replacement part is no longer available, the use of a substitute device that performs the same type of function is permitted and is not considered a modification under 13 NCAC 07F .0911.

(d) Category I operational aids and alternative measures. Operational aids listed in this Paragraph that are not working properly shall be repaired no later than seven days after the deficiency occurs. Exception: If the employer documents that it has ordered the necessary parts within seven days of the occurrence of the deficiency, the repair shall be completed within seven days of receipt of the parts.

- (1) Boom hoist limiting device.
 - (A) For equipment manufactured after December 16, 1969, a boom hoist limiting device is required. Temporary alternative measures (use at least one):
 - (i) Use a boom angle indicator.
 - (ii) Clearly mark the boom hoist cable (so that it can easily be seen by the operator) at a point that will give the operator sufficient time to stop the hoist to keep the boom within the minimum allowable radius. In addition, install mirrors or remote video cameras and displays if necessary for the operator to see the mark.
 - (iii) Clearly mark the boom hoist cable (so that it can easily be seen by a spotter) at a point that will give the spotter sufficient time to signal the operator and have the operator stop the hoist to keep the boom within the minimum allowable radius.
 - (B) If the equipment was manufactured on or before December 16, 1969, and was not originally equipped with a boom hoist limiting device, at least one of the measures in Subparts (d)(1)(A)(i) through (d)(1)(A)(iii) of this Rule shall be used, on a permanent basis.
- (2) Luffing jib limiting device. Equipment with a luffing jib shall have a luffing jib limiting device. Temporary alternative measures are the same as in Part (d)(1)(A) of this Rule, except to limit the movement of the luffing jib.
- (3) Anti two-blocking device.
 - (A) Telescopic boom cranes manufactured after February 28, 1992, shall be equipped with a device which automatically prevents damage from contact between the load block, overhaul bail, or similar component, and the boom tip (or upper block or similar component). The device(s) shall prevent such damage at all points where two-blocking could occur. Temporary alternative measures: Clearly mark the cable (so that it can easily be seen by the operator) at a point that will give the operator sufficient time to stop the hoist to prevent two-blocking, and
use a spotter when extending the boom.
 - (B) Lattice boom cranes.
 - (i) Lattice boom cranes manufactured after February 28, 1992, shall be equipped with a device that either automatically prevents damage and load failure from contact between the load block, overhaul ball, or similar component, and the boom tip (or fixed upper block or similar component), or warns the operator in time for the operator to prevent two-blocking. The device(s) shall prevent such damage/failure or provide adequate warning for all points where two-blocking could occur.
 - (ii) Lattice boom cranes, and derricks, manufactured more than one year after the effective date of this Section shall be equipped with a device which automatically prevents damage and load failure from contact between the load block, overhaul ball, or similar component, and the boom tip (or fixed upper block or similar component). The device(s) shall prevent such damage/failure at all points where two-blocking could occur.
 - (iii) Exception. The requirements in Subparts (d)(3)(B)(i) and (d)(3)(B)(ii) of this Rule do not apply to such lattice boom equipment when used for dragline, clamshell (grapple), magnet, drop ball, container handling, concrete bucket, marine operations that do not involve hoisting personnel, and pile driving work.
 - (iv) Temporary alternative measures. Clearly mark the cable (so that it can easily be seen by the operator) at a point that will give the operator sufficient time to stop the hoist to prevent two-blocking, or use a spotter.

(e) Category II operational aids and alternative measures. Operation aids listed in this paragraph that are not working properly shall be repaired no later than 30 days after the deficiency occurs. Exception: If the employer documents that it has ordered the necessary parts within seven days of the occurrence of the deficiency, and the part is not received in time to complete the repair in 30 days, the repair shall be completed within seven days of receipt of the parts.

- (1) Boom angle or radius indicator. The equipment shall have a boom angle or radius indicator readable from the operator's station. Temporary alternative measures: Radii or boom angle shall be determined by measuring the radii or boom angle with a measuring device.
- (2) Jib angle indicator if the equipment has a luffing jib. Temporary alternative measures: Radii or jib angle shall be determined by ascertaining the main boom angle and then measuring the radii or jib angle with a measuring device.
- (3) Boom length indicator if the equipment has a telescopic boom, except where the rated capacity is independent of the boom length. Temporary alternative measures: One of the following methods shall be used:
 - (A) Mark the boom with measured marks to calculate boom length; or
 - (B) Calculate boom length from boom angle and radius measurements; or
 - (C) Measure the boom with a measuring device.
- (4) Load weighing and similar devices. Equipment (other than derricks) manufactured after March 29, 2003 with a rated capacity over 6,000 pounds shall have at least one of the following: load weighing device, load moment (or rated capacity) indicator, or load moment (or rated capacity) limiter. Temporary alternative measures: The weight of the load shall be determined from a reliable source (such as the load's manufacturer), by a reliable calculation method (such as calculating a steel beam from measured dimensions and a known per foot weight), or by other equally reliable means. This information shall be provided to the operator prior to the lift.
- (5) The following devices are required on equipment manufactured more than one year after the effective date of this Section:
 - (A) Outrigger position (horizontal beam extension) sensor/monitor if the equipment has outriggers. Temporary alternative measures: the operator shall verify that the position of the outriggers is correct (in accordance with manufacturer procedures) before beginning

operations requiring outrigger deployment.

- (B) Hoist drum rotation indicator if the drum is not visible from the operator's station. Temporary alternative measures. Mark the drum. In addition, install mirrors or remote video cameras and displays if necessary for the operator to see the mark.

Authority G.S. 95-131.

13 NCAC 07F .0918 SAFETY DEVICES

(a) Safety Devices. The following safety devices are required on all equipment covered by this Section, unless otherwise specified:

- (1) Crane level indicator.
 - (A) The equipment shall have a crane level indicator that is either built into the equipment or is available on the equipment.
 - (B) If a built-in crane level indicator is not working properly, the indicator shall be tagged-out or removed.
 - (C) This requirement does not apply to portal cranes, derricks, floating cranes/derricks and land cranes/derricks on barges, pontoons, vessels or other means of flotation.
- (2) Boom stops, except for derricks and hydraulic booms.
- (3) Jib stops (if a jib is attached), except for derricks.
- (4) Equipment with foot pedal brakes shall have locks, except for portal cranes and floating cranes.
- (5) Hydraulic outrigger jacks shall have an integral holding device/check valve.
- (6) Equipment on rails shall have rail clamps and rail stops, except for portal cranes.

(b) Proper operation required. Operations shall not begin unless the devices listed in this section are in proper working order. If a device stops working properly during operations, the operator shall safely stop operations. Operations shall not resume until the device is again working properly. Alternative measures are not permitted to be used.

Authority G.S. 95-131.

13 NCAC 07F .0919 SIGNALS

(a) A signal person shall be provided in each of the following situations:

- (1) The point of operation, meaning the load travel or the area near or at load placement, is not in full view of the operator.
- (2) When the equipment is traveling, the view in the direction of travel is obstructed.

- (3) Due to site specific safety concerns, either the operator or the person handling the load determines that it is necessary.
- (b) Types of signals. Signals to operators shall be by hand, voice, audible, or new signals.
- (c) Hand signals.
 - (1) When using hand signals, the standard method as established in ASME B30.5-2004, Section 5.3.3.4 shall be used. Exception: where use of the standard method for hand signals is infeasible, or where an operation or use of an attachment is not covered in the standard method, non-standard hand signals may be used in accordance with Subparagraph (c)(2) of this Rule.
 - (2) Non-standard hand signals. When using non-standard hand signals, the signal person, operator, and lift supervisor (when there is one) shall contact each other prior to the operation and agree on the non-standard hand signals that will be used.
- (d) New signals. Signals other than hand, voice or audible signals may be used where the employer demonstrates that:
 - (1) The new signals provide at least equally effective communications as voice, audible, or Standard Method hand signals, or
 - (2) There is a national consensus standard for the new signals.
- (e) Use and Suitability.
 - (1) Prior to beginning operations, the operator, signal person, and lift supervisor (if there is one), shall contact each other and agree on the voice signals that will be used. Once the voice signals are agreed upon, these employees need not meet again to discuss voice signals unless another employee is substituted, there is confusion about the voice signals, or a voice signal is to be changed.
 - (2) Each voice signal shall contain the following three elements, given in the following order: function (such as hoist, boom, etc.), direction: distance and/or speed; function, stop command.
 - (3) The operator, signal person and lift supervisor (if there is one), shall be able to effectively communicate in the language used.
 - (4) The signals used (hand, voice, audible, or new), and means of transmitting the signals to the operator (such as direct line of sight, video, radio, etc.) shall be appropriate for the site conditions.
- (f) During operations requiring signals, the ability to transmit signals between the operator and signal person shall be maintained. If that ability is interrupted at any time, the operator shall safely stop operations requiring signals until it is reestablished and a proper signal is given and understood.
- (g) If the operator becomes aware of a safety problem and needs to communicate with the signal person, the operator shall safely

- stop operations. Operations shall not resume until the operator and signal person agree that the problem has been resolved.
- (h) Only one person gives signals to a crane/derrick at a time, except in circumstances covered by Paragraph (i) of this Rule.
- (i) Anyone who becomes aware of a safety problem shall alert the operator or signal person by giving the stop or emergency stop signal. (NOTE: 13 NCAC 07F .0916(z) requires the operator to obey a stop or emergency stop signal).
- (j) All directions given to the operator by the signal person shall be given from the operator's direction perspective.
- (k) Communication with multiple cranes/derricks. Where a signal person(s) is in communication with more than one crane/derrick, a system for identifying the crane/derrick that each signal is for shall be used, as follows:
 - (1) For each signal, prior to giving the function/direction, the signal person shall identify the crane/derrick the signal is for, or
 - (2) An equally effective method of identifying which crane/derrick the signal is for shall be used.
- (l) Hand signal chart. Hand signal charts shall be either posted on the equipment or readily available at the site.
- (m) Radio, Telephone or Other Electronic Transmission of Signals.
 - (1) The device(s) used to transmit signals shall be tested on site before beginning operations to ensure that the signal transmission is clear and reliable.
 - (2) Signal transmission shall be through a dedicated channel. Exception: Multiple cranes/derricks and one or more signal persons may share a dedicated channel for the purpose of coordinating operations.
 - (3) The operator's reception of signals shall be made by a hands-free system.

Authority G.S. 95-131.

13 NCAC 07F .0920 HOISTING PERSONNEL

The requirements of this Rule are supplemental to the other requirements in this Section and apply when one or more employees are hoisted.

- (1) The use of equipment to hoist employees is prohibited except where the employer demonstrates that the erection, use, and dismantling of conventional means of reaching the worksite, such as a personnel hoist, ladder, stairway, aerial lift, elevating work platform, or scaffold, would be more dangerous, or is not possible because of the project's structural design or worksite conditions.
- (2) Use of personnel platform.
 - (a) When using equipment to hoist employees, the employees shall be in a personnel platform that meets the requirements of Paragraph (5) of this Rule.
 - (b) Exceptions: A personnel platform is not required for hoisting employees:

- (i) Into and out of drill shafts that are up to and including eight feet in diameter (see Item (13) of this Rule for requirements for hoisting these employees).
 - (ii) In pile driving operations (see Item (14) of this Rule for requirements for hoisting these employees).
 - (iii) Solely for transfer to or from a marine worksite in a marine hoisted personnel transfer device (see Item (15) of this Rule for requirements for hoisting these employees).
 - (iv) In storage tank (steel or concrete), shaft and chimney operations (see Item (16) of this Rule for requirements for hoisting these employees).
- (3) Equipment set-up.
 - (a) The equipment shall be uniformly level, within one percent of level grade, and located on footing that a qualified person has determined to be sufficiently firm and stable.
 - (b) Equipment with outriggers shall have them all extended and locked. The amount of extension shall be the same for all outriggers and in accordance with manufacturer procedures and load charts.
- (4) Equipment criteria.
 - (a) Capacity: use of suspended personnel platforms. The total load (with the platform loaded, including the hook, load line and rigging) shall not exceed 50 percent of the rated capacity for the radius and configuration of the equipment, except during proof testing.
 - (b) Capacity: use of boom-attached personnel platforms. The total weight of the loaded personnel platform shall not exceed 50 percent of the rated capacity for the radius and configuration of the equipment (except during proof testing).
 - (c) Capacity: hoisting personnel without a personnel platform. When hoisting personnel without a personnel platform pursuant to Sub-Item (2)(b) of this Rule, the total load (including the hook, load line, rigging and any other equipment that imposes a load) shall not exceed 50 percent of the
rated capacity for the radius and configuration of the equipment, except during proof testing.
 - (d) When the occupied personnel platform is in a stationary working position, the load and boom hoist brakes, swing brakes, and operator actuated secondary braking and locking features (such as pawls or dogs) or automatic secondary brakes shall be engaged.
 - (e) Devices.
 - (i) Equipment (except for derricks) with a variable angle boom shall be equipped with:
 - (A) A boom angle indicator, readily visible to the operator.
 - (B) A boom hoist limiting device.
 - (ii) Equipment with a luffing jib shall be equipped with:
 - (A) A jib angle indicator, readily visible to the operator.
 - (B) A jib hoist limiting device.
 - (iii) Equipment with telescoping booms shall be equipped with a device to indicate the boom's extended length clearly to the operator, or shall have measuring marks on the boom.
 - (iv) Anti-two-block. A device which automatically prevents damage and load failure from contact between the load block, overhaul ball, or similar component, and the boom tip (or fixed upper block or similar component) shall be used. The device(s) shall prevent damage/failure at all points where two-blocking could occur. Exception: This device is not required when hoisting personnel in pile driving operations. Instead, Sub-Item (14)(b) of this Rule specifies how to prevent two-blocking during such operations.
 - (v) Controlled load lowering. The load line hoist drum

- shall have a system, other the load line hoist brake, which regulates the lowering rate of speed of the hoist mechanism. This system or device shall be used when hoisting personnel.
(NOTE: free fall of the load line hoist is prohibited (see 13 NCAC 07F .0916(v)(4)); the use of equipment in which the boom hoist mechanism can free fall is also prohibited (see 13 NCAC 07F .0916(v)(1)(A)).
- (vi) Proper operation required. Personnel hoisting operations shall not begin unless the devices listed in this section are in proper working order. If a device stops working properly during such operations, the operator shall safely stop operations. Personnel hoisting operations shall not resume until the device is again working properly. Alternative measures are not permitted.
- (f) Direct attachment of a personnel platform to a luffing jib is prohibited.
- (5) Personnel platform criteria.
- (a) The personnel platform and attachments/suspension system shall be designed for hoisting personnel by a qualified engineer or a qualified person competent in structural design.
- (b) The system used to connect the personnel platform to the equipment shall allow the platform to remain within 10 degrees of level, regardless of boom angle.
- (c) The suspension system shall be designed to minimize tipping of the platform due to movement of employees occupying the platform.
- (d) The personnel platform itself (excluding the guardrail system and personal fall arrest system anchorages), shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load.
- (e) All welding of the personnel platform and its components shall be performed by a certified welder familiar with the weld grades, types and material specified in the platform design.
- (f) The personnel platform shall be equipped with a guardrail system which meets the requirements of 29 CFR 1926, Subpart M, and shall be enclosed at least from the toeboard to mid-rail with either solid construction material of expanded metal having openings no greater than ½ inch (1.27 cm). Points to which personal fall arrest systems are attached shall meet the anchorage requirements in 29 CFR 1926, Subpart M.
- (g) A grab rail shall be installed inside the entire perimeter of the personnel platform except for access gates/doors.
- (h) Access gates/doors. If installed, access gates/doors of all types (including swinging, sliding, folding, or other types) shall:
- (i) Not swing outward.
- (ii) Be equipped with a device that prevents accidental opening.
- (i) Headroom shall be sufficient to all employees to stand upright in the platform.
- (j) In addition to the use of hard hats, employees shall be protected by overhead protection on the personnel platform when employees are exposed to falling objects. The platform overhead protection shall not obscure the view of the operator or platform occupants (such as wire mesh that has up to ½ inch openings), unless full protection is necessary.
- (k) All edges exposed to employee contact shall be smooth enough to prevent injury.
- (l) The weight of the platform and its rated capacity shall be conspicuously posted on the platform with a plate or other permanent marking.
- (6) Personnel platform loading.
- (a) The personnel platform shall not be loaded in excess of its rated capacity.
- (b) Use.
- (i) Personnel platforms shall be used only for employees, their tools, and the materials necessary to do their work. Platforms shall not be used to hoist materials or tools when not hoisting personnel.
- (ii) Exception: materials and tools to be used during the

- lift, if secured and distribute in accordance with Sub-Item (6)(c) of this Rule, may be in the platform for trial lifts.
- (c) Materials and tools shall be:
 - (i) Secured to prevent displacement.
 - (ii) Evenly distributed within the confines of the platform while it is suspended.
- (d) The number of employees occupying the personnel platform shall not exceed the maximum number the platform was designed to hold or the number required to perform the work, whichever is less.
- (7) Attachment and rigging.
 - (a) Hooks and other detachable devices.
 - (i) Hooks used in connection between the hoist line and the personnel platform (including hooks on overhaul ball assemblies, lower load blacks, bridle legs, or other attachment assemblies or components) shall be:
 - (A) Of a type that can be closed and locked, eliminating the throat opening.
 - (B) Closed and locked when attached.
 - (ii) Shackles used in place of hooks shall be of the alloy anchor type, with either:
 - (A) A bolt, nut and retaining pin, in place; or
 - (B) Of the screw type, with the screw pin secured from accidental removal.
 - (iii) Where other detachable devices are used, they shall be of the type that can be closed and locked to the same extent as the devices addressed in Sub-Items (7)(a)(i) and (7)(a)(ii) of this Rule. Such devices shall be closed and locked when attached.
 - (b) Rope Bridle. When a rope bridle is used to suspend the personnel platform, each bridle leg shall be connected to a master link or shackle in a manner that ensures that the load is evenly divided among the bridle legs.
 - (c) Rigging hardware (including wire rope, shackles, rings, master links, and other rigging hardware) and hooks shall be capable of supporting, without failure, at least five times the maximum intended load applied or transmitted to that component. Where rotation resistant rope is used, the slings shall be capable of supporting without failure at least ten times the maximum intended load.
 - (d) Eyes in wire rope slings shall be fabricated with thimbles.
 - (e) Bridles and associated rigging for suspending the personnel platform shall be used only for the platform and the necessary employees, their tools and materials necessary to do their work, and shall not be used for any other purpose when not hoisting personnel.
- (8) Trial lift and inspection.
 - (a) A trial lift with the unoccupied personnel platform loaded at least to the anticipated lift weight shall be made from ground level, or any other location where employees will enter the platform, to each location at which the platform is to be hoisted and positioned. Where there is more than one location to be reached from a single set-up position, either individual trial lifts for each location, or a single trial lift for all locations, shall be performed.
 - (b) The trial lift shall be performed immediately prior to each shift in which personnel will be hoisted. In addition, the trial lift shall be repeated prior to hoisting employees in each of the following circumstances:
 - (i) The equipment is moved and set up on a new location or returned to a previously used location.
 - (ii) The lift route is changed, unless the competent person determines that the new route presents no new factors affecting safety.
 - (c) The competent person shall determine that:
 - (i) Safety devices and operational aids required by this Section are activated and functioning properly. Other safety devices and

- drums and in sheaves.
- (ii) Nothing interferes with the equipment or the personnel platform in the course of the trial lift.
 - (iii) The lift will not exceed 50 percent of the equipment's rated capacity at any time during the lift.
 - (iv) The load radius to be used during the lift has been accurately determined.
 - (d) Immediately after the trial lift, the competent person shall:
 - (i) Conduct a visual inspection of the equipment, base support or ground, and personnel platform, to determine whether the trial lift has exposed any defect or problem or produced any adverse effect.
 - (ii) Confirm that, upon completion of the trial lift process, the test weight has been removed.
 - (e) Immediately prior to each lift:
 - (i) The platform shall be hoisted a few inches and inspected by a competent person to ensure that it is secure and properly balanced.
 - (ii) The following conditions shall be determined by a competent person to exist before the lift of personnel proceeds:
 - (A) Hoist ropes shall be free of deficiencies in accordance with 13 NCAC 07F .0914(b)(1).
 - (B) Multiple part lines shall not be twisted around each other.
 - (C) The primary attachment shall be centered over the platform.
 - (D) If the load rope is slack, the hoisting system shall be inspected to ensure that all ropes are properly seated on
 - (f) Any condition found during the trial lift and subsequent inspection(s) that fails to meet a requirement of this Section or otherwise creates a safety hazard shall be corrected before hoisting personnel.
- (9) Proof Testing.
- (a) At each jobsite, prior to hoisting employees on the personnel platform, and after any repair or modification, the platform and rigging shall be proof tested to 125 percent of the platform's rated capacity. The proof test may be done concurrently with the trial lift.
 - (b) The platform shall be lowered by controlled load lowering, braked and held in a suspended position for a minimum of five minutes with the test load evenly distributed on the platform.
 - (c) After proof testing, a competent person shall inspect the platform and rigging to determine if the test has been passed. If any deficiencies are found that pose a safety hazard, the platform and rigging shall not be used to hoist personnel unless the deficiencies are corrected, the test is repeated, and a competent person determines that the test has been passed.
 - (d) Personnel hoisting shall not be conducted until the competent person determines that the platform and rigging have successfully passed the proof test.
- (10) Work practices.
- (a) Hoisting of the personnel platform shall be performed in a slow, controlled, cautious manner, with no sudden movements of the equipment or the platform.
 - (b) Platform occupants shall:
 - (i) Keep all parts of the body inside the platform during raising, lowering, and horizontal movement. This provision does not apply to an occupant of the platform when necessary to position the platform or while performing the duties of a signal person.
 - (ii) Not stand, sit on, or work from the top or intermediate rail or toeboard, or use any

- other means/device to raise their working height.
 - (iii) Not pull the platform out of plumb in relation to the hoisting equipment.
- (c) Before employees exit or enter a hoisted personnel platform that is not landed, the platform shall be secured to the structure where the work is to be performed, unless securing to the structure would create a greater hazard.
- (d) If the platform is tied to the structure, the operator shall not move the platform until the operator receives confirmation that it is freely suspended.
- (e) Tag lines shall be used when necessary to control the platform.
- (f) Platforms without controls. Where the platform is not equipped with controls, the equipment operator shall remain at the equipment controls at all times while the platform is occupied.
- (g) Platforms with controls. Where the platform is equipped with controls, the following shall be met at all times while the platform is occupied:
 - (i) The occupant using the controls in the platform shall be a qualified person with respect to their use, including the safe limitations of the equipment and hazards associated with its operation.
 - (ii) The equipment operator shall be at the equipment controls, or in the personnel platform, or on site and in view of the equipment.
 - (iii) The platform operating manual shall be in the platform or on the equipment.
- (h) Environmental conditions.
 - (i) Wind. When wind speed (sustained or gusts) exceeds 20 mph at the personnel platform, a qualified person shall determine if, in light of the wind conditions, it is not safe to lift personnel. If it is not, the lifting operation shall not begin (or, if already in progress, shall be terminated).
- (ii) Other weather and environmental conditions. A qualified person shall determine if, in light of indications of dangerous weather conditions, or other impending or existing danger, it is not safe to lift personnel. If it is not, the lifting operation shall not begin (or, if already in progress, shall be terminated).
- (i) Employees being hoisted shall remain in direct communication with the signal person (where used), or the operator.
- (j) Fall protection.
 - (i) Except over water, employees occupying the personnel platform shall be provided and use a personal fall arrest system. The system shall be attached to a structural member within the personnel platform.
 - (ii) The fall arrest system, including the attachment point (anchorage) used to comply with Sub-Item (10)(j)(i) of this Rule, shall meet the requirements in 29 CFR 1926.502.
NOTE: When working over or near water, the requirements of 29 CFR 1926.106 apply.
- (k) Other load lines.
 - (i) No lifts shall be made on any other of the equipment's load lines while personnel are being hoisted, except in pile driving operations.
 - (ii) Factory-produced boom-mounted personnel platforms that incorporate a winch as original equipment: loads are permitted to be hoisted by such a winch while employees occupy the personnel platform only where the load on the winch line does not exceed 500 pounds and does not exceed the rated capacity of the winch and platform.
- (l) Traveling – equipment other than derricks.

- (i) Hoisting of employees while the equipment is traveling is prohibited, except for:
 - (A) Equipment that travels on fixed rails, or
 - (B) Where the employer demonstrates that there is no less hazardous way to perform the work.
 - (C) This exception does not apply to rubber-tired equipment.
 - (ii) Where employees are hoisted while the equipment is traveling, the following criteria shall be met:
 - (A) Crane travel shall be restricted to a fixed track or runway.
 - (B) Where a runway is used, it shall be a firm, level surface designed, prepared and designated as a path of travel for the weight and configuration of the equipment being used to lift and travel with the personnel platform. An existing surface may be used as long as it meets these criteria.
 - (C) Travel shall be limited to boom length.
 - (D) The boom shall be parallel to the direction of travel, except where it is safer to do otherwise.
 - (E) A complete trial run shall be performed to test the route of travel before employees are allowed to occupy the platform. This trial run can be performed at the same time as the trial lift required by
- Item (8) of this Rule which tests the lift route.
- (m) Traveling – derricks. Derricks are prohibited from traveling while personnel are hoisted.
 - (11) Pre-lift meeting. A pre-lift meeting shall be:
 - (a) Held to review the applicable requirements of this Rule and the procedures that will be followed.
 - (b) Attended by the equipment operator, signal person (if used for the lift), employees to be hoisted, and the person responsible for the task to be performed.
 - (c) Held prior to the trial lift at each new work location, and shall be repeated for any employees newly assigned to the operation.
 - (12) Hoisting personnel near power lines. Hoisting personnel within 20 feet of a power line that is up to 350 kV, and hoisting personnel within 50 feet of a power line that exceeds 350 kV, is prohibited, except for work covered by 29 CFR 1926, Subpart V (Power Transmission and Distribution). If the operating voltage of the power line exceeds 1,000 kV, then the minimum clearance distance shall be established by a qualified engineer or by the owner or operator of the power line who is a qualified person with respect to electrical power transmission and distribution.
 - (13) Hoisting personnel in drill shafts. When hoisting employees into and out of drill shafts that are up to and including 8 feet in diameter, the following requirements shall be met:
 - (a) The employee shall be in either a personnel platform or on a boatswain's chair.
 - (b) If using a personnel platform, Paragraphs (1) through (12) of this Rule apply.
 - (c) If using a boatswain's chair:
 - (i) The following Items of this Rule apply: (1), (3), (4)(a), (4)(c), (4)(d), 5(a), (5)(b), (5)(c), (6)(a), (6)(b)(i), (6)(c)(i), (7), (8), (10)(a), (10)(f), (10)(h), (10)(i), (10)(k)(i), (11) and (12). Where the terms "personnel platform" or "platform" are used in these Paragraphs, substitute them with "boatswain's chair."
 - (ii) A signal person shall be stationed at the shaft opening.

- (iii) The employee shall be hoisted in a slow, controlled descent and ascent.
 - (iv) The employee shall use personal fall protection equipment, including a full body harness, attached independent of the crane/derrick.
 - (v) The fall protection equipment shall meet the applicable requirements in 29 CFR 1926.502.
 - (vi) The boatswain's chair itself (excluding the personal fall arrest system anchorages), shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load.
 - (vii) No more than one person shall be hoisted at a time.
- (14) Hoisting personnel for pile driving operations. When hoisting an employee in pile driving operations, the following requirements shall be met:
- (a) The employee shall be in a personnel platform or boatswain's chair.
 - (b) For lattice boom cranes, clearly mark the cable (so that it can easily be seen by the operator) at a point that will give the operator sufficient time to stop the hoist to prevent two-blocking, or use a spotter. For telescopic boom cranes, clearly mark the cable (so that it can be easily seen by the operator) at a point that will give the operator sufficient time to stop the hoist to prevent two-blocking, and use a spotter.
 - (c) If using a personnel platform, Items (2) through (12) of this Rule apply.
 - (d) If using a boatswain's chair:
 - (i) The following Items of this Rule apply: (1), (3), (4)(a), (4)(c), (4)(d), 5(a), (5)(b), (5)(c), (6)(a), (6)(b)(i), (6)(c)(i), (7), (8), (9), (10)(a), (10)(f), (10)(h), (10)(i), (10)(k)(i), (11) and (12). Where the terms "personnel platform" or "platform" are used in these Paragraphs, substitute them with "boatswain's chair."
 - (ii) The employee shall be hoisted in a slow, controlled descent and ascent.
- (iii) The employee shall use personal fall protection equipment, including a full body harness, independently attached to the lower load block or overhall ball.
 - (iv) The fall protection equipment shall meet the applicable requirements in 29 CFR 1926.502.
- (15) Hoisting personnel for marine transfer. When hoisting employees solely for transfer to or from a marine worksite, the following requirements shall be met:
- (a) The employee shall be in either a personnel platform or a marine hoisted personnel transfer device.
 - (b) If using a personnel platform, Paragraphs (1) through (12) of this Rule apply.
 - (c) If using a marine hoisted personnel transfer device:
 - (i) The following Items of this Rule apply: (1), (3)(b), (4)(a), (4)(c), (4)(d), (5)(a) through (5)(e), (5)(l), (6)(a), (7), (8), (9), (10)(a), (10)(h), (10)(i), (10)(j)(ii), (10)(k)(i), (10)(l), (11) and (12). Where the terms "personnel platform" or "platform" are used in these paragraphs, substitute them with "marine hoisted personnel transfer device."
 - (ii) The transfer device shall be used only for transferring employees.
 - (iii) The number of employees occupying the transfer device shall not exceed the maximum number it was designed to hold.
 - (iv) Each employee shall wear a U.S. Coast Guard personal flotation device approved for industrial use.
- (16) Hoisting personnel for storage tank (steel or concrete), shaft and chimney operations. When hoisting an employee in storage tank (steel or concrete), shaft and chimney operations, the following requirements shall be met:
- (a) The employee shall be in a personnel platform except where use of a personnel platform is infeasible; in such a case, a boatswain's chair shall be used.

- (b) If using a personnel platform, Items (1) through (12) of this Rule apply.
- (c) If using a boatswain's chair:
 - (i) The following Items of this Rule apply: (1), (3), (4)(a), (4)(c), (4)(d), (5)(a), (5)(b), (5)(c), (6)(a), (6)(b)(i), (6)(c)(i), (7), (8), (10)(a), (10)(f), (10)(h), (10)(i), (10)(k)(i), (11) and (12). Where the terms "personnel platform" or "platform" are used in these paragraphs, substitute them with "boatswain's chair."
 - (ii) The employees shall be hoisted in a slow, controlled descent and ascent.
 - (iii) The employee shall use personal fall protection equipment, including a full body harness, attached independent of the crane/derrick.
 - (iv) The fall protection equipment shall meet the applicable requirements in 29 CFR 1926.502.
 - (v) The boatswain's chair itself (excluding the personal fall arrest system anchorages), shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load.
 - (vi) No more than one person shall be hoisted at a time.

Authority G.S. 95-131.

13 NCAC 07F .0921 TOWER CRANES

- (a) This Rule contains supplemental requirements for tower cranes; all rules of this Section apply to tower cranes unless specified otherwise.
- (b) Erecting, climbing and dismantling.
 - (1) 13 NCAC 07F .0912 (assembly and disassembly of equipment) applies to tower cranes (except as otherwise specified), except that the term "assembly/disassembly" is replaced by "erecting, climbing and dismantling," and the term "disassembly" is replaced by "dismantling."
 - (2) Dangerous areas (self-erecting tower cranes). In addition to the requirement in 13 NCAC 07F .0912(g), for self-erecting tower cranes, the following applies: Employees shall not be in or under the tower, jib, or rotating portion of the crane during erecting, climbing and

- dismantling operations until the crane is secured in a locked position and the competent person in charge indicates it is safe to enter this area, unless the manufacturer's instructions direct otherwise and only the necessary personnel are permitted in this area.
- (3) Foundations and structural supports. Tower crane foundations and structural supports shall be designed by the manufacturer or a qualified engineer.
- (4) Addressing specific hazards. The requirements of 13 NCAC 07F .0912(j)(1) through (j)(9) apply. In addition, the A/D supervisor shall address the following:
 - (A) Foundations and structural supports. The A/D supervisor shall verify that tower crane foundations and structural supports are installed in accordance with their design.
 - (B) Loss of backward stability. Backward stability shall be considered before swinging self-erecting cranes or cranes on traveling or static undercarriages.
 - (C) Wind speed. Wind shall not exceed the speed recommended by the manufacturer or, where manufacturer does not specify this information, the speed determined by a qualified person.
- (5) Plumb tolerance. Towers shall be erected plumb to the manufacturer's tolerance and verified by a qualified engineer. Where the manufacturer does not specify plumb tolerance, the crane tower shall be plumb to a tolerance of at least 1:500 (approximately 1 inch in 40 feet).
- (6) Multiple tower crane jobsites. On jobsites where more than one fixed jib (hammerhead) tower crane is installed, the cranes shall be located so that no crane may come in contact with the structure of another crane. Cranes are permitted to pass over one another.
- (7) Climbing procedures. Prior to, and during, all climbing procedures (including inside climbing and top climbing), the employer shall:
 - (A) Comply with all manufacturer prohibitions.
 - (B) Have a qualified engineer verify that the host structure is strong enough to sustain the forces imposed through the braces, brace anchorages and supporting floors.
 - (C) Ensure that no part of the climbing procedure takes place when wind exceeds the speed recommended by the manufacturer or, where the manufacturer does not specify this

information, the speed determined by a qualified person.

(8) Counterweight/ballast.

- (A) Equipment shall not be erected, dismantled or operated without the amount and position of counterweight and/or ballast in place as specified by the manufacturer or a qualified engineer familiar with the equipment.
- (B) The maximum counterweight and/or ballast specified by the manufacturer or qualified engineer familiar with the equipment shall not be exceeded.

(c) Signs. The size and location of signs installed on tower cranes shall be in accordance with manufacturer specifications. Where these are unavailable, a qualified engineer familiar with the type of equipment involved shall approve in writing the size and location of any signs.

(d) Safety devices.

- (1) 13 NCAC 07F .0918 does not apply to tower cranes.
- (2) The following safety devices are required on all tower cranes unless otherwise specified:
 - (A) Boom stops on luffing boom type tower cranes.
 - (B) Jib stops on luffing boom type tower cranes if equipped with a jib attachment.
 - (C) Travel rail end stops at both ends of travel rail.
 - (D) Travel rail clamps on all travel bogies.
 - (E) Integrally mounted check valves on all load supporting hydraulic cylinders.
 - (F) Hydraulic system pressure limiting device.
 - (G) The following brakes, which shall automatically set in the event of pressure loss or power failure, are required:
 - (i) A hoist brake on all hoists.
 - (ii) Swing brake.
 - (iii) Trolley brake.
 - (iv) Rail travel brake.
 - (H) Deadman control or forced neutral return control (hand) levers.
 - (I) Emergency stop switch at the operator's station.
 - (J) Trolley end stops shall be provided at both ends of travel of the trolley.
- (3) Proper operation required. Operations shall not begin unless the devices listed in this section are in proper working order. If a device stops working properly during operations, the operator shall safely stop operations. Operations shall not resume until the device is again working properly.

Alternative measures are not permitted to be used.

(e) Operational aids.

- (1) 13 NCAC 07F .0917 does not apply to tower cranes.
- (2) The devices listed in this section ("operational aids") are required on all tower cranes covered by this Section, unless otherwise specified.
- (3) Operations shall not begin unless the operational aids are in proper working order, except where the employer meets the specified temporary alternative measures. More protective alternative measures specified by the tower crane manufacturer, if any, shall be followed.
- (4) If an operational aid stops working properly during operations, the operator shall safely stop operations until the temporary alternative measures are implemented or the device is again working properly. If a replacement part is no longer available, the use of a substitute device that performs the same type of function is permitted and is not considered a modification under 13 NCAC 07F .0911.
- (5) Category I operational aids and alternative measures. Operational aids listed in this paragraph that are not working properly shall be repaired no later than seven days after the deficiency occurs. Exception: if the employer documents that it has ordered the necessary parts within seven days of the occurrence of the deficiency, the repair shall be completed with seven days of receipt of the parts.
 - (A) Trolley travel limiting device. The travel of the trolley shall be restricted at both ends of the jib by a trolley travel limiting device to prevent the trolley from running into the trolley end stops. Temporary alternative measures:
 - (i) Option A. The trolley rope shall be marked (so it can be seen by the operator) at a point that will give the operator sufficient time to stop the trolley prior to the end stops.
 - (ii) Option B. A spotter shall be used when operations are conducted within 10 feet of the outer or inner trolley end stops.
 - (B) Boom hoist limiting device. The range of the boom shall be limited at the minimum and maximum radius. Temporary alternative measures: Clearly mark the cable (so it can be seen by the operator) at a point that will give the operator sufficient time

- to stop the boom hoist within the minimum and maximum boom radius, or use a spotter.
- (C) Anti two-blocking device. The tower crane shall be equipped with a device which automatically prevents damage from contact between the load block, overhaul ball, or similar component, and the boom tip (or fixed upper block or similar component). The device(s) shall prevent such damage at all points where two-blocking could occur. Temporary alternative measures: Clearly mark the cable (so it can be seen by the operator) at a point that will give the operator sufficient time to stop the hoist to prevent two-blocking, or use a spotter.
- (D) Hoist drum lower limiting device. Tower cranes manufactured more than one year after the effective date of this Section shall be equipped with a device that prevents the last two wraps of hoist cable from being spooled off the drum. Temporary alternative measures: Mark the cable (so it can be seen by the operator) at a point that will give the operator sufficient time to stop the hoist prior to the last two wraps of hoist cable being spooled off the drum, or use a spotter.
- (E) Load moment limiting device. The tower crane shall have a device that prevents moment overloading. Temporary alternative measures: A radius indicating device shall be used (if the tower crane is not equipped with a radius indicating device, the radius shall be measured to ensure the load is within the rated capacity of the crane). In addition, the weight of the load shall be determined from a reliable source (such as the load's manufacturer), by a reliable calculation method (such as calculating a steel beam from measured dimensions and a known per foot weight), or by other equally reliable means. This information shall be provided to the operator prior to the lift.
- (F) Hoist line pull limiting device. The capacity of the hoist shall be limited to prevent overloading, including each individual gear ratio if equipped with a multiple speed hoist transmission. Temporary alternative measures: The operator shall ensure that the weight of the load does not exceed the capacity of the hoist (including for each individual gear ratio if equipped with a multiple speed hoist transmission).
- (G) Rail travel limiting device. The travel distance in each direction shall be limited to prevent the travel bogies from running into the end stops or buffers. Temporary alternative measures: A spotter shall be used when operations are conducted within 10 feet of either end of the travel rail end stops.
- (H) Boom hoist drum positive locking device. The boom hoist drum shall be equipped with a device to positively lock the boom hoist drum. Temporary alternative measures: The device shall be manually set when required if an electric, hydraulic or automatic type is not functioning.
- (6) Category II operational aids and alternative measures. Operational aids listed in this paragraph that are not working properly shall be repaired no later than 30 days after the deficiency occurs. Exception: If the employer documents that it has ordered the necessary parts within seven days of the occurrence of the deficiency, and the part is not received in time to complete the repair in 30 days, the repair shall be completed within seven days of receipt of the parts.
- (A) Boom angle or hook radius indicator.
- (i) Luffing boom tower cranes shall have a boom angle indicator readable from the operator's station.
- (ii) Hammerhead tower cranes manufactured more than one year after the effective date of this Section shall have a hook radius indicator readable from the operator's station.
- (iii) Temporary alternative measures: Hook radii or boom angle shall be determined by measuring the hook radii or boom angle with a measuring device.
- (B) Trolley travel deceleration device. The trolley speed shall be automatically reduced prior to the trolley reaching the end limit in both directions. Temporary alternative measure: The operator shall reduce

the trolley speed when approaching the trolley end limits.

(C) Boom hoist deceleration device. The boom speed shall be automatically reduced prior to the boom reaching the minimum or maximum radius limit. Temporary alternative measure: The operator shall reduce the boom speed when approaching the boom maximum or minimum end limits.

(D) Load hoist deceleration device. The load speed shall be automatically reduced prior to the hoist reaching the upper limit. Temporary alternative measure: The operator shall reduce the hoist speed when approaching the upper limit.

(E) Wind speed indicator. A device shall be provided to display the wind speed and shall be mounted above the upper rotating structure on tower cranes. On self erecting cranes, it shall be mounted at or above the jib level. Temporary alternative measures: Use of wind speed information from a properly functioning indicating device on another tower crane on the same site, or a qualified person estimates the wind speed.

(F) Load indicating device. Cranes manufactured more than one year after the effective date of this Section shall have a device that displays the magnitude of the load on the hook. Displays that are part of load moment limiting devices that display the load on the hook meet this requirement. Temporary alternative measures: The weight of the load shall be determined from a reliable source (such as the load's manufacturer), by a reliable calculation method (such as calculating a steel beam from measured dimensions and a known per foot weight), or by other equally reliable means. This information shall be provided to the operator prior to the lift.

(f) Inspections.

(1) 13 NCAC 07F .0915 (Inspections) applies to tower cranes, except that the term "assembly" is replaced by "erection."

(2) Post-erection inspections. In addition to the requirements in 13 NCAC 07F .0915(c), the following requirements shall be met:

(A) A load test using certified weights, or scaled weights using a certified scale with a current certificate of

calibration, shall be conducted after each erection.

(B) The load test shall be conducted in accordance with the manufacturer's instructions. Where these instructions are unavailable, a qualified engineer familiar with the type of equipment involved shall develop written load test procedures.

(3) Monthly. The following additional items shall be included:

(A) Tower (mast) bolts and other structural bolts (for loose or dislodged condition) from the base of the tower crane up or, if the crane is tied to or braced by the structure, those above the upper-most brace support.

(B) The upper-most tie-in, braces, floor supports and floor wedges where the tower crane is supported by the structure, for loose or dislodged components.

Authority G.S. 95-131.

13 NCAC 07F .0922 DERRICKS

(a) This Rule contains supplemental requirements for derricks, whether temporary or permanently mounted; all rules of this Section apply to derricks unless specified otherwise. A derrick is powered equipment consisting of a mast or equivalent member that is held at or near the end by guys or braces, with or without a boom, and its hoisting mechanism. The mast/equivalent member and/or the load is moved by the hoisting mechanism (typically base-mounted) and operating ropes. Derricks include: A-frame, basket, breast, Chicago boom, gin pole (except gin poles used for erection of communication towers), guy, shearleg, stiffleg, and variations of such equipment.

(b) Operation – procedures.

(1) The following paragraphs of 13 NCAC 07F .0916 (Operation of Equipment) apply: Paragraphs (a), (b), (d), (f) through (m), (o) through (s), (u), (w) through (bb).

(2) Load chart contents. Load charts shall contain at least the following information:

(A) Rated capacity at corresponding ranges of boom angle or operating radii.

(B) Specific lengths of components to which the rated capacities apply.

(C) Required parts for hoist reeving.

(D) Size and construction of rope shall be included on the load chart or in the operating manual.

(3) Load chart location.

(A) Permanent installations. For permanently installed derricks with fixed lengths of boom, guy, and mast, a load chart shall be posted where it is

visible to personnel responsible for the operation of the equipment.

- (B) Non-permanent installations. For derricks that are not permanently installed, the load chart shall be readily available at the job site to personnel responsible for the operation of the equipment.

(c) Construction.

(1) General requirements.

- (A) Derricks shall be constructed to meet all stresses imposed on members and components when installed and operated in accordance with the manufacturer's/builder's procedures and within its rated capacity.
- (B) Welding of load sustaining members shall conform to recommended practices in ANSI/AWS D14.3-1994 or D1.1-2002.

(2) Guy derricks.

- (A) The minimum number of guys shall be six, with equal spacing, except where a qualified person or derrick manufacturer approves variations from these requirements and revises the rated capacity to compensate for such variations.
- (B) Guy derricks shall not be used unless the employer has the following guy information:
- (i) The number of guys.
 - (ii) The spacing around the mast.
 - (iii) The size, grade, and construction of rope to be used for each guy.
- (C) For guy derricks manufactured after December 18, 1970, in addition to the information required in Subparagraph (c)(2) of this Rule, the employer shall have the following guy information:
- (i) The amount of initial sag or tension
 - (ii) The amount of tension in guy line rope at anchor.
- (D) The mast base shall permit the mast to rotate freely with allowance for slight tilting of the mast caused by guy slack.
- (E) The mast cap shall:
- (i) Permit the mast to rotate freely.
 - (ii) Withstand tilting and cramping caused by the guy loads.
 - (iii) Be secured to the mast to prevent disengagement during erection.

- (iv) Be provided with means for attaching guy ropes.

(3) Stiffleg derricks.

- (A) The mast shall be supported in the vertical position by at least two stifflegs; one end of each shall be connected to the top of the mast and the other end securely anchored.
- (B) The stifflegs shall be capable of withstanding the loads imposed at any point of operation within the load chart range.
- (C) The mast base shall:
- (i) Permit the mast to rotate freely (when necessary).
 - (ii) Permit deflection of the mast without binding.
- (D) The mast shall be prevented from lifting out of its socket when the mast is in tension.
- (E) The stiffleg connecting member at the top of the mast shall:
- (i) Permit the mast to rotate freely (when necessary).
 - (ii) Withstand the loads imposed by the action of the stifflegs.
 - (iii) Be secured so as to oppose separating forces.

(4) Gin pole derricks.

- (A) Guy lines shall be sized and spaced so as to make the gin pole stable in both boomed and vertical positions. Exception: Where the size and/or spacing of guy lines do not result in the gin pole being stable in both boomed and vertical positions, the employer shall ensure that the derrick is not used in an unstable position.
- (B) The base of the gin pole shall permit movement of the pole (when necessary).
- (C) The gin pole shall be anchored at the base against horizontal forces (when such forces are present).

(5) Chicago boom derricks. The fittings for stepping the boom and for attaching the topping lift shall be arranged to:

- (A) Permit the derrick to swing at all permitted operating radii and mounting heights between fittings.
- (B) Accommodate attachment to the upright member of the host structure.
- (C) Withstand the forces applied when configured and operated in accordance with the manufacturer's/builder's procedures and within its rated capacity.
- (D) Prevent the boom or topping lift from lifting out under tensile forces.

(d) Anchoring and guying.

- (1) Load anchoring data developed by the manufacturer or a qualified person shall be used.
- (2) Guy derricks.
 - (A) The mast base shall be anchored.
 - (B) The guys shall be secured to the ground or other firm anchorage.
 - (C) The anchorage and guying shall be designed to withstand maximum horizontal and vertical forces encountered when operating within rated capacity with the particular guy slope and spacing specified for the application.
- (3) Stiffleg derricks.
 - (A) The mast base and stifflegs shall be anchored.
 - (B) The mast base and stifflegs shall be designed to withstand maximum horizontal and vertical forces encountered when operating within rated capacity with the particular stiffleg spacing and slope specified for the application.

(e) Swingers and hoists.

- (1) The boom, swinger mechanisms and hoists shall be suitable for the derrick work intended and shall be anchored to prevent displacement from the imposed loads.
- (2) Base-mounted drum hoists.
 - (A) Base mounted drum hoists shall meet the requirements in the following sections of ANSI/ASME B30.7-2001:
 - (i) Section 7-1.1 (Load ratings and markings).
 - (ii) Sections 7-1.2 (Construction), except: 7-1.2.13 (Operator's cab); 7-1.2.15 (Fire extinguishers).
 - (iii) Section 7-1.3 (Installation).
 - (iv) Applicable terms in Section 7-0.2 (Definitions).
 - (B) Load tests for new hoists. The employer shall ensure that new hoists are load tested to a minimum of 100% of rated capacity, but not more than 125% of rated capacity, unless otherwise recommended by the manufacturer. This requirement is met where the manufacturer has conducted this testing.
 - (C) Repaired or modified hoists. Hoists that have had repairs, modifications or additions affecting their capacity or safe operation shall be evaluated by a qualified person to determine if a load test is necessary. If it is, load testing shall be conducted in accordance with

Parts (e)(2)(B) and (e)(2)(D) of this Rule.

(D) Load test procedure. Load tests required by Parts (e)(2)(B) or (e)(2)(C) of this Rule shall be conducted as follows:

- (i) The test load shall be hoisted a vertical distance to ensure that the load is supported by the hoist and held by the hoist brake(s).
- (ii) The test load shall be lowered, stopped and held with the brake(s).
- (iii) The hoist shall not be used unless a competent person determines that the test has been passed.

(f) Operational aids.

- (1) 13 NCAC 07F .0917 (Operational aids) applies, except for 13 NCAC 07F .0917(d)(1) (Boom hoist limiting device), 13 NCAC 07F .0917(e)(1) (Boom angle or radius indicator) and 13 NCAC 07F .0917(e)(4) (Load weighing and similar devices).
- (2) Boom angle aid. The employer shall ensure that either:
 - (A) The boom hoist cable shall be marked with caution and stop marks. The stop marks shall correspond to maximum and minimum allowable boom angles. The caution and stop marks shall be in view of the operator, or a spotter who is in direct communication with the operator; or
 - (B) An electronic or other device that signals the operator in time to prevent the boom from moving past its maximum and minimum angles, or automatically prevents such movement, is used.
- (3) Load weight/capacity devices. Derricks manufactured more than one year after the effective date of this Section with a maximum rated capacity over 6,000 pounds shall have at least one of the following: load weighing device, load moment indicator, rated capacity indicator, or rated capacity limiter. Temporary alternative measures: The weight of the load shall be determined from a reliable source (such as the load's manufacturer), by a reliable calculation method (such as calculating a steel beam from measured dimensions and a known per foot weight), or by other equally reliable means. This information shall be provided to the operator prior to the lift.

(g) Post-assembly approval and testing – new or reinstalled derricks.

- (1) Anchorages.

- (A) Anchorage, including the structure to which the derrick is attached (if applicable), shall be approved by a qualified person.
- (B) If using a rock or hairpin anchorage, the qualified person shall determine if any special testing of the anchorage is needed. If so, it shall be tested accordingly.
- (2) Functional test. Prior to initial use, new or reinstalled derricks shall be tested by a competent person with no hook load to verify proper operation. This test shall include:
 - (A) Lifting and lowering the hook(s) through the full range of hook travel.
 - (B) Raising and lowering the boom through the full range of boom travel.
 - (C) Swinging in each direction through the full range of swing.
 - (D) Actuating the anti two-block and boom hoist limit devices (if provided).
 - (E) Actuating locking, limiting and indicating devices (if provided).
- (3) Load test. Prior to initial use, new or reinstalled derricks shall be load tested by a competent person. The test load shall meet the following requirements:
 - (A) Test loads shall be at least 100% and no more than 110% of the rated capacity, unless otherwise recommended by the manufacturer or qualified person, but in no event shall the test load be less than the maximum anticipated load.
 - (B) The test shall consist of:
 - (i) Hoisting the test load a few inches and holding to verify that the load is supported by the derrick and held by the hoist brake(s).
 - (ii) Swinging the derrick, if applicable, the full range of its swing, at the maximum allowable working radius for the test load.
 - (iii) Booming the derrick up and down within the allowable working radius for the test load.
 - (iv) Lowering, stopping and holding the load with the brake(s).
 - (C) The derrick shall not be used unless the competent person determines that the test has been passed.
- (4) Documentation. Tests conducted under this Paragraph shall be documented. The document shall contain the date, test results and the name of the tester. The document shall be retained until the derrick is re-tested or dismantled, whichever occurs first.
- (h) Load testing repaired or modified derricks. Derricks that have had repairs, modifications or additions affecting the derrick's capacity or safe operation shall be evaluated by a qualified person to determine if a load test is necessary. If it is, load testing shall be conducted and documented in accordance with Paragraph (g) of this Rule.
- (i) Power failure procedures. If power fails during operations, the derrick operator shall safely stop operations. This shall include:
 - (1) Setting all brakes or locking devices.
 - (2) Moving all clutch and other power controls to the off position.
- (j) Use of winch heads.
 - (1) Ropes shall not be handled on a winch head without the knowledge of the operator.
 - (2) While a winch head is being used, the operator shall be within reach of the power unit control lever.
- (k) Securing the boom.
 - (1) When the boom is being held in a fixed position, dogs, pawls, or other positive holding mechanisms on the boom hoist shall be engaged.
 - (2) When taken out of service for 30 days or more, the boom shall be secured by one of the following methods:
 - (A) Laid down.
 - (B) Secured to a stationary member, as nearly under the head as possible, by attachment of a sling to the load block.
 - (C) For guy derricks, lifted to a vertical position and secured to the mast.
 - (D) For stiffleg derricks, secured against the stiffleg.
- (l) The process of jumping the derrick shall be supervised by the A/D supervisor.
- (m) Derrick operations shall be conducted by and supervised by a competent person.
- (n) Inspections. In addition to the requirements in 13 NCAC 07F .0915, the following additional items shall be included in the inspections:
 - (1) Daily: Guys for proper tension.
 - (2) Annual.
 - (A) Gudgeon pin for cracks, wear, and distortion.
 - (B) Foundation supports for continued ability to sustain the imposed loads.
- (o) 13 NCAC 07F .0904 (Operator qualification and certification) does not apply.

Authority G.S. 95-131.

13 NCAC 07F .0923 FLOATING CRANES/DERRICKS AND LAND CRANES/DERRICKS ON BARGES

(a) This Rule contains supplemental requirements for floating cranes/derricks and land cranes/derricks on barges, pontoons, vessels or other means of flotation (vessel/flotation device); all Rules of this Section apply to floating cranes/derricks and land cranes/derricks on barges, pontoons, vessels or other means of flotation, unless specified otherwise. The requirements of this Rule do not apply when using jacked barges when the jacks are deployed to the river/lake/sea bed and the barge is fully supported by the jacks.

(b) General requirements. The requirements in Paragraphs (c) through (j) of this Rule apply to both floating cranes/derricks and land cranes/derricks on barges, pontoons, vessels or other means of flotation.

(c) Work area control.

- (1) The requirements of 13 NCAC 07F .0916(n) (Work area control) apply, except for Subparagraph (n)(1)(B)(ii).
- (2) The employer shall either:
 - (A) Erect and maintain control lines, warning lines, railings or similar barriers to mark the boundaries of the hazard areas, or
 - (B) The hazard areas shall be clearly marked by a combination of warning signs (such as "Danger – Swing/Crush Zone") and high visibility markings on the equipment that identify the hazard areas. In addition, the employer shall train the employees to understand what these markings signify.

(d) Keeping clear of the load. 13 NCAC 07F .0916(t) does not apply.

(e) Additional Safety devices. In addition to the safety devices listed in 13 NCAC 07F .0918, the following safety devices are required:

- (1) Barge, pontoon, vessel or other means of flotation and trim device. This shall be located in the cab or, where there is no cab, at the operator's station.
- (2) Horn.
- (3) Positive equipment house lock.
- (4) Wind speed and direction indicator. A competent person shall determine if wind is a factor that needs to be considered; if it needs to be considered, a wind speed and direction indicator shall be used.

(f) Operational aids. The operational aids listed in 13 NCAC 07F.0917 apply, except as follows:

- (1) An anti two-block device is required only when hoisting personnel or hoisting over an occupied coffer dam or shaft.
- (2) 13 NCAC 07F .0917(e)(4) (load weighing and similar devices) does not apply to dragline, clamshell (grapple), magnet, drop ball, container handling, concrete bucket, and pile driving work.

(g) Accessibility of procedures applicable to equipment operation. If the crane/derrick has a cab, the requirements of 13 NCAC 07F .0916(c) apply. If the crane/derrick does not have a cab:

- (1) Rated capacities (load charts) shall be posted at the operator's station. If the operator's station is moveable (such as with pendant-controlled equipment), the load charts shall be posted on the equipment.
- (2) Procedures applicable to the operation of the equipment (other than load charts), recommended operating speeds, special hazard warning, instructions and operators manual, shall be readily available on board.

(h) Inspections. In addition to meeting the requirements of 13 NCAC 07F .0915 for inspecting the crane/derrick, the employer shall ensure that the barge, pontoons, vessel or other means of flotation used to support a floating crane/derrick or land crane/derrick is inspected as follows:

- (1) Shift. The means used to secure/attach the equipment to the vessel/flotation device shall be inspected for proper condition, including wear, corrosion, loose or missing fasteners, defective welds, and (where applicable) insufficient tension.
- (2) Monthly. The vessel/flotation device used shall be inspected for the following:
 - (A) The means used to secure/attach the equipment to the vessel/flotation device shall be inspected for proper condition, including wear, corrosion and (where applicable) insufficient tension.
 - (B) Taking on water.
 - (C) Deckload for proper securing.
 - (D) Chain lockers, storage, fuel compartments and battening of hatches for serviceability as a water-tight appliance.
 - (E) Firefighting and lifesaving equipment in place and functional.
- (3) The shift and monthly inspections shall be conducted by a competent person. If any deficiency is identified, an immediate determination shall be made by a qualified person as to whether the deficiency constitutes a hazard. If the deficiency is determined to constitute a hazard, the vessel/flotation device shall be removed from service until it has been corrected.
- (4) Annual: external vessel/flotation device inspection.
 - (A) The external portion of the barge, pontoons, vessel or other means of flotation used shall be inspected annually by a qualified person who has expertise with respect to vessels/flotation devices. The

- inspection shall include the following items:
- (i) The items identified in Subparagraphs (h)(1) (Shift) and (h)(2) (Monthly) of this Rule.
 - (ii) Cleats, bitts, chocks, fenders, capstans, ladders, and stanchions, for: corrosion, wear, deterioration, and deformation.
 - (iii) External evidence of leaks and structural damage.
 - (iv) Four-corner draft readings.
 - (v) Firefighting equipment for serviceability.
- (B) Rescue skiffs, lifelines, work vests, life preservers and ring buoys shall be inspected for proper condition.
- (C) If any deficiency is identified, an immediate determination shall be made by the qualified person as to whether the deficiency constitutes a hazard or, though not yet a hazard, needs to be monitored in the monthly inspections. If the deficiency is determined to constitute a hazard, the vessel/flotation device shall be removed from service until it has been corrected.
- (D) If the qualified person determines that, though not presently a hazard, the deficiency needs to be monitored, the employer shall ensure that the deficiency is checked in the monthly inspections.
- (5) Quadrennial: internal vessel/flotation device inspection.
- (A) The internal portion of the barge, pontoons, vessel or other means of flotation used shall be surveyed once every 4 years by a marine engineer, marine architect, licensed surveyor, or other qualified person who has expertise with respect to vessels/flotation devices.
 - (B) If any deficiency is identified, an immediate determination shall be made by the surveyor as to whether the deficiency constitutes a hazard or, though not yet a hazard, needs to be monitored in the monthly or annual inspections, as appropriate.
 - (C) If the deficiency is determined to constitute a hazard, the vessel/flotation device shall be removed from service until it has been corrected.
- (D) If the surveyor determines that, though not presently a hazard, the deficiency needs to be monitored, the employer shall ensure that the deficiency is checked in the monthly or annual inspections, as appropriate.
- (6) Documentation. The monthly and annual inspections required in Subparagraphs (h)(2) and (h)(4) of this Rule shall be documented in accordance with 13 NCAC 07F .0915(e)(3) and (f)(7), respectively. The quadrennial inspection required in Subparagraph (h)(5) of this Rule shall be documented in accordance with 13 NCAC 07F .0915(f)(7), except that the documentation for that inspection shall be retained for a minimum of four years.
- (i) Working with a diver. The following additional requirements apply when working with a diver in the water:
- (1) If a crane/derrick is used to get a diver into and out of the water, it shall not be used for any other purpose until the diver is back on board. When used for more than one diver, it shall not be used for any other purpose until all divers are back on board.
 - (2) The operator shall remain at the controls of the crane/derrick at all times.
 - (3) In addition to the requirements of 13 NCAC 07F .0919 (Signals), either:
 - (A) A clear line of sight shall be maintained between the operator and tender, or
 - (B) The signals between the operator and tender shall be transmitted electronically.
 - (4) The means used to secure the crane/derrick to the vessel/flotation device (see Subparagraph (l)(5) of this Rule) shall not allow any amount of shifting in any direction.
- (j) The employer shall ensure that the manufacturer's specifications and limitations with respect to environmental, operational and in-transit loads for the barge, pontoons, vessel or other means of flotation are not exceeded or violated.
- (k) Floating cranes/derricks. For equipment designed by the manufacturer (or employer) for marine use by permanent attachment to barges, pontoons, vessels or other means of flotation:
- (1) Load charts.
 - (A) The manufacturer load charts applicable to operations on water shall not be exceeded. When using these charts, the employer shall comply with all parameters and limitations (such as dynamic/environmental parameters) applicable to the use of the charts.
 - (B) The load charts shall take into consideration a minimum wind speed of 40 miles per hour.

PROPOSED RULES

- (2) The requirements for maximum allowable list and maximum allowable trim as specified in

Table M1 shall be met.

<u>TABLE M1</u>		
<u>Equipment designed for marine use by permanent attachment(other than derricks)</u>		
<u>Rated Capacity</u>	<u>Maximum Allowable List</u>	<u>Maximum Allowable Trim</u>
<u>25 tons or less</u>	<u>5 degrees</u>	<u>5 degrees</u>
<u>Over 25 tons</u>	<u>7 degrees</u>	<u>7 degrees</u>
<u>Derricks designed for marine use by permanent attachment:</u>		
<u>Any rated capacity</u>	<u>10 degrees</u>	<u>10 degrees</u>

- (3) The equipment shall be stable under the conditions specified in Tables M2 and M3.

<u>TABLE M2</u>		
<u>Operated at</u>	<u>Wind Speed</u>	<u>Minimum freeboard</u>
<u>Rated Capacity</u>	<u>60 mph</u>	<u>2 ft</u>
<u>Rated capacity plus 25%</u>	<u>60 mph</u>	<u>1 ft</u>
<u>High boom, no load</u>	<u>60 mph</u>	<u>2 ft</u>

<u>TABLE M3</u>	
<u>For backward stability of the boom:</u>	
<u>Operated at:</u>	<u>Wind speed</u>
<u>High boom, no load, full back list</u> <u>(least stable condition)</u>	<u>90mph</u>

- (4) If the equipment is employer-made, it shall not be used unless the employer has documents demonstrating that the load charts and applicable parameters for use meet the requirements of Subparagraphs (k)(1) through (k)(3) of this Rule. Such documents shall be signed by a qualified engineer who is qualified person with respect to the design of this type of equipment (including the means of flotation).

- (5) The barge, pontoons, vessel or other means of flotation used shall:

- (A) Be structurally sufficient to withstand the static and dynamic loads of the crane/derrick when operating at the crane/derrick's maximum rated capacity with all anticipated deck loads and ballasted compartments.
- (B) Have a subdivided hull with one or more longitudinal watertight bulkheads for reducing the free surface effect.
- (C) Have access to void compartments to allow for inspection and pumping.

- (l) Land cranes/derricks. For land cranes/derricks used on barges, pontoons, vessels or other means of flotation:

- (1) The rated capacity of the equipment (load charts) applicable for use on land shall be reduced to:

- (A) Account for increased loading from list, trim, wave action, and wind.

- (B) Be applicable to a specified location(s) on the specific barge, pontoons, vessel or other means of

flotation that will be used, under the expected environmental conditions.

- (C) Ensure that the conditions required in Subparagraphs (l)(3) and (l)(4) of this Rule are met.

- (2) The rated capacity modification required in Subparagraph (l)(1) of this Rule shall be done by the equipment manufacturer, or a qualified person who has expertise with respect to both land crane/derrick capacity and the stability of vessels/flotation devices.

- (3) List and trim.

- (A) The maximum allowable list and the maximum allowable trim for the barge/pontoons/vessel/other means of flotation shall not exceed the amount necessary to ensure that the conditions of Subparagraph (l)(4) of this Rule are met. In addition, the maximum allowable list and the maximum allowable trim shall not exceed the least of the following: 5 degrees, the amount specified by the crane/derrick manufacturer, or where an amount is not so specified, the amount specified by the qualified person.

- (4) The following conditions shall be met:

- (A) All deck surfaces of the barge, pontoons, vessel or other means of flotation used shall be above water.
- (B) The entire bottom area of the barge, pontoons, vessel or other means of flotation used shall be submerged.
- (5) Physical attachment, corraling, rails system and centerline cable system. The employer shall meet the requirements in Option (1), Option (2), Option (3), or Option (4). Whichever option is used, the requirements of Part (1)(5)(E) of this Rule shall also be met.
 - (A) Option (1) – Physical attachment. The crane/derrick shall be physically attached to the barge, pontoons, vessel or other means of flotation. Methods of physical attachment include crossed-cable systems attached to the crane/derrick and vessel/flotation device (this type of system allows the crane/derrick to lift up slightly from the surface of the vessel/flotation device), bolting or welding the crane/derrick to the vessel/flotation device, strapping the crane/derrick to the vessel/means of flotation with chains, or other methods of physical attachment.
 - (B) Option (2) – Corraling. The crane/derrick shall be prevented from shifting by installing barricade restraints (a corraling system). Corraling systems shall not allow any amount of shifting in any direction by the equipment.
 - (C) Option (3) – Rails. The crane/derrick shall be prevented from shifting by being mounted on a rail system. Rail clamps and rail stops are required unless the system is designed to prevent movement during operation by other means.
 - (D) Option (4) – Centerline cable system. The crane/derrick shall be prevented from shifting by being mounted to a wire rope system. The wire rope system shall meet the following requirements:
 - (i) The wire rope and attachments shall be of sufficient size/strength to support the side load of crane/derrick.
 - (ii) The wire rope shall be physically attached to the vessel/flotation device.
 - (iii) The wire rope shall be attached to the crane/derrick by appropriate attachment methods (such as shackles or sheaves) on the undercarriage which will allow the crew to secure the crane/derrick from movement during operation and to move the crane/derrick longitudinally along the vessel/flotation device for repositioning.
- (iv) Means shall be installed to prevent the crane/derrick from passing the forward or aft end of the wire rope attachments.
- The crane/derrick shall be secured from movement during operation.
- (E) The systems/means used to comply with Option (1), Option (2), Option (3), or Option (4) shall be designed by a marine engineer, qualified engineer familiar with floating crane/derrick design, or qualified person familiar with floating crane/derrick design.
- (F) Exception. For mobile auxiliary cranes used on the deck of a floating crane/derrick, the requirement to use Option (1), Option (2), Option (3), or Option (4) does not apply where the employer demonstrates implementation of a plan and procedures that meet the following requirements:
 - (i) A marine engineer or qualified engineer familiar with floating crane/derrick design develops and signs a written plan for the use of the mobile auxiliary crane.
 - (ii) The plan shall be designed so that the applicable requirements of this Rule will be met despite the position, travel, operation, and lack of physical attachment (or corraling, use of rails or cable system) of the mobile auxiliary crane.
 - (iii) The plan shall specify the areas of the deck where the mobile auxiliary crane is permitted to be positioned, travel, and operate and the parameters/limitations of such movements and operation.

- (iv) The deck shall be marked to identify the permitted areas for positioning, travel, and operation.
- (v) The plan shall specify the dynamic/environmental conditions that shall be present for use of the plan.
- (vi) If the dynamic/environmental conditions in Subpart (l)(5)(F)(v) of this Rule are exceeded, the mobile auxiliary crane shall be physically attached or corralled in accordance with Option (1), Option (2) or Option (4).
- (6) The barge, pontoons, vessel or other means of flotation used shall:
 - (A) Be structurally sufficient to withstand the static and dynamic loads of the crane/derrick when operating at the crane/derrick's maximum rated capacity with all anticipated deck loads and ballasted compartments.
 - (B) Have a subdivided hull with one or more longitudinal watertight bulkheads for reducing the free surface effect.
 - (C) Have access to void compartments to allow for inspection and pumping.

- (2) The following requirements apply to equipment identified in Subparagraph (b)(1) of this Rule:
 - (A) The following Rules in this Section: 13 NCAC 07F .0901 through .0915; .0916, except Subparagraphs (v)(1) through (v)(3); .0919; .0920; .0923; and .0925.
 - (B) The following portions of 29 CFR 1910.179:
 - (i) Paragraphs (b)(5), (6), (7); (e)(1), (3), (5), (6); (f)(1), (4); (g); (h)(1), (3); (k); and (n).
 - (ii) The definitions in 29 CFR 1910.179(a), except for "hoist" and "load." For those words, the definitions in 13 NCAC 07F .0903 apply.
 - (iii) 1910.179(b)(2) applies only to equipment identified in Subparagraph (b)(1) of this Rule manufactured before September 19, 2001.
 - (C) For equipment manufactured on or after September 19, 2001, the following sections of ANSI/ASME B.30.2-2005 apply: 2-1.3.1; 2-1.3.2; 2-1.4.1; 2-1.6; 2-1.7.2; 2-1.8.2; 2-1.9.1; 2-1.9.2; 2-1.11; 2-1.12.2; 2-1.13.7; 2-1.14.2; 2-1.14.3; 2-1.14.5; 2-1.15; 2-2.2.2; 2-3.2.1.1. In addition, 2-3.5 applies, except in 2-3.5.1(b), "29 CFR 1910.147 is substituted for ANSI Z244.1".

Authority G.S. 95-131.

13 NCAC 07F .0924 OVERHEAD & GANTRY CRANES

- (a) Permanently installed overhead and gantry cranes.
 - (1) This paragraph applies to the following equipment when used in construction and permanently installed in a facility: overhead and gantry cranes, including semigantry, cantilever gantry, wall cranes, storage bridge cranes, and others having the same fundamental characteristics.
 - (2) The requirements of 29 CFR 1910.179, except for 1910.179(b)(1), apply to the equipment identified in Subparagraph (a)(1) of this Rule.
- (b) Overhead and gantry cranes that are not permanently installed in a facility.
 - (1) This paragraph applies to the following equipment when used in construction and not permanently installed in a facility: overhead and gantry cranes, overhead/bridge cranes, semigantry, cantilever gantry, wall cranes, storage bridge cranes, launching gantry cranes, and similar equipment, irrespective of whether it travels on tracks, wheels, or other means.

Authority G.S. 95-131.

13 NCAC 07F .0925 DEDICATED PILE DRIVERS

- (a) The provisions of this Section apply to dedicated pile drivers, except as specified in this Rule.
- (b) 13 NCAC 07F .0917(d)(3) (anti two-block device) does not apply.
- (c) 13 NCAC 07F .0917(e)(4) (Load weight/capacity devices) applies only to dedicated pile drivers manufactured more than one year after the effective date of this Section.
- (d) In 13 NCAC 07F .0909 (Design, construction and testing), only Paragraphs (d) and (e) apply to dedicated pile drivers.
- (e) 13 NCAC 07F .0904 (Operator qualification and certification) applies, except that the qualification or certification shall be for operation of either dedicated pile drivers or equipment that is the most similar to dedicated pile drivers.

Authority G.S. 95-131.

13 NCAC 07F .0926 SIDEBOOM CRANES

- (a) The provisions of this Section apply, except 13 NCAC 07F .0912(a) (Ground Conditions), .0918 (Safety Devices), .0917

(Operational Aids), and .0904 (Operator Qualification and Certification).

(b) 13 NCAC 07F .0916(v) (Free Fall and Controlled Load Lowering) applies, except Subpart (v)(1)(B)(i). Sideboom cranes in which the boom is designed to free fall (live boom) are permitted only if manufactured prior to the effective date of this Section.

(c) Sideboom cranes mounted on wheel or crawler tractors shall meet the following requirements of ANSI/ASME B30.14-1996 with addenda ANSI/ASME B30.14-2004 (Side Boom Tractors):

- (1) Section 14-1.1 ("Load Ratings").
- (2) Section 14.1.3 ("Side Boom Tractor Travel").
- (3) Section 14.1.5 (Ropes and Reeving Accessories").
- (4) Section 14-1.7.1 ("Booms").
- (5) Section 14-1.7.2 ("General Requirements – Exhaust Gases").
- (6) Section 14-1.7.3 ("General Requirements – Stabilizers (Wheel-Type Side Boom Tractors)").
- (7) Section 14-1.7.4 ("General Requirements – Welded Construction").
- (8) Section 14-1.7.6 ("General Requirements – Clutch and Brake Protection").
- (9) Section 14.2.2.2 ("Testing – Rated Load Test"), except that it applies only to equipment that has been modified or repaired.
- (10) In section 14.3.1.2 ("Operator Qualifications"). Paragraph (a), except the phrase "When required by law."
- (11) In section 14.3.1.3 ("Operating Practices"). Paragraphs (e), (f)(1) through (4), (6), (7); (h), and (i).
- (12) In section 14-3.2.3 ("Moving the Load"). Paragraphs (j), (l), and (m).

Authority G.S. 95-131.

13 NCAC 07F .0927 OPERATOR CERTIFICATION – WRITTEN EXAMINATION – TECHNICAL KNOWLEDGE CRITERIA

When developing criteria for a written examination to test an individual's technical knowledge of the operation of cranes pursuant to 13 NCAC 07F .0904(i), the following topics shall be considered:

- (1) General technical information.
 - (a) The functions and limitations of the crane and attachments.
 - (b) Wire rope:
 - (i) Background information necessary to understand the inspection and removal from service criteria in 13 NCAC 07F .0913 and .0914.
 - (ii) Capacity and when multi-part rope is needed.
 - (iii) Relationship between line pull and safe working load.

- (iv) How to determine the manufacturer's recommended rope for the crane.
- (c) Rigging devices and their use, such as:
 - (i) Slings.
 - (ii) Spreaders.
 - (iii) Lifting beams.
 - (iv) Wire rope fittings, such as clips, shackles and wedge sockets.
 - (v) Saddles (softeners).
 - (vi) Clamps (beams).
- (d) The technical limitations of protective measures against electrical hazards:
 - (i) Grounding.
 - (ii) Proximity warning devices.
 - (iii) Insulated links.
 - (iv) Boom cages.
 - (v) Proximity to electric power lines, radii, and microwave structures.
- (e) The effects of load share and load transfer in multi-crane lifts.
- (f) Basic crane terms.
- (g) The basics of machine power flow systems.
 - (i) Mechanical.
 - (ii) Electrical.
 - (iii) Pneumatic.
 - (iv) Hydraulic.
 - (v) Combination.
- (h) The significance of the instruments and gauge readings.
- (i) The effects of thermal expansion and contraction in hydraulic cylinders.
- (j) Background information necessary to understand the requirements of pre-operation and inspection.
- (k) How to use the safety devices and operational aids required under 13 NCAC 07F .0915 and .0916.
- (l) The difference between duty-cycle and lifting operations.
- (m) How to calculate net capacity for every possible configuration of the equipment using the manufacturer's load chart.
- (m) How to use manufacturer-approved attachments and their effect on the equipment.
- (n) How to obtain dimensions, weight, and center of gravity of the load.
- (o) The effects of dynamic loading from:
 - (i) Wind.
 - (ii) Stopping and starting.
 - (iii) Impact loading.

- (iv) Moving with the load.
 - (p) The effect of side loading.
 - (q) The principles of backward stability.
- (2) Site information.
 - (a) How to identify the suitability of the supporting ground/surface to support the expected loads of the operation.
Elements include:
 - (i) Weakness below the surface (such as voids, tanks, loose fill).
 - (ii) Weaknesses on the surface (such as retaining walls, slopes, excavations, depressions).
 - (b) Proper use of mats, blocking/cribbing and outriggers or crawlers.
 - (c) Identification of site hazards such as power lines, piping, and traffic.
 - (d) How to review operation plans with supervisors and other workers (such as the signal person), including how to determine working height, boom length, load radius, and travel clearance.
 - (e) How to determine if there is adequate room for extension of crawlers or outriggers/stabilizers and counterweights.
- (3) Operations.
 - (a) How to pick, carry, swing and place the load smoothly and safely on rubber tires and on outriggers/stabilizers or crawlers (where applicable).
 - (b) How to communicate at the site with supervisors, the crew and the signal person.
 - (c) Proper procedures and methods of reeving wire ropes and methods of reeving multiple-part lines and selecting the proper load block and/or ball.
 - (d) How to react to changes in conditions that affect the safe operation of the equipment.
 - (e) How to shut down and secure the equipment properly when leaving it unattended.
 - (f) Know how to apply the manufacturer's specifications for operating in various weather conditions, and understand how environmental conditions affect the safe operation of the equipment.
 - (g) How to properly level the equipment.
 - (h) How to verify the weight of the load and rigging prior to initiating the lift.
 - (i) How to determine where the load is to be picked up and placed and how to verify the radii.
 - (j) Know basic rigging procedures.
 - (k) How to carry out the shift inspection required in this Section.
 - (l) Know that the following operations require specific procedures and skill levels:
 - (i) Multi-crane lifts.
 - (ii) Hoisting personnel.
 - (iii) Clamshell/dragline operations.
 - (iv) Pile driving and extracting.
 - (v) Concrete operations, including poured-in-place and tilt-up.
 - (vi) Demolition operations.
 - (vii) Operations on water.
 - (viii) Magnet Operations
 - (ix) Multi-drum operations.
 - (m) Know the proper procedures for operating safely under the following conditions:
 - (i) Traveling with suspended loads.
 - (ii) Approaching a two-block condition.
 - (iii) Operating near power lines.
 - (iv) Hoisting personnel.
 - (v) Using other than full outrigger/crawler extensions.
 - (vi) Lifting loads from beneath the surface of the water.
 - (vii) Using various approved counterweight configurations.
 - (viii) Handling loads out of the operator's vision ("operating in the blind").
 - (ix) Using electronic communication systems for signal communication.
 - (n) Know the proper procedures for load control and the use of hand-held tag lines.
 - (o) Know the emergency response procedure for:
 - (i) Fires.
 - (ii) Power line contact.
 - (iii) Loss of stability.
 - (iv) Control malfunction.
 - (v) Two-blocking.
 - (vi) Overload.
 - (vii) Carrier or travel malfunction.
 - (p) Know how to properly use outriggers in accordance with manufacturer specifications.

- (4) Use of load charts.
- (a) Know the terminology necessary to use load charts.
- (b) Know how to ensure that load chart is the appropriate chart for the equipment in its particular configuration and application.
- (c) Know how to use load charts. This includes knowing:
- (i) The operational limitations of load charts and footnotes.
- (ii) How to relate the chart to the configuration of the crane, crawlers, or outriggers extended or retracted, jib erected or offset, and various counterweight configurations.
- (iii) The difference between structural capacity and capacity limited by stability.
- (iv) What is included in capacity ratings.
- (v) The range diagram and its relationship to the load chart.
- (vi) The work area chart and its relationship to the load chart.
- (vii) Where to find and how to use the "parts-of-line" information.
- (d) Know how to use the load chart together with the load indicators and/or load moment devices.

- *reduces the proposed ORW segment from approximately 4.6 miles to 4.0 miles (see proposed rule language in 15A NCAC 02B .0303)*
- *makes allowances for discharges provided that certain conditions are met for oxygen consuming wastes, TSS, nutrients, and volume (see proposed rule language in 15A NCAC 02B .0225)*

The proposed rule text for 15A NCAC 02B.0225 is presented in two forms: Option 1 and Option 2. The only difference between Option 1 and Option 2 is that Option 2 allows for new domestic wastewater discharges and expansions of existing wastewater discharges, whereas Option 1 allows for expansions of existing wastewater discharges only.

Procedure by which a person can object to the agency on a proposed rule: *You may submit written comments, data or other relevant information by February 13, 2009. The EMC is very interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the text of a proposed rule published in this notice unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (see General Statute 150B 21.2 (g)). Written comments may be submitted to Elizabeth Kountis of the Water Quality Planning Section at the postal address, e-mail address, or fax number listed in this notice.*

Comments may be submitted to: *Elizabeth Kountis, Division of Water Quality, Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617, phone (919)807-6418, fax (919)807-6497, email Elizabeth.kountis@ncmail.net.*

Comment period ends: *February 13, 2009*

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 919-431-3000.*

Fiscal Impact:

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

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

Authority G.S. 95-131.

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 02B .0225, .0303 with changes from the proposed text noticed in the Register, Volume 22, Issue 19, Pages 1641-1649.

Proposed Effective Date: *July 1, 2009*

Reason for Proposed Action: *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 was subsequently extended for 30 days. At the November 2008 Environmental Management Commission (EMC) meeting, the EMC and the hearing officer directed staff to notice the proposed rules with additional amendments for 60 days without a public hearing. These amendments consist of additional language that:*

**SUBCHAPTER 02B - SURFACE WATER AND
WETLAND STANDARDS**

**SECTION .0200 - CLASSIFICATIONS AND WATER
QUALITY STANDARDS APPLICABLE TO SURFACE
WATERS AND WETLANDS OF NORTH CAROLINA**

OPTION 1:

**15A NCAC 02B .0225 OUTSTANDING RESOURCE
WATERS**

(a) General. In addition to the existing classifications, the Commission may classify unique and special surface waters of the state as outstanding resource waters (ORW) upon finding that such waters are of exceptional state or national recreational or ecological significance and that the waters have exceptional water quality while meeting the following conditions:

- (1) that the water quality is rated as excellent based on physical, chemical or biological information;
- (2) the characteristics which make these waters unique and special may not be protected by the assigned narrative and numerical water quality standards.

(b) Outstanding Resource Values. In order to be classified as ORW, a water body must exhibit one or more of the following values or uses to demonstrate it is of exceptional state or national recreational or ecological significance:

- (1) there are outstanding fish (or commercially important aquatic species) habitat and fisheries;
- (2) there is an unusually high level of water-based recreation or the potential for such recreation;
- (3) the waters have already received some special designation such as a North Carolina or National Wild and Scenic River, Native or Special Native Trout Waters or National Wildlife Refuge, which do not provide any water quality protection;
- (4) the waters represent an important component of a state or national park or forest; or
- (5) the waters are of special ecological or scientific significance such as habitat for rare or endangered species or as areas for research and education.

(c) Quality Standards for ORW

- (1) Freshwater: Water quality conditions shall be maintained to protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values shall be developed on a site specific basis during the proceedings to classify waters as ORW. No new discharges or expansions of existing discharges shall be permitted, and stormwater controls for all new development activities requiring an Erosion and Sedimentation Control Plan in accordance with rules established by the NC Sedimentation Control Commission or an appropriate local erosion and sedimentation

control program shall be required to follow the stormwater provisions as specified in 15A NCAC 02H .1000. Specific stormwater requirements for ORW areas are described in 15A NCAC 02H .1007.

- (2) Saltwater: Water quality conditions shall be maintained to protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values shall be developed on a site-specific basis during the proceedings to classify waters as ORW. New development shall comply with the stormwater provisions as specified in 15A NCAC 02H .1000. Specific stormwater management requirements for saltwater ORWs are described in 15A NCAC 02H .1007. New non-discharge permits shall meet reduced loading rates and increased buffer zones, to be determined on a case-by-case basis. No dredge or fill activities shall be allowed if those activities would result in a reduction of the beds of submerged aquatic vegetation or a reduction of shellfish producing habitat as defined in 15A NCAC 03I .0101(b)(20)(A) and (B), except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas or maintenance dredging for activities such as agriculture. A public hearing is mandatory for any proposed permits to discharge to waters classified as ORW.

Additional actions to protect resource values shall be considered on a site specific basis during the proceedings to classify waters as ORW and shall be specified in Paragraph (e) of this Rule. These actions may include anything within the powers of the Commission. The Commission shall also consider local actions which have been taken to protect a water body in determining the appropriate state protection options. Descriptions of boundaries of waters classified as ORW are included in Paragraph (e) of this Rule and in the Schedule of Classifications (15A NCAC 02B .0302 through 02B .0317) as specified for the appropriate river basin and shall also be described on maps maintained by the Division of Water Quality.

(d) Petition Process. Any person may petition the Commission to classify a surface water of the state as an ORW. The petition shall identify the exceptional resource value to be protected, address how the water body meets the general criteria in Paragraph (a) of this Rule, and the suggested actions to protect the resource values. The Commission may request additional supporting information from the petitioner. The Commission or its designee shall initiate public proceedings to classify waters as ORW or shall inform the petitioner that the waters do not meet the criteria for ORW with an explanation of the basis for this decision. The petition shall be sent to:

Director
DENR/Division of Water Quality
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

The envelope containing the petition shall clearly bear the notation: RULE-MAKING PETITION FOR ORW CLASSIFICATION.

(e) Listing of Waters Classified ORW with Specific Actions
Waters classified as ORW with specific actions to protect exceptional resource values are listed as follows:

- (1) Roosevelt Natural Area [White Oak River Basin, Index Nos. 20-36-9.5-(1) and 20-36-9.5-(2)] including all fresh and saline waters within the property boundaries of the natural area shall have only new development which complies with the low density option in the stormwater rules as specified in 15A NCAC 2H .1005(2)(a) within 575 feet of the Roosevelt Natural Area (if the development site naturally drains to the Roosevelt Natural Area).
- (2) Chattooga River ORW Area (Little Tennessee River Basin and Savannah River Drainage Area): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section. However, expansions of existing discharges to these segments shall be allowed if there is no increase in pollutant loading:
 - (A) North and South Fowler Creeks;
 - (B) Green and Norton Mill Creeks;
 - (C) Cane Creek;
 - (D) Ammons Branch;
 - (E) Glade Creek; and
 - (F) Associated tributaries.
- (3) Henry Fork ORW Area (Catawba River Basin): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section:
 - (A) Ivy Creek;
 - (B) Rock Creek; and
 - (C) Associated tributaries.
- (4) South Fork New and New Rivers ORW Area [New River Basin (Index Nos. 10-1-33.5 and 10)]: the following management strategies, in addition to the discharge requirements specified in Subparagraph (c)(1) of this Rule, shall be applied to protect the designated ORW areas:
 - (A) Stormwater controls described in Subparagraph (c)(1) of this Rule shall apply to land within one mile of and that drains to the designated ORW areas;
 - (B) New or expanded NPDES permitted wastewater discharges located upstream of the designated ORW shall be permitted such that the

following water quality standards are maintained in the ORW segment:

- (i) the total volume of treated wastewater for all upstream discharges combined shall not exceed 50 percent of the total instream flow in the designated ORW under 7Q10 conditions, which are defined in Rule .0206(a)(1) of this Section;
 - (ii) a safety factor shall be applied to any chemical allocation such that the effluent limitation for a specific chemical constituent shall be the more stringent of either the limitation allocated under design conditions (pursuant to 15A NCAC 02B .0206) for the normal standard at the point of discharge, or the limitation allocated under design conditions for one-half the normal standard at the upstream border of the ORW segment;
 - (iii) a safety factor shall be applied to any discharge of complex wastewater (those containing or potentially containing toxicants) to protect for chronic toxicity in the ORW segment by setting the whole effluent toxicity limitation at the higher (more stringent) percentage effluent determined under design conditions (pursuant to 15A NCAC 02B .0206) for either the instream effluent concentration at the point of discharge or twice the effluent concentration calculated as if the discharge were at the upstream border of the ORW segment;
- (C) New or expanded NPDES permitted wastewater discharges located upstream of the designated ORW shall comply with the following:
- (i) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/l, and NH3-N = 2 mg/l;
 - (ii) Total Suspended Solids: Discharges of total

- suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/l for trout waters and to 20 mg/l for all other waters;
 - (iii) Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs;
 - (iv) Nutrients: Where nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or nitrogen, or both.
 - (5) Old Field Creek (New River Basin): the undesignated portion of Old Field Creek (from its source to Call Creek) shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section.
 - (6) In the following designated waterbodies, no additional restrictions shall be placed on new or expanded marinas. The only new or expanded NPDES permitted discharges that shall be allowed shall be non-domestic, non-process industrial discharges. The Alligator River Area (Pasquotank River Basin) extending from the source of the Alligator River to the U.S. Highway 64 bridge including New Lake Fork, North West Fork Alligator River, Juniper Creek, Southwest Fork Alligator River, Scouts Bay, Gum Neck Creek, Georgia Bay, Winn Bay, Stumpy Creek Bay, Stumpy Creek, Swann Creek (Swann Creek Lake), Whipping Creek (Whipping Creek Lake), Grapevine Bay, Rattlesnake Bay, The Straits, The Frying Pan, Coopers Creek, Babbitt Bay, Goose Creek, Milltail Creek, Boat Bay, Sandy Ridge Gut (Sawyer Lake) and Second Creek, but excluding the Intracoastal Waterway (Pungo River-Alligator River Canal) and all other tributary streams and canals.
 - (7) In the following designated waterbodies, the only type of new or expanded marina that shall be allowed shall be those marinas located in upland basin areas, or those with less than 10 slips, having no boats over 21 feet in length and no boats with heads. The only new or expanded NPDES permitted discharges that shall be allowed shall be non-domestic, non-process industrial discharges.
- (A) The Northeast Swanquarter Bay Area including all waters northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point.
 - (B) The Neuse-Southeast Pamlico Sound Area (Southeast Pamlico Sound Section of the Southeast Pamlico, Core and Back Sound Area); (Neuse River Basin) including all waters within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point.
 - (C) The Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing.
 - (D) The Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, including Taylor Bay and the Intracoastal Waterway.
 - (E) The Stump Sound Area (Cape Fear River Basin) including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Permuda Island, but excluding Rogers Bay, the Kings Creek Restricted Area and Mill Creek.
 - (F) The Topsail Sound and Middle Sound Area (Cape Fear River Basin) including all estuarine waters from New Topsail Inlet to Mason Inlet, including the Intracoastal Waterway and Howe Creek, but excluding Pages Creek and Futch Creek.
- (8) In the following designated waterbodies, no new or expanded NPDES permitted discharges and only new or expanded marinas with less than 10 slips, having no boats over 21 feet in length and no boats with heads shall be allowed:

- (A) The Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin) including all waters within a line beginning at Juniper Bay Point and running south and then west below Great Island, then northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding all waters northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point and also excluding the Blowout Canal, Hydeland Canal, Juniper Canal and Quarter Canal.
 - (B) The Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including that area of Back Sound extending from Core Sound west along Shackleford Banks, then north to the western most point of Middle Marshes and along the northwest shore of Middle Marshes (to include all of Middle Marshes), then west to Rush Point on Harker's Island, and along the southern shore of Harker's Island back to Core Sound.
 - (C) The Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island.
 - (D) The Masonboro Sound Area (Cape Fear River Basin) including all waters between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro Inlet.
- (9) Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5), 18-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]; the following management strategies, in addition to the discharge requirements specified in Subparagraph (c)(1) of this Rule, shall be applied to protect the designated ORW areas:
- (A) Stormwater controls described in Subparagraph (c)(1) of this Rule shall apply to land within one mile of and that drains to the designated ORW areas;
 - (B) New or expanded NPDES permitted wastewater discharges located one mile upstream of the stream segments designated ORW (upstream on the designated mainstem and upstream into direct tributaries to the designated mainstem) shall comply with the following discharge restrictions:
 - (i) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/l and NH₃-N = 2 mg/l;
 - (ii) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 20 mg/l;
 - (iii) Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs;
 - (iv) Nutrients: Where nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or nitrogen, or both.
 - (v) Toxic substances: In cases where complex discharges (those containing or potentially containing toxicants) may be currently present in the discharge, a safety factor shall be applied to any chemical or whole effluent toxicity allocation. The limit for a specific chemical constituent shall be allocated at one-half of the normal standard at design conditions. Whole effluent toxicity shall be allocated to protect for chronic toxicity

- at an effluent concentration equal to twice that which is acceptable under flow design criteria (pursuant to 15A NCAC 02B .0206).
- (10) Lake Waccamaw ORW Area (Lumber River Basin) [Index No. 15-2]: all undesignated waterbodies that are tributary to Lake Waccamaw shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section.
- (11) Swift Creek and Sandy Creek ORW Area (Tar-Pamlico River Basin) [portion of Index No. 28-78-(0.5) and Index No. 28-78-1-(19)]: all undesignated waterbodies that drain to the designated waters shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found in the designated waters as well as in the undesignated waters that drain to the designated waters.
- (12) Fontana Lake North Shore ORW Area (Little Tennessee River Basin and Savannah River Drainage Area) [Index Nos. 2-96 through 2-164 (excluding all waterbodies that drain to the south shore of Fontana Lake) consists of the entire watersheds of all creeks that drain to the north shore of Fontana Lake between Eagle and Forney Creeks, including Eagle and Forney Creeks. In addition to the requirements specified in Subparagraph (c)(1) of this Rule, any person conducting development activity disturbing greater than or equal to 5,000 square feet of land area in the designated ORW area shall undertake the following actions to protect the outstanding resource values of the designated ORW and downstream waters:
- (A) investigate for the presence of and identify the composition of acid-producing rocks by exploratory drilling or other means and characterize the net neutralization potential of the acid-producing rocks prior to commencing the land-disturbing activity;
 - (B) avoid areas to the maximum extent practical where acid-producing rocks are found with net neutralization potential of -5 or less;
 - (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity, and monitor and maintain baseline water quality conditions for the duration of the land-disturbing activity and for any period thereafter not less than two years as determined by the Division as part of a certification issued in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule;
 - (D) obtain a National Pollutant Discharge Elimination System permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity;
 - (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of rainfall in accordance with 15A NCAC 02H. 1008; and
 - (F) replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site, post development.
- (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found throughout the watershed. However, expansions of existing wastewater discharges may be allowed provided that:
- (A) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/l, and NH₃-N = 2 mg/l;
 - (B) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/l for trout waters and to 20 mg/l for all other waters except for mining operations, which will be held to their respective NPDES TSS permit limits;
 - (C) Nutrients: Where nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or nitrogen, or both; and
 - (D) Volume: The total volume of treated wastewater for all discharges combined shall not exceed 25 percent of the total instream flow in the designated ORW under 7Q10 conditions, which are defined in Rule .0206(a)(1) of this Section.

Authority G.S. 143-214.1; S.L. 2005-97.

OPTION 2:

15A NCAC 02B .0225 OUTSTANDING RESOURCE WATERS

(a) General. In addition to the existing classifications, the Commission may classify unique and special surface waters of the state as outstanding resource waters (ORW) upon finding that such waters are of exceptional state or national recreational or ecological significance and that the waters have exceptional water quality while meeting the following conditions:

- (1) that the water quality is rated as excellent based on physical, chemical or biological information;
- (2) the characteristics which make these waters unique and special may not be protected by the assigned narrative and numerical water quality standards.

(b) Outstanding Resource Values. In order to be classified as ORW, a water body must exhibit one or more of the following values or uses to demonstrate it is of exceptional state or national recreational or ecological significance:

- (1) there are outstanding fish (or commercially important aquatic species) habitat and fisheries;
- (2) there is an unusually high level of water-based recreation or the potential for such recreation;
- (3) the waters have already received some special designation such as a North Carolina or National Wild and Scenic River, Native or Special Native Trout Waters or National Wildlife Refuge, which do not provide any water quality protection;
- (4) the waters represent an important component of a state or national park or forest; or
- (5) the waters are of special ecological or scientific significance such as habitat for rare or endangered species or as areas for research and education.

(c) Quality Standards for ORW

- (1) Freshwater: Water quality conditions shall be maintained to protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values shall be developed on a site specific basis during the proceedings to classify waters as ORW. No new discharges or expansions of existing discharges shall be permitted, and stormwater controls for all new development activities requiring an Erosion and Sedimentation Control Plan in accordance with rules established by the NC Sedimentation Control Commission or an appropriate local erosion and sedimentation control program shall be required to follow the stormwater provisions as specified in 15A NCAC 02H .1000. Specific stormwater requirements for ORW areas are described in 15A NCAC 02H .1007.
- (2) Saltwater: Water quality conditions shall be maintained to protect the outstanding resource

values of waters classified ORW. Management strategies to protect resource values shall be developed on a site-specific basis during the proceedings to classify waters as ORW. New development shall comply with the stormwater provisions as specified in 15A NCAC 02H .1000. Specific stormwater management requirements for saltwater ORWs are described in 15A NCAC 02H .1007. New non-discharge permits shall meet reduced loading rates and increased buffer zones, to be determined on a case-by-case basis. No dredge or fill activities shall be allowed if those activities would result in a reduction of the beds of submerged aquatic vegetation or a reduction of shellfish producing habitat as defined in 15A NCAC 03I .0101(b)(20)(A) and (B), except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas or maintenance dredging for activities such as agriculture. A public hearing is mandatory for any proposed permits to discharge to waters classified as ORW.

Additional actions to protect resource values shall be considered on a site specific basis during the proceedings to classify waters as ORW and shall be specified in Paragraph (e) of this Rule. These actions may include anything within the powers of the Commission. The Commission shall also consider local actions which have been taken to protect a water body in determining the appropriate state protection options. Descriptions of boundaries of waters classified as ORW are included in Paragraph (e) of this Rule and in the Schedule of Classifications (15A NCAC 02B .0302 through 02B .0317) as specified for the appropriate river basin and shall also be described on maps maintained by the Division of Water Quality.

(d) Petition Process. Any person may petition the Commission to classify a surface water of the state as an ORW. The petition shall identify the exceptional resource value to be protected, address how the water body meets the general criteria in Paragraph (a) of this Rule, and the suggested actions to protect the resource values. The Commission may request additional supporting information from the petitioner. The Commission or its designee shall initiate public proceedings to classify waters as ORW or shall inform the petitioner that the waters do not meet the criteria for ORW with an explanation of the basis for this decision. The petition shall be sent to:

Director
DENR/Division of Water Quality
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

The envelope containing the petition shall clearly bear the notation: RULE-MAKING PETITION FOR ORW CLASSIFICATION.

(e) Listing of Waters Classified ORW with Specific Actions
Waters classified as ORW with specific actions to protect exceptional resource values are listed as follows:

- (1) Roosevelt Natural Area [White Oak River Basin, Index Nos. 20-36-9.5-(1) and

- 20-36-9.5-(2)] including all fresh and saline waters within the property boundaries of the natural area shall have only new development which complies with the low density option in the stormwater rules as specified in 15A NCAC 2H .1005(2)(a) within 575 feet of the Roosevelt Natural Area (if the development site naturally drains to the Roosevelt Natural Area).
- (2) Chattooga River ORW Area (Little Tennessee River Basin and Savannah River Drainage Area): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section. However, expansions of existing discharges to these segments shall be allowed if there is no increase in pollutant loading:
- (A) North and South Fowler Creeks;
 - (B) Green and Norton Mill Creeks;
 - (C) Cane Creek;
 - (D) Ammons Branch;
 - (E) Glade Creek; and
 - (F) Associated tributaries.
- (3) Henry Fork ORW Area (Catawba River Basin): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section:
- (A) Ivy Creek;
 - (B) Rock Creek; and
 - (C) Associated tributaries.
- (4) South Fork New and New Rivers ORW Area [New River Basin (Index Nos. 10-1-33.5 and 10)]: the following management strategies, in addition to the discharge requirements specified in Subparagraph (c)(1) of this Rule, shall be applied to protect the designated ORW areas:
- (A) Stormwater controls described in Subparagraph (c)(1) of this Rule shall apply to land within one mile of and that drains to the designated ORW areas;
 - (B) New or expanded NPDES permitted wastewater discharges located upstream of the designated ORW shall be permitted such that the following water quality standards are maintained in the ORW segment:
 - (i) the total volume of treated wastewater for all upstream discharges combined shall not exceed 50 percent of the total instream flow in the designated ORW under
- 7Q10 conditions, which are defined in Rule .0206(a)(1) of this Section;
- (ii) a safety factor shall be applied to any chemical allocation such that the effluent limitation for a specific chemical constituent shall be the more stringent of either the limitation allocated under design conditions (pursuant to 15A NCAC 02B .0206) for the normal standard at the point of discharge, or the limitation allocated under design conditions for one-half the normal standard at the upstream border of the ORW segment;
 - (iii) a safety factor shall be applied to any discharge of complex wastewater (those containing or potentially containing toxicants) to protect for chronic toxicity in the ORW segment by setting the whole effluent toxicity limitation at the higher (more stringent) percentage effluent determined under design conditions (pursuant to 15A NCAC 02B .0206) for either the instream effluent concentration at the point of discharge or twice the effluent concentration calculated as if the discharge were at the upstream border of the ORW segment;
- (C) New or expanded NPDES permitted wastewater discharges located upstream of the designated ORW shall comply with the following:
- (i) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/1, and NH3-N = 2 mg/1;
 - (ii) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters;
 - (iii) Emergency Requirements: Failsafe treatment designs shall be employed, including

- stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs;
- (iv) Nutrients: Where nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or nitrogen, or both.
- (5) Old Field Creek (New River Basin): the undesignated portion of Old Field Creek (from its source to Call Creek) shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section.
- (6) In the following designated waterbodies, no additional restrictions shall be placed on new or expanded marinas. The only new or expanded NPDES permitted discharges that shall be allowed shall be non-domestic, non-process industrial discharges. The Alligator River Area (Pasquotank River Basin) extending from the source of the Alligator River to the U.S. Highway 64 bridge including New Lake Fork, North West Fork Alligator River, Juniper Creek, Southwest Fork Alligator River, Scouts Bay, Gum Neck Creek, Georgia Bay, Winn Bay, Stumpy Creek Bay, Stumpy Creek, Swann Creek (Swann Creek Lake), Whipping Creek (Whipping Creek Lake), Grapevine Bay, Rattlesnake Bay, The Straits, The Frying Pan, Coopers Creek, Babbitt Bay, Goose Creek, Milltail Creek, Boat Bay, Sandy Ridge Gut (Sawyer Lake) and Second Creek, but excluding the Intracoastal Waterway (Pungo River-Alligator River Canal) and all other tributary streams and canals.
- (7) In the following designated waterbodies, the only type of new or expanded marina that shall be allowed shall be those marinas located in upland basin areas, or those with less than 10 slips, having no boats over 21 feet in length and no boats with heads. The only new or expanded NPDES permitted discharges that shall be allowed shall be non-domestic, non-process industrial discharges.
- (A) The Northeast Swanquarter Bay Area including all waters northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point.
- (B) The Neuse-Southeast Pamlico Sound Area (Southeast Pamlico Sound Section of the Southeast Pamlico, Core and Back Sound Area); (Neuse River Basin) including all waters within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point.
- (C) The Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing.
- (D) The Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, including Taylor Bay and the Intracoastal Waterway.
- (E) The Stump Sound Area (Cape Fear River Basin) including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Permuda Island, but excluding Rogers Bay, the Kings Creek Restricted Area and Mill Creek.
- (F) The Topsail Sound and Middle Sound Area (Cape Fear River Basin) including all estuarine waters from New Topsail Inlet to Mason Inlet, including the Intracoastal Waterway and Howe Creek, but excluding Pages Creek and Futch Creek.
- (8) In the following designated waterbodies, no new or expanded NPDES permitted discharges and only new or expanded marinas with less than 10 slips, having no boats over 21 feet in length and no boats with heads shall be allowed:
- (A) The Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin) including all waters within a line beginning at Juniper Bay Point and running south and then west below Great Island, then northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding all

- waters northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point and also excluding the Blowout Canal, Hydeland Canal, Juniper Canal and Quarter Canal.
- (B) The Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including that area of Back Sound extending from Core Sound west along Shackleford Banks, then north to the western most point of Middle Marshes and along the northwest shore of Middle Marshes (to include all of Middle Marshes), then west to Rush Point on Harker's Island, and along the southern shore of Harker's Island back to Core Sound.
- (C) The Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island.
- (D) The Masonboro Sound Area (Cape Fear River Basin) including all waters between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro Inlet.
- (9) Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5), 18-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies, in addition to the discharge requirements specified in Subparagraph (c)(1) of this Rule, shall be applied to protect the designated ORW areas:
- (A) Stormwater controls described in Subparagraph (c)(1) of this Rule shall apply to land within one mile of and that drains to the designated ORW areas;
- (B) New or expanded NPDES permitted wastewater discharges located one mile upstream of the stream segments designated ORW (upstream on the designated mainstem and upstream into direct tributaries to the designated mainstem) shall comply with the following discharge restrictions:
- (i) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/l and NH₃-N = 2 mg/l;
- (ii) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 20 mg/l;
- (iii) Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs;
- (iv) Nutrients: Where nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or nitrogen, or both.
- (v) Toxic substances: In cases where complex discharges (those containing or potentially containing toxicants) may be currently present in the discharge, a safety factor shall be applied to any chemical or whole effluent toxicity allocation. The limit for a specific chemical constituent shall be allocated at one-half of the normal standard at design conditions. Whole effluent toxicity shall be allocated to protect for chronic toxicity at an effluent concentration equal to twice that which is acceptable under flow design criteria (pursuant to 15A NCAC 02B .0206).
- (10) Lake Waccamaw ORW Area (Lumber River Basin) [Index No. 15-2]: all undesignated waterbodies that are tributary to Lake

- Waccamaw shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section.
- (11) Swift Creek and Sandy Creek ORW Area (Tar-Pamlico River Basin) [portion of Index No. 28-78-(0.5) and Index No. 28-78-1-(19)]: all undesignated waterbodies that drain to the designated waters shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found in the designated waters as well as in the undesignated waters that drain to the designated waters.
- (12) Fontana Lake North Shore ORW Area (Little Tennessee River Basin and Savannah River Drainage Area) [Index Nos. 2-96 through 2-164 (excluding all waterbodies that drain to the south shore of Fontana Lake) consists of the entire watersheds of all creeks that drain to the north shore of Fontana Lake between Eagle and Forney Creeks, including Eagle and Forney Creeks. In addition to the requirements specified in Subparagraph (c)(1) of this Rule, any person conducting development activity disturbing greater than or equal to 5,000 square feet of land area in the designated ORW area shall undertake the following actions to protect the outstanding resource values of the designated ORW and downstream waters:
- (A) investigate for the presence of and identify the composition of acid-producing rocks by exploratory drilling or other means and characterize the net neutralization potential of the acid-producing rocks prior to commencing the land-disturbing activity;
 - (B) avoid areas to the maximum extent practical where acid-producing rocks are found with net neutralization potential of -5 or less;
 - (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity, and monitor and maintain baseline water quality conditions for the duration of the land-disturbing activity and for any period thereafter not less than two years as determined by the Division as part of a certification issued in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule;
 - (D) obtain a National Pollutant Discharge Elimination System permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity;
 - (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of rainfall in accordance with 15A NCAC 02H. 1008; and
 - (F) replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site, post development.
- (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found throughout the watershed. However, new domestic wastewater discharges and expansions of existing wastewater discharges may be allowed provided that:
- (A) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/l, and NH₃-N = 2 mg/l;
 - (B) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/l for trout waters and to 20 mg/l for all other waters except for mining operations, which will be held to their respective NPDES TSS permit limits;
 - (C) Nutrients: Where nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or nitrogen, or both; and
 - (D) Volume: The total volume of treated wastewater for all discharges combined shall not exceed 25 percent of the total instream flow in the designated ORW under 7Q10 conditions, which are defined in Rule .0206(a)(1) of this Section.

Authority G.S. 143-214.1; S.L. 2005-97.

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0303 LITTLE TENN RIVER BASIN AND SAVANNAH RIVER DRAINAGE AREA

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

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

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

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

- (1) February 16, 1977;
- (2) March 1, 1977;
- (3) July 13, 1980;
- (4) February 1, 1986;
- (5) October 1, 1987;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) July 1, 1990;
- (9) August 1, 1990;
- (10) March 1, 1991;
- (11) August 3, 1992;
- (12) February 1, 1993;
- (13) August 1, 1994;
- (14) September 1, 1996;
- (15) August 1, 1998;
- (16) August 1, 2000;
- (17) April 1, 2003;
- (18) January 1, 2007;
- (19) November 1, ~~2007~~, 2007;
- (20) July 1, 2009.

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

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

(e) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah

River Drainage Area was amended effective January 1, 1990 as follows:

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

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

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

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

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

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

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

and WS-III to Classes WS-III Tr ORW and WS-III ORW.

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

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

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

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

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

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

(o) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended January 1, 2007 with the reclassification of the entire watersheds of all creeks that drain to the north shore of Fontana Lake between Eagle and Forney Creeks, including Eagle and Forney Creeks, [Index Nos. 2-96 through 2-164 (excluding all waterbodies that drain to the south shore of Fontana Lake)] from Class B, C Tr, WS-IV Tr CA, WS-IV Tr, and WS-IV & B CA to Class B ORW, C Tr ORW, WS-IV Tr ORW CA, WS-IV Tr ORW, and WS-IV & B ORW CA, respectively. Additional site-specific management strategies are outlined in Rule 15A NCAC 02B .0225(e)(12).

(p) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective November 1, 2007

with the reclassification of Richland Balsam Seep near Beechflat Creek [Index No. 2-79-28-3-2] to Class WL UWL as defined in 15A NCAC 02B. 0101. The Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

(q) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended July 1, 2009 with the reclassification of the watershed of the lower portion of the Horsepasture River [portion of Index Number 4-13-(12.5)] from a point approximately 0.60 miles downstream of N.C. 281 (Bohaynee Road) to the NC-SC state line from Class B Tr to Class B Tr ORW, and the watershed of the upper portion of the Horsepasture River [Index Number 4-13-(0.5) and a portion of Index Number 4-13-(12.5)] from source to a point approximately 0.60 miles downstream of N.C. 281 (Bohaynee Road) to include only the ORW management strategy as represented by "+". The "+" symbol as used in this paragraph means that all undesignated waterbodies that are located within the watershed of the upper portion of Horsepasture River shall comply with Paragraph (c) of Rule .0225 of this Subchapter in order to protect the designated waters as per Rule .0203 of this Subchapter and to protect outstanding resource values found throughout the entire Horsepasture River watershed. Site-specific management strategies are outlined in 15A NCAC 02B .0225(e)(13).

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rule cited as 15A NCAC 07H .0308.

Proposed Effective Date: April 1, 2009

Public Hearing:

Date: February 11, 2009

Time: 5:00 p.m.

Location: Crystal Coast Civic Center, 4035 Arendell Street, Morehead City, NC 28557

Reason for Proposed Action: A March 2008 Interpretive Ruling by the Coastal Resources Commission (CRC) regarding the siting of sandbag structures in cases of accelerated erosion as well as a May 2008 Petition For Rulemaking has necessitated amendments to 15A NCAC 07H .0308(a)(2) Temporary Erosion Control Structures.

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: *February 13, 2009*

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 919-431-3000.

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 .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(a) Ocean Shoreline Erosion Control Activities:

- (1) Use Standards Applicable to all Erosion Control Activities:
 - (A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.
 - (B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, are prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and breakwaters.
 - (C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.
 - (D) All permitted oceanfront erosion response projects, other than beach bulldozing and temporary placement of sandbag structures, shall

- (E) demonstrate sound engineering for their planned purpose. Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife species, as identified by natural resource agencies during project review, unless mitigation measures are incorporated into project design, as set forth in Rule .0306(i) of this Section.
- (F) Project construction shall be timed to minimize adverse effects on biological activity.
- (G) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.
- (H) Erosion control structures that would otherwise be prohibited by these standards may be permitted on finding that:
 - (i) the erosion control structure is necessary to protect a bridge which provides the only existing road access on a barrier island, that is vital to public safety, and is imminently threatened by erosion as defined in provision (a)(2)(B) of this subchapter;
 - (ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate to protect public health and safety; and
 - (iii) the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership or on public use of the beach.
- (I) Structures that would otherwise be prohibited by these standards may also be permitted on finding that:
 - (i) the structure is necessary to protect a state or federally registered historic site that is imminently threatened by shoreline erosion as defined in provision (a)(2)(B) of this subchapter; and
 - (ii) the erosion response measures of relocation, beach nourishment or

- temporary stabilization are not adequate and practicable to protect the site; and
 - (iii) the structure is limited in extent and scope to that necessary to protect the site; and
 - (iv) any permit for a structure under this Part (I) may be issued only to a sponsoring public agency for projects where the public benefits outweigh the short or long range adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any unavoidable adverse impacts on adjoining properties and on public access to and use of the beach.
- (J) Structures that would otherwise be prohibited by these standards may also be permitted on finding that:
 - (i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits; and
 - (ii) dredging alone is not practicable to maintain safe access to the affected channel; and
 - (iii) the structure is limited in extent and scope to that necessary to maintain the channel; and
 - (iv) the structure shall not adversely impact fisheries or other public trust resources; and
 - (v) any permit for a structure under this Part (J) may be issued only to a sponsoring public agency for projects where the public benefits outweigh the short or long range adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any unavoidable adverse impacts on adjoining properties and on public
- access to and use of the beach.
 - (K) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the Commission finds that:
 - (i) the structure will not be enlarged beyond the dimensions set out in the permit;
 - (ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and
 - (iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced.
 - (L) Proposed erosion response measures using innovative technology or design shall be considered as experimental and shall be evaluated on a case-by-case basis to determine consistency with 15A NCAC 7M .0200 and general and specific use standards within this Section.
- (2) Temporary Erosion Control Structures:
 - (A) Permittable temporary erosion control structures shall be limited to sandbags placed ~~above~~ landward of mean high water and parallel to the shore.
 - (B) Temporary erosion control structures as defined in Part (2)(A) of this Subparagraph shall be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure shall be considered ~~to be~~ imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may

also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.

- (C) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not ~~such~~ appurtenances such as pools, gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.
- (D) Temporary erosion control structures may be placed seaward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
- (E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or their designee.
- (F) ~~A temporary~~ Temporary erosion control ~~structure~~ structures may remain in place for up to two years after the date of approval if ~~it is~~ they are protecting a building with a total floor area of 5000 sq. ft. or ~~less, less~~ and its associated septic system, or, for up to five years ~~if the~~ for a building ~~has~~ with a total floor area of more than 5000 sq. ft. and its associated septic system. ~~A temporary~~ Temporary erosion control ~~structure~~ structures may remain in place for up to five years if ~~it is~~ they are protecting a bridge or a road. The property owner shall be responsible for removal of the temporary structure within 30 days of the end of

the allowable time period. ~~A temporary sandbag erosion control structure with a base width not exceeding 20 feet and a height not exceeding 6 feet may remain in place for up to five years or until May 2008, whichever is later regardless of the size of the structure if the community in which it is located is actively pursuing a beach nourishment project as of October 1, 2001. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment project if it has:~~

- (G) Temporary sandbag erosion control structures may remain in place for up to five years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, and for up to eight years from the date of approval if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation project. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment or inlet relocation project if it has:
 - (i) ~~been issued a~~ an active CAMA permit, where necessary, approving such project; or
 - (ii) ~~been deemed worthy of further consideration~~ identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or
 - (iii) received a favorable economic evaluation report on a federal project ~~approved prior to 1986. If beach nourishment is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void and~~

~~existing sandbags are subject to all applicable time limits set forth in Parts (A) through (N) of this Subparagraph. Sandbag structures within nourishment project areas that exceed the 20 foot base width and 6 foot height limitation may be reconstructed to meet the size limitation and be eligible for this time extension; otherwise they shall be removed by May 1, 2000 pursuant to Part (N) of this Subparagraph. Project; or~~

(iv) is in the planning stages of a project that has been designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and has been initiated by a local government or community with a commitment of local or state funds to construct the project and the identification of the financial resources or funding bases necessary to fund the beach nourishment or inlet relocation project.

If beach nourishment or inlet relocation is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Part (F) of this Subparagraph.

~~(G)(H)~~ Once the temporary erosion control structure is determined to be unnecessary due to relocation or removal of the threatened structure or structure, a storm protection project constructed by the U.S. Army Corps of Engineers, a large-scale beach nourishment, nourishment project or an inlet relocation project, it shall be removed by the property owner within 30 days of official notification from the ~~Division~~ Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

~~(H)(I)~~ Removal of temporary erosion control structures shall not be required if they are covered by dunes with stable and natural vegetation.

~~(H)(J)~~ The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.

~~(J)(K)~~ Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed six feet.

~~(K)(L)~~ Soldier pilings and other types of devices to anchor sandbags shall not be allowed.

~~(L)(M)~~ An imminently threatened structure may be protected only once, regardless of ~~ownership~~. ownership unless the threatened structure is located in an Inlet Hazard Area and in a community that is actively pursuing an inlet relocation project in accordance with Part (G) of this Subparagraph. Existing temporary erosion control structures located in Inlet Hazard Areas may be eligible for an additional eight year permit extension provided that the structure being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subchapter and the community in which it is located is actively pursuing an inlet relocation project in accordance with Part (G) of this Subparagraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) or (G) of this Subparagraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:

- (i) a building and septic system shall be considered as separate structures.
- (ii) a road or highway shall be allowed to be incrementally protected as sections become

- imminently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Part (F) or (G) of this Subparagraph.
- ~~(M)(N)~~ Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) or (G) of this Subparagraph.
- ~~(N)~~ ~~Existing sandbag structures that have been properly installed prior to May 1, 1995 shall be allowed to remain in place according to the provisions of Parts (F), (G) and (H) of this Subparagraph with the pertinent time periods beginning on May 1, 1995.~~
- (3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and type. Sand to be used for beach nourishment shall be taken only from those areas where the resulting environmental impacts will be minimal.
- (4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:
- (A) The area on which this activity is being performed shall maintain a slope of adequate grade so as to not endanger the public or the public's use of the beach and shall follow the pre-emergency slope as closely as possible. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;
- (B) The activity shall not exceed the lateral bounds of the applicant's property unless he has permission of the adjoining land owner(s);
- (C) Movement of material from seaward of the mean low water line will require a CAMA Major Development and State Dredge and Fill Permit;
- (D) The activity shall not increase erosion on neighboring properties and shall not have an adverse effect on natural or cultural resources;
- (E) The activity may be undertaken to protect threatened on-site waste disposal systems as—well as the threatened structure's foundations.
- (b) Dune Establishment and Stabilization. Activities to establish dunes shall be allowed so long as the following conditions are met:
- (1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same general configuration as adjacent natural dunes.
- (2) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an oceanward direction.
- (3) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas shall be immediately replanted or temporarily stabilized until planting can be successfully completed.
- (4) Sand used to establish or strengthen dunes shall be of the same general characteristics as the sand in the area in which it is to be placed.
- (5) No new dunes shall be created in inlet hazard areas.
- (6) Sand held in storage in any dune, other than the frontal or primary dune, may be redistributed within the AEC provided that it is not placed any farther oceanward than the crest of a primary dune or landward toe of a frontal dune.
- (7) No disturbance of a dune area shall be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid unnecessary dune impacts.
- (c) Structural Accessways:
- (1) Structural accessways shall be permitted across primary dunes so long as they are designed and constructed in a manner that entails negligible alteration on the primary dune. Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a) of this Rule.
- (2) An accessway shall be conclusively presumed to entail negligible alteration of a primary dune provided that:
- (A) The accessway is exclusively for pedestrian use;
- (B) The accessway is less than six feet in width;
- (C) The accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the frontal dune. Where this is deemed impossible, the structure shall touch the dune only to the extent absolutely necessary. In no

case shall an accessway be permitted if it will diminish the dune's capacity as a protective barrier against flooding and erosion; and

(D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.

(3) An accessway which does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers shall not be deemed to be prohibited by this Rule, provided all other applicable standards are met.

(4) In order to avoid weakening the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") shall be provided for any off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 10 feet in width and shall be constructed of wooden sections fastened together over the length of the affected dune area.

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) and 07J .0210 shall comply with the following standards:

(1) In order to avoid danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.

(2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.

(3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or seaward of the primary dune, the pilings shall extend to five feet below mean sea level.

(4) All foundations shall be adequately designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet this standard or shall be designed to break-away without structural damage to the main structure.

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

TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Education intends to adopt the rules cited as 16 NCAC 06C .0503, .0504.

Proposed Effective Date: April 1, 2009

Public Hearing:

Date: January 12, 2009

Time: 1:00 p.m. – 3:00 p.m.

Location: Room 224, DPI Building, 301 N. Wilmington St., Raleigh, NC 27601

Reason for Proposed Action: The NCSBE adopted new Core Standards for the 21st Century Teaching Profession in June 2007. In July 2008, the NCSBE adopted the new rubric for teacher evaluation. As part of the evaluation process, a teacher's performance is rated using a scale of developing, proficient, accomplished, distinguished or not demonstrated. This new teacher evaluation instrument contains the new standards by which 21st Century Teachers must be evaluated in North Carolina public schools.

Procedure by which a person can object to the agency on a proposed rule: File objections in writing to: Proposed Rule Objections, Attn. Katie G. Cornetto, NC State Board of Education, 6302 Mail Service Center, Raleigh, NC 27699-6302.

Comments may be submitted to: Rulemaking Coordinator, Katie G. Cornetto, 6302 Mail Service Center, Raleigh, NC 2769-6302, phone (919)807-3406, fax (919)807-3198 and email kcornetto@dpi.state.nc.us

Comment period ends: February 13, 2009

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 919-431-3000.

Fiscal Impact:

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

**CHAPTER 06 - ELEMENTARY AND SECONDARY
EDUCATION**

SUBCHAPTER 06C – PERSONNEL

**SECTION .0500 – PERFORMANCE APPRAISAL
SYSTEM**

**16 NCAC 06C .0503 TEACHER EVALUATION
PROCESS**

(a) The intended purpose of the North Carolina Teacher Evaluation Process is to assess the teacher's performance in relation to the North Carolina Professional Teaching Standards and to design a plan for professional growth. The principal or a designee (hereinafter "principal") will conduct the evaluation process in which the teacher will actively participate through the use of self-assessment, reflection, presentation of artifacts, and classroom demonstration(s).

(b) A local board of education shall use the North Carolina Professional Teaching Standards and North Carolina Teacher Evaluation Process unless it develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those in the North Carolina Professional Teaching Standards and North Carolina Teacher Evaluation Process.

(c) The North Carolina Teacher Evaluation Process shall include the following components:

- (1) Component 1: Training. Before participating in the evaluation process, all teachers, principals and peer evaluators must complete training on the evaluation process.
- (2) Component 2: Orientation. Within two weeks of a teacher's first day of work in any school year, the principal shall provide the teacher with a copy of or directions for obtaining access to a copy of:
 - (A) The Rubric for Evaluating North Carolina Teachers (16 NCAC 06C .0504);
 - (B) This policy; and
 - (C) A schedule for completing all the components of the evaluation process. Copies may be provided by electronic means.
- (3) Component 3: Teacher Self Assessment. Using the Rubric for Evaluating North Carolina Teachers, the teacher shall rate his or her own performance at the beginning of the year and reflect on his or her performance throughout the year.
- (4) Component 4: Pre-Observation Conference. Before the first formal observation, the principal shall meet with the teacher to discuss

the teacher's self-assessment based on the Rubric for Evaluating North Carolina Teachers, the teacher's most recent professional growth plan, and the lesson(s) to be observed. The teacher will provide the principal with a written description of the lesson(s). The goal of this conference is to prepare the principal for the observation. Pre-Observation conferences are not required for subsequent observations.

(5) Component 5: Observations.

(A) A formal observation shall last at least 45 minutes or an entire class period.

(B) Probationary Teachers shall have at least three formal observations conducted by the principal and one formal observation conducted by a peer.

(C) Career Status Teachers shall be evaluated annually, unless the LEA establishes a different evaluation cycle for career teachers. During the year in which a career status teacher participates in a summative evaluation, the principal shall conduct at least three observations, including at least one formal observation. During observations, the principal and peer (in the case of a probationary teacher) shall note the teacher's performance in relationship to the applicable Standards on the Rubric for Evaluating North Carolina Teachers.

During observations, the principal and peer (in the case of a probationary teacher) shall note the teacher's performance in relationship to the applicable Standards on the Rubric for Evaluating North Carolina Teachers.

(6) Component 6: Post-Observation Conference. The principal shall conduct a post-observation conference no later than ten school days after each formal observation. During the post-observation conference, the principal and teacher shall discuss and document on the Rubric the strengths and weaknesses of the teacher's performance during the observed lesson.

(7) Component 7: Summary Evaluation Conference and Scoring the Teacher Summary Rating Form. Prior to the end of the school year and in accordance with LEA timelines, the principal shall conduct a summary evaluation conference with the teacher. During the summary evaluation conference, the principal and teacher shall discuss the teacher's self-assessment, the teacher's most recent Professional Growth Plan, the

components of the North Carolina Teacher Evaluation Process completed during the year, classroom observations, artifacts submitted or collected during the evaluation process and other evidence of the teacher's performance on the Rubric. At the conclusion of the North Carolina Teacher Evaluation Process, the principal shall:

- (A) Give a rating for each Element in the Rubric;
 - (B) Make a written comment on any Element marked "Not Demonstrated";
 - (C) Give an overall rating of each Standard in the Rubric;
 - (D) Provide the teacher with the opportunity to add comments to the Teacher Summary Rating Form;
 - (E) Review the completed Teacher Summary Rating Form with the teacher; and
 - (F) Secure the teacher's signature on the Record of Teacher Evaluation Activities and Teacher Summary Rating Form.
- (8) Component 8: Professional Development Plans.
- (A) Individual Growth Plans: Teachers who are rated at least "Proficient" on all the Standards on the Teacher Summary Rating Form shall develop an Individual Growth Plan designed to improve performance on specifically identified Standards and Elements.
 - (B) Monitored Growth Plans: A teacher shall be placed on a Monitored Growth Plan whenever he or she is rated "Developing" on one or more Standards on the Teacher Summary Rating Form and is not recommended for dismissal, demotion or nonrenewal. A Monitored Growth Plan shall, at a minimum, identify the Standards and Elements to be improved, the goals to be accomplished and the activities the teacher should undertake to achieve Proficiency, and a timeline which allows the teacher one school year to achieve Proficiency. A Monitored Growth Plan that meets those criteria shall be deemed to satisfy the requirements of N.C. Gen. Stat. 115C-333(b).
 - (C) Directed Growth Plans: A teacher shall be placed on a Directed Growth Plan whenever he or She is rated "Not Demonstrated" on any Standard on the Teacher Summary Rating Form or

"Developing" on one or more Standards on the Teacher Summary Rating Form for two sequential years and is not recommended for dismissal, demotion or nonrenewal. The Directed Growth Plan shall, at a minimum, identify the Standards and Elements to be improved, the goals to be accomplished, the activities the teacher shall complete to achieve Proficiency, a timeline for achieving Proficiency within one school year or such shorter time as determined by the LEA. A Directed Growth Plan that meets those criteria shall be deemed to satisfy the requirements of N.C. Gen. Stat. 115C-333(b).

- (9) Component 9: Effective Dates and Effect on Licensing and Career Status. Effective with the 2008-2009 school year, LEAs may evaluate teachers using this policy. Effective with the 2010-2011 school year, all teachers in North Carolina will be evaluated using this policy unless a local board develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those in the North Carolina Professional Teaching Standards and North Carolina Teacher Evaluation Process in which case the local board shall use that instrument.

(d) Beginning Teachers: Effective 2010-2011, beginning teachers must be rated "Proficient" on all five North Carolina Professional Teaching Standards on the most recent Teacher Summary Rating Form in order to be eligible for the Standard Professional 2 License.

(e) Probationary Teachers: Effective 2010-2011, a principal must rate a probationary teacher as "Proficient" on all five North Carolina Professional Teaching Standards on the most recent Teacher Summary Rating Form before recommending that teacher for career status.

Authority G.S. 115C-333.

16 NCAC 06C .0504 RUBRIC FOR EVALUATING TEACHERS

(a) Teachers shall be evaluated on the following Standards and Elements:

- (1) Standard 1: Teachers demonstrate leadership.
 - (A) Teachers lead in their classrooms. Teachers demonstrate leadership by taking responsibility for the progress of all students to ensure that they graduate from high school, are globally competitive for work and postsecondary education, and are prepared for life in the 21st Century. Teachers communicate this vision to their students. Using a variety of data sources, they organize, plan, and set

- goals that meet the needs of the individual student and the class. Teachers use various types of assessment data during the school year to evaluate student progress and to make adjustments to the teaching and learning process. They establish a safe, orderly environment, and create a culture that empowers students to collaborate and become lifelong learners.
- (B) Teachers demonstrate leadership in the school. Teachers work collaboratively with school personnel to create a professional learning community. They analyze and use local, state, and national data to develop goals and strategies in the school improvement plan that enhances student learning and teacher working conditions. Teachers provide input in determining the school budget and in the selection of professional development that meets the needs of students and their own professional growth. They participate in the hiring process and collaborate with their colleagues to mentor and support teachers to improve the effectiveness of their departments or grade levels.
- (C) Teachers lead the teaching profession. Teachers strive to improve the teaching profession. They contribute to the establishment of positive working relationships in the school. They actively participate in and advocate for the decision-making structures in education and government that take advantage of the expertise of teachers. Teachers promote professional growth for all educators and collaborate with colleagues to improve the profession.
- (D) Teachers advocate for schools and students. Teachers advocate for positive change in policies and practices affecting student learning. Teachers participate in the implementation of initiative to improve the education of students.
- (E) Teachers demonstrate high ethical standards. Teachers demonstrate ethical principles including honesty, integrity, fair treatment, and respect for others. Teachers uphold the Code of Ethics for North Carolina Educators and the Standards for Professional Conduct.
- (2) Standard 2: Teachers establish a respectful environment for a diverse population of students.
- (A) Teachers provide an environment in which each child has a positive, nurturing relationship with caring adults. Teachers provide an environment for student learning that is inviting, respectful, supportive, inclusive, and flexible.
- (B) Teachers embrace diversity in the school community and in the world. Teachers demonstrate their knowledge of the history of diverse cultures and their role in shaping global issues. Teachers actively select materials and develop lessons that counteract stereotypes and incorporate histories and contributions of all cultures. Teachers recognize the influence of race, ethnicity, gender, religion, and other aspects of culture on a student's development and personality. Teachers strive to understand how a student's culture and background may influence his or her school performance. Teachers consider and incorporate different points of view in their instruction.
- (C) Teachers treat students as individuals. Teachers maintain high expectations, including graduation from high school, for students of all backgrounds. Teachers appreciate the differences and value the contribution of each student in the learning environment by building positive, appropriate relationships.
- (D) Teachers adapt their teaching for the benefit of students with special needs. Teachers collaborate with the range of support specialists to help meet the special needs of all students. Through inclusion and other models of effective practice, teachers engage students to ensure that their needs are met.
- (E) Teachers work collaboratively with the families and significant adults in the lives of their students. Teachers recognize that educating children is a shared responsibility involving the school, parents or guardians, and the community. Teachers improve communication and collaboration between the school, the home, and the community in order to promote trust and understanding and build

partnerships with all segments of the school community. Teachers seek solutions to overcome cultural and economic obstacles that may stand in the way of effective family and community involvement in the education of their students.

(3) Standard 3: Teachers know the content they teach.

(A) Teachers align their instruction with the North Carolina Standard Course of Study. Teachers investigate the content standards developed by professional organizations in their specialty area. Teachers develop and apply strategies to make the curriculum rigorous and relevant for all students and provide a balanced curriculum that enhances literacy skills. Elementary teachers have explicit and thorough preparation in literacy instruction. Middle and high school teachers incorporate literacy instruction within the content area or discipline.

(B) Teachers know the content appropriate to their teaching specialty. Teachers bring a richness and depth of understanding to their classrooms by knowing their subjects beyond the content they are expected to teach and by directing students' natural curiosity into an interest in learning. Elementary teachers have broad knowledge across disciplines. Middle school and high school teachers have depth in one or more specific content areas or disciplines.

(C) Teachers recognize the interconnectedness of content areas/disciplines. Teachers know the links and vertical alignment of the grade or subject they teach and the North Carolina Standard Course of Study. Teachers understand how the content they teach relates to other disciplines in order to deepen understanding and connect learning for students. Teachers promote global awareness and its relevance to subjects they teach.

(D) Teachers make instruction relevant to students. Teachers incorporate 21st Century life skills into their teaching deliberately, strategically, and broadly. These skills include leadership, ethics, accountability, adaptability, personal productivity, personal responsibility, people skills,

self-direction, and social responsibility. Teachers help their students understand the relationship between the North Carolina Standard Course of Study and 21st Century content, which includes global awareness; financial, economic, business and entrepreneurial literacy; civic literacy; and health awareness.

(4) Standard 4: Teachers facilitate learning for their students.

(A) Teachers know the ways in which learning takes place, and they know the appropriate levels of intellectual, physical, social, and emotional development of their students. Teachers know how students think and learn. Teachers understand the influences that affect individual student learning (i.e. development, culture and language proficiency) and differentiate their instruction accordingly. Teachers keep abreast of evolving research about student learning. They adapt resources to address the strengths and weaknesses of their students.

(B) Teachers collaborate with their colleagues and use a variety of data sources for short and long range planning based on the North Carolina Standard Course of Study. These plans reflect an understanding of how students learn. Teachers engage students in the learning process. They understand that instructional plans must be consistently monitored and modified to enhance learning. Teachers make the curriculum responsive to cultural differences and individual learning needs.

(C) Teachers use a variety of instructional methods. Teachers choose the methods and techniques that are most effective in meeting the needs of their students as they strive to eliminate achievement gaps. Teachers employ a wide range of techniques including information and communication technology, learning styles, and differentiated instruction.

(D) Teachers integrate and utilize technology in their instruction. Teachers know when and how to use technology to maximize student learning. Teachers help students use technology to learn content, think critically, solve problems, discern reliability, use information,

- communicate, innovate, and collaborate.
- (E) Teachers help students develop critical-thinking and problem-solving skills. Teachers encourage students to ask questions; think creatively; develop and test innovative ideas; synthesize knowledge and draw conclusions. They help students exercise and communicate sound reasoning; understand connections; make complex choices; and frame, analyze, and solve problems.
- (F) Teachers help students work in teams and develop leadership qualities. Teachers teach the importance of cooperation and collaboration. They organize learning teams in order to help students define roles, strengthen social ties, improve communication and collaborative skills, interact with people from different cultures and backgrounds, and develop leadership qualities.
- (G) Teachers communicate effectively. Teachers communicate in ways that are clearly understood by their students. They are perceptive listeners and are able to communicate with students in a variety of ways even when language is a barrier. Teachers help students articulate thoughts and ideas clearly and effectively.
- (H) Teachers use a variety of methods to assess what each student has learned. Teachers use multiple indicators, including formative and summative assessments, to evaluate student progress and growth as they strive to eliminate achievement gaps. Teachers provide opportunities, methods, feedback, and tools for students to assess themselves and each other. Teachers use 21st Century assessment systems to inform instruction and demonstrate evidence of students' 21st Century knowledge, skills, performance, and dispositions.
- (5) Standard 5: Teachers reflect on their practice.
- (A) Teachers analyze student learning. Teachers think systematically and critically about student learning in

their classrooms and schools as to why learning happens and what can be done to improve achievement. Teachers collect and analyze student performance data to improve school and classroom effectiveness. They adapt their practice based on research and data to best meet the needs of students.

- (B) Teachers link professional growth to their professional goals. Teachers participate in continued, high quality professional development that reflects a global view of educational practices; includes 21st Century skills and knowledge; aligns with the State Board of Education priorities; and meets the needs of students and their own professional growth.
- (C) Teachers function effectively in a complex, dynamic environment. Understanding that change is constant, teachers actively investigate and consider new ideas that improve teaching and learning. They adapt their practice based on research and data to best meet the needs of their students.

(b) For each Standard and Element, the teacher's performance shall be identified as:

- (1) Developing. Teacher demonstrated adequate growth toward achieving standard(s) during the period of performance, but did not demonstrate competence on standard(s) of performance.
- (2) Proficient. Teacher demonstrated basic competence on standard(s) of performance.
- (3) Accomplished. Teacher exceeded basic competence on standard(s) of performance most of the time.
- (4) Distinguished. Teacher consistently and significantly exceeded basic competence on standard(s) of performance.
- (5) Not Demonstrated. Teacher did not demonstrate competence on or adequate growth toward achieving standard(s) of performance. (Note: If the "Not Demonstrated" rating is used, the principal must comment about why such rating was used.)

Authority G.S. 115C-333.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Cosmetic Art Examiners intends to amend the rule cited as 21 NCAC 14J .0207.

Proposed Effective Date: April 1, 2009

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 14 – COSMETIC ART EXAMINERS

Public Hearing:

Date: December 30, 2009

Time: 8:00 a.m.

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

Reason for Proposed Action: *This amendment combines several service types to allow for new service types as well as the flexibility of trending in different regions of the state.*

Procedure by which a person can object to the agency on a proposed rule: *Letter to the Board office.*

Comments may be submitted to: Stefanie Kuzdrall, 1201 Front Street, Suite 110, Raleigh, NC 27609, phone (919)715-0018, fax (919)733-4127, skuzdrall@nccosmeticarts.com.

Comment period ends: February 13, 2009

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 919-431-3000.

Fiscal Impact:

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

SUBCHAPTER 14J - COSMETOLOGY CURRICULUM

SECTION .0200 - ADVANCED DEPARTMENT

21 NCAC 14J.0207 LIVE MODEL/MANNEQUIN PERFORMANCE REQUIREMENTS

(a) The following minimum live model/mannequin performance completions shall be done by each student in the advanced department before the student is eligible to take the cosmetologist's examination. Sharing of performance completions shall not be allowed. Credit for a performance shall be given to only one student.

	1200 Hours		1500 Hours	
	Live Model	Maniq.	Live Model	Maniq.
(1) scalp and hair treatments w/massage	15 8		15 10	
(2) roller sets and styles	50	25	75	25
(3)(2) fullhead fingerwave and style	53	OR 53	5	OR 5
(4)(3) fullhead pincurl and style	53	OR 53	5	OR 5
(5) blowdry and marcel style	50	25	75	25
(6) blowdry and style with brush	5	OR 5	10	OR 10
(7) thermal press & curl	3	OR 3	5	OR 5
(8) artificial hair	2	OR 2	2	OR 2
(4) <u>Hair Styling – sets, blowdrying</u>				
<u>Thermal press/flat iron, artificial hair</u>	<u>80</u>	<u>56</u>	<u>100</u>	<u>70</u>
(9)(5) haircuts	25 60	25 8	50 75	25 10
(10)(6) chemical reformation or permanent waving & relaxers	20 16	5 12	30 20	5 15
(11)(7) temporary color	53		5	
(12) semi perm color	5	5	15	5
(13) permanent color	10	5	15	5
(14) hair lightening or highlighting	5	OR 5	10	OR 10
(8) <u>Color Application – semi, demi,</u>				
<u>Permanent color, and hair lightening</u>	<u>24</u>	<u>8</u>	<u>30</u>	<u>10</u>
(9) <u>Multidimensional Color – low/high</u>				
<u>Lighting, cap, bleach</u>	<u>3</u>	<u>8</u>	<u>5</u>	<u>10</u>
(15)(10) lash & brow tinting	2		4	
(16) manicure with arm & hand massage		15		15
(17) pedicure with leg & foot massage	2		2	
(11) <u>Nail Care – manicures and pedicures</u>	<u>12</u>		<u>15</u>	
(18)(12) artificial nails (sets)	24	OR 24	24	OR 24
(19)(13) facials with massage/makeup	53		10	
(20)(14) hair removal	53		5	

- (b) Certification of live model or mannequin performance completions shall be required along with the application for the examination.
- (c) A live model may be substituted for a mannequin for any mannequin service.
- (d) All mannequin services may be performed using a simulated product.

Authority G.S. 88-23.3.

* * * * *

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 amend the rules cited as 21 NCAC 16B .0303; 16C .0303.

Proposed Effective Date: April 1, 2009

Public Hearing:

Date: January 8, 2009

Time: 7:00 p.m.

Location: Board office, 507 Airport Blvd. Suite 105 Morrisville, NC 27560

Reason for Proposed Action: *The Dental Board proposes to amend 21 NCAC 16B .0303 and 16C .0303 to require agencies that test dental and dental hygiene candidates to provide examinations that employ conjunctive scoring, a minimum passing score set by the Board, annual review of the examination and technical manual, task analyses every four years, a defined system of quality assurance and graders who are not full time employees of any dental academic institution.*

Procedure by which a person can object to the agency on a proposed rule: *Objections may be submitted in writing to Carolin Bakewell, Board Counsel, Board of Dental Examiners, 507 Airport Blvd., Suite 105 Morrisville, NC 27560*

Comments may be submitted to: Carolin Blakewell, 507 Airport Blvd, Suite 105, Morrisville, NC 27560

Comment period ends: February 13, 2009

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 919-431-3000.

Fiscal Impact:

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

SUBCHAPTER 16B - LICENSURE DENTISTS

SECTION .0300 - APPLICATION FOR LICENSURE

21 NCAC 16B .0303 BOARD APPROVED EXAMINATIONS

~~(a) The Board, having reviewed and evaluated the written examinations as administered by the Joint Commission on National Dental Examinations and having found the same to be reliable, accurate and valid examinations, has adopted as part of its written examination the National Board Dental Examination. Applicants for dental licensure shall achieve a passing score upon such examination. Each applicant shall arrange for and ensure the submission to the Board office the National Board score.~~

~~(a)(b) All applicants for dental licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule 16B .0406(c).~~

~~(c) In order to fulfill the clinical examination component for dental licensure, the Board shall accept passing scores from Board approved testing agencies which administer reliable, accurate and valid examinations and allow for Board representation on both the Board of Directors and the Examination Review Committee or equivalent committees and allow for Board input in the examination development and administration.~~

(b) All applicants for dental licensure shall achieve passing scores on written and clinical examinations administered by the Board or Board approved testing agencies according to these Rules.

(c) Clinical testing agencies must permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.

~~(1) The clinical examination shall be substantially equivalent to the clinical licensure examination most recently administered by the Board and include procedures performed on human subjects as part of the assessment of restorative clinical competencies and shall have included evaluations in at least four of the following subject matter areas:~~

(d) The clinical examination shall:

- (1) be equivalent to the clinical licensure examination most recently administered by the Board;
- (2) include procedures performed on human subjects as part of the assessment of restorative clinical competencies;
- (3) include evaluations in at least four of the following subject matter areas:
 - (A) periodontics, clinical abilities testing;
 - (B) endodontics, clinical abilities testing;
 - (C) amalgam preparation and restoration;
 - (D) anterior composite preparation and restoration;
 - (E) posterior ceramic or composite preparation and restoration;
 - (F) cast gold, clinical abilities testing;
 - (G) prosthetics, written or clinical abilities testing;
 - (H) oral diagnosis, written or clinical abilities testing; or
 - (I) oral surgery, written or clinical abilities testing.
- (2) In addition to the foregoing requirements, the examination shall include:
- (4) provide the following:
 - (A) anonymity between applicants candidates and examination raters;
 - (B) standardization and calibration of raters; and
 - (C) a mechanism for post exam analysis; analysis.
 - (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged or overall scoring to compensate for failures in individual subject areas;
 - (E) a minimum passing score set by the Board for each subject area tested;
 - (F) an annual review of the examination and its technical manual by the Board and a psychometrician selected by the Board;
 - (G) a task analysis performed once every four years which surveys dentists on a nationwide survey to determine the content domain to be scored and how the sections of the examination are scored;
 - (H) a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
 - (I) a system of applicant assessment which utilizes raters of applicant performance who are not full time

employees of any dental academic institution.

~~(3)(e)~~ The Board shall accept scores upon such examinations for a period of five years following the date of such examinations. Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores.

~~(4)(f)~~ The applicant shall comply with all requirements of such testing agency in applying for and taking the examination.

(g) The Board shall specify the times, places and agencies which will conduct Board approved licensure examinations in the state.

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

SUBCHAPTER 16C - LICENSURE DENTAL HYGIENISTS

SECTION .0300 - APPLICATION

21 NCAC 16C .0303 BOARD APPROVED EXAMINATIONS

~~(a) The Board, having reviewed and evaluated the written examination as administered by the Joint Commission on National Dental Examinations and having found the same to be a reliable, accurate and valid examination, has adopted as a part of its written examination the National Board Dental Hygiene Examination. Applicants for dental hygiene licensure must achieve a passing score on such examination. Each applicant shall arrange for and ensure that the applicant's National Board score is submitted to the Board office.~~

~~(a)(b)~~ All applicants for dental hygiene licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule 16C .0405.

~~(c) In order to fulfill the clinical examination component for dental hygiene licensure, the Board shall accept passing scores from Board approved testing agencies which administer reliable, accurate and valid examinations and allow for Board representation on both the Board of Directors and the Examination Review Committee or equivalent committees and allow for Board input in the examination development and administration. The clinical examination shall:~~

~~(b) All applicants for dental hygiene licensure shall achieve passing scores on written and clinical examinations administered by the board or Board approved testing agencies according to these Rules.~~

~~(c) Clinical testing agencies must permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.~~

~~(d) The clinical examination shall:~~

- ~~(1) be substantially equivalent to the clinical licensure examination most recently administered by the Board and include procedures performed on human subjects as part of the assessment of clinical competencies and shall have included probing, supra and subgingival sealing, and soft tissue management; and~~

- ~~(2) include:~~
- (1) be equivalent to the clinical licensure examination most recently administered by the Board;
- (2) include procedures performed on human subjects as part of the assessment of clinical competency;
- (3) include probing, supra and subgingival scaling and soft tissue management;
- (4) provide the following:
 - (A) anonymity between ~~candidates~~ applicants and examination raters;
 - (B) standardization and calibration of raters; and
 - (C) a mechanism for post exam ~~analysis~~ analysis;
 - (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged or overall scoring to compensate for failures in individual subject areas;
 - (E) a minimum passing score set by the Board for each subject area tested;
 - (F) an annual review of the examination and its technical manual by the Board and a psychometrician selected by the Board;
 - (G) a task analysis performed once every four years which surveys dentists on a nationwide survey to determine the content domain to be scored and how the sections of the examination are scored;
 - (H) a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
 - (I) a system of applicant assessment which utilizes raters of applicant performance who are not full time employees of any dental academic institution.

(d) The Board shall accept scores upon approved examinations ~~approved under Paragraph (e) of this Rule~~, for a period of five years following the date of such examinations. Each applicant shall arrange for and ensure that the applicant's scores are submitted to the Board office. The applicant shall comply with all requirements of such testing agency in applying for and taking the examination.

~~(e) In order to fulfill the sterilization examination component set forth in Paragraph (b) of this Rule, the Board shall accept passing scores from Board approved testing agencies which administer reliable, accurate and valid sterilization examinations and allow for Board representation on both the Board of Directors and the Examination Review Committee or equivalent committees and allow for Board input in the examination development and administration.~~

(e) The Board shall specify the times, places and agencies which will conduct Board approved licensure examinations in the state.

Authority G.S. 90-224.

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Office of Administrative Hearings intends to amend the rules cited as 26 NCAC 01 .0102; 02C .0114; 03 0120, .0123.

Proposed Effective Date: *April 1, 2009*

Public Hearing:

Date: *February 17, 2009*

Time: *9:00 a.m.*

Location: *1711 New Hope Church Road, Raleigh, NC 27609*

Reason for Proposed Action: *The Office of Administrative Hearings is proposing to amend rules in Chapters 1 and 3 regarding cost of public documents and recordings on file to reflect actual cost of copies and to establish cost using the technology now available in OAH's new office and courtrooms. The agency is also making a few clarifying changes to those same rules that do not alter the substance or intent. OAH is also proposing to amend a rule in Chapter 2 to reduce the time allowed for agencies to report errors to OAH prior to publication in the NCAC and the OAH website. The reduction of time will allow OAH to post rules to the OAH website sooner and have the website more current with newly adopted and amended rules.*

Procedure by which a person can object to the agency on a proposed rule: *Written objections should be sent to Molly Masich, OAH-Rules Division, 1711 New Hope Church Road, NC 27609 and postmarked no later than February 17, 2009. The objection letter should clearly state which rule the objection is to and the reason for the objection.*

Comments may be submitted to: *Molly Masich, 1711 New Hope Church Road, Raleigh, NC 27609*

Comment period ends: *February 17, 2009*

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 919-431-3000.

Fiscal Impact:

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

CHAPTER 01 - GENERAL

SECTION .0100 - GENERAL

26 NCAC 01 .0103 COST TO PUBLIC

(a) Copies of any public documents and recordings on file filed in the Office of Administrative Hearings are available in the following forms:

- (1) looseleaf form at a cost of twenty five cents (\$0.25) per page with a minimum cost of two dollars and fifty cents (\$2.50); loose-leaf documents at a cost of five cents (\$0.05) per page;
- ~~(2) 3 1/2 inch diskette at a cost of five dollars (\$5.00) per diskette if the document is available in electronic form;~~
- ~~(2) CD Rom at a cost of twenty-five cents (\$0.25) each;~~
- ~~(3) digital video disk (DVD) at a cost of fifty cents (\$0.50) each;~~
- ~~(4) cassette tape at a cost of fifty cents (\$0.50) each; and~~
- ~~(3)(5) email at no cost if the document is available in an electronic form. form (subject to email system file format and size limitations.)~~

(b) Certified copies of any public document filed in the Office of Administrative Hearings are available at a cost of one dollar (\$1.00) per certification in addition to the looseleaf copying cost. Diskette Electronic copy certification is not available.

(c) Transcripts ~~or tapes~~ are available of contested case hearings. Procedures for requesting and costs of transcripts ~~or tapes~~ are in 26 NCAC 03 .0123.

(d) Copies of recordings are available in the original recording format and media only.

(e) Video conferencing fees including cancellation fees shall be paid by the requesting party. The OAH and video conferencing fees are set at the rates established by the Office of Information Technology Services (ITS).

~~(4)(f)~~ North Carolina sales tax shall be added if applicable.

(g) Postage and mailing costs shall be paid by the requesting party.

(h) There is no charge to the requesting party unless the total charge is equal to or exceeds three dollars (\$3.00).

Authority G.S. 132-6.2; 150B-19; 150B-21.25; 150B-37.

CHAPTER 02 - RULES DIVISION

SUBCHAPTER 02C - SUBMISSION PROCEDURES FOR RULES AND OTHER DOCUMENTS TO BE PUBLISHED IN THE NORTH CAROLINA REGISTER AND THE NORTH CAROLINA ADMINISTRATIVE CODE

SECTION .0100 - GENERAL

26 NCAC 02C .0114 AGENCY FINAL COPY

(a) OAH shall send electronically a final draft of an adopted emergency, temporary or permanent rule to an agency's rule-making coordinator after the rule is filed with OAH.

(b) The agency shall notify OAH of any error made in the draft within ~~40~~ three business days of notification by OAH.

(c) If OAH receives written notification from the agency of any error made by OAH, OAH shall correct the error.

(d) If OAH receives written notification from the agency of any error in the content of the rule not made by OAH, OAH shall return the rule to the Commission.

Authority G.S. 150B-21.5; 150B-21.20.

CHAPTER 03 - HEARINGS DIVISION

SECTION .0100 - HEARING PROCEDURES

26 NCAC 03 .0120 RIGHTS AND RESPONSIBILITIES OF PARTIES

(a) All parties ~~shall have the right to~~ may present evidence, rebuttal testimony, and argument with respect to the issues of law and policy, and to cross-examine witnesses, including the author of a document prepared by, on behalf of, or for use of the agency and offered in evidence.

(b) A party shall have all evidence to be presented, both oral and written, available on the date for hearing. ~~Requests for subpoenas, depositions, or continuances shall be made within a reasonable time after their need becomes evident to the requesting party.~~ In cases when the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the administrative law judge or agreed upon at a prehearing conference.

(c) The administrative law judge shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the administrative law judge shall simultaneously send a copy to all other parties.

(d) All parties have the continuing responsibility to notify the Office of Administrative Hearings of their current address and telephone number.

~~(e) A party need not be represented by an attorney. A party may represent himself or be represented by an attorney.~~ If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.

(f) With prior notice to the administrative law judge, any person may offer testimony or other evidence relevant to the case. Any nonparty offering testimony or other evidence may be questioned by parties to the case and by the administrative law judge.

(g) Prior to issuing a decision, the administrative law judge may order any party to submit proposed findings of fact and written arguments.

(h) The Administrative Law Judge may allow remote participation via audio or video conference by participant(s) subject to available services at the hearing location. Requests for remote participation shall be made at least seven days in advance and are subject to equipment, staff, and scheduling availability.

Authority G.S. 7A-751(a); 150B-25; 150B-33; 150B-34.

26 NCAC 03 .0123 OFFICIAL RECORD

(a) The official record of a contested case shall be available for public inspection upon request. An administrative law judge may, consistent with law, order part or all of an official record sealed.

(b) The official record shall be prepared in accordance with G.S. 150B-37(a).

(c) Contested case hearings shall be recorded either by a four-track recording system or a professional court reporter using stenomask or stenotype.

(d) Transcript costs incurred shall be divided equally among the party(ies) requesting a transcript.

(e) Any other costs incurred when using a professional court reporter shall be divided equally among the requesting party(ies).

(f) A 24 hour cancellation notice shall be required in all cases. The party(ies) responsible for the cancellation shall be liable for any cancellation fees.

(g) Transcripts of proceedings during which oral evidence is presented ~~will~~ shall be made only upon request of a party. OAH shall contract with an independent contractor to provide transcript services. Transcript requests must be made to the independent contractor. The name and phone number of the independent contractor may be obtained by calling the Office of Administrative Hearings. Transcript costs shall be provided to the requesting party by the independent contractor. An attorney requesting a transcript on behalf of a party shall be a guarantor of payment of the cost. The independent contractor may require an advance security deposit to cover the prospective cost.

(h) Copies of ~~tapes recordings~~ tapes recordings are available upon written request at a cost of ~~three dollars (\$3.00) plus tax per tape.~~ set out in 26 NCAC 01 .0103.

(i) Copies of OAH Hearings ~~tapes recordings~~ tapes recordings or Non-OAH Certified transcripts therefrom are not part of the official record.

Note: Rule 5.3(B) of the Rules of Professional Conduct permits an attorney to advance or guarantee expenses of litigation provided the client remains ultimately liable for such expenses.

Authority G.S. 150B-37.

This Section contains information for the meeting of the Rules Review Commission on Thursday December 18, 2008 10:00 a.m. at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3100. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Keith O. Gregory
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
John B. Lewis
Clarence E. Horton, Jr.
Daniel F. McLawhorn
Curtis Venable

RULES REVIEW COMMISSION MEETING DATES

December 18, 2008 January 22, 2009
February 19, 2009 March 19, 2008

RULES REVIEW COMMISSION

November 20, 2008

MINUTES

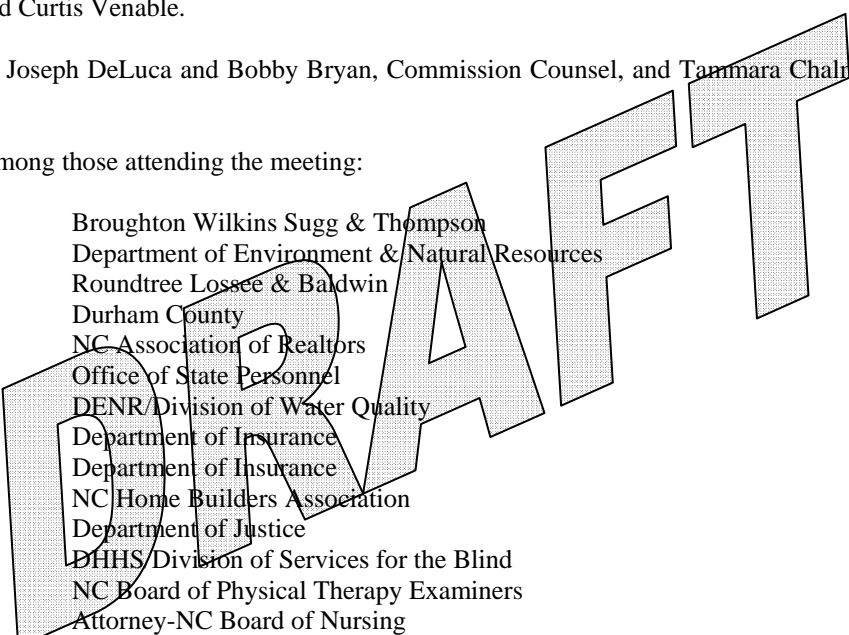
The Rules Review Commission (RRC) met on Thursday, November 20, 2008, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jim Funderburk, Jeff Gray, Jennie Hayman, Clarence Horton, Dan McLawhorn, and Curtis Venable.

Staff members present were: Joseph DeLuca and Bobby Bryan, Commission Counsel, and Tammara Chalmers, RRC Administrative Assistant.

The following people were among those attending the meeting:

Charles Wilkins
Nancy Pate
Steve Coggins
S. C. Kitchen
Cady Thomas
Peggy Oliver
Rich Gannon
Bob Potter
Ellen Sprenkel
Lisa Martin
Don Laton
Mary Flanagan
Ben Massey
Jack Nichols
Jane Oliver
Kathy Arney
Melissa Trippe
Jean H. Stanley
Francis Crawley
Jimmy Miller
Jim Gulick
Eric David
Robert M. Ward

Broughton Wilkins Sugg & Thompson
Department of Environment & Natural Resources
Roundtree Lossee & Baldwin
Durham County
NC Association of Realtors
Office of State Personnel
DENR/Division of Water Quality
Department of Insurance
Department of Insurance
NC Home Builders Association
Department of Justice
DHHS/Division of Services for the Blind
NC Board of Physical Therapy Examiners
Attorney-NC Board of Nursing
Department of Justice
NC Board of Physical Therapy Examiners-Contractor
Attorney General's Office
NC Board of Nursing
Attorney General's Office
Cemetery Commission
Department of Justice
Board of Pharmacy
City of Burlington



Kenney McDowell	City of Greensboro
Jane Oliver	Department of Justice
Chris Nida	NC League of Municipalities
Barry Gupton	Department of Insurance-Building Code Council
Charles Brown	Town of Cary
Lancie Bailey	Water Treatment Board
Joan Taylor Saucier	Department of Correction
Mike Abraczinskas	DENR/Division of Air Quality
Joelle Burleson	DENR/Division of Air Quality
Donnie Redman	DENR/Division of Air Quality
Bonnie Bendell	DENR/Division of Coastal Management
Jeff Warren	DENR/Division of Coastal Management
Steve Smith	Environmental Management Commission

APPROVAL OF MINUTES

The meeting was called to order at 9:05 a.m. with Ms. Hayman presiding. She reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the October 20, 2008 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

15A NCAC 02B .0262, .0263, .0267 (Review for technical changes only); .0265, .0266, .0311 – Environmental Management Commission. On a motion to accept staff's recommendation made by Commissioner Funderburk and seconded by Commissioner Horton, the Commission approved the rewritten rules submitted by the agency and also approved Rule .0311. Commissioners Funderburk, Horton, McLawhorn, and Chairman Hayman voted in favor of the motion with Commissioners Crisp, Gray, and Venable opposed. These rules are all subject to legislative review.

15A NCAC 18D .0308 – Water Treatment Facility Operators Certification Board. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 36 .0201, .0203 – Board of Nursing. After some discussion, an explanation by attorney Nichols, and an agreement to make a technical change that day, the Commission approved the rewritten rules submitted by the agency.

LOG OF FILINGS

Chairman Hayman presided over the review of the log of permanent rules.

All permanent rules were approved unanimously with the following exceptions:

Prior to the review of the permanent rules from the Private Protective Services Board, Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because he teaches the Firearms Instructor Training course for the Private Protective Services Board on a contract basis.

05 NCAC 01F .0102: Department of Corrections – The Commission objected to this Rule based on lack of statutory authority. G.S. 132-6.2(b) prohibits a public agency from charging a fee for an uncertified copy of a public record that exceeds the actual cost to the public agency of making the copy. "Actual cost" is limited to direct, chargeable cost related to the reproduction of a public record as determined by generally accepted accounting principles and does not include costs that would have been made. In (a)(1), the rule sets a cost of ten cents per page for copies of loose-leaf documents. That cost appears to be more than the actual cost of making the copy, and there was no showing that ten cents is the actual cost.

10A NCAC 63C .0204: Commission for the Blind – The Commission objected to this Rule based on ambiguity. Subparagraph (d)(3) is unclear. The purpose of the Subparagraph is to establish the procedure for awarding points for Performance According to Financial Analysis/Operating Standards. The maximum points that can be awarded is 50. Parts (B) through (E) seem to tell how to obtain the maximum points. Then Part (F) seems to largely repeat the formula except that the Subparts are based on 12 months as opposed to three months as in the remainder of the Subparagraph. It is not clear if these are alternative ways of getting points or what is going on here. This problem is in the existing language.

21 NCAC 14H .0105: Board of Cosmetic Art Examiners – The Commission objected to this Rule based on ambiguity and lack of statutory authority. It is not clear in (f) if the agency would actually intend to seek enforcement action for violation "of any rule in this Chapter," including sanitation rules and penalties that by themselves would not result in any adverse action against the permit holder. Even if the rule were clear there is no authority cited to take any enforcement action against a permit holder unless the violation "of any rule in this Chapter" is willful. Likewise in (d) there is no authority cited to prohibit the operation of a beauty establishment beyond the time set in the rule unless the agency establishes that the failure to attain the necessary sanitation rating is willful. That determination could not be made until the completion of a contested case hearing.

21 NCAC 48G .0111: Board of Physical Therapy Examiners – The Commission objected to this Rule based on ambiguity. In (c), it is not clear what standards the Board will use in deciding whether to grant an exception to a licensee who becomes disabled or sustains a personal hardship that makes completion of requirements impractical. In (d), it is not clear when the Board will allow additional time in cases of personal or family emergencies. In (e), it is not clear when an exception applied for will be granted. In (f), it is not clear when requests for partial exemptions or deferments for hardships or extenuating circumstances will be granted.

21 NCAC 48G .0203: Board of Physical Therapy Examiners - The Commission objected to this Rule based on ambiguity. In (c)(2), it is not clear what is meant by "satisfactorily" compiling at least 500 hours. It is not clear when the compiling would be unsatisfactory. It is also not clear when the Board will authorize training.

TEMPORARY RULES

Chairman Hayman presided over the review of the log of temporary rules.

Prior to the review of the temporary rules from the Office of Administrative Hearings, Commissioner Venable recused himself and did not participate in any discussion or vote concerning these rules because he was involved in the development of the rules. Commissioner Gray also recused himself and did not participate in any discussion or vote concerning these rules because he was involved in the review of the rules.

All temporary rules were approved.

COMMISSION PROCEDURES AND OTHER BUSINESS

Commissioners were invited to attend the Office of Administrative Hearings Open House on Friday, December 5, 2008 at 4:00 p.m. at its new location.

The meeting adjourned at 10:21 a.m.

The next scheduled meeting of the Commission is Thursday, December 18, 2008 at 9:00 a.m.

Respectfully Submitted,

Tammara Chalmers
RRC Administrative Assistant

LIST OF APPROVED PERMANENT RULES November 20, 2008 Meeting

TOBACCO TRUST FUND COMMISSION

<u>Applications for Grants</u>	02 NCAC 57 .0204
<u>Out of Cycle Award of Grants</u>	02 NCAC 57 .0206
<u>Review of Proposals</u>	02 NCAC 57 .0207
<u>Reporting</u>	02 NCAC 57 .0209
<u>Applications for Grants</u>	02 NCAC 57 .0304
<u>Out of Cycle Consideration of Grants</u>	02 NCAC 57 .0305
<u>Review of Proposals</u>	02 NCAC 57 .0306
<u>Reporting</u>	02 NCAC 57 .0308

CEMETERY COMMISSION

Delivery 04 NCAC 05D .0202

CORRECTIONS, DEPARTMENT OF

Location 05 NCAC 01F .0101

Filing a Petition for Rule-making 05 NCAC 01F .0201

BLIND, COMMISSION FOR THE

Licensing and Placement 10A NCAC 63C .0202

INSURANCE, DEPARTMENT OF

Definitions 11 NCAC 11F .0601

2001 CSO Mortality Table as Minimum Standard 11 NCAC 11F .0602

Conditions 11 NCAC 11F .0603

Gender-Blended Tables 11 NCAC 11F .0605

Minimum Standards for Preneed Life Insurance 11 NCAC 11F .0606

PRIVATE PROTECTIVE SERVICES BOARD

Requirements for a Firearms Trainer Certificate 12 NCAC 07D .0901

Records Retention 12 NCAC 07D .0906

Post-Delivery Report for Firearms Training Courses 12 NCAC 07D .0908

ENVIRONMENTAL MANAGEMENT COMMISSION

Jordan Water Supply Nutrient Strategy: Purpose and Scope 15A NCAC 02B .0262

Jordan Water Supply Nutrient Strategy: Definitions 15A NCAC 02B .0263

Jordan Water Supply Nutrient Strategy: Stormwater Managem... 15A NCAC 02B .0265

Jordan Water Supply Nutrient Strategy: Stormwater Managem... 15A NCAC 02B .0266

Jordan Water Supply Nutrient Strategy: Protection of Exis... 15A NCAC 02B .0267

Cape Fear River Basin 15A NCAC 02B .0311

COASTAL RESOURCES COMMISSION

General Use Standards for Ocean Hazard Areas 15A NCAC 07H .0306

Requesting the Static Line Exception 15A NCAC 07J .1201

Review of the Static Line Exception Request 15A NCAC 07J .1202

Procedure for Approving the Static Line Exception 15A NCAC 07J .1203

Review of the Large-Scale Beach-Fill Project and Approved... 15A NCAC 07J .1204

Revocation and Expiration of the Static Line Exception 15A NCAC 07J .1205

Local Government and Communities with Static Vegetation L... 15A NCAC 07J .1206

WATER TREATMENT FACILITY OPERATORS CERTIFICATION BOARD

Professional Growth Hours 15A NCAC 18D .0308

COSMETIC ART EXAMINERS, BOARD OF

Definitions 21 NCAC 14A .0101

<u>Salon Renewal</u>	21	NCAC 14F .0114
<u>Forms</u>	21	NCAC 14G .0102
<u>Equipment and Teachers</u>	21	NCAC 14G .0107
<u>Cleanliness of Operators</u>	21	NCAC 14H .0111
<u>Cleanliness of Clinic Area: Supplies: Combs and Brushes</u>	21	NCAC 14H .0112
<u>Cleanliness of Scissors, Shears, Razors and Other Equipment</u>	21	NCAC 14H .0113
<u>Health of Operators</u>	21	NCAC 14H .0116
<u>Animals</u>	21	NCAC 14H .0117
<u>Systems of Grading Beauty Establishments</u>	21	NCAC 14H .0118
<u>Footspa Sanitation</u>	21	NCAC 14H .0120
<u>Transfer of Credit</u>	21	NCAC 14I .0105
<u>Report of Enrollment</u>	21	NCAC 14I .0107
<u>Summary of Cosmetic Art Education</u>	21	NCAC 14I .0109
<u>Recitation Room</u>	21	NCAC 14I .0301
<u>Classroom Bulletin Board</u>	21	NCAC 14I .0303
<u>Application/Licensure/Individuals Who Have Been Convicted...</u>	21	NCAC 14I .0401
<u>Requests for Preapplication Review of Felony Convictions</u>	21	NCAC 14I .0402
<u>Equipment</u>	21	NCAC 14J .0302
<u>Uniforms</u>	21	NCAC 14K .0101
<u>Equipment and Instruments</u>	21	NCAC 14K .0103
<u>Identification Pins</u>	21	NCAC 14K .0105
<u>Live Model Performances</u>	21	NCAC 14K .0107
<u>Application to Take Examination</u>	21	NCAC 14L .0106
<u>Supervision of Cosmetic Art Teacher Trainer</u>	21	NCAC 14L .0208
<u>Effect on Student-Teacher Ratio</u>	21	NCAC 14L .0210
<u>Fee</u>	21	NCAC 14L .0214
<u>Initial Application and Fees</u>	21	NCAC 14N .0102
<u>Uniforms</u>	21	NCAC 14O .0101
<u>Course of Study</u>	21	NCAC 14O .0102
<u>Identification Pins</u>	21	NCAC 14O .0105
<u>Sanitation</u>	21	NCAC 14O .0107
<u>Renewals, Expired Licenses, Licenses Required</u>	21	NCAC 14P .0105
<u>Licenses Required</u>	21	NCAC 14P .0106
<u>Licenses to be Posted</u>	21	NCAC 14P .0107
<u>Revocation of Licenses and Other Disciplinary Measures</u>	21	NCAC 14P .0108
<u>Sanitary Ratings and Posting of Ratings - Applicable to E...</u>	21	NCAC 14P .0112
<u>Operations of Schools of Cosmetic Art</u>	21	NCAC 14P .0113
<u>Sanitary Ratings</u>	21	NCAC 14P .0115
<u>Continuing Education Requirements</u>	21	NCAC 14R .0101
<u>Application Criteria and Continuing Education Course Appr...</u>	21	NCAC 14R .0102
<u>Criteria for Continuing Education Courses</u>	21	NCAC 14R .0103
 NURSING, BOARD OF		
<u>Regular Renewal</u>	21	NCAC 36 .0201
<u>Reinstatement of Lapsed License</u>	21	NCAC 36 .0203

PHARMACY, BOARD OF

Partial Examination 21 NCAC 46 .1507

PHYSICAL THERAPY EXAMINERS, BOARD OF

Definitions 21 NCAC 48G .0105

Continuing Competence 21 NCAC 48G .0106

Standards for Continuing Competence Activities 21 NCAC 48G .0107

Approval of Providers and Activities 21 NCAC 48G .0108

Continuing Competence Activities 21 NCAC 48G .0109

Evidence of Compliance 21 NCAC 48G .0110

Costs 21 NCAC 48G .0112

STATE PERSONNEL COMMISSION

Separation: Payment of Vacation Leave 25 NCAC 01C .1009

Leave 25 NCAC 01D .0517

Separation: Payment of Vacation Leave 25 NCAC 01E .0210

BUILDING CODE COUNCIL

NC Residential Code: General. Appendix Q Footing Continuity R403.1

LIST OF APPROVED TEMPORARY RULES
November 20, 2008 Meeting

ENVIRONMENTAL MANAGEMENT COMMISSION

Applicability 15A NCAC 02D .1402

Recordkeeping: Reporting: Monitoring 15A NCAC 02D .1404

Boilers and Indirect-Fired Process Heaters 15A NCAC 02D .1407

Stationary Combustion Turbines 15A NCAC 02D .1408

Stationary Internal Combustion Engines 15A NCAC 02D .1409

Emissions Averaging 15A NCAC 02D .1410

Seasonal Fuel Switching 15A NCAC 02D .1411

Emission Allocations for Utility Companies 15A NCAC 02D .1416

Emission Allocations for Large Combustion Sources 15A NCAC 02D .1417

New Electric Generating Units, Large Boilers, and Large I... 15A NCAC 02D .1418

Nitrogen Oxide Budget Trading Program 15A NCAC 02D .1419

Periodic Review and Reallocations 15A NCAC 02D .1420

Allocations for New Growth of Major Point Sources 15A NCAC 02D .1421

Compliance Supplement Pool Credits 15A NCAC 02D .1422

ADMINISTRATIVE HEARINGS, OFFICE OF

Hearing Procedures Rules 26 NCAC 03 .0401

Mediation Settlement Conference Rules 26 NCAC 03 .0402

Expedited Hearings Procedures for Complex Contested Cases 26 NCAC 03 .0403

AGENDA
RULES REVIEW COMMISSION
Thursday, December 18, 2008, 9:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Department of Correction – 05 NCAC 01F .0102 (Bryan)
 - B. Commission for the Blind – 10A NCAC 63C .0204 (Bryan)
 - C. Board of Cosmetic Art Examiners – 21 NCAC 14H .0105 (DeLuca)
 - D. Board of Physical Therapy Examiners – 21 NCAC 48G .0111, .0203 (Bryan)
- IV. Review of Log of Permanent Rule filings for rules filed between October 21, 2008 and November 20, 2008 (attached)
- V. Review of Temporary Rules
- VI. Commission Business
 - Next meeting: January 22, 2009

Commission Review
Log of Permanent Rule Filings
October 21, 2008 through November 20, 2008

MEDICAL CARE COMMISSION

The rules in Chapter 13 are from the Medical Care Commission.

The rules in Subchapter 13P concern emergency medical services and trauma including definitions (.0100); EMS systems (.0200); specialty care transport programs (.0300); medical oversight (.0400); EMS personnel (.0500); EMS educational institutions (.0600); enforcement (.0700); trauma system definitions (.0800); trauma center standards and approval (.0900); trauma center designation enforcement (.1000); and trauma system design (.1100).

<u>Abbreviations</u>	10A NCAC 13P .0101
Amend/*	
<u>Definitions</u>	10A NCAC 13P .0102
Amend/*	
<u>Air Medical Program</u>	10A NCAC 13P .0103
Repeal/*	
<u>Assistant Medical Director</u>	10A NCAC 13P .0104
Repeal/*	
<u>Convalescent Ambulance</u>	10A NCAC 13P .0105
Repeal/*	
<u>Educational Medical Advisor</u>	10A NCAC 13P .0106
Repeal/*	
<u>EMS Educational Institution</u>	10A NCAC 13P .0107
Repeal/*	
<u>EMS Nontransporting Vehicle</u>	10A NCAC 13P .0109
Repeal/*	
<u>EMS System</u>	10A NCAC 13P .0110
Repeal/*	
<u>Ground Ambulance</u>	10A NCAC 13P .0111

Repeal/*				
<u>Medical Crew Members</u>	10A	NCAC	13P	.0112
Repeal/*				
<u>Medical Director</u>	10A	NCAC	13P	.0113
Repeal/*				
<u>Medical Oversight</u>	10A	NCAC	13P	.0114
Repeal/*				
<u>Model EMS System</u>	10A	NCAC	13P	.0115
Repeal/*				
<u>Office of Emergency Medical Services</u>	10A	NCAC	13P	.0116
Repeal/*				
<u>Operational Protocols</u>	10A	NCAC	13P	.0117
Repeal/*				
<u>Physician</u>	10A	NCAC	13P	.0118
Repeal/*				
<u>EMS Peer Review Committee</u>	10A	NCAC	13P	.0119
Repeal/*				
<u>Specialty Care Transport Program</u>	10A	NCAC	13P	.0120
Repeal/*				
<u>Specialty Care Transport Program Continuing Education Co...</u>	10A	NCAC	13P	.0121
Repeal/*				
<u>System Continuing Education Coordinator</u>	10A	NCAC	13P	.0122
Repeal/*				
<u>Treatment Protocols</u>	10A	NCAC	13P	.0123
Repeal/*				
<u>Water Ambulance</u>	10A	NCAC	13P	.0124
Repeal/*				
<u>EMS System Requirements</u>	10A	NCAC	13P	.0201
Amend/*				
<u>Model EMS Systems</u>	10A	NCAC	13P	.0202
Amend/*				
<u>EMS Provider License Requirements</u>	10A	NCAC	13P	.0204
Amend/*				
<u>EMS Provider License Conditions</u>	10A	NCAC	13P	.0205
Amend/*				
<u>Term of EMS Provider License</u>	10A	NCAC	13P	.0206
Amend/*				
<u>Ground Ambulance: Vehicle and Equipment Requirements</u>	10A	NCAC	13P	.0207
Amend/*				
<u>Convalescent Ambulance Vehicle and Equipment Requirements</u>	10A	NCAC	13P	.0208
Amend/*				
<u>Air Medical Ambulance: Vehicle and Equipment Requirements</u>	10A	NCAC	13P	.0209
Amend/*				
<u>Water Ambulance: Watercraft and Equipment Requirements</u>	10A	NCAC	13P	.0210
Amend/*				
<u>Term of Ambulance Permit</u>	10A	NCAC	13P	.0212
Amend/*				
<u>EMS Nontransporting Vehicle Requirements</u>	10A	NCAC	13P	.0213
Amend/*				
<u>EMS Nontransporting Vehicle Permit Conditions</u>	10A	NCAC	13P	.0214
Amend/*				
<u>Term of EMS Nontransporting Vehicle Permit</u>	10A	NCAC	13P	.0215

Amend/*				
<u>Specialty Care Transport Program Criteria</u>	10A	NCAC	13P	.0301
Amend/*				
<u>Air Medical Specialty Care Transport Program Criteria for...</u>	10A	NCAC	13P	.0302
Amend/*				
<u>Ground Specialty Care Transport Programs</u>	10A	NCAC	13P	.0303
Repeal/*				
<u>Hospital-Affiliated Ground Specialty Care Transport Progr...</u>	10A	NCAC	13P	.0304
Repeal/*				
<u>Air Medical Specialty Care Transport Program Criteria for...</u>	10A	NCAC	13P	.0305
Adopt/*				
<u>Components of Medical Oversight for EMS Systems</u>	10A	NCAC	13P	.0401
Amend/*				
<u>Components of Medical Oversight for Specialty Care Transp...</u>	10A	NCAC	13P	.0402
Amend/*				
<u>Responsibilities of the Medical Director for EMS Systems</u>	10A	NCAC	13P	.0403
Amend/*				
<u>Responsibilities of the Medical Director for Specialty Ca...</u>	10A	NCAC	13P	.0404
Amend/*				
<u>Requirements for Adult and Pediatric Treatment Protocols ...</u>	10A	NCAC	13P	.0405
Amend/*				
<u>Requirements for Adult and Pediatric Treatment Protocols ...</u>	10A	NCAC	13P	.0406
Amend/*				
<u>EMS Peer Review Committee for EMS</u>	10A	NCAC	13P	.0408
Amend/*				
<u>EMS Peer Review Committee for Specialty Care Transport Pr...</u>	10A	NCAC	13P	.0409
Amend/*				
<u>Educational Programs</u>	10A	NCAC	13P	.0501
Amend/*				
<u>Initial Credentialing Requirements for MR, EMT, EMT-I, EM...</u>	10A	NCAC	13P	.0502
Amend/*				
<u>Renewal of Credentials for MR, EMT, EMT-I, EMT-P, and EMD</u>	10A	NCAC	13P	.0504
Amend/*				
<u>Credentialing Requirements for Level 1 EMS Instructors</u>	10A	NCAC	13P	.0507
Amend/*				
<u>Credentialing Requirements for Level II EMS Instructors</u>	10A	NCAC	13P	.0508
Amend/*				
<u>Credentialing of Individuals to Administer Lifesaving Tre...</u>	10A	NCAC	13P	.0509
Amend/*				
<u>Renewal of Credentials for Level I and Level II EMS Instr...</u>	10A	NCAC	13P	.0510
Amend/*				
<u>Criminal Histories</u>	10A	NCAC	13P	.0511
Adopt/*				
<u>Continuing Education EMS Educational Institution Requirem...</u>	10A	NCAC	13P	.0601
Amend/*				
<u>Basic EMS Educational Institutional Requirements</u>	10A	NCAC	13P	.0602
Amend/*				
<u>Advanced EMS Educational Institution Requirements</u>	10A	NCAC	13P	.0603
Amend/*				
<u>Denial, Suspension, Amendment or Revocation</u>	10A	NCAC	13P	.0701
Amend/*				
<u>Trauma System Definitions</u>	10A	NCAC	13P	.0801

Repeal/*				
<u>Level I Trauma Center Criteria</u>	10A	NCAC	13P	.0901
Amend/*				
<u>Level II Trauma Center Criteria</u>	10A	NCAC	13P	.0902
Amend/*				
<u>Level III Trauma Center Criteria</u>	10A	NCAC	13P	.0903
Amend/*				
<u>Initial Designation Process</u>	10A	NCAC	13P	.0904
Amend/*				
<u>Renewal Designation Process</u>	10A	NCAC	13P	.0905
Amend/*				
<u>Denial, Focused Review, Voluntary Withdrawal, or Revocati...</u>	10A	NCAC	13P	.1001
Repeal/*				
<u>Procedures for Appeal of Denial, Focused Review, or Revoc...</u>	10A	NCAC	13P	.1002
Repeal/*				
<u>State Trauma System</u>	10A	NCAC	13P	.1101
Amend/*				
<u>Regional Trauma System Plan</u>	10A	NCAC	13P	.1102
Amend/*				
<u>Regional Trauma System Policy Development</u>	10A	NCAC	13P	.1103
Amend/*				

The rules in Subchapter 13Q concern ems formula grants including formula for distribution of emergency medical services (ems) system development grant funds (.0100).

<u>Formula for Allocation of State Funds</u>	10A	NCAC	13Q	.0101
Repeal/*				
<u>Formula for Allocation of Federal Funds</u>	10A	NCAC	13Q	.0102
Repeal/*				
<u>Implementation of Funding Formula</u>	10A	NCAC	13Q	.0103
Repeal/*				

The rules in Subchapter 13R concern minimum standards for mobile intensive care units including definitions (.0100); equipment (.0200); and communication (.0300).

<u>Mobile Intensive Care Unit I</u>	10A	NCAC	13R	.0101
Repeal/*				
<u>Mobile Intensive Care Unit III</u>	10A	NCAC	13R	.0103
Repeal/*				
<u>Mobile Intensive Care Unit IV</u>	10A	NCAC	13R	.0104
Repeal/*				
<u>Advanced Life Support Nontransporting Unit</u>	10A	NCAC	13R	.0105
Repeal/*				
<u>General</u>	10A	NCAC	13R	.0201
Repeal/*				
<u>Mobile Intensive Care Unit (MICU) I</u>	10A	NCAC	13R	.0202
Repeal/*				
<u>Mobile Intensive Care Unit III</u>	10A	NCAC	13R	.0204
Repeal/*				
<u>Mobile Intensive Care Unit IV</u>	10A	NCAC	13R	.0205
Repeal/*				
<u>Advanced Life Support Nontransporting Unit</u>	10A	NCAC	13R	.0206
Repeal/*				

<u>Communication</u> Repeal/*	10A	NCAC	13R	.0301
HHS - MEDICAL ASSISTANCE, DIVISION OF				
The rules in Chapter 22 are medical assistance eligibility rules.				
The rules in Subchapter 22O establish what medical assistance is provided including rules about general provisions (.0100); dental services (.0200); amount, duration and scope of assistance; and limitation of amount, duration, and scope of assistance (.0400).				
<u>Chiropractic Services</u> Amend/*	10A	NCAC	22O	.0106
SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION				
Rules in Subchapter 10B are from the N. C. Sheriffs' Education and Training Standards Commission. These rules govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).				
<u>Definitions</u> Amend/*	12	NCAC	10B	.0103
<u>Sanctions for Violations by Agencies or Schools</u> Amend/*	12	NCAC	10B	.0202
<u>Sanctions for Violations by Agencies or Schools</u> Amend/*	12	NCAC	10B	.0203
<u>Suspension: Revocation: or Denial of Certification</u> Amend/*	12	NCAC	10B	.0204
<u>Period of Suspension: Revocation: or Denial</u> Amend/*	12	NCAC	10B	.0205
<u>Medical Examination</u> Amend/*	12	NCAC	10B	.0304
<u>Background Investigation</u> Amend/*	12	NCAC	10B	.0305
<u>Lateral Transfer/Reinstatements</u> Amend/*	12	NCAC	10B	.0406
<u>Administration of Detention Officer Certification Course</u> Amend/*	12	NCAC	10B	.0703
<u>Responsibilities: School Directors, Detention Officers</u> Amend/*	12	NCAC	10B	.0704
<u>Administration of Telecommunicator Certification</u> Amend/*	12	NCAC	10B	.0708
<u>Responsibilities: School Directors, Telecommunicator Cert...</u> Amend/*	12	NCAC	10B	.0709
<u>Suspension: Revocation: Denial of Detention Officer Instr...</u> Amend/*	12	NCAC	10B	.0911
<u>Period/Suspension: Revocation: or Denial of Detention Off...</u> Amend/*	12	NCAC	10B	.0912
<u>Suspension: Revocation: Denial of Telecommunicator Instru...</u> Amend/*	12	NCAC	10B	.0919
<u>Period/Suspension: Revocation: or Denial of Telecommunica...</u> Amend/*	12	NCAC	10B	.0920
<u>Instructors</u>	12	NCAC	10B	.2004

Amend/*				
<u>Minimum Training Requirements</u>	12	NCAC	10B	.2005
Amend/*				
<u>Sheriff/Agency Head Responsibilities</u>	12	NCAC	10B	.2007
Amend/*				
<u>Failure to Complete in-Service Training Programs</u>	12	NCAC	10B	.2008
Amend/*				

LABOR, DEPARTMENT OF

The rules in Chapter 13 concern boiler and pressure vessel including definitions (.0100); administration (.0200); enforcement of standards (.0300); general requirements (.0400); non-standard boilers and pressure vessels (.0500); hot water vessels used for heating or for storage of hot water (.0600); nuclear energy systems (.0700); and forms (.0800).

<u>Definitions</u>	13	NCAC	13	.0101
Amend/*				
<u>Inspector Qualifications</u>	13	NCAC	13	.0202
Amend/*				
<u>North Carolina Commission</u>	13	NCAC	13	.0203
Amend/*				
<u>Conflict of Interest</u>	13	NCAC	13	.0204
Amend/*				
<u>Owner User Inspection Agency</u>	13	NCAC	13	.0205
Amend/*				
<u>Owners or Users to Notify Chief Inspector of Accidents</u>	13	NCAC	13	.0206
Amend/*				
<u>Insurance Companies to Notify Chief Inspector</u>	13	NCAC	13	.0208
Amend/*				
<u>Inspection Documentation</u>	13	NCAC	13	.0301
Amend/*				
<u>Certificate Issuance</u>	13	NCAC	13	.0302
Amend/*				
<u>Design and Construction Standards</u>	13	NCAC	13	.0401
Amend/*				
<u>Maximum Allowable Working Pressure</u>	13	NCAC	13	.0403
Amend/*				
<u>Controls and Safety Devices</u>	13	NCAC	13	.0404
Amend/*				
<u>Pressure Relief Devices</u>	13	NCAC	13	.0405
Amend/*				
<u>Automatic Low-Water Fuel Cutoff Controls and Water-Feedin...</u>	13	NCAC	13	.0409
Amend/*				
<u>Expansion Tanks</u>	13	NCAC	13	.0412
Amend/*				
<u>Clearance</u>	13	NCAC	13	.0413
Amend/*				
<u>Gas-Fired Jacketed Steam Kettle</u>	13	NCAC	13	.0414
Amend/*				
<u>Reinstallation of Certain Boilers and Pressure</u>	13	NCAC	13	.0416
Amend/*				
<u>Supports</u>	13	NCAC	13	.0417
Amend/*				
<u>Fire Mechanism Controls</u>	13	NCAC	13	.0420

Amend/*

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

The rules in Chapter 1 are departmental rules.

The rules in Subchapter 1S are from the office of environmental education including the north carolina environmental education certification program (.0100).

<u>Fees</u>	15A	NCAC	01S	.0101
Adopt/*				

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards and classifications themselves (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

<u>Cape Fear River Basin</u>	15A	NCAC	02B	.0311
Amend/*				
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0601
Adopt/*				
<u>Site Specific Water Quality Management Plan for the Goose ...</u>	15A	NCAC	02B	.0602
Adopt/*				
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0603
Adopt/*				
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0604
Adopt/*				
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0605
Adopt/*				
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0606
Adopt/*				
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0607
Adopt/*				
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0608
Adopt/*				
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0609
Adopt/*				

The rules in Subchapter 2D are air pollution control requirements including definitions and references (.0100); air pollution sources (.0200); air pollution emergencies (.0300); ambient air quality standards (.0400); emission control standards (.0500); air pollutants monitoring and reporting (.0600); complex sources (.0800); volatile organic compounds (.0900); motor vehicle emission control standards (.1000); control of toxic air pollutants (.1100); control of emissions from incinerators (.1200); oxygenated gasoline standard (.1300); nitrogen oxide standards (.1400); transportation conformity (.1500); general conformity for federal actions (.1600); emissions at existing municipal solid waste landfills (.1700); control of odors (.1800); open burning (.1900); transportation conformity (.2000); risk management program (.2100); special orders (.2200); emission reduction credits (.2300); clean air interstate rules (.2400); mercury rules for electric generators (.2500); and source testing (.2600).

<u>Control of Visible Emissions</u>	15A	NCAC	02D	.0521
Amend/*				
<u>Compliance Assurance Monitoring</u>	15A	NCAC	02D	.0614
Amend/*				
<u>Definitions</u>	15A	NCAC	02D	.0901
Amend/*				
<u>Applicability</u>	15A	NCAC	02D	.0902
Amend/*				

<u>Compliance Schedules for Sources In Nonattainment Areas</u> Amend/*	15A	NCAC	02D	.0909
<u>Petition for Alternative Controls for RACT</u> Amend/*	15A	NCAC	02D	.0952
<u>Vapor Return Piping for Stage II Vapor Recovery</u> Repeal/*	15A	NCAC	02D	.0953
<u>Stage II Vapor Recovery</u> Repeal/*	15A	NCAC	02D	.0954
<u>National Emission Standards For Hazardous Air Pollutants</u> Amend/*	15A	NCAC	02D	.1110
<u>Large Municipal Waste Combustors</u> Amend/*	15A	NCAC	02D	.1205
<u>Small Municipal Waste Combustors</u> Adopt/*	15A	NCAC	02D	.1212
<u>Evaluation of New or Modified Swine Farms</u> Adopt/*	15A	NCAC	02D	.1808

The rules in Subchapter 2Q are rules relating to applying for and obtaining air quality permits and include general information (.0100); fees (.0200); application requirements (.0300); acid rain program requirements (.0400); establishment of an air quality permitting program (.0500); transportation facility requirements (.0600); toxic air pollutant procedures (.0700); exempt categories (.0800); and permit exemptions (.0900).

<u>Activities Exempted from Permit Requirements</u> Amend/*	15A	NCAC	02Q	.0102
<u>Applications</u> Amend/*	15A	NCAC	02Q	.0304
<u>Temporary Crushers</u> Amend/*	15A	NCAC	02Q	.0902

The rules in Subchapter 2T set out the requirements for the issuance of permits for waste systems that do not discharge to the surface waters of the state and include general requirements (.0100); and requirements for various systems including: wastewater pump and haul systems (.0200); sewer extensions (.0300); system-wide collection system permitting (.0400); wastewater irrigation systems (.0500); single-family residence wastewater irrigation systems (.0600); high rate infiltration systems (.0700); other non-discharge wastewater systems (.0800); reclaimed water systems (.0900); closed-loop recycle systems (.1000); residuals management (.1100); coal combustion products management (.1200); animal waste management systems (.1300); manure hauler operations (.1400); soil remediation (.1500); and groundwater remediation systems (.1600).

<u>State Permitting Requirements</u> Amend/*	15A	NCAC	02T	.1304
<u>NPDES Permitting Requirements</u> Amend/*	15A	NCAC	02T	.1305
<u>Swine Waste Management System Performance</u> Adopt/*	15A	NCAC	02T	.1307
<u>Evaluation and Approval of Swine Waste Management Systems</u> Adopt/*	15A	NCAC	02T	.1308
<u>Lagoon Conversion Requirements</u> Adopt/*	15A	NCAC	02T	.1309

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D).

The rules in Subchapter 18A deal with sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration

mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps (.3600); and private drinking water well sampling (.3800).

<u>Grading</u>	15A	NCAC	18A	.2606
Amend/*				
<u>Grading</u>	15A	NCAC	18A	.3606
Amend/*				

REVENUE, DEPARTMENT OF

The rules in Chapter 5 are from the corporate income and franchise tax division.

The rules in Subchapter 5C are corporate income tax rules and include corporations subject to the tax (.0100); computation of income (.0300); interest income on government obligations (.0400); income taxable in another state (.0600); business and nonbusiness income (.0700); property factor (.0800); payroll factor (.0900); sales factor (.1000); amortization of bond premiums (.1400); net economic loans carry over (.1500); partnerships and the corporate partner (.1700); computing taxable percentages on dividends (.1800); filing of returns and payment of taxes (.1900); extension of time for filing return (.2000); dissolutions and withdrawals (.2100); domestic international sales corporation (.2400); and reinstatement of corporate charter (.2600).

<u>Extension of Filing Date</u>	17	NCAC	05C	.2004
Amend/*				

FUNERAL SERVICE, BOARD OF

The rules in Subchapter 34A concern board functions including general provisions (.0100); and fees and other payments (.0200).

<u>Petition for Nomination</u>	21	NCAC	34A	.0103
Amend/*				
<u>Voting Records</u>	21	NCAC	34A	.0104
Amend/*				
<u>Requests for Declaratory Ruling</u>	21	NCAC	34A	.0108
Amend/*				
<u>Solicitation</u>	21	NCAC	34A	.0124
Amend/*				
<u>Complaints: Preliminary Determination</u>	21	NCAC	34A	.0126
Amend/*				
<u>Filing of Documents</u>	21	NCAC	34A	.0127
Adopt/*				

The rules in Subchapter 34B are funeral service rules including rules relating to resident trainees (.0100); examinations (.0200); licensing (.0300); continuing education (.0400); out-of-state licensees (.0500); funeral establishments (.0600); and preparation of dead bodies (.0700).

<u>Authorized Practice: Supervision</u>	21	NCAC	34B	.0103
Amend/*				
<u>Trainee Final Affidavit Form</u>	21	NCAC	34B	.0120
Amend/*				
<u>Applications</u>	21	NCAC	34B	.0202
Amend/*				
<u>National Board Certificate</u>	21	NCAC	34B	.0211
Amend/*				

<u>Expiration of Text Scores</u> Adopt/*	21	NCAC	34B	.0213
<u>Practice of Funeral Service or Funeral Directing Not as a...</u> Adopt/*	21	NCAC	34B	.0310
<u>Continuing Education Program</u> Amend/*	21	NCAC	34B	.0408
<u>Accreditation of Computer-Based CE</u> Amend/*	21	NCAC	34B	.0414
<u>Funeral Establishment Inspection Form</u> Amend/*	21	NCAC	34B	.0615

The rules in Subchapter 34C concern crematories including general provisions (.0100); equipment and processing (.0200); and authorizations, reports, records (.0300).

<u>Monthly Reports</u> Amend/*	21	NCAC	34C	.0305
<u>Retention of Records</u> Amend/*	21	NCAC	34C	.0306

The rules in Subchapter 34D are preneed funeral contract rules including general provisions (.0100); licensing (.0200); operations (.0300); and preneed recovery fund (.0400).

<u>Approval of Contract Forms</u> Amend/*	21	NCAC	34D	.0101
<u>Transfer of Trust Preneed Contracts to Another Jurisdiction</u> Adopt/*	21	NCAC	34D	.0106
<u>Preneed Funeral Establishment License</u> Amend/*	21	NCAC	34D	.0201
<u>Surety Bonds</u> Adopt/*	21	NCAC	34D	.0203
<u>Certificate of Performance</u> Amend/*	21	NCAC	34D	.0303

NURSING, BOARD OF

The rules in Chapter 36 are from the Board of Nursing and include rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); articles of organization (.0600); nurse licensure compact (.0700); and approval and practice parameters for nurse practitioners (.0800).

<u>Establishment of a Nursing Program Initial Approval</u> Amend/*	21	NCAC	36	.0302
---	----	------	----	-------

OCCUPATIONAL THERAPY, BOARD OF

The rules in Chapter 38 cover organization and general provisions (.0100); application for license (.0200); licensing (.0300); business conduct (.0400); provisions concerning rulemaking (.0500); administrative hearing procedures (.0600); professional corporations (.0700); continuing competence activity (.0800); supervision, supervisory roles, and clinical responsibilities of occupational therapist and occupational therapy assistants (.0900); supervision of limited permittees (.1000); and supervision of unlicensed personnel (.1100).

<u>Application Process</u> Amend/*	21	NCAC	38	.0201
<u>Grounds for License Denial or Discipline</u> Amend/*	21	NCAC	38	.0304

SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

The rules in Chapter 63 deal with Social Work Certification including general rules (.0100); certification (.0200); examinations (.0300); renewal of certification (.0400); ethical guidelines (.0500); disciplinary procedures (.0600); adoption of rules (.0700); and professional corporations and limited liability companies (.0900).

<u>Definitions</u>	21	NCAC	63	.0102
Amend/*				
<u>References</u>	21	NCAC	63	.0204
Amend/*				
<u>Work Experience</u>	21	NCAC	63	.0211
Amend/*				
<u>Temporary Licenses</u>	21	NCAC	63	.0213
Amend/*				
<u>Reporting of Scores</u>	21	NCAC	63	.0302
Amend/*				
<u>Continuing Education Requirements</u>	21	NCAC	63	.0401
Amend/*				
<u>Renewal Fees</u>	21	NCAC	63	.0403
Amend/*				
<u>Public Statements</u>	21	NCAC	63	.0509
Amend/*				
<u>Application for a Certificate of Registration</u>	21	NCAC	63	.0901
Adopt/*				
<u>Renewal of Certificate of Registration</u>	21	NCAC	63	.0902
Adopt/*				
<u>Dissolving the Professional Entity</u>	21	NCAC	63	.0903
Adopt/*				

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) 431-3000. 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 Selina Brooks Melissa Owens Lassiter Don Overby	Randall May A. B. Elkins II Joe Webster Shannon Joseph
--	---

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL BEVERAGE CONTROL COMMISSION</u>				
Partnership T/A C Js Lounge v. ABC Commission	07 ABC 0201	Overby	03/11/08	
ABC Commission v. Rainbow Enterprises, Inc T/A Club N Motion	07 ABC 1532	Gray	06/20/08	23:05 NCR 489
Benita, Inc., T/A Pantana Bob's v. ABC Commission	07 ABC 1584	Overby	04/21/08	23:01 NCR 141
Original Grad, Inc/ T/A Graduate Food and Pub	07 ABC 1648	Joseph	02/25/08	
N.C. Alcoholic Beverage Control Commission v. Feest Inc. T/A Spankys Sports Bar and Grill	07 ABC 2135	Gray	09/12/08	
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa T/A JB Food Mart	08 ABC 0097	May	09/03/08	
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa T/A JB Food Mart	08 ABC 0351	May	09/03/08	
AM Enterprises of Fayetteville, Inc., T/A Izzy's Sports Bar v. ABC Commission	08 ABC 0371	Lassiter	06/13/08	
Bhaves Corporation, T/A K&B Foomart v. ABC Commission	08 ABC 0508	Overby	05/19/08	
<u>CRIME VICTIMS COMPENSATION</u>				
Patricia Ginyard v. Crime Victim Compensation Commission	06 CPS 1720	Gray	05/27/08	
Carrie R. McDougal v. Victims Compensation Services Division	07 CPS 1970	Elkins	05/23/08	
Taereka S Johnson v. NC Crime Victims Compensation Commission	08 CPS 0402	Morrison	08/08/08	
Rich's Towing and Service Inc. v. NC Department of Crime Control And Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 0698	May	08/13/08	
Steel Supply and Erection Co., Department of Crime Control and Public Safety, Division of State Highway Patrol and Department of Revenue	08 CPS 0777	Overby	05/29/08	
Randy S. Griffin v. NC Crime Victims Compensation Commission	08 CPS 0995	May	09/11/08	
Interstate Crushing Inc. v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1086	Overby	09/29/08	
Sterett Equipment Company LLC v. N.C. Dept. of Crime Control And Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1206	Overby	09/29/08	
Bertrand E. Dupuis d/b/a New England Heavy Hauling v. N.C. Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1207	Overby	09/29/08	
Bulldog Erectors, Inc v. N.C. Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1208	Overby	09/29/08	
Continental Machinery Movers Inc. v. N.C. Department of Crime	08 CPS 1209	Overby	09/29/08	

CONTESTED CASE DECISIONS

Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section			
Michael Alan Moore v. Crime Victims Compensation Commission	08 CPS 1478	Lassiter	09/08/08
SOOF Trucking, Ray Charles Solomon v. Secretary of Crime Control And Public Safety	08 CPS 1526	Overby	09/09/08

A list of Child Support Decisions may be obtained by accessing the OAH Website: <http://www.ncoah.com/hearings/decisions/>

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Gloria McNair Jean's Jewels v. Div. of Child Development, DHHS	06 DHR 0633	Lassiter	07/11/08
Gloria McNair Jean's Jewels v. Div. of Child Development, DHHS	06 DHR 1350	Lassiter	07/11/08
Character Builders, Inc., Clavon Leonard v. DMA, Developmental Disabilities and Substance Abuse Services	07 DHR 0124	Elkins	08/07/08
Character Builders, Inc., Clavon Leonard v. DMA, Developmental Disabilities and Substance Abuse Services	07 DHR 0125	Elkins	08/07/08
Arthur Burch and Margaret and Burch v. Department of Health and Human Services	07 DHR 0242	Brooks	04/30/08
The "M" Company LLC, v. DHHS, DMA, Program Integrity	07 DHR 0429	Webster	05/29/08
Judy E. Pettus v. Office of Chief Medical Examiner, Thomas B. Clark, Iii, Md, Pathologist	07 DHR 0535	Webster	05/05/08
Alterra Clare Bridge of Asheville v. DHHS, DFS, Adult Care Licensure Section	07 DHR 0914	Gray	06/06/08
Shirley Brooks Dial v. Health Care Personnel Registry	07 DHR 0931	Webster	02/27/08
Midtown Food Mart #2, Kerab Giebrehiwot, Mehreteab Wooldeghebibel and Fesseha Zeru	07 DHR 1044	Webster	04/25/08
Midtown Food Mart III, Chenet Hailesslassi and Fesseha Zeru v. DHHS	07 DHR 1045	Webster	04/28/08
Carolyn E. Reed v. DHHS, Division of Social Services Program Integrity AFDC/Work First	07 DHR 1214	Webster	07/21/08
Mrs. Elizabeth Futrell v. Value Options	07 DHR 1331	Lassiter	06/09/08
Cornell Jones v. DHHS, Division of Health Services Regulation	07 DHR 1399	Joseph	04/22/08
Dianetta Foye v. Division of Child Development, DHHS, Services	07 DHR 1440	Joseph	05/07/08
Rufus Patrick Devers v. DHHS, Division of Health Service Regulation Health Care Personnel Registry	07 DHR 1442	Joseph	05/29/08
Ray Dukes, Bright Future Learning Center v. DHHS, Division of Public Health, Child and Adult Care Food Program	07 DHR 1473	Joseph	04/08/08
William Manning c/o Thyllis Smith, A Touch From the Heart Staff v. NC Department of Health and Human Services, Division of Medical Assistance	07 DHR 1060	Webster	10/14/08
Hospice of the Piedmont, Inc., v. DHHS, Division of Health Service Regulation, Licensure and Certification Section and DHHS, Division of Health Service Regulation, CON Section	07 DHR 1617	Elkins	05/21/08
Janice Addison v. Value Options	07 DHR 1618	Webster	05/16/08
Donna Hicks Crocker v. DHHS/DMA	07 DHR 1629	Joseph	08/01/08
Rebecca Dehart v. DHHS, Division of Health Service Regulation Health Care Personnel Registry Section	07 DHR 1650	Elkins	05/21/08
Ellen Brown v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	07 DHR 1651	Elkins	05/21/08
Joann Lennon v. Value Options Medicaid	07 DHR 1770	Webster	05/16/08
Angeline Currie v. DHHS	07 DHR 1986	Elkins	06/04/08
Tameala Jones v. OAH	07 DHR 1993	Webster	05/16/08
Dianetta Foye v. Division of Child Development, DHHS, Services	07 DHR 2020	Joseph	05/07/08
Lashauna Reid v. CCMHC (PFCS-Service Provider)	07 DHR 2039	Elkins	08/05/08
Presbyterian Diagnostic Center at Cabarrus LLC v. N.C. Department of Health and Human Services, Division of Health Service Regulation and Southern Piedmont Imaging, LLC	07 DHR 2043	Lassiter	08/18/08
Southern Piedmont Imaging, LLC v. N.C. Department of Health and Human Services, Division of Health Service Regulation and Presbyterian Diagnostic Center at Cabarrus, LLC	07 DHR 2045	Lassiter	08/18/08
Family & Youth Services, Inc. Angela Ford, President v. DHHS, Division of Medical Assistance Provider Services	07 DHR 2057	Webster	05/16/08
Yolanda Jones v. DHHS, Adult Licensure Section	07 DHR 2081	Webster	05/16/08
Tianna Troy Legal guardian Mother Traci Lookadoo v. Value Option	07 DHR 2087	Elkins	05/23/08
Gary Carlton, Sr., v. DHHS	07 DHR 2099	Brooks	07/10/08
Alexis Ford/Linda M McLaughlin v. DHHS	07 DHR 2111	Elkins	06/04/08
Roger Houston v. DHHS, Div. of Health Service Regulation	07 DHR 2176	Gray	07/08/08
Dorothy L. Davis v. OAH	07 DHR 2179	May	07/02/08
Kevin McMillian/Linda M McLaughlin v. DHHS	07 DHR 2239	Elkins	06/04/08
Maurisha Bethea/Linda McLaughlin v. DHHS	07 DHR 2240	Elkins	06/04/08
Gladys Cherry v. NC Department of Health and Human Services	07 DHR 2288	Webster	10/10/08
Anna Fields v. Value Options	07 DHR 2326	Joseph	06/02/08

CONTESTED CASE DECISIONS

Larry Hopper v. DHHS	07 DHR 2356	May	06/20/08
Shelby Davis v. DHHS	08 DHR 0014	Lassiter	05/09/08
Hellon P. Johnson v. DHHS	08 DHR 0020	May	07/03/08
Lenora King v. DHHS	08 DHR 0034	Joseph	05/01/08
Forest Mewborn v. Health Care Personnel Registry	08 DHR 0043	Elkins	05/23/08
Wilma Jackson v. Value Options	08 DHR 0082	Joseph	06/02/08
Carmelita Wiggins v. Value Options	08 DHR 0198	Webster	05/16/08
Murphy's Outreach Community Developmental Services, Inc, d/b/a Outreach Home Health	08 DHR 0220	Joseph	07/22/08
Lisa Helms v. DHHS	08 DHR 0255	Overby	06/17/08
Pearlene Johnson Ivery v. DMA, Third Party Recovery (Medicaid)	08 DHR 0286	Brooks	07/07/08
Mamaue Aytch v. DHHS	08 DHR 0325	Elkins	05/23/08
Brenda McGilvary v. DHHS, Division of Social Services	08 DHR 0384	Webster	08/05/08
Fannie M. Wilson v. OAH	08 DHR 0393	Webster	06/17/08
Angela D Seabrooks/The Jabez House LLC v. DHHS/Division of Mental Health, Developmental and Substance Abuse Services, The Guilford	08 DHR 0403	Joseph	06/09/08
Angela D. Seabrooks/The Jabez House LLC v. NC Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services and The Guilford Center	08 DHR 0403	Joseph	09/03/08
William McCray Pretty v. DHHS, Division of Facility Services	08 DHR 0411	Webster	06/12/08
Focus Health Services, Inc. via Annette Johnson, Owner Operator v. North Carolina Department of Health and Human Services and Albemarle Mental Health Center for Developmental Disabilities and Substance Abuse Services	08 DHR 0442	Gray	06/12/08
Earline Ross (Quentin Galloway) v. DHHS (Medicaid)	08 DHR 0549	May	06/09/08
Frances Milligan v. DHHS	08 DHR 0566	May	06/19/08
Betty Williams v. DHHS	08 DHR 0570	Joseph	06/02/08
Susan Nelson v. Medicaid	08 DHR 0573	May	06/09/08
Brent Morris Per Dedrea Moors (Mother) v. Priscilla Valet, DMA	08 DHR 0585	May	06/09/08
Brenda M. Finney v. Medicaid	08 DHR 0586	Joseph	06/09/08
Allred & Allred Day Care Center, Inc. v. N.C. Department of Health and Human Services, Division of Public Health, Child And Adult Care Food Program	08 DHR 0617	May	06/04/08
Lakeva Robinson v. DMA/Value Options	08 DHR 0625	May	05/28/08
Ronald Lee Young v. N.C. Department of Health and Human Services	08 DHR 0631	Joseph	07/21/08
Tina Miller v. OAH, DHHS	08 DHR 0661	Lassiter	06/10/08
Doris Harris v. Division of Child Development	08 DHR 0710	May	07/02/08
Michelle D. Mills v. DHHS, Division of Health Service Regulation	08 DHR 0712	Joseph	06/09/08
Trena Ellis v. DHHS	08 DHR 0730	Lassiter	07/03/08
Faith Davis v. Pride in North Carolina Value Options	08 DHR 0746	Overby	05/28/08
Evonne Neal v. Medicaid	08 DHR 0748	May	06/20/08
Maria Dejesus Ruiz La Vaca Ramona v. N.C. Department of Health and Human Services	08 DHR 0760	Overby	07/24/08
Ray C. Price v. DHHS, Office of the Controller	08 DHR 0767	Brooks	07/07/08
Cheryl I Rice v. DHHS	08 DHR 0793	Overby	07/10/08
Destiny A Taylor v. Division of Child Development	08 DHR 0794	Gray	07/21/08
Shawanda Rayner v. Cherry Hospital	08 DHR 0797	Webster	10/10/08
Mary Ada Mills, Mary M. Mills MSA FCH v. Adult Care Licensure	08 DHR 0808	May	08/26/08
Lula Bowden v. OAH	08 DHR 0852	May	06/20/08
Donovan Harris v. Value Options	08 DHR 0894	May	06/19/08
Gabrielle Lloyd v. DHHS, Division of Health Service Regulation	08 DHR 0905	May	09/22/08
Janice Chavis v. DHHS	08 DHR 0923	Lassiter	05/19/08
Frankie Nicole Carter v. DHHS, Division of Health Service Regulation	08 DHR 0929	Brooks	06/19/08
Christine Maria Plyer v. Medicaid Reimbursement	08 DHR 0949	Mann	06/18/08
Margaret Mubanga v. NC Department of Health and Human Services	08 DHR 0961	Gray	08/25/08
Evangelina Ingram v. Value Options	08 DHR 0997	Gray	06/10/08
Marcia Veronica Harris v. Department of Health and Human Services, Division of Health Service Regulation	08 DHR 0169	Lassiter	08/11/08
Maureen Jordan parent of Destinne Jordan v. Value Options	08 DHR 1005	Gray	06/19/08
Triangle Alternative Inc. Dorothy George v. Office of Administrative Hearings	08 DHR 1012	May	07/21/08
Terrie P Hill dba Positive Care MHL 041-595 2203 Wanda Drive v. N.C. Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1015	Lassiter	09/12/08
Terrie P Hill dba Positive Care II MHL 041-633 3406 Fern Place v. NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1016	Lassiter	09/12/08
Terrie P Hill dba Positive Care II MHL 041-765 3406 Fern Place v. NC Department of Health and Human Services, Division of	08 DHR 1017	Lassiter	09/12/08

CONTESTED CASE DECISIONS

Health Service Regulation, Mental Health Licensure and Certification Section			
Mario Jackson v. DHHS	08 DHR 1024	Overby	06/19/08
Adam L. Powell v. NC Department of Health and Human Services	08 DHR 1030	Lassiter	09/05/08
Edwin F. Clavijo, El Exito v. NC Department of Health and Human Services, Division of Public Health, Nutrition Services Branch	08 DHR 1034	Lassiter	09/15/08
Linda F. Ellison v. NC Department of Health and Human Services and or EDS	08 DHR 1035	Joseph	07/09/08
Doris Smith v. Health Care Personnel Registry	08 DHR 1238	Brooks	08/08/08
Latrish T. Perry v. Department of Health and Human Services	08 DHR 1023	Webster	08/29/08
Martha Washington Harper v. DSS	08 DHR 1041	Brooks	06/23/08
Mary K. Tulay v. DHHS	08 DHR 1055	Joseph	07/09/08
Gwendolyn F. Gulley v. NC Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section	08 DHR 1062	Overby	09/09/08
Rhonda Jones v. Value Options	08 DHR 1064	Webster	07/18/08
One Love Developmental Services v. Division of Health Service Regulation, Department of Health and Human Services	08 DHR 1068	Lassiter	07/25/08
Jona Turner v. Office of Administrative Hearings	08 DHR 1092	Webster	07/18/08
Tonia Chatman Davis v. N.C. Department of Health and Human Services	08 DHR 1141	Lassiter	07/28/08
Mary M. Branch v. North Carolina Dept of Health and Human Services, Value Options	08 DHR 1174	Elkins	08/11/08
Haywood Miller, Bobby Jean Graves Miller v. DHHS, Mental Health Licensure Certification Section	08 DHR 1181	Overby	07/01/08
Jan Williams v. Value Options, DHHS	08 DHR 1231	Overby	07/09/08
Heather Peete v. OAH	08 DHR 1281	Lassiter	07/02/08
Ann Moody v. DHHS	08 DHR 1299	Webster	07/18/08
Khahada Kirby v. Value Options	08 DHR 1310	Webster	07/18/08
Amir Abusamak v. N.C. Department of Health and Human Services	08 DHR 1325	Gray	07/16/08
Big Z Supermarket, Abdul Hamdan v. Cory Menees, NC Dept. of Health and Human Services	08 DHR 1343	Overby	08/27/08
Alesia Alwahishi dba Brotherhood Market	08 DHR 1356	Gray	07/22/08
Nigel Brown v. Value Options	08 DHR 1358	Gray	08/29/08
Michael Grondahl v. DHHS	08 DHR 1491	Gray	08/01/08
Tyechia Jones v. Value Options/DHHS	08 DHR 1492	Mann	09/18/08
Kelly A Schofield MD – Clinical Director Youth Quest Inc. v. N.C. Department of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1505	Lassiter	09/08/08
Edward Kenneth Smith v. NC Department of Health and Human Services, Division of Health Service Regulation	08 DHR 1537	Lassiter	09/16/08
Elsie Mae Joiner v. Health Care Registry DHHS	08 DHR 1560	Lassiter	09/11/08
Margaret Brack for Elgin Brack v. Value Options Emery Milliken DHHS	08 DHR 1576	Lassiter	08/27/08
Evans Momanyi Mose v. DHHS, Division of Health Service Regulation	08 DHR 1591	Webster	10/01/08
Draughton's Supermarket, Betty Draughton v. Cumberland County Health Dept. WIC Office	08 DHR 1592	Gray	08/25/08
Brittany Brown v. Value Options	08 DHR 1599	Webster	10/10/08
Tyvonnie Sheri Glenn v. Value Options	08 DHR 1628	May	09/19/08
Amanda Hennes v. N.C. Department of Health and Human Services	08 DHR 1696	Gray	09/22/08
Bobbie L Cribb v. Office of Administrative Hearings	08 DHR 1714	Gray	09/08/08
Irene McLendon/Mikala McLendon v. Value Options	08 DHR 1722	Webster	10/01/08
Keyanna Byrd v. DHHS	08 DHR 1751	Webster	10/01/08
Janelle Gatewood v. Value Options	08 DHR 1763	Webster	10/10/08
Roxanne Haughton v. Value Options/DMA	08 DHR 1799	Elkins	10/14/08
Joshua Dmae Thompson (Consumer) Sebrina Yvett Thompson (Mother) v. Department of Mental Health	08 DHR 1844	Webster	10/01/08

DEPARTMENT OF JUSTICE

Jamu Kimyakki Sanders v. N.C. Criminal Justice Education And Training Standards Commission	06 DOJ 1741	May	08/29/08
Dallas Ray Joyner v. Criminal Justice Education and Training Standards Commission	07 DOJ 0719	Overby	04/15/08
Richard Junior Hopper v. Private Protective Services Board	07 DOJ 1071	Webster	02/21/08
Sheldon Avery McCoy v. Criminal Justice Education and Training Standards Commission	07 DOJ 1162	Mann	04/07/08
David Steven Norris v. Private Protective Services Board	07 DOJ 1256	Elkins	04/16/08
Scott McLean Harrison v. North Carolina Criminal Justice Education And Training Standards Commission	07 DOJ 1330	Webster	06/24/08
Brian Campbell v. Department of Justice, Company Police Program	07 DOJ 1344	Webster	02/25/08
John Mark Goodin v. Alarm Systems Licensing Board	07 DOJ 1405	Lassiter	04/04/08

CONTESTED CASE DECISIONS

James Lee Rodenberg v. Depart. of Justice, Company Police Program	07 DOJ 1434	Webster	02/25/08
Michael L. Scriven v. Private Protective Services Board	07 DOJ 1483	Elkins	03/25/08
Lamuel Tommy Anderson v. North Carolina Department of Justice Campus Police Program	07 DOJ 1500	Joseph	06/03/08
Roger Wayne Mungo, Jr., Sheriffs' Education and Training Standards Commission	07 DOJ 1510	Overby	05/19/08
Steven L. Haire v. North Carolina Department of Justice, Campus Police Program	07 DOJ 1558	Joseph	05/22/08
Timothy Daniel McFalls v. N.C. Criminal Justice Education and Training Standards Commission	07 DOJ 1712	May	09/03/08
Iris Nina Bumpass v. Criminal Justice Education and Training Standards Commission	07 DOJ 2071	Webster	05/16/08
Michael Gerald Copeland v. Private Protective Services Board	07 DOJ 2286	Gray	07/17/08
Leigh Ann Branch v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0177	Gray	06/23/08
Jimmy Dean Poston v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0179	Webster	08/28/08
Katheryn Renee Johnson v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 0180	Brooks	06/18/08
Gerald Boyce Bond, Jr. v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0181	Gray	07/14/08
Lamar Krider v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0183	Gray	06/20/08
John Edward Isaacks, Jr. v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 0184	May	06/18/08
Anthony Ray Haynie v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0207	Brooks	08/06/08
Joseph Shane Johnston v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0209	Lassiter	10/07/08
Anthony Ray Haynie v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0532	Brooks	08/06/08
Jonathan R. Elam v. Private Protective Services Board	08 DOJ 0568	Webster	05/08/08
Wilford Odell Hamlin v. Private Protective Services Board	08 DOJ 0713	Joseph	05/01/08
Stephen Joseph Ciliberti v. N.C. Private Protective Services Board	08 DOJ 0858	Gray	07/15/08
Deborah Moore Anderson v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 1038	Brooks	05/28/08
Dustin Elvin Campbell v. Criminal Justice Education and Training Standards Commission	08 DOJ 1078	Lassiter	07/14/08
Cynthia Kay Saintsing v. Criminal Justice Education and Training Standards Commission	08 DOJ 1079	Lassiter	07/14/08
Timothy C. Darrh v. DHHS/Value Options	07 DOJ 1239	Overby	07/07/08
David Alan Moore v. North Carolina Private Protective Services Board	08 DOJ 1264	Morrison	07/21/08
Gregory Alan Hooks v. NC Alarm Systems Licensing Board	08 DOJ 1265	Morrison	07/10/08
Jesse Adam Salmon v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 1270	Overby	09/15/08
Tina Ann Ward v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 1273	Gray	08/29/08
P.J. Shelton v. NC Sheriffs' Education and Training Standards Commission	08 DOJ 1274	Brooks	10/10/08

DEPARTMENT OF LABOR

Sandra Leroux, Leroux Entertainment Corporation d/b/a Spectacular Events! V. DOL	08 DOL 0754	May	07/08/08
---	-------------	-----	----------

DEPARTMENT OF TRANSPORTATION

Kevin Douglas v. Dept. of Justice Criminal Justice Standards, DMV License and Theft, Holly Springs Police Department	07 DOT 2221	Webster	05/12/08
---	-------------	---------	----------

DEPARTMENT OF STATE TREASURER

Trevor Allan Hampton v. N.C. State Retirement Systems	07 DST 1493	Overby	09/08/08
Patricia V. Leonard v. State Treasurer/Retirement Systems Division	07 DST 1928	Lassiter	03/12/08

William S. Greene v. DST, Retirement Systems Division	08 DST 0235	Gray	07/16/08
Jerry Alan Reese v. DST, State and Local Finance Division and the Local Government Commission	08 DST 0256	Morrison	07/25/08

23:05 NCR 524

EDUCATION, STATE BOARD OF

Bradford Dale Gulley v. Depart. of Education Attorney Generals Office	07 EDC 1486	Webster	05/16/08
Lucretia Burrus v. State Board of Education	07 EDC 2210	Webster	05/16/08

CONTESTED CASE DECISIONS

Gregory Bates v. DPI, Licensure Section	07 EDC 2238	Gray	04/30/08
Heather S. Brame v. State Board of Education	07 EDC 2287	Joseph	05/07/08
Nancy L. Ashburn v. NC Department of Public Instruction	07 EDC 2357	Brooks	08/19/08
Sandra Chesser v. State Board of Education	08 EDC 0022	May	04/30/08
Terry L. Moore v. N.C. Department of Public Instruction	08 EDC 0386	Morrison	07/22/08
Len Stevenson Smith v. North Carolina Department of Public Instruction	08 EDC 0215	May	08/26/08
Hubert Thomas Byrum v. Office of State Superintendent	08 EDC 0619	Gray	06/04/08
Gary Alan Cooper v. N.C. State Board of Education	08 EDC 0920	Gray	08/01/08
Selena Blad v. NC Board of Education	08 EDC 1316	Brooks	09/17/08

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

Henry S. Cowell, III and Carolyn Dressler v. DENR, Div. of Coastal Management	06 EHR 1185	Brooks	05/30/08	23:05 NCR 501
Robin R. Moore v. DENR, Division of Waste Management	06 EHR 1479	Lassiter	03/24/08	
NC Coastal Federation v. DENR, Division of Coastal Management and Wind over Waves, LLC	07 EHR 0345	Lassiter	04/07/08	
John B. Chastain, Jr., W.B. Chastain v. N.C. Department of Environment and Natural Resources	07 EHR 0722	Brooks	06/26/08	
Terry Hill DAQ 2007-015 v. DENR, Division of Air Quality	07 EHR 0937	Morrison	04/08/08	
Frank Home Construction, Inc. v. Division of Water Quality	07 EHR 1061	Webster	05/12/08	
Durham Land Associates LLC v. County of Durham, Engineering Department	07 EHR 1140	Overby	08/20/08	
Durham Land Associates LLC v. County of Durham, Engineering Department	07 EHR 1141	Overby	08/20/08	
Dennis L. Jude v. NC Department of Environment and Natural Resources	07 HER 1238	Webster	08/20/08	
Martha and Charles Morton v. N.C. Department of Environment And Natural Resources	07 EHR 1297	Overby	06/02/08	
Kenneth & Mary Anne Sutton v. DENR, Division of Coastal Management	07 EHR 1316	Overby	05/09/08	
William Lewell Huff v. N.C. Department of Environment and Natural Resources	07 EHR 1579	Overby	06/02/08	
Stridemark, LLC v. North Carolina Department of Environment and Natural Resources, Division of Air Quality	07 EHR 1564	Webster	07/17/08	
Gleason James v. Appalachian District Health Department	07 EHR 2073	Brooks	09/05/08	
Frank Myers Investments, LLC v. DENR	07 EHR 2377	May	05/28/08	
W Russell Overman Martin County Water & Sewer District v. DENR Public Water Supply Section	08 EHR 0345	Gray	06/10/08	
Ray Poole's Park, Jean Poole v. DENR, Public Water Supply Section	08 EHR 0563	Joseph	05/16/08	
Joe S. Edge Sr. v. N.C. Department of Environment and Natural Resources	08 HER 0757	Gray	09/17/08	
Donald Lindsay v. Cherokee County Health Dept.	08 EHR 0764	Brooks	07/10/08	
Joel M. Walker v. Division of Water Quality Well Contractors Certification Commission	08 EHR 0985	Joseph	06/11/08	
Eddie Verdis Hood v. N.C. Department of Environment and Natural Resources	08 EHR 1073	Overby	07/30/08	
Research Triangle Institute v. Division of Waste Management, Hazardous Waste Section, DENR	08 EHR 1100	Overby	07/11/08	
Tracie Locklear, Ammie Brewer-James, Native Designs Hair & Tanning Salon v. DENR, Health Radiation Protection	08 EHR 1143	Gray	7/17/08	
Donna C Garrett v. Cherokee County Health Dept., Environmental Health Division	08 EHR 1246	Brooks	09/09/08	
Roray Kent Mishak, Town of China Grove v. NCDENR, Public Water Supply Section	08 EHR 1573	Brooks	09/08/08	

DEPARTMENT OF INSURANCE

Sandra Vanderbeek v. Teachers' and State Employees' Comprehensive Major Medical Plan	07 INS 1130	Overby	03/12/08
Nettie C Minshew v. North Carolina State Health Plan	07 INS 1319	Gray	09/08/08
Alesha D Carter v. State Health Plan	07 INS 1858	Lassiter	05/19/08

MISCELLANEOUS

Kevin Edral Douglas v. Wake County District Attorney, DMV	07 MIS 1976	Webster	05/12/08
Jeannie L Day v. City of Asheville Control, Brenda Sears Officer White	08 MIS 0895	Brooks	08/18/08
Promise Land Ministries Inc., Joel K. Wilson v. Mitchell County Tax Assessor and Board of Equalization	08 MIS 1447	May	09/17/08

OFFICE OF STATE PERSONNEL

CONTESTED CASE DECISIONS

Marsha A Early v. Durham County Department of Social Services	01 OSP 0279	Lassiter	04/02/08	
Cheryl Best v. Columbus County Department of Social Services	06 OSP 2206	Lassiter	09/10/08	
Scott Burgess v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol	07 OSP 0052	Gray	07/16/08	
Divina P. Shields v. North Carolina State University	07 OSP 0317	Lassiter	07/11/08	
Jacqueline B. Maynard v. UNC	07 OSP 0575	Webster	04/08/08	
Warren R. Follum v. NCSU	07 OSP 0577	Webster	03/21/08	
Sharon P. House v. UNC	07 OSP 0630	Webster	04/08/08	
Pam Moses v. Macon County Health Department	07 OSP 0945	Overby	06/30/08	
Cassandra F. Barner v. Halifax County Department of Social Serv.	07 OSP 1186	Joseph	05/16/08	23:05 NCR 528
Michael Shelton Woody v. DENR, Division of Forest Resources	07 OSP 1255	Brooks	05/13/08	
Kellee M. Buck v. Dare County Department of Social Services	07 OSP 1385	Overby	05/27/08	
Dennis E. Hrynkow v. Dept. of Insurance	07 OSP 1400	Joseph	04/03/08	
Stacey M. Gasgue v. N.C. Department of Corrections	07 OSP 1479	Overby	06/09/08	
James Dobaly v. North Carolina Department of Health and Human Services	07 OSP 1873	Lassiter	07/02/08	
Adley K. Prager v. Dept. of Crime Control and Public Safety and Butner Public Safety	07 OSP 2011	Webster	05/29/08	
Charlene J. Shaw v. Peter Bucholz, Hoke Correctional Institution	07 OSP 2012	Joseph	04/07/08	
Jacqueline Burkes v. DOC, Hoke 4320, Mr. Peter Bucholz	07 OSP 2047	Joseph	04/07/08	
Charles Jones v. Bryan Beatty, Secretary of Crime Control & Public Safety and The Dept. of Crime Control & Public Safety (NC Highway Patrol)	07 OSP 2222	Morrison	06/05/08	23:01 NCR 147
Norman K. Goering v. Crime Control and Public Safety, Highway Patrol	07 OSP 2256	Joseph	07/29/08	23:05 NCR 547
Kimberly James v. UNC-Charlotte	08 OSP 0146	Webster	05/08/08	
Nancy Hester v. Guilford County AOC Pretrial Services	08 OSP 0224	Overby	06/19/08	
Ray Stanford Williams Jr. v. NC Department of Cultural Resources	08 OSP 0529	Morrison	08/19/08	
Laura L. Holliman v. Caledonia Correctional Inst.	08 OSP 0591	Gray	07/08/08	
Ashley K. Severson v. Greene County	08 OSP 0611	Joseph	07/29/08	
Sharon V Blackmon v. Office of Administrative Hearings	08 OSP 0624	Gray	09/19/08	
Richard D. Lincoln v. DOT	08 OSP 0801	Gray	05/27/08	
Robert M. Hewitt v. Morrison Correctional Institute	08 OSP 0971	Gray	06/26/08	
Kenyatta Burrus v. Craven County Clerk of Superior Court	08 OSP 1089	Overby	06/12/08	
Dexter J. Hill v. Department of Agriculture and Consumer Services	08 OSP 1167	Overby	07/08/08	
Rita McKeithan v. Stanly County Department of Social Services	08 OSP 1240	May	08/26/08	
Dianna Humphrey v. Caswell Center	08 OSP 1327	Lassiter	07/02/08	
Charles Godwin v. NC Department of Crime Control and Public Safety	08 OSP 1463	Lassiter	07/28/08	
Vincent Morton v. Cherry Hospital	08 OSP 1497	Webster	09/16/08	
Kyla Solomon v. Office of Citizen Services	08 OSP 1547	Lassiter	07/22/08	
Richard Manson v. NC A&T State University	08 OSP 1561	Brooks	09/25/08	
Richard T Ward v. NC DOT Ferry Division	08 OSP 1617	Lassiter	08/27/08	
Patrice A Bernard v. NC A&T	08 OSP 1724	Gray	09/18/08	

RESPIRATORY CARE BOARD

Angelique Thompson v. Respiratory Care Board	07 RCB 1176	Gray	03/13/08	23:01 NCR 153
--	-------------	------	----------	---------------

DEPARTMENT OF REVENUE

Parker Bark Company Inc. v. Department of Revenue	08 REV 1228	Overby	06/17/08	
Deandra A. Scott v. Department of Revenue	08 REV 1180	Overby	07/01/08	
Goretty Williams v. Department of Revenue	08 REV 1227	Overby	07/08/08	
Anthony Chad Bynum v. Department of Revenue	08 REV 1268	Overby	07/09/08	

OFFICE OF SECRETARY OF STATE

Richard C Garrard Jr. v. NC Department of Secretary of State	07 SOS 2080	Brooks	09/12/08	
Bennett Jeffrey Packer v. North Carolina Department of The Secretary of State	07 SOS 2241	May	06/09/08	
Hope Taylor (formerly Taylor-Guevara) v. North Carolina Department of The Secretary of State	07 SOS 2280	Joseph	05/21/08	
Robert C Garrard Jr. v. NC Department of Secretary of State	08 SOS 0523	Brooks	09/12/08	
Wendy Branch Miller v. SOS	08 SOS 1018	Lassiter	07/14/08	

UNC HOSPITALS

Charity Smith v. UNC Hospitals	08 UNC 0533	Gray	07/28/08	
Jimmy L. Holder v. UNC Hospitals	08 UNC 0589	May	07/29/08	
Barbara C. King v. UNC Hospitals	08 UNC 0805	May	07/29/08	
Eva Kali Green v. UNC Hospitals	08 UNC 0841	May	09/22/08	
Kaprina Wells v. UNC Hospitals	08 UNC 0860	Gray	07/28/08	

CONTESTED CASE DECISIONS

Rolie Adrienne Webb "Andi" v. UNC Hospitals	08 UNC 0881	Gray	06/11/08
Marcus M. McCullers v. UNC Hospitals	08 UNC 0928	Gray	07/30/08
Satarah K. Latiker v. UNC Hospitals	08 UNC 0952	May	08/21/08
Mary C. Gessell v. UNC Hospitals	08 UNC 0981	Joseph	09/18/08
Richard and Amy Whitt v. UNC Hospitals	08 UNC 1048	May	08/15/08
John G Sell v. UNC Hospitals	08 UNC 1334	Joseph	08/26/08

WELL CONTRACTORS CERTIFICATION COMMISSION

Charles P. Pool v. Well Contractors Certification Commission	08 WCC 0514	Gray	07/15/08
--	-------------	------	----------

WILDLIFE RESOURCES COMMISSION

Lisa Roddy v. Wildlife Resources Commission	08 WRC 0970	Brooks	06/24/08
Rickey Dale Logan	08 WRC 1229	Lassiter	07/28/08