

NORTH CAROLINA REGISTER

VOLUME 23 • ISSUE 14 • Pages 1318 - 1394

January 15, 2009

I. EXECUTIVE ORDERS	
Executive Order No. 149	1318 – 1319
II. IN ADDITION	
Brownfields Property – Rose Mary Developments, LLC	1320
III. PROPOSED RULES	
Community Colleges, Department of	
Community Colleges, Board of	1367 – 1376
Environment and Natural Resources, Department of	
Coastal Resources Commission	1345 – 1350
Labor	
Department	1321 – 1345
Occupational Licensing Boards and Commissions	
Real Estate Commission	1350 – 1367
IV. TEMPORARY RULES	
Environment and Natural Resources, Department of	
Public Health, Commission for	1377 – 1378
V. RULES REVIEW COMMISSION	1379 – 1386
VI. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	1387 – 1394

PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone (919) 431-3000
Fax (919) 431-3104*

*Julian Mann, III, Director
Camille Winston, Deputy Director
Molly Masich, Codifier of Rules
Dana Vojtko, Publications Coordinator
Julie Edwards, Editorial Assistant
Felicia Williams, Editorial Assistant
Tammara Chalmers, RRC Administrative Assistant*

Contact List for Rulemaking Questions or Concerns

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

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

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

contact: Molly Masich, Codifier of Rules molly.masich@oah.nc.gov (919) 431-3071
Dana Vojtko, Publications Coordinator dana.vojtko@oah.nc.gov (919) 431-3075
Julie Edwards, Editorial Assistant julie.edwards@oah.nc.gov (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@oah.nc.gov (919) 431-3081
Bobby Bryan, Commission Counsel bobby.bryan@oah.nc.gov (919) 431-3079
Tammara Chalmers, Admin Assistant tammara.chalmers@oah.nc.gov (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.



MICHAEL F. EASLEY
GOVERNOR

**EXECUTIVE ORDER NO. 149
PROCLAMATION OF A STATE OF DISASTER
FOR THE TOWN OF MOUNT PLEASANT, THE TOWN OF KANNAPOLIS,
AND THE TOWN OF CONCORD**

WHEREAS, I have determined that a State of Disaster, as defined in G.S. §166A-6, exists in the State of North Carolina, specifically the Town of Mount Pleasant, the Town of Kannapolis, and the Town of Concord, as a result of Tropical Storm Fay which produced heavy rains that caused severe flooding August 26 and 27, 2008;

WHEREAS, on August 27, 2008, the Cabarrus County government declared a state of emergency and included three local governments: the Town of Mount Pleasant, the Town of Kannapolis, and the Town of Concord;

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) Cabarrus County 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 Administration Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets or exceeds the State infrastructure criteria set out in G.S. 166A-6.01(b)(2)a.; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

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 the Town of Mount Pleasant, the Town of Kannapolis, and the Town of Concord.

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 the Town of Mount Pleasant, the Town of Kannapolis, and the Town of Concord 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.

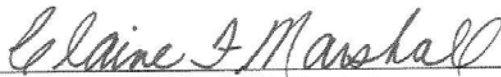
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eighteenth day of December in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and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





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

**NOTICE OF
INTENT TO AMEND NOTICE OF BROWNFIELDS PROPERTY AND BROWNFIELDS AGREEMENT
Rose Mary Developments LLC**

On September 28, 2007, the Wake County Register of Deeds recorded a Notice of Brownfields Property ("Notice") that Rose Mary Developments LLC ("Rose Mary") had filed in connection with a Brownfields Agreement Rose Mary had entered into with the North Carolina Department of Environment and Natural Resources ("DENR") regarding 2.04 acres located at 3101 Hillsborough Street, Raleigh, NC (the "Brownfields Property"). That Notice was filed and recorded pursuant to the Brownfields Property Reuse Act (the "Act"), N.C.G.S. 130A-310.30, *et seq.* It shows Rose Mary as owner of the subject property and that the Notice was recorded in Book 012772, Page 01872 and the associated plat in Book 2007, Page 2322.

The owner of the Brownfields Property (still Rose Mary), the owner of the adjoining parcels with the addresses 5 Rosemary Street and 7 Rosemary Street (M.E. Valentine), and the owner of the adjoining parcel with the address 3112 Stanhope Avenue N.C. (N.C. Equipment Parking, LLC), have requested amendment of the Notice, and in the case of Rose Mary amendment of certain provisions of the Brownfields Agreement, so as to add the .99 acres that the parcels comprise to the Brownfields Property, as reflected by those parties' contract for sale of that acreage and Rose Mary's filing of a Brownfields Property Application in regard to it. Rose Mary has committed itself to use the additional acreage exclusively for parking. DENR agreed to the requested amendments, as reflected in a draft letter to the Wake County Register of Deeds for recordation that may be reviewed 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 concerning this request 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. All such comments and requests should be addressed as follows:

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

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

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

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to repeal the rule cited as 13 NCAC 07F .0106.

Proposed Effective Date: May 1, 2009

Public Hearing:

Date: January 30, 2009

Time: 10:00 a.m.

Location: 4 W. Edenton Street, Raleigh, NC (Room 205)

Reason for Proposed Action: In 1971, the Federal Occupational Safety and Health Administration (OSHA) promulgated approximately 425 permissible exposure limits (PELs) for air contaminants. Thereafter, in 1989 OSHA revised the air contaminants standard (29 CFR 1910.1000) for 428 toxic substances. This revised standard lowered the PELs for 212 substances, set new PELs for 164 previously unregulated substances, and left unchanged PELs for 52 substances. At that time, the N.C. Department of Labor adopted the new PELs verbatim pursuant to N.C. Gen. Stat. § 95-131(a). However, a legal challenge by representatives of both labor and industry resulted in a decision by the U.S. Court of Appeals – 11th Circuit that vacated the revised PELs because OSHA did not sufficiently explain or support its threshold determination that exposure to these substances at previous levels posed a significant risk of these material health impairments or that the new standard eliminated or reduced that risk to the extent feasible. See *AFL-CIO v. OSHA*, 965 F.2d 962 (1992). As a result, OSHA reverted back to the original PELs that were promulgated in 1971. Due to a recent interpretation of the *AFL-CIO* decision, the N.C. Department of Labor is proposing to repeal the lower PELs contained in 13 NCAC 07F .0106, and revert to the PELs contained in 29 CFR 1910.1000.

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 March 16, 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, email erin.gould@labor.nc.gov

Comment period ends: March 16, 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 - OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

SUBCHAPTER 07F - STANDARDS

SECTION .0100 - GENERAL INDUSTRY STANDARDS

13 NCAC 07F .0106 TOXIC AND HAZARDOUS SUBSTANCES

~~Subpart Z – Toxic and Hazardous Substances:~~

~~(1) 29 CFR 1910.1000 Air Contaminants:~~

~~(a) The equation in 29 CFR 1910.1000(d)(1)(i) is clarified to read as follows:~~

$$E = (C_a T_a + C_b T_b + \dots C_n T_n) / 8$$

~~(b) The equation in 29 CFR 1910.1000(d)(2)(i) is clarified to read as follows:~~

$$E_m = (C_1 / L_1) + (C_2 / L_2) + \dots (C_n / L_n)$$

- (e) ~~The permissible exposure limits as originally published in 54 FR (January 19, 1989) pages 2331-2983 are incorporated except as otherwise specified or noted in this Rule.~~
- (d) ~~Employee exposure to the toxic and hazardous substances listed in the following tables shall be limited to the specified values.~~

PERMISSIBLE EXPOSURE LIMITS FOR AIR CONTAMINANTS

Footnote (1) ~~Regarding Styrene Only: OSHNC recognizes that the permissible exposure limits for styrene may not be achievable solely through engineering and work practice controls for boat building and operations comparable to boat building. Comparable operations are those that (1) employ the manual layup and sprayup process, (2) the manufactured items that utilize the same equipment and technology as that found in boat building, and (3) the same considerations of large part size, configuration interfering with air flow control techniques, and resin usage apply. Examples of operations comparable to boat building would include the manufacture of large above-ground or below-ground storage tanks, large parts for recreational vehicles, and large duct work. Because it is impossible to define~~

~~in advance every manual layup and sprayup process for which compliance may not be feasible solely through engineering and work practice controls, some guidelines concerning part size and configuration issues are necessary. The primary question for manual layup and sprayup operations is whether the part's size and configuration interfere with normal air flow techniques. For operations making parts (such as tubs and vanities) that do not meet the guidelines described, beginning April 1, 1996, the hierarchy of controls specified in 29 CFR 1910.1000(e) shall apply to reduce styrene exposures to the new 50 ppm TWA and 100 ppm STEL. In consequence, the burden of proof shall be on the employer to show that engineering and work practice controls are not feasible for specific operations. However, with respect to boat building operations the burden of proof shall be on OSHNC to prove that the level could be attained solely through engineering and work practice controls.~~

Footnote (2) ~~Regarding Acrylamide, Carbon Dioxide and Silica only: The federal standards at 29 CFR 1910.1000 are adopted.~~

Footnote (3) ~~Regarding Subtilisins only: PELs for this substance are not adopted.~~

Footnote (4) ~~29 CFR 1910.1000, Tables Z-2 and Z-3 are applicable only to the extent that they are referenced below.~~

TABLE Z-1 PERMISSIBLE EXPOSURE LIMITS (PELs) FOR AIR CONTAMINANTS

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Acetaldehyde	75-07-0	100	180	150	270	—	—	—
Acetic acid	64-19-7	see 1910.1000, Table Z-1						
Acetic anhydride	108-24-7	—	—	—	—	5	20	—
Acetone	67-64-1	750	1800	1000	2400	—	—	—
Acetonitrile	75-05-8	40	70	60	105	—	—	—
2-Acetylaminofluorene	53-96-3	see 1910.1014						
Acetylene dichloride; —see 1,2-Dichloroethylene								
Acetylene tetrabromide—	79-27-6	see 1910.1000, Table Z-1						
Acetylsalicylic acid (Aspirin)	50-78-2	—	5	—	—	—	—	—
Aerolein	107-02-8	0.1	0.25	0.3	0.8	—	—	—
Acrylamide	79-06-1	see 1910.1000, Table Z-1						
Acrylic acid	79-10-7	10	30	—	—	—	—	X
Acrylonitrile	107-13-1	see 1910.1045						
Aldrin	309-00-2	see 1910.1000, Table Z-1						
Allyl alcohol	107-18-6	2	5	4	10	—	—	X
Allyl chloride	107-05-1	1	3	2	6	—	—	—
Allyl glycidyl ether (AGE)	106-92-3	5	22	10	44	—	—	—
Allyl propyl disulfide	2179-59-1	2	12	3	18	—	—	—
alpha-Alumina	1344-28-1							
Total dust		—	10	—	—	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Respirable fraction		—	5	—	—	—	—	—
Aluminum metal (as Al)	7429-90-5							
Metal								
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Aluminum metal (as Al)	7429-90-5							
Pyro-powders		—	5	—	—	—	—	—
Welding fumes		—	5	—	—	—	—	—
Soluble salts		—	2	—	—	—	—	—
Alkyls		—	2	—	—	—	—	—
4-Aminodiphenyl	92-67-1			see 1910.1011				
2-Aminoethanol; —see Ethanolamine								
2-Aminopyridine	504-29-0			see 1910.1000, Table Z-1				
Amitrole	61-82-5	—	0.2	—	—	—	—	—
Ammonia	7664-41-7	—	—	35	27	—	—	—
Ammonium chloride, Fume	12125-02-9	—	10	—	20	—	—	—
Ammonium sulfamate	7773-06-0							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
n-Amyl acetate	628-63-7			see 1910.1000, Table Z-1				
see Amyl acetate	626-38-0			see 1910.1000, Table Z-1				
Aniline and homologs	62-53-3	2	8	—	—	—	—	X
Anisidine (o-, p-isomers)	29191-52-4			see 1910.1000, Table Z-1				
Antimony and compounds (as Sb)	7440-36-0			see 1910.1000, Table Z-1				
ANTU (alpha-Naphthyl-thiourea)	86-88-4			see 1910.1000, Table Z-1				
Arsenic, inorganic cmpds (as As)	Varies with compound			see 1910.1018				
Arsenic, organic cmpds (as As)	7440-38-2			see 1910.1000, Table Z-1				
Arsine	7784-42-1			see 1910.1000, Table Z-1				
Asbestos				see 1910.1001				
Atrazine	1912-24-9	—	5	—	—	—	—	—
Azinphos-methyl	86-50-0			see 1910.1000, Table Z-1				
Barium, soluble compounds (as Ba);	7440-39-3			see 1910.1000, Table Z-1				
Barium sulfate	7727-43-7							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Benomyl	17804-35-2							

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Benzene	71-43-2	See 1910.1028 See 1910.1000 Table Z-2 for limits applicable in the operations or sectors excluded in 1910.1028						
Benzidine	92-87-5	see 1910.1010						
<i>p</i> -Benzoquinone; see Quinone								
Benzo(a)pyrene; —see Coal tar pitch volatiles								
Benzoyl peroxide	94-36-0	see 1910.1000, Table Z-1						
Benzyl chloride	100-44-7	see 1910.1000, Table Z-1						
Beryllium and beryllium compounds (as Be);	7440-41-7	—	0.002	—	0.005 (30 min)	—	0.025	—
Biphenyl; see Diphenyl								
Bismuth telluride	1304-82-1							
Se-doped		—	5	—	—	—	—	—
Bismuth telluride	1304-82-1							
Undoped								
Total dust		see 1910.1000, Table Z-1						
Respirable fraction		see 1910.1000, Table Z-1						
Borates, tetra, sodium salts								
Anhydrous	1330-43-4	—	10	—	—	—	—	—
Decahydrate	1303-96-4	—	10	—	—	—	—	—
Pentahydrate	12179-04-3	—	10	—	—	—	—	—
Boron oxide	1303-86-2							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Boron tribromide	10294-33-4	—	—	—	—	1	10	—
Boron trifluoride	7637-07-2	see 1910.1000, Table Z-1						
Bromacil	314-40-9	1	10	—	—	—	—	—
Bromine	7726-95-6	0.1	0.7	0.3	2	—	—	—
Bromine pentafluoride	7789-30-2	0.1	0.7	—	—	—	—	—
Bromoform	75-25-2	see 1910.1000, Table Z-1						
Butadiene (1,3-Butadiene)	106-99-0	see 1910.1051; 1910.19(1)						
Butane	106-97-8	800	1900	—	—	—	—	—
Butanethiol; —see Butyl mercaptan								
2-Butanone (Methyl ethyl ketone)	78-93-3	200	590	300	885	—	—	—
2-Butoxyethanol	111-76-2	25	120	—	—	—	—	X
<i>n</i> -Butyl acetate	123-86-4	150	710	200	950	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
<i>sec</i> -Butyl acetate	105-46-4			see 1910.1000, Table Z-1				
<i>tert</i> -Butyl acetate	540-88-5			see 1910.1000, Table Z-1				
Butyl acrylate	141-32-2	10	55	—	—	—	—	—
<i>n</i> -Butyl alcohol	71-36-3	—	—	—	—	50	150	X
<i>sec</i> -Butyl alcohol	78-92-2	100	305	—	—	—	—	—
<i>tert</i> -Butyl alcohol	75-65-0	100	300	150	450	—	—	—
Butylamine	109-73-9			see 1910.1000, Table Z-1				
<i>tert</i> -Butyl chromate (as CrO ₃)	1189-85-1			see 1910.1000, Table Z-1				
<i>n</i> -Butyl glycidyl ether (BGE)	2426-08-6	25	135	—	—	—	—	—
<i>n</i> -Butyl lactate	138-22-7	5	25	—	—	—	—	—
Butyl mercaptan (Butanethiol)	109-79-5	0.5	1.5	—	—	—	—	—
<i>o-sec</i> -Butylphenol	89-72-5	5	30	—	—	—	—	X
<i>p-tert</i> -Butyltoluene	98-51-1	10	60	20	120	—	—	—
Cadmium, fume and dust (as Cd)	7440-43-9			see 1910.1027				
Calcium carbonate	1317-65-3							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Calcium cyanamide	156-62-7	—	0.5	—	—	—	—	—
Calcium hydroxide	1305-62-0	—	5	—	—	—	—	—
Calcium oxide	1305-78-8			see 1910.1000, Table Z-1				
Calcium silicate	1344-95-2							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Calcium sulfate	7778-18-9							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Camphor, synthetic	76-22-2			see 1910.1000, Table Z-1				
Caprolactam	105-60-2							
Dust		—	1	—	3	—	—	—
Vapor		5	20	10	40	—	—	—
Captafol (Difolatan ⁷)	2425-06-1	—	0.1	—	—	—	—	—
Captan	133-06-2	—	5	—	—	—	—	—
Carbaryl (Sevin ⁷)	63-25-2			see 1910.1000, Table Z-1				
Carbofuran (Furadan ⁷)	1563-66-2	—	0.1	—	—	—	—	—
Carbon black	1333-86-4			see 1910.1000, Table Z-1				
Carbon dioxide	124-38-9			see 1910.1000, Table Z-1				
Carbon disulfide	75-15-0	4	12	12	36	—	—	X
Carbon monoxide	630-08-0	35	40	—	—	200	229	—
Carbon tetrabromide	558-13-4	0.1	1.4	0.3	4	—	—	—
Carbon tetrachloride	56-23-5	2	12.6	—	—	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Carbonyl fluoride	353-50-4	2	5	5	15	—	—	—
Catechol (Pyrocatechol)	120-80-9	5	20	—	—	—	—	X
Cellulose	9004-34-6							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Cesium hydroxide	21351-79-1	—	2	—	—	—	—	—
Chlordane	57-74-9			see 1910.1000, Table Z-1				
Chlorinated camphene	8001-35-2	—	0.5	—	1	—	—	X
Chlorinated diphenyl oxide	55720-99-5			see 1910.1000, Table Z-1				
Chlorine	7782-50-5	0.5	1.5	1	3	—	—	—
Chlorine dioxide	10049-04-4	0.1	0.3	0.3	0.9	—	—	—
Chlorine trifluoride	7790-91-2			see 1910.1000, Table Z-1				
Chloroacetaldehyde	107-20-0			see 1910.1000, Table Z-1				
α -Chloroacetophenone (Phenacyl chloride)	532-27-4			see 1910.1000, Table Z-1				
Chloroacetyl chloride	79-04-9	0.05	0.2	—	—	—	—	—
Chlorobenzene	108-90-7			see 1910.1000, Table Z-1				
<i>o</i> -Chlorobenzylidene malononitrile	2698-41-1	—	—	—	—	0.05	0.4	X
Chlorobromomethane	74-97-5			see 1910.1000, Table Z-1				
2-Chloro-1,3-butadiene; —see <i>beta</i> -Chloroprene								
Chlorodifluoromethane	75-45-6	1000	3500	—	—	—	—	—
Chlorodiphenyl (42% Chlorine) (PCB)	53469-21-9			see 1910.1000, Table Z-1				
Chlorodiphenyl (54% Chlorine) (PCB)	11097-69-1			see 1910.1000, Table Z-1				
1-Chloro-2,3-epoxypropane; —see Epichlorohydrin								
2-Chloroethanol; —see Ethylene chlorohydrin								
Chloroethylene; —see Vinyl chloride								
Chloroform (Trichloromethane)	67-66-3	2	9.78	—	—	—	—	—
bis(Chloromethyl) ether	542-88-1			see 1910.1008				
Chloromethyl methyl ether	107-30-2			see 1910.1006				
1-Chloro-1-nitropropane	600-25-9	2	10	—	—	—	—	—
Chloropentafluoroethane	76-15-3	1000	6320	—	—	—	—	—
Chloropierin	76-06-2			see 1910.1000, Table Z-1				
<i>beta</i> -Chloroprene	126-99-8	10	35	—	—	—	—	X
<i>o</i> -Chlorostyrene	2039-87-4	50	285	75	430	—	—	—
<i>o</i> -Chlorotoluene	95-49-8	50	250	—	—	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
2-Chloro-6-trichloromethyl pyridine	1929-82-4							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Chlorpyrifos	2921-88-2	—	0.2	—	—	—	—	X
Chromic acid and chromates —(as CrO ₃)	Varies with compound	—	—	—	—	—	0.1	—
Chromium (II) compounds —(as Cr)	Varies with compound			see 1910.1000, Table Z-1				
Chromium (III) compounds —(as Cr)	Varies with compound			see 1910.1000, Table Z-1				
Chromium metal and —insoluble salts (as Cr)	7440-47-3			see 1910.1000, Table Z-1				
Chrysene; —see Coal tar pitch volatiles	218-01-9							
Clopidol	2971-90-6							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Coal dust (less than 5% SiO ₂); Respirable quartz fraction				see 1910.1000, Table Z-3				
Coal dust (greater than or equal to 5% SiO ₂); Respirable quartz fraction				see 1910.1000, Table Z-3				
Coal tar Pitch volatiles (benzene soluble fraction); anthracene, BaP, phenanthrene, acridine, chrysene, pyrene	8007-45-2			see 1910.1000, Table Z-1				
Cobalt metal, dust, and fume (as Co)	7440-48-4	—	0.05	—	—	—	—	—
Cobalt carbonyl (as Co)	10210-68-1	—	0.1	—	—	—	—	—
Cobalt hydrocarbonyl (as Co)	16842-03-8	—	0.1	—	—	—	—	—
Coke oven emissions				see 1910.1029				
Copper	7440-50-8							
Fume (as Cu)				see 1910.1000, Table Z-1				
Dusts and mists (as Cu)				see 1910.1000, Table Z-1				
Cotton dust (raw)	—			see 1910.1043; 1910.1000, Table Z-1				
Crag herbicide (Sesone);	136-78-7							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Cresol, all isomers	1319-77-3			see 1910.1000, Table Z-1				
	95-48-7			see 1910.1000, Table Z-1				
	108-39-4			see 1910.1000, Table Z-1				
	106-44-5			see 1910.1000, Table Z-1				

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Crotonaldehyde	123-73-9			see 1910.1000, Table Z-1				
	4170-30-3			see 1910.1000, Table Z-1				
Cruformate	299-86-5	—	5	—	—	—	—	—
Cumene	98-82-8			see 1910.1000, Table Z-1				
Cyanamide	420-04-2	—	2	—	—	—	—	—
Cyanides (as CN)	Varies with compound	—	5	—	—	—	—	X
Cyanogen	460-19-5	10	20	—	—	—	—	—
Cyanogen chloride	506-77-4	—	—	—	—	0.3	0.6	—
Cyclohexane	110-82-7			see 1910.1000, Table Z-1				
Cyclohexanol	108-93-0	50	200	—	—	—	—	X
Cyclohexanone	108-94-1	25	100	—	—	—	—	X
Cyclohexene	110-83-8			see 1910.1000, Table Z-1				
Cyclohexylamine	108-91-8	10	40	—	—	—	—	—
Cyclonite (RDX)	121-82-4	—	1.5	—	—	—	—	X
Cyclopentadiene	542-92-7			see 1910.1000, Table Z-1				
Cyclopentane	287-92-3	600	1720	—	—	—	—	—
Cyhexatin	13121-70-5	—	5	—	—	—	—	—
2,4-D (Dichlorophenoxyacetic acid)	94-75-7			see 1910.1000, Table Z-1				
Decaborane	17702-41-9	0.05	0.3	0.15	0.9	—	—	X
Demeton (Systox 7)	8065-48-3			see 1910.1000, Table Z-1				
DDT; see Dichlorodiphenyl-trichloroethane								
DDVP; see Dichlorvos								
Diacetone alcohol (4-Hydroxy-4-methyl-2-pentanone)	123-42-2			see 1910.1000, Table Z-1				
1,2-Diaminoethane; see Ethylenediamine								
Diazinon	333-41-5	—	0.1	—	—	—	—	X
Diazomethane	334-88-3			see 1910.1000, Table Z-1				
Diborane	19287-45-7			see 1910.1000, Table Z-1				
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8			see 1910.1044				
1,2-Dibromoethane; see Ethylene dibromide								
2-N-Dibutylaminoethanol	102-81-8	2	14	—	—	—	—	—
Dibutyl phosphate	107-66-4	1	5	2	10	—	—	—
Dibutyl phthalate	84-74-2			see 1910.1000, Table Z-1				
Dichloroacetylene	7572-29-4	—	—	—	—	0.1	0.4	—
o-Dichlorobenzene	95-50-1			see 1910.1000, Table Z-1				

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
<i>p</i> -Dichlorobenzene	106-46-7	75	450	110	675	—	—	—
3,3'-Dichlorobenzidine	91-94-1	see 1910.1007						
Dichlorodifluoromethane	75-71-8	see 1910.1000, Table Z-1						
1,3-Dichloro-5,5-dimethylhydantoin	118-52-5	—	0.2	—	0.4	—	—	—
Dichlorodiphenyltrichloroethane (DDT)	50-29-3	see 1910.1000, Table Z-1						
1,1-Dichloroethane	75-34-3	see 1910.1000, Table Z-1						
1,2-Dichloroethane; see Ethylene dichloride								
1,2-Dichloroethylene	540-59-0	see 1910.1000, Table Z-1						
Dichloroethyl ether	111-44-4	5	30	10	60	—	—	X
Dichloromethane; —see Methylene chloride								
Dichloromonofluoromethane	75-43-4	10	40	—	—	—	—	—
1,1-Dichloro-1-nitroethane	594-72-9	2	10	—	—	—	—	—
1,2-Dichloropropane; —see Propylene dichloride								
1,3-Dichloropropene	542-75-6	1	5	—	—	—	—	X
2,2-Dichloropropionic acid	75-99-0	1	6	—	—	—	—	—
Dichlorotetrafluoroethane	76-14-2	see 1910.1000, Table Z-1						
Dichlorvos (DDVP)	62-73-7	see 1910.1000, Table Z-1						
Dierotophos	141-66-2	—	0.25	—	—	—	—	X
Dicyclopentadiene	77-73-6	5	30	—	—	—	—	—
Dicyclopentadienyl iron	102-54-5							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Dieldrin	60-57-1	see 1910.1000, Table Z-1						
Diethanolamine	111-42-2	3	15	—	—	—	—	—
Diethylamine	109-89-7	10	30	25	75	—	—	—
2-Diethylaminoethanol	100-37-8	see 1910.1000, Table Z-1						
Diethylene triamine	111-40-0	1	4	—	—	—	—	—
Diethyl ether; see Ethyl ether								
Diethyl ketone	96-22-0	200	705	—	—	—	—	—
Diethyl phthalate	84-66-2	—	5	—	—	—	—	—
Difluorodibromomethane	75-61-6	see 1910.1000, Table Z-1						
Diglycidyl ether (DGE)	2238-07-5	0.1	0.5	—	—	—	—	—
Dihydroxybenzene; see Hydroquinone								
Diisobutyl ketone	108-83-8	25	150	—	—	—	—	—
Diisopropylamine	108-18-9	see 1910.1000, Table Z-1						
4-Dimethylaminoazobenzene	60-11-7	see 1910.1015						

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Dimethoxymethane; —see Methylal								
Dimethylacetamide	127-19-5			see 1910.1000, Table Z-1				
Dimethylamine	124-40-3			see 1910.1000, Table Z-1				
Dimethylaminobenzene; —see Xylidine								
Dimethylaniline —(<i>N,N</i> -Dimethylaniline)	121-69-7	5	25	10	50	—	—	X
Dimethylbenzene; —see Xylene								
Dimethyl 1,2-dibromo-2,2-dichloroethyl phosphate	300-76-5	—	3	—	—	—	—	X
Dimethylformamide	68-12-2			see 1910.1000, Table Z-1				
2,6-Dimethyl-4-heptanone; see Diisobutyl ketone								
1,1-Dimethylhydrazine	57-14-7			see 1910.1000, Table Z-1				
Dimethylphthalate	131-11-3			see 1910.1000, Table Z-1				
Dimethyl sulfate	77-78-1	0.1	0.5	—	—	—	—	X
Dinitolmide —(3,5-Dinitro- <i>o</i> -toluamide)	148-01-6	—	5	—	—	—	—	—
Dinitrobenzene (all isomers);								
<i>ortho</i>	528-29-0			see 1910.1000, Table Z-1				
<i>meta</i>	99-65-0			see 1910.1000, Table Z-1				
<i>para</i>	100-25-4			see 1910.1000, Table Z-1				
Dinitro- <i>o</i> -cresol	534-52-1			see 1910.1000, Table Z-1				
Dinitrotoluene	121-14-2			see 1910.1000, Table Z-1				
Dioxane (Diethylene dioxide)	123-91-1	25	90	—	—	—	—	X
Dioxathion (Deltameth)	78-34-2	—	0.2	—	—	—	—	X
Diphenyl (Biphenyl)	92-52-4			see 1910.1000, Table Z-1				
Diphenylamine	122-39-4	—	10	—	—	—	—	—
Diphenylmethane diisocyanate; — see — Methylene bisphenyl isocyanate								
Dipropyl ketone	123-19-3	50	235	—	—	—	—	—
Dipropylene glycol methyl ether	34590-94-8	100	600	150	900	—	—	X
Diquat	85-00-7	—	0.5	—	—	—	—	—
Di- <i>sec</i> -octyl phthalate (Di-(2-ethylhexyl) phthalate)	117-81-7	—	5	—	10	—	—	—
Disulfiram (Antabuse [®])	97-77-8	—	2	—	—	—	—	—
Disulfoton	298-04-4	—	0.1	—	—	—	—	X
2,6-Di- <i>tert</i> -butyl- <i>p</i> -cresol	128-37-0	—	10	—	—	—	—	—
Diuron	330-54-1	—	10	—	—	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Divinyl benzene	108-57-6	10	50	—	—	—	—	—
Emery	12415-34-8							
Total dust		—	10	—	—	—	—	—
Respirable fraction			5	—	—	—	—	—
Endosulfan	115-29-7			see 1910.1000, Table Z-1				
Endrin	72-20-8			see 1910.1000, Table Z-1				
Epichlorohydrin	106-89-8	2	8	—	—	—	—	X
EPN	2104-64-5			see 1910.1000, Table Z-1				
1,2-Epoxypropane; see Propylene oxide								
2,3-Epoxy-1-propanol; see Glycidol								
Ethanethiol; see Ethyl mercaptan								
Ethanolamine	141-43-5	3	8	6	15	—	—	—
Ethion	563-12-2	—	0.4	—	—	—	—	X
2-Ethoxyethanol (Cellosolve)	110-80-5			see 1910.1000, Table Z-1				
2-Ethoxyethyl acetate (Cellosolve acetate)	111-15-9			see 1910.1000, Table Z-1				
Ethyl acetate	141-78-6			see 1910.1000, Table Z-1				
Ethyl acrylate	140-88-5	5	20	25	100	—	—	X
Ethyl alcohol (Ethanol)	64-17-5			see 1910.1000, Table Z-1				
Ethylamine	75-04-7			see 1910.1000, Table Z-1				
Ethyl amyl ketone (5-Methyl-3-heptanone)	106-68-3			see 1910.1000, Table Z-1				
Ethyl benzene	100-41-4	100	435	125	545	—	—	—
Ethyl bromide	74-96-4	200	890	250	1110	—	—	—
Ethyl butyl ketone (3-Heptanone)	106-35-4			see 1910.1000, Table Z-1				
Ethyl chloride	75-00-3			see 1910.1000, Table Z-1				
Ethyl ether	60-29-7	400	1200	500	1500	—	—	—
Ethyl formate	109-94-4			see 1910.1000, Table Z-1				
Ethyl mercaptan (Ethanethiol)	75-08-1	0.5	1	—	—	—	—	—
Ethyl silicate	78-10-4	10	85	—	—	—	—	—
Ethylene chlorohydrin	107-07-3	—	—	—	—	1	3	X
Ethylenediamine	107-15-3			see 1910.1000, Table Z-1				
Ethylene dibromide	106-93-4			see 1910.1000, Table Z-2				
Ethylene dichloride (1,2-Dichloroethane)	107-06-2	1	4	2	8	—	—	—
Ethylene glycol	107-21-1	—	—	—	—	50	125	—
Ethylene glycol dinitrate	628-96-6	—	—	—	0.1	—	—	X
Ethylene glycol methyl acetate;								

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
—see Methyl cellosolve acetate								
Ethyleneimine	151-56-4			see 1910.1012				
Ethylene oxide	75-21-8			see 1910.1047				
Ethylidene chloride; —see 1,1 Dichloroethane								
Ethylidene norbornene	16219-75-3	—	—	—	—	5	25	—
N-Ethylmorpholine	100-74-3	5	23	—	—	—	—	X
Fenamiphos	22224-92-6	—	0.1	—	—	—	—	X
Fensulfthion —(Dasanit 7)	115-90-2	—	0.1	—	—	—	—	—
Fenthion	55-38-9	—	0.2	—	—	—	—	X
Ferbam	14484-64-1							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Ferrovandium dust	12604-58-9	—	1	—	3	—	—	—
Fluorides (as F)	Varies with compound			see 1910.1000, Table Z-2				
Fluorine	7782-41-4			see 1910.1000, Table Z-1				
Fluorotrichloromethane (Trichlorofluoromethane)	75-69-4	—	—	—	—	1000	5600	—
Fonofos	944-22-9	—	0.1	—	—	—	—	X
Formaldehyde	50-00-0			see 1910.1048				
Formamide	75-12-7	20	30	30	45	—	—	—
Formic acid	64-18-6			see 1910.1000, Table Z-1				
Furfural	98-01-1	2	8	—	—	—	—	X
Furfuryl alcohol	98-00-0	10	40	15	60	—	—	X
Gasoline	8006-61-9	300	900	500	1500	—	—	—
Germanium tetrahydride	7782-65-2	0.2	0.6	—	—	—	—	—
Glutaraldehyde	111-30-8	—	—	—	—	0.2	0.8	—
Glycerin (mist)	56-81-5							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Glycidol	556-52-5	25	75	—	—	—	—	—
Glycol monoethyl ether; —see 2-Ethoxyethanol								
Grain dust (oat, wheat, barley)	—			see 1910.1000, Table Z-1				
Graphite, natural respirable dust	7782-42-5	—	2.5	—	—	—	—	—
Graphite, synthetic	—							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Guthion 7;								

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
—see Azinphos methyl								
Gypsum	7778-18-9							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Hafnium	7440-58-6			see 1910.1000, Table Z-1				
Heptachlor	76-44-8			see 1910.1000, Table Z-1				
Heptane (<i>n</i> -Heptane)	142-82-5	400	1600	500	2000	—	—	—
Hexachlorobutadiene	87-68-3	0.02	0.24	—	—	—	—	—
Hexachlorocyclopentadiene	77-47-4	0.01	0.1	—	—	—	—	—
Hexachloroethane	67-72-1			see 1910.1000, Table Z-1				
Hexachloronaphthalene	1335-87-1			see 1910.1000, Table Z-1				
Hexafluoroacetone	684-16-2	0.1	0.7	—	—	—	—	X
<i>n</i> -Hexane	110-54-3	50	180	—	—	—	—	—
Hexane isomers	Varies with compound	500	1800	1000	3600	—	—	—
2-Hexanone (Methyl <i>n</i> -butyl ketone)	591-78-6	5	20	—	—	—	—	—
Hexone (Methyl isobutyl ketone)	108-10-1	50	205	75	300	—	—	—
see Hexyl acetate	108-84-9			see 1910.1000, Table Z-1				
Hexylene glycol	107-41-5	—	—	—	—	25	125	—
Hydrazine	302-01-2	0.1	0.1	—	—	—	—	X
Hydrogen bromide	10035-10-6	—	—	—	—	3	10	—
Hydrogen chloride	7647-01-0			see 1910.1000, Table Z-1				
Hydrogen cyanide	74-90-8	—	—	4.7	5	—	—	X
Hydrogen fluoride (as F)	7664-39-3	3	—	6	—	—	—	—
Hydrogen peroxide	7722-84-1			see 1910.1000, Table Z-1				
Hydrogen selenide (as Se)	7783-07-5			see 1910.1000, Table Z-1				
Hydrogen sulfide	7783-06-4	10	14	15	21	—	—	—
Hydrogenated terphenyls	61788-32-7	0.5	5	—	—	—	—	—
Hydroquinone	123-31-9			see 1910.1000, Table Z-1				
2-Hydroxypropyl acrylate	999-61-1	0.5	3	—	—	—	—	X
Indene	95-13-6	10	45	—	—	—	—	—
Indium and compounds (as In)	7440-74-6	—	0.1	—	—	—	—	—
Iodine	7553-56-2			see 1910.1000, Table Z-1				
Iodoform	75-47-8	0.6	10	—	—	—	—	—
Iron oxide, dust and fume (as Fe)	1309-37-1							
Total particulate				see 1910.1000, Table Z-1				
Iron pentacarbonyl (as Fe)	13463-40-6	0.1	0.8	0.2	1.6	—	—	—
Iron salts (soluble) (as Fe)	Varies with compound	—	1	—	—	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Isoamyl acetate	123-92-2	see 1910.1000, Table Z-1						
Isoamyl alcohol (Primary and secondary)	123-51-3	100	360	125	450	--	--	--
Isobutyl acetate	110-19-0	see 1910.1000, Table Z-1						
Isobutyl alcohol	78-83-1	50	150	--	--	--	--	--
Isooctyl alcohol	26952-21-6	50	270	--	--	--	--	X
Isophorone	78-59-1	4	23	--	--	--	--	--
Isophorone diisocyanate	4098-71-9	0.005	--	0.02	--	--	--	X
2-Isopropoxyethanol	109-59-1	25	105	--	--	--	--	--
Isopropyl acetate	108-21-4	250	950	310	1185	--	--	--
Isopropyl alcohol	67-63-0	400	980	500	1225	--	--	--
Isopropylamine	75-31-0	5	12	10	24	--	--	--
N-Isopropylaniline	768-52-5	2	10	--	--	--	--	X
Isopropyl ether	108-20-3	see 1910.1000, Table Z-1						
Isopropyl glycidyl ether (IGE)	4016-14-2	50	240	75	360	--	--	--
Kaolin	1332-58-7							
Total dust		--	10	--	--	--	--	--
Respirable fraction		--	5	--	--	--	--	--
Ketene	463-51-4	0.5	0.9	1.5	3	--	--	--
Lead, inorganic (as Pb)	7439-92-1	see 1910.1025						
Limestone	1317-65-3							
Total dust		see 1910.1000, Table Z-1						
Respirable		see 1910.1000, Table Z-1						
Lindane	58-89-9	see 1910.1000, Table Z-1						
Lithium hydride;	7580-67-8	see 1910.1000, Table Z-1						
L.P.G. (Liquified petroleum gas)	68476-85-7	see 1910.1000, Table Z-1						
Magnesite	546-93-0							
Total dust		see 1910.1000, Table Z-1						
Respirable fraction		see 1910.1000, Table Z-1						
Magnesium oxide fume	1309-48-4							
Total dust		--	10	--	--	--	--	--
Respirable fraction		--	5	--	--	--	--	--
Malathion	121-75-5							
Total dust		--	10	--	--	--	--	X
Respirable fraction		--	5	--	--	--	--	X
Maleic anhydride	108-31-6	see 1910.1000, Table Z-1						
Manganese	7439-96-5							
Compounds (as Mn)		see 1910.1000, Table Z-1						
Manganese	7439-96-5							
Fume (as Mn)		--	1	--	3	--	--	--
Manganese cyclopentadienyl	12079-65-1	--	0.1	--	--	--	--	X

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
tricarbonyl (as Mn)								
Manganese tetroxide (as Mn)	1317-35-7	—	1	—	—	—	—	—
Marble	1317-65-3							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Mercury (aryl and inorganic) (as Hg)	7439-97-6	—	—	—	—	—	0.1	X
Mercury (organo) alkyl compounds (as Hg)	7439-97-6	—	0.01	—	0.03	—	—	X
Mercury (vapor) (as Hg)	7439-97-6	—	0.05	—	—	—	—	X
Mesityl oxide	141-79-7	15	60	25	100	—	—	—
Methacrylic acid	79-41-4	20	70	—	—	—	—	X
Methanethiol; see Methyl mercaptan								
Methomyl (Lannate [®])	16752-77-5	—	2.5	—	—	—	—	—
Methoxychlor	72-43-5							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
2-Methoxyethanol; see Methyl Cellosolve [®]								
2-Methoxyethyl acetate; see Methyl Cellosolve [®] acetate								
4-Methoxyphenol	150-76-5	—	5	—	—	—	—	—
Methyl acetate	79-20-9	200	610	250	760	—	—	—
Methyl acetylene (Propyne)	74-99-7			see 1910.1000, Table Z-1				
Methyl acetylene—propadiene mixture (MAPP)	—	1000	1800	1250	2250	—	—	—
Methyl acrylate	96-33-3			see 1910.1000, Table Z-1				
Methylacrylonitrile	126-98-7	1	3	—	—	—	—	X
Methylal (Dimethoxymethane)	109-87-5			see 1910.1000, Table Z-1				
Methyl alcohol (Methanol)	67-56-1	200	260	250	310	—	—	X
Methylamine	74-89-5			see 1910.1000, Table Z-1				
Methyl amyl alcohol; —see Methyl isobutyl carbinol								
Methyl <i>n</i> -amyl ketone	110-43-0			see 1910.1000, Table Z-1				
Methyl bromide	74-83-9	5	20	—	—	—	—	X
Methyl butyl ketone; —see 2-Hexanone								
Methyl Cellosolve [®] (2-Methoxyethanol)	109-86-4			see 1910.1000, Table Z-1				
Methyl Cellosolve [®] acetate (2-Methoxyethyl acetate)	110-49-6			see 1910.1000, Table Z-1				

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Methyl chloride	74-87-3	50	105	100	205	—	—	—
Methyl chloroform — (1,1,1-Trichloroethane)	71-55-6	350	1900	450	2450	—	—	—
Methyl 2-cyanoacrylate	137-05-3	2	8	4	16	—	—	—
Methyleyclohexane	108-87-2	400	1600	—	—	—	—	—
Methyleyclohexanol	25639-42-3	50	235	—	—	—	—	—
o-Methyleyclohexanone	583-60-8	50	230	75	345	—	—	X
Methyleyclopentadienyl manganese tricarbonyl (as Mn)	12108-13-3	—	0.2	—	—	—	—	X
Methyl demeton	8022-00-2	—	0.5	—	—	—	—	X
4,4' Methylene bis(2-chloro- aniline) — (MBOCA)	101-14-4	0.02	0.22	—	—	—	—	X
Methylene bis(4-cyclohexyl- isocyanate)	5124-30-1	—	—	—	—	0.01	0.11	—
Methylene chloride	75-09-2	see 1910.1052						
Methylenedianiline (4,4' Methylenedianiline)	101-77-9	see 1910.1050; 1926.60						
Methyl ethyl ketone (MEK); see 2-Butanone								
Methyl ethyl ketone peroxide (MEKP)	1338-23-4	—	—	—	—	0.7	5	—
Methyl formate	107-31-3	100	250	150	375	—	—	—
Methyl hydrazine (Monomethyl hydrazine)	60-34-4	see 1910.1000, Table Z-1						
Methyl iodide	74-88-4	2	10	—	—	—	—	X
Methyl isoamyl ketone	110-12-3	50	240	—	—	—	—	—
Methyl isobutyl carbinol	108-11-2	25	100	40	165	—	—	X
Methyl isobutyl ketone; — see Hexone								
Methyl isocyanate	624-83-9	see 1910.1000, Table Z-1						
Methyl isopropyl ketone	563-80-4	200	705	—	—	—	—	—
Methyl mercaptan	74-93-1	0.5	1	—	—	—	—	—
Methyl methacrylate	80-62-6	see 1910.1000, Table Z-1						
Methyl parathion	298-00-0	—	0.2	—	—	—	—	X
Methyl propyl ketone; — see 2-Pentanone								
Methyl silicate	681-84-5	1	6	—	—	—	—	—
alpha-Methyl styrene	98-83-9	50	240	100	485	—	—	—
Methylene bisphenyl — isocyanate (MDI)	101-68-8	see 1910.1000, Table Z-1						
Metribuzin	21087-64-9	—	5	—	—	—	—	—
Mica; see Silicates								
Molybdenum (as Mo)	7439-98-7							

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Soluble compounds		see 1910.1000, Table Z-1						
Molybdenum (as Mo)	7439-98-7							
Insoluble compounds								
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Monocrotophos (Azodrin [®])	6923-22-4	—	0.25	—	—	—	—	—
Monomethyl aniline	100-61-8	0.5	2	—	—	—	—	X
Monomethyl hydrazine; see Methyl hydrazine								
Morpholine	110-91-8	20	70	30	105	—	—	X
Naphtha (Coal tar)	8030-30-6	see 1910.1000, Table Z-1						
Naphthalene	91-20-3	10	50	15	75	—	—	—
<i>alpha</i> -Naphthylamine	134-32-7	see 1910.1004						
<i>beta</i> -Naphthylamine	91-59-8	see 1910.1009						
Nickel carbonyl (as Ni)	13463-39-3	see 1910.1000, Table Z-1						
Nickel	7440-02-0							
Metal and insoluble compounds (as Ni)		see 1910.1000, Table Z-1						
Nickel	7440-02-0							
Soluble compounds (as Ni)		—	0.1	—	—	—	—	—
Nicotine	54-11-5	see 1910.1000, Table Z-1						
Nitric acid	7697-37-2	2	5	4	10	—	—	—
Nitric oxide	10102-43-9	see 1910.1000, Table Z-1						
<i>p</i> -Nitroaniline	100-01-6	—	3	—	—	—	—	X
Nitrobenzene	98-95-3	see 1910.1000, Table Z-1						
<i>p</i> -Nitrochlorobenzene	100-00-5	see 1910.1000, Table Z-1						
4-Nitrodiphenyl	92-93-3	see 1910.1003						
Nitroethane	79-24-3	see 1910.1000, Table Z-1						
Nitrogen dioxide	10102-44-0	—	—	1	1.8	—	—	—
Nitrogen trifluoride	7783-54-2	see 1910.1000, Table Z-1						
Nitroglycerin	55-63-0	—	—	—	0.1	—	—	X
Nitromethane	75-52-5	see 1910.1000, Table Z-1						
1-Nitropropane	108-03-2	see 1910.1000, Table Z-1						
2-Nitropropane	79-46-9	10	35	—	—	—	—	—
<i>N</i> -Nitrosodimethylamine	62-75-9	see 1910.1016						
Nitrotoluene (all isomers)								
o isomer	88-72-2	2	11	—	—	—	—	X
m isomer	99-08-1	2	11	—	—	—	—	X
p isomer	99-99-0	2	11	—	—	—	—	X
Nitrotrichloromethane;								

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
—see Chloropierin								
Nonane	111-84-2	200	1050	—	—	—	—	—
Octachloronaphthalene	2234-13-1	—	0.1	—	0.3	—	—	X
Octane	111-65-9	300	1450	375	1800	—	—	—
Oil mist, mineral	8012-95-1	see 1910.1000, Table Z-1						
Osmium tetroxide (as Os)	20816-12-0	0.0002	0.002	0.0006	0.006	—	—	—
Oxalic acid	144-62-7	—	1	—	2	—	—	—
Oxygen difluoride	7783-41-7	—	—	—	—	0.05	0.01	—
Ozone	10028-15-6	0.1	0.2	0.3	0.6	—	—	—
Paraffin wax fume	8002-74-2	—	2	—	—	—	—	—
Paraquat, respirable dust	4685-14-7	—	0.1	—	—	—	—	X
Parathion	56-38-2	see 1910.1000, Table Z-1						
Particulates not otherwise regulated	—							
Total dust		see 1910.1000, Table Z-1						
Respirable dust		see 1910.1000, Table Z-1						
PCB; see Chlorodiphenyl (42% and 54% chlorine)								
Pentaborane	19624-22-7	0.005	0.01	0.015	0.03	—	—	—
Pentachloronaphthalene	1321-64-8	see 1910.1000, Table Z-1						
Pentachlorophenol	87-86-5	see 1910.1000, Table Z-1						
Pentaerythritol	115-77-5							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Pentane	109-66-0	600	1800	750	2250	—	—	—
2-Pentanone (Methyl propyl ketone)	107-87-9	200	700	250	875	—	—	—
Perchloroethylene (Tetrachloroethylene)	127-18-4	25	170	—	—	—	—	—
Perchloromethyl mercaptan	594-42-3	see 1910.1000, Table Z-1						
Perchloryl fluoride	7616-94-6	3	14	6	28	—	—	—
Perlite	93763-70-3							
Total dust		see 1910.1000, Table Z-1						
Respirable fraction		see 1910.1000, Table Z-1						
Petroleum distillates (Naphtha)	8002-05-9	400	1600	—	—	—	—	—
Phenol	108-95-2	see 1910.1000, Table Z-1						
Phenothiazine	92-84-2	—	5	—	—	—	—	X
p-Phenylene diamine	106-50-3	see 1910.1000, Table Z-1						
Phenyl ether, Vapor	101-84-8	see 1910.1000, Table Z-1						
Phenyl ether—biphenyl mixture, Vapor	—	see 1910.1000, Table Z-1						
Phenylethylene; see Styrene								

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Phenyl glycidyl ether (PGE)	122-60-1	1	6	—	—	—	—	—
Phenyldrazine	100-63-0	5	20	10	45	—	—	X
Phenyl mercaptan	108-98-5	0.5	2	—	—	—	—	—
Phenylphosphine	638-21-1	—	—	—	—	0.05	0.25	—
Phorate	298-02-2	—	0.05	—	0.2	—	—	X
Phosdrin ⁷ —(Mevinphos)	7786-34-7	0.01	0.1	0.03	0.3	—	—	X
Phosgene (Carbonyl chloride)	75-44-5	see 1910.1000, Table Z-1						
Phosphine	7803-51-2	0.3	0.4	1	1	—	—	—
Phosphoric acid	7664-38-2	—	1	—	3	—	—	—
Phosphorus (yellow)	7723-14-0	see 1910.1000, Table Z-1						
Phosphorus oxychloride	10025-87-3	0.1	0.6	—	—	—	—	—
Phosphorus pentachloride	10026-13-8	see 1910.1000, Table Z-1						
Phosphorus pentasulfide	1314-80-3	—	1	—	3	—	—	—
Phosphorus trichloride	7719-12-2	0.2	1.5	0.5	3	—	—	—
Phthalic anhydride	85-44-9	1	6	—	—	—	—	—
<i>m</i> -Phthalodinitrile	626-17-5	—	5	—	—	—	—	—
Picloram	1918-02-1							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Picric acid (2,4,6-Trinitrophenol)	88-89-1	see 1910.1000, Table Z-1						
Pindone (2-Pivalyl-1,3-indandione)	83-26-1	see 1910.1000, Table Z-1						
Piperazine dihydrochloride	142-64-3	—	5	—	—	—	—	—
Plaster of Paris	7778-18-9							
Total dust		see 1910.1000, Table Z-1						
Respirable fraction		see 1910.1000, Table Z-1						
Platinum (as Pt)	7440-06-4							
Metal		—	1	—	—	—	—	—
Platinum (as Pt)	7440-06-4							
Soluble salts		see 1910.1000, Table Z-1						
Portland cement	65997-15-1							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Potassium hydroxide	1310-58-3	—	—	—	—	—	2	—
Propane	74-98-6	see 1910.1000, Table Z-1						
Propargyl alcohol	107-19-7	1	2	—	—	—	—	X
<i>beta</i> -Propiolactone	57-57-8	see 1910.1013						
Propionic acid	79-09-4	10	30	—	—	—	—	—
Propoxur (Baygon ⁷)	114-26-1	—	0.5	—	—	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
n-Propyl acetate	109-60-4	200	840	250	1050	—	—	—
n-Propyl alcohol	71-23-8	200	500	250	625	—	—	—
n-Propyl nitrate	627-13-4	25	105	40	170	—	—	—
Propylene dichloride	78-87-5	75	350	110	510	—	—	—
Propylene glycol dinitrate	6423-43-4	0.05	0.3	—	—	—	—	—
Propylene glycol monomethyl ether	107-98-2	100	360	150	540	—	—	—
Propylene imine	75-55-8	see 1910.1000, Table Z-1						
Propylene oxide	75-56-9	20	50	—	—	—	—	—
Propyne; see Methyl acetylene								
Pyrethrum	8003-34-7	see 1910.1000, Table Z-1						
Pyridine	110-86-1	see 1910.1000, Table Z-1						
Quinone	106-51-4	see 1910.1000, Table Z-1						
RDX; see Cyclonite								
Resorcinol	108-46-3	10	45	20	90	—	—	—
Rhodium (as Rh), Metal fume and insoluble compounds	7440-16-6	see 1910.1000, Table Z-1						
Rhodium (as Rh), Soluble compounds	7440-16-6	see 1910.1000, Table Z-1						
Ronnel	299-84-3	—	10	—	—	—	—	—
Rosin core solder pyrolysis products, as formaldehyde	—	—	0.1	—	—	—	—	—
Rotenone	83-79-4	see 1910.1000, Table Z-1						
Rouge	—							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Selenium compounds (as Se)	7782-49-2	see 1910.1000, Table Z-1						
Selenium hexafluoride (as Se)	7783-79-1	see 1910.1000, Table Z-1						
Silica, amorphous, precipitated and gel	—	see 1910.1000, Table Z-3						
Silica, amorphous, diatomaceous earth, containing less than 1% crystalline silica	68855-54-9	see 1910.1000, Table Z-3						
Silica, crystalline cristobalite (as quartz), respirable dust	14464-46-1	see 1910.1000, Table Z-3						
Silica, crystalline quartz (as quartz), respirable dust	14808-60-7	see 1910.1000, Table Z-3						
Silica, crystalline tripoli (as quartz), respirable dust	1317-95-9	see 1910.1000, Table Z-3 (respirable crystalline quartz)						
Silica, crystalline tridymite (as quartz), respirable dust	15468-32-3	see 1910.1000, Table Z-3						
Silica, fused, respirable dust	60676-86-0	see 1910.1000, Table Z-3						
Silicates (less than 1% crystalline								

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
—silica)								
Mica (respirable dust)	12001-26-2	—	3	—	—	—	—	—
Soapstone	—							
Total dust		—	6	—	—	—	—	—
Respirable dust		—	3	—	—	—	—	—
Talc (containing asbestos)				see 1910.1001				
Talc (not containing asbestos), less than 1% quartz, respirable dust	14807-96-6	—	2	—	—	—	—	—
Tremolite	—			see 1910.1001				
Silicon	7440-21-3							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Silicon carbide	409-21-2							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Silicon tetrahydride	7803-62-5	5	7	—	—	—	—	—
Silver, metal, dust and fume (as Ag)	7440-22-4			see 1910.1000, Table Z-1				
Soapstone; see Silicates								
Sodium azide	26628-22-8							
(as HN ₃)		—	—	—	—	0.1	—	X
(as NaN ₃)		—	—	—	—	—	0.3	X
Sodium bisulfite	7631-90-5	—	5	—	—	—	—	—
Sodium fluoroacetate	62-74-8	—	0.05	—	0.15	—	—	X
Sodium hydroxide	1310-73-2	—	—	—	—	—	2	—
Sodium metabisulfite	7681-57-4	—	5	—	—	—	—	—
Starch	9005-25-8							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Stibine	7803-52-3			see 1910.1000, Table Z-1				
Stoddard solvent	8052-41-3	100	525	—	—	—	—	—
Strychnine	57-24-9			see 1910.1000, Table Z-1				
Styrene (Vinyl benzene); see Footnote (1)	100-42-5	50	215	100	425	—	—	—
Subtilisins (Proteolytic enzymes); see Footnote (3)								
Sucrose	57-50-1							
Total dust				see 1910.1000, Table Z-1				
Respirable fraction				see 1910.1000, Table Z-1				
Sulfur dioxide	7446-09-5	2	5	5	10	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Sulfur hexafluoride	2551-62-4			see 1910.1000, Table Z-1				
Sulfuric acid	7664-93-9			see 1910.1000, Table Z-1				
Sulfur monochloride	10025-67-9	—	—	—	—	1	6	—
Sulfur pentafluoride	5714-22-7	—	—	—	—	0.01	0.1	—
Sulfur tetrafluoride	7783-60-0	—	—	—	—	0.1	0.4	—
Sulfuryl fluoride	2699-79-8	5	20	10	40	—	—	—
Sulprofos	35400-43-2	—	1	—	—	—	—	—
Systox 7 (see Demeton)								
2,4,5-T (2,4,5-Trichloro-phenoxyacetic acid)	93-76-5			see 1910.1000, Table Z-1				
Talc; see Silicates								
Tantalum metal and oxide dust	7440-25-7			see 1910.1000, Table Z-1				
TEDP (Sulfotep)	3689-24-5			see 1910.1000, Table Z-1				
Tellurium and compounds (as Te)	13494-80-9			see 1910.1000, Table Z-1				
Tellurium hexafluoride (as Te)	7783-80-4			see 1910.1000, Table Z-1				
Temephos	3383-96-8							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
TEPP (Tetraethyl pyrophosphate)	107-49-3			see 1910.1000, Table Z-1				
Terphenyls	26140-60-3	—	—	—	—	0.5	5	—
1,1,1,2-Tetrachloro-2,2-difluoroethane	76-11-9			see 1910.1000, Table Z-1				
1,1,2,2-Tetrachloro-1,2-difluoroethane	76-12-0			see 1910.1000, Table Z-1				
1,1,2,2-Tetrachloroethane	79-34-5	1	7	—	—	—	—	X
Tetrachloroethylene; —see Perchloroethylene								
Tetrachloromethane; —see Carbon tetrachloride								
Tetrachloronaphthalene	1335-88-2			see 1910.1000, Table Z-1				
Tetraethyl lead (as Pb)	78-00-2			see 1910.1000, Table Z-1				
Tetrahydrofuran	109-99-9	200	590	250	735	—	—	—
Tetramethyl lead (as Pb)	75-74-1			see 1910.1000, Table Z-1				
Tetramethyl succinonitrile	3333-52-6			see 1910.1000, Table Z-1				
Tetranitromethane	509-14-8			see 1910.1000, Table Z-1				
Tetrasodium pyrophosphate	7722-88-5	—	5	—	—	—	—	—
Tetryl (2,4,6-Trinitrophenyl methyl nitramine)	479-45-8	—	0.1	—	—	—	—	X
Thallium, soluble compounds (as Tl)	7440-28-0			see 1910.1000, Table Z-1				

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
4,4'-Thiobis(6- <i>tert</i> -butyl- <i>m</i> -cresol)	96-69-5							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Thioglycolic acid	68-11-1	1	4	—	—	—	—	X
Thionyl chloride	7719-09-7	—	—	—	—	1	5	—
Thiram	137-26-8			see 1910.1000, Table Z-1				
Tin, inorganic compounds (except oxides) (as Sn)	7440-31-5			see 1910.1000, Table Z-1				
Tin, organic compounds (as Sn)	7440-31-5	—	0.1	—	—	—	—	X
Tin oxide (as Sn)	7440-31-5	—	2	—	—	—	—	—
Titanium dioxide	13463-67-7							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Toluene	108-88-3	100	375	150	560	—	—	—
Toluene 2,4-diisocyanate (TDI)	584-84-9	0.005	0.04	0.02	0.15	—	—	—
<i>m</i> -Toluidine	108-44-1	2	9	—	—	—	—	X
<i>o</i> -Toluidine	95-53-4			see 1910.1000, Table Z-1				
<i>p</i> -Toluidine	106-49-0	2	9	—	—	—	—	X
Toxaphene; —see Chlorinated camphene								
Tremolites; —see Silicates								
Tributyl phosphate	126-73-8	0.2	2.5	—	—	—	—	—
Trichloroacetic acid	76-03-9	1	7	—	—	—	—	—
1,2,4-Trichlorobenzene	120-82-1	—	—	—	—	5	40	—
1,1,1-Trichloroethane; see Methyl chloroform								
1,1,2-Trichloroethane	79-00-5			see 1910.1000, Table Z-1				
Trichloroethylene	79-01-6	50	270	200	1080	—	—	—
Trichloromethane; see Chloroform								
Trichloronaphthalene	1321-65-9			see 1910.1000, Table Z-1				
1,2,3-Trichloropropane	96-18-4	10	60	—	—	—	—	—
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	1000	7600	1250	9500	—	—	—
Triethylamine	121-44-8	10	40	15	60	—	—	—
Trifluorobromomethane	75-63-8			see 1910.1000, Table Z-1				
Trimellitic anhydride	552-30-7	0.005	0.04	—	—	—	—	—
Trimethylamine	75-50-3	10	24	15	36	—	—	—
Trimethyl benzene	25551-13-7	25	125	—	—	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Trimethyl phosphite	121-45-9	2	10	—	—	—	—	—
2,4,6-Trinitrophenol; —see Picric acid								
2,4,6-Trinitrophenylmethyl —nitramine; see Tetryl								
2,4,6-Trinitrotoluene —(TNT)	118-96-7	—	0.5	—	—	—	—	X
Tri- <i>ortho</i> -cresyl phosphate	78-30-8	—	0.1	—	—	—	—	X
Triphenyl amine	603-34-9	—	5	—	—	—	—	—
Triphenyl phosphate	115-86-6	see 1910.1000, Table Z-1						
Tungsten (as W)	7440-33-7							
Insoluble compounds		—	5	—	10	—	—	—
Soluble compounds		—	1	—	3	—	—	—
Turpentine	8006-64-2	see 1910.1000, Table Z-1						
Uranium (as U)	7440-61-1							
Soluble compounds		see 1910.1000, Table Z-1						
Uranium (as U)	7440-61-1							
Insoluble compounds		—	0.2	—	0.6	—	—	—
<i>n</i> -Valeraldehyde	110-62-3	50	175	—	—	—	—	—
Vanadium	1314-62-1							
Respirable dust (as V ₂ O ₅)		—	0.05	—	—	—	—	—
Fume (as V ₂ O ₅)		—	0.05	—	—	—	—	—
Vegetable oil mist	—							
Total dust		see 1910.1000, Table Z-1						
Respirable dust		see 1910.1000, Table Z-1						
Vinyl acetate	108-05-4	10	30	20	60	—	—	—
Vinyl benzene; —see Styrene								
Vinyl bromide	593-60-2	5	20	—	—	—	—	—
Vinyl chloride		see 1910.1017						
Vinyl cyanide; see Acrylonitrile								
Vinyl cyclohexene dioxide	106-87-6	10	60	—	—	—	—	X
Vinylidene chloride —(1,1-Dichloroethylene)	75-35-4	1	4	—	—	—	—	—
Vinyl toluene	25013-15-4	see 1910.1000, Table Z-1						
V M & P Naphtha	8032-32-4	300	1350	400	1800	—	—	—
Warfarin	81-81-2	see 1910.1000, Table Z-1						
Welding fumes (total particulate, breathing zone)	—	—	5	—	—	—	—	—
Wood dust, all soft and hard woods, except Western Red Cedar	—	—	5	—	10	—	—	—

PROPOSED RULES

Substance	CAS #	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Wood dust, Western red cedar	—	—	2.5	—	—	—	—	—
Xylenes (<i>o</i> , <i>m</i> , <i>p</i> isomers)	1330-20-7	100	435	150	655	—	—	—
<i>m</i> -Xylene- <i>alpha, alpha'</i> -diamine	1477-55-0	—	—	—	—	—	0.1	X
Xylidine	1300-73-8	2	10	—	—	—	—	X
Yttrium	7440-65-5	see 1910.1000, Table Z-1						
Zinc chloride fume	7646-85-7	—	1	—	2	—	—	—
Zinc chromate (as CrO ₃)	Varies with compound	—	—	—	—	—	0.1	—
Zinc oxide fume	1314-13-2	—	5	—	10	—	—	—
Zinc oxide	1314-13-2							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Zinc stearate	557-05-1							
Total dust		—	10	—	—	—	—	—
Respirable fraction		—	5	—	—	—	—	—
Zirconium compounds (as Zr)	7440-67-7	—	5	—	10	—	—	—

(2) — The settlement agreement published in 71 FR 63238 (October 30, 2006), and included as Appendix A to 29 CFR 1910.1026, is not adopted.

Authority G.S. 95-131; 95-133; 150B-21.6.

TITLE 15A— DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rules cited as 15A NCAC 07H .1101-.1105, .1201, .1204-.1205.

Proposed Effective Date: May 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: The CRC is proposing changes to all rules under Section 15A NCAC 07H .1100. The amendments are pursuant to the Coastal Habitat Protection Plan (CHPP) and its recommendation to encourage alternatives to the vertical structure for shoreline stabilization. The main purpose and intent of the General Permits will not differ with the

proposed changes. The CRC is taking action on 15A NCAC 07H .1200, partly as a means to respond to the CHPP recommendations and to account for the cumulative impact of multiple piers and docking facilities. The primary changes

involve allowable size, height, location, and necessary site conditions.

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

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

Comment period ends: March 16, 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 .1100 - GENERAL PERMIT FOR CONSTRUCTION OF BULKHEADS AND RIPRAP REVETMENTS FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1101 PURPOSE

A permit under this Section shall allow the construction of bulkheads and ~~the placement of~~ riprap revetments for shoreline protection in the public trust waters and estuarine waters AECs according to authority provided in Subchapter 07J .1100 and according to the Rules in this Section. This permit shall not apply to shoreline protection along the oceanfront or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation, lower wave energy and lower erosion rates than the adjoining Ocean Erodible Area.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

15A NCAC 07H .1102 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and ~~his~~ the applicant's name and address.

(b) The applicant shall provide:

- (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within ~~ten~~ 10 days of receipt of the notice, and, indicate that no response shall be interpreted as no objection. ~~DCM staff~~ The Division of Coastal Management shall review all comments and determine, based on their relevance to the potential impacts of the

proposed project, if the proposed project can be approved by a General Permit. If ~~DCM staff~~ the Division of Coastal Management determines that the project exceeds the guidelines established by the General Permit Process, DCM shall notify the applicant that ~~he must submit~~ an application for a major development ~~permit~~. permit shall be required.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative so that the proposed ~~bulkhead~~ alignment may be ~~appropriately~~ marked. Written authorization to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction of the bulkhead or riprap ~~structure~~ revetment shall be completed within 120 days of the issuance of the general authorization or the authorization shall expire and it shall be necessary to re-examine the alignment to determine if the general authorization may be reissued.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

15A NCAC 07H .1103 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) for riprap ~~and bulkhead structures~~ revetments sited at or above normal high water or normal water level, or a permit fee of four hundred dollars (\$400.00) for ~~bulkhead and riprap structures~~ riprap revetments sited below normal high water or normal water level. The applicant shall pay a permit fee of four hundred dollars (\$400.00) for bulkheads. Permit fees shall be paid by check or money order payable to the Department.

Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124.

15A NCAC 07H .1104 GENERAL CONDITIONS

(a) This permit authorizes only the construction of bulkheads and ~~the placement of~~ riprap revetments conforming to the standards herein.

(b) Individuals shall allow authorized representatives of the Department of ~~Environment, Health,~~ Environment and Natural Resources to make periodic inspections at any time deemed necessary in order to ~~be sure~~ ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no ~~significant~~ interference with ~~navigation or~~ the use of the waters by the public by the existence of the bulkhead or the riprap revetment authorized herein. Bulkheads and riprap revetments authorized in this Rule shall not interfere with the established or traditional rights of navigation of the waters by the public.

(d) This permit ~~will~~ shall not be applicable to proposed construction where the ~~Department~~ Division of Coastal Management has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water

quality; air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public trust rights.

(e) This permit ~~does shall~~ not eliminate the need to obtain any other required state, local, or federal authorization.

(f) Development carried out under this permit ~~must shall~~ be consistent with all local requirements, AEC rules, and local land use plans current at the time of authorization.

Authority *G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.*

15A NCAC 07H .1105 SPECIFIC CONDITIONS

~~(a) This general permit is applicable only along shorelines void of wetland vegetation including marsh grass and wooded swamp, or where all construction is to be accomplished landward of such vegetation.~~

~~(b) Bulkheads and riprap material shall be positioned as follows:~~

- ~~(1) Bulkheads shall be positioned so as not to exceed more than an average distance of 2 feet waterward of the normal high water mark, or the normal water level contour, whichever is applicable. In no case shall the bulkhead be positioned more than 5 feet waterward of the normal high water or normal water level contour at any point along its alignment.~~
- ~~(2) Riprap shall be positioned so as not to exceed a maximum of 5 feet waterward of the mean high water mark or normal water level contour at any point along its alignment. Where there is an existing bulkhead structure, riprap shall be allowed to extend a maximum of 10 feet offshore. This location standard shall take into consideration the height of the area to be protected (i.e. bulkhead height, water depth) and the alignment shall allow for a slope no flatter than 2 feet horizontal per 1 foot vertical and no steeper than 1½ feet horizontal per 1 foot vertical.~~

~~(c) Along shorelines within upland basins, canals, and ditches, bulkheads or riprap material must be positioned so as not to exceed more than an average distance of 5 feet waterward of the normal high water mark or the normal water level contour, whichever is applicable. In no case shall the bulkhead or riprap be positioned more than 10 feet waterward of the normal high water or normal water level contour at any point along its alignment. For the purpose of these Rules, the Atlantic Intracoastal Waterway (AIWW) is considered a natural shoreline and development shall occur as described in 7H .1105(b).~~

~~(d) Construction authorized by this general permit shall be limited to a maximum shoreline length of 500 feet.~~

~~(e) All backfill material shall be obtained from an upland source.~~

~~(f) The bulkhead shall be constructed, or the riprap shall be in place prior to any backfilling activities.~~

~~(g) The bulkhead or riprap shall be structurally tight so as to prevent seepage of backfill materials through the structure.~~

~~(h) Riprap material shall be free from loose dirt or any other pollutant. It shall be of a size sufficient to prevent its movement from the site by wave or current action.~~

~~(i) Riprap material shall consist of clean rock or masonry materials such as but not limited to granite or broken concrete. Materials such as tires, car bodies, scrap metal, paper products, tree limbs, wood debris, organic material or similar material, are not considered riprap.~~

~~(j) The bulkhead shall be solid and constructed of treated wood, concrete slabs, metal sheet piles or other suitable materials approved by department personnel. No excavation is permitted except for that which may be required for the construction of the bulkhead wall, riprap, deadmen cables, etc. This permit does not authorize any excavation waterward of the approved alignment.~~

~~(k) Bulkheads or riprap shall not extend beyond established alignments nor restrict the original width of the canal or basin.~~

~~(l) If one contiguous acre or more of property is to be excavated or filled, an erosion and sedimentation control plan shall be filed with the Division of Land Resources, Land Quality Section, or appropriate local government having jurisdiction. This plan shall be approved prior to commencing the land-disturbing activity.~~

~~(a) Along shorelines void of wetland vegetation:~~

- ~~(1) New bulkheads shall have an average approximation of normal high water or normal water level. The bulkhead position shall not exceed a distance of five feet waterward of normal high water or normal water level at any point along its alignment.~~
- ~~(2) New bulkheads or riprap revetments on shorelines within manmade upland basins, canals, and ditches, shall be positioned so as not to exceed an average distance of two feet and maximum distance of five feet waterward of normal high water or normal water level.~~
- ~~(3) When replacing an existing bulkhead, the new alignment shall be positioned so as not to exceed a maximum distance of two feet waterward of the current bulkhead alignment. To tie into a like structure on the adjacent property, replacement bulkhead position shall not exceed a maximum distance of five feet waterward of the current bulkhead alignment. When replacing a bulkhead where lands landward of the bulkhead were lost in the last year, bulkheads shall be positioned a maximum of two feet waterward of the original/existing alignment.~~
- ~~(4) Riprap revetments shall be positioned so as not to exceed a maximum distance of 10 feet waterward of the normal high water or normal water level at any point along its alignment.~~

~~(b) Along shorelines with wetland vegetation, bulkheads and riprap revetments shall be positioned so that all construction is to be accomplished landward of such vegetation.~~

~~(c) Bulkheads shall be constructed of vinyl, or steel sheet pile, concrete, stone, timber, or other suitable materials approved by the Division of Coastal Management.~~

(d) Riprap revetments shall be constructed of granite, marl, concrete without exposed rebar, or other suitable materials approved by the Division of Coastal Management.

(e) Revetment material shall be free from loose dirt or other pollutants.

(f) Revetment material shall be of sufficient size to prevent movement from the site by wave action or currents.

(g) Construction design for riprap revetments shall take into consideration the height of the area to be protected (i.e. bulkhead height, escarpment height, water depth) and the alignment shall allow for a slope no flatter than three feet horizontal per one foot vertical and no steeper than 1 ½ feet horizontal per one foot vertical.

(h) All backfill material shall be obtained from an upland source pursuant to 15A NCAC 07H .0208. The bulkhead or riprap revetment shall be constructed prior to any backfilling activities and shall be structurally tight so as to prevent seepage of backfill materials through the structure.

(i) No excavation, grading or fill shall be permitted except for that which may be required for the construction of the bulkhead and/or riprap revetment. This permit shall not authorize any excavation waterward of the approved alignment.

(j) Runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters. Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, sand fence, etc.).

(k) If one contiguous acre or more of property is to be excavated or filled, an erosion and sedimentation control plan shall be filed with the Division of Land Resources, Land Quality Section, or appropriate local government having jurisdiction. This plan shall be approved prior to commencing the land-disturbing activity.

(l) For the purposes of these Rules, the Atlantic Intracoastal Waterway (AIWW) is considered a natural shoreline.

(m) Construction authorized by this general permit shall be limited to a maximum shoreline length of 500 feet.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

SECTION .1200 - GENERAL PERMIT FOR CONSTRUCTION OF PIERS AND DOCKING FACILITIES: IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1201 PURPOSE

A permit under this Section shall allow the construction of new ~~piers, docks, and boat houses~~ piers and docking facilities (including pile supported or floating) in the estuarine and public trust waters AECs and construction of new piers and docks within coastal wetlands AECs according to the authority provided in Subchapter 07J .1100 and according to the Rules in this Section. This permit shall not apply to oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include the

presence of wetland vegetation, lower wave energy, and lower erosion rates than the adjacent Ocean Erodible Area.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

15A NCAC 07H .1204 GENERAL CONDITIONS

(a) Piers ~~and docking facilities~~ authorized by this general permit shall be for the exclusive use of the land owner, or occupant and shall not ~~provide either be leased or rented docking space or used for any other commercial services.~~ purpose. Piers ~~and docking facilities~~ designed to provide docking space for more than two boats shall, because of their greater potential for adverse impacts, be reviewed through the major permitting process and, therefore, are not authorized by this general permit.

(b) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under the authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no unreasonable interference with navigation or use of the waters by the public by the existence of ~~piers, docks and boat houses.~~ piers and docking facilities.

(d) This permit ~~will~~ shall not be applicable to proposed construction where the Department ~~believes~~ determines that the proposed activity ~~might unnecessarily will~~ will endanger adjoining properties; significantly affect historic, cultural, scenic, conservation or recreation values, identified in G.S. 113A-102 and G.S. 113A-113(b)(4), ~~nor that might significantly affect the quality of the human environment.~~ G.S. 113A-113(b)(4).

(e) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.

(f) Development carried out under this permit ~~must~~ shall be consistent with all local requirements, AEC Guidelines, and local land use plans current at the time of authorization.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

15A NCAC 07H .1205 SPECIFIC CONDITIONS

(a) ~~Piers, docks, and boat houses~~ Piers and docking facilities may extend or be located up to a maximum of 400 feet waterward from the normal high water line or the normal water level, whichever is applicable.

(b) ~~Piers, docks, and boat houses~~ Piers and docking facilities shall not extend beyond the established pier length along the same shoreline for similar use. This restriction shall not apply to piers ~~and docking facilities~~ 100 feet or less in length unless necessary to avoid unreasonable interference with navigation or other uses of the waters by the public such as blocking established navigation routes or interfering with access to adjoining properties. The length of piers ~~and docking facilities~~ shall be measured from the waterward edge of any wetlands that border the water body.

(c) Piers ~~and docking facilities~~ longer than 200 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least one foot at each 100 foot increment of pier length longer than 200 feet, or if the additional length is

necessary to span some obstruction to navigation. Measurements to determine pier and docking facility lengths shall be made from the waterward edge of any coastal wetland vegetation, which borders the water body.

(d) ~~Piers and docks~~ shall be no wider than six feet and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking.

(e) ~~Any portion of a pier (either fixed or floating) extending from the main structure and six feet or less in width shall be considered either a "T" or a finger pier. The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be eight square feet per linear foot of shoreline with a maximum of 800 square feet. In calculating the shaded impact, uncovered open water slips shall not be counted in the total.~~

(f) ~~Except in the case of boat houses, any portion of a structure (either fixed or floating) greater than six feet wide shall be considered a platform or deck. The maximum size of any individual component of the docking facility authorized by this General Permit shall not exceed 400 square feet.~~

(g) ~~"T"s, finger piers, platforms, and decks of piers on lots with shorelines 100 feet or greater in length shall not exceed a combined total area of 400 square feet. The combined total area for lots less than 100 feet shall not exceed four square feet per linear foot of shoreline. Docking facilities shall not be constructed in a designated Primary Nursery Area with less than two feet of water at normal low water level or normal water level (whichever is applicable) under this permit without prior approval from the Division of Marine Fisheries or the Wildlife Resources Commission (whichever is applicable).~~

(h) ~~Platforms and decks shall have no more than six feet of any dimension extending over coastal wetlands.~~

(h) Piers and docking facilities located over shellfish beds or submerged aquatic vegetation (as defined by the Marine Fisheries Commission) may be constructed without prior consultation from the Division of Marine Fisheries or the Wildlife Resources Commission (whichever is applicable) if the following two conditions are met:

(1) Water depth at the docking facility location is equal to or greater than two feet of water at normal low water level or normal water level (whichever is applicable).

(2) The pier and docking facility is located to minimize the area of submerged aquatic vegetation or shellfish beds under the structure.

(i) Floating piers and floating docking facilities located in PNAs, over shellfish beds, or over submerged aquatic vegetation shall be allowed if the water depth between the bottom of the proposed structure and the substrate is at least 18 inches at normal low water level or normal water level, whichever is applicable.

(j) Docking facilities shall have no more than six feet of any dimension extending over coastal wetlands and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking.

~~(k)~~ (k) The width requirements established in Paragraphs (d), (e), (f), ~~(g)~~ and ~~(h)~~ (g), (h), (i), and (j), of this Rule shall not apply to pier structures in existence on or before July 1, 2001 when

structural modifications are needed to prevent or minimize storm damage. In these cases, pilings and cross bracing may be used to provide structural support as long as they do not extend more than of two feet on either side of the principal structure. These modifications ~~may~~ shall not be used to expand the floor decking of platforms and piers.

~~(j)~~ (l) Boathouses shall not exceed a combined total of 400 square feet and shall have sides extending no further than one-half the height of the walls as measured in a downward direction from the top wall plate or header and only covering the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline.

~~(k)~~ (m) The area enclosed by a boat lift shall not exceed 400 square feet.

~~(l)~~ (n) ~~Piers, docks, decks, platforms and boat houses~~ Piers and docking facilities shall be single story. They may be roofed but shall not be designed to allow second story use.

~~(m)~~ (o) Pier and docking facility alignments along federally maintained channels ~~must~~ shall also meet Corps of Engineers regulations for pier construction pursuant to Section 10 of the Rivers and Harbors Act.

~~(n)~~ (p) ~~Piers, docks, and boat houses~~ Piers and docking facilities shall in no case extend more than 1/4 the width of a natural water body, human-made canal or basin. Measurements to determine widths of the water body, human-made canals or basins shall be made from the waterward edge of any coastal wetland vegetation which borders the water body. The 1/4 length limitation shall not apply when the proposed pier and docking facility is located between longer piers structures within 200 feet of the applicant's property. However, the proposed pier and docking facility shall not be longer than the pier head line established by the adjacent ~~piers~~, piers and docking facilities, nor, longer than 1/3 the width of the water body.

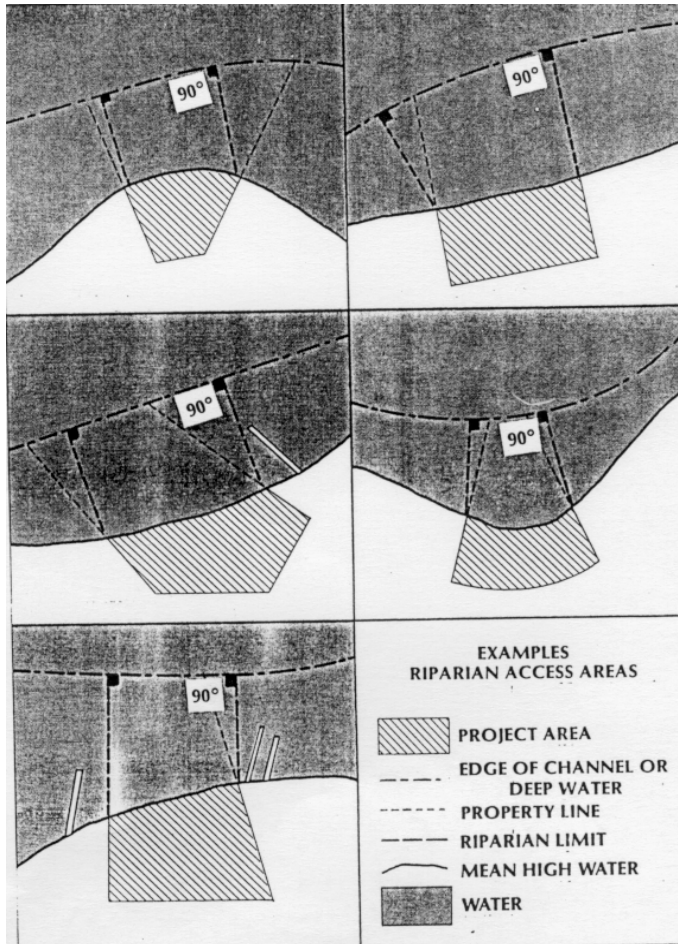
~~(o)~~ (q) ~~Piers, docks and boat houses~~ Piers and docking facilities shall not interfere with the access to any riparian property, and shall have a minimum setback of 15 feet between any part of the pier and docking facility and the adjacent property lines extended into the water at the points that they intersect the shoreline. The minimum setbacks provided in the rule may be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the pier commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any development of the ~~pier, dock, or boat house~~ pier or docking facility. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the property, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. Application of this Rule may be aided by reference to the approved diagram in Paragraph ~~(p)~~ (t) of this Rule illustrating the rule as applied to various shoreline configurations. Copies of the diagram may be obtained from the Division of Coastal Management. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the

pier or docking facility shall be aligned to meet the intent of this Rule to the maximum extent practicable.

~~(p)(r)~~ ~~Piers, and mooring~~ Piers and docking facilities shall be designed to provide docking space for no more than two boats.

~~(q)(s)~~ Applicants for authorization to construct a ~~dock or pier or docking facility~~ shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed ~~dock or pier or docking facility~~ would extend. The applicant shall allow the lease holder the opportunity to mark a navigation route from the pier to the edge of the lease.

~~(t)(t)~~ The diagram shown below illustrates ~~the~~ various shoreline configurations:



(u) Shared piers or docking facilities shall be allowed and encouraged provided that in addition to complying with Paragraphs (a) through (t) of this Rule the following shall also apply:

- (1) The shared pier or docking facility shall be confined to two adjacent riparian property owners and the landward point of origination of the structure shall overlap the shared property line.
- (2) Shared piers and docking facilities shall be designed to provide docking space for no more than four boats.
- (3) The total square footage of shaded impact for docks and mooring facilities shall be calculated using Paragraphs (e) of this Rule

and in addition shall allow for combined shoreline of both properties.

(4) The property owners of the shared pier shall not be required to obtain a 15-foot waiver from each other as described in Paragraph (q) of this Rule as is applies to the shared riparian line for any work associated with the shared pier, provided that the title owners of both properties have executed a shared pier agreement that has become a part of the permit file.

(5) The construction of a second access pier or docking facility not associated with the shared pier shall require authorization through the CAMA Major full review permit process.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 58 – REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Real Estate Commission intends to amend the rules cited as 21 NCAC 58A .0104-.0105, .0110, .0112-.0114, .0405, .0502, .0504-.0505, .1904; 58C .0105, .0203, .0218, .0304-.0305, .0309, .0313, .0608; 58E .0310, .0511 and repeal the rules cited as 21 NCAC 58F .0101-.0106.

Proposed Effective Date: July 1, 2009

Public Hearing:

Date: February 11, 2009

Time: 9:00 a.m.

Location: North Carolina Real Estate Commission, 1313 Navaho Drive, Raleigh, NC 27609

Reason for Proposed Action: To clarify the current rules in light of suggestions from the public, licensees, and the Commission's staff.

Procedure by which a person can object to the agency on a proposed rule: Any person who objects or who has comment about the proposed rule changes may submit written comments to Rule-making Coordinator Sandra L. Good at the address listed in this notice.

Comments may be submitted to: Sandra L. Good, 1313 Navaho Drive, Raleigh, NC 27609, phone (919) 875-3700 and fax (919) 981-5023

Comment period ends: March 16, 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 58A - REAL ESTATE BROKERS

SECTION .0100 - GENERAL BROKERAGE

21 NCAC 58A .0104 AGENCY AGREEMENTS AND DISCLOSURE

(a) Every agreement for brokerage services in a real estate transaction and every agreement for services connected with the management of a property owners association shall be in writing and signed by the parties thereto. Every agreement for brokerage services between a broker and an owner of the property to be the subject of a transaction must be in writing and signed by the parties from the time of its formation. Every agreement for brokerage services between a broker and a buyer or tenant shall be express and shall be reduced to writing and signed by the parties thereto not later than the time one of the parties makes an offer to purchase, sell, rent, lease, or exchange real estate to another. However, every agreement between a broker and a buyer or tenant which seeks to bind the buyer or tenant for a period of time or to restrict the buyer's or tenant's right to work with other agents or without an agent shall be in writing and signed by the parties thereto from its formation. A broker shall not continue to represent a buyer or tenant without a written, signed agreement when such agreement is required by this Rule. Every written agreement for brokerage services of any kind in a real estate transaction shall provide for its existence for a definite period of time, shall include the licensee's license number, and shall provide for its termination without prior notice at the expiration of that period, except that an agency agreement between a landlord and broker to procure tenants or receive rents for the landlord's property may allow for automatic renewal so long as the landlord may terminate with notice at the end of any contract period and any subsequent renewals. For the purposes of this rule, an agreement between licensees to cooperate or share compensation shall not be considered an agreement for brokerage services and, except as required by Rule .1807 of this Subchapter, need not be memorialized in writing.

(b) Every listing agreement, written buyer agency agreement or other written agreement for brokerage services in a real estate transaction shall contain the following provision: The broker shall conduct all brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin, handicap or familial status of any party or prospective ~~party to the agreement.~~ party. The provision shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the agreement. For the purposes of this Rule, the term, familial status, shall be defined as it is in G.S. 41A-3(1b).

(c) In every real estate sales transaction, a broker shall, at first substantial contact directly with a prospective buyer or seller, provide the prospective buyer or seller with a copy of the publication "Working with Real Estate Agents," set forth the broker's name and license number thereon, review the publication with the buyer or seller, and determine whether the agent will act as the agent of the buyer or seller in the transaction. If the first substantial contact with a prospective buyer or seller occurs by telephone or other electronic means of communication where it is not practical to provide the "Working with Real Estate Agents" publication, the broker shall at the earliest opportunity thereafter, but in no event later than three days from the date of first substantial contact, mail or otherwise transmit a copy of the publication to the prospective buyer or seller and review it with him or her at the earliest practicable opportunity thereafter. For the purposes of this Rule, "first substantial contact" shall include contacts between a broker and a consumer where the consumer or broker begins to act as though an agency relationship exists and the consumer begins to disclose to the broker personal or confidential information.

(d) A real estate broker representing one party in a transaction shall not undertake to represent another party in the transaction without the written authority of each party. Such written authority must be obtained upon the formation of the relationship except when a buyer or tenant is represented by a broker without a written agreement in conformity with the requirements of Paragraph (a) of this Rule. Under such circumstances, the written authority for dual agency must be reduced to writing not later than the time that one of the parties represented by the broker makes an offer to purchase, sell, rent, lease, or exchange real estate to another party.

(e) In every real estate sales transaction, a broker working directly with a prospective buyer as a seller's agent or subagent shall disclose in writing to the prospective buyer at the first substantial contact with the prospective buyer that the broker represents the interests of the seller. The written disclosure shall include the broker's license number. If the first substantial contact occurs by telephone or by means of other electronic communication where it is not practical to provide written disclosure, the broker shall immediately disclose by similar means whom he represents and shall immediately mail or otherwise transmit a copy of the written disclosure to the buyer. In no event shall the broker mail or transmit a copy of the written disclosure to the buyer later than three days from the date of first substantial contact with the buyer.

(f) In every real estate sales transaction, a broker representing a buyer shall, at the initial contact with the seller or seller's agent, disclose to the seller or seller's agent that the broker represents the buyer's interests. In addition, in every real estate sales

transaction other than auctions, the broker shall, no later than the time of delivery of an offer to the seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the buyer's offer to purchase and shall include the broker's license number.

(g) The provisions of Paragraphs (c), (d) and (e) of this Rule shall not apply to real estate licensees representing sellers in auction sales transactions.

(h) A broker representing a buyer in an auction sale transaction shall, no later than the time of execution of a written agreement memorializing the buyer's contract to purchase, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the written agreement.

(i) A firm which represents more than one party in the same real estate transaction is a dual agent and, through the brokers associated with the firm, shall disclose its dual agency to the parties.

(j) When a firm represents both the buyer and seller in the same real estate transaction, the firm may, with the prior express approval of its buyer and seller clients, designate one or more individual brokers associated with the firm to represent only the interests of the seller and one or more other individual brokers associated with the firm to represent only the interests of the buyer in the transaction. The authority for designated agency must be reduced to writing not later than the time that the parties are required to reduce their dual agency agreement to writing in accordance with Paragraph (d) of this Rule. An individual broker shall not be so designated and shall not undertake to represent only the interests of one party if the broker has actually received confidential information concerning the other party in connection with the transaction. A broker-in-charge shall not act as a designated broker for a party in a real estate sales transaction when a provisional broker under his or her supervision will act as a designated broker for another party with a competing interest.

(k) When a firm acting as a dual agent designates an individual broker to represent the seller, the broker so designated shall represent only the interest of the seller and shall not, without the seller's permission, disclose to the buyer or a broker designated to represent the buyer:

- (1) that the seller may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the seller's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the seller which the seller has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(l) When a firm acting as a dual agent designates an individual broker to represent the buyer, the broker so designated shall represent only the interest of the buyer and shall not, without the buyer's permission, disclose to the seller or a broker designated to represent the seller:

- (1) that the buyer may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the buyer's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the buyer which the buyer has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(m) A broker designated to represent a buyer or seller in accordance with Paragraph (j) of this Rule shall disclose the identity of all of the brokers so designated to both the buyer and the seller. The disclosure shall take place no later than the presentation of the first offer to purchase or sell.

(n) When an individual broker represents both the buyer and seller in the same real estate sales transaction pursuant to a written agreement authorizing dual agency, the parties may provide in the written agreement that the broker shall not disclose the following information about one party to the other without permission from the party about whom the information pertains:

- (1) that a party may agree to a price, terms or any conditions of sale other than those offered;
- (2) the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by statute or rule; and
- (3) any information about a party which that party has identified as confidential, unless disclosure is otherwise required by statute or rule.

Authority G.S. 41A-3(1b); 41A-4(a); 93A-3(c); 93A-9.

21 NCAC 58A .0105 ADVERTISING

(a) **Blind Ads.** A licensee shall not advertise the sale, purchase, exchange, rent or lease of real estate, for another or others, in a manner indicating the offer to sell, purchase, exchange, rent, or lease is being made by the licensee's principal only. Every such advertisement shall conspicuously indicate that it is the advertisement of a broker or brokerage firm and shall not be confined to publication of only a post office box number, telephone number, street address, internet web address, or e-mail address.

(b) **Registration of Assumed Name.** In the event that any licensee shall advertise in any manner using a firm name or an assumed name which does not set forth the surname of the licensee, the licensee shall first file the appropriate certificate with the office of the county register of deeds in compliance with G.S. 66-68 and notify the Commission in writing of the use of such a firm name or assumed name.

(c) **Authority to Advertise.**

- (1) A provisional broker shall not advertise any brokerage service or the sale, purchase, exchange, rent or lease of real estate for another or others without ~~his or her broker's~~ the consent of his or her broker-in-charge and without including in the advertisement the name of the broker or firm with whom the provisional broker is associated.

- (2) A licensee shall not advertise or display a "for sale" or "for rent" sign on any real estate without the consent of the owner or his or her authorized agent.

(d) Business names. A licensee shall not include the name of a provisional broker or an unlicensed person in the name of a sole proprietorship, partnership or non-corporate business formed for the purpose of real estate brokerage.

(e) A person licensed as a limited nonresident commercial broker shall comply with the provisions of Rule .1809 of this Subchapter in connection with all advertising concerning or relating to his or her status as a North Carolina licensee.

Authority G.S. 55B-5; 66-68; 93A-3(c); 93A-9.

21 NCAC 58A .0110 BROKER-IN-CHARGE

(a) Every real estate firm shall designate a broker to serve as the broker-in-charge at its principal office and a broker to serve as broker-in-charge at any branch office. No broker shall be broker-in-charge of more than one office at a time. If a firm shares office space with one or more other firms, one broker may serve as broker-in-charge of each firm at that location. No office or branch office of a firm shall have more than one designated broker-in-charge. A broker who is a sole proprietor shall designate himself or herself as a broker-in-charge if the broker engages in any transaction where the broker is required to deposit and maintain monies belonging to others in a trust account, engages in advertising or promoting his or her services as a broker in any manner, or has one or more other brokers affiliated with him or her in the real estate business. Maintenance of a trust or escrow account by a broker solely for holding residential tenant security deposits received by the broker on properties owned by the broker in compliance with G.S. 42-50 shall not, standing alone, subject the broker to the requirement to designate himself or herself as a broker-in-charge. A broker desiring to be a broker-in-charge shall declare in writing his or her designation as broker-in-charge of an office to the Commission on a form prescribed by the Commission within 10 days following the broker's designation as broker in charge of any office. The broker-in-charge shall, in accordance with the requirements of G.S. 93A and the rules adopted by the Commission, assume the responsibility at his or her office for:

- (1) the retention of current license renewal pocket cards by all brokers employed at the office for which he or she is broker-in-charge; the proper display of licenses at such office in accordance with Rule .0101 of this Section; and assuring that each licensee employed at the office has complied with Rules .0503, .0504, and .0506 of this Subchapter;
- (2) the proper notification to the Commission of any change of business address or trade name of the firm and the registration of any assumed business name adopted by the firm for its use;
- (3) the proper conduct of advertising by or in the name of the firm at such office;
- (4) the proper maintenance at such office of the trust or escrow account of the firm and the records pertaining thereto;

- (5) the proper retention and maintenance of records relating to transactions conducted by or on behalf of the firm at such office, including those required to be retained pursuant to Rule .0108 of this Section;

- (6) the proper supervision of provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;
- (7) the proper supervision of all licensees employed at the office for which he or she is broker-in-charge with respect to adherence to agency agreement and disclosure requirements.

(b) When used in this Rule, the term:

- (1) "Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business; and
- (2) "Office" means any place of business where acts are performed for which a real estate license is required or where monies received by a licensee acting in a fiduciary capacity are handled or records for such trust monies are maintained.

(c) To qualify to become a broker-in-charge, a broker ~~shall not be a provisional broker and shall:~~

- (1) have a license on active status;
- ~~(1)(2)~~ (2) possess at least two years of full-time real estate brokerage experience or equivalent part-time real estate brokerage experience within the previous five years or real estate education or experience in real estate transactions that the Commission finds equivalent to such experience; and
- ~~(2)(3)~~ (3) complete the Commission's 12 classroom hour broker-in-charge course either within three years prior to designation as a broker-in-charge or within 120 days following designation as a broker-in-charge.

~~A broker in charge shall certify his or her experience qualifications in the written broker-in-charge declaration he or she submits to the Commission and shall provide to the Commission upon request evidence that he or she possesses the required experience. By submission of a broker-in-charge declaration to the Commission, a broker certifies that he or she possesses the experience required to become a broker-in-charge and upon acknowledgement by the Commission of a properly completed declaration, the broker receives his or her broker-in-charge designation and becomes authorized to act as a broker-in-charge. Upon his or her designation as broker-in-charge and completion of the broker-in-charge course within the prescribed time period, the designated broker-in-charge acquires the eligibility to be re-designated as a broker-in-charge at any time in the future after a period of not actively serving as a broker-in-charge without having to again satisfy the qualification requirements for initial designation stated in this Paragraph so long as the broker continuously satisfies the requirements to retain such eligibility described in Paragraph (e) of this Rule.~~

Status as a broker-in-charge designation shall be immediately terminated if a broker-in-charge fails to complete the broker-in-charge course during the required time period or if the Commission finds the broker-in-charge does not possess the required experience. Upon the request of the Commission, a broker shall provide to the Commission evidence that he or she possesses the required experience. A broker who is removed as broker-in-charge for failure to timely complete the Commission's 12 hour broker-in-charge course must first complete the 12 hour broker-in-charge course before he or she may again be designated as broker-in-charge. A broker-in-charge, upon written request of the Commission or a broker who has been affiliated with the broker-in-charge within the previous five years, shall provide the Commission or broker on a form ~~prescribed by the Commission~~ an accurate written statement regarding the broker's work at the office of the broker-in-charge, including the dates of affiliation, average number of hours worked per week, and the number and type of properties listed, sold, bought, leased, or rented for others by the licensee during his or her affiliation with the broker-in-charge.

(d) A broker who was the broker-in-charge of a real estate office on April 1, 2006, whose broker-in-charge declaration was received by the Commission prior to that date, and who completed the Commission's broker-in-charge course prior to April 1, 2006 or within 120 days following designation as a broker-in-charge, may continue to serve as a broker-in-charge thereafter until his or her eligibility to serve as a broker-in-charge is terminated as provided in Paragraph (e) (f) of this Rule.

~~(e) A broker's eligibility to serve as a broker-in-charge shall be terminated upon the occurrence of any of the following events:~~

- ~~(1) The broker's license expires or the broker's license is suspended, revoked or surrendered; or~~
- ~~(2) the broker's license is made inactive for any reason, including failure to satisfy the continuing education requirements described in Rule .1702 of this Subchapter or Paragraph (f) of this Rule.~~

~~When a broker's eligibility to serve as a broker-in-charge is terminated pursuant to this Paragraph and the broker subsequently seeks to again serve as broker-in-charge of the same or a different office, the broker must fully satisfy all the current broker-in-charge experience and education qualification requirements stated in Paragraph (e) of this Rule. A broker-in-charge course taken by such broker prior to April 1, 2006 shall not be recognized toward the current education requirement.~~

~~(f) To maintain eligibility to serve as a broker-in-charge, a broker shall complete during each license year a special four classroom hour continuing education course prescribed by the Commission only for brokers in charge. This course must be taken during the first full license year following designation as a broker-in-charge and each license year thereafter in order for the broker to remain eligible to serve as broker-in-charge. The course shall satisfy the broker's general continuing education elective course requirement, but the broker must continue to take the mandatory continuing education update course each license year. When a broker-in-charge or a broker who retains broker-in-charge eligibility fails to take the special continuing education course specified in this Paragraph for brokers in-charge during~~

~~any license year, his or her eligibility to serve as broker-in-charge shall be terminated at the end of that license year. Before such broker may again be designated a broker-in-charge, he or she must first satisfy the qualification requirements set forth in Paragraph (e) of this Rule. If, however, such broker has taken the 12 hour broker-in-charge course within the preceding three years, he or she still shall not be eligible to be redesignated as broker-in-charge of any office until he or she first either takes the current year's special broker-in-charge continuing education course required by this paragraph or repeats the 12 hour broker-in-charge course, as he or she may elect. The special continuing education course specified in this paragraph is reserved only for licensees who are brokers in-charge or who retain broker-in-charge eligibility or who are seeking to reinstate broker-in-charge eligibility pursuant to this paragraph and only such licensees shall receive continuing education elective credit for the special continuing education course prescribed herein.~~

(e) Once a broker has been designated as a broker-in-charge and completed the 12 hour broker-in-charge course as prescribed by Paragraph (c) of this Rule, the broker may maintain broker-in-charge eligibility by timely annual renewal of his or her broker license, completion each license year of the four hour mandatory continuing education update course prescribed for all licensees and known as the "Real Estate Update Course," and completion each license year of the four hour special continuing education course prescribed by the Commission only for brokers-in-charge and known as the "Broker-In-Charge Annual Review Course." The Broker-In-Charge Annual Review Course must be taken initially by a broker-in-charge during the first full license year following the license year in which the broker was designated as a broker-in-charge and must be taken each license year thereafter in order for the broker to maintain broker-in-charge eligibility. The Broker-In-Charge Annual Review Course shall satisfy the broker's general continuing education elective course requirement, but the broker must also take the mandatory continuing education Real Estate Update Course each license year. The Broker-In-Charge Annual Review Course is reserved exclusively for current brokers-in-charge, brokers who are not currently acting as a broker-in-charge but who desire to retain their broker-in-charge eligibility, and brokers who are seeking to qualify for re-designation as a broker-in-charge following loss of their broker-in-charge designation or eligibility pursuant to Paragraph (f) of this Rule. Only these brokers shall receive continuing education elective credit for taking the course.

(f) A broker's broker-in-charge eligibility and, if currently designated as a broker-in-charge, his or her broker-in-charge designation shall be terminated upon the occurrence of any of the following events:

- (1) The broker's license expires or the broker's license is suspended, revoked or surrendered; or
- (2) the broker's license is made inactive for any reason, including failure to satisfy the continuing education requirements described in Rule .1702 of this Subchapter; or
- (3) the broker fails to complete the Broker-In-Charge Annual Review Course described in Paragraph (e) of this Rule; or

- (4) the broker is found by the Commission to have not possessed the experience required in Paragraph (c) of this Rule at the time of either initial designation as a broker-in-charge or re-designation as a broker-in-charge.

When a broker who is a former broker-in-charge desires to be re-designated as a broker-in-charge following termination of his or her broker-in-charge designation or eligibility, he or she must first have a license on active status. The broker then must satisfy the experience requirements for initial designation set forth in Paragraph (c) of this Rule, and the broker must complete the 12 hour broker-in-charge course within 120 days following re-designation, except that if the broker has taken the 12 hour broker-in-charge course within the preceding three years, he or she has the option to complete the Broker-In-Charge Annual Review Course for the current license year within 120 days following re-designation as a broker-in-charge in lieu of repeating the 12 hour broker-in-charge course.

(g) A broker-in-charge shall notify the Commission in writing that he or she no longer is serving as broker-in-charge of a particular office within 10 days following any such change.

(h) A licensed real estate firm shall not be required to designate a broker-in-charge if it:

- (1) has been organized for the sole purpose of receiving compensation for brokerage services furnished by its qualifying broker through another firm or broker;
- (2) is treated for tax purposes as a Subchapter S corporation by the United States Internal Revenue Service;
- (3) has no principal or branch office; and
- (4) has no person associated with it other than its qualifying broker.

(i) A broker-in-charge residing outside of North Carolina who is the broker-in-charge of a principal or branch office not located in North Carolina shall not be required to complete the broker-in-charge course or the special continuing education course prescribed for brokers-in-charge under Paragraph ~~(f)~~(e) of this Rule. However, if such broker-in-charge either becomes a resident of North Carolina or becomes broker-in-charge of an office located within North Carolina, then he or she must take the 12 hour broker-in-charge course within 120 days of such change, unless he or she has taken the 12 hour course within the preceding three years. Such broker-in-charge shall take the special broker-in-charge continuing education course prescribed in Paragraph ~~(f)~~(e) of this Rule during the first full license year following said change and each license year thereafter so long as the broker-in-charge remains a resident of North Carolina or continues to manage an office located in North Carolina.

(j) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.

Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; 93A-4.2; 93A-9.

**21 NCAC 58A .0112 OFFERS AND SALES
CONTRACTS**

(a) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form unless the form describes or specifically requires the entry of the following information:

- (1) the names of the buyer and seller;
- (2) a legal description of the real property sufficient to identify and distinguish it from all other property;
- (3) an itemization of any personal property to be included in the transaction;
- (4) the purchase price and manner of payment;
- (5) any portion of the purchase price that is to be paid by a promissory note, including the amount, interest rate, payment terms, whether or not the note is to be secured, and other material terms;
- (6) any portion of the purchase price that is to be paid by the assumption of an existing loan, including the amount of such loan, costs to be paid by the buyer or seller, the interest rate and number of discount points and a condition that the buyer must be able to qualify for the assumption of the loan and must make every reasonable effort to qualify for the assumption of the loan;
- (7) the amount of earnest money, if any, the method of payment, the name of the broker or firm that will serve as escrow agent, an acknowledgment of earnest money receipt by the escrow agent, and the criteria for determining disposition of the earnest money, including disputed earnest money, consistent with Commission Rule .0107 of this Subchapter;
- (8) any loan that must be obtained by the buyer as a condition of the contract, including the amount and type of loan, interest rate and number of discount points, loan term, ~~loan commitment date,~~ and who shall pay loan closing costs; and a condition that the buyer shall make every reasonable effort to obtain the loan;
- (9) a general statement of the buyer's intended use of the property and a condition that such use must not be prohibited by private restriction or governmental regulation;
- (10) the amount and purpose of any special assessment to which the property is subject and the responsibility of the parties for any unpaid charges;
- (11) the date for closing and transfer of possession;
- (12) the signatures of the buyer and seller;
- (13) the date of offer and acceptance;
- (14) a provision that title to the property must be delivered at closing by general warranty deed and must be fee simple marketable title, free of all encumbrances except ad valorem taxes for the current year, utility easements, and any other encumbrances specifically approved by

- the buyer, or a provision otherwise describing the estate to be conveyed, and encumbrances, and the form of conveyance;
- (15) the items to be prorated or adjusted at closing;
- (16) who shall pay closing expenses;
- (17) the buyer's right to inspect the property prior to closing and who shall pay for repairs and improvements, if any;
- (18) a provision that the property shall at closing be in substantially the same condition as on the date of the offer (reasonable wear and tear excepted), or a description of the required property condition at closing; and
- (19) a provision setting forth the identity of each real estate agent and firm involved in the transaction and disclosing the party each agent and firm represents.

The provisions of this rule shall apply only to preprinted offer and sales contract forms which a broker acting as an agent in a real estate transaction proposes for use by the buyer and seller. Nothing contained in this Rule shall be construed to prohibit the buyer and seller in a real estate transaction from altering, amending or deleting any provision in a form offer to purchase or contract; nor shall this Rule be construed to limit the rights of the buyer and seller to draft their own offers or contracts or to have the same drafted by an attorney at law.

(b) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form containing the provisions or terms listed in Subparagraphs (b)(1) and (2) of this Rule. A broker or anyone acting for or at the direction of the broker shall not insert or cause such provisions or terms to be inserted into any such preprinted form, even at the direction of the parties or their attorneys:

- (1) any provision concerning the payment of a commission or compensation, including the forfeiture of earnest money, to any broker or firm; or
- (2) any provision that attempts to disclaim the liability of a broker for his or her representations in connection with the transaction.

Authority G.S. 93A-3(c).

21 NCAC 58A .0113 REPORTING CRIMINAL CONVICTIONS AND DISCIPLINARY ACTIONS

Any broker who is convicted of any felony or misdemeanor, or who is disciplined by any governmental agency in connection with any other occupational license, or whose notarial commission is restricted, suspended, or revoked, shall file with the Commission a written report of such conviction or disciplinary action within 60 days of the final judgment or final order in the case. ~~judgment, order, or disposition in the case.~~ A form for this report is available from the Commission.

Authority G.S. 93A-3(c); 93A-6(a); 93A-6(a)(10); 93A-6(b)(2).

21 NCAC 58A .0114 RESIDENTIAL PROPERTY DISCLOSURE STATEMENT

(a) Every owner of real property subject to a transfer of the type contemplated by Chapter 47E of the General Statutes, shall complete the following residential property disclosure statement and furnish a copy of the complete statement to a purchaser in accordance with the requirements of G.S. 47E-4. The form shall bear the seal of the North Carolina Real Estate Commission and shall read as follows:

[N.C. REAL ESTATE COMMISSION SEAL]

STATE OF NORTH CAROLINA RESIDENTIAL PROPERTY DISCLOSURE STATEMENT

Instructions to Property Owners

1. G.S. 47E requires owners of residential real estate (single-family homes and buildings with up to four dwelling units) to furnish purchasers a property disclosure statement. This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option and sale under a lease with option to purchase (unless the tenant is already occupying or intends to occupy the dwelling). A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
2. You must check ☒ one of the boxes for each of the ~~2021~~ questions on the reverse side of this form.
 - a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
 - b. If you check "No", you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
 - c. If you check "No Representation", you have no duty to disclose the conditions or characteristics of the property, even if you should have known of them.
 - * If you check "Yes" or "No" and something happens to the property to make your Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the purchaser a corrected Statement or correct the problem.

- | | |
|---|--|
| <p>3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Statement to the purchasers; and the broker must disclose any material facts about your property which they know or reasonably should know, regardless of your responses on the Statement.</p> | <p>4. You must give the completed Statement to the purchaser no later than the time the purchaser makes an offer to purchase your property. If you do not, the purchaser can, under certain conditions, cancel any resulting contract (See "Note to Purchasers" below). You should give the purchaser a copy of the Statement containing your signature and keep a copy signed by the purchaser for your records.</p> |
|---|--|

Note to Purchasers

If the owner does not give you a Residential Property Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract and be entitled to a refund of any deposit monies you may have paid. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: _____	
Owner's Name(s): _____	
<i>Owner(s) acknowledge having examined this Statement before signing and that all information is true and correct as of the date signed.</i>	
Owner Signature: _____	Date _____, ____
Owner Signature: _____	Date _____, ____
<i>Purchaser(s) acknowledge receipt of a copy of this disclosure statement; that they have examined it before signing; that they understand that this is not a warranty by owner or owner's agent; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owner and not the owner's agent(s) or subagent(s). Purchaser(s) are encouraged to obtain their own inspection from a licensed home inspector or other professional.</i>	
Purchaser Signature: _____	Date _____, ____
Purchaser Signature: _____	Date _____, ____

Property Address/Description: _____

[Note: In this form, "property" refers only to dwelling unit(s) and not sheds, detached garages or other buildings.]

Regarding the property identified above, do you know of any problem (malfunction or defect) with any of the following:

- | | Yes* | No | No Representation |
|---|--------------------------|--------------------------|--------------------------|
| 1. FOUNDATION, SLAB, FIREPLACES/CHIMNEYS, FLOORS, WINDOWS (INCLUDING STORM WINDOWS AND SCREENS), DOORS, CEILINGS, INTERIOR AND EXTERIOR WALLS, ATTACHED GARAGE, PATIO, DECK OR OTHER STRUCTURAL COMPONENTS including any modifications to them? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| a. Siding is: <input type="checkbox"/> Masonry <input type="checkbox"/> Wood <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco
<input type="checkbox"/> Other _____ | | | <input type="checkbox"/> |
| b. Approximate age of structure? _____ | | | <input type="checkbox"/> |
| 2. ROOF (leakage or other problem)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

- a. Approximate age of roof covering? _____ ☐
3. WATER SEEPAGE, LEAKAGE, DAMPNES OR STANDING WATER in the basement, crawl space or slab? ☐ ☐ ☐
4. ELECTRICAL SYSTEM (outlets, wiring, panel, switches, fixtures etc.)? ☐ ☐ ☐
5. PLUMBING SYSTEM (pipes, fixtures, water heater, etc.)? ☐ ☐ ☐
6. HEATING AND/OR AIR CONDITIONING? ☐ ☐ ☐
- a. Heat Source is: ☐ Furnace ☐ Heat Pump ☐ Baseboard ☐ Other _____ ☐
- b. Cooling Source is: ☐ Central Forced Air ☐ Wall/Window Unit(s) ☐ Other _____ ☐
- c. Fuel Source is: ☐ Electricity ☐ Natural Gas ☐ Propane ☐ Oil ☐ Other _____ ☐
7. WATER SUPPLY (including water quality, quantity and water pressure)? ☐ ☐ ☐
- a. Water supply is: ☐ City/County ☐ Community System ☐ Private Well ☐ Other _____ ☐
- b. Water pipes are: ☐ Copper ☐ Galvanized ☐ Plastic ☐ Other _____ ☐
☐ Unknown
8. SEWER AND/OR SEPTIC SYSTEM? ☐ ☐ ☐
- a. Sewage disposal system is: ☐ Septic Tank ☐ Septic Tank with Pump ☐ Community System ☐ Connected to City/County System ☐ City/County System available ☐ Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates state law]) ☐ Other _____ ☐
9. BUILT-IN APPLIANCES (RANGE/OVEN, ATTACHED MICROWAVE, HOOD/FAN, DISHWASHER, DISPOSAL, etc.)? ☐ ☐ ☐
10. PRESENT INFESTATION, OR DAMAGE FROM PAST INFESTATION OF WOOD DESTROYING INSECTS OR ORGANISMS which has not been repaired? ☐ ☐ ☐
11. DRAINAGE, GRADING OR SOIL STABILITY OF LOT? ☐ ☐ ☐
12. OTHER SYSTEMS AND FIXTURES: CENTRAL VACUUM, POOL, HOT TUB, SPA, ATTIC FAN, EXHAUST FAN, CEILING FAN, SUMP PUMP, IRRIGATION SYSTEM, TV CABLE WIRING OR SATELLITE DISH, OR OTHER SYSTEMS? ☐ ☐ ☐
- Also regarding the property identified above, including the lot, other improvements, and fixtures located thereon, do you have any**
13. ROOM ADDITIONS OR OTHER STRUCTURAL CHANGES ? ☐ ☐ ☐
14. ENVIRONMENTAL HAZARDS (substances, materials or products) including asbestos, formaldehyde, radon gas, methane gas, lead-based paint, underground storage tank, or other hazardous or toxic material (whether buried or covered), contaminated soil or water, or other environmental contamination)? ☐ ☐ ☐
15. COMMERCIAL OR INDUSTRIAL NUISANCES (noise, odor, smoke, etc.) affecting the property? ☐ ☐ ☐

- | | |
|---|--|
| 16. VIOLATIONS OF ZONING ORDINANCES, RESTRICTIVE COVENANTS OR OTHER LAND-USE RESTRICTIONS, OR BUILDING CODES INCLUDING THE FAILURE TO OBTAIN PROPER PERMITS FOR ROOM ADDITIONS OR OTHER STRUCTURAL CHANGES(S)? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 17. UTILITY OR OTHER EASEMENTS, SHARED DRIVEWAYS, PARTY WALLS OR ENCROACHMENTS FROM OR ON ADJACENT PROPERTY? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 18. LAWSUITS, FORECLOSURES, BANKRUPTCY, TENANCIES, JUDGMENTS, TAX LIENS, PROPOSED ASSESSMENTS, MECHANICS' LIENS, MATERIALMENS' LIENS, OR NOTICE FROM ANY GOVERNMENTAL AGENCY that could affect title to the property? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 19. OWNERS' ASSOCIATION OR "COMMON AREA" EXPENSES OR ASSESSMENTS? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 20. FLOOD HAZARD or that the property is in a FEDERALLY-DESIGNATED FLOOD PLAIN? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 21. PRIVATE ROAD(S) OR STREETS adjoining the property? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| a. If yes, do you know of an existing owner's association or maintenance agreement to maintain the road or street? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |

* If you answered "Yes" to any of the above questions, please explain (Attach additional sheets, if necessary):

(b) The form described in Paragraph (a) of this Rule may be reproduced, but the form shall not be altered or amended in any way.

Authority G.S. 47E-4(b); 93A-3(c); 93A-6.

SECTION .0400 - EXAMINATIONS

21 NCAC 58A .0405 CONFIDENTIALITY OF EXAMINATIONS

Licensing examinations are the exclusive property of the Commission and are confidential. No applicant or licensee shall obtain, attempt to obtain, receive, or communicate to other persons examination ~~questions~~ questions or answers. Violation of this Rule shall be grounds for denial of a real estate license if the violator is an applicant and disciplinary action if the violator is a ~~licensee~~ licensee or becomes a licensee prior to the discovery of the violation by the Commission.

Authority G.S. 93A-3(c); 93A-4(d); 93A-6.

SECTION .0500 - LICENSING

21 NCAC 58A .0502 BUSINESS ENTITIES

(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker. An entity that changes its business form other than by conversion shall submit

a new license application immediately upon making the change and obtain a new firm license. An entity which converts to a different business entity in conformity with and pursuant to

applicable North Carolina General Statutes is not required to apply for a new license. However, such converted entity shall provide the information required by this Paragraph in writing to the Commission within 10 days of said conversion and shall include the applicable fee to have the firm license reissued in the legal name of the converted entity. Incomplete applications shall not be acted upon by the Commission. Application forms for partnerships, corporations, limited liability companies, associations and other business entities required to be licensed as brokers shall be available upon request to the Commission and shall require the applicant to set forth:

- (1) the name of the entity;
- (2) the name under which the entity will do business;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the entity's NC Secretary of State Identification Number if required to be registered with the Office of the NC Secretary of State;
- (6) the name, real estate license number and signature of the proposed qualifying broker for the proposed firm;
- (7) the address of and name of the proposed broker-in-charge for each office as defined in Rule .0110(b) of this Subchapter, along with a

- completed broker-in-charge declaration form for each proposed broker-in-charge;
- (8) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;
 - (9) any past revocation, suspension or denial of a business or professional license of any principal in the company or any proposed broker-in-charge;
 - (10) if a general partnership, a full description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the several partners;
 - (11) if a business entity other than a corporation, limited liability company or partnership, a full description of the organization of the applicant entity, including a copy of its organizational documents evidencing its authority to engage in real estate brokerage;
 - (12) if a foreign business entity, a certificate of authority to transact business in North Carolina and an executed consent to service of process and pleadings; and
 - (13) any other information required by this Rule.

When the authority of a business entity to engage in the real estate business is unclear in the application or in law, the Commission may require the applicant to declare in the license application that the applicant's organizational documents authorize the firm to engage in the real estate business and to submit organizational documents, addresses of affiliated persons and similar information. For purposes of this Rule, the term principal, when it refers to a person or entity, shall mean any person or entity owning 10 percent or more of the business entity, or who is an officer, director, manager, member, partner or who holds any other comparable position.

(b) After filing a written application with the Commission and upon a showing that at least one principal of said business entity holds a broker license on active status and in good standing and will serve as qualifying broker of the entity, the entity shall be licensed provided it appears that the applicant entity employs and is directed by personnel possessed of the requisite truthfulness, honesty, and integrity. The qualifying broker of a partnership of any kind must be a general partner of the partnership; the qualifying broker of a limited liability company must be a manager of the company; and the qualifying broker of a corporation must be an officer of the corporation. A licensed business entity may serve as the qualifying broker of another licensed business entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The natural person who is qualifying broker shall assure the performance of the qualifying broker's duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

(c) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers, members, directors, officers, employees or other persons acting for the

entity in their individual capacities regardless of whether they are engaged in furthering the business of the licensed entity.

(d) The qualifying broker of a business entity shall assume responsibility for:

- (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity ~~at which real estate brokerage activities are conducted; as office and branch office are defined in Rule .0110(b) of this Subchapter;~~
- (2) renewing the real estate broker license of the entity;
- (3) retaining the firm's renewal pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;
- (4) notifying the Commission of any change of business address or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;
- (5) notifying the Commission in writing of any change of his or her status as qualifying broker within ten days following the change;
- (6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the Commission if the trust account records are out of balance or have not been reconciled as required by Rule .0107 of this Chapter;
- (7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period of time for which said records are required to be retained by Rule .0108 of this Chapter; and
- (8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by Rule .0107(e) of this Chapter.

(e) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure to conform to such requirements shall be grounds for disciplinary action or denial of the entity's application for licensure. Upon receipt of notice from an entity or agency of this state that a licensed entity has ceased to exist or that its authority to engage in business in this state has been terminated by operation of law, the Commission shall cancel the license of the entity.

Authority G.S. 55-11A-04; 93A-3(c); 93A-4(a),(b),(d).

**21 NCAC 58A .0504 ACTIVE AND INACTIVE
LICENSE STATUS**

(a) Except for licenses that have expired or that have been canceled, revoked, suspended or surrendered, all licenses issued by the Commission shall be designated as being either on active status or inactive status. The holder of a license on active status may engage in any activity requiring a real estate license and may be compensated for the provision of any lawful real estate brokerage service. The holder of a license on inactive status may not engage in any activity requiring a real estate license, including the referral for compensation of a prospective seller, buyer, landlord or tenant to another real estate licensee or any other party. A licensee holding a license on inactive status must renew such license and pay the prescribed license renewal fee in order to continue to hold such license. The Commission may take disciplinary action against a licensee holding a license on inactive status for any violation of G.S. 93A or any rule promulgated by the Commission, including the offense of engaging in an activity for which a license is required while a license is on inactive status.

(b) A license issued to a provisional broker shall, upon initial licensure, be assigned to inactive status, except that a license issued to a provisional broker based on reciprocity with another licensing jurisdiction shall be assigned to active status. A license issued to a firm or a broker other than a provisional broker shall be assigned to active status. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker may change the status of his or her license from active to inactive status by submitting a written request to the Commission. A provisional broker's license shall be assigned by the Commission to inactive status when the provisional broker is not under the active, direct supervision of a broker-in-charge. A firm's license shall be assigned by the Commission to inactive status when the firm does not have a qualifying broker with an active license. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker shall also be assigned to inactive status if, upon the second renewal of his or her license following initial licensure, or upon any subsequent renewal, he or she has not satisfied the continuing education requirement described in Rule .1702 of this Subchapter.

(c) A provisional broker with an inactive license who desires to have such license placed on active status must comply with the procedures prescribed in Rule .0506 of this Section.

(d) A broker, other than a provisional broker, with an inactive license who desires to have such license placed on active status shall file with the Commission a request for license activation on a form provided by the Commission containing identifying information about the broker, a statement that the broker has satisfied the continuing education requirements prescribed by Rule .1703 of this Subchapter, the date of the request, and the signature of the broker. Upon the mailing or delivery of this form, the broker may engage in real estate brokerage activities requiring a license; however, if the broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the broker shall immediately terminate his or her real estate brokerage activities pending receipt of the written

acknowledgment from the Commission. If the broker is notified that he or she is not eligible for license activation due to a continuing education deficiency, the broker must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(e) A firm with an inactive license which desires to have its license placed on active status shall file with the Commission a request for license activation ~~on a form provided by the Commission~~ containing identifying information about the firm and its qualifying ~~broker~~, broker and satisfy the requirements of Rule .0110 of this Subchapter. If the qualifying broker has an inactive license, he or she must satisfy the requirements of Paragraph (d) of this Rule. Upon the mailing or delivery of the completed form by the qualifying broker, the firm may engage in real estate brokerage activities requiring a license; however, if the firm's qualifying broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the firm shall immediately terminate its real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the qualifying broker is notified that the firm is not eligible for license activation due to a continuing education deficiency on the part of the qualifying broker, the firm must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(f) A person licensed as a broker under Section .1800 of this Subchapter shall maintain his or her license on active status at all times as required by Rule .1804 of this Subchapter.

Authority G.S. 93A-3(c); 93A-4(d); 93A-4.1; 93A-6; 93A-9.

**21 NCAC 58A .0505 REINSTATEMENT OF EXPIRED
LICENSE, REVOKED, SURRENDERED OR SUSPENDED
LICENSE**

(a) Licenses expired for not more than six months may be reinstated upon the submission of ~~a complete and accurate application and~~ payment of a fifty-five dollar (\$55.00) reinstatement fee. In order to reinstate such license on active status, the ~~applicant person requesting reinstatement shall also present clear and convincing evidence of having have~~ obtained such continuing education as is required by Rule .1703 of this Subchapter to change an inactive license to active status. A person reinstating such a license on inactive status is not required to have obtained any continuing education in order to reinstate such license; however, in order to subsequently change his or her reinstated license from inactive status to active status, the licensee must satisfy the continuing education requirement prescribed in Rule .1703 of this Subchapter, and be supervised by a broker-in-charge in compliance with the requirements of Rule .0506 of this Section.

(b) Reinstatement of licenses expired for more than six months or provisional broker licenses cancelled pursuant to G.S. 93A-4(a) shall be considered upon the submission of a complete and accurate application and payment of a fifty-five dollar (\$55.00) reinstatement fee. Applicants must satisfy the Commission that they possess the current knowledge, skills and competence, as well as the truthfulness, honesty and integrity, necessary to

function in the real estate business in a manner that protects and serves the public interest. To demonstrate current knowledge, skills and competence, the Commission may require such applicants to complete real estate education or pass the license examination or both.

(c) Reinstatement of a revoked license shall be considered upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.

(d) Reinstatement of a license surrendered under the provisions of G.S. 93A-6(e) shall be considered upon termination of the period of surrender specified in the order approving the surrender and upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.

(e) When a license is suspended by the Commission, the suspended license shall be restored at the end of the period of active suspension provided that any applicable license renewal fees that accrued during the time of the suspension are paid by the ~~licensee~~ licensee within 60 days from the end of the period of license suspension. In order for the license to be restored on active status, the licensee shall demonstrate that the licensee has satisfied the continuing education requirement for license activation prescribed by Rule .1703 of this Subchapter and that the licensee is supervised by a broker-in-charge in compliance with the requirements of Rule .0506 of this Section, if applicable. Failure to pay the accrued license renewal fees within the time set forth in this subsection shall result in expiration of the license effective the last day of the suspension period. A former licensee whose license expires under this subsection and who thereafter seeks reinstatement must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.

(f) Whenever a license is reinstated by the Commission following ~~expiration~~ expiration for more than six months, cancellation, revocation, or voluntary surrender, the date of licensure for the licensee will be the date of reinstatement and not the date of original licensure.

Authority G.S. 93A-3(c); 93A-4(c),(d); 93A-4.1.

SECTION .1900 - POST-LICENSING EDUCATION

21 NCAC 58A .1904 DENIAL OR WITHDRAWAL OF POSTLICENSING EDUCATION CREDIT

(a) The Commission may deny postlicensing education credit claimed by a provisional broker or reported by a school for a provisional broker, and may withdraw postlicensing education credit previously awarded by the Commission to a provisional broker and make appropriate license status changes for that licensee upon finding that:

- (1) ~~The~~the provisional broker or school provided incorrect or incomplete information to the Commission concerning postlicensing

education completed by the provisional broker; ~~or~~

- (2) ~~The~~the provisional broker was mistakenly awarded postlicensing education credit due to an administrative ~~error~~ error; or
- (3) the provisional broker attended a postlicensing course while concurrently attending a different postlicensing course at the same school or a different school if such concurrent attendance in the two courses resulted in the provisional broker participating in postlicensing course sessions for more than 21 classroom hours in any given seven-day period.

(b) When postlicensing education credit is denied or withdrawn by the Commission under Paragraph (a) of this Rule, the provisional broker remains responsible for satisfying the postlicensing education requirement in a timely manner.

(c) A licensee who obtains or attempts to obtain postlicensing education credit through misrepresentation of fact, dishonesty or other improper conduct shall be subject to disciplinary action pursuant to G.S. 93A-6.

Authority G.S. 93A-4.

SUBCHAPTER 58C – REAL ESTATE PRELICENSING EDUCATION

SECTION .0100 - SCHOOLS

21 NCAC 58C .0105 WITHDRAWAL OR DENIAL OF APPROVAL

The Commission may deny or withdraw any approval ~~of~~ granted to ~~any~~ a school upon finding that such school has:

- (1) refused or failed to comply with any of the provisions of Sections .0100 or .0300 of this Subchapter;
- (2) obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate licensing examination questions; ~~or~~
- (3) compiled a licensing examination performance record for first-time examination candidates which is below 70 percent passing for ~~the previous annual reporting period~~ two or more of the previous five annual reporting periods; or
- (4) failed to provide to the Commission a detailed written plan to improve the performance of the school's students on the licensing examination within 30 days of any written Commission request for such a plan.

Authority G.S. 93A-4.

SECTION .0200 - PRIVATE REAL ESTATE SCHOOLS

21 NCAC 58C .0203 SCHOOL NAME

The official name of any licensed private real estate school must contain the words "real estate" and other descriptive words which identify the school as a real estate school and which distinguish the school from other licensed private real estate

schools and from continuing education course sponsors approved by the Commission. If the official school name includes the name of a person or business entity that is not an owner of the school, then the school owner must have the express permission of such person or business. The official school name shall not include words or terms such as "online," ".com," ".org," ".net," "computer-based," "correspondence" or similar words or terms that might imply to prospective students that the real estate preclicensing and postlicensing courses are available through the school utilizing an instructional delivery method not permitted by the Commission. The school name must be used in all school publications and advertising.

Authority G.S. 93A-4; 93A-33.

**21 NCAC 58C .0218 LICENSING EXAM
CONFIDENTIALITY: SCHOOL PERFORM./LICENSING**

(a) Schools shall not obtain or use, or attempt to obtain or use, in any manner or form, North Carolina real estate licensing examination questions.

(b) Schools must maintain a satisfactory performance record on the real estate licensing examination. A school performance record for first-time examination candidates which is below 70 percent passing for the previous annual reporting period two or more of the five previous annual reporting periods shall be considered unsatisfactory under this Rule.

(c) A school shall provide to the Commission a detailed written plan to improve the performance of the school's students on the licensing examination within 30 days of any written Commission request for such a plan.

Authority G.S. 93A-4(a),(d); 93A-33.

**SECTION .0300 - PRELICENSING AND
POSTLICENSING COURSES**

**21 NCAC 58C .0304 COURSE COMPLETION
STANDARDS**

(a) Academic standards for preclicensing and postlicensing course completion shall reasonably assure that students receiving a passing grade possess knowledge and understanding of the subject areas prescribed for the course adequate to demonstrate a student's competency with due regard to the paramount interests of the public. A student's grade shall be based solely on his or her performance on examinations and on graded homework and classwork assignments.

(b) Course completion requirements for preclicensing and postlicensing courses shall include obtaining a grade of at least 75 percent on a comprehensive final course examination ~~which that~~ covers all prescribed subject areas and satisfactorily completing any mandatory graded homework or classwork assignments. Take home or open book final course examinations are prohibited. Schools and instructors may utilize other course tests in addition to the final course examination provided that a student's grade on the final course examination accounts for at least 75 percent of the student's grade for the course. ~~The development or acquisition of appropriate preclicensing course examinations shall be the responsibility of approved instructors and schools.~~ The Commission may provide

preclicensing course final examinations for use by approved schools and instructors and, if such examinations are provided by the Commission, schools and instructors may use those examinations. If the Commission does not provide such examinations, or if a school or instructor elects to not use Commission-provided examinations, the school or instructor bears full responsibility for using appropriate preclicensing course final examinations. Preclicensing course final examinations not provided by the Commission shall be subject to review and approval by the Commission ~~as provided~~ in accordance with the standards prescribed in G.S. 93A-4(a) and (d) and Rule .0304(a) of this Section. Postlicensing course final examinations shall be provided by the Commission and shall be used by approved instructors and schools. ~~Take home or open book final course examinations are prohibited.~~ For preclicensing courses, schools may, within 90 days of the course ending date, allow a student one opportunity to make up any missed course final examination or to retake any failed course final examination without repeating the course ~~course~~; however, ~~any makeup or repeat examination must be comparable to the initial examination with regard to the number of questions and overall difficulty, and at least 75 percent of the questions in the makeup or repeat examination shall be different from those used on the initial examination.~~ For postlicensing courses, schools shall, within 90 days of the course ending date, allow a student one opportunity to make up any missed course final examination or to retake any failed course final examination without repeating the course; however, if a makeup or repeat examination is specifically requested by a postlicensing course student to be taken at the earliest possible opportunity, the school must provide an opportunity for the student to take such examination within seven days of the student's request. ~~Any~~ If examinations provided by the Commission are used, any makeup or repeat preclicensing or postlicensing course final examination shall consist of a different form of the examination than the one previously administered in the student's course. If examinations not provided by the Commission are used, any makeup or repeat preclicensing course final examination shall be comparable to the initial examination with regard to the number of questions, subject areas tested and overall difficulty, and at least 75 percent of the questions shall be different from those used on the initial examination.

(c) Schools and instructors shall take steps to protect the security and integrity of course examinations at all times. These steps shall include:

- (1) Maintaining examinations and answer keys in a secure place accessible only to the instructor or school officials;
- (2) Prohibiting students from retaining copies of examinations, answer sheets, and closing statement forms or scratch paper containing notes or calculations that jeopardize examination security; and
- (3) Monitoring students at all times when examinations are being administered.

(d) Any student who is found by an instructor or other school official to have cheated in any manner on any course examination shall be dismissed from the course in which enrolled and shall not be awarded a passing grade for the course

or any credit for partial completion of the course. The cheating incident shall be reported in writing to the Commission within 10 days of the incident.

(e) The minimum attendance required for satisfactory course completion shall be 80 percent of all scheduled classroom hours for the course.

Authority G.S. 93A-4.

21 NCAC 58C .0305 COURSE SCHEDULING

(a) All courses must have fixed beginning and ending dates, and schools may not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment is permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in ~~Rule .0304(e)~~ Rule .0304(e) of this Section.

(b) Courses shall not have class meetings that exceed six classroom hours in any given day and 21 classroom hours in any given seven-day period. However, a school that conducts courses with class meetings that do not exceed a total of 15 classroom hours in any seven-day period may conduct individual class meetings of up to 7 1/2 hours in any given day. A school may request special approval to conduct postlicensing courses that involve an accelerated schedule of up to 30 classroom hours within a seven-day period and the Commission shall grant such approval if the school demonstrates to the Commission that the course will be conducted in a manner that will not compromise instructional quality and course standards. When considering such a request, the Commission will take into consideration the proposed class schedule, the school's instructional plan, including a plan for assuring that students have a reasonable opportunity to perform required out-of-class reading and other assignments, the instructor's experience in teaching prelicensing and postlicensing courses, the license examination performance of the instructor's former prelicensing course students, and similar factors. A school granted approval to conduct postlicensing courses that involve an accelerated schedule that exceeds the basic scheduling restrictions prescribed by this Rule shall assure that such courses are conducted in a manner that fully complies with all applicable Commission rules and the instructional plan submitted to the Commission.

(c) A classroom hour consists of 50 minutes of classroom instruction and ten minutes of break time. For any class meeting that exceeds 50 minutes in duration, breaks at the rate of ten minutes per hour must be scheduled and taken at reasonable times.

Authority G.S. 93A-4(a),(d).

21 NCAC 58C .0309 COURSE COMPLETION REPORTING

(a) Schools shall provide each student who completes a prelicensing or postlicensing course in compliance with Commission rules and school course completion standards a course completion certificate in a format prescribed by this Rule. In addition to information identifying the course, student and instructor, the certificate must include the official letterhead of

the school and must have the original signature or a signature stamp in a color other than black of the director, dean or other school official responsible for supervising the conduct of the course.

(b) Schools shall prepare and submit to the Commission ~~Commission, along with the fee prescribed by G.S. 93A-4(a2)~~ accurate reports verifying completion of a prelicensing or postlicensing course for each student who completes a prelicensing or postlicensing course in compliance with Commission rules and school course completion standards. Such reports shall include students' ~~names,~~ names (full legal name for prelicensing course students), students' ~~license numbers,~~ numbers (for postlicensing course students), students' unique identification number (for prelicensing course students), course dates, school and course code numbers, instructor's name and code number (for prelicensing courses), and course information presented in the format prescribed by the Commission, and shall be transmitted electronically via the Internet to the Commission within seven calendar days following the course. Schools shall electronically submit with postlicensing course completion reports the per student fee prescribed by G.S. 93A-4(a2).

Authority G.S. 93A-4(a),(d); 93A-33.

21 NCAC 58C .0313 NOTICE OF SCHEDULED COURSES

(a) Schools shall provide the Commission written notice of all scheduled postlicensing course offerings not later than 10 days prior to a scheduled course beginning date. The notice shall include the name and assigned number for the ~~sponsor-school~~ and, for each scheduled course, the name and assigned number for the course, the scheduled beginning and ending dates, the course meeting days and times (including any scheduled lunch breaks), the specific location and the name of the instructor.

(b) Schools shall notify the Commission of any schedule changes or course cancellations at least five days prior to the original scheduled course beginning date. If a last minute change or cancellation is necessary due to some unforeseen circumstance, then notice shall be provided to the Commission as soon as possible.

Authority G.S. 93A-4(a1),(d); 93A-33.

SECTION .0600 - PRELICENSING AND POSTLICENSING INSTRUCTORS

21 NCAC 58C .0608 DENIAL OR WITHDRAWAL OF APPROVAL

(a) The Commission may deny or withdraw approval of any instructor approved to teach prelicensing and postlicensing courses upon finding that:

- (1) the instructor or instructor applicant has failed to meet the criteria for approval described in Rule .0603 of this Section or the criteria for

renewal of approval described in Rule .0607 of this Section at the time of application or at any time during an approval period or has refused or failed to comply with any other provisions of this Subchapter;

- (2) the instructor has made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval;
- (3) the instructor has failed to submit any report, course examination or video recording the instructor is required to submit to the Commission;
- (4) the instructor has provided false, incomplete, or incorrect information in connection with any report the instructor or a school is required to submit to the Commission;
- (5) the instructor has failed to demonstrate, during the teaching of Commission-approved preclicensing, postlicensing or continuing education courses, those effective teaching skills described in Rule .0604 of this Section;
- (6) the instructor has compiled a licensing examination performance record for first-time examination candidates which is below 70 percent passing for ~~the previous annual reporting period; the previous annual reporting period; two or more of the previous five annual reporting periods;~~
- (7) the instructor has failed to provide to the Commission a detailed written plan to improve the performance of the instructor's students on the licensing examination within 30 days of any written Commission request for such a plan;
- ~~(7)(8)~~ the instructor has been disciplined by the Commission or any other occupational licensing agency in North Carolina or another jurisdiction; or
- ~~(8)(9)~~ the instructor has obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions.

(b) If a licensee who is an approved preclicensing and postlicensing course instructor engages in any dishonest, fraudulent or improper conduct in connection with the licensee's activities as an instructor, the licensee shall be subject to disciplinary action pursuant to G.S. 93A-6.

Authority G.S. 93A-4(a),(d); 93A-33; 93A-34.

SUBCHAPTER 58E - REAL ESTATE CONTINUING EDUCATION

SECTION .0300 - ELECTIVE COURSES

21 NCAC 58E .0310 DISTANCE EDUCATION COURSES

(a) As used in this Chapter, the term "distance education" shall be understood to refer to educational programs in which instruction is accomplished through the use of media whereby teacher and student are separated by distance and sometimes by time. An entity requesting approval of a distance education course must, in addition to satisfying all other requirements for elective course approval specified in this Section, demonstrate that the proposed distance education course satisfies the following criteria:

- (1) The course shall be designed to assure that students actively participate in the instructional process while completing the course by utilizing techniques that require substantial student interaction with the instructor, other students or a computer program. The course design must not permit students to merely sit passively and observe instruction or read instructional materials. If the nature of the subject matter is such that the learning objectives for the course cannot be reasonably accomplished without some direct interaction between the instructor and students, then the course design must provide for such interaction.
- (2) A course that does not provide the opportunity for continuous audio and visual communication between the instructor and all students during the course presentation shall utilize testing and remedial processes appropriate to assure student mastery of the subject material.
- (3) A course that involves students completing the course on a self-paced study basis shall be designed so that the time required for a student of average ability to complete the course will be at least four hours, and the sponsor shall utilize a system that assures that students have actually performed all tasks designed to assure student participation and mastery of the subject material. The number of equivalent classroom hours assigned by the course sponsor or developer to the course must be supported by appropriate studies or field tests, and the applicant must submit a description of such studies or field tests with the course application.
- (4) The proposed instructional delivery methods shall be appropriate to enable effective accomplishment of the proposed learning objectives and the scope and depth of the instructional materials must also be consistent with the proposed learning objectives.
- (5) The sponsor shall provide appropriate technical support to enable students to satisfactorily complete the course.
- (6) An instructor shall be available to respond in a timely manner to student questions about the subject matter of the course and to direct students to additional sources of information.

Instructors shall have training in the proper use of the instructional delivery method utilized in the course, including the use of computer hardware and software or other equipment and systems.

- (7) The sponsor shall provide students an orientation or information package which contains all information required by the Commission to be provided to students and all necessary information about the course, including but not limited to information about course fees and refund policies, course subject matter and learning objectives, procedures and requirements for satisfactory course completion, any special requirements with regard to computer hardware and software or other equipment, and instructor and technical support.

- (8) ~~The sponsor shall utilize procedures that provide reasonable assurance that the student receiving continuing education credit for completing the course actually performed all the work required to complete the course. For courses that involve independent study by students, such procedures must include, at a minimum, a direct contact with the student, initiated by the sponsor and directed to the student's home or business, using the telephone or electronic mail and a signed statement or an electronic mail declaration by the student certifying that he or she personally completed all course work. Student course completion statements and records of student contacts shall be retained by the sponsor along with all other course records the sponsor is required to maintain.~~

(b) An entity seeking approval of a computer-based distance education course must submit a complete copy of the course on the medium that is to be utilized and, if requested, must make available, at a date and time satisfactory to the Commission and at the sponsor's expense, all hardware and software necessary for the Commission to review the submitted course. In the case of an internet-based course, the Commission must be provided access to the course via the internet at a date and time satisfactory to the Commission and shall not be charged any fee for such access.

Authority G.S. 93A-3(c); 93A-4A.

SECTION .0500 - COURSE OPERATIONAL REQUIREMENTS

21 NCAC 58E .0511 STUDENT PARTICIPATION STANDARDS

(a) In addition to requiring student compliance with the attendance requirement, sponsors and instructors shall require that students comply with the following student participation standards:

- (1) A student shall direct his or her active attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction.
- (2) A student shall refrain from engaging in any activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class.
- (3) A student shall comply with all instructions provided by the sponsor or instructor related to providing information needed to properly report completion of a course by the student.
- (4) A student taking a distance education course shall personally perform all work required to complete the course.

(b) Instructors and sponsors have the authority to dismiss from a class session any student who fails to comply with the student participation standards prescribed in Paragraph (a) of this Rule.

(c) Sponsors shall not issue a course completion certificate to any student who fails to comply with the student participation standards set forth in Paragraph (a) of this Rule, nor shall sponsors include the name of such student on their reports verifying completion of a continuing education course. Sponsors shall submit to the Commission with their ~~reports for the class session~~ course completion reports a written statement which includes the name and license number of the student for whom the sponsor does not report course credit, details concerning the student's failure to comply with the student participation standards, and names of other persons ~~in attendance at the class who witnessed~~ who can attest to the student's conduct.

Authority G.S. 93A-3(c); 93A-4A.

SUBCHAPTER 58F - BROKER TRANSITION COURSE

SECTION .0100 – REQUIREMENTS

21 NCAC 58F .0101 BASIC REQUIREMENT

~~A provisional broker who was issued a real estate salesperson license prior to October 1, 2005 that was changed to a broker license on provisional status on April 1, 2006 in accordance with G.S. 93A 4.3(a), shall, as prescribed in G.S. 93A 4.3(b), complete a broker transition course consisting of 24 classroom hours of instruction prescribed by the Commission not later than April 1, 2008, unless the provisional broker can demonstrate to the Commission not later than April 1, 2008 that he or she possesses four years' full time real estate brokerage experience or equivalent part time real estate brokerage experience within the previous six years.~~

Authority G.S. 93A-4.

21 NCAC 58F .0102 COURSE CONTENT

~~The broker transition course shall consist of instruction on real estate brokerage relationships, real estate broker responsibilities, real estate contracts, real estate law and regulation, and other topics pertinent to brokerage practice and real estate tenure.~~

Authority G.S. 93A-4; 93A-4.3.

21 NCAC 58F .0103 COURSE SPONSORS AND INSTRUCTORS

~~Course sponsors and instructors approved by the Commission to conduct the continuing education update course under Subchapter E of this Chapter are authorized to conduct the broker transition course. No separate application for approval or application fee to conduct the broker transition course is required and no separate approval shall be granted.~~

Authority G.S. 93A-4.

21 NCAC 58F .0104 COURSE OPERATIONAL REQUIREMENTS

~~The broker transition course shall be conducted in accordance with the course operational requirements prescribed for the conduct of continuing education courses in Section .0500 of Subchapter 58E, except that class sessions shall be limited to a maximum of six hours in any given day. There shall be no examinations required in order for students to successfully complete the course. Students must attend at least 90 percent of the scheduled classroom hours in order to receive credit for the course.~~

Authority G.S. 93A-4.

21 NCAC 58F .0105 COURSE COMPLETION REPORTING AND PER STUDENT FEE

~~The provisions of 21 NCAC 58E .0406(a) through (d) relating to continuing education course completion reporting, course evaluations, course completion certificates and reporting non-compliance with participation standards shall also apply to the broker transition course and course sponsors shall, at the time of reporting course completion, pay to the Commission the per student fee prescribed by G.S. 93A-4.3(e).~~

Authority G.S. 93A-4.

21 NCAC 58F .0106 WITHDRAWAL OF SPONSOR AND INSTRUCTOR APPROVAL

~~The provisions of 21 NCAC 58E .0412 shall apply to any continuing education update course sponsor when conducting the broker transition course and the provisions of 21 NCAC 58E .0205 shall apply to any continuing education update course instructor when conducting the broker transition course. In addition, any violation of this Subchapter by a continuing education update course sponsor or instructor shall be grounds for withdrawal of the approval of a continuing education update course sponsor or instructor.~~

Authority G.S. 93A-4.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Community Colleges intends to amend the rule cited as 23 NCAC 02E .0204.

Proposed Effective Date: May 1, 2009

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

Reason for Proposed Action: *The additional language is required to be consistent with the Associate in General Education standard.*

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

Comments may be submitted to: *Q. Shante Martin, Rule-making Coordinator, 200 W. Jones Street, 5001 MSC, Raleigh, NC 27699-5001. Phone (919)807-6961, martins@nccommunitycolleges.edu.*

Comment period ends: March 16, 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 - COMMUNITY COLLEGES

SUBCHAPTER 02E – EDUCATIONAL PROGRAMS

SECTION .0200 - EDUCATIONAL PROGRAMS

TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES

**23 NCAC 02E .0204 COURSES AND STANDARDS
FOR CURRICULUM PROGRAMS**

The Combined Course Library and curriculum standards for associate degree, diploma, and certificate programs shall be as follows:

- (1) Combined Course Library Curriculum Courses.
 - (a) The Combined Course Library shall contain the following elements for all curriculum program credit courses approved for the North Carolina Community College System.
 - (i) Course prefix;
 - (ii) Course number;
 - (iii) Course title;
 - (iv) Classroom hours and laboratory, clinical, and work experience contact hours, if applicable;
 - (v) Credit hours;
 - (vi) Prerequisites and corequisites, if applicable; and,
 - (vii) Course description consisting of three sentences.
 - (b) The numbering system for curriculum courses within the Combined Course Library is as follows:
 - (i) The numbers 050-099 shall be assigned to developmental courses.
 - (ii) The numbers 100-109 and 200-209 shall be assigned to certificate and diploma level curriculum courses. These courses shall not be included in associate degree programs.
 - (iii) The numbers 110-189 and 210-289 shall be assigned to associate degree level courses. These courses may also be included in certificate and diploma programs.
 - (iv) The numbers 190-199 and 290-299 shall be assigned to seminar or selected topic courses which may be offered for a single term and which courses offer content not found in existing courses. In order to offer the course content after the initial term, a new course must be approved for

inclusion in the Combined Course Library.

- (c) A college shall use the course information (prefix; number; title; classroom, laboratory, clinical, and work experience contact hours; credit hours; prerequisites and corequisites; and course description) as listed in the Combined Course Library.
 - (i) A college may add a fourth sentence to the course description to clarify instructional content or instructional methodology.
 - (ii) A college may divide courses into incremental units for greater flexibility in providing instruction to part-time students or to provide shorter units of study for abbreviated calendars. Each of the following criteria shall apply to courses divided into incremental units:
 - (A) A course may be divided into two or three units, which are designated with an additional suffix following the course prefix and number;
 - (B) The units shall equal the entire course of instruction, without omitting any competencies;
 - (C) The combined contact and credit hours for the units shall equal the contact and credit hours for the course;
 - (D) If the course is a prerequisite to another course, the student shall complete all component parts before enrolling in the next course;
 - (E) If the course is a co-requisite to another course it must be taken before or in

- | | | | |
|-----|---|------|--|
| | conjunction with that course; and | (ii) | The associate in applied science curriculum program shall include a minimum of 49 semester hours of credit from major curriculum courses selected from the curriculum courses in the Combined Course Library assigned numbers from 110-199 and 210-299. Major curriculum courses are those which offer specific job knowledge or skills. Criteria for the major hours category are as follows: |
| | (F) The components of a split course shall not be used to supplant training for occupational extension. | | |
| (d) | The Community College System Office shall revise and maintain courses in the Combined Course Library. | | |
| (e) | When a student receives credit for a Combined Course Library course, this credit shall be transferable to any college in the North Carolina Community College System. | (A) | Major Core Hours. The major hours category shall be comprised of identified curriculum core courses or subject areas or both which are required for each program. Subject areas or curriculum core courses shall be based on curriculum competencies and shall teach essential skills and knowledge necessary for employment. The number of credit hours required for the core shall not be less than 12 semester hours of credit; |
| (2) | Revision of Curriculum Standards. A revision of curriculum standard requires that two thirds of colleges approved to offer that curriculum program concur in writing with the revision. Upon their concurrence changes in curriculum standards shall become effective after approval by the State Board of Community Colleges. | | |
| (3) | Criteria for Programs. Each curriculum program shall be based on the following criteria established by the State Board of Community Colleges for the awarding of degrees, diplomas, and certificates. | (B) | Major Concentration Hours. The major hours category may also include hours required for a concentration of study. A concentration of study is a group of curriculum courses required beyond the core for a specific related employment field. A concentration shall include a minimum |
| (a) | Associate in Applied Science. The associate in applied science program of study must consist of a minimum of 64 and a maximum of 76 semester hours of credit from curriculum courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for the achievement of competence in reading, writing, oral communication, fundamental mathematical skills, and basic use of computers. The requirements for the Associate in Applied Science Degree are as follows: | | |
| (i) | The associate in applied science curriculum program shall include a minimum of 15 semester hours of credit from general education curriculum courses selected from the Combined Course Library, including six hours in communications, three hours in humanities/fine arts, three hours in social/behavioral sciences, and three hours in either natural sciences or mathematics. | | |

- of 12 semester hours, and the majority of the curriculum course credit hours shall be unique to the concentration;
- (C) Other Major Hours. Other major hours shall be selected from prefixes identified on the curriculum standard. A maximum of nine semester hours of credit may be selected from any prefix listed, with the exception of prefixes listed in the core or concentration, or unique prefixes as noted on the standard; and
- (D) Work Experience Hours. The major hours category may include up to a maximum of eight semester hours credit for work experience, including cooperative education, practicums, and internships. Under a standard specifically designed for select associate degree programs, work experience shall be included in a curriculum up to a maximum of 16 semester hours of credit. The select associate degree programs shall be based on a program of studies registered under the North Carolina Department of Labor Apprenticeship programs. Only eight semester hours of credit of work experience shall earn budget FTE.
- (iii) Other Required Hours. A college may require graduation or local employer requirements in order to complete an associate in applied science program. These requirements may be met through a maximum of seven semester hours of credit from curriculum courses. These curriculum courses shall be selected from the Combined Course Library and must be approved by the System Office based on the Curriculum Procedures Reference Manual prior to implementation of the program. Restricted, unique or free elective courses may not be included as other required courses.
- (iv) Selected topics or seminar curriculum courses may be included in an associate in applied science degree program up to a maximum of three semester hours of credit. Selected topics or seminar courses shall not substitute for required general education or major core courses. Such curriculum courses shall be listed on a program of study as other major hours. Selected topics and seminar curriculum courses shall not be used more than once in a program.
- (b) Associate in Arts Degree. The associate in arts program of study must consist of a minimum of 64 and a maximum of 65 semester hours of credit from approved college transfer courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for the achievement of competence in reading, writing, oral communication, fundamental mathematical skills, and basic use of computers. Certificates

are not allowed under this degree program. The requirements for the Associate in Arts Degree are as follows:

- (i) The associate in arts curriculum program shall include a minimum of 44 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to the University of North Carolina constituent institutions. The general education core shall include:
 - (A) Six semester hours of English composition;
 - (B) 12 semester hours of humanities/fine arts;
 - (C) 12 semester hours of social/behavioral sciences;
 - (D) Six semester hours of mathematics; and
 - (E) Eight semester hours of natural sciences.
- (ii) The associate in arts program shall include a minimum of 20 and a maximum of 21 additional semester hours of credit selected from curriculum courses in the Combined Course Library which have been approved for transfer to the University of North Carolina constituent institutions. A non-college transfer curriculum course of one semester hour of credit may be included in a 65 semester hour credit associate in arts program. This course may receive transfer evaluation by the receiving institution.
- (iii) A college may award a diploma under an approved associate in arts degree program for a series of curriculum courses taken from the approved associate in arts degree program of study. This diploma shall

include a minimum of 44 and a maximum of 47 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to the University of North Carolina constituent institutions. The diploma shall include a minimum of:

- (A) Six semester hours of English composition;
- (B) 12 semester hours of humanities/fine arts;
- (C) 12 semester hours of social/behavioral sciences;
- (D) Six semester hours of mathematics; and
- (E) Eight semester hours of natural sciences.

A non-college transfer course of one semester hour of credit may be included in a 47 semester hour credit diploma program. This curriculum course may receive transfer evaluation by the receiving institution.

- (c) Associate in Science Degree. The associate in science program of study must consist of a minimum of 64 and a maximum of 65 semester hours of credit from approved college transfer courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for the achievement of competence in reading, writing, oral communication, fundamental mathematical skills, and basic use of computers. Certificates are not allowed under this degree program. The requirements for Associate in Science Degree are as follows:
 - (i) The associate in science curriculum program shall include a minimum of 44 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to the University of North

- Carolina constituent institutions. The general education core shall include:
- (A) Six semester hours of English composition;
 - (B) Nine semester hours of humanities/fine arts;
 - (C) Nine semester hours of social/behavioral sciences; and
 - (D) 20 semester hours of mathematics and natural sciences that shall include a minimum of six semester hours in mathematics and a minimum of eight semester hours in natural sciences.
- (ii) The associate in science curriculum program may include a minimum of 20 and a maximum of 21 additional semester hours of credit selected from curriculum courses in the Combined Course Library which have been approved for transfer to the University of North Carolina constituent institutions. A non-college transfer curriculum course of one semester hour of credit may be included in a 65 semester hour credit associate in science program. This curriculum course shall receive transfer evaluation by the receiving institution.
- (iii) A college may award a diploma under an approved associate in science degree program for a series of curriculum courses taken from the approved associate in science degree program of study. This diploma shall include a minimum of 44 and a maximum of 47 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to the University of North Carolina constituent institutions. The diploma shall include a minimum of:
- (A) Six semester hours of English composition;
 - (B) Nine semester hours of humanities/fine arts;
 - (C) Nine semester hours of social/behavioral sciences; and
 - (D) 20 semester hours of natural sciences and mathematics that shall include a minimum of six hours in mathematics and a minimum of eight hours in natural sciences.
- A non-college transfer curriculum course of one semester hour of credit may be included in a 47 semester hour credit program. This curriculum course may receive transfer evaluation by the receiving institution.
- (d) Associate in Fine Arts Degree. The associate in fine arts program of study must consist of a minimum of 64 and a maximum of 65 semester hours of credit from approved college transfer curriculum courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for achievement of competence in reading, writing, oral communication, fundamental mathematical skills, and basic use of computers. Diplomas and certificates are not allowed under this degree program. The requirements for the Associate in Fine Arts Degree are as follows:
- (i) The associate in fine arts curriculum program shall include a minimum of 28 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to

- the University of North Carolina constituent institutions. The general education core shall include:
- (A) Six semester hours of English composition;
 - (B) Six semester hours of humanities/fine arts;
 - (C) Nine semester hours of social/behavioral sciences;
 - (D) Three semester hours of mathematics; and
 - (E) Four semester hours from the natural sciences.
- (ii) The associate in fine arts curriculum program shall include a minimum of 36 and a maximum of 37 additional semester hours of credit from curriculum courses in the Combined Course Library which have been approved for transfer to the University of North Carolina constituent institutions. A non-college transfer course of one semester hour of credit may be included in a 65 semester hour credit associate in fine arts program. This curriculum course may receive transfer evaluation by the receiving institution.
- (e) Associate in General Education. The associate in general education program of study must consist of a minimum of 64 and a maximum of 65 semester hours of credit from curriculum courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for the achievement of competence in reading, writing, oral communication, fundamental mathematical skills, and the basic use of computers. Diplomas and certificates are not allowed under this degree program. The requirements for the Associate in General Education Degree are as follows:
- (i) The associate in general education curriculum program shall include a minimum of 15 semester hours of credit from general education curriculum courses selected from the Combined Course Library, including six hours in communications, three hours in humanities/fine arts, three hours in social/behavioral sciences, and three hours in natural sciences or mathematics.
 - (ii) The remaining hours in the associate in general education curriculum program shall consist of additional general education and professional curriculum courses selected from the Combined Course Library. A maximum of seven semester hours of credit in health, physical education, and college orientation or study skills courses may be included.
 - (iii) Selected topics or seminar curriculum courses may be included in an associate in general education program up to a maximum of three semester hours of credit. Selected topics and seminar courses shall not substitute for required general education or major core courses. Such curriculum courses shall be listed on a program of study as "Other Major Hours." Selected topics and seminar curriculum courses shall not be used more than once in a program. (See Sub-Item (3)(a)(iv)) of this Rule.
- (f) Diploma. A Diploma program of study must consist of a minimum of 36 and a maximum of 48 semester hours of credit from courses at the 100-299 level. The requirements for the diploma curricula are as follows:
- (i) Diploma curricula shall include a minimum of six semester hours of general education curriculum courses selected from the

- Combined Course Library. A minimum of three semester hours of credit shall be in communications, and a minimum of three semester hours of credit shall be selected from curriculum courses in humanities/fine arts, social/behavioral sciences, or natural sciences and mathematics.
- (ii) Diploma curricula shall include a minimum of 30 semester hours of major courses selected from curriculum courses in the Combined Course Library.
 - (iii) A diploma curriculum program shall include designated core curriculum courses or core subject areas within the major hours category.
 - (iv) Curriculum courses for other major hours in diploma curriculum program shall be selected from prefixes identified on the curriculum standard. A maximum of nine semester hours of credit may be selected from any prefix listed, with the exception of prefixes listed in the core or concentration or unique prefixes as noted on the curriculum standard.
 - (v) Work experience, including cooperative education, practicums, and internships, may be included in a diploma curriculum program up to a maximum of four semester hours of credit.
 - (vi) Other Required Hours. A college may require graduation or local employer requirements in order to complete a diploma program. These requirements may be met through a maximum of four semester hours of credit from curriculum courses. These curriculum courses shall be selected from the Combined Course Library and must be approved by the System Office based on the Curriculum Manual prior to implementation of the program. Restricted, unique or free elective courses may not be included as other required courses.
- (vii) A college may award a diploma under an approved associate in applied science degree curriculum program for a series of curriculum courses taken from the approved associate degree curriculum program of study unless prohibited by the standard.
- (A) A diploma curriculum program offered under an approved associate degree program shall meet the standard general education and major curriculum course requirements for the diploma credential.
 - (B) A college may substitute general education curriculum courses at the 100-299 level for the associate-degree level general education curriculum courses in a diploma program offered under an approved degree program.
 - (C) A diploma curriculum program offered under an approved associate degree curriculum program shall require a minimum of 12 semester hours of credit from curriculum courses extracted from the required curriculum core courses or core subject areas of the respective associate in applied science

- degree curriculum program.
- (D) A diploma program offered under an approved associate degree concentration program shall require the utilization of all curriculum core courses and a minimum of 12 semester hours of credit from concentration courses.
- (viii) Selected topics or seminar curriculum courses may be included in a diploma program up to a maximum of three semester hours of credit. Selected topics and seminar curriculum courses shall not substitute for required general education or major curriculum core courses. Courses must be on a program of study as other major hours.
- (g) Certificate Programs. A certificate program of study must consist of a minimum of 12 and a maximum of 18 semester hours of credit from curriculum courses at the 100-299 level. The requirements for the Certificate Programs are as follows:
- (i) General education is optional in certificate curricula.
- (ii) Certificate curricula shall include a minimum of 12 semester hours of major curriculum courses selected from curriculum courses in the Combined Course Library.
- (A) A certificate program which is a stand-alone curriculum program title or which is the highest credential level awarded under an approved associate in applied science degree or diploma program shall include a
- minimum of 12 semester hours of credit from core courses or the required curriculum core subject areas within the major hours category.
- (B) Curriculum courses for other major hours in a stand-alone certificate curriculum program shall be selected from prefixes identified on the curriculum standard.
- (C) Work experience, including cooperative education, practicums, and internships, may be included in a certificate program up to a maximum of two semester hours of credit.
- (iii) Other Required Hours. A college may require graduation or local employer requirements in order to complete a certificate program. These requirements may be met through a maximum of one semester hour of credit from curriculum courses. This curriculum course shall be selected from the Combined Course Library and must be approved by the System Office board on the Curriculum Procedures Manual prior to implementation of the program. Restricted unique or free elective courses may not be included as other required courses.
- (iv) An institution may award a certificate under an approved degree or diploma curriculum program for a series of courses totaling a minimum of 12 semester hours of credit and a maximum of 18 semester

hours of credit taken from the approved associate degree or diploma curriculum program of study.

- (v) Selected topics or seminar courses may be included in a certificate program up to a maximum of three semester hours of credit.

- (4) Curriculum Standards Compliance. Each college shall select curriculum courses from

the Combined Course Library in order to comply with the standards for each curriculum program title the college is approved to offer. The selected courses shall comprise the college's program of study for that curriculum program. The initial and revised program shall be filed with and approved by the System Office prior to implementation.

History Note: Authority G.S. 115D-5; S.L. 1995, c. 625;

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.

This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

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

Rule-making Agency: *Commission for Public Health*

Rule Citation: *15A NCAC 13A .0102-.0103, .0106*

Effective Date: *January 1, 2009*

Date Approved by the Rules Review Commission: *December 18, 2008*

Reason for Action: *The recent regulations revising the definition of solid waste are less stringent than the current regulations now in effect in North Carolina. Because amendments to the federal rule are automatically adopted, the revised regulations will become effective in North Carolina sixty days after publication in the Federal Register. Sixty days does not provide adequate time to analyze the revised regulations and make an informed decision on how the significant changes in the revised regulations will affect public health and the environment in North Carolina. In order to maintain the status quo and prevent the federal revisions from being automatically adopted, a temporary rule is needed to prevent adoptions until impacts of the rule can be determined.*

CHAPTER 13 – SOLID WASTE MANAGEMENT

**SUBCHAPTER 13A - HAZARDOUS WASTE
MANAGEMENT**

SECTION .0100 - HAZARDOUS WASTE

15A NCAC 13A .0102 DEFINITIONS

(a) The definitions contained in G.S. 130A-290 apply to this Subchapter.

(b) 40 CFR 260.10 (Subpart B), Definitions, is incorporated by reference, including subsequent amendments and editions except that the Definitions for "Disposal", "Landfill", "Management or hazardous waste management", "Person", "Sludge", "Storage", and "Treatment" are defined by G.S. 130A-290 and are not incorporated by ~~reference~~. reference and amendments and editions promulgated after October 15, 2008 are not incorporated by reference.

(c) The following additional definitions shall apply throughout this Subchapter:

- (1) "Section" means the Hazardous Waste Section, in the Division of Waste Management, Department of Environment and Natural Resources.

- (2) The "Department" means the Department of Environment and Natural Resources (DENR).
- (3) "Division" means the Division of Waste Management (DWM).
- (4) "Long Term Storage" means the containment of hazardous waste for an indefinite period of time in a facility designed to be closed with the hazardous waste in place.
- (5) "Off-site Recycling Facility" means any facility that receives shipments of hazardous waste from off-site to be recycled or processed for recycling through any process conducted at the facility, but does not include any facility owned or operated by a generator of hazardous waste solely to recycle their own waste.

History Note: *Authority G.S. 130A-294(c); 150B-21.6; Eff. September 1, 1979; Amended Eff. June 1, 1989; June 1, 1988; February 1, 1987; October 1, 1986; Transferred and Recodified from 10 NCAC 10F .0002 Eff. April 4, 1990; Amended Eff. April 1, 1993; October 1, 1990; August 1, 1990; Recodified from 15A NCAC 13A .0002 Eff. December 20, 1996; Amended Eff. August 1, 2000; Temporary Amendment Eff. January 1, 2009.*

15A NCAC 13A .0103 PETITIONS - PART 260

(a) All rulemaking petitions for changes in this Subchapter shall be made in accordance with 15A NCAC 24B .0101.

(b) In applying the federal requirements incorporated by reference in this Rule, "15A NCAC 24B .0101" shall be substituted for references to 40 CFR 260.20.

(c) 40 CFR 260.21 through 260.41 (Subpart C), "Rulemaking Petitions," are incorporated by reference including subsequent amendments and ~~editions~~. editions, except that amendments and editions promulgated after October 15, 2008 are not incorporated by reference.

History Note: *Authority G.S. 130A-294(c); 150B-21.6; Eff. November 19, 1980; Amended Eff. June 1, 1988; May 1, 1987; January 1, 1986; October 1, 1985; Transferred and Recodified from 10 NCAC 10F .0028 Eff. April 4, 1990; Amended Eff. April 1, 1993; November 1, 1991; October 1, 1990; Recodified from 15A NCAC 13A .0003 Eff. December 20, 1996; Amended Eff. August 1, 2000; Temporary Amendment Eff. January 1, 2009.*

15A NCAC 13A .0106 IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PART 261

(a) 40 CFR 261.1 through 261.9 (Subpart A), "General", are incorporated by reference including subsequent amendments and ~~editions.~~ editions, except that amendments and editions promulgated after October 15, 2008 are not incorporated by reference.

(b) 40 CFR 261.10 through 261.11 (Subpart B), "Criteria for Identifying the Characteristics of Hazardous Waste and for Listing Hazardous Waste", are incorporated by reference including subsequent amendments and editions.

(c) 40 CFR 261.20 through 261.24 (Subpart C), "Characteristics of Hazardous Waste" are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 261.30 through 261.37 (Subpart D), "Lists of Hazardous Wastes" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 261.38 through 261.41 (Subpart E), "Exclusions/Exemptions" are incorporated by reference including subsequent amendments and editions.

(f) The Appendices to 40 CFR Part 261 are incorporated by reference including subsequent amendments and editions.

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

Eff. November 19, 1980;

Amended Eff. June 1, 1988; February 1, 1988; December 1, 1987;

August 1, 1987;

Transferred and Recodified from 10 NCAC 10F .0029 Eff. April 4, 1990;

Recodified from 15A NCAC 13A .0007 Eff. August 30, 1990;

Amended Eff. January 1, 1996; April 1, 1993; February 1, 1992; December 1, 1990;

Recodified from 15A NCAC 13A .0006 Eff. December 20, 1996;

Amended Eff. April 1, 2007; August 1, 2000;

Temporary Amendment Eff. January 1, 2009.

This Section contains information for the meeting of the Rules Review Commission on Thursday January 22, 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

January 22, 2009	February 19, 2009
March 19, 2008	April 16, 2009

AGENDA**RULES REVIEW COMMISSION**

Thursday, January 22, 2009, 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. Medical Care Commission - 10A NCAC 13P .0102, .0202, .0205, .0510 (Bryan)
 - B. Sheriffs' Education and Training Standards Commission – 12 NCAC 10B .0103, .0202 (Bryan)
 - C. Sheriff's Education and Training Standards Commission – 12 NCAC 10B .0703, .0911, .0912, .0919, .0920 (Bryan)
 - D. Department of Labor – 13 NCAC 13 .0413, .0420 (Bryan)
 - E. Environmental Management Commission – 15A NCAC 02B .0602, .0604, .0606, .0607, .0608, .0609 (DeLuca)
 - F. Environmental Management Commission – 15A NCAC 02D .1205, .1212 (DeLuca)
 - G. Commission for Public Health – 15A NCAC 18A .2606 (DeLuca)
 - H. Commission for Public Health – 15A NCAC 18A .3606 (DeLuca)
 - I. Board of Cosmetic Art Examiners – 21 NCAC 14H .0105 (DeLuca)
 - J. Board of Funeral Service – 21 NCAC 34A .0124, .0126 (DeLuca)
 - K. Board of Funeral Service – 21 NCAC 34B .0211, .0213, .0310 (DeLuca)
 - L. Board of Funeral Service – 21 NCAC 34C .0305 (DeLuca)
 - M. Board of Funeral Service – 21 NCAC 34D .0201, .0203, .0303 (DeLuca)
 - N. Social Work Certification and Licensure Board – 21 NCAC 63 .0302
- IV. Review of Log of Permanent Rule filings for rules filed between November 21, 2008 and December 22, 2008 (attached)
- V. Review of Temporary Rules
 - DHHS/Division of Health Service Regulation – 10A NCAC 14C .1403, .1902-.1905, .2002, .2103, .2701
- VI. Commission Business
 - Next meeting: February 19, 2009

**Commission Review
Log of Permanent Rule Filings
November 21, 2008 through December 22, 2008**

AGRICULTURE, BOARD OF

The rules in Chapter 38 are enforced by the standards division and include purpose and definitions (.0100); approval of weighing and measuring devices (.0200); package and labeling requirements (.0300); method of sale and commodities (.0400); leaf tobacco (.0500); sale of petroleum products (.0600); standards for storage, handling and installation of LP gas (.0700); and liquid fertilizers (.0800).

<u>Type Approval of Weighing and Measuring Devices</u>	02	NCAC	38	.0203
Amend/*				
<u>Retail Motor Fuel Dispensers/Half-Pricing</u>	02	NCAC	38	.0601
Amend/*				
<u>Adoption by Reference</u>	02	NCAC	38	.0701
Amend/*				

The rules in Chapter 48 are Department of Agriculture rules governing the plant industry, including plant protection, fertilizer, seeds, liming materials and landplaster, and genetically engineered organisms.

The rules in Subchapter 48A are plant protection rules directed at specific plant problems or methods of protection including the honey and bee industry (.0200); protection against the boll weevil (.0600); vegetable plant certification (.1000); tobacco plant certification (.1100); and control of noxious weeds (.1700).

<u>Noxious Weeds</u>	02	NCAC	48A	.1702
Amend/*				
<u>Regulated Areas</u>	02	NCAC	48A	.1703
Amend/*				

HHS - MENTAL HEALTH

The rules in Chapter 27 concern mental health community facilities and services.

The rules in Subchapter 27A are fiscal rules including accounting standards for all recipients of funds administered by the division (.0100); administration of state and federal funds (.0200); clean claims (.0300); and payment, reporting and settlement for local management entities systems management (.0400).

<u>Scope</u>	10A	NCAC	27A	.0401
Adopt/*				
<u>Definitions</u>	10A	NCAC	27A	.0402
Adopt/*				
<u>Monthly Payments and Monthly Reporting</u>	10A	NCAC	27A	.0403
Adopt/*				
<u>Settlement of LME System Management Payments</u>	10A	NCAC	27A	.0404
Adopt/*				

MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

The rules in Subchapter 27G are from either the department or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services including general information (.0100); operation and management rules (.0200); physical plant rules (.0300); facility licensing procedures (.0400); area program requirements (.0500); area authority or county program monitoring of facilities and services (.0600); accreditation of area programs and services (.0700); waivers and appeals (.0800); general rules for infants and toddlers (.0900); partial hospitalization for individuals who are mentally ill (.1100); psychological rehabilitation

facilities for individuals with severe and persistent mental illness (.1200); residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1300); day treatment for children and adolescents with emotional or behavioral disturbances (.1400); intensive residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1500); residential treatment staff secure facilities for children or adolescents (.1700); psychiatric residential treatment facilities for children and adolescents (.1900); specialized community residential centers for individuals with developmental disabilities (.2100); before/after school and summer developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2200); adult developmental and vocational programs for individuals with developmental disabilities (.2300); developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2400); early childhood intervention services (ECIS) for children with an at risk for developmental delays or disabilities, or atypical development and their families (.2500); nonhospital medical detoxification for individuals who are substance abusers (.3100); social setting detoxification for substance abuse (.3200); outpatient detoxification for substance abuse (.3300); residential treatment/rehabilitation for individuals with substance abuse disorders (.3400); outpatient facilities for individuals with substance abuse disorders (.3500); outpatient opioid treatment (.3600); day treatment facilities for individuals with substance abuse disorders (.3700); substance abuse services for DWI offenders (.3800); drug education schools (DES) (.3900); treatment alternatives to street crimes (TASC) (.4000); substance abuse primary prevention services (.4200); therapeutic community (.4300); facility based crises services for individual of all disability groups (.5000); community respite services for individuals of all disability groups (.5100); residential therapeutic (habilitative) camps for children and adolescents of all disability groups (.5200); day activity for individuals of all disability groups (.5400); sheltered workshops for individuals of all disability groups (.5500); supervised living for individuals of all disability groups (.5600); assertive community treatment service (.5700); supportive employment for individuals of all disability groups (.5800); case management for individuals of all disability groups (.5900); inpatient hospital treatment for individuals who have mental illness or substance abuse disorders (.6000); emergency services for individuals of all disability groups (.6100); outpatient services for individuals of all disability groups (.6200); companion respite services for individuals of all disability groups (.6300); personal assistants for individuals of all disabilities groups (.6400); employment assistance programs (.6500); specialized foster care services (.6600); forensic screening and evaluation services for individuals of all disability groups (.6700); prevention services (.6800); consultation and education services (.6900); local management entity response to complaints (.7000); and target population (.7100).

<u>Staff Definitions</u>	10A	NCAC	27G	.0104
Amend/*				
<u>Operations During Licensed Period</u>	10A	NCAC	27G	.0404
Amend/*				
<u>Local Management Entity Client Rights Oversight Committee...</u>	10A	NCAC	27G	.0504
Amend/*				

HOME INSPECTOR LICENSURE BOARD

The rules in Chapter 8 are the engineering and building codes including the approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); home inspector continuing education (.1300); Manufactured Housing Board continuing education (.1400); and alternate designs and construction appeals (.1500).

<u>Purpose and Scope</u>	11	NCAC	08	.1103
Amend/*				

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Subchapter 7D cover general provisions (.0100); licenses and trainee permits (.0200); guard dog services (.0300); counterintelligence (.0400); polygraphs (.0500); psychological stress evaluators (PSE) (.0600); unarmed and armed security guards (.0700-.0800); firearms certificate (.0900); recovery funds (.1000); private investigator associates (.1100); firearms instructor trainers (.1200); and continuing education (.1300).

<u>Experience Requirements/Security Guard and Patrol License</u>	12	NCAC	07D	.0301
Amend/*				
<u>Experience Requirements for Guard Dog Service License</u>	12	NCAC	07D	.0302

Amend/*				
<u>Experience Requirements for Private Investigator License</u>	12	NCAC	07D	.0401
Amend/*				
<u>Experience Requirements for Counterintelligence License</u>	12	NCAC	07D	.0402
Amend/**				
<u>Experience Requirements for Polygraph License</u>	12	NCAC	07D	.0501
Amend/**				
<u>Experience Requirements for Courier License</u>	12	NCAC	07D	.1201
Amend/*				

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs).

The rules in Subchapter 9B cover minimum standards for: employment (.0100); schools and training programs (.0200); criminal justice instructors (.0300); completion of training (.0400); school directors (.0500); and certification of post-secondary criminal justice education programs (.0600).

<u>Certification of Instructors</u>	12	NCAC	09B	.0301
Amend/**				

The rules in Subchapter 9H concern the firearms qualification certification program for qualified retired law enforcement officers.

<u>Purpose</u>	12	NCAC	09H	.0101
Adopt/*				
<u>Minimum Training Specifications</u>	12	NCAC	09H	.0102
Adopt/**				
<u>Instructors</u>	12	NCAC	09H	.0103
Adopt/*				
<u>Sanctions</u>	12	NCAC	09H	.0104
Adopt/**				
<u>Filing and Fees</u>	12	NCAC	09H	.0105
Adopt/*				

MARINE FISHERIES COMMISSION

The rules in Chapter 3 are from the Marine Fisheries Commission.

The rules in Subchapter 3H concern general information for the marine fisheries commission.

<u>Rule Development and Applicability</u>	15A	NCAC	03H	.0102
Amend/**				
<u>Proclamation Authority</u>	15A	NCAC	03H	.0103
Amend/*				

The rules in Subchapter 3I are general and miscellaneous rules.

<u>Definitions</u>	15A	NCAC	03I	.0101
Amend/**				
<u>Introduce, Transfer or Hold Imported Marine and Estuarine...</u>	15A	NCAC	03I	.0104
Amend/**				

The rules in Subchapter 3J concern the use of nets in general (.0100) and in specific areas (.0200); the use of pots, dredges, and other fishing devices (.0300); fishing gear (.0400); and pound nets (.0500).

<u>Gill Nets, Seines, Identification, Restrictions</u>	15A	NCAC	03J	.0103
Amend/*				
<u>Trawl Nets</u>	15A	NCAC	03J	.0104
Amend/*				
<u>Pound Net Sets</u>	15A	NCAC	03J	.0107
Repeal/*				
<u>Hook-and-Line</u>	15A	NCAC	03J	.0306
Adopt/*				
<u>Definitions and Standards for Pound Nets and Pound Net Sets</u>	15A	NCAC	03J	.0501
Adopt/*				
<u>Pound Net Set Permit Application and Processing</u>	15A	NCAC	03J	.0502
Adopt/**				
<u>Pound Net Set Permit Renewal</u>	15A	NCAC	03J	.0503
Adopt/*				
<u>Pound Net Set Permit Transfer</u>	15A	NCAC	03J	.0504
Adopt/*				
<u>Pound Net Set Permit Conditions</u>	15A	NCAC	03J	.0505
Adopt/*				

The rules in Subchapter 3L concern shrimp (.0100); crabs (.0200); and lobsters (.0300).

<u>Prohibited Nets, Mesh Sizes and Areas</u>	15A	NCAC	03L	.0103
Amend/*				
<u>Unlawful to Use or Take</u>	15A	NCAC	03L	.0104
Repeal/*				
<u>Recreational Shrimp Limits</u>	15A	NCAC	03L	.0105
Adopt/*				
<u>American Lobster (Northern Lobster)</u>	15A	NCAC	03L	.0301
Amend/*				

The rules in Subchapter 3M cover harvesting of finfish including general rules (.0100); striped bass (.0200); mackerel (.0300); menhaden and Atlantic herring (.0400); and other finfish (.0500).

<u>Red Drum</u>	15A	NCAC	03M	.0501
Amend/*				

The rules in Subchapter 3O cover various licenses (.0100); leases and franchises (.0200); license appeal procedures (.0300); Standard Commercial Fishing License Eligibility Board (.0400); and licenses, leases and franchises (.0500).

<u>Authorized Gear</u>	15A	NCAC	03O	.0302
Amend/*				
<u>Procedures and Requirements to Obtain Permits</u>	15A	NCAC	03O	.0501
Amend/*				
<u>Permit Conditions, General</u>	15A	NCAC	03O	.0502
Amend/*				
<u>Permit Conditions; Specific</u>	15A	NCAC	03O	.0503
Amend/*				

The rules in Subchapter 3Q cover the joint and separate jurisdictions of the Marine Fisheries Commission and the Wildlife Resources Commission including general regulations (.0100); and boundary lines between inland, joint, and coastal waters (.0200).

<u>Descriptive Boundaries for Coastal-Joint-Inland Waters</u>	15A	NCAC	03Q	.0202
Amend/*				

The rules in Subchapter 3R specify boundaries for various areas (.0100); and fishery management areas (.0200).

<u>Attended Gill Net Areas</u>	15A	NCAC	03R	.0112
Amend/*				

<u>Pound Net Set Prohibited Areas</u>	15A	NCAC	03R	.0113
Amend/*				

COASTAL RESOURCES COMMISSION

The rules in Chapter 7 pertain to coastal management and are promulgated by the Division of Coastal Management or the Coastal Resources Commission.

The rules in Subchapter 7H are the state guidelines for areas of environmental concern including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); boat ramps along estuarine shorelines and into estuarine and public trust waters (.1300); wooden groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); general permit for authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); marsh enhancement breakwaters for shoreline protection in estuarine and public trust waters (.2100); general permits for construction of freestanding moorings in established waters and public trust areas (.2200); general permits for replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); general permit for placement of riprap for wetland protection in estuarine and public trust waters (.2400); emergency general permit, to be initiated at the discretion of the secretary of the Department of Environment and Natural Resources for replacement of structures, the reconstruction of primary or frontal dune systems, and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms, provided all replacement, reconstruction and maintenance excavation activities conform to all current standards (.2500); general permit for construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and general permit for the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

<u>Purpose</u>	15A	NCAC	07H	.1401
Amend/*				

<u>Approval Procedures</u>	15A	NCAC	07H	.1402
Amend/*				

<u>General Conditions</u>	15A	NCAC	07H	.1404
Amend/*				

<u>Specific Conditions</u>	15A	NCAC	07H	.1405
Amend/*				

<u>Purpose</u>	15A	NCAC	07H	.2101
Amend/*				

<u>Approval Procedures</u>	15A	NCAC	07H	.2102
Amend/*				

<u>General Conditions</u>	15A	NCAC	07H	.2104
Amend/*				

<u>Specific Conditions</u> Amend/*	15A	NCAC	07H	.2105
<u>Purpose</u> Amend/*	15A	NCAC	07H	.2401
<u>Approval Procedures</u> Amend/*	15A	NCAC	07H	.2402
<u>General Conditions</u> Amend/*	15A	NCAC	07H	.2404
<u>Specific Conditions</u> Amend/*	15A	NCAC	07H	.2405

The rules in Subchapter 7J concern procedures for handling major development permits, variance requests, appeals from minor development permit decisions and declaratory rulings. They include definitions (.0100); permit application and procedures (.0200); hearing procedures (.0300); final approval and enforcement (.0400); general permits (.0500); declaratory rulings and petitions for rulemaking (.0600); procedures for considering variance petitions (.0700); general permit procedure (.1100); and static vegetation line exception procedures (.1200).

<u>Variance Petitions</u> Amend/*	15A	NCAC	07J	.0701
<u>Procedures for Deciding Variance Petitions</u> Amend/*	15A	NCAC	07J	.0703

The rules in Subchapter 7M concern general policy guidelines for the coastal area including purpose and authority (.0100); shoreline erosion response policies (.0200); shorefront access policies (.0300); coastal energy policies (.0400); post-disaster policies (.0500); floating structure policies (.0600); mitigation policy (.0700); coastal water quality policies (.0800); policies on use of coastal airspace (.0900); policies on water and wetland based target areas for military training activities (.1000); policies on beneficial use and availability of materials resulting from the excavation or maintenance of navigational channels (.1100); and policies on ocean mining (.1200).

<u>Declaration of General Policy</u> Amend/*	15A	NCAC	07M	.0301
<u>Definitions</u> Amend/*	15A	NCAC	07M	.0302
<u>Standards for Public Access</u> Amend/*	15A	NCAC	07M	.0303
<u>Local Government and State Involvement in Access</u> Amend/*	15A	NCAC	07M	.0306
<u>Eligibility, Selection Criteria and Matching Requirements</u> Amend/*	15A	NCAC	07M	.0307

CHIROPRACTIC EXAMINERS, BOARD OF

The rules in Chapter 10 include organization of the Board (.0100); the practice of chiropractic (.0200); rules of unethical conduct (.0300); rule-making procedures (.0400); investigation of complaints (.0500); contested cases and hearings in contested cases (.0600-.0700); and miscellaneous provisions (.0800).

<u>Examination</u> Amend/*	21	NCAC	10	.0203
-------------------------------	----	------	----	-------

DENTAL EXAMINERS, BOARD OF

The rules in Subchapter 16Q concern general anesthesia and sedation including definitions (.0100); general anesthesia (.0200); parenteral conscious sedation (.0300); enteral conscious sedation (.0400); renewal of permits (.0500); reporting and penalties

<u>Procedure for Evaluation or Inspection</u> Amend/*	21	NCAC	16Q	.0204
<u>Temporary Approval Prior to Site Inspection</u> Amend/*	21	NCAC	16Q	.0303
<u>Temporary Approval Prior to Site Inspection</u> Amend/*	21	NCAC	16Q	.0403

Commission Review
Log of Temporary Rule Filings
January 5, 2008

HEALTH SERVICE REGULATION, DIVISION OF

The rules in Chapter 14 concern services provided by the Division of Health Service Regulation.

The rules in Subchapter 14C are Certificate of Need regulations including general provisions (.0100); applications and review process (.0200); exemptions (.0300); appeal process (.0400); enforcement and sanctions (.0500); and criteria and standards for nursing facility or adult care home services (.1100); intensive care services (.1200); pediatric intensive care services (.1300); neonatal services (.1400); hospices, hospice inpatient facilities, and hospice residential care facilities (.1500); cardiac catheterization equipment and cardiac angioplasty equipment (.1600); open heart surgery services and heart-lung bypass machines (.1700); diagnostic centers (.1800); radiation therapy equipment (.1900); home health services (.2000); surgical services and operating rooms (.2100); and stage renal disease services (.2200); computed tomography equipment (.2300); immediate care facility/mentally retarded (ICF/MR) (.2400); substance abuse/chemical dependency treatment beds (.2500); psychiatric beds (.2600); magnetic resonance imaging scanner (.2700); rehabilitation services (.2800); bone marrow transplantation services (.2900); solid organ transplantation services (.3000); major medical equipment (.3100); lithotripter equipment (.3200); air ambulance (.3300); burn intensive care services (.3400); oncology treatment centers (.3500); gamma knife (.3600); positron emission tomography scanner (.3700); acute care beds (.3800); criteria and standards for gastrointestinal endoscopy procedure rooms in licensed health service facilities (.3900); and criteria and standards for hospice inpatient facilities and hospice residential care facilities (.4000).

<u>Performance Standards</u> Amend/*	10A NCAC 14C .1403
<u>Information Required of Applicant</u> Amend/*	10A NCAC 14C .1902
<u>Performance Standards</u> Amend/*	10A NCAC 14C .1903
<u>Support Services</u> Amend/*	10A NCAC 14C .1904
<u>Staffing and Staff Training</u> Amend/*	10A NCAC 14C .1905
<u>Information Required of Applicant</u> Amend/*	10A NCAC 14C .2002
<u>Performance Standards</u> Amend/*	10A NCAC 14C .2103
<u>Definitions</u> Amend/*	10A NCAC 14C .2701

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	
Michael Daniel Clair v. T/A Par 3 Bistro v. ABC Commission	07 ABC 1289	Lassiter	10/07/08	
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.	07 ABC 2135	Gray	09/12/08	
T/A Spankys Sports Bar and Grill				
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa	08 ABC 0097	May	09/03/08	
T/A JB Food Mart				
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa	08 ABC 0351	May	09/03/08	
T/A JB Food Mart				
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	
Downtown Event Center, Inc. T/A Downtown Event Center v. ABC Commission	08 ABC 0937	May	09/16/08	
<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	
Hillary Holt v. Crime Victims Compensation Commission	07 CPS 2292	Brooks	09/18/08	
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	
ATS Specialized, Inc, v. Dept. of Crime Control and Public Safety, Div. Of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 0864	May	09/11/08	
Willie Trucking, Inc d/b/a Allstate Transport Co v. Dept. of Crime Control & Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 0897	May	09/11/08	
Randy S. Griffin v. NC Crime Victims Compensation Commission	08 CPS 0995	May	09/11/08	
Kenneth Lee Moore v. Dept. of Crime Control and Public Safety	08 CPS 1093	Webster	10/27/08	
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	08 CPS 1206	Overby	09/29/08	

CONTESTED CASE DECISIONS

Carrier Enforcement Section			
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 Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1209	Overby	09/29/08
Michael Alan Moore v. Crime Victims Compensation Commission	08 CPS 1478	Lassiter	09/08/08
TNT of York County, Inc., Tony McMillan v. State Highway Patrol Motor Carrier Enforcement	08 CPS 1508	Joseph	12/11/08
SOOF Trucking, Ray Charles Solomon v. Secretary of Crime Control And Public Safety	08 CPS 1526	Overby	09/09/08
Dickinson Hauling and Grading., Inc, Tony E. Dickinson, 3134016-9 v. Dept. of Crime Control and Public Safety, Division of State Highway Patrol	08 CPS 1800	Brooks	12/15/08
Dickinson Hauling and Grading., Inc, Tony E. Dickinson, 3134016-9 v. Dept. of Crime Control and Public Safety, Division of State Highway Patrol	08 CPS 1801	Brooks	12/15/08
Dickinson Hauling and Grading., Inc, Tony E. Dickinson, 3134016-9 v. Dept. of Crime Control and Public Safety, Division of State Highway Patrol	08 CPS 1802	Brooks	12/15/08
Kayonna Goodwin Pollard c/o Chad Lopez Pollard v. Crime Control & Victim Compensation Services	08 CPS 1850	Gray	10/24/08
John D. Lane v. Diversified Drilling Corp v. Office of Admin Svc, Sec. of Crime Control and Public Safety	08 CPS 2049	Joseph	11/06/08
Robert D. Reinhold v. Dept. of Transportation, Division of Motor Vehicles	08 CPS 2501	Gray	12/10/08

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
Clorie Bivens Owen on Behalf of Williams Baxter Bivens – Estate of Leroy A. Bivens v. DHHS	07 DHR 0701	Elkins	12/08/08
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 Hailelassi and Fesseha Zeru v. DHHS	07 DHR 1045	Webster	04/28/08
Kelly Schofield MD, Clinical Director, Youth Quest, Inc. v. DHHS, DFS Mental Health Licensure and Certification	07 DHR 1064	Joseph	10/17/08
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

CONTESTED CASE DECISIONS

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
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
Blue Ridge Healthcare Surgery Center, Morganton LLC and Grace Hospital, Inc. v. DHHS, DHSR, CON Section v. Dr. Mushtaq Bukhari, Dr. Edwin Holler, Dr. Suneel Mohammed, Carolina Digestive Care, PLLC, and Gastroenterology Specialists	08 DHR 0204	Brooks	09/18/08
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
Darryl A. Edwards v. DHHS	08 DHR 0320	Gray	11/05/08
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 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
Judith E. Torres v. DHHS, DHSR	08 DHR 0488	Morrison	10/07/08
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
Brandon McMahon v. DHHS	08 DHR 0572	Webster	11/14/08
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

CONTESTED CASE DECISIONS

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
Miland Hanna, Lamia Hanna and Charlotte Fast Mart, v. DHHS Div. of Public Health	08 DHR 0778	Brooks	08/28/08
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
Evangeline 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 Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1017	Lassiter	09/12/08
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
Donna Armstrong v. DHHS	08 DHR 1185	Brooks	12/02/08
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

CONTESTED CASE DECISIONS

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
Tyonne 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) Sebreana 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
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

CONTESTED CASE DECISIONS

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 Guley 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
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
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	07 EHR 1564	Webster	07/17/08

23:05 NCR 501

CONTESTED CASE DECISIONS

Natural Resources, Division of Air Quality			
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	08 EHR 0345	Gray	06/10/08
Public Water Supply Section			
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

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. Gasque 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	

CONTESTED CASE DECISIONS

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
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