

NORTH CAROLINA REGISTER

VOLUME 23 • ISSUE 15 • Pages 1395 - 1554

February 02, 2009

I. EXECUTIVE ORDERS	
Executive Order No. 150.....	1395 – 1397
II. IN ADDITION	
Board of Elections – Advisory Opinion	1398 – 1399
Brownfields Property – City of Rocky Mount	1400
Brownfields Property – Summit Springs, LLC	1401
III. PROPOSED RULES	
Environment and Natural Resources, Department of	
Environmental Management Commission	1405 – 1408
Public Health, Commission for	1408 – 1434
Health and Human Services, Department of	
Public Health, Commission for	1402 – 1404
Occupational Licensing Boards and Commissions	
Dental Examiners, Board of	1434 – 1435
Psychology Board	1435 – 1438
IV. APPROVED RULES	1439 – 1543
Correction, Department of	
Department	
Environment and Natural Resources, Department of	
Department	
Environmental Management Commission	
Health and Human Services, Department of	
Blind, Commission for the	
Medical Assistance, Division of	
Medical Care Commission	
Justice, Department of	
Sheriffs' Education and Training Standards Commission	
Labor, Department of	
Department	
Revenue, Department of	
Department	
Occupational Licensing Boards and Commissions	
Funeral Service, Board of	
Nursing, Board of	
Occupational Therapy, Board of	
Physical Therapy Examiners, Board of	
Social Work Certification and Licensure Board	
V. RULES REVIEW COMMISSION	1544 – 1546
VI. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	1547 – 1554

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
Tammara Chalmers, Editorial Assistant tammara.chalmers@oah.nc.gov (919) 431-3083

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

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

Eddie Speas eddie.speas@nc.gov
Legal Counsel to the Governor (919) 733-5811
116 West Jones Street
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 karen@ncleg.net
Jeff Hudson, Staff Attorney jeffreyh@ncleg.net

County and Municipality Government Questions or Notification

NC Association of County Commissioners
215 North Dawson Street
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. 150
E-MAIL RETENTION AND ARCHIVING**

WHEREAS, the North Carolina Public Records Law declares that the public records and information compiled by the agencies of North Carolina government are the property of the people; and

WHEREAS, all e-mail messages sent and received in connection with state business are public records; and,

WHEREAS, a transparent government and the citizens' right to access public records, are of paramount importance; and

WHEREAS, as a result of changing technology and the need to ensure that public records are properly preserved, I established the E-Mail Records Review Panel to review and recommend changes to the current e-mail and electronic text communication record retention policies for North Carolina's executive branch agencies; and

WHEREAS, the E-Mail Records Review Panel met six times, which included public hearings where the Panel heard from representatives from the North Carolina Press Association, the North Carolina Association of Broadcasters, the State Employees Association, and other interested parties; and

WHEREAS, the E-Mail Records Review Panel submitted to me its recommendations and proposed changes to current e-mail and electronic text communication record retention policies; and

WHEREAS, I have carefully reviewed and considered the E-Mail Records Review Panel's recommendations and proposed changes regarding current e-mail and electronic text communication ("e-mail") record retention policies.

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 THAT:**

1. Executive Branch employees shall treat all e-mail messages, which they send or receive via state government e-mail accounts as public records and shall handle and maintain them in compliance with the Public Records Law and records retention policies in the same manner as paper documents or other tangible records.
2. Executive Branch employees shall not delete in a 24-hour period any e-mail messages sent or received in the course of conducting State business.
3. Executive Branch employees shall not use state e-mail accounts for political purposes.
4. Executive Branch employees shall not use state e-mail accounts for personal purposes except to communicate about family matters. All employees shall assume that information on the state's e-mail system is subject to public review and to review by state officials.
5. All outgoing e-mails sent from Executive Branch state e-mail accounts shall include language notifying the recipient(s) that the message is subject to the Public Records Law and may be disclosed to third parties.
6. Employees who conduct public business via personal e-mail accounts or non-government technology shall ensure that all public records are properly retained and archived pursuant to the Public Records Law and applicable record retention schedules.
7. The Department of Cultural Resources (DCR) shall provide all Executive Branch employees with online training for managing e-mail as public records, which training shall be mandatory for all employees who handle public records.
8. Information Technology Services (ITS) shall copy all Executive Branch agencies' e-mail messages to backup tapes at least once daily and shall retain the tapes for a minimum of ten (10) years.
9. Executive Branch agencies shall collaborate with the State Chief Information Officer (CIO) and DCR to employ a software platform that complies with the E-Mail Records Review Panel's recommendations, including saving backup tapes for a minimum of ten years.
10. As soon as possible, the Office of the State CIO shall procure, through the competitive bidding process, an archive system and shall work jointly and in collaboration with DCR to provide the archives/records management software package to be used by state agencies.

11. Executive Branch agencies shall follow all other directives issued by the Office of the Governor pertaining to e-mail retention and archiving policies, consistent with North Carolina law and record retention schedules.
12. DCR shall conduct random audits of state agencies in the Executive Branch to ensure that employees are in compliance with the records retention and disposition schedules and DCR shall conduct annual reviews of backup tape requests and provide reports to the State CIO and the Office of the Governor.
13. State agencies outside the Executive Branch and not directly subject to this order are invited and encouraged to review and revise their e-mail and electronic text communication record retention policies consistent with this Executive Order.

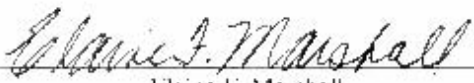
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this the ninth day of January in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and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





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



STATE BOARD OF ELECTIONS

6400 Mail Service Center • Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

MAILING ADDRESS:
P.O. BOX 27255
RALEIGH, NC 27611-7255

January 5, 2009

Mr. Edward Hay
Post Office Box 1544
Asheville, NC 28802

Re: June 5, 2008 Advisory Opinion to Jerry Meek, Chairman NC Democratic Party

Mr. Hay:

As you are likely aware, on June 5, 2008, I issued an advisory opinion at the request of Jerry Meek. In his request, he asked two questions concerning political party building funds. These questions were based on a "Factual Overview" that provided information that an unnamed county Democratic Party had purchased a headquarters building and established a building fund pursuant to N.C. Gen. Stat. 163-278.19B. The facts provided that this county Democratic Party then "gratuitously conveyed" the building to a non-profit corporation, which has allowed the county Democratic Party to use the property for purposes of a headquarters. No other information was provided as to the identity or purpose of the non-profit corporation. Mr. Meek asked if the established building fund could make payments to the non-profit corporation for the use of the headquarters and also pay property taxes for the building.

Based on these facts and N.C. Gen. Stat. § 163-278.19B, Mr. Meek was advised that the county Democratic Party could not use the building funds to make payments to the non-profit corporation or pay property taxes for the building. N.C. Gen. Stat. § 163-278.19B(4) provides that donations deposited into a building funds account cannot be used for headquarters rent, utilities, or equipment other than fixtures. The fact that the building funds would be used to make payments to the non-profit corporation that owns the building for use of the building would constitute rental payments and would therefore be prohibited by statute.

After this opinion was rendered, additional information was provided to our office about the specific county Democratic Party and the non-profit corporation. These additional facts provided that at some point after the Buncombe County Democratic Party purchased a building to be used as a headquarters, the bank required individuals to extend the note that was due to be paid. The bank did not want to extend the note without individual guarantors. Therefore, several individuals formed a corporation in order to extend the note so that the building could be maintained for the Buncombe County Democratic Party. The name of the corporation is

LOCATION: 506 NORTH HARRINGTON STREET • RALEIGH, NORTH CAROLINA 27603 • (919) 733-7173

Buncombe County Democratic Headquarters, Inc. The corporation has nine named Trustees that have taken on the responsibility to solicit donations for the building fund in order to make the mortgage payments. The building fund account to which these donations are directly deposited is the same building fund account that was originally established by the Buncombe County Democratic Party. The Trustees of the Corporation do not deposit any funds into any bank account. They collect contributions and provide those contributions to you, as Treasurer for the Buncombe County Democratic Party. From this account, all mortgage payments are made, just in the same way they were made prior to the extension of the note.

This new information provides that the building fund is not making payments to the non-profit corporation. In fact, the payments are being made to the Bank of Asheville just in the same way they were made previous to the note extension. Therefore, the payments are not rental payments but in fact mortgage payments.

As long as the Trustees continue to provide the contributions directly to you for deposit into the building fund account and all activities of this account are continued to be reported in accordance with N.C. Gen. Stat. 163-278.9, then the building fund can make mortgage payments to the Bank of Asheville and property tax payments for the building.

This opinion is based upon the information in this letter. If the information is incorrect or should change, you should evaluate whether this opinion is still applicable and binding. Finally, this opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

Sincerely,

Gary O. Bartlett

Gary O. Bartlett
Executive Director

cc: Julian Mann III, Codifier of Rules
Jerry Meek, Chairman, North Carolina Democratic Party
Robert Christy, Trustee, Buncombe County Democratic Headquarters, Inc.

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
City of Rocky Mount**

Pursuant to N.C.G.S. § 130A-310.34, the City of Rocky Mount has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Rocky Mount, Edgecombe County, North Carolina. The Property is the site of former tobacco warehouses, among other things, and constitutes a portion of the Douglas Block Redevelopment Area. It consists of 18 contiguous parcels comprising 4.12 acres and is bounded to the west by N.E. Main Street and commercially developed property; to the north by Goldleaf Street; to the east by Albemarle and Atlantic Avenues; and to the south by E. Thomas Street and commercial property. Environmental contamination exists on the Property in soil and groundwater. The City of Rocky Mount has committed itself to redevelopment of the Property for mixed retail, office, open space, residential, hotel and recreational use. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and the City of Rocky Mount which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at City Hall in Rocky Mount by contacting Peter Varney, Assistant City Manager, at 331 South Franklin St., Rocky Mount, NC 27804-5712; (252) 972-1330 or peter.varney@rockymountnc.gov; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411.

Written public comments may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the Property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if the City of Rocky Mount, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the Property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on February 3, 2009. All such comments and requests should be addressed as follows:

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

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

Pursuant to N.C.G.S. § 130A-310.34, Summit Springs, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Hendersonville, Henderson County, North Carolina. The Property consists of 55.36 acres and is located on Tabor Road Extension. Environmental contamination exists at the Property in soil and groundwater. Summit Springs, LLC has committed itself to make no use of the Property other than for a mixed residential, office, hospitality, park, open space, retail and, with prior written DENR approval, other commercial use project, with associated driveways and parking. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Summit Springs, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Henderson County Public Library, 301 N. Washington St., Hendersonville N.C. 28739, by contacting Mark Burdette at that address or at (828) 697-4725 ext.307 (telephone), (828) 692-8449 (facsimile) or mburdette@henderson.lib.nc.us; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at Shirley.Liggins@ncmail.net or at (919) 508-8411,.

Written public comments may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the Property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if Summit Springs, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the Property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on February 3, 2009. 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 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 10A NCAC 41A .0206.

Proposed Effective Date: July 1, 2009

Public Hearing:

Date: March 26, 2009

Time: 2:00 p.m.

Location: Cardinal Room, 5605 Six Forks Road, Raleigh, NC

Reason for Proposed Action: This rule change adds safe infection practices to the list of subjects covered in the Department –approved infection control course for staff of health care organizations. This expansion of the course is intended to improve measures to prevent transmission of HIV, hepatitis B, hepatitis C, and other bloodborne pathogens from health care worker to patients and from patient to patient.

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

Comments may be submitted to: Chris G. Hoke, JD, 1931 Mail Service Center, Raleigh, NC 27699-1931, phone (919)715-5006, email chris.hoke@ncmail.net

Comment period ends: April 3, 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 41 – HEALTH: EPIDEMIOLOGY

SUBCHAPTER 41A – COMMUNICABLE DISEASE CONTROL

SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

10A NCAC 41A .0206 INFECTION CONTROL – HEALTH CARE SETTINGS

(a) The following definitions shall apply throughout this Rule:

- (1) "Health care organization" means hospital; clinic; physician, dentist, podiatrist, optometrist, or chiropractic office; home health agency; nursing home; local health department; community health center; mental health agency; hospice; ambulatory surgical center; urgent care center; emergency room; or any other health care provider that provides clinical care.
- (2) "Invasive procedure" means entry into tissues, cavities, or organs or repair of traumatic injuries. The term includes the use of needles to puncture skin, vaginal and cesarean deliveries, surgery, and dental procedures during which bleeding occurs or the potential for bleeding exists.

(b) Health care workers, emergency responders, and funeral service personnel shall follow blood and body fluid precautions with all patients.

(c) Health care workers who have exudative lesions or weeping dermatitis shall refrain from handling patient care equipment and devices used in performing invasive procedures and from all direct patient care that involves the potential for contact of the patient, equipment, or devices with the lesion or dermatitis until the condition resolves.

(d) All equipment used to puncture skin, mucous membranes, or other tissues in medical, dental, or other settings must be disposed of in accordance with 10A NCAC 36B after use or sterilized prior to reuse.

(e) In order to prevent transmission of ~~HIV~~ HIV, and hepatitis ~~B~~ B, hepatitis C and other bloodborne pathogens from health care workers to ~~patients~~, patients and from patient to patient, each health care organization that performs invasive procedures shall

implement a written infection control policy. The health care organization shall ensure that health care workers in its employ or who have staff privileges are trained in the principles of infection control and the practices required by the policy; require and monitor compliance with the policy; and update the policy as needed to prevent transmission of ~~HIV~~ HIV, ~~and hepatitis B~~ hepatitis C and other bloodborne pathogens from health care workers to ~~patients~~ patients and from patient to patient. The health care organization shall designate a one on-site staff member for each noncontiguous health care facility to direct these activities. The designated staff member in each health care ~~organization~~ facility shall complete a course in infection control approved by the Department. The course shall address:

- (1) Epidemiologic principles of infectious disease;
- (2) Principles and practice of asepsis;
- (3) Sterilization, disinfection, and sanitation;
- (4) Universal blood and body fluid precautions;
- (5) Safe injection practices;
- ~~(5)(6)~~ Engineering controls to reduce the risk of sharp injuries;
- ~~(6)(7)~~ Disposal of sharps; and
- ~~(7)(8)~~ Techniques that reduce the risk of sharp injuries to health care workers.

(f) The infection control policy required by this Rule shall address the following components that are necessary to prevent transmission of ~~HIV~~ HIV, ~~and hepatitis B~~ hepatitis C and other bloodborne pathogens from infected health care workers to ~~patients~~ patients and from patient to patient:

- (1) Sterilization and disinfection, including a schedule for maintenance and microbiologic monitoring of equipment; the policy shall require documentation of maintenance and monitoring;
- (2) Sanitation of rooms and equipment, including cleaning procedures, agents, and schedules;
- (3) Accessibility of infection control devices and supplies;
- (4) Procedures to be followed in implementing 10A NCAC 41A .0202(4) and .0203(b)(4) when a health care provider or a patient has an exposure to blood or other body fluids of another person in a manner that poses a significant risk of transmission of HIV or hepatitis B.

Authority G.S. 130A-144; 130A-145.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 10A NCAC 45A .0202.

Proposed Effective Date: July 1, 2009

Public Hearing:

Date: March 26, 2009

Time: 2:00 p.m.

Location: Cardinal Room, 5605 Six Forks Road, Raleigh, NC

Reason for Proposed Action: *Legislative approval of the DHHS budget [SL-2008-107 (formerly HB2436, SECT. 10.26b)], which was effective July 16, 2008, authorized expansion of financial eligibility for the department's HIV Medications Program to 300%. This rule change makes this legislated expansion of coverage possible. It also makes permanent the temporary adoption of the identical rule change that became effective on October 1, 2008.*

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

Comments may be submitted to: *Chris G. Hoke, JD, 1931 Mail Service Center, Raleigh, NC 27699-1931, phone (919)715-5006, email chris.hoke@ncmail.net.*

Comment period ends: April 3, 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 45 - GENERAL PROCEDURES FOR PUBLIC HEALTH PROGRAMS

SUBCHAPTER 45A - PAYMENT PROGRAMS

SECTION .0200 - ELIGIBILITY DETERMINATIONS

10A NCAC 45A .0202 DETERMINATION OF FINANCIAL ELIGIBILITY

(a) A patient must meet the financial eligibility requirements of this Subchapter to be eligible for benefits provided by the payment programs. Financial eligibility shall be determined through application of income scales. The definition of annual net income in Rule .0203 of this Subchapter and the definitions of family in Rule .0204 of this Subchapter shall be used in

applying the income scales, except as provided in Paragraphs (c), (e) and (f) of this Rule.

(b) A person is financially eligible for services under the Sickie Cell Program if the net family income is at or below the federal poverty level in effect on July 1 of each fiscal year.

(c) A person is financially eligible for the HIV Medications Program if the gross family income is at or below ~~250~~ 300 percent of the federal poverty level in effect on July 1 of each fiscal year, with the following exceptions:

- (1) If a waiting list develops, priority for enrollment into the Program shall be given to those whose net family income is at or below 125 percent of the federal poverty ~~level; level,~~ and second priority to those individuals with income above 125 percent and at or below 250 percent of federal poverty guidelines; and
- (2) At any time that the Program's financial eligibility level is changed, all clients enrolled in the Program during the most recent year or at the time the eligibility level is changed shall be eligible to continue to be enrolled in and served by the Program. This shall be true even if the clients' financial status at that time places them above the newly-established level. The eligibility of these clients shall remain in force until:
 - (A) they no longer qualify for the Program other than for financial reasons; or
 - (B) they no longer require the services of the Program; or
 - (C) their income increases such that they have an income that exceeds the level under which they originally qualified for and enrolled into the Program; or
 - (D) they fail to comply with the rules of the Program.

Changes related to the Program's financial eligibility level or status shall be communicated to interested parties within North Carolina's HIV community (e.g., persons living with HIV disease, their families and caregivers, advocates and service providers, relevant local and state agencies) by the Program via electronic or print mechanisms.

(d) A person is financially eligible for the Kidney Program if the net family income is at or below the following scale:

- Family Size 1: \$6,400;
- Family Size 2: \$8,000;
- Family Size 3: \$9,600;
- Family Size 4: \$11,000;
- Family Size 5: \$12,000;
- Family Size 6 and over: add \$800 per family member.

(e) A person is financially eligible for the Cancer Program if gross family income is at or below 115 percent of the federal poverty level in effect on July 1 of each year.

(f) A child is financially eligible for Children's Special Health Services if the child is approved for Medicaid when applying or reapplying for program coverage, except for children eligible under Paragraph (g) and (h) of this Rule.

(g) A child approved for Children's Special Health Services post adoption coverage pursuant to 10A NCAC 43F .0800, is eligible for services under Children's Special Health Services if the child's net income is at or below the federal poverty level in effect on July 1 of each year.

(h) A person is financially eligible for services under the Adult Cystic Fibrosis Program if the net family income is at or below the federal poverty level in effect on July 1 of each year.

(i) The financial eligibility requirements of this Subchapter do not apply to:

- (1) Migrant Health Program;
- (2) School Health Fund financial eligibility determinations performed by a local health department which has chosen to use the financial eligibility standards of the Department of Public Instruction's free lunch program;
- (3) Prenatal outpatient services sponsored through local health department delivery funds, 10A NCAC 43C .0200; or through Perinatal Program high risk maternity clinic reimbursement funds, 10A NCAC 43C .0300; and
- (4) Diagnostic assessments for infants up to 12 months of age with sickle cell syndrome.

(j) Except as provided in Paragraphs (k) and (l) of this Rule, once an individual is determined financially eligible for payment program benefits, the individual remains financially eligible for a period of one year after the date of application for financial eligibility unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter or his family's financial resources or expenses during that period. If there is a change, financial eligibility for payment program benefits must be redetermined. Financial eligibility must be redetermined at least once a year.

(k) For purposes of the Kidney Program and HIV Medications Program, once an individual is determined to be financially eligible, if the application for financial eligibility was received by the Department in the fourth quarter of the fiscal year, the individual remains financially eligible for benefits until the end of the next fiscal year unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter or his family's financial resources or expenses during that period.

(l) Children eligible for Children's Special Health Services Program benefits under Paragraph (f) of this Rule are financially eligible for a service if they were Medicaid eligible on the date the requested service was initiated.

(m) If the most current financial eligibility form on file with the Department shows that the patient was financially eligible on the date an Authorization Request for payment for drugs was received, the Authorization Request shall be approved so long as the Authorization Request is received less than 30 days prior to the expiration of financial eligibility and the authorized service does not extend more than 30 days after the expiration of financial eligibility.

Authority G.S. 130A-4.2; 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0311.

Proposed Effective Date: September 1, 2009

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person requesting that the Environmental Management Commission conduct a public hearing on any portion of this proposed rule must submit a written request to Elizabeth Kountis, Division of Water Quality, 1617 Mail Service Center, Raleigh, NC 27699-1617 by February 17, 2009. The request must specify that it is the proposed WS-IV CA reclassification of the Haw River that the hearing is being requested on. Mailed written requests must be postmarked no later than February 17, 2009.

Reason for Proposed Action: The Town of Pittsboro ("Town") has requested that a Haw River segment in Chatham County (Cape Fear River Basin) be reclassified from Class WS-IV to WS-IV Critical Area (CA) in order to recognize an existing potable water supply intake, which is currently being used by the Town as their permanent water supply source and has yet to receive a CA designation. Because the proposed CA's waters are located within an existing WS-IV watershed, these waters meet water supply water quality standards. The proposed CA would extend along the river from the existing intake for the Town's permanent water supply source, which is located along the upstream side of Bynum Dam, or approximately 0.15 mile west of U.S. 15/501, to a point approximately 0.5 mile upstream of that intake. There are no named tributaries to the Haw River in the proposed CA, and nearly 185 acres of land will be included in the new CA. If reclassified, development and discharge restrictions will apply. There is one NPDES wastewater facility, the Town's Water Treatment Plant, in the proposed CA, and it will not be impacted by this proposal because its discharge already meets water supply water quality standards. There are not any known planned dischargers and developments in the proposed CA per local government officials. Chatham County and the Town are the local governments with jurisdiction in the proposed CA, and these local governments already have modified their water supply watershed protection (WSWP) ordinances to reflect requirements that this proposal will invoke. Since a public hearing is not required, no comments against this proposed reclassification have been received, the intake for the Town's permanent water supply source is already in operation, and the municipalities with local jurisdiction in the proposed CA already have modified their WSWP ordinances to reflect WS-IV CA requirements that this proposal will invoke, a public hearing is not going to be scheduled for this proposed reclassification. If a hearing is requested, a hearing will be scheduled, and the process for this proposed reclassification will be delayed.

Procedure by which a person can object to the agency on a proposed rule: You may submit written comments, data or other relevant information by April 3, 2009. The EMC is very interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in this notice unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (see General Statute 150B 21.2 (g)). Written comments on the proposed reclassification may be submitted to Elizabeth Kountis of the Water Quality Planning Section at the postal address, e-mail address, or fax number listed in this notice.

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

Comment period ends: April 3, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

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

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0311 CAPE FEAR RIVER BASIN

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

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>;
and
 - (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Winston-Salem Regional Office
585 Woughtown Street
Winston-Salem, North Carolina
 - (B) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina
 - (C) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina
 - (D) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina
 - (E) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina
 - (F) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.
- (b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards was amended effective:
- (1) March 1, 1977;
 - (2) December 13, 1979;
 - (3) December 14, 1980;
 - (4) August 9, 1981;
 - (5) April 1, 1982;
 - (6) December 1, 1983;
 - (7) January 1, 1985;
 - (8) August 1, 1985;
 - (9) December 1, 1985;
 - (10) February 1, 1986;
 - (11) July 1, 1987;
 - (12) October 1, 1987;
 - (13) March 1, 1988;
 - (14) June 1, 1988;
 - (15) July 1, 1988;
 - (16) January 1, 1990;
 - (17) August 1, 1990;
 - (18) August 3, 1992;
 - (19) September 1, 1994;
 - (20) August 1, 1998;
 - (21) April 1, 1999;
 - (22) August 1, 2002;
 - (23) November 1, 2004;
 - (24) November 1, 2007;
 - (25) January 1, ~~2009-2009~~;
 - (26) September 1, 2009.
- (c) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective June 1, 1988 as follows:
- (1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
 - (2) Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.
 - (d) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.
 - (e) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective January 1, 1990 as follows:
 - (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
 - (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
 - (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.
 - (f) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.
 - (g) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases,

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

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

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

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

(j) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.

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

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

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

- (1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all tributaries was reclassified from Class WS-III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.
- (2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

The "@" symbol as used in this Paragraph means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule 15A NCAC 02B .0215(3)(b)(i)(E) (Fresh Surface Water Quality Standards for Class WS-III Waters), then that development is not subject to the stormwater requirements as described in rule 15A NCAC 02H .1006 (Stormwater Requirements: High Quality Waters).

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

- (1) A portion of Rocky River [Index Number 17-43-(1)] from a point approximately 0.3 mile upstream of Town of Siler City upper reservoir dam to a point approximately 0.3 mile downstream of Lacy Creek from WS-III to WS-III CA.
- (2) A portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point approximately 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) A portion of Mud Lick Creek (Index No. 17-43-6) from a point approximately 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) A portion of Lacy Creek (17-43-7) from a point approximately 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.

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

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

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

(p) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective January 1, 2009 as follows:

- (1) a portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from Smithfield Packing Company's intake, located approximately two miles upstream of County Road 1316, to a point approximately 0.5 miles upstream of Smithfield Packing Company's intake from Class C to Class WS-IV CA.
- (2) a portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from a point approximately 0.5 miles upstream of Smithfield Packing Company's intake to a point approximately one mile upstream of Grays Creek from Class C to Class WS-IV.

(q) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective September 1, 2009 with the reclassification of a portion of the Haw River [Index No. 16-(28.5)] from the Town of Pittsboro water supply intake, which is located approximately 0.15 mile west of U.S. 15/501, to a point approximately 0.5 mile upstream of the Town of Pittsboro water supply intake from Class WS-IV to Class WS-IV CA.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to adopt the rules cited as 15A NCAC 13B .0830-.0846 and repeal the rules cited as 15A NCAC 13B .0815-.0829.

Proposed Effective Date: August 1, 2009

Public Hearing:

Date: February 26, 2009

Time: 1:00 p.m.

Location: Cardinal Room, 5605 Six Forks Road, Raleigh, NC

Reason for Proposed Action: *The septage industry within NC has grown significantly since the last rules were adopted in 1995. New advancements in the industry require more specific rule language to properly regulate this sector of waste management in NC. Some specific areas of change within the industry that are addressed within the proposed rules include dewatering of septage, training of septage management firms and land application of treatment plant septage.*

Procedure by which a person can object to the agency on a proposed rule: *Persons may submit written objections to the proposed rules by contacting: Ellen Lorscheider, DENR-Division of Waste Management, Solid Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646, fax (919)733-4810 or email ellen.lorscheider@ncmail.net.*

Comments may be submitted to: *Ellen Lorscheider, Planning and Programs Branch Head, DENR-Division of Waste Management, Solid Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646, phone (919)508-8400, fax (919)733-4810 or email ellen.lorscheider@ncmail.net*

Comment period ends: April 3, 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 13 – SOLID WASTE MANAGEMENT

SUBCHAPTER 13B - SOLID WASTE MANAGEMENT

SECTION .0800 - SEPTAGE MANAGEMENT

15A NCAC 13B .0815 INCORPORATION BY REFERENCE

(a) All sections of the Code of Federal Regulations (CFR) cited in this Section are hereby incorporated by reference, including subsequent amendments or additions.

(b) Copies of Federal statutes, test methods and procedures, and other published standards referenced in this Section are hereby incorporated by reference, including subsequent amendments or additions, and may be obtained from the Solid Waste Section at no cost.

(c) Copies of all material incorporated by reference are available for inspection at the Department of Environment, Health, and Natural Resources, Division of Solid Waste Management, Solid Waste Section, 401 Oberlin Road, Raleigh, N.C. 27605.

Authority G.S. 130A-291.1.

15A NCAC 13B .0816 DEFINITIONS

As used in this Section:

- (1) "Annual septage application rate" means the maximum amount, in gallons, of septage that can be applied to a unit area of land during a 365 day period.
- (2) "Place of business" means any store, warehouse, manufacturing establishment, place of amusement or recreation, service station, food handling establishment, office, or any other place where people work or are served.
- (3) "Place of public assembly" means any fairground, auditorium, stadium, church, campground, theater, school, or any other place where people gather or congregate.
- (4) "Residence" means any habitable home, hotel, motel, summer camp, labor work camp, mobile home, dwelling unit in a multiple family structure, or any other place where people reside.
- (5) "Rock" means the consolidated or partially consolidated mineral matter or aggregate, including bedrock or weathered rock, not exhibiting the properties of soil.
- (6) "Septage" means septage as defined in G.S. 130A-290(a)(32) and also shall include washings from the interior of septage handling containers, including pumper trucks.
- (7) "Septage Management Facility" means land, personnel, and equipment used in the management of septage, including but not limited to, land application sites.
- (8) "Soil" means the unconsolidated mineral and organic material of the land surface. It consists of sand, silt, and clay minerals and variable amounts of organic materials.
- (9) "Soil textural classes" means soil classification based upon size distribution of mineral

particles in the fine earth fraction less than two millimeters in diameter. The fine earth fraction includes sand (2.0-0.05 mm in size), silt (0.05 mm-0.002 mm), and clay (less than 0.002 mm in size) particles. The specific textural classes are defined as follows:

- (a) "Sand" means soil material that contains 85 percent or more of sand; the percentage of silt plus 1.5 times the percentage of clay shall not exceed 15;
- (b) "Loamy sand" means soil material that contains at the upper limit 85 to 90 percent sand, and the percentage silt plus 1.5 times the percentage of clay is not less than 15; at the lower limit it contains not less than 70 to 85 percent sand, and the percentage of silt plus twice the percentage of clay does not exceed 30;
- (c) "Sandy loam" means soil material that contains either 20 percent clay or less, and the percentage of silt plus twice the percentage of clay exceeds 30, and contains 52 percent or more sand; or less than 7 percent clay, less than 50 percent silt, and between 43 and 52 percent sand;
- (d) "Loam" means soil material that contains 7 to 27 percent clay, 28 to 50 percent silt, and less than 52 percent sand;
- (e) "Silt loam" means soil material that contains 50 percent or more silt and 12 to 27 percent clay; or contains 50 to 80 percent silt and less than 12 percent clay;
- (f) "Silt" means soil material that contains 80 percent or more silt and less than 12 percent clay;
- (g) "Sandy clay loam" means soil material that contains 20 to 35 percent clay, less than 28 percent silt, and 45 percent or more sand;
- (h) "Clay loam" means soil material that contains 27 to 40 percent clay and 20 to 45 percent sand;
- (i) "Silty clay loam" means soil material that contains 27 to 40 percent clay and less than 20 percent sand;
- (j) "Sandy clay" means soil material that contains 35 percent or more clay and 45 percent or more sand;
- (k) "Silty clay" means soil material that contains 40 percent or more clay and 40 percent or more silt; and
- (l) "Clay" means soil material that contains 40 percent or more clay, less

than 45 percent sand, and less than 40 percent silt.

- (10) ~~"Treatment of septage" means the preparation of septage for final use or disposal. Treatment includes, but is not limited to, thickening, stabilization, and dewatering of septage. Treatment does not include storage of septage.~~
- (11) ~~Definitions in 40 CFR 503.9(d), (g), (h), (j), (k), (l), (r), (t), (u), (v), (w), (bb), and in 40 CFR 503.11(a), (b), (c), (d), (f), (g), (h), (i), (k), (l), (m), (n) are incorporated by reference including subsequent amendments and editions. Copies of the Code of Federal Regulations may be obtained from the Solid Waste Section at no cost.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0817 SEPTAGE MANAGEMENT FIRM PERMITS

- (a) ~~No person shall operate a Septage Management Firm without first obtaining a permit from the Division as required under G.S. 130A 291.1(c).~~
- (b) ~~The permit requirement of G.S. 130A 291.1(c) applies to persons who manage septage generated from properties which they own, lease or manage as part of a business, including but not limited to mobile homes, mobile home parks, and other residential and commercial property.~~
- (c) ~~No person shall manage or dispose of waste from portable toilet(s), regardless of ownership of the toilet(s), unless that person is permitted to operate a septage management firm.~~
- (d) ~~To apply for a permit, a person proposing to operate a septage management firm shall submit the following information to the Division by January 1 of each year:~~

- (1) ~~Owner's name, address and phone number;~~
- (2) ~~Business name, address and phone number;~~
- (3) ~~Type(s) of septage handled;~~
- (4) ~~Number of pumper trucks;~~
- (5) ~~Capacity and type of septage handled by each pumper truck;~~
- (6) ~~Vehicle license and serial numbers of each pumper truck;~~
- (7) ~~Counties in which the firm operates;~~
- (8) ~~Disposal method(s) for septage;~~
- (9) ~~Permit number for each septage land application site to be used;~~
- (10) ~~Other technical information pertinent to the operation of a septage management firm that has significant potential to harm the environment in accordance with this Section;~~
- (11) ~~Written authorization on official letterhead or a notarized wastewater treatment plant authorization form shall be submitted from an individual responsible for the operation of each wastewater treatment plant used for disposal indicating:~~
 - (A) ~~Type(s) of septage which can be discharged at the plant;~~

- (B) ~~Where septage can be discharged at the plant or in the collection system;~~
- (C) ~~Geographic area from which septage will be accepted; and~~
- (D) ~~Duration of authorization.~~

- (12) ~~The appropriate annual permit fee in accordance with G.S. 130A 291.1(e).~~

~~(e) A septage management firm permit shall not be issued unless the applicant has submitted to the Division written documentation of authorized access to dispose of septage at a wastewater treatment plant, a permitted septage land application site, or other permitted septage treatment facility. Documentation from each plant, site, or other facility shall include the types and amount of septage which may be discharged.~~

~~(f) Septage management firm permits shall not be issued until all parts of the application have been completed to the satisfaction of the Division.~~

~~(g) The Division may refuse to process a permit application if the applicant has any unsettled administrative penalties, overdue penalty payments, or pump trucks that do not meet the requirements of this Section.~~

~~(h) Septage management firm permits are issued for one calendar year, beginning January 1. Permits issued after January 1, shall be effective only until December 31 of that calendar year. Permits are non-transferable.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0818 PERMIT FEES

~~(a) Every septage management firm shall pay an annual permit fee by January 1 of each year in accordance with G.S. 130A 291.1(e), unless the firm notifies the Division prior to January 1 that the firm will not operate during the next year. Fees shall be paid to the Division of Solid Waste Management, Solid Waste Section, P.O. Box 27687, Raleigh, NC 27611-7687. This fee may be paid by check or money order made payable to the Division of Solid Waste Management.~~

~~(b) Failure to apply for permit renewal or failure to pay the permit fee by January 1 shall result in assessment of an administrative penalty pursuant to G.S. 130A 22(a) equal to one-half the fee set forth in G.S. 130A 291.1(e). Failure to pay the fee and the administrative penalty within 45 days after January 1 shall result in an additional administrative penalty of ten dollars (\$10.00) per day for each day thereafter that the fee and penalty are not paid.~~

~~(c) Annual permit renewal, including fee payment, shall be the responsibility of the operator of the septage management firm. If the operator did not receive annual permit renewal forms, it shall not be a defense to assessment of late fees.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0819 SEPTAGE LAND APPLICATION SITE PERMITS

~~(a) Pursuant to G.S. 130A 291(d), no person shall dispose of septage or any part of septage other than in a wastewater treatment system permitted to accept septage under the rules of the Commission for Public Health or the Environmental~~

Management Commission; or by land application at a site permitted under the rules of this Section. Disposal of septage by trenching or burial is prohibited under the rules of this Section.

(b) Domestic septage, as defined in G.S. 130A-290, treated to meet the standard for Class A sewage sludge in accordance with the federal regulations for pathogen and vector attraction reduction in 40 CFR Part 503, Subpart D, may be permitted by the Division for application to public contact sites, home lawns and gardens, or to be sold or given away in a bag or other container, provided pollutant limits in 40 CFR 503.13 are not exceeded. Persons who prepare the septage, and persons who derive material from the septage, shall comply with the applicable record keeping requirements in 40 CFR 503.17(a)(1), (2), or (6). All treatment methods and facilities shall also require a permit from the Division under this Section.

(c) No person shall establish, or allow to be established on his land, a septage management facility, or otherwise treat, store, or dispose, by land application or otherwise, septage or any component of septage unless a permit for the facility has been obtained from the Division.

(d) To apply for a permit for a septage land application site, the following information shall be submitted to the Division:

- (1) Location of the site;
- (2) Name, address, and phone number of the owner or the owner's legal representative in control of the site;
- (3) Types of septage (as defined in G.S. 130A-290) and the annual volume of each type of septage proposed for land application;
- (4) Substances other than septage previously disposed of at this location, and the amounts of those substances;
- (5) Proposed distribution plan if required in Paragraph (e) Rule .0821 of this Section;
- (6) Alternative plan for the detention or disposal of septage during adverse weather conditions;
- (7) Treatment method for each type of septage to be discharged and the permit number of any treatment facilities;
- (8) Written authorization to operate a septage disposal site signed by the landowner(s) (if other than the permittee) or his authorized legal representative;
- (9) Nutrient management plan developed in accordance with Subparagraph (a)(13) of Rule .0822 of this Section and approved by the Division;
- (10) Erosion and runoff control plan approved by the Division;
- (11) A written report that documents compliance with Rule .0821 of this Section prepared by a Soil Scientist, or an individual with at least three years experience in the comprehensive evaluation of soils for the land application of septage;
- (12) Aerial photography extending for a distance of at least 2500 feet in all directions from the site, with site property boundaries accurately depicted. Photograph scale shall be 1" = 400

feet or greater if available, but in no case less than 1" = 660 feet;

- (13) A background soil analysis of each field indicating soil class, cation exchange capacity, percent base saturation, acidity, pH, and levels of potassium, phosphorus, calcium, zinc, and copper;
- (14) Vicinity map (county road map) showing the site location;
- (15) Demonstration from the appropriate State or Federal Government agency that the land application site complies with Paragraph (g) of Rule .0821 of this Section if any part of the site specified for land application is not agricultural land;
- (16) Other technical information pertinent to the suitability of the proposed site that has significant potential to harm the environment as requested by the Division; and
- (17) An applicant who proposes to land apply septage, as defined in G.S. 130A-290, in excess of 50,000 gallons per acre per year or on a public contact site, shall provide the Division evidence of adequate public notice and the applicant shall have successfully completed the Land Application of Residuals and Biosolids Course given by the Department of Environment, Health, and Natural Resources. Permits shall not be issued prior to the end of the public notice period.

(e) Applications shall be submitted to the Division of Solid Waste Management, Solid Waste Section, P.O. Box 27687, Raleigh, NC 27611-7687. Applications for permits will not be reviewed until all parts of the application have been properly completed and submitted to the Division.

(f) Applications for sites or treatment methods which do not meet the standards in accordance with this Section shall be denied.

(g) Applications for subsequent permits shall be submitted to the Division at least 90 days prior to the expiration date of the permit. The Division will notify permittees of site permit expiration dates 120 days prior to permit expiration.

(h) Applications for permit modifications shall be required for the following changes:

- (1) Permit holder;
- (2) Property ownership;
- (3) Annual application rates; and
- (4) Types of septage discharged.

(i) Applications for subsequent permits submitted in accordance with Paragraph (g) of this Rule and applications for permit modifications may not be required to resubmit the information required in Subparagraphs (d)(11), (12), (14), (15), and (d)(9), and (10) of this Rule, unless changes are made in those plans.

(j) Septage land application site permits are transferable if modified in accordance with Paragraph (h) of this Rule.

(k) Issuance of a permit does not relieve the permittee of the responsibility of obtaining applicable zoning approvals prior to operation of the site.

Authority G.S. 130A-291.1.

15A NCAC 13B .0820 SEPTAGE DETENTION AND TREATMENT FACILITY PERMITS

(a) No person shall establish, or allow to be established on his land, a septage detention facility, or otherwise treat, store, or dispose of septage unless a permit for the facility has been obtained from the Division or the facility is operating in accordance with a NPDES permit issued by the N.C. Division of Environmental Management.

(b) Septage detention and treatment facilities shall be designed, located, constructed, and operated in accordance with the standards specified in Rule .0825 of this Section.

(c) Septage detention and treatment facilities in use prior to the effective date of this Section shall be deemed permitted if they meet the setbacks specified in Item (10)(a) through (e) of Rule .0825 of this Section and if properly completed applications for those permits are submitted to the Division within 60 days of the effective date of this Section.

(d) To apply for a permit for a septage detention or treatment facility the applicant shall submit the following information to the Division:

- (1) Location of the facility;
- (2) Name, address, and phone number of the owner or the owner's legal representative in control of the site;
- (3) Types of septage to be stored or treated;
- (4) A description of the facility including the size, number, and type of structures to be used at the site and construction materials to be used;
- (5) An explanation of the methods for discharge into and removal from the detention or treatment facility, the methods for treating leaks or spills at the site, and methods for odor control;
- (6) Septage disposal site permit number or the name of the wastewater treatment plant where the septage will be disposed;
- (7) An aerial photograph, extending for a distance of at least 1000 feet in all directions from the site property lines, scale 1" = 400 feet or greater if available, but in no case less than 1" = 660 feet, with site property boundaries accurately depicted;
- (8) Written authorization to operate a septage detention or treatment facility signed by the landowner (if other than the permittee) or his legal representative; and
- (9) Other technical information pertinent to the suitability of the proposed facility that has significant potential to harm the environment as requested by the Division.

(e) Plans for treatment facilities shall be prepared and submitted in accordance with professional engineering principles.

(f) Applications shall be submitted in accordance with Paragraph (d) of Rule .0819 of this Section.

(g) Applications for subsequent permits shall be made at least 90 days prior to the expiration date of the permit. The Division will notify permittees of facility permit expiration dates 120 days prior to permit expiration.

(h) Applications for permit modifications shall be required for changes in:

- (1) Permit holder;
- (2) Property ownership;
- (3) Treatment methods;
- (4) Types of septage to be stored or treated; and
- (5) Size and number of treatment or storage structures.

(i) Applications for facilities which do not meet the standards set forth in this Section shall be denied.

(j) Septage detention or treatment facility permits are transferable if modified in accordance with Paragraph (h) of this Rule.

(k) Issuance of a permit does not relieve the permittee of the responsibility of obtaining applicable zoning approvals prior to operation of the facility.

Authority G.S. 130A-291.1.

15A NCAC 13B .0821 LOCATION OF SEPTAGE LAND APPLICATION SITES

(a) Soil characteristics (Morphology) which shall be evaluated are as follows:

- (1) Texture The relative proportions of the sand, silt, and clay sized mineral particles in the fine-earth fraction of the soil are referred to as soil texture. The texture of the different horizons of soils shall be classified into three general groups and 12 soil textural classes based upon the relative proportions of sand, silt, and clay sized mineral particles.

(A) SOIL GROUP I SANDY TEXTURE SOILS: The sandy group includes the sand and loamy sand textural classes.

(B) SOIL GROUP II COARSE LOAMY AND FINE LOAMY TEXTURE SOILS: The coarse loamy and fine loamy group includes sandy loam, loam, silt, silt loam, sandy clay loam, clay loam, and silty clay loam textural classes.

(C) SOIL GROUP III CLAYEY TEXTURE SOILS: The clayey group includes sandy clay, silty clay, and clay textural classes.

(D) The soil textural class shall be determined in the field by hand texturing samples of each soil horizon in the soil profile using the following criteria:

- (i) Sand: Sand has a gritty feel, does not stain the fingers, and does not form a ribbon or ball when wet or moist;

- (ii) ~~Loamy Sand: Loamy sand has a gritty feel, stains the fingers, forms a weak ball, and cannot be handled without breaking;~~
 - (iii) ~~Sandy Loam: Sandy loam has a gritty feel and forms a ball that can be picked up with the fingers and handled with care without breaking;~~
 - (iv) ~~Loam: Loam may have a slightly gritty feel but does not show a fingerprint and forms only short ribbons of from 0.25 inch to 0.50 inch in length. Loam will form a ball that can be handled without breaking;~~
 - (v) ~~Silt Loam: Silt loam has a floury feel when moist and will show a fingerprint but will not ribbon and forms only a weak ball;~~
 - (vi) ~~Silt: Silt has a floury feel when moist and sticky when wet but will not ribbon and forms a ball that will tolerate some handling;~~
 - (vii) ~~Sandy Clay Loam: Sandy clay loam has a gritty feel but contains enough clay to form a firm ball and may ribbon to form 0.75 inch to one inch long pieces;~~
 - (viii) ~~Silty Clay Loam: Silty clay loam is sticky when moist and will ribbon from one to two inches. Rubbing silty clay loam with the thumbnail produces a moderate sheen. Silty clay loam produces a distinct fingerprint;~~
 - (ix) ~~Clay Loam: Clay loam is sticky when moist. Clay loam forms a thin ribbon of one to two inches in length and produces a slight sheen when rubbed with the thumbnail. Clay loam produces a nondistinct fingerprint;~~
 - (x) ~~Sandy Clay: Sandy clay is plastic, gritty and sticky when moist and forms a firm ball and produces a thin ribbon to over two inches in length;~~
 - (xi) ~~Silty Clay: Silty clay is both plastic and sticky when moist and lacks any gritty feeling. Silty clay forms a firm ball and readily ribbons to over two inches in length;~~
 - (xii) ~~Clay: Clay is both sticky and plastic when moist, produces a thin ribbon over two inches in length, produces a high sheen when rubbed with the thumbnail, and forms a strong ball resistant to breaking.~~
- (E) ~~The Division may substitute laboratory determination of the soil textural class as defined in this Section by particle-size analysis of the fine earth fraction (less than 2.0 mm in size) using the sand, silt and clay particle sizes as defined in this Section for field testing when conducted in accordance with ASTM (American Society for Testing and Materials) D 422 procedures for sieve and hydrometer analysis. For fine loamy and clayey soils (Groups II and III) the dispersion time shall be increased to 12 hours.~~
- (2) ~~Wetness Condition:~~
- (A) ~~Soil wetness conditions caused by a seasonal high water table, perched water table, tidal water, or seasonally saturated soils shall be determined by observation of common soil mottles of colors of chroma 2 or less, using the Munsell color chart, in mottles or a solid mass. If drainage modifications have been made, the soil wetness conditions may be determined by direct observation of the water surface in monitoring wells during periods of typically high water elevations. However, colors of chroma 2 or less which are relic from minerals of the parent material shall not be considered indicative of a soil wetness condition.~~
 - (B) ~~Soils which do not meet the required depths to a soil wetness condition shall be considered unsuitable and septage shall not be applied, unless the required separation distances can be maintained. Water table monitoring wells may be utilized to determine the actual depth to a soil wetness condition. The Division may limit discharges to certain months~~

where soil wetness conditions are marginal for use.

(C) The required depth to a soil wetness condition is determined by the Soil Group Textural Classification:

(i) Soil Group I soils shall be considered suitable where soil wetness conditions are deeper than 36 inches below the point of septage application or incorporation.

(ii) Soil Group II soils shall be considered suitable where soil wetness conditions are deeper than 24 inches below the point of septage application or incorporation.

(iii) Soil Group III soils shall be considered suitable where soil wetness conditions are deeper than 18 inches below the point of septage application or incorporation.

(3) Depth to rock: soil depth shall be considered suitable where depth to rock is deeper than 24 inches below the point of septage application or incorporation or deeper than 18 inches if the septage is pretreated to accomplish pathogen reduction and surface applied over vegetation.

(4) Mine reclamation sites will be considered on a case by case basis.

(b) Septage land application sites shall not be located in the watershed of a Class WS I stream. New septage land application sites shall not be located in the water quality critical area of Class WS II, WS III, or WS IV streams or reservoirs. This prohibition does not apply to those portions of a water supply watershed which are drained by Class B or Class C streams.

(c) Setbacks. At the time of initial permitting, septage land application sites shall observe the minimum setback distances specified in this Rule. Minimum setbacks shall be maintained throughout the life of the site only on land owned, operated or controlled by the permittee or by the landowner(s) at the time of initial permitting. Any sale, lease or other conveyance of land by the permittee, or by the landowner(s) if different from the permittee, subsequent to the initial permitting of the site shall include restrictions to ensure continued maintenance of the setbacks. Failure to maintain required setbacks shall result in immediate permit revocation.

(d) All septage disposal sites shall be located at least the minimum distance specified for the following:

(1) Residence not occupied by the applicant 500 feet, residence occupied by the applicant 100 feet;

(2) Place of business, other than the septage management firm office, or place of public assembly 500 feet;

(3) Well or spring 500 feet;

(4) Surface waters. Stream classification shall be determined in accordance with 15A NCAC 2B .0301 through .0317 Assignment of Stream Classifications.

(A) Fresh waters:

(i) Class WS I, Class WS II, or Class WS III streams 300 feet;

(ii) Class B stream 300 feet;

(iii) Class C stream 200 feet;

(iv) Other streams and bodies of water 200 feet.

(B) Tidal salt waters:

(i) Class SA or Class SB 300 feet from mean high water mark;

(ii) Class SC and other coastal waters 200 feet from mean high water mark.

(C) Supplemental classifications:

(i) Trout waters and swamp waters 200 feet;

(ii) Nutrient sensitive waters and outstanding resource waters 300 feet;

(5) Groundwater lowering ditches and devices 100 feet;

(6) Adjoining property under separate ownership or control 50 feet;

(7) Public road right of ways 100 feet;

(8) Food crops 50 feet;

(9) Wetlands 50 feet;

(10) Setbacks in Subparagraphs (d)(3), (4), and (5) of this Rule may be reduced 50 percent when septage is pretreated to accomplish pathogen reduction and land within the setback area is in permanent, established grass with at least 95 percent cover or is in forest with a continuous canopy and a 95 percent forest litter cover.

(e) Septage disposal sites less than five acres in size, individual fields of a site less than two acres in size, and sites with complex soil patterns or unusual shapes will be permitted only if the applicant demonstrates to the Division that the site can be properly managed for crop production and that septage can be evenly distributed over the site.

(f) Septage disposal sites shall not be located where the slope of the land is greater than 12 percent unless all of the conditions of this Paragraph are met:

(1) The site is in permanent, established grass with at least 95 percent cover or is in forest with a continuous canopy and a 95 percent forest litter cover.

(2) Plans submitted to the Division are prepared in accordance with accepted erosion and runoff control practices and indicate the following:

(A) Management practices and discharge methods which will be used to reduce the potential for run off from the site

and assure even septage distribution over the site; and

(B) ~~Location of potential surface water monitoring devices upslope and downslope from the area proposed to be permitted and identification of sampling methods. Monitoring may be required.~~

(3) ~~Setbacks will be increased and application rates decreased as appropriate to protect any nearby surface waters.~~

(4) ~~No site shall be permitted with slopes in excess of 25 percent.~~

(g) ~~A new septage disposal site shall not jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973. Agricultural land shall not be considered potential habitat.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0822 MANAGEMENT OF SEPTAGE LAND APPLICATION SITES

(a) ~~General. Paragraph (g) of this Rule also applies to septage detention and treatment facilities.~~

(1) ~~Only domestic septage, as defined in G.S. 130A-290, shall be land applied or otherwise placed on a septage land application site, unless specified in the permit.~~

(2) ~~Each site shall be posted with "NO TRESPASSING" signs. Access roads or paths crossing or leading to the disposal area shall be posted "NO TRESPASSING" and a legible sign of at least two feet by two feet stating "SEPTAGE LAND APPLICATION SITE" shall be maintained at each entrance to the land application area.~~

(3) ~~Each site shall have an all weather access road.~~

(4) ~~No hazardous wastes shall be permitted on the site.~~

(5) ~~No site shall be permitted for land application of industrial or commercial septage unless the applicant demonstrates to the Division that the strength of the organic and inorganic components of the septage is within the normal range for domestic septage.~~

(6) ~~Septage generated from domestic or industrial or commercial wastewater treatment plants shall be land applied only at sites permitted by the Division of Environmental Management for application of domestic or industrial or commercial treatment plant septage, as defined in G.S. 130A-290.~~

(7) ~~Septage shall be applied to the surface of the land from a moving vehicle in such a manner as to have no standing liquid or soil disturbance resulting from the waste flow after the discharge is complete.~~

(8) ~~Septage shall not be applied to a site if any liquid is ponded on the site or if the site is flooded, frozen, or snow covered.~~

(9) ~~Disposal area boundaries shall be clearly marked on the ground while a site or any portion of a site is in use.~~

(10) ~~All septage discharges shall be made at a location on the site consistent with the nutrient management plan.~~

(11) ~~Grease septage shall be diluted at least 1:1 from its concentration when pumped with domestic septage or water if land applied over perennial vegetation. This dilution shall be increased if crop damage occurs.~~

(12) ~~The site shall be managed in such a manner as to minimize soil erosion and surface water runoff. Appropriate soil and water management practices shall be implemented and maintained in accordance with the Division approved erosion and run off control plan. All water control structures shall be designed, installed, and maintained to control the run off resulting from a 10 year storm.~~

(13) ~~Each site shall have a nutrient management plan indicating at least the following:~~

(A) ~~Crops that will be planted on the site, including cover crops, and where each crop will be planted. Crop planting locations shall be depicted on an aerial photograph or on a plat map (scale 1" = 660 ft. or larger).~~

(B) ~~Nitrogen needs of the crops based on the realistic yield expectations for the soils on the site, and crop management practices proposed.~~

(C) ~~Approximate crop planting and harvesting times;~~

(D) ~~Approximate monthly discharge rate to match the needs and uptake potential of the crop.~~

(14) ~~Within 90 days of the effective date of this Section, permittees of septage land application sites permitted on the effective date of this Rule shall submit to the Division for approval nutrient management plans meeting the requirements of Subparagraph (a)(13) of this Rule. A nutrient management plan shall be implemented within 30 days of Division approval, or the site shall cease receipt of septage.~~

(b) ~~Maximum land application rates for septage shall be included in individual permit conditions, based upon the following:~~

(1) ~~Domestic Septage shall be land applied in accordance with 40 CFR Part 503.12(c) and Part 503.13;~~

(2) ~~Grease septage shall be land applied at a rate that is equal to or less than the agronomic rate, but in no case shall the application of grease~~

~~septage exceed 25,000 gallons per acre per year.~~

~~(3) Pollutant limits in 40 CFR Part 503.13 shall not be exceeded for any type septage.~~

~~(4) Sites permitted for the land application of grease septage shall meet the requirements of 40 CFR Part 257.3-5.~~

~~(c) Septage treatment standards:~~

~~(1) Domestic septage shall be treated in accordance with the requirements in 40 CFR Part 503 Subpart D (including Appendix A and B) except that 503.33(b)(11) is not incorporated.~~

~~(2) Grease septage and commercial/industrial septage shall be treated in accordance with 40 CFR 257.3-6 or treated by an equivalent or more stringent process in 40 CFR 503 Subpart D.~~

~~(3) Untreated grease septage mixed with domestic septage shall be treated as grease septage.~~

~~(d) No one other than the permittee shall land apply septage at a permitted site unless approved in writing by the Division. A written request shall be received from the permittee and written authorization from the landowner(s), if different from the permittee. The request shall include the name of the firm requesting approval and the type and amount of septage proposed to be discharged.~~

~~(e) Permittees of septage land application sites shall develop and maintain records and reports to show compliance with this Section and the permit requirements of each site.~~

~~(1) Permittees of sites receiving septage shall maintain a log which meets the requirements of 40 CFR Part 503.17(b).~~

~~(2) Permittees of all septage land application sites shall have all records and certifications required to be kept available for review during any announced site inspections by the Division.~~

~~(3) The permittee of a site where more than one septage management firm has been authorized by the Division to discharge septage shall submit a monthly report to the Division which shall include the following information for each discharge: the date and quantity of each discharge, the type of septage discharged, and the name of the septage management firm discharging.~~

~~(f) Inspection and entry. The permittee shall allow a representative of the Division to:~~

~~(1) Enter the permittee's premises where a regulated facility or activity is located or conducted;~~

~~(2) Access and copy any records required in accordance with this Section or conditions of the permit;~~

~~(3) Inspect any facilities, equipment (including monitoring and control equipment), practices or operations regulated by the Division;~~

~~(4) Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or the North Carolina Solid Waste Management Act, any substances, parameters or soils at any location; and~~

~~(5) Photograph for the purpose of documenting times of compliance or noncompliance at septage management facilities, or where appropriate to protect legitimate proprietary interests, require the permittee to make such photos for the Division.~~

~~(g) A permitted septage disposal site shall not be put into use until a representative of the Division has inspected the site to determine compliance with this Rule.~~

~~(h) Methods of land application for which there are no standards in these Rules shall be permitted only if it can be demonstrated that the proposed method manages septage in a manner at least equivalent to these Rules and to protect public health and the environment. Plans shall be submitted and prepared in accordance with professional engineering principles.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0823 RECORD KEEPING FOR SEPTAGE MANAGEMENT FIRMS

~~(a) Each individual or company shall maintain a log which includes at least the following information for each septage pumping event:~~

~~(1) The date, type, and quantity of septage pumped at each location;~~

~~(2) Location of the discharge of the septage.~~

~~(b) A septage management firm shall make all records required in accordance with this Section or conditions of the permit available for inspection by a representative of the Division at the time and place of an inspection of the firm's septage pumper truck(s) or upon request.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0824 SAMPLING AND ANALYSIS

~~(a) Monitoring or sample analysis required by this Section are the responsibility of the septage management firm, site operator, or the owner of the wastewater system, as appropriate.~~

~~(b) The permittee of a septage land application site shall arrange for annual representative soil samples to be taken from each field at the permitted site during the last quarter of each calendar year.~~

~~(c) Soil samples shall be analyzed for cation exchange capacity, pH, phosphorus, potassium, calcium, manganese, magnesium, zinc, and copper. Analysis for other metals shall be required when zinc levels reach 30 pounds per acre or copper levels reach 35 pounds per acre. Sites permitted to receive septage, other than domestic septage, shall be sampled annually to determine compliance with 40 CFR 257.3-6.~~

~~(d) Industrial or commercial septage, proposed to be land applied at a permitted septage disposal site, shall be sampled prior to being removed from a system. Analytical results shall be submitted to the Division for consideration prior to the~~

issuance of a permit or approval to land apply the septage. Analysis shall be conducted for:

- (1) ~~Metals addressed in 40 CFR 503.13, barium, and silver;~~
- (2) ~~Total solids, pH, ammonia, nitrates, TKN, BOD, COD, total phosphorus, potassium, sodium and magnesium; and~~
- (3) ~~A complete Toxicity Characteristic Leaching Procedure or other appropriate sampling for organic chemicals, such as EPA Test numbers 8240 or 8270, unless an examination of the industrial process and the material used indicate less extensive analysis is acceptable.~~

~~(e) Septage shall be monitored in accordance with 40 CFR Part 503.16(b).~~

~~(f) Sample analysis shall be performed by a laboratory certified for waste analysis. Analysis shall be conducted in accordance with 40 CFR Part 503.8. Organic chemical analysis shall be conducted according to Subparagraph (d)(3) of this Rule.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0825 STANDARDS FOR SEPTAGE TREATMENT AND DETENTION FACILITIES

~~A septage land application site permittee shall provide a facility or have an alternate plan for the detention or disposal of septage during periods when the approved disposal method is not available. Sites permitted for disposal of grease septage or commercial/industrial septage, shall have a treatment facility available.~~

- (1) ~~Septage detention facilities shall have a minimum size equal to the average volume of septage pumped per week. This does not limit the maximum capacity of a septage detention facility. Capacity shall be increased if it is demonstrated during site operation that this volume is inadequate or if specific site considerations would warrant such increases.~~
- (2) ~~Septage treatment and detention facility containers shall be structurally sound and constructed of steel, concrete, or fiberglass or comparable materials and construction approved by the Division to meet the requirements of these Rules.~~
- (3) ~~Each detention and treatment facility shall be designed, constructed, and maintained in such a manner as to:~~
 - (a) ~~Prevent leaks or the flow of septage out of the facility into the seasonally high water table, onto the ground surface, or into any surface waters;~~
 - (b) ~~Minimize the attraction or admittance of vectors; and~~
 - (c) ~~Prevent unauthorized entry into septage containers or lagoons.~~
- (4) ~~Septage detention and treatment facilities located below grade shall:~~

- (a) ~~Be leak tested prior to backfilling or shall have an approved leak detection and monitoring system;~~
- (b) ~~Be protected from vehicular traffic; and~~
- (c) ~~Not be constructed of used metal tanks. Used metal tanks may be located beside a wall or embankment for gravity access as long as the entirety of the tank is visible.~~
- (5) ~~The permittee of a septage treatment or detention facilities shall control odors from such systems.~~
- (6) ~~Ground water monitoring wells or a leak detection system may be required around treatment or detention systems if necessary to assure protection of public health and the environment.~~
- (7) ~~Septage shall be transferred to and from a detention system in a safe and sanitary manner that prevents leaks or spills of septage.~~
- (8) ~~Access roads or paths crossing or leading to the facility shall be posted "NO TRESPASSING".~~
- (9) ~~Lined lagoons may be permitted at sites where the construction and use of a lagoon shall not jeopardize the public health or environment. Portions of lined lagoons may be located below grade in accordance with Sub item (10)(e) of this Rule.~~
 - (a) ~~Only lagoons designed, constructed and inspected in accordance with accepted engineering principles providing for the protection of the underlying groundwater will be considered for use in a septage treatment or detention system. The Division shall receive a written certification that the construction was completed in accordance with the approved plans prior to any waste being introduced into the system.~~
 - (b) ~~Liners shall be a minimum of 12 inches of clay compacted to a maximum permeability of 10⁻⁷ cm/sec or equivalent synthetic liner.~~
 - (c) ~~Synthetic liners shall have a minimum thickness of 30 mils. A synthetic liner shall have a demonstrated water vapor transmission rate of not more than 0.03 gm/m² day. Liner material and any seaming materials shall have chemical and physical resistance not adversely affected by environmental exposure or waste placement.~~
 - (d) ~~Clay liners with a permeability more than 10⁻⁷ cm/sec may be used in conjunction with a synthetic liner to~~

- ~~meet the maximum permeability of 10-7 cm/sec or equivalent.~~
- ~~(e) The surface of the supporting soil on which the liner will be installed shall be reasonably free of stones, organic matter, protrusions, loose soil, and any abrupt changes in grade that could affect the integrity of the liner.~~
 - ~~(f) Lagoons shall be designed and maintained to have adequate storage to handle the additional water from a 25-year storm.~~
 - ~~(g) Pathogen reduction, as required in Paragraph (c) of Rule .0822 shall be achieved prior to the discharge of any septage or any part of the septage into a storage lagoon.~~
 - ~~(10) Septage detention and treatment facilities not located on a permitted septage land application site shall be located at least the minimum distance from the following:~~
 - ~~(a) Residence, place of business, or place of public assembly 100 feet;~~
 - ~~(b) Well or water supply spring 100 feet;~~
 - ~~(c) Surface waters 100 feet;~~
 - ~~(d) Property lines 50 feet;~~
 - ~~(e) Soil wetness, as determined in Part (a)(2)(A) of Rule .0821 12 inches; and~~
 - ~~(f) Setbacks in Sub-items (a) and (d) of this Item may be in accordance with local zoning ordinances if located in areas zoned for industrial use.~~
 - ~~(11) Septage shall not be stored in a detention system for more than six months.~~
 - ~~(12) Septage shall not be stored or treated at a permitted septage treatment or detention facility until a representative of the Division has inspected the facility to determine compliance with this Rule.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0826 LAND USE AND SITE CLOSURE

- ~~(a) The site restrictions in 40 CFR 503.32(c) of Subpart D; shall be adhered to.~~
- ~~(b) Nursery and horticultural products, trees and other forest products, including but not limited to pine straw and pine bark, shall not be harvested or gathered for 30 days after septage application.~~
- ~~(c) Public access is to be controlled in accordance with 40 CFR 503.32(c) of Subpart D.~~
- ~~(d) The permittee or operator of the site shall notify the Division at least 30 days prior to final closure of a septage land application site in order to schedule a site inspection for determination of compliance with this Section.~~

- ~~(e) Prior to final closure, the soil pH of the site shall be raised to 6.5, unless the fertility requirements for crops to be grown in the following year dictate less.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0827 TRANSPORTATION OF SEPTAGE

- ~~(a) All septage shall be transported in a safe, sanitary manner that prevents leaks and spills and comply with the following:~~
 - ~~(1) All tanks shall be constructed of metal and permanently attached to the truck bed, unless otherwise approved by the Division;~~
 - ~~(2) All valves shall be in proper working order and be completely closed during transportation; and~~
 - ~~(3) All access ports shall have proper fitting lids in good repair and be completely closed during transportation.~~
- ~~(b) All permitted septage management firms, shall display decals or lettering on each side of every pumper vehicle operated by the firm. The decals or lettering shall include the name, address (town name), phone number, and septage management firm permit number. All decals or lettering on the pumper vehicle shall be no less than three inches in height and plainly visible. Identification shall be permanently attached (ie., no removable signs).~~
- ~~(c) Applicants for septage management firm permits which were not permitted in the previous calendar year shall have each pump truck inspected prior to the Division's issuance of a permit.~~
- ~~(d) Septage to be discharged at a wastewater treatment plant or any part of the collection system for that plant shall be handled in accordance with the plant rules and policies.~~
- ~~(e) Vehicles used in the transportation of septage may remain loaded or partially loaded on land owned by the septage management firm for up to seven days without obtaining a permit for a detention or treatment facility. Such vehicles shall comply with all parts of this Rule.~~

Authority G.S. 130A-291.1.

15A NCAC 13B .0828 REVOCATION OF PERMITS

The Division shall suspend or revoke permits in accordance with G.S. 130A-23.

Authority G.S. 130A-291.1.

15A NCAC 13B .0829 APPEALS

Appeals shall be made in accordance with G.S. 150B.

Authority G.S. 130A-291.1.

15A NCAC 13B .0830 INCORPORATION BY REFERENCE

- (a) All Sections of the Code of Federal Regulations (CFR) cited in this Section are hereby incorporated by reference, including subsequent amendments or additions.

(b) Copies of Federal statutes, test methods and procedures, and other published standards referenced in this Section are hereby incorporated by reference, including subsequent amendments or additions.

(c) Copies of all material incorporated by reference are available for inspection at the Department of Environment and Natural Resources, Division of Waste Management, Solid Waste Section, 401 Oberlin Road, Raleigh, N.C. 27699-1646.

Authority G.S. 130A-291.1.

15A NCAC 13B .0831 DEFINITIONS

As used in this Section:

- (1) "Agronomic rates" are defined as those rates that provide the nitrogen and other nutrient needs of the crop based on available realistic yield expectations (RYE) established for a soil series through published Cooperative Extension Service bulletins, Natural Resources Conservation Service publications or county soil surveys, but do not overload the soil with nutrients or other constituents which may eventually leach to groundwater, limit crop growth, or adversely impact soil quality.
- (2) "Annual septage application rate" means the maximum amount, in gallons, of septage that can be applied to a unit area of land during a 365-day period.
- (3) "CFR" means Code of Federal Regulations. All CFRs cited herein may be obtained at Government Institutes, Inc., 4 Research Place, Suite 200, Rockville, Md, 20850-1714 or at <http://www.gpoaccess.gov/cfr/>. Copies are also available for review at 401 Oberlin Road, Raleigh, North Carolina 27604.
- (4) "Department" as defined in G.S. 143-212.
- (5) "Division" means the Division of Waste Management in the Department. All rules cited in this Section, under the authority of the Division, may be obtained at 401 Oberlin Road, Raleigh, North Carolina 27604, or at the Division's web page at www.wastenotnc.org.
- (6) "Land application" shall mean the spraying or spreading of residuals onto the land surface; the injection of residuals below the land surface; or the incorporation of residuals into the soil so that the residuals can condition the soil or fertilize crops or vegetation grown in the soil.
- (7) "Licensed Geologist" means an individual who is licensed to practice geology in accordance with G.S. 89E.
- (8) "Nutrient Management Plan" means a plan to define the management requirements and nutrient needs of crops to be grown on a septage land application site, including the amount, sources, placement and timing of nutrient applications to maximize the nutrient uptake of the crop. Plan implementation

should protect the environment and maintain crop productivity.

- (9) "Place of business" means any store, warehouse, manufacturing establishment, place of amusement or recreation, service station, food handling establishment, office, or any other place where people work or are served.
- (10) "Place of public assembly" means any fairground, auditorium, stadium, church, campground, theater, school, or any other place where people gather or congregate.
- (11) "Professional Engineer" means an individual who is licensed to practice engineering in accordance with G.S. 89C.
- (12) "Residence" means any habitable home, hotel, motel, summer camp, labor work camp, mobile home, dwelling unit in a multiple-family structure, or any other place where people reside.
- (13) "Rock" means the consolidated or partially consolidated mineral matter or aggregate, including bedrock or weathered rock, not exhibiting the properties of soil.
- (14) "Seasonal High Water Table" or "SHWT" is the highest level to which the soil is saturated, as may be determined through the identification of redoximorphic features in the soil profile including low chroma mottling. This does not include temporary perched conditions. Alternatively, the SHWT can also be determined from water level measurements or via soil/groundwater modeling.
- (15) "Septage" means septage as defined in G.S. 130A-290(a)(32) and also shall include washings from the interior of septage handling containers, including pumper trucks.
- (16) "Septage Management Facility" means land, personnel, and equipment used in the management of septage, including but not limited to, land application sites.
- (17) "Soil" means the unconsolidated mineral and organic material of the land surface. It consists of sand, silt, and clay minerals and variable amounts of organic materials.
- (18) "Soil Scientist" means an individual who is licensed to practice soil science in accordance with G.S. 89F.
- (19) "Soil textural classes" means soil classification based upon size distribution of mineral particles in the fine-earth fraction less than two millimeters in diameter. The fine-earth fraction includes sand (2.0 – 0.05 mm in size), silt (0.05 mm – 0.002 mm), and clay (less than 0.002 mm in size) particles. The specific textural classes are defined as follows:
 - (a) "Sand" means soil material that contains 85 percent or more of sand; the percentage of silt plus 1.5 times

- the percentage of clay shall not exceed 15;
- (b) "Loamy sand" means soil material that contains at the upper limit 85 to 90 percent sand, and the percentage silt plus 1.5 times the percentage of clay is not less than 15; at the lower limit contains not less than 70 to 85 percent sand, and the percentage of silt plus twice the percentage of clay does not exceed 20;
- (c) "Sandy loam" means soil material that contains either 20 percent clay or less, and the percentage of silt plus twice the percentage of clay exceeds 30, and contains 52 percent or more sand; or less than 7 percent clay, less than 50 percent silt, and between 43 and 52 percent sand;
- (d) "Loam" means soil material that contains 7 to 27 percent clay, 28 to 50 percent silt, and less than 52 percent sand;
- (e) "Silt loam" means soil material that contains 50 percent or more silt and 12 to 27 percent clay; or contains 50 to 80 percent silt and less than 12 percent clay;
- (f) "Silt" means soil material that contains 80 percent or more silt and less than 12 percent clay;
- (g) "Sandy clay loam" means soil material that contains 27 to 40 percent clay and less than 20 percent sand;
- (h) "Clay loam" means soil material that contains 27 to 40 percent clay and 20 to 45 percent sand;
- (i) "Silty clay loam" means solid material that contains 27 to 40 percent clay and 20 to 45 percent sand;
- (j) "Sandy clay" means soil material that contains 35 percent or more clay and 45 percent or more sand;
- (k) "Silty clay" means soil material that contains 40 percent or more clay and 40 percent or more silt; and
- (l) "Clay" means soil material that contains 40 percent or more clay and 40 percent or more silt.
- (20) "Technical specialist" means an individual designated by the Soil and Water Conservation Commission, pursuant to rules adopted by that Commission, to certify animal waste management plans.
- (21) "Treatment of septage" means the preparation of septage for final use or disposal. Treatment includes, but is not limited to, thickening,

stabilization, and dewatering of septage. Treatment does not include storage of septage.

Definitions in 40 CFR 503.9(d), (g), (h), (j), (k), (l), (r), (t), (u), (v), (w), (bb), and in 40 CFR 503.11(a), (b), (c), (d), (f), (g), (h), (I), (k), (l), (m), (n) are incorporated by reference including subsequent amendments and editions. Copies of the Code of Federal Regulations may be obtained from the Solid Waste Section at no cost.

Authority G.S. 130A-291.1.

15A NCAC 13B .0832 GENERAL PROVISIONS

(a) General permitting requirements.

- (1) No person shall manage septage, or any part of septage, or operate a Septage Management Firm without first obtaining a permit from the Division as required under G.S. 130A-291.1(c);
- (2) The permit requirement of G.S. 130A-291.1(c) applies to persons who remove septage, and other waste materials or spent media from wastewater systems permitted by the Division of Environmental Health, under the authority of Article 11, Chapter 130A of the North Carolina General Statutes;
- (3) The permit requirement of G.S. 130A-291.1(c) applies to persons who manage septage generated from properties which they own, lease or manage as part of a business, including but not limited to mobile homes, mobile home parks, restaurants, and other residential and commercial property;
- (4) The Division may deny a permit application, in accordance with G.S. 130A-295.3, if the applicant has a history of significant or repeated violations of statutes, rules, orders, or permit terms or conditions relating to any solid waste management facility for the protection of the environment or for the conservation of natural resources as evidenced by civil penalty assessments, administrative or judicial compliance orders, or criminal penalties;
- (5) The Division may require an applicant, in accordance with G.S. 130A-294(b2)(2) to demonstrate substantial compliance with the requirements applicable to any solid waste management activity in which the applicant has previously engaged and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the environment;
- (6) All conditions for permits issued in accordance with this Section shall be followed;
- (7) Where specified in this Section permit applications or specific portions of applications shall be prepared by a qualified environmental professional in accordance with 15A NCAC 13B .0202(a)(3); and
- (8) Initial septage land application site and detention and treatment facility permits will be

issued for a maximum of one year. Subsequent permits will be issued for five years if the facility has not had a major violation or repeat minor violations and records have been maintained in accordance with this Section.

(b) Portable sanitation permitting provisions.

- (1) A mobile or modular office that meets the criteria of G.S. 130-291.2 shall be considered a chemical or portable toilet as defined in G.S. 130A-290(1c). Leaks or overflows of the storage tank at a mobile or modular office shall be considered illegal land application and shall be the responsibility of the office occupant and owner of the mobile or modular office.
- (2) No person shall rent or lease portable toilet(s) or manage or dispose of waste from portable toilet(s), regardless of ownership of the toilet(s) unless that person is permitted to operate a septage management firm.
- (3) Placement of a chemical or portable toilet as defined in G.S. 130A-290(1c) for potential use in North Carolina shall be considered operation of a septage management firm which requires a permit.

(c) Recreational vehicle waste provisions.

- (1) Domestic septage from a recreational vehicle shall be managed in accordance with this Section or shall flow directly into a wastewater treatment system permitted by the Department of Environment and Natural Resources.
- (2) Wastewater from recreational vehicles that are tied down, blocked up, or are not relocated on a regular basis, and are not connected to an approved wastewater system, shall be managed in accordance with Article 11, Chapter 130A of the NC General Statutes.
- (3) Recreational vehicle dump stations that do not discharge directly to a wastewater treatment system permitted by the Department of Environment and Natural Resources shall be permitted as a septage detention and treatment facility in accordance with this Section.

(d) Alternate septage management method limitations.

- (1) Grease septage, or any part of grease septage, shall not be introduced or reintroduced into a grease trap, interceptor, separator, or other appurtenance used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup unless the Division has received written approval from the wastewater treatment plant operator or the onsite wastewater system permitting authority that reintroduction is acceptable.
- (2) Septage, or any part of septage, shall not be reintroduced into an onsite wastewater system unless approved pursuant to G.S. 130A-343(c).

- (3) Septage, or any part of septage, shall not be placed in containers at restaurants designated for yellow grease.
- (4) Septage, or any part of septage, shall not be disposed of in a municipal solid waste landfill unless the waste passes the paint filter test and the landfill receiving the waste has provided the Division written documentation that the specific material will be accepted.
- (5) Septage, or any part of septage, shall not be disposed of in a dumpster unless the waste passes the paint filter test, the landfill receiving the waste is a properly permitted municipal solid waste landfill, in accordance with 15A NCAC 13B .1600, and the landfill operator has provided the Division written documentation that the specific material will be accepted.
- (6) Septage, or any part of septage, managed through subsurface disposal shall be considered a treatment facility and shall require a permit in accordance with this Section and G.S. 130A-343.
- (7) Facilities receiving septage, or any part of septage, for composting shall be permitted in accordance with Section .1400 of these Rules.

(e) All training, to meet the requirements of G.S. 130A-291.3(a) and (b), must be pre-approved by the Division.

(f) Waste from holding tanks, not otherwise addressed in this Section, and from wastewater systems pumped more often than every 30 days shall not be considered domestic septage and shall not be land applied at a permitted septage land application site.

(g) Inspection and entry. The permit holder of a septage management firm or facility shall allow a representative of the Division to:

- (1) Enter the permit holder's premises where a regulated facility or activity is located or conducted;
- (2) Access and copy any records required in accordance with this Section or conditions of the permit;
- (3) Inspect any facilities, equipment (including monitoring and control equipment), practices or operations regulated by the Division;
- (4) Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or the North Carolina Solid Waste Management Act, any substances, parameters or soils at any location; and
- (5) Photograph for the purpose of documenting times of compliance or noncompliance at septage management facilities, or where appropriate to protect legitimate proprietary interests, require the permit holder to make such photos for the Division.

(h) Failure of a person to follow a requirement in any rule set forth in this Section or the taking of any action in contradiction

of a prohibition in any rule set forth in this Section shall constitute a violation of that rule.

Authority G.S. 130A-291.1.

15A NCAC 13B .0833 SEPTAGE MANAGEMENT FIRM PERMITS

(a) Septage management firm names must be clearly distinguishable upon the records of the Division from the name of other septage management firms, limited liability companies, non-profit corporations, business corporations, limited partnerships, sole proprietors, general partners and limited liability partnerships operating in North Carolina. Naming preference will be given to companies that are listed as incorporated with the NC Secretary of State's office.

(b) A person that has not operated a septage management firm during the previous calendar year shall obtain four hours of new operator training from the Division prior to receiving a permit to operate a septage management firm.

(c) To apply for a permit, a person proposing to operate a septage management firm shall submit the following information to the Division by January 1 of each year:

- (1) Owner's name, address and phone number;
- (2) Business name, address and phone number;
- (3) Operator name, address and phone number, if different from owner;
- (4) Permit number, if existing firm;
- (5) Type(s) of septage handled, and the quantity pumped the previous 12 months, if in operation;
- (6) Number of pumper trucks;
- (7) Capacity and type of septage handled by each pumper truck;
- (8) Vehicle license and serial numbers of each pumper truck;
- (9) Counties in which the firm operates;
- (10) Disposal method(s) for septage;
- (11) Permit number for each septage land application site to be used;
- (12) Permit number for each septage detention and treatment facility to be used;
- (13) Technical information pertinent to the operation of a septage management firm;
- (14) Written authorization on official letterhead or a notarized wastewater treatment plant authorization form shall be submitted from an individual responsible for the operation of each wastewater treatment plant used for disposal indicating:
 - (A) Type(s) of septage which can be discharged at the plant;
 - (B) Where septage, including grease septage, can be discharged at the plant or in the collection system;
 - (C) Geographic area from which septage will be accepted; and
 - (D) Duration of authorization.
- (15) The appropriate annual permit fee in accordance with G.S. 130A-291.1(e); and

- (16) The date, location, number of hours, and provider of annual septage management firm training required in accordance with G.S. 130A-291.3(a).

(d) Persons that operate a septage land application site or a septage treatment and detention facility, but do not pump septage, shall submit the following information to the Division by January 1 of each year to apply for a permit:

- (1) Facility name, address, phone number, and county;
- (2) Owner's name, address and phone number;
- (3) Operator name, address and phone number, if different from owner;
- (4) Permit number, if existing firm;
- (5) Type(s) of septage managed;
- (6) Facility types and their permit numbers;
- (7) The name and permit number of all permitted septage management firms using the facility;
- (8) The date, location, number of hours, and provider of annual training in accordance with G.S. 130A-291.3(b); and
- (9) The appropriate annual permit fee in accordance with G.S. 130A-291.1(e1).

(e) A septage management firm permit shall not be issued unless the applicant has submitted to the Division written documentation of authorized access to dispose or otherwise manage septage, or any part of septage, at a wastewater treatment plant, a permitted septage land application site, a permitted septage treatment facility, or other appropriately permitted solid waste management facility. Documentation from each plant, site, or other facility shall include the types and amount of septage which may be discharged.

(f) Septage management firm permits shall not be issued until all parts of the application have been completed to the satisfaction of the Division.

(g) A septage management firm permit shall not be issued to firms that pump septage until its pumper truck(s) have been inspected and approved.

(h) The Division may refuse to process a permit application if the applicant has any unsettled administrative penalties, overdue penalty payments, or pump trucks that do not meet the requirements of this Section.

(i) Permits are non-transferable.

(j) Septage management firm permits are issued for one calendar year, beginning January 1. Permits issued after January 1 shall be effective only until December 31 of that calendar year.

Authority G.S. 130A-291.1.

15A NCAC 13B .0834 PERMIT FEES

(a) Every septage management firm shall pay an annual permit fee by January 1 of each year in accordance with G.S. 130A-291.1(e) or (e1), unless the firm notifies the Division prior to January 1 that the firm will not operate during the next year. Fees shall be paid to the Division of Waste Management, Solid Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646. This fee may be paid by check or money order made payable to the Division of Waste Management.

- (b) Annual fees are not pro-rated and shall not be refunded or credited to a subsequent year.
- (c) Failure to apply for permit renewal or failure to pay the permit fee by January 1 shall result in assessment of a late fee in accordance with G.S. 130A-291.1(e2). Failure to pay the appropriate fees within 45 days after January 1 shall result in an additional administrative penalty pursuant to G.S. 130A-22(a) of ten dollars (\$10.00) per day for each day thereafter that the fees are not paid.
- (d) Annual permit renewal, including fee payment, shall be the responsibility of the operator of the septage management firm. If the operator did not receive annual permit renewal forms, it shall not be a defense to assessment of late fees.
- (e) A food service facility that is permitted to operate a septage detention facility in accordance with Rules .0836 and .0833 of this Section and that has paid the fee specified in G.S. 130A-291.1(e1) will be allowed to empty their own grease interceptors, separators, traps, or other appurtenances used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup, that have a volume of 25 gallons or less, into the permitted detention facility. The permitted facility shall be constructed and located in accordance with the requirements of .0841 and emptied at least quarterly by a permitted septage management firm.

Authority G.S. 130A-291.1.

15A NCAC 13B .0835 SEPTAGE LAND APPLICATION SITE PERMITS

- (a) No person shall establish, or allow to be established on his land, a septage management facility to, treat, manage, store, or dispose of septage, or any component of septage, unless a permit has been obtained from the Division. Disposal of septage by trenching or burial is prohibited under the rules of this Section.
- (b) Any person that has not operated as a septage land application site during the previous calendar year shall receive at least three hours of new land application site operator training from the Division prior to receiving a permit to operate a septage land application site.
- (c) To apply for a permit for a septage land application site, the following information shall be submitted to the Division:
- (1) Location of the site;
 - (2) Name, address, and phone number of:
 - (A) the applicant;
 - (B) the land owner or the owner's legal representative in control of the site;
 - and
 - (C) the proposed operator;
 - (3) Written authorization to operate a septage land application site signed by each landowner (if other than the permit holder) or his legal representative;
 - (4) Types of septage (as defined in G.S. 130A-290) and the proposed annual volume of each type of septage proposed for land application per acre, based on the nutrient management plan submitted.
 - (5) Substances other than septage previously disposed of at this location, and the amounts of those substances;
 - (6) Aerial photography extending for a distance of at least 2500 feet in all directions from the site, with site property boundaries accurately depicted. Photograph scale shall be 1" = 400 feet or less; Alternative plan for the detention or disposal of septage, during adverse weather conditions;
 - (7) Treatment method for each type of septage to be discharged and the permit number of any treatment facilities;
 - (8) Vicinity map (county road map) showing the site location;
 - (9) A written report that documents compliance with Rule .0837 of this Section prepared by a Soil Scientist, licensed to practice in accordance with G.S. 89F, including, but not limited to the following:
 - (A) A written report that documents compliance with Rule .0837 of this Section prepared by a Soil Scientist, including, but not limited to the following: A representative soils analysis (i.e., Standard Soil Fertility Analysis), conducted within the last six months, on each proposed field of each proposed land application site. The Standard Soil Fertility Analysis shall include, but is not necessarily limited to: acidity, base saturation (by calculation), calcium, cation exchange capacity, exchangeable sodium percentage (by calculation), magnesium, manganese, percent humic matter, pH, phosphorus, potassium, and sodium;
 - (B) A total metal analysis for each proposed field shall be conducted for arsenic, cadmium, copper, lead, nickel, selenium, and zinc. A North Carolina Department of Agriculture & Consumer Services (NCSA&CS) mehlich-3 extraction is an acceptable substitute for a total metal analysis. Mercury shall be sampled if the applicant proposes to land apply domestic or industrial or commercial treatment plant septage, or if warranted by previous site use;
 - (C) Field description of soil profile(s), based on examinations of excavation pits and auger borings, within four feet of the land surface or to bedrock describing the following parameters by individual diagnostic horizons: thickness of the horizon; texture; color and other diagnostic features;

- structure; internal drainage; depth, thickness, and type of restrictive horizon(s); and presence or absence and depth of evidence of any seasonal high water table. Applicants may be required to dig pits when necessary for proper evaluation of the soils at the site;
 - (D) A soil map, scale 1" = 400 feet or less, delineating major soil mapping units within each proposed land application site and showing all physical features, location of pits and auger borings, applicable setbacks, legends, scale, and a north arrow; and
 - (E) If the annual application rate is proposed to exceed 125,000 gallons per acre per year field descriptions to a depth of six feet, shall be required.
 - (F) Global Positioning System (GPS) data compatible with the Department's datalogger shall be provided for proposed sites 30 acres or more in size.
- (10) Applicants proposing to land apply 200,000 gallons per acre per year or more shall provide a plan for monitoring soil moisture levels and the depth to seasonal wetness to determine when land application can occur without impacting ground water or hydraulic overloading. The plan shall include recommendations concerning annual and instantaneous loading rates of liquids, solids, other wastewater constituents and amendments based on in-situ measurement of saturated hydraulic conductivity in the most restrictive horizon. This plan shall be prepared by a Professional Engineer, Licensed Geologist or Licensed Soil Scientist;
- (11) Nutrient management plan, prepared by a Technical Specialist, including at least the following:
 - (A) Crops that will be planted on the site, including cover crops, and where each crop will be planted. Crop planting locations shall be depicted on an aerial photograph or on a plat map (scale 1" = 400 feet or less);
 - (B) Nitrogen needs of the crops based on the realistic yield expectations for the soils on the site, and crop management practices proposed;
 - (C) Crop stand density required to meet the realistic yield expectations for the proposed crop;
 - (D) Approximate crop planting times and the seeding or sprigging rates for crops to be established;
 - (E) Crop harvest frequency appropriate for the proposed realistic yield expectations and nitrogen needs, and approximate crop harvest times;
 - (F) Approximate monthly discharge rate to match the nitrogen needs and potential uptake of the crop;
 - (G) Sites proposed to receive more than 50,000 gallons per acre per year of domestic septage, or domestic or industrial or commercial treatment plant septage shall include nitrogen carry over when determining annual application rates;
 - (H) Weed control recommendations;
 - (I) Crop use or removal;
 - (J) Results from at least four samples of treated septage if the application is proposing an increased application rate for the land application of septage treated to reduce nutrients;
 - (K) A Technical Specialist is not required for nutrient management plans for subsequent applications that do not contain changes that would affect nutrient uptake; and
 - (L) All nutrient management plans shall bear the signature of the site operator.
- (12) Application rates for sites proposed to receive treated septage shall be determined based on the most limiting nutrient;
- (13) Erosion and runoff management plan showing:
 - (A) Buffer locations and widths based on the direction and amount of slope adjacent to the land application site;
 - (B) Vegetation type and stand density in the buffer areas; and
 - (C) Buffer maintenance fertility requirements.
- (14) Proposed land application method.
- (15) Proposed distribution plan if required in Paragraph (e) of Rule .0837 of this Section;
- (16) Sites proposing to use spray irrigation as a land application method shall include:
 - (A) The location of all fixed irrigation heads or the location of traveling gun irrigation lanes;
 - (B) Irrigation head spacing and traveling gun lane spacing shall be determined based on standards in NC Cooperative Extension Documents AG-553-6 and AG-553-7 or other similar publications;
 - (C) The size of all spray nozzles;
 - (D) System operating pressure at the irrigation head;
 - (E) Calculation of the wettable acres vs. permitted acreage;

- (F) Calibration methods and frequency; and
- (G) Irrigation system operation and maintenance plan.
- (17) Demonstration from the appropriate State or Federal Government agency that the land application site complies with Paragraph (g) of Rule .0837 of this if any part of the site specified for land application is not agricultural land;
- (18) The date, location, number of hours, and provider of annual septage land application site operator training required in accordance with G.S. 130A-291.3(b);
- (19) Technical information pertinent to the suitability of the proposed site;
- (20) An applicant who proposes to land apply septage, as defined in G.S. 130A-290, on a public contact site, shall provide the Division evidence of adequate public notice and the applicant shall have successfully completed the Land Application of Residuals and Biosolids Course and maintain a Land Application of Residuals Certificate given by the Department of Environment and Natural Resources;
- (21) An applicant who proposes to land apply commercial/industrial treatment plant septage or domestic treatment plant septage, as defined in G.S. 130A-290, shall have successfully completed the Land Application of Residuals and Biosolids Course and maintain a Land Application of Residuals Certificate given by the Department of Environment and Natural Resources; and
- (22) An applicant who proposes to land apply septage, as defined in G.S. 130A-290, in excess of 50,000 gallons per acre per year shall have successfully completed the Land Application of Residuals and Biosolids Course and maintain a Land Application of Residuals Certificate issued by the Department of Environment and Natural Resources

(d) Application rates for septage in excess of 50,000 gallons per acre per year and permits to land apply domestic, or industrial or commercial treatment plant septage shall not be granted to persons who have not demonstrated that they can properly operate a septage land application site for at least a 12 month period.

(e) Applications shall be submitted to the Division of Waste Management, Solid Waste Section, 1646 Mail Service Center, Raleigh NC 27699-1646. Applications for permits will not be reviewed until all parts of the application have been properly completed and submitted to the Division.

(f) Applications for sites or treatment methods which do not meet the standards in accordance with this Section shall be denied.

(g) Applications for renewal permits shall be submitted to the Division at least 90 days prior to the expiration date of the

permit. The Division will notify permit holders of facility permit expiration dates 120 days prior to permit expiration.

(h) Applications for permit modification shall be required for the following changes:

- (1) Permitted area or field boundaries;
- (2) Property ownership;
- (3) Annual application rates;
- (4) Receiver crop; or
- (5) Types of septage discharged.

(i) Applications for subsequent permits submitted in accordance with Paragraph (g) of this Rule and applications for permit modifications may not be required to resubmit the information required in Subparagraphs (c)(6), (8), (9), (10), (16), (17), and (18) of this Rule unless changes are made in those plans.

(j) Septage land application site permits are not transferable.

(k) Maximum permit duration is five years.

(l) Issuance of a permit does not relieve the permit holder of the responsibility of obtaining applicable zoning approvals prior to operation of the site.

Authority G.S. 130A-291.1.

15A NCAC 13B .0836 SEPTAGE DETENTION AND TREATMENT FACILITY PERMITS

(a) No person, shall establish on his land, or allow to be established on his land, a septage detention facility, unless a permit for the facility has been obtained from the Division or the facility is operating in accordance with a NPDES permit issued by the NC Division of Water Quality.

(b) Septage detention and treatment facilities shall be designed, located, constructed, and operated in accordance with the standards specified in Rule .0841 of this Section.

(c) To apply for a permit for a septage detention or treatment facility the applicant shall submit the following information to the Division:

- (1) Name, address, and phone number of:
 - (A) the applicant;
 - (B) land owner or the owner's legal representative in control of the site; and
 - (C) the proposed operator;
- (2) Location of the facility;
- (3) Vicinity map or county road map showing the site location;
- (4) Types of septage to be stored or treated;
- (5) A description of the facility including the size, number, and type of structures to be used at the site and construction materials to be used;
- (6) An explanation of the methods for discharge into and removal from the detention or treatment facility, the methods for treating leaks or spills at the site, and methods for odor control;
- (7) Septage land application site permit number and the name of any wastewater treatment plant(s) where the septage will be disposed;
- (8) Written documentation of acceptable locations to manage any solid or liquid wastes generated at a treatment facility;

- (9) An aerial photograph, extending for a distance of at least 1,000 feet in all directions from the site property lines, scale 1" = 400 feet or less; Written authorization to operate a septage detention or treatment facility signed by each landowner (if other than the permit holder) or his legal representative; and
- (10) Technical information pertinent to the suitability of the proposed facility.
- (d) To apply for a permit to construct a septage treatment facility and obtain an interim permit to operate the facility, for a period not to exceed 12 months, detailed plans and specifications shall be prepared by a Professional Engineer. The plans shall bear an imprint of the registration seal of the engineer. Treatment shall include, but not be limited to, aerobic or anaerobic digestion, dewatering or thickening, pressing, centrifuging, the use of organisms or enzymes, and pathogen reduction methods or vector attraction reduction methods other than lime stabilization. In addition to the requirements of Paragraph (c) of this Rule, the plans shall include:
- (1) Site plan at a scale appropriate to show the detail of the facility, but in no case greater than 100 feet per inch;
 - (2) Engineering plans for the entire system, including treatment, storage, and disposal equipment, and containment structures;
 - (3) Detail drawings shall be at a scale appropriate to show pumps, tanks, valves, controls, meters, pipes, and other items critical to the operation of the facility;
 - (4) An operation and maintenance manual outlining detailed information and instruction on how the facility is to be operated, equipment maintenance, required safety and personnel training, and an outline of reports to be submitted to the Division. Contingency plans shall be included to address at least equipment failure, human error, inclement weather, and spill and leak cleanup;
 - (5) A quality assurance plan for the process and final product if treatment involves meeting pathogen reduction or vector attraction reduction standards.
- (e) A permit to operate a septage treatment facility will be issued pending receipt of the following:
- (1) Engineer certification that the construction of the treatment facility is complete and consistent with the plans approved as part of the permit to construct;
 - (2) An updated operation and maintenance manual, including all the information required in Subparagraph (d)(4) of this Rule;
 - (3) As built drawings bearing an imprint of the registration seal of the engineer if facility construction is not consistent with the approved plans;
 - (4) Operation and maintenance manuals and quality assurance plans signed by the applicant; and
- (5) Acceptable compliance history for the facility.
- (f) A permit for a new septage detention or a septage treatment facility will not be issued until the proposed site has been approved by the Division.
- (g) Operation of a new septage detention or a new septage treatment facility shall not commence until the facility has been inspected by the Division and found to be consistent with the permit application.
- (h) A permit to operate a treatment facility shall not be issued until the facility has been inspected by the Division and found to be consistent with the permit application and operation has been found to be consistent with the operation and maintenance manual.
- (i) Application packages for permit renewals shall include, but not necessarily be limited to:
- (1) Updated Engineer drawings if there are changes to the facility.
 - (2) Updated site plans (if required as part of original submittal) if there are changes to the site plan.
 - (3) A revised operation and maintenance manual.
 - (4) A revised quality assurance plan for the process and final product if treatment involves meeting pathogen reduction or vector attraction reduction standards.
- (j) Detailed plans and specifications for marina detention tanks that do not meet the minimum setbacks in Rule .0841(n) of this Rule or are located below grade shall be submitted by a Professional Engineer. The plans shall bear an imprint of the registration seal of the engineer. These facilities shall be certified not to leak by the engineer and the certification shall bear an imprint of the registration seal of the engineer.
- (k) Parts of detention and treatment facilities located below grade and lagoons shall be certified not to leak by a Professional Engineer. The certification shall bear an imprint of the registration seal of the engineer.
- (l) Applications shall be submitted to the Division of Waste Management, Solid Waste Section, 1646 Mail Service Center, Raleigh NC 27699-1646. Applications for permits will not be reviewed until all parts of the application have been properly completed and submitted to the Division.
- (m) Applications for subsequent permits shall be made at least 90 days prior to the expiration of the permit. The Division will notify permit holders of facility permit expiration dates 120 days prior to permit expiration.
- (n) Applications for subsequent permits submitted in accordance with Paragraph (l) of this Rule and applications for permit modifications may not be required to resubmit the information required in Subparagraphs (c)(3) and (9), and Paragraph (d) of this Rule unless changes are made in those plans.
- (o) Septage detention and treatment facility permits are not transferable.
- (p) Maximum permit duration is five years.
- (q) Applications for permit modifications shall be required for changes in:
- (1) Property ownership;
 - (2) Treatment methods;
 - (3) Types of septage to be stored or treated; or

(4) Size and number of treatment or storage structures.

(r) Applications for facilities which do not meet the standards set forth in this Section shall be denied.

(s) An application requesting reduced setbacks in accordance with Rule .0841(n)(7) of this Section shall include a letter from the appropriate local zoning office, approving proposed reduced setbacks.

(t) Issuance of a permit does not relieve the permit holder of the responsibility of obtaining applicable zoning approvals prior to operation of the facility.

Authority G.S. 130A-291.1.

15A NCAC 13B .0837 LOCATION OF SEPTAGE LAND APPLICATION SITES

(a) Soil characteristics (Morphology) which shall be evaluated are as follows:

(1) Texture – The relative proportions of the sand, silt, and clay sized mineral particles in the fine-earth fraction of the soil are referred to as soil texture. The texture of the different horizons of soils shall be classified into three general groups and 12 soil textural classes based upon the relative proportions of sand, silt, and clay sized mineral particles.

(A) Soil Group I – Sandy Texture Soils: The sandy group includes the sand and loamy sand textural classes.

(B) Soil Group II – Coarse Loamy and Fine Loamy Texture Soils: The coarse loamy and fine loamy group includes sandy loam, loam, silt, silt loam, sandy clay loam, clay loam, and silty clay loam textural classes.

(C) Soil Group III – Clayey Texture Soils: The clayey group includes sandy clay, silty clay, and clay textural classes.

(2) The soil textural class shall be determined in the field by hand texturing samples of each soil horizon in the soil profile using the following criteria:

(A) Sand: Sand has a gritty feel, does not stain the fingers, and does not form a ribbon or ball when wet or moist;

(B) Loamy Sand: Loamy sand has a gritty feel, stains the fingers, forms a weak ball, and cannot be handled without breaking;

(C) Sandy Loam: Sandy loam has a gritty feel and forms a ball that can be picked up with the fingers and handled with care without breaking;

(D) Loam: Loam may have a slightly gritty feel but does not show a fingerprint and forms only short ribbons of from 0.25 inch to 0.50 inch in length. Loam will form a ball that can be handled without breaking;

(E) Silt Loam: Silt loam has a floury feel when moist and will show a fingerprint but will not ribbon and forms only a weak ball;

(F) Silt: Silt has a floury feel when moist and sticky when wet but will not ribbon and forms a ball that will tolerate some handling;

(G) Sandy Clay Loam: Sandy clay loam has a gritty feel but contains enough clay to form a firm ball and may ribbon to form 0.75 inch to one-inch long pieces;

(H) Silty Clay Loam: Silty clay loam is sticky when moist and will ribbon from one to two inches. Rubbing silty clay loam with the thumbnail produces a moderate sheen. Silty clay loam produces a distinct fingerprint;

(I) Clay Loam: Clay loam is sticky when moist. Clay loam forms a thin ribbon of one to two inches in length and produces a slight sheen when rubbed with the thumbnail. Clay loam produces a nondistinct fingerprint;

(J) Sandy Clay: Sandy clay is plastic, gritty and sticky when moist and forms a firm ball and produces a thin ribbon to over two inches in length;

(K) Silty Clay: Silty clay is both plastic and sticky when moist and lacks gritty feeling. Silty clay forms a ball and readily ribbons to over two inches in length;

(L) Clay: Clay is both sticky and plastic when moist, produces a thin ribbon over two inches in length, produces a high sheen when rubbed with the thumbnail, and forms a strong ball resistant to breaking;

(M) The Division may substitute laboratory determination of the soil textural class as defined in this Section by particle-size analysis of the fine-earth fraction (less than 2.0 mm in size) using the sand, silt and clay particle sizes as defined in this Section for field testing when conducted in accordance with ASTM (American Society for Testing and Materials) D-422 procedures for sieve and hydrometer analysis. For fine loam and clayey soils (Group II and III) the dispersion time shall be increased to 12 hours.

(3) Wetness Condition:

- (A) Soil wetness conditions caused by a seasonal high-water table, perched water table, tidal water, or seasonally saturated soils shall be determined by observation of common soil mottles of colors of chroma 2 or less, using the Munsell color chart, in mottle or a solid mass. If drainage modifications have been made, the soil wetness conditions may be determined by direct observation of the water surface in monitoring wells during periods of typically high water elevations. However, colors of chroma 2 or less which are relic from minerals of the parent material shall not be considered indicative of a soil wetness condition.
- (B) Soils which do not meet the required depths to a soil wetness condition shall be considered unsuitable and septage shall not be applied, unless the required separation distances can be maintained. Water table monitoring wells may be utilized to determine the actual depth to a soil wetness condition. The Division may limit discharges to certain months where soil wetness conditions are marginal for use.
- (C) The required depth to a soil wetness condition is determined by the Soil Group Textural Classification.
- (4) Soil Group I soil shall be considered suitable where soil wetness conditions are deeper than 36 inches below the point of septage application or incorporation.
- (5) Soil Group II soils shall be considered suitable where soil wetness conditions are deeper than 24 inches below the point of septage application or incorporation.
- (6) Soil Group III soils shall be considered suitable where soil wetness conditions are deeper than 18 inches below the point of septage application or incorporation.
- (7) Depth to rock: soil depth shall be considered suitable where depth to rock is deeper than 24 inches below the point of septage application or incorporation or deeper than 18 inches if the septage is pretreated to accomplish pathogen reduction and surface applied over vegetation.
- (8) Mine reclamation sites will be considered on a case by case basis.
- (b) Septage land application sites shall not be located in the watershed of a Class WS-I stream. New septage land application sites shall not be located in the water quality critical area of Class WS-II, WS-III, or WS-IV streams or reservoirs. This prohibition does not apply to those portions of a water supply watershed which are drained by Class B or Class C streams.
- (c) Setbacks. At the time of initial permitting, septage land application sites shall observe the minimum setback distances specified in this Rule. Minimum setbacks shall be maintained throughout the life of the site only on land owned, operated or controlled by the permittee or by the landowner(s) at the time of initial permitting. Any sale, lease or other conveyance of land by the permittee, or by the landowner(s) if different from the permittee, subsequent to the initial permitting of the site shall include restrictions to ensure continued maintenance of the setbacks. Failure to maintain required setbacks shall result in immediate permit revocation.
- (d) All septage disposal sites shall be located at least the minimum distance specified for the following:
- (1) Residence not occupied by the applicant – 500 feet; residence occupied by the applicant 100 – feet;
 - (2) Place of business, other than the septage management firm office, or place of public assembly – 500 feet;
 - (3) Well or spring – 500 feet;
 - (4) Surface waters. Stream classification shall be determined in accordance with 15A NCAC 2B .0301 through .0317 Assignment of Stream Classifications;
 - (5) Fresh waters:
 - (A) Class WS-I, Class WS-II, or Class WS-III streams – 300 feet;
 - (B) Class B stream – 300 feet;
 - (C) Class C stream – 200 feet; and
 - (D) Other streams and bodies of water – 200 feet;
 - (6) Tidal salt waters:
 - (A) Class SA or Class SB – 300 feet from mean high water mark; and
 - (B) Class SC and other coastal waters – 200 feet from mean high water mark.
 - (7) Supplemental classifications:
 - (A) Trout waters and swim waters – 200 feet; and
 - (B) Nutrient sensitive waters and outstanding resource waters – 300 feet.
 - (8) Groundwater lowering ditches and devices – 100 feet;
 - (9) Adjoining property under separate ownership or control – 50 feet;
 - (10) Public road right of ways – 100 feet;
 - (11) Food crops – 50 feet;
 - (12) Wetlands – 50 feet;
 - (13) Woods line – five feet, unless greater distance is required as part of an erosion and runoff control plan;
 - (14) Land application site on the same tract of land, permitted to a different operator – 100 feet; and
 - (15) Setbacks in Subparagraphs (d)(3), (4), (5), (6), (7), and (8) of this Rule may be reduced 50

percent when septage is pretreated to accomplish pathogen reduction and when the land within the setback area is in permanent, established grass with at least 95 percent cover or when the setback area is in forest with a continuous canopy and a 95 percent forest litter cover. Accurate property line locations are the responsibility of the site operator.

(e) Septage land application sites less than five acres in size, individual fields of a site less than two acres in size, and sites with complex soil patterns or unusual shapes will be permitted only if the applicant demonstrates to the Division that the site can be properly managed for crop production and that septage can be evenly distributed over the site.

(f) Septage land application sites shall not be located where the slope of the land is greater than 12 percent unless all of the conditions of this Paragraph are met:

- (1) The site is in permanent, established grass with at least 95 percent cover or is in forest with a continuous canopy and a 95 percent forest litter cover;
- (2) Plans submitted to the Division are prepared in accordance with accepted erosion and runoff control practices and indicate the following:
 - (A) Management practices and discharge methods which will be used to reduce the potential for run-off from the site and assure even septage distribution over the site; and
 - (B) Location of potential surface water monitoring devices upslope and downslope from the area proposed to be permitted and identification of sampling methods. Monitoring may be required.
- (3) Setbacks will be increased and application rates decreased as appropriate to protect any nearby surface waters which are to be approved by the Division; and
- (4) No site shall include slopes in excess of 25 percent.

(g) A new septage land application site shall not jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973. Agricultural land shall not be considered potential habitat.

(h) Septage, or any part of septage, as defined in G.S. 130A-290, treated to meet the standard for Class A sewage sludge in accordance with the federal regulations for pathogen reduction and vector attraction reduction in 40 CFR Part 503, Subpart D, may be permitted by the Division for application to a public contact site, home lawns and gardens, or to be sold or given away in a bag or other container, provided it can be demonstrated that pollutant limits in 40 CFR 503.13(b)(1) Table 3 are not exceeded. Persons who prepare the septage, and persons who derive material from the septage, shall comply with the applicable record keeping requirements in 40 CFR 503.17(a) (1), (2) or (6). Treatment verification, acceptable to the Division, shall be available. All treatment methods and facilities shall

obtain a permit from the Division in accordance with Rule .0836.

Authority G.S. 130A-291.1.

15A NCAC 13B .0838 MANAGEMENT OF SEPTAGE LAND APPLICATION SITES

(a) General. Paragraph (g) of this Rule also applies to septage detention and treatment facilities.

- (1) Only domestic septage, as defined in G.S. 130A-290, shall be land applied or otherwise placed on a septage land application site, unless specified in the permit;
- (2) Each site shall be posted with "NO TRESPASSING" signs. Access roads or paths crossing or leading to the disposal area shall be posted "NO TRESPASSING" and a legible sign of at least two feet by two feet stating "SEPTAGE LAND APPLICATION SITE" shall be maintained at each entrance to the land application area;
- (3) Each site shall have an all weather access road;
- (4) No hazardous wastes shall be permitted on the site;
- (5) No site shall be permitted for land application of industrial or commercial septage unless the applicant demonstrates to the Division that the strength of the organic and inorganic components of the septage is within the normal range for domestic septage;
- (6) Treatment Plant Septage generated by the operation of a wastewater system permitted under Article 11 of Chapter 130A may be land applied at a septage land application site permitted under this Section;
- (7) Septage shall be applied to the surface of the land from a moving vehicle in such a manner as to have no standing liquid or soil disturbance resulting from the waste flow after the discharge is complete;
- (8) Septage shall not be applied to a site if any liquid is ponded on the site or if the site is flooded, frozen, or snow covered;
- (9) Septage shall not be applied to a site if the application method will result in ruts greater than three inches in the soil surface;
- (10) Disposal area boundaries shall be clearly marked on the ground while a site or any portion of a site is in use;
- (11) All septage discharges shall be made at a location on the site consistent with the nutrient management plan;
- (12) All septage discharges, including aerial drift from discharges, shall be made within the permitted boundaries of the land application site;
- (13) Land application of septage shall be limited to a maximum daily hydraulic application rate of one acre inch;

- (14) Grease septage from a grease trap, interceptor, separator, or other appurtenance used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup shall not be land applied unless the trap has been pumped within the last 90 days or the grease septage adequately screened or dewatered to prevent damage to land application site vegetation;
 - (15) Grease septage shall be diluted at least 1:1 from its concentration when pumped with domestic septage or water if land applied over perennial vegetation. This dilution shall be increased if crop damage occurs. This dilution requirement shall not apply to the liquid portion of grease septage that has been adequately treated to remove solids, fats, oils and grease as long as crop damage does not occur;
 - (16) Solids resulting from septage treatment shall not be land applied unless the solids are treated to meet pathogen reduction and vector attraction reduction requirements in 40 CFR 503, and the permittee has satisfactorily demonstrated to the Division that the solids can be evenly land applied at agronomic rates with standard agricultural spreading equipment;
 - (17) The site shall be managed in such a manner as to minimize soil erosion and surface water runoff. Appropriate soil and water management practices shall be implemented and maintained in accordance with the Division-approved erosion and run-off control plan. All water control structures shall be designed, installed, and maintained to control the run-off resulting from a 10-year storm;
 - (18) Approved nutrient management plans shall be followed;
 - (19) Land application sites or portions of land application sites that do not follow the approved nutrient management plan shall not be used for land application until brought into compliance with the nutrient management plan;
 - (20) A septage land application site permit holder shall provide a permitted septage detention facility or have an alternate plan for the storage or disposal of septage during periods when the permitted land application site is not available;
 - (21) Land application sites permitted for the management of grease septage, or commercial or industrial septage, shall have a septage detention facility available, of adequate size to meet the requirement of Subparagraph (a)(15) of this Rule; and
 - (22) A septage land application site permit holder or operator is responsible for the actions of any septage management firm that the permit holder or operator allows to use his land application site.
- (b) Maximum land application rates for septage shall be determined based upon the following:
- (1) Domestic septage land application rates shall be in accordance with 40 CFR Part 503.12(c) ;
 - (2) Land application of domestic treatment plant septage shall not exceed the rate in 40 CFR 503.14(d);
 - (3) Pollutant limits for regulated metals in 40 CFR Part 503.13 shall not be exceeded for any type septage;
 - (4) Grease septage shall be land applied at a rate that is equal to or less than the agronomic rate, but in no case shall the application of untreated grease septage exceed 25,000 gallons per acre per year;
 - (5) Sites permitted for the land application of grease septage shall meet the requirements of 40 CFR Part 257.3-5;
 - (6) Land application rates for septage treated to reduce solids, nutrients, or pollutants shall be determined based on the analysis of the treated material;
 - (7) At least four analyses of treated liquid shall be required prior to receiving an adjusted land application rate. Additional samples will be required for highly variable material;
 - (8) Each analysis shall include nitrogen panel, phosphorus, potassium, soluble salts, pH, regulated metals except mercury, calcium, manganese, magnesium, iron, sulfur, boron and chlorine;
 - (9) After an adjusted rate is approved, sampling will be required every 60 days for the first 12 months of operation;
 - (10) After the initial 12 months, wastes with consistent sample results shall be sampled quarterly; and
 - (11) Land application rates for industrial or commercial septage, or commercial or industrial treatment plant septage shall be determined as specified in Subparagraphs (b)(1) and (b)(2) of this Rule unless testing determines that a lower rate is necessary due to other non-domestic pollutants.
- (c) Septage treatment standards:
- (1) Domestic septage shall be treated in accordance with the requirements in 40 CFR Part 503 Subpart D (including Appendix A and B) except that 503.33(b)(11) is not incorporated;
 - (2) Grease septage, treated grease septage, commercial or industrial treatment plant septage, and commercial/industrial septage shall be treated in accordance with 40 CFR

257.3-6 or treated by an equivalent or more stringent process in 40 CFR 503 Subpart D;

- (3) Grease septage, or any part of grease septage, mixed with domestic septage shall be treated as grease septage; and
- (4) Domestic treatment plant septage shall be treated to meet the pathogen reduction and the vector attraction reduction requirements in 40 CFR 503, Subpart D.

(d) No one other than the permit holder shall land apply septage at a permitted site unless approved in writing by the Division. The permit holder shall submit a written request and written authorization from the landowner(s), if different from the permit holder. The request shall include the name of the firm requesting approval and the type and amount of septage proposed to be discharged.

(e) Permit holders of septage land application sites shall develop and maintain records and reports to demonstrate compliance with this Section and the permit requirements of each site.

- (1) Permit holders of sites receiving septage shall maintain a log which meets the requirements of 40 CFR Part 503.17(b);
- (2) Permit holders of all septage land application sites shall have all records and certifications required to be kept available for review during any announced site inspections by the Division; and
- (3) The permit holder of a site where more than one septage management firm has been authorized by the Division to discharge septage shall submit a monthly report to the Division which shall include the following information for each discharge: the date and quantity of each discharge, the type of septage discharged, and the name of the septage management firm discharging.
- (4) All test results for nutrients, metals, contaminants, and pathogens required in this Section shall be maintained by the site operator or the preparer.

(f) Septage shall not be land applied at a new septage land application site until a representative of the Division has inspected the site to determine compliance with these rules and consistency with the permit application and all permit conditions.

(g) Methods of land application for which there are no standards in these rules shall be permitted only if it can be demonstrated that the proposed method manages septage in a manner at least equivalent to these rules and to protect public health and the environment. Plans shall be submitted and prepared in accordance with professional engineering principles.

Authority G.S. 130A-291.1

15A NCAC 13B .0839 RECORD KEEPING FOR SEPTAGE MANAGEMENT FIRMS

(a) Each permit holder shall maintain a log which includes at least the following information for each septage pumping event:

- (1) The date, type, quantity, and location of septage pumped;
- (2) Location of the discharge of the septage.

(b) A septage management firm shall make all records required in accordance with this Section or conditions of the permit available for inspection by a representative of the Division at the time and place of an inspection of the firm's septage pumper truck(s) or upon request.

Authority G.S. 130A-291.1.

15A NCAC 13B .0840 SAMPLING AND ANALYSIS

(a) Monitoring or sample analysis required by this Section, and all costs involved, are the responsibility of the septage management firm, site operator, or the owner of the wastewater system, as appropriate. This includes all costs of analysis of sampling, handling, and testing.

(b) The permit holder of a septage land application site shall arrange for annual representative soil samples to be taken from each field at the permitted site during the last quarter of each calendar year.

(c) Soil samples shall be taken annually from each area designated as a separate field of a septage land application site and analyzed for cation exchange capacity, pH, phosphorus, potassium, calcium manganese, magnesium, zinc, and copper. Analysis for other metals shall be required when zinc levels reach 30 pounds per acre or copper levels reach 35 pounds per acre. Sites permitted to receive septage, other than domestic septage, shall be sampled annually to determine compliance with 40 CFR 257.3-6.

(d) Domestic septage and grease septage shall be monitored in accordance with 40 CFR Part 503.16(b).

(e) Domestic treatment plant septage proposed to be land applied at a permitted septage land application site shall be sampled before the initial application, and annually thereafter, prior to being removed from a treatment facility for the following:

- (1) Metals addressed in 40 CFR 503.13; and
- (2) Total solids, pH, ammonia, nitrates, total kjeldahl nitrogen (TKN), biochemical oxygen demand (BOD), chemical oxygen demand (COD), total phosphorus, potassium, sodium and magnesium.

(f) Industrial or commercial septage, or commercial treatment plant septage, proposed to be land applied at a permitted septage land application site, shall be sampled prior to being removed from a wastewater system. Analytical results shall be submitted to the Division for consideration prior to the issuance of a permit or approval to land apply the septage. Analysis shall be conducted for:

- (1) Metals addressed in 40 CFR 503.13;
- (2) Total solids, pH, ammonia, nitrates, TKN, BOD, COD, total phosphorus, potassium, sodium and magnesium; and
- (3) Organic chemicals, using a complete Toxicity Characteristic Leaching Procedure or other appropriate sampling, such as EPA Test numbers 8240 or 8270, unless an examination of the industrial process and the material used indicates less extensive analysis is acceptable.

(g) Sample analysis shall be performed by a laboratory certified for waste analysis. Analysis shall be conducted in accordance with 40 CFR Part 503.8. Organic chemical analysis shall be conducted according to Subparagraph (f)(3) of this Rule. Results from the North Carolina Department of Agriculture and Consumer Services laboratory will be accepted where appropriate.

Authority G.S. 130A-291.1.

15A NCAC 13B .0841 STANDARDS FOR SEPTAGE DETENTION AND TREATMENT FACILITIES

(a) Septage detention facilities, used to meet the requirements of Rule .0838(a)(20) or (21) of this Section, shall have a minimum size equal to the average volume of septage pumped per week. This does not limit the maximum capacity of a septage detention facility. Capacity shall be increased if it is demonstrated during site operation that this volume is inadequate or if specific site considerations would warrant such increases.

(b) Septage detention facilities for sites permitted to land apply in excess of 50,000 gallons per acre per year shall have a minimum size equal to two percent of the maximum annual application rate. Facilities permitted as of the effective date of this Rule shall have 12 months to meet this requirement.

(c) Septage treatment and detention facility containers shall be structurally sound and constructed of steel, concrete, or fiberglass. Plans and specifications for proposed containers constructed of materials not specifically addressed in this Rule shall be prepared by a Professional Engineer. The plans shall bear an imprint of the registration seal of the engineer.

(d) A septage Treatment and Detention Facility permit holder and operator are responsible for the actions of any septage management firm that uses the detention or treatment facility.

(e) Each detention and treatment facility shall be designed, constructed, and maintained in such a manner as to:

- (1) Prevent leaks or the flow of septage out of the facility into the seasonally high water table, onto the ground surface, or into any surface waters;
- (2) Minimize the attraction or admittance of vectors; and
- (3) Prevent unauthorized entry into septage containers or lagoons.

(f) Septage detention and treatment facilities located below grade shall:

- (1) Be certified not to leak by a Professional Engineer;
- (2) Be constructed to a traffic rated standard or protected from vehicular traffic; and
- (3) Not be constructed of used metal tanks. Used metal tanks are allowed to be located beside a wall or embankment for gravity access as long as the entirety of the tank is visible.

(g) The permit holder of a septage treatment or detention facility shall control odors from the facility at the property boundary.

(h) Ground water monitoring wells or a leak detection system may be required around treatment or detention systems if

necessary to assure protection of public health and the environment.

(i) The area around tanks shall be free of debris and vegetation to allow for access and inspection for a distance of at least five feet.

(j) Septage shall be transferred to and from a detention system in a safe and sanitary manner that prevents leaks or spills of septage, including septage in pipes used for transferring waste to and from vehicles.

(k) Access roads or paths crossing or leading to the facility shall be posted with "NO TRESPASSING" signs.

(l) Lined lagoons will only be permitted at sites where the construction and use of a lagoon shall not jeopardize the public health or environment. Portions of lined lagoons may be located below grade in accordance with Subparagraph (f)(1) of this Rule.

- (1) Only lagoons designed, constructed and inspected in accordance with accepted engineering principles providing for the protection of the underlying groundwater will be considered for use in a septage treatment or detention system. The Division shall receive a written certification prepared by a Professional Engineer that the construction was completed in accordance with the approved plans prior to any waste being introduced into the system. The certification shall bear an imprint of the registration seal of the engineer.
- (2) Liners shall be a minimum of 12 inches of clay compacted to a maximum permeability of 10^{-7} cm/sec or equivalent synthetic liner.
- (3) Synthetic liners shall have a minimum thickness of 30 mils. A synthetic liner shall have a demonstrated water vapor transmission rate of not more than 0.03 gm/m²-day. Liner material and any seaming materials shall have chemical and physical resistance not adversely affected by environmental exposure or waste placement.
- (4) Clay liners with a permeability more than 10^{-7} cm/sec may be used in conjunction with a synthetic liner to meet the maximum permeability of 10^{-7} cm/sec or equivalent.
- (5) The surface of the supporting soil on which the liner will be installed shall be reasonably free of stones, organic matter, protrusions, loose soil, and any abrupt changes in grade that could affect the integrity of the liner.
- (6) Lagoons shall be designed and maintained to have adequate storage to handle the additional water from a 25-year storm.
- (7) Lagoons shall be protected from entry by unauthorized individuals by fencing or other appropriate means.

(m) Septage detention and treatment facilities shall adhere to the following setback requirements:

- (1) Residence, place of business, or place of public assembly – 100 feet;
- (2) Well or water supply spring – 100 feet;

- (3) Surface waters – 100 feet;
- (4) Property lines – 50 feet;
- (5) Facilities permitted after the effective date of this rule shall not be located in the 100 year flood plain hazard area.
- (6) Soil wetness, as determined in Part (a)(3)(A) of Rule .0837 – 12 inches;
- (7) Setbacks in Subparagraphs (1) and (4) of this Paragraph may be in accordance with local zoning ordinances if located in areas zoned for industrial use.
- (8) Setbacks in Subparagraphs (1) through (4) of this Paragraph shall be increased 100% for lagoons; and
- (9) Accurate property line location is the responsibility of the site operator.

(n) All setbacks shall be maintained.

(o) The setbacks in Subparagraph (m)(1) through (4) of this Rule shall be increased for storage facilities with a capacity in excess of 25,000 gallons permitted after the effective date of this Rule, as appropriate, to prevent offsite contamination from major spills, or 100% containment shall be provided.

(p) Storage containers for individual restaurants shall be:

- (1) Located above grade and protected from vehicular traffic;
- (2) Maintained fly tight and in a sanitary condition;
- (3) Placed at a location and acceptable to standards determined by the NC Division of Environmental Health; and
- (4) No greater than 200 gallons in size.

(q) Setbacks for detention tanks at marinas may be reduced for storage capacity of 2000 gallons or less when the facility is designed to prevent leaks or spills or has containment equaling 100% of the storage volume plus rainfall from a 25 year storm event. Setbacks shall in no case be less than what is approved by applicable local government, state or federal laws or rules.

(r) Septage shall not be stored in a detention or treatment facility for more than six months.

(s) Septage shall not be stored or treated at a new septage treatment or detention facility until a representative of the Division has inspected the facility to determine compliance with these rules and consistency with the permit application and all permit conditions.

(t) Septage detention and treatment facility closure shall include:

- (1) A properly completed ceased operation form submitted to the Division;
- (2) All liquids and solids, resulting from septage detention or treatment, removed from all portions of the facility and properly managed or disposed at an appropriate, approved facility; and
- (3) All parts of the facility removed from property under separate ownership, unless all landowners provide the Division with written documentation that the facility may remain at the site.

(u) Record keeping for detention facilities that receive septage from more than one septage management firm shall include:

- (1) The date that the septage is received at and removed from the facility;
- (2) Name of the septage management firm that delivered the septage;
- (3) Type and amount, in gallons, of septage received; and
- (4) Where septage is discharged.

(v) Record keeping for treatment facilities shall include:

- (1) Date septage is received at the facility;
- (2) Name of the septage management firm that delivered the septage;
- (3) Type and amount, in gallons, of septage received;
- (4) Date processed material(s) is removed from the facility;
- (5) Type and amount, in tons or gallons, of material removed from the facility; and
- (6) Management methods for each type of material removed by the facility

(w) Alarms shall be required to detect high liquid levels, leaks and spills, or system operation parameters at detention or treatment facilities when the location, design, capacity, or operational complexities of the facility warrant the additional safety precautions.

Authority G.S. 130A-291.1.

15A NCAC 13B .0842 INNOVATIVE OR ALTERNATIVE TREATMENT OR STORAGE METHODS

(a) Applications for permits for innovative or alternative treatment methods that do not fit the criteria outlined in this section will be reviewed in accordance with G.S. 130A-291.1(i).

(b) Applications for approval of innovative or alternative methods of treatment shall be prepared by a Professional Engineer. Applications shall include:

- (1) The information required in Rule .0836(c) of this Section;
- (2) An operation and maintenance manual consistent with the requirements of Rule .0836(d)(4) of this Section;
- (3) Means of demonstrating that the proposed method of treatment or storage will meet the appropriate standards for vector attraction reduction and pathogen reduction in this Section, and
- (4) Testing methods and schedule to document Rule .0842(b)(3) of this Section;

(c) Innovative or alternative design criteria will be approved in cases where the applicant can demonstrate that the alternative design criteria will provide the following:

- (1) Equal or better treatment of the waste;
- (2) Equal or better protection of the waters of the state; and
- (3) No increased potential for nuisance conditions from noise, odor or vermin.

Authority G.S. 130A-291.1.

15A NCAC 13B .0843 LAND USE AND SITE CLOSURE

(a) Adherence to the site restrictions in 40 CFR 503.32(c) of Subpart D shall be required.

(b) Nursery and horticultural products, trees and other forest products, including but not limited to pine straw and pine bark, shall not be harvested or gathered for 30 days after septage application.

(c) Public access is to be controlled in accordance with 40 CFR 503.32(c) of Subpart D.

(d) The permit holder or operator of the site shall notify the Division at least 30 days prior to final closure of a septage land application site in order to schedule a site inspection for determination of compliance with this Section.

(e) Prior to final closure, the soil pH of the site shall be raised to 6.5, unless the fertility requirements for crops to be grown in the following year dictate less.

Authority G.S. 130A-291.1.

15A NCAC 13B .0844 TRANSPORTATION OF SEPTAGE

(a) All septage shall be transported in a safe, sanitary manner that prevents leaks and spills and comply with the following:

- (1) All tanks shall be constructed of metal and permanently attached to the truck bed, unless otherwise approved by the Division;
- (2) All valves shall be in proper working order and be completely closed during transportation;
- (3) All access ports shall have proper fitting lids in good repair and be completely closed during transportation;
- (4) Portable toilet pump units that slide into pickup truck beds shall be bolted to the trucks in accordance with manufacturer specifications;
- (5) Boats used to pump or transport septage shall be United States Coast Guard approved or engineered plans shall be available indicating that the specific craft is stable in the water when fully loaded; and
- (6) Tanks that are mounted on trailers for the pumping or transportation of septage shall meet all appropriate state and federal requirements for highway use.

(b) All permitted septage management firms shall display decals or lettering on each side of every pumper vehicle operated by the firm. The decals or lettering shall include the name, address (town name), phone number, and septage management firm permit number. All decals or lettering on the pumper vehicle shall be no less than three inches in height and plainly visible. Identification shall be permanently attached (i.e., no removable signs).

(c) Applicants for septage management firm permits which were not permitted in the previous calendar year shall have each pump truck inspected prior to the Division's issuance of a permit.

(d) Septage to be discharged at a wastewater treatment plant or any part of the collection system for that plant shall be handled in accordance with the plant rules and policies.

(e) All vehicles used in the transportation of septage, including spare vehicles and tankers, shall meet the requirements of this Section and be included in the permit application.

(f) Vehicles used in the transportation of septage, that are listed on an approved septage management firm permit application, may remain loaded or partially loaded on land owned by the septage management firm for up to seven days without obtaining a permit for a detention or treatment facility. Such vehicles shall comply with all parts of this Rule.

Authority G.S. 130A-291.1.

15A NCAC 13B .0845 REVOCATION OF PERMITS

The Division shall suspend or revoke permits in accordance with G.S. 130A-23.

Authority G.S. 130A-291.1.

15A NCAC 13B .0846 APPEALS

Appeals shall be made in accordance with G.S. 150B.

Authority G.S. 130A-291.1.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to amend the rules cited as 21 NCAC 16B .0201; 16F .0103-.0104; 16Y .0101.

Proposed Effective Date: June 1, 2009

Public Hearing:

Date: March 12, 2009

Time: 7:00 p.m.

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

Reason for Proposed Action: 21 NCAC 16B .0201 is proposed for amendment to clarify that applicants for licensure as a dentist must hold a DMD or DDS degree from a university or college approved by the American Dental Association's Commission on Dental Accreditation. 21 NCAC 16F .0103 is proposed for amendment to permit dental corporations to use the designation "Professional Corporation" or "P.C." in their names. 21 NCAC 16F .0104 is proposed for amendment to include a reference to "P.C." in the rule governing registration of dental corporations. 21 NCAC 16Y .0101 is proposed for amendment to clarify that graduates of dental schools accredited by the American Dental Association's Commission on Dental Accreditation are eligible for intern permits only if they hold a DMD or DDS degree.

Procedure by which a person can object to the agency on a proposed rule: *Written comments may be sent to Bobby White, Chief Operations Officer, NC Board of Dental Examiners, 507 Airport Blvd., Suite 105, Morrisville, NC 27560.*

Comments may be submitted to: *Bobby White, 507 Airport Blvd., Suite 105, Morrisville, NC 27560*

Comment period ends: *April 3, 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 16B - LICENSURE DENTISTS

SECTION .0200 - QUALIFICATIONS

21 NCAC 16B .0201 IN GENERAL

- (a) An applicant for licensure as a dentist must be a graduate of and have a DMD or DDS degree ~~diploma~~ from a university or college accredited by the Commission on Dental Accreditation of the American Dental Association.
- (b) Graduates of foreign colleges may be accepted as applicants for licensure after completing at least two years in a dental school accredited by the Commission on Accreditation of the American Dental Association, passing Board approved written and clinical examinations, and graduating with a DMD or DDS ~~dental~~ degree from that dental school.

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

SUBCHAPTER 16F - PROFESSIONAL CORPORATIONS

SECTION .0100 - SCOPE

21 NCAC 16F .0103 CORPORATE OR LIMITED LIABILITY COMPANY NAME

Corporation or limited liability company designations shall consist only of the use of the words "Professional Association," or "P.A.," "Professional Corporation," or "P.C." for professional

corporations and "Professional Limited Liability Company", or "P.L.L.C." for professional limited liability companies. All names shall also contain only the name or surname of one or more of the shareholders or members and may include the word "Associate(s)."

Authority G.S. 55B-5; 57C-2-01; 57C-2-30; 90-48.

21 NCAC 16F .0104 CERTIFICATE OF REGISTRATION

- (a) Application for a certificate of registration shall be made in writing to the Board, and shall be submitted upon the form provided by the Board for that purpose. The application shall be accompanied by a certified copy of the certificate of incorporation and articles of incorporation of a P.A. or P.C. or a certified copy of the articles of organization of a P.L.L.C., together with a check in the amount of fifty dollars (\$50.00) in payment of the registration fee.
- (b) The initial certificate of registration shall remain effective for one year from the date of issuance thereof, unless suspended or terminated as by law provided, and each subsequent renewal of the certificate shall be effective for a period of one year from the date of issue.

Authority G.S. 55B-10; 57C-2-01; 90-48.

SUBCHAPTER 16Y - INTERN PERMITTING: DENTISTS

21 NCAC 16Y .0101 ELIGIBILITY REQUIREMENTS

Persons shall be eligible for an intern permit under the provisions of G.S. 90-29.4 if they are:

- (1) not licensed to practice dentistry in North Carolina, but are a graduate of and have a DMD or DDS degree ~~diploma~~ from a dental school or program accredited by the Commission on Dental Accreditation of the American Dental Association; or
- (2) a graduate of a dental program other than a program accredited by the Commission on Dental Accreditation of the American Dental Association who has been accepted into a graduate, intern, fellowship, or residency program at a North Carolina Dental School or teaching hospital offering programs in dentistry.

Authority G.S. 90-28; 90-29.4.

CHAPTER 54 - NORTH CAROLINA PSYCHOLOGY BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Psychology Board intends to amend the rules cited as 21 NCAC 54 .1803, .2701.

Proposed Effective Date: *June 1, 2009*

Public Hearing:

Date: February 19, 2009

Time: 8:30 a.m.

Location: La Quinta Inn & Suites, 2020 Griffith Street,
Winston-Salem, NC

Reason for Proposed Action: *To allow an individual applying for licensure as a psychologist to take post-degree graduate level course work to meet the hourly requirement for licensure. To more clearly define health services activities.*

Procedure by which a person can object to the agency on a proposed rule: *Objections to this Rule may be submitted, in writing, to Martha Storie, Executive Director, NC Psychology Board, 895 State Farm Road, Suite 101, Boone, NC 28607; email to mstorie@ncpsychologyboard.org; fax to Martha Storie at (828)265-8611; or at the public hearing.*

Comments may be submitted to: Martha N. Storie, NC Psychology Board, 895 State Farm Road, Suite 101, Boone, NC 28607, fax (828)265-8611, email mstorie@ncpsychologyboard.org

Comment period ends: April 3, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

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

SECTION .1800 - EDUCATION

21 NCAC 54 .1803 LICENSED PSYCHOLOGIST

(a) Licensure for the level of licensed psychologist requires a doctoral degree based on a planned and directed program of studies in psychology from an institution of higher education. The applicant's doctoral ~~program~~ program, hereinafter referred to as "program," shall be one which was accredited by the American Psychological Association or the Canadian Psychological Association at the time of the applicant's

individual's graduation from the ~~program~~ program, or one which meets all of the following requirements:

- (1) The program shall be publicly identified and clearly labeled as a psychology program; such a program shall specify in pertinent institutional catalogues its intent to educate and train psychologists to engage in the activities which constitute the practice of psychology as defined in G.S. 90-270.2(8).
- (2) The program shall maintain clear authority and primary responsibility for the core and specialty areas whether or not the program crosses administrative lines.
- (3) The program shall have an identifiable body of students in residence at the institution who are matriculated in that program for a degree.
- (4) There shall be an identifiable full-time psychology faculty in residence at the institution, sufficient in size and breadth to carry out its responsibilities, employed by and providing instruction at the home campus of the institution.
- (5) There shall be a psychologist responsible for the applicant's program either as the administrative head of the program, or as the advisor, major professor, or committee chair for the individual applicant's program.
- (6) The program shall be an integrated, organized sequence of study in psychology as demonstrated by an identifiable curriculum track or tracks wherein course sequences are outlined.
- (7) The program shall encompass the equivalent of a minimum of three academic years of full-time graduate study, two years of which are at the institution from which the degree is granted, and one year of which is in residence at the institution from which the degree is granted. Residence requires interaction with psychology faculty and other matriculated psychology students. One year's residence is defined as 30 semester (~~45-quarter~~) quarter or 40 trimester hours taken on a full-time or part-time basis at the institution.
- (8) The program shall include practicum, internship, field experiences, or laboratory training appropriate to the area of specialty and the practice of psychology; this experience shall be supervised by a psychologist.
- (9) Except as provided in Paragraph (b) of this Rule, the ~~The~~ program of study shall include a minimum of 60 semester (~~90-quarter~~) quarter or 80 trimester hours of graduate study in standard psychology courses, exclusive of credits for internship/practicum and thesis/dissertation, including instruction in scientific and professional ethics and standards, research design and methodology, statistics and psychometrics, and the specialty

area. No credit shall be allowed for audited courses or courses taken at an institution which does not meet the definition of an ~~Ainstitution~~ "institution of higher education@ education" as defined by G.S. 90-270.2(5).

- (10) The program shall include demonstrated competency in the four substantive content areas identified in this Subparagraph; this shall be met through a minimum of three semester (five-quarter) quarter or four trimester) hours in each of these content areas:

- (A) biological bases of behavior (e.g., physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology);
- (B) cognitive-affective bases of behavior (e.g., cognition, memory, learning, thinking, motivation, emotion);
- (C) social bases of behavior (e.g., social psychology, group processes, organizational and systems theory, cultural and ethnic bases, sex roles);
- (D) individual differences (e.g., personality theory, human development, abnormal psychology, individual differences).

(b) If an individual's degree program did not include a minimum of 60 semester (90 quarter or 80 trimester) hours in standard psychology courses, as specified in Subparagraphs (a)(9) and (a)(10) of this Rule, but included a minimum of 54 semester (81 quarter or 72 trimester) hours of graduate study in standard psychology courses, as specified in Subparagraphs (a)(9) and (a)(10) of this Rule, exclusive of credits for internship/practicum and thesis/dissertation, the individual shall be allowed to take, and must pass with a grade of "B" or above, additional graduate level course work to meet the hourly requirement specified in Subparagraphs (a)(9) and (a)(10) of this Rule. The individual shall complete specified course content, as defined by Subparagraphs (a)(9) and (a)(10) of this Rule, to meet the minimum educational requirements to apply for licensure. The aforementioned course work shall be completed at an institution of higher education, as defined by G.S. 90-270.2(5), in a graduate psychology program in the same specialty area as the degree program completed by the individual and shall be reported on an official transcript. Alternately, the aforementioned course work may be completed in a formal re-specialization program in psychology, which shall be reported on an official transcript. The institution of higher education which permits a student to take additional course work shall be construed as being responsible only for the specific course work taken at that institution and not for the student's entire course of study, unless the student's entire graduate program was completed at that institution. No credit shall be accepted by the Board for audited courses. This additional graduate level course work shall not duplicate course work taken by the individual in his or her degree program or prior to admittance to his or her degree program.

(c) If an individual's degree program did not include a minimum of 54 semester (81 quarter or 72 trimester) hours of graduate study in standard psychology courses, as specified in Subparagraphs (a)(9) and (a)(10) of this Rule, exclusive of credits for internship/practicum and thesis/dissertation, the individual shall not be allowed to obtain additional hours at a post-graduate level to meet the hourly requirements in Subparagraphs (a)(9) and (a)(10).

Authority G.S. 90-270.9; 90-270.11(a).

SECTION .2700 - HEALTH SERVICES PROVIDER CERTIFICATION

21 NCAC 54 .2701 ACTIVITIES

~~(a) Health services in psychology include the diagnosis, evaluation, treatment, remediation, and prevention of: mental, emotional, and behavioral disorder, disability, and illness; substance abuse; habit and conduct disorder; and psychological aspects of physical illness, accident, injury, and disability. Included are counseling, psychoeducational, and neuropsychological services related to the above. Health services include collateral contacts by a psychologist with families, caretakers, and other professionals for the purpose of benefiting a patient or client of that psychologist, as well as, direct services by a psychologist to individuals and groups.~~

~~(b) Health services in psychology do not include vocational and educational guidance. Also not included are the teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultations to organizations or institutions, except when such activities involve the delivery of direct psychological services to individuals or groups of individuals who are themselves the intended beneficiaries of such services.~~

(a) Health services in psychology include services provided directly to clients/patients or groups of clients/patients. Such services include the following:

- (1) the diagnosis, evaluation, treatment, remediation, and prevention of:
 - (A) mental, emotional, and behavioral disorder, disability, and illness;
 - (B) substance abuse and dependency;
 - (C) habit and conduct disorder;
 - (D) psychological aspects of physical illness, accident, injury, and disability;
 - (E) psychotherapy;
 - (F) counseling; and
 - (G) psychoeducational and neuropsychological services related to (a) through (f);
- (2) collateral contacts by a psychologist with family members, caretakers, and other professionals for the purpose of benefiting a client/patient of that psychologist;
- (3) maintenance of records of services provided to clients/patients (e.g., progress or process notes, clinical entries in records);

- (4) psychological assessment and report writing, including scoring of test protocols; and
- (5) consultation with other professionals in service to the psychologist's clients/patients.
- (b) Health services in psychology do not include the following:
 - (1) supervision of other professionals who provide health services to clients/patients;
 - (2) psychoeducational instruction to individuals who are not identified clients/patients of the psychologist providing such instruction;
 - (3) career counseling, to include assessment of interests and aptitudes;
 - (4) vocational and educational guidance;
 - (5) the teaching of psychology;

- (6) the conduct of psychological research;
- (7) the provision of psychological services or consultations to organizations or institutions, except when such activities involve the delivery of direct health services to individuals or groups of individuals who are themselves the intended beneficiaries of such services; or
- (8) administrative tasks associated with the delivery of health services, (e.g., billing and insurance communications).

Authority G.S. 90-270.2(4); 90-270.2(8); 90-270.9.

APPROVED RULES

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on December 18, 2008.

**REGISTER CITATION TO THE
NOTICE OF TEXT****CORRECTIONS, DEPARTMENT OF**

<u>Cost of Copies</u>	05	NCAC	01F	.0102*	22:24 NCR
-----------------------	----	------	-----	--------	-----------

MEDICAL CARE COMMISSION

<u>Abbreviations</u>	10A	NCAC	13P	.0101	23:04 NCR
<u>Air Medical Program</u>	10A	NCAC	13P	.0103	23:04 NCR
<u>Assistant Medical Director</u>	10A	NCAC	13P	.0104	23:04 NCR
<u>Convalescent Ambulance</u>	10A	NCAC	13P	.0105	23:04 NCR
<u>Educational Medical Advisor</u>	10A	NCAC	13P	.0106	23:04 NCR
<u>EMS Educational Institution</u>	10A	NCAC	13P	.0107	23:04 NCR
<u>EMS Nontransporting Vehicle</u>	10A	NCAC	13P	.0109	23:04 NCR
<u>EMS System</u>	10A	NCAC	13P	.0110	23:04 NCR
<u>Ground Ambulance</u>	10A	NCAC	13P	.0111	23:04 NCR
<u>Medical Crew Members</u>	10A	NCAC	13P	.0112	23:04 NCR
<u>Medical Director</u>	10A	NCAC	13P	.0113	23:04 NCR
<u>Medical Oversight</u>	10A	NCAC	13P	.0114	23:04 NCR
<u>Model EMS System</u>	10A	NCAC	13P	.0115	23:04 NCR
<u>Office of Emergency Medical Services</u>	10A	NCAC	13P	.0116	23:04 NCR
<u>Operational Protocols</u>	10A	NCAC	13P	.0117	23:04 NCR
<u>Physician</u>	10A	NCAC	13P	.0118	23:04 NCR
<u>EMS Peer Review Committee</u>	10A	NCAC	13P	.0119	23:04 NCR
<u>Specialty Care Transport Program</u>	10A	NCAC	13P	.0120	23:04 NCR
<u>Specialty Care Transport Program</u>	10A	NCAC	13P	.0121	23:04 NCR
<u>Continuing Education Coo...</u>					
<u>System Continuing Education Coordinator</u>	10A	NCAC	13P	.0122	23:04 NCR
<u>Treatment Protocols</u>	10A	NCAC	13P	.0123	23:04 NCR
<u>Water Ambulance</u>	10A	NCAC	13P	.0124	23:04 NCR
<u>EMS System Requirements</u>	10A	NCAC	13P	.0201*	23:04 NCR
<u>Term of EMS Provider License</u>	10A	NCAC	13P	.0206	23:04 NCR
<u>Ground Ambulance: Vehicle and Equipment Requirements</u>	10A	NCAC	13P	.0207	23:04 NCR
<u>Convalescent Ambulance Vehicle and Equipment Requirements</u>	10A	NCAC	13P	.0208*	23:04 NCR
<u>Water Ambulance: Watercraft and Equipment Requirements</u>	10A	NCAC	13P	.0210	23:04 NCR
<u>Term of Ambulance Permit</u>	10A	NCAC	13P	.0212*	23:04 NCR
<u>EMS Nontransporting Vehicle Requirements</u>	10A	NCAC	13P	.0213	23:04 NCR
<u>EMS Nontransporting Vehicle Permit</u>	10A	NCAC	13P	.0214	23:04 NCR

Conditions

<u>Term of EMS Nontransporting Vehicle Permit</u>	10A	NCAC	13P	.0215	23:04 NCR
<u>Ground Specialty Care Transport Programs</u>	10A	NCAC	13P	.0303	23:04 NCR
<u>Hospital-Affiliated Ground Specialty Care Transport Progr...</u>	10A	NCAC	13P	.0304	23:04 NCR
<u>Components of Medical Oversight for EMS Systems</u>	10A	NCAC	13P	.0401*	23:04 NCR
<u>Components of Medical Oversight for Specialty Care Transp...</u>	10A	NCAC	13P	.0402	23:04 NCR
<u>Responsibilities of the Medical Director for EMS Systems</u>	10A	NCAC	13P	.0403*	23:04 NCR
<u>Responsibilities of the Medical Director for Specialty Ca...</u>	10A	NCAC	13P	.0404*	23:04 NCR
<u>Requirements for Adult and Pediatric Treatment Protocols ...</u>	10A	NCAC	13P	.0405	23:04 NCR
<u>Requirements for Adult and Pediatric Treatment Protocols ...</u>	10A	NCAC	13P	.0406	23:04 NCR
<u>EMS Peer Review Committee for EMS Educational Programs</u>	10A	NCAC	13P	.0408*	23:04 NCR
<u>Initial Credentialing Requirements for MR, EMT, EMT-I, EM...</u>	10A	NCAC	13P	.0501*	23:04 NCR
<u>Renewal of Credentials for MR, EMT, EMT-I, EMT-P, and EMD</u>	10A	NCAC	13P	.0502*	23:04 NCR
<u>Credentialing Requirements for Level 1 EMS Instructors</u>	10A	NCAC	13P	.0504	23:04 NCR
<u>Credentialing Requirements for Level II EMS Instructors</u>	10A	NCAC	13P	.0507*	23:04 NCR
<u>Credentialing Requirements for Level II EMS Instructors</u>	10A	NCAC	13P	.0508*	23:04 NCR
<u>Credentialing of Individuals to Administer Lifesaving Tre...</u>	10A	NCAC	13P	.0509*	23:04 NCR
<u>Criminal Histories</u>	10A	NCAC	13P	.0511*	23:04 NCR
<u>Continuing Education EMS Educational Institution Requirem...</u>	10A	NCAC	13P	.0601*	23:04 NCR
<u>Basic EMS Educational Institutional Requirements</u>	10A	NCAC	13P	.0602*	23:04 NCR
<u>Advanced EMS Educational Institution Requirements</u>	10A	NCAC	13P	.0603*	23:04 NCR
<u>Denial, Suspension, Amendment or Revocation</u>	10A	NCAC	13P	.0701*	23:04 NCR
<u>Trauma System Definitions</u>	10A	NCAC	13P	.0801	23:04 NCR
<u>Level I Trauma Center Criteria</u>	10A	NCAC	13P	.0901*	23:04 NCR
<u>Level II Trauma Center Criteria</u>	10A	NCAC	13P	.0902*	23:04 NCR
<u>Level III Trauma Center Criteria</u>	10A	NCAC	13P	.0903*	23:04 NCR
<u>Initial Designation Process</u>	10A	NCAC	13P	.0904*	23:04 NCR
<u>Renewal Designation Process</u>	10A	NCAC	13P	.0905*	23:04 NCR
<u>Denial, Focused Review, Voluntary Withdrawal, or Revocati...</u>	10A	NCAC	13P	.1001	23:04 NCR
<u>Procedures for Appeal of Denial, Focused Review, or Revoc...</u>	10A	NCAC	13P	.1002	23:04 NCR
<u>State Trauma System</u>	10A	NCAC	13P	.1101*	23:04 NCR

APPROVED RULES

<u>Regional Trauma System Plan</u>	10A	NCAC	13P	.1102*	23:04 NCR
<u>Regional Trauma System Policy Development</u>	10A	NCAC	13P	.1103*	23:04 NCR
<u>Formula for Allocation of State Funds</u>	10A	NCAC	13Q	.0101	23:04 NCR
<u>Formula for Allocation of Federal Funds</u>	10A	NCAC	13Q	.0102	23:04 NCR
<u>Implementation of Funding Formula</u>	10A	NCAC	13Q	.0103	23:04 NCR
<u>Mobile Intensive Care Unit I</u>	10A	NCAC	13R	.0101	23:04 NCR
<u>Mobile Intensive Care Unit III</u>	10A	NCAC	13R	.0103	23:04 NCR
<u>Mobile Intensive Care Unit IV</u>	10A	NCAC	13R	.0104	23:04 NCR
<u>Advanced Life Support Nontransporting Unit</u>	10A	NCAC	13R	.0105	23:04 NCR
<u>General</u>	10A	NCAC	13R	.0201	23:04 NCR
<u>Mobile Intensive Care Unit (MICU) I</u>	10A	NCAC	13R	.0202	23:04 NCR
<u>Mobile Intensive Care Unit III</u>	10A	NCAC	13R	.0204	23:04 NCR
<u>Mobile Intensive Care Unit IV</u>	10A	NCAC	13R	.0205	23:04 NCR
<u>Advanced Life Support Nontransporting Unit</u>	10A	NCAC	13R	.0206	23:04 NCR
<u>Communication</u>	10A	NCAC	13R	.0301	23:04 NCR

HHS - MEDICAL ASSISTANCE, DIVISION OF

<u>Chiropractic Services</u>	10A	NCAC	22O	.0106	23:02 NCR
------------------------------	-----	------	-----	-------	-----------

BLIND, COMMISSION FOR THE

<u>Filling of Vacancies</u>	10A	NCAC	63C	.0204*	23:02 NCR
-----------------------------	-----	------	-----	--------	-----------

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Sanctions for Violations by Agencies or Schools</u>	12	NCAC	10B	.0203*	23:06 NCR
<u>Suspension: Revocation: or Denial of Certification</u>	12	NCAC	10B	.0204*	23:06 NCR
<u>Period of Suspension: Revocation: or Denial</u>	12	NCAC	10B	.0205*	23:06 NCR
<u>Medical Examination</u>	12	NCAC	10B	.0304*	23:06 NCR
<u>Background Investigation</u>	12	NCAC	10B	.0305*	23:06 NCR
<u>Lateral Transfer/Reinstatements</u>	12	NCAC	10B	.0406*	23:06 NCR
<u>Responsibilities: School Directors, Detention Officers</u>	12	NCAC	10B	.0704*	23:06 NCR
<u>Administration of Telecommunicator Certification</u>	12	NCAC	10B	.0708*	23:06 NCR
<u>Responsibilities: School Directors, Telecommunicator Cert...</u>	12	NCAC	10B	.0709*	23:06 NCR
<u>Instructors</u>	12	NCAC	10B	.2004*	23:06 NCR
<u>Minimum Training Requirements</u>	12	NCAC	10B	.2005*	23:06 NCR
<u>Sheriff/Agency Head Responsibilities</u>	12	NCAC	10B	.2007*	23:06 NCR
<u>Failure to Complete in-Service Training Programs</u>	12	NCAC	10B	.2008*	23:06 NCR

LABOR, DEPARTMENT OF

<u>Definitions</u>	13	NCAC	13	.0101*	23:05 NCR
--------------------	----	------	----	--------	-----------

APPROVED RULES

<u>Inspector Qualifications</u>	13	NCAC	13	.0202*	23:05 NCR
<u>North Carolina Commission</u>	13	NCAC	13	.0203*	23:05 NCR
<u>Conflict of Interest</u>	13	NCAC	13	.0204*	23:05 NCR
<u>Owner User Inspection Agency</u>	13	NCAC	13	.0205*	23:05 NCR
<u>Owners or Users to Notify Chief Inspector of Accidents</u>	13	NCAC	13	.0206	23:05 NCR
<u>Insurance Companies to Notify Chief Inspector</u>	13	NCAC	13	.0208*	23:05 NCR
<u>Inspection Documentation</u>	13	NCAC	13	.0301*	23:05 NCR
<u>Certificate Issuance</u>	13	NCAC	13	.0302*	23:05 NCR
<u>Design and Construction Standards</u>	13	NCAC	13	.0401	23:05 NCR
<u>Maximum Allowable Working Pressure</u>	13	NCAC	13	.0403	23:05 NCR
<u>Controls and Safety Devices</u>	13	NCAC	13	.0404*	23:05 NCR
<u>Pressure Relief Devices</u>	13	NCAC	13	.0405*	23:05 NCR
<u>Automatic Low-Water Fuel Cutoff Controls and Water-Feedin...</u>	13	NCAC	13	.0409*	23:05 NCR
<u>Expansion Tanks</u>	13	NCAC	13	.0412*	23:05 NCR
<u>Gas-Fired Jacketed Steam Kettle</u>	13	NCAC	13	.0414*	23:05 NCR
<u>Reinstallation of Certain Boilers and Pressure</u>	13	NCAC	13	.0416*	23:05 NCR
<u>Supports</u>	13	NCAC	13	.0417	23:05 NCR

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

<u>Fees</u>	15A	NCAC	01S	.0101	23:05 NCR
-------------	-----	------	-----	-------	-----------

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Cape Fear River Basin</u>	15A	NCAC	02B	.0311*	23:02 NCR
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0601*	22:21 NCR
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0603*	22:21 NCR
<u>Site Specific Water Quality Management Plan for the Goose...</u>	15A	NCAC	02B	.0605*	22:21 NCR
<u>Control of Visible Emissions</u>	15A	NCAC	02D	.0521	22:23 NCR
<u>Compliance Assurance Monitoring</u>	15A	NCAC	02D	.0614	22:23 NCR
<u>Definitions</u>	15A	NCAC	02D	.0901*	22:23 NCR
<u>Applicability</u>	15A	NCAC	02D	.0902*	22:23 NCR
<u>Compliance Schedules for Sources In Nonattainment Areas</u>	15A	NCAC	02D	.0909	22:23 NCR
<u>Petition for Alternative Controls for RACT</u>	15A	NCAC	02D	.0952*	22:23 NCR
<u>Vapor Return Piping for Stage II Vapor Recovery</u>	15A	NCAC	02D	.0953	22:23 NCR
<u>Stage II Vapor Recovery</u>	15A	NCAC	02D	.0954	22:23 NCR
<u>Evaluation of New or Modified Swine Farms</u>	15A	NCAC	02D	.1808*	23:03 NCR
<u>Activities Exempted from Permit Requirements</u>	15A	NCAC	02Q	.0102	22:23 NCR
<u>Applications</u>	15A	NCAC	02Q	.0304*	22:23 NCR
<u>Temporary Crushers</u>	15A	NCAC	02Q	.0902*	22:23 NCR

APPROVED RULES

<u>State Permitting Requirements</u>	15A	NCAC	02T	.1304*	23:03 NCR
<u>NPDES Permitting Requirements</u>	15A	NCAC	02T	.1305*	23:03 NCR
<u>Swine Waste Management System Performance</u>	15A	NCAC	02T	.1307*	23:03 NCR
<u>Evaluation and Approval of Swine Waste Management Systems</u>	15A	NCAC	02T	.1308*	23:03 NCR
<u>Lagoon Conversion Requirements</u>	15A	NCAC	02T	.1309*	23:03 NCR

REVENUE, DEPARTMENT OF

<u>Extension of Filing Date</u>	17	NCAC	05C	.2004*	n/a G.S. 150B-1(d)(4)
---------------------------------	----	------	-----	--------	-----------------------

FUNERAL SERVICE, BOARD OF

<u>Petition for Nomination</u>	21	NCAC	34A	.0103	23:04 NCR
<u>Voting Records</u>	21	NCAC	34A	.0104	23:04 NCR
<u>Requests for Declaratory Ruling</u>	21	NCAC	34A	.0108	23:04 NCR
<u>Filing of Documents</u>	21	NCAC	34A	.0127	23:04 NCR
<u>Authorized Practice: Supervision</u>	21	NCAC	34B	.0103	23:04 NCR
<u>Trainee Final Affidavit Form</u>	21	NCAC	34B	.0120	23:04 NCR
<u>Applications</u>	21	NCAC	34B	.0202	23:04 NCR
<u>Continuing Education Program</u>	21	NCAC	34B	.0408	23:04 NCR
<u>Accreditation of Computer-Based CE</u>	21	NCAC	34B	.0414	23:04 NCR
<u>Funeral Establishment Inspection Form</u>	21	NCAC	34B	.0615	23:04 NCR
<u>Retention of Records</u>	21	NCAC	34C	.0306	23:04 NCR
<u>Approval of Contract Forms</u>	21	NCAC	34D	.0101	23:04 NCR
<u>Transfer of Trust Preneed Contracts to Another Jurisdiction</u>	21	NCAC	34D	.0106	23:04 NCR

NURSING, BOARD OF

<u>Establishment of a Nursing Program Initial Approval</u>	21	NCAC	36	.0302*	n/a G.S. 150B-21.5(a)(5)
--	----	------	----	--------	--------------------------

OCCUPATIONAL THERAPY, BOARD OF

<u>Grounds for License Denial or Discipline</u>	21	NCAC	38	.0304	22:24 NCR
---	----	------	----	-------	-----------

PHYSICAL THERAPY EXAMINERS, BOARD OF

<u>Exemptions and Deferments</u>	21	NCAC	48G	.0111*	23:03 NCR
<u>Revival of Lapsed License</u>	21	NCAC	48G	.0203*	23:03 NCR

SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

<u>Definitions</u>	21	NCAC	63	.0102*	23:03 NCR
<u>References</u>	21	NCAC	63	.0204*	23:03 NCR
<u>Work Experience</u>	21	NCAC	63	.0211*	23:03 NCR
<u>Temporary Licenses</u>	21	NCAC	63	.0213	23:03 NCR
<u>Continuing Education Requirements</u>	21	NCAC	63	.0401*	23:03 NCR
<u>Renewal Fees</u>	21	NCAC	63	.0403	23:03 NCR
<u>Public Statements</u>	21	NCAC	63	.0509	23:03 NCR
<u>Application for a Certificate of Registration</u>	21	NCAC	63	.0901*	23:03 NCR

APPROVED RULES

<u>Renewal of Certificate of Registration</u>	21	NCAC	63	.0902	23:03 NCR
<u>Dissolving the Professional Entity</u>	21	NCAC	63	.0903	23:03 NCR

These rules are subject to the next Legislative Session. (See G.S. 150B-21.3).

MEDICAL CARE COMMISSION

<u>EMS Provider License Requirements</u>	10A	NCAC	13P	.0204*	23:04 NCR
<u>Air Medical Ambulance: Vehicle and Equipment Requirements</u>	10A	NCAC	13P	.0209*	23:04 NCR
<u>Specialty Care Transport Program Criteria</u>	10A	NCAC	13P	.0301*	23:04 NCR
<u>Air Medical Specialty Care Transport Program Criteria for...</u>	10A	NCAC	13P	.0302*	23:04 NCR
<u>Air Medical Specialty Care Transport Program Criteria for...</u>	10A	NCAC	13P	.0305*	23:04 NCR
<u>EMS Peer Review Committee for Specialty Care Transport Pr...</u>	10A	NCAC	13P	.0409	23:04 NCR

OCCUPATIONAL THERAPY, BOARD OF

<u>Application Process</u>	21	NCAC	38	.0201*	22:24 NCR
----------------------------	----	------	----	--------	-----------

TITLE 05 – DEPARTMENT OF CORRECTION**05 NCAC 01F .0102 COST OF COPIES**

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

- (1) loose-leaf documents at a cost of five cents (.05) per page;
- (2) diskette/CD Rom at a cost of twenty-five cents (\$.25) each;
- (3) digital video disk (DVD) at a cost of fifty cents (\$.50) each; and
- (4) documents available in an electronic format transmitted via email at no charge.

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

(c) A service charge may be applied, based on the actual costs to DOC, for requests which cause DOC to incur additional costs beyond the normal course of business based on the following:

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

(d) Postage and mailing costs shall be paid by requestor.

History Note: Authority G.S. 132-6.2; 143B-10; 150B-19;
Eff. January 1, 2009.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**10A NCAC 13P .0101 ABBREVIATIONS**

As used in this Subchapter, the following abbreviations mean:

- (1) ACS: American College of Surgeons;
- (2) AHA: American Heart Association;
- (3) ATLS: Advanced Trauma Life Support;
- (4) CA3: Clinical Anesthesiology Year 3;
- (5) CRNA: Certified Registered Nurse Anesthetist;
- (6) CPR: Cardiopulmonary Resuscitation;
- (7) DOA: Dead on Arrival;
- (8) ED: Emergency Department;
- (9) EMD: Emergency Medical Dispatcher;
- (10) EMDPRS: Emergency Medical Dispatch Priority Reference System;
- (11) EMS: Emergency Medical Services;
- (12) EMS-NP: EMS Nurse Practitioner;
- (13) EMS-PA: EMS Physician Assistant;
- (14) EMT: Emergency Medical Technician;
- (15) EMT-I: EMT-Intermediate;
- (16) EMT-P: EMT-Paramedic;
- (17) ENT: Ear, Nose and Throat;
- (18) FAA: Federal Aviation Administration;
- (19) FAR: Federal Aviation Regulation;
- (20) FCC: Federal Communications Commission;
- (21) GSC: Glasgow Coma Scale;
- (22) ICD: International Classification of Diseases;
- (23) ISS: Injury Severity Score;
- (24) IV: Intravenous;

- (25) LPN: Licensed Practical Nurse;
- (26) MICN: Mobile Intensive Care Nurse;
- (27) MR: Medical Responder;
- (28) NHTSA: National Highway Traffic Safety Administration;
- (29) OEMS: Office of Emergency Medical Services;
- (30) OMF: Oral maxillofacial;
- (31) OR: Operating Room;
- (32) PGY2: Post Graduate Year 2;
- (33) PGY4: Post Graduate Year 4;
- (34) PSAP: Public Safety Answering Point;
- (35) RAC: Regional Advisory Committee;
- (36) RFP: Request For Proposal;
- (37) RN: Registered Nurse;
- (38) SCTP: Specialty Care Transport Program;
- (39) SMARTT: State Medical Asset and Resource Tracking Tool;
- (40) STEMI: ST Elevation Myocardial Infarction;
- (41) TR: Trauma Registrar;
- (42) TNC: Trauma Nurse Coordinator;
- (43) TPM: Trauma Program Manager; and
- (44) US DOT: United States Department of Transportation.

*History Note: Authority G.S. 143-508(b);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

- 10A NCAC 13P .0103 AIR MEDICAL PROGRAM**
- 10A NCAC 13P .0104 ASSISTANT MEDICAL DIRECTOR**
- 10A NCAC 13P .0105 CONVALESCENT AMBULANCE**
- 10A NCAC 13P .0106 EDUCATIONAL MEDICAL ADVISOR**
- 10A NCAC 13P .0107 EMS EDUCATIONAL INSTITUTION**

*History Note: Authority G.S. 143-508(b); 143-508(d)(1),(d)(3),(d)(4),(d)(8);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Repealed Eff. January 1, 2009.*

- 10A NCAC 13P .0109 EMS NONTRANSPORTING VEHICLE**
- 10A NCAC 13P .0110 EMS SYSTEM**
- 10A NCAC 13P .0111 GROUND AMBULANCE**
- 10A NCAC 13P .0112 MEDICAL CREW MEMBERS**
- 10A NCAC 13P .0113 MEDICAL DIRECTOR**
- 10A NCAC 13P .0114 MEDICAL OVERSIGHT**
- 10A NCAC 13P .0115 MODEL EMS SYSTEM**
- 10A NCAC 13P .0116 OFFICE OF EMERGENCY MEDICAL SERVICES**
- 10A NCAC 13P .0117 OPERATIONAL PROTOCOLS**
- 10A NCAC 13P .0118 PHYSICIAN**
- 10A NCAC 13P .0119 EMS PEER REVIEW COMMITTEE**

- 10A NCAC 13P .0120 SPECIALTY CARE TRANSPORT PROGRAM**
- 10A NCAC 13P .0121 SPECIALTY CARE TRANSPORT PROGRAM CONTINUING EDUCATION COORDINATOR**
- 10A NCAC 13P .0122 SYSTEM CONTINUING EDUCATION COORDINATOR**
- 10A NCAC 13P .0123 TREATMENT PROTOCOLS**
- 10A NCAC 13P .0124 WATER AMBULANCE**

*History Note: Authority G.S. 131E-155(a)(6b); 143-508(b); 143-508(d)(1), (d)(3), (d)(6),(d)(7), (d)(8), (d)(13); 143-518(a)(5);
Temporary Adoption Eff. January 1, 2002;
Eff. January 1, 2004; April 1, 2003;
Amended Eff. January 1, 2004;
Repealed Eff. January 1, 2009.*

- 10A NCAC 13P .0201 EMS SYSTEM REQUIREMENTS**
- (a) County governments shall establish EMS Systems. Each EMS System shall have:

- (1) a defined geographical service area for the EMS System. The minimum service area for an EMS System shall be one county. There may be multiple EMS Provider service areas within the service area of an EMS System. The highest level of care offered within any EMS Provider service area must be available to the citizens within that service area 24 hours per day;
- (2) a defined scope of practice for all EMS personnel, functioning in the EMS System, within the parameters set forth by the North Carolina Medical Board pursuant to G.S. 143-514;
- (3) written policies and procedures describing the dispatch, coordination and oversight of all responders that provide EMS care, specialty patient care skills and procedures as defined in Rule .0301(a)(4) of this Subchapter, and ambulance transport within the system;
- (4) at least one licensed EMS Provider;
- (5) a listing of permitted ambulances to provide coverage to the service area 24 hours per day;
- (6) personnel credentialed to perform within the scope of practice of the system and to staff the ambulance vehicles as required by G.S. 131E-158. There shall be a written plan for the use of credentialed EMS personnel for all practice settings used within the system;
- (7) written policies and procedures specific to the utilization of the EMS System's EMS Care data for the daily and on-going management of all EMS System resources;
- (8) a written Infectious Disease Control Policy as defined in Rule .0102(33) of this Subchapter and written procedures which are approved by the EMS System medical director that address the cleansing and disinfecting of vehicles and

- equipment that are used to treat or transport patients;
- (9) a listing of facilities that will provide online medical direction for all EMS Providers operating within the EMS System;
- (10) an EMS communication system that provides for:
- (A) public access using the emergency telephone number 9-1-1 within the public dial telephone network as the primary method for the public to request emergency assistance. This number shall be connected to the emergency communications center or PSAP with immediate assistance available such that no caller will be instructed to hang up the telephone and dial another telephone number. A person calling for emergency assistance shall not be required to speak with more than two persons to request emergency medical assistance;
- (B) an emergency communications system operated by public safety telecommunicators with training in the management of calls for medical assistance available 24 hours per day;
- (C) dispatch of the most appropriate emergency medical response unit or units to any caller's request for assistance. The dispatch of all response vehicles shall be in accordance with a written EMS System plan for the management and deployment of response vehicles including requests for mutual aid; and
- (D) two-way radio voice communications from within the defined service area to the emergency communications center or PSAP and to facilities where patients are routinely transported. The emergency communications system shall maintain all required FCC radio licenses or authorizations;
- (11) written policies and procedures for addressing the use of SCTP and Air Medical Programs within the system;
- (12) a written continuing education program for all credentialed EMS personnel, under the direction of a System Continuing Education Coordinator, developed and modified based on feedback from system EMS Care data, review, and evaluation of patient outcomes and quality management peer reviews, that follows the guidelines of the:
- (A) "US DOT NHTSA First Responder Refresher: National Standard Curriculum" for MR personnel;
- (B) "US DOT NHTSA EMT-Basic Refresher: National Standard Curriculum" for EMT personnel;
- (C) "EMT-P and EMT-I Continuing Education National Guidelines" for EMT-I and EMT-P personnel; and
- (D) "US DOT NHTSA Emergency Medical Dispatcher: National Standard Curriculum" for EMD personnel.
- These documents are incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. These documents are available from NHTSA, 400 7th Street, SW, Washington, D.C. 20590, at no cost;
- (13) written policies and procedures to address management of the EMS System that includes:
- (A) triage and transport of all acutely ill and injured patients with time-dependent or other specialized care issues including trauma, stroke, STEMI, burn, and pediatric patients that may require the by-pass of other licensed health care facilities and which are based upon the expanded clinical capabilities of the selected healthcare facilities;
- (B) triage and transport of patients to facilities outside of the system;
- (C) arrangements for transporting patients to appropriate facilities when diversion or bypass plans are activated;
- (D) reporting, monitoring, and establishing standards for system response times using data provided by the OEMS;
- (E) weekly updating of the SMARTT EMS Provider information;
- (F) a disaster plan; and
- (G) a mass-gathering plan;
- (14) affiliation as defined in Rule .0102(4) of this Subchapter with the trauma RAC as required by Rule .1101(b) of this Subchapter; and
- (15) medical oversight as required by Section .0400 of this Subchapter.
- (b) An application to establish an EMS System shall be submitted by the county to the OEMS for review. When the system is comprised of more than one county, only one application shall be submitted. The proposal shall demonstrate that the system meets the requirements in Paragraph (a) of this Rule. System approval shall be granted for a period of six years. Systems shall apply to OEMS for reapproval.
- History Note: Authority G.S. 131E-155(1), (6), (8), (9), (15); 143-508(b), (d)(1), (d)(2), (d)(3), (d)(5), (d)(8), (d)(9), (d)(10), (d)(13); 143-509(1), (3), (4), (5); 143-517; 143-518; Temporary Adoption Eff. January 1, 2002;*

Eff. August 1, 2004;

Amended Eff. January 1, 2009.

10A NCAC 13P .0204 EMS PROVIDER LICENSE REQUIREMENTS

(a) Any firm, corporation, agency, organization or association that provides emergency medical services shall be licensed as an EMS Provider by meeting and continuously maintaining the following criteria:

- (1) Be affiliated as defined in Rule .0102(4) of this Subchapter with each EMS System where there is to be a physical base of operation or where the EMS Provider will provide point-to-point patient transport within the system;
- (2) Present an application for a permit for any ambulance that will be in service as required by G.S. 131E-156;
- (3) Submit a written plan detailing how the EMS Provider will furnish credentialed personnel;
- (4) Where there are franchise ordinances pursuant to G.S. 153A-250 in effect that cover the proposed service areas of each EMS system of operation, show the affiliation as defined in Rule .0102(4) of this Subchapter with each EMS System, as required by Subparagraph (a)(1) of this Rule, by being granted a current franchise to operate, or present written documentation of impending receipt of a franchise, from each county. In counties where there is no franchise ordinance in effect, present a signature from each EMS System representative authorizing the EMS Provider to affiliate as defined in Rule .0102(4) of this Subchapter and as required by Paragraph (a)(1) of this Rule;
- (5) Provide systematic, periodic inspection, repair, cleaning, and routine maintenance of all EMS responding ground vehicles and maintain records available for inspection by the OEMS which verify compliance with this Subparagraph;
- (6) Collect and within 24 hours electronically submit to the OEMS EMS Care data that uses the EMS data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost.
- (7) Develop and implement written operational protocols for the management of equipment, supplies and medications and maintain records available for inspection by the OEMS which verify compliance with this Subparagraph. These protocols shall include a methodology:

- (A) to assure that each vehicle contains the required equipment and supplies on each response;
- (B) for cleaning and maintaining the equipment and vehicles; and
- (C) to assure that supplies and medications are not used beyond the expiration date and stored in a temperature controlled atmosphere according to manufacturer's specifications.

(b) In addition to the general requirements detailed in Paragraph (a) of this Rule, if providing fixed-wing air medical services, affiliation as defined in Rule .0102(4) of this Subchapter with a hospital as defined in Rule .0102(30) of this Subchapter is required to ensure the provision of peer review, medical director oversight and treatment protocol maintenance.

(c) In addition to the general requirements detailed in Paragraph (a) of this Rule, if providing rotary-wing air medical services, affiliation as defined in Rule .0102(4) of this Subchapter with a Level I or Level II Trauma Center as defined in Rules .0102(35) and (36) of this Subchapter designated by the OEMS is required to ensure the provision of peer review, medical director oversight and treatment protocol maintenance. Due to the geographical barriers unique to the County of Dare, the Medical Care Commission exempts the Dare County EMS System from this Paragraph.

(d) An EMS Provider may renew its license by presenting documentation to the OEMS that the Provider meets the criteria found in Paragraphs (a) through (c) of this Rule.

History Note: Authority G.S. 131E-155.1(c); 143-508(d)(1), (d)(5);

Temporary Adoption Eff. January 1, 2002;

Eff. April 1, 2003;

Amended Eff. January 1, 2004;

Amended Eff. Pending Legislative Review.

10A NCAC 13P .0206 TERM OF EMS PROVIDER LICENSE

(a) EMS Provider Licenses remain in effect for six years unless any of the following occurs:

- (1) the Department imposes an administrative sanction which specifies license expiration;
- (2) the EMS Provider closes or goes out of business;
- (3) the EMS Provider changes name or ownership; or
- (4) failure to continue to comply with Rule .0204 of this Section.

(b) When the name or ownership of the EMS Provider changes, an EMS Provider License application shall be submitted to the OEMS at least 30 days prior to the effective date of the change.

History Note: Authority G.S. 131E-155.1(c);

Temporary Adoption Eff. January 1, 2002;

Eff. April 1, 2003;

Amended Eff. January 1, 2009.

**10A NCAC 13P .0207 GROUND AMBULANCE:
VEHICLE AND EQUIPMENT REQUIREMENTS**

(a) To be permitted as a Ground Ambulance, a vehicle shall have:

- (1) a patient compartment that meets the following interior dimensions:
 - (A) the length, measured on the floor from the back of the driver's compartment, driver's seat or partition to the inside edge of the rear loading doors, is at least 102 inches; and
 - (B) the height is at least 48 inches over the patient area, measured from the approximate center of the floor, exclusive of cabinets or equipment;
- (2) patient care equipment and supplies as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The equipment and supplies shall be clean, in working order, and secured in the vehicle;
- (3) other equipment that includes:
 - (A) one fire extinguisher mounted in a quick release bracket that is either a dry chemical or all-purpose type and has a pressure gauge; and
 - (B) the availability of one pediatric restraint device to safely transport pediatric patients and children under 40 pounds in the patient compartment of the ambulance;
- (4) the name of the EMS Provider permanently displayed on each side of the vehicle;
- (5) reflective tape affixed to the vehicle such that there is reflectivity on all sides of the vehicle;
- (6) emergency warning lights and audible warning devices mounted on the vehicle as required by G.S. 20-125 in addition to those required by Federal Motor Vehicle Safety Standards. All warning devices shall function properly;
- (7) no structural or functional defects that may adversely affect the patient, the EMS personnel, or the safe operation of the vehicle;
- (8) an operational two-way radio that:
 - (A) is mounted to the ambulance and installed for safe operation and controlled by the ambulance driver;
 - (B) has sufficient range, radio frequencies, and capabilities to establish and maintain two-way voice radio communication from within the defined service area of the EMS System to the emergency communications center or PSAP

designated to direct or dispatch the deployment of the ambulance;

- (C) is capable of establishing two-way voice radio communication from within the defined service area to the emergency department of the hospital(s) where patients are routinely transported and to facilities that provide on-line medical direction to EMS personnel;
- (D) is equipped with a radio control device mounted in the patient compartment capable of operation by the patient attendant to receive on-line medical direction; and
- (E) is licensed or authorized by the FCC;
- (9) permanently installed heating and air conditioning systems; and
- (10) a copy of the EMS System patient care treatment protocols.

(b) Ground ambulances shall not use a radiotelephone device such as a cellular telephone as the only source of two-way radio voice communication.

(c) Communication instruments or devices such as data radio, facsimile, computer, or telemetry radio shall be in addition to the mission dedicated dispatch radio and shall function independently from the mission dedicated radio.

*History Note: Authority G.S. 131E-157(a); 143-508(d)(8);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

**10A NCAC 13P .0208 CONVALESCENT
AMBULANCE: VEHICLE AND EQUIPMENT
REQUIREMENTS**

(a) To be permitted as a Convalescent Ambulance, a vehicle shall have:

- (1) a patient compartment that meets the following interior dimensions:
 - (A) the length, measured on the floor from the back of the driver's compartment, driver's seat or partition to the inside edge of the rear loading doors, is at least 102 inches; and
 - (B) the height is at least 48 inches over the patient area, measured from the approximate center of the floor, exclusive of cabinets or equipment;
- (2) patient care equipment and supplies as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The

- equipment and supplies shall be clean, in working order, and secured in the vehicle;
- (3) other equipment including:
 - (A) one fire extinguisher mounted in a quick release bracket that is either a dry chemical or all-purpose type and has a pressure gauge; and
 - (B) the availability of one pediatric restraint device to safely transport pediatric patients and children under 40 pounds in the patient compartment of the ambulance;
- (4) permanently installed heating and air conditioning systems; and
- (5) a copy of the EMS System patient care treatment protocols.
- (b) Convalescent Ambulances shall:
 - (1) not be equipped, permanently or temporarily, with any emergency warning devices, audible or visual, other than those required by Federal Motor Vehicle Safety Standards;
 - (2) have the name of the EMS Provider permanently displayed on each side of the vehicle;
 - (3) not have emergency medical symbols, such as the Star of Life, block design cross, or any other medical markings, symbols, or emblems, including the word "EMERGENCY," on the vehicle;
 - (4) have the words "CONVALESCENT AMBULANCE" lettered on both sides and on the rear of the vehicle body; and
 - (5) have reflective tape affixed to the vehicle such that there is reflectivity on all sides of the vehicle.
- (c) A two-way radio or radiotelephone device such as a cellular telephone shall be available to summon emergency assistance for a vehicle permitted as a convalescent ambulance.
- (d) The convalescent ambulance shall not have structural or functional defects that may adversely affect the patient, the EMS personnel, or the safe operation of the vehicle.

History Note: Authority G.S. 131E-157(a); 143-508(d)(8); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2004; Amended Eff. Pending Legislative Review.

10A NCAC 13P .0209 AIR MEDICAL AMBULANCE: VEHICLE AND EQUIPMENT REQUIREMENTS

To be permitted as an Air Medical Ambulance, an aircraft shall meet the following requirements:

- (1) Configuration of the aircraft patient care compartment does not compromise the ability to provide appropriate care or prevent performing in-flight emergency patient care procedures as approved by the program medical director.

- (2) The aircraft has on board patient care equipment and supplies as defined in the treatment protocols for the program. The equipment and supplies shall be clean, in working order, and secured in the aircraft.
- (3) There is installed in the aircraft an internal voice communication system to allow for communication between the medical crew and flight crew.
- (4) The medical director designates the combination of medical equipment specified in Item (2) of this Rule that is carried on a mission based on anticipated patient care needs.
- (5) The name of the EMS Provider is permanently displayed on each side of the aircraft.
- (6) The aircraft is equipped with a two-way voice radio licensed by the FCC capable of operation on any frequency required to allow communications with public safety agencies such as fire departments, police departments, ambulance and rescue units, hospitals, and local government agencies within the service area.
- (7) In addition to equipment required by applicable air worthiness certificates and Federal Aviation Regulations (FAA Part 91 or 135), any rotary-wing aircraft permitted has the following functioning equipment to help ensure the safety of patients, crew members and ground personnel, patient comfort, and medical care:
 - (a) Global Positioning System;
 - (b) an external search light that can be operated from inside the aircraft;
 - (c) survival gear appropriate for the service area and the number, age and type of patients;
 - (d) permanently installed environmental control unit (ECU) capable of both heating and cooling the patient compartment of the aircraft; and
 - (e) capability to carry at least a 220 pound patient load and transport at least 60 nautical miles or nearest Trauma Center non-stop without refueling.
- (8) The availability of one pediatric restraint device to safely transport pediatric patients and children under 40 pounds in the patient compartment of the air medical ambulance.
- (9) The aircraft has no structural or functional defects that may adversely affect the patient, or the EMS personnel.

History Note: Authority G.S. 131E-157(a); 143-508(d)(8); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2004;

Amended Eff. Pending Legislative Review.

**10A NCAC 13P .0210 WATER AMBULANCE:
WATERCRAFT AND EQUIPMENT REQUIREMENTS**

To be permitted as a Water Ambulance, a watercraft shall meet the following requirements:

- (1) The watercraft shall have a patient care area that:
 - (a) provides access to the head, torso, and lower extremities of the patient while providing sufficient working space to render patient care;
 - (b) is covered to protect the patient and EMS personnel from the elements; and
 - (c) has an opening of sufficient size to permit the safe loading and unloading of a person occupying a litter.
- (2) The watercraft shall have on board patient care equipment and supplies as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The equipment and supplies shall be clean, in working order, and secured in the vehicle.
- (3) Water ambulances shall have the name of the EMS Provider permanently displayed on each side of the watercraft.
- (4) Water ambulances shall have a 360-degree beacon warning light in addition to warning devices required in Chapter 75A, Article 1, of the North Carolina General Statutes.
- (5) Water ambulances shall be equipped with:
 - (a) two floatable rigid long backboards with proper accessories for securing infant, pediatric, and adult patients and stabilization of the head and neck;
 - (b) one floatable litter with patient restraining straps and capable of being secured to the watercraft;
 - (c) one fire extinguisher mounted in a quick release bracket that is either a dry chemical or all-purpose type and has a pressure gauge;
 - (d) lighted compass;
 - (e) radio navigational aids such as ADF (automatic directional finder), Satellite Global Navigational System, navigational radar, or other comparable radio equipment suited for water navigation;
 - (f) marine radio; and

- (g) the availability of one pediatric restraint device to safely transport pediatric patients under 40 pounds in the patient compartment of the ambulance;

- (6) The water ambulance shall not have structural or functional defects that may adversely affect the patient, the EMS personnel, or the safe operation of the watercraft.
- (7) Water ambulances shall have a copy of the EMS System patient care treatment protocols.

*History Note: Authority G.S. 131E-157(a); 143-508(d)(8);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

**10A NCAC 13P .0212 TERM OF AMBULANCE
PERMIT**

Ambulance Permits remain in effect for two years unless any of the following occurs:

- (1) The Department imposes an administrative sanction which specifies permit expiration;
- (2) The EMS Provider closes or goes out of business;
- (3) The EMS Provider changes name or ownership; or
- (4) Failure to comply with the applicable Paragraphs of Rules .0207, .0208, .0209, or .0210 of this Section.

*History Note: Authority G.S. 131E-157(a); 143-508(d)(8);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009.*

**10A NCAC 13P .0213 EMS NONTRANSPORTING
VEHICLE REQUIREMENTS**

(a) To be permitted as an EMS Nontransporting Vehicle, a vehicle shall:

- (1) have patient care equipment and supplies as defined in the treatment protocols for the system. The equipment and supplies shall be clean, in working order, and secured in the vehicle.
- (2) have the name of the EMS Provider permanently displayed on each side of the vehicle.
- (3) have reflective tape affixed to the vehicle such that there is reflectivity on all sides of the vehicle.
- (4) have emergency warning lights and audible warning devices mounted on the vehicle as required by G.S. 20-125 in addition to those required by Federal Motor Vehicle Safety Standards. All warning devices shall function properly.

- (5) not have structural or functional defects that may adversely affect the EMS personnel or the safe operation of the vehicle.
- (6) have one fire extinguisher that is a dry chemical or all-purpose type with a pressure gauge, mounted in a quick-release bracket.
- (7) have an operational two-way radio that:
 - (A) is mounted to the EMS Nontransporting Vehicle and installed for safe operation and controlled by the driver;
 - (B) has sufficient range, radio frequencies, and capabilities to establish and maintain two-way voice radio communication from within the defined service area of the EMS System to the emergency communications center or PSAP designated to direct or dispatch the deployment of the ambulance;
 - (C) is capable of establishing two-way voice radio communication from within the defined service area to facilities that provide on-line medical direction to EMS personnel; and
 - (D) is licensed or authorized by the FCC.
- (8) not use a radiotelephone device such as a cellular telephone as the only source of two-way radio voice communication.
- (9) have a copy of the local EMS System patient care treatment protocols.

(b) Communication instruments or devices such as data radio, facsimile, computer, or telemetry radio shall be in addition to the mission dedicated dispatch radio and shall function independently from the mission-dedicated radio.

*History Note: Authority G.S. 143-508(d)(8);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009.*

10A NCAC 13P .0214 EMS NONTRANSPORTING VEHICLE PERMIT CONDITIONS

- (a) An EMS Provider shall apply to the OEMS for an EMS Nontransporting Vehicle Permit prior to placing such a vehicle in service.
- (b) The Department shall issue a permit for a vehicle following verification of compliance with applicable laws and rules.
- (c) Only one EMS Nontransporting Vehicle Permit shall be issued for each vehicle.
- (d) EMS Nontransporting Vehicle Permits shall not be transferred.
- (e) The EMS Nontransporting Vehicle Permit shall be posted as designated by the OEMS inspector.
- (f) Vehicles that are not owned or leased by the EMS Provider are ineligible for permitting.

*History Note: Authority G.S. 143-508(d)(8);
Temporary Adoption Eff. January 1, 2002;*

*Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

10A NCAC 13P .0215 TERM OF EMS NONTRANSPORTING VEHICLE PERMIT

EMS Nontransporting Vehicle Permits remain in effect for two years, unless any of the following occurs:

- (1) The Department imposes an administrative sanction that specifies permit expiration;
- (2) The EMS Provider closes or goes out of business;
- (3) The EMS Provider changes name or ownership; or
- (4) Failure to comply with Rule .0213 of this Section.

*History Note: Authority G.S. 143-508(d)(8);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009.*

10A NCAC 13P .0301 SPECIALTY CARE TRANSPORT PROGRAM CRITERIA

(a) EMS Providers seeking designation to provide specialty care transports shall submit an application for program approval to the OEMS at least 60 days prior to field implementation. The application shall document that the program has:

- (1) a defined service area that identifies the specific transferring and receiving facilities in which the program is intended to service;
- (2) written policies and procedures implemented for medical oversight meeting the requirements of Section .0400;
- (3) service continuously available on a 24 hour per day basis;
- (4) the capability to provide the patient care skills and procedures as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost;
- (5) a written continuing education program for EMS personnel, under the direction of the Specialty Care Transport Program Continuing Education Coordinator, developed and modified based on feedback from program data, review and evaluation of patient outcomes, and quality management review that follows the guidelines of the:
 - (A) "US DOT NHTSA EMT-Basic Refresher: National Standard Curriculum" for EMT personnel; and
 - (B) "EMT-P and EMT-I Continuing Education National Guidelines" for EMT-I and EMT-P personnel.

These documents are incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. These documents are available from NHTSA, 400 7th Street, SW, Washington, D.C. 20590, at no cost;

- (6) a communication system that will provide two-way voice communications for transmission of patient information to medical crew members anywhere in the service area of the program. The SCTP medical director shall verify that the communications system is satisfactory for on-line medical direction;
- (7) medical crew members that have all completed training regarding:
 - (A) operation of the EMS communications system used in the program; and
 - (B) the medical and patient safety equipment specific to the program. This training shall be conducted every six months;
- (8) written operational protocols for the management of equipment, supplies and medications. These protocols include:
 - (A) a listing of all standard medical equipment, supplies, and medications for all vehicles used in the program based on the treatment protocols and approved by the medical director; and
 - (B) a methodology to assure that each ground vehicle and aircraft contains the required equipment, supplies and medications on each response; and
- (9) written policies and procedures specifying how EMS Systems will dispatch and utilize the ground ambulances and aircraft operated by the program.

(b) When transporting patients, staffing for the ground ambulance and aircraft used in the SCTP shall be approved by the SCTP medical director as medical crew members, using any of the following appropriate for the condition of the patient:

- (1) EMT-Paramedic;
- (2) nurse practitioner;
- (3) physician;
- (4) physician assistant;
- (5) registered nurse; and
- (6) respiratory therapist.

(c) Specialty Care Transport Programs as defined in Rule .0102(56) of this Subchapter are exempt from the staffing requirements defined in G.S. 131E-158(a).

(d) Specialty Care Transport Program approval are valid for a period to coincide with the EMS Provider License, not to exceed six years. Programs shall apply to the OEMS for reapproval.

History Note: Authority G.S. 131E-158; 143-508(d)(1), (d)(8), (d)(9); 143-508(d)(13); Temporary Adoption Eff. January 1, 2002; Eff. January 1, 2004;

Amended Eff. Pending Legislative Review.

10A NCAC 13P .0302 AIR MEDICAL SPECIALTY CARE TRANSPORT PROGRAM CRITERIA FOR LICENSED EMS PROVIDERS USING ROTARY-WING AIRCRAFT

(a) Air Medical Programs using rotary-wing aircraft shall document that the program has:

- (1) Medical crew members that have all completed training regarding:
 - (A) Altitude physiology; and
 - (B) The operation of the EMS communications system used in the program;
- (2) Written policies and procedures for transporting patients to appropriate facilities when diversion or bypass plans are activated;
- (3) Written policies and procedures specifying how EMS Systems will dispatch and utilize aircraft operated by the program;
- (4) Written triage protocols for trauma, stroke, STEMI, burn, and pediatric patients reviewed and approved by the OEMS medical director;
- (5) Written policies and procedures specifying how EMS Systems will receive the Specialty Care Transport Services offered under the program when the aircraft are unavailable for service; and
- (6) A copy of the Specialty Care Transport Program patient care treatment protocols.

(b) All patient response, re-positioning and mission flight legs must be conducted under FAA part 135 regulations.

History Note: Authority G.S. 143-508(d)(1), (d)(3); (d)(13); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. Pending Legislative Review.

10A NCAC 13P .0303 GROUND SPECIALTY CARE TRANSPORT PROGRAMS

10A NCAC 13P .0304 HOSPITAL-AFFILIATED GROUND SPECIALTY CARE TRANSPORT PROGRAMS USED FOR INPATIENT TRANSPORTS

History Note: Authority G.S. 143-508(d)(1); (d)(8); (d)(9); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2004; Repealed Eff. January 1, 2009.

10A NCAC 13P .0305 AIR MEDICAL SPECIALTY CARE TRANSPORT PROGRAM CRITERIA FOR LICENSED EMS PROVIDERS USING FIXED-WING AIRCRAFT

(a) In addition to the general requirements of Specialty Care Transport Programs in Rule .0301 of this Section, Air Medical Programs using fixed-wing aircraft shall document that:

- (1) Medical crew members have all completed training regarding:

- (A) Altitude physiology; and
- (B) The operation of the EMS communications system used in the program;

- (2) Written policies and procedures specifying how ground ambulance services are utilized by the program for patient delivery and receipt on each end of the transport; and

- (3) There is a copy of the Specialty Care Treatment Program patient care protocols.

(b) All patient, re-positioning, and mission flight legs must be conducted under FAA part 135 regulations.

*History Note: Authority G.S. 143-508(d)(1), (d)(3);
Eff. Pending Legislative Review.*

10A NCAC 13P .0401 COMPONENTS OF MEDICAL OVERSIGHT FOR EMS SYSTEMS

Each EMS System shall have the following components in place to assure medical oversight of the system:

- (1) a medical director for adult and pediatric patients appointed, either directly or by written delegation, by the county responsible for establishing the EMS System. Systems may elect to appoint one or more assistant medical directors. The medical director and assistant medical directors shall meet the criteria defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost;
- (2) written treatment protocols for adult and pediatric patients for use by EMS personnel;
- (3) for systems providing EMD service, an EMDPRS approved by the medical director;
- (4) an EMS Peer Review Committee; and
- (5) written procedures for use by EMS personnel to obtain on-line medical direction. On-line medical direction shall:
 - (a) be restricted to medical orders that fall within the scope of practice of the EMS personnel and within the scope of approved system treatment protocols;
 - (b) be provided only by a physician, MICN, EMS-NP, or EMS-PA. Only physicians may deviate from written treatment protocols; and
 - (c) be provided by a system of two-way voice communication that can be maintained throughout the treatment and disposition of the patient.

*History Note: Authority G.S. 143-508(b); 143-509(12);
Temporary Adoption Eff. January 1, 2002;*

*Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

10A NCAC 13P .0402 COMPONENTS OF MEDICAL OVERSIGHT FOR SPECIALTY CARE TRANSPORT PROGRAMS

Each Specialty Care Transport Program shall have the following components in place to assure Medical Oversight of the system:

- (1) a medical director. The administration of the SCTP shall appoint a medical director following the criteria for medical directors of Specialty Care Transport Programs as defined by the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The program administration may elect to appoint one or more assistant medical directors;
- (2) treatment protocols for adult and pediatric patients for use by medical crew members;
- (3) an EMS Peer Review Committee; and
- (4) a written protocol for use by medical crew members to obtain on-line medical direction. On-line medical direction shall:
 - (a) be restricted to medical orders that fall within the scope of practice of the medical crew members and within the scope of approved program treatment protocols;
 - (b) be provided only by a physician, MICN, EMS-NP, or EMS-PA. Only physicians may deviate from written treatment protocols; and
 - (c) be provided by a system of two-way voice communication that can be maintained throughout the treatment and disposition of the patient.

*History Note: Authority G.S. 143-508(b); 143-509(12);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

10A NCAC 13P .0403 RESPONSIBILITIES OF THE MEDICAL DIRECTOR FOR EMS SYSTEMS

(a) The Medical Director for an EMS System is responsible for the following:

- (1) ensuring that medical control is available 24 hours a day;
- (2) the establishment, approval and annual updating of adult and pediatric treatment protocols;
- (3) EMD programs, the establishment, approval, and annual updating of the EMDPRS;

- (4) medical supervision of the selection, system orientation, continuing education and performance of all EMS personnel;
- (5) medical supervision of a scope of practice performance evaluation for all EMS personnel in the system based on the treatment protocols for the system;
- (6) the medical review of the care provided to patients;
- (7) providing guidance regarding decisions about the equipment, medical supplies, and medications that will be carried on all ambulances and EMS nontransporting vehicles operating within the system;
- (8) keeping the care provided up to date with current medical practice; and
- (9) developing and implementing an orientation plan for all hospitals within the EMS system that use MICN, EMS-NP, or EMS-PA personnel to provide on-line medical direction to EMS personnel, which includes:
 - (A) a discussion of all EMS System treatment protocols and procedures;
 - (B) an explanation of the specific scope of practice for credentialed EMS personnel, as authorized by the approved EMS System treatment protocols as required by Rule .0405 of this Section;
 - (C) a discussion of all practice settings within the EMS System and how scope of practice may vary in each setting;
 - (D) a mechanism to assess the ability to effectively use EMS System communications equipment including hospital and prehospital devices, EMS communication protocols, and communications contingency plans as related to on-line medical direction; and
 - (E) the successful completion of a scope of practice performance evaluation which verifies competency in Parts (A) through (D) of this Subparagraph and which is administered under the direction of the medical director.

(b) Any tasks related to Paragraph (a) of this Rule may be completed, through written delegation, by assisting physicians, physician assistants, nurse practitioners, registered nurses, EMD's, or EMT-P's.

(c) The Medical Director may suspend temporarily, pending due process review, any EMS personnel from further participation in the EMS System when it is determined the activities or medical care rendered by such personnel are detrimental to the care of the patient, constitute unprofessional conduct, or result in non-compliance with credentialing requirements.

History Note: Authority G.S. 143-508(b); 143-508(d)(3),(d)(7); 143-509(12); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2009; January 1, 2004.

10A NCAC 13P .0404 RESPONSIBILITIES OF THE MEDICAL DIRECTOR FOR SPECIALTY CARE TRANSPORT PROGRAMS

(a) The medical director for a Specialty Care Transport Program is responsible for the following:

- (1) The establishment, approval, and updating of adult and pediatric treatment protocols;
- (2) Medical supervision of the selection, program orientation, continuing education, and performance of medical crew members;
- (3) Medical supervision of a scope of practice performance evaluation for all medical crew members in the program based on the treatment protocols for the program;
- (4) The medical review of the care provided to patients;
- (5) Keeping the care provided up to date with current medical practice; and
- (6) In air medical programs, determination and specification of the medical equipment required in Item (2) of Rule .0209 of this Subchapter that is carried on a mission based on anticipated patient care needs.

(b) Any tasks related to Paragraph (a) of this Rule may be completed, through written delegation, by assisting physicians, physician assistants, nurse practitioners, registered nurses, or medical crew members.

(c) The medical director may suspend temporarily, pending due process review, any medical crew members from further participation in the Specialty Care Transport Program when it is determined the activities or medical care rendered by such personnel may be detrimental to the care of the patient, constitute unprofessional conduct, or result in non-compliance with credentialing requirements.

History Note: Authority G.S. 143-508(b); 143-509(12); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2009.

10A NCAC 13P .0405 REQUIREMENTS FOR ADULT AND PEDIATRIC TREATMENT PROTOCOLS FOR EMS SYSTEMS

(a) Treatment Protocols used in EMS Systems shall:

- (1) Be adopted in their original form from the standard adult and pediatric treatment protocols as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service

- Center, Raleigh, North Carolina 27699-2707, at no cost; and
- (2) Not contain medical procedures, medications, or intravenous fluids that exceed the scope of practice defined by the North Carolina Medical Board pursuant to G.S. 143-514 for the level of care offered in the EMS System and any other applicable health care licensing board.

(b) Individual adult and pediatric treatment protocols may be modified locally by EMS Systems if there is a change in a specific protocol which will optimize care within the local community which adds additional medications or medical procedures, or rearranges the order of care provided in the protocol contained within the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection" as described in Paragraph (a) of this Rule. Additional written Treatment Protocols may be developed by any EMS System in addition to the required protocols contained within the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection" as required by the EMS System. All North Carolina College of Emergency Physicians Policies and Procedures must be included and may be modified at the local level. All EMS System Treatment Protocols which have been added or changed by the EMS System shall be submitted to the OEMS Medical Director for review and approval at least 30 days prior to the implementation of the change.

History Note: Authority G.S. 143-508(b); 143-509(12); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2009; January 1, 2004.

10A NCAC 13P .0406 REQUIREMENTS FOR ADULT AND PEDIATRIC TREATMENT PROTOCOLS FOR SPECIALTY CARE TRANSPORT PROGRAMS

(a) Adult and pediatric treatment protocols used by medical crew members within a Specialty Care Transport Program shall:

- (1) be approved by the OEMS Medical Director and incorporate all skills, medications, equipment, and supplies for Specialty Care Transport Programs as defined by the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and
- (2) not contain medical procedures, medications, or intravenous fluids that exceed the scope of practice of the medical crew members.

(b) All adult and pediatric treatment protocols shall be reviewed annually, and any change in the treatment protocols shall be submitted to the OEMS Medical Director for review and approval at least 30 days prior to the implementation of the change.

History Note: Authority G.S. 143-508(b); 143-509(12); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2009; January 1, 2004.

10A NCAC 13P .0408 EMS PEER REVIEW COMMITTEE FOR EMS SYSTEMS

The EMS Peer Review Committee for an EMS System shall:

- (1) be composed of membership as defined in G.S. 131E-155(6b).
- (2) appoint a physician as chairperson;
- (3) meet at least quarterly;
- (4) use information gained from the analysis of system data submitted to the OEMS to evaluate the ongoing quality of patient care and medical direction within the system;
- (5) use information gained from the analysis of system data submitted to the OEMS to make recommendations regarding the content of continuing education programs for all EMS personnel functioning within the EMS system;
- (6) review adult and pediatric treatment protocols of the EMS System and make recommendations to the medical director for changes;
- (7) establish and implement a written procedure to guarantee due process reviews for EMS personnel temporarily suspended by the medical director;
- (8) record and maintain minutes of committee meetings throughout the approval period of the EMS System;
- (9) establish and implement EMS system performance improvement guidelines that meet or exceed the statewide standard as defined by the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and
- (10) adopt written guidelines that address:
 - (a) structure of committee membership;
 - (b) appointment of committee officers;
 - (c) appointment of committee members;
 - (d) length of terms of committee members;
 - (e) frequency of attendance of committee members;
 - (f) establishment of a quorum for conducting business; and
 - (g) confidentiality of medical records and personnel issues.

History Note: Authority G.S. 143-508(b); 143-509(12); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003;

Amended Eff. January 1, 2009; January 1, 2004.

**10A NCAC 13P .0409 EMS PEER REVIEW
COMMITTEE FOR SPECIALTY CARE TRANSPORT
PROGRAMS**

The EMS Peer Review Committee for a Specialty Care Transport Program shall:

- (1) be composed of membership as defined in G.S. 131E-155(6b);
- (2) appoint a physician as chairperson;
- (3) meet at least quarterly;
- (4) analyze program data to evaluate the ongoing quality of patient care and medical direction within the program;
- (5) use information gained from program data analysis to make recommendations regarding the content of continuing education programs for medical crew members;
- (6) review adult and pediatric treatment protocols of the Specialty Care Transport Programs and make recommendations to the medical director for changes;
- (7) establish and implement a written procedure to guarantee due process reviews for medical crew members temporarily suspended by the medical director;
- (8) record and maintain minutes of committee meetings throughout the approval period of the Specialty Care Transport Program;
- (9) establish and implement EMS system performance improvement guidelines that meet or exceed the statewide standard as defined by the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and

(10)

editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and adopt written guidelines that address:

- (a) structure of committee membership;
- (b) appointment of committee officers;
- (c) appointment of committee members;
- (d) length of terms of committee members;
- (e) frequency of attendance of committee members;
- (f) establishment of a quorum for conducting business; and
- (g) confidentiality of medical records and personnel issues.

*History Note: Authority G.S. 143-508(b); 143-509(12);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2004;
Amended Eff. Pending Legislative Review.*

10A NCAC 13P .0501 EDUCATIONAL PROGRAMS

(a) An educational program approved by the OEMS to qualify credentialed EMS personnel to perform within their scope of practice shall be offered by an EMS educational institution.

(b) Educational programs approved to qualify EMS personnel for credentialing shall meet the educational objectives of the:

- (1) "US DOT NHTSA First Responder: National Standard Curriculum" for MR personnel;
- (2) "US DOT NHTSA EMT-Basic: National Standard Curriculum" for EMT personnel;
- (3) "US DOT NHTSA EMT-Paramedic: National Standard Curriculum" for EMT-I and EMT-P personnel. For EMT-I personnel, the educational objectives shall be limited to the following:

(A) Module 1: Preparatory

SECTION	TITLE	LESSON OBJECTIVES
1-1	EMS Systems / Roles & Responsibilities	1-1.1 – 1-1.46
1-2	The Well Being of the Paramedic	1-2.1 – 1-2.46
1-4	Medical / Legal Issues	1-4.1 – 1-4.35
1-5	Ethics	1-5.1 – 1-5.11
1-6	General Principles of Pathophysiology	1-6.3; 1-6.5 – 1-6.9; 1-6.13 – 1-6.16; 1-6.19 – 1-6.25; 1-6.27 – 1-6.31
1-7	Pharmacology	1-7.1 – 1-7.31
1-8	Venous Access / Medication Administration	1-8.1 – 1-8.8; 1-8.10 – 1-8.17; 1-8.19 – 1-8.34; 1-8.36 – 1-8.38; 1-8.40 – 1-8.43
1-9	Therapeutic Communications	1-9.1 – 1-9.21

(B) Module 2: Airway

SECTION	TITLE	LESSON OBJECTIVES
2-1	Airway Management & Ventilation	2-1.1 – 2-1.10; 2-1.12 – 2-1.40; 2-1.42 – 2-1.64; 2-1.69; 2-1.73 – 2-1.89; 2-1.93 – 2-1.103; 2-1.104a-d; 2-1.105 – 2-1.106; 2-1.108

(C) Module 3: Patient Assessment

SECTION	TITLE	LESSON OBJECTIVES
3-2	Techniques of Physical Examination	3-2.1 – 3-2.88

(D) Module 4: Trauma

SECTION	TITLE	LESSON OBJECTIVES
4-2	Hemorrhage and Shock	4-2.1 – 4-2.54
4-4	Burns	4-4.25 – 4-4.30; 4-4.80 – 4-4.81

(E) Module 5: Medical

SECTION	TITLE	LESSON OBJECTIVES
5-1	Pulmonary	5-1.2 – 5-1.7; 5-1.10bdefjk – 5-1.14
5-2	Cardiology	5-2.1 – 5-2.5; 5-2.8; 5-2.11 – 5-2.12; 5-2.14; 5-2.29 – 5-2.30; 5-2.53; 5-2.65 – 5-2.68; 5-2.70; 5-2.72 – 5-2.73; 5-2.75 – 5-2.77; 5-2.79 – 5-2.81; 5-2.84 – 5-2.89; 5-2.91 – 5-2.95; 5-2.121 – 5-2.125; 5-2.128 – 5-2.133; 5-2.150; 5-2.159; 5-2.162; 5-2.165; 5-2.168; 5-2.179 – 5-2.180; 5-2.184; 5-2.193 – 5-2.194; 5-2.201; 5-2.205ab;

		5-2.206 – 5-2.207
5-3	Neurology	5-3.11 – 5-3.17; 5-3.82 – 5-3.83
5-4	Endocrinology	5-4.8 – 5-4.48
5-5	Allergies and Anaphylaxis	5-5.1 – 5-5.19
5-8	Toxicology	5-8.40 – 5-8.56; 5-8.62

(F) Module 7: Assessment Based Management

SECTION	TITLE	LESSON OBJECTIVES
7-1	Assessment Based Management	7-1.1 – 7-1.19 (objectives 7-1.12 and 7-1.19 include only abefhklo)

Amended Eff. January 1, 2009.

- (4) "US DOT NHTSA Emergency Medical Dispatcher: National Standard Curriculum" for EMD personnel; and

- (5) "National Guidelines for Educating EMS Instructors" for EMS Instructors.

These documents are incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. These documents are available from NHTSA, 400 7th Street, SW, Washington, D.C. 20590, at no cost.

(c) Educational programs approved to qualify EMS personnel for renewal of credentials shall follow the guidelines of the:

- (1) "US DOT NHTSA First Responder Refresher: National Standard Curriculum" for MR personnel;
- (2) "US DOT NHTSA EMT-Basic Refresher: National Standard Curriculum" for EMT personnel;
- (3) "EMT-P and EMT-I Continuing Education National Guidelines" for EMT-I and EMT-P personnel;
- (4) "US DOT NHTSA Emergency Medical Dispatcher: National Standard Curriculum" for EMD personnel;
- (5) "US DOT NHTSA EMT-Intermediate Refresher: National Standard Curriculum" for EMT-I personnel; and
- (6) "US DOT NHTSA EMT-Paramedic Refresher: National Standard Curriculum" for EMT-P personnel.

These documents are incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and

additions. These documents are available from NHTSA, 400 7th Street, SW, Washington, D.C. 20590, at no cost.

History Note: Authority G.S. 143-508(d)(3), (d)(4); 143-514; Temporary Adoption Eff. January 1, 2002; Eff. January 1, 2004;

10A NCAC 13P .0502 INITIAL CREDENTIALING REQUIREMENTS FOR MR, EMT, EMT-I, EMT-P, AND EMD

(a) In order to be credentialed as an MR, EMT, EMT-I, EMT-P, or EMD, individuals shall:

- (1) Be at least 18 years of age.
- (2) Successfully complete an approved educational program for their level of application. If the educational program was completed over one year prior to application, applicants shall submit evidence of completion of continuing education during the past year. This continuing education shall be based on the educational objectives in Rule .0501(c) of this Section consistent with their level of application and approved by the OEMS.
- (3) Successfully complete a scope of practice performance evaluation which uses performance measures based on the cognitive, psychomotor, and affective educational objectives in Rule .0501(b) of this Section and which are consistent with their level of application and approved by the OEMS. This evaluation shall be conducted under the direction of the educational medical advisor or a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor, and may be included within the educational program or conducted separately. If the evaluation was completed over one year prior to application, applicants must repeat the evaluation and submit evidence of successful completion during the previous year.
- (4) Successfully complete a written examination administered by the OEMS or a written examination approved by OEMS as equivalent to the examination administered by OEMS.

(b) EMD applicants shall successfully complete, within one year prior to application, an AHA CPR course or a course determined by the OEMS to be equivalent to the AHA CPR course, including infant, child, and adult CPR.

History Note: Authority G.S. 131E-159(a)(b); 143-508(d)(3); Temporary Adoption Eff. January 1, 2002; Eff. February 1, 2004; Amended Eff. January 1, 2009.

10A NCAC 13P .0504 RENEWAL OF CREDENTIALS FOR MR, EMT, EMT-I, EMT-P, AND EMD

MR, EMT, EMT-I, EMT-P, and EMD applicants shall renew credentials by presenting documentation to the OEMS that they have successfully completed an approved educational program as described in Rule .0501(c) of this Section.

History Note: Authority G.S. 131E-159(a); 143-508(d)(3); Temporary Adoption Eff. January 1, 2002; Eff. February 1, 2004; Amended Eff. January 1, 2009.

10A NCAC 13P .0507 CREDENTIALING REQUIREMENTS FOR LEVEL I EMS INSTRUCTORS

(a) Applicants for credentialing as a Level I EMS Instructor shall:

- (1) be currently credentialed by the OEMS as an EMT, EMT-I, EMT-P, or EMD;
- (2) have three years experience at the scope of practice for the level of application;
- (3) within one year prior to application, successfully complete an evaluation which demonstrates the applicant's ability to provide didactic and clinical instruction based on the cognitive, psychomotor, and affective educational objectives in Rule .0501(b) of this Section consistent with their level of application and approved by the OEMS:
 - (A) For a credential to teach at the EMT level, this evaluation shall be conducted under the direction of a Level II EMS Instructor credentialed at or above the level of application;
 - (B) For a credential to teach at the EMT-I or EMT-P levels, this evaluation shall be conducted under the direction of the educational medical advisor, or a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor; and
 - (C) For a credential to teach at the EMD level, this evaluation shall be conducted under the direction of the educational medical advisor or a Level I EMS Instructor credentialed at the EMD level designated by the educational medical advisor;

- (4) have 100 hours of teaching experience in an approved EMS educational program or an EMS educational program approved by OEMS as equivalent to an approved program;
- (5) successfully complete an educational program as described in Rule .0501(b)(5) of this Section;
- (6) within one year prior to application, attend an OEMS Instructor workshop sponsored by the OEMS; and
- (7) have a high school diploma or General Education Development certificate.

(b) The credential of a Level I EMS Instructor shall be valid for four years, unless any of the following occurs:

- (1) the OEMS imposes an administrative action against the instructor credential; or
- (2) the instructor fails to maintain a current EMT, EMT-I, EMT-P, or EMD credential at the highest level that the instructor is approved to teach.

History Note: Authority G.S. 143-508(d)(3); Temporary Adoption Eff. January 1, 2002; Eff. February 1, 2004; Amended Eff. January 1, 2009.

10A NCAC 13P .0508 CREDENTIALING REQUIREMENTS FOR LEVEL II EMS INSTRUCTORS

(a) Applicants for credentialing as a Level II EMS Instructor shall:

- (1) be credentialed by the OEMS as an EMT, EMT-I, EMT-P, or EMD;
- (2) have completed post-secondary level education equal to or exceeding an Associate Degree;
- (3) within one year prior to application, successfully complete an evaluation which demonstrates the applicant's ability to provide didactic and clinical instruction based on the cognitive, psychomotor, and affective educational objectives in Rule .0501(b) of this Section consistent with their level of application and approved by the OEMS:
 - (A) For a credential to teach at the EMT level, this evaluation shall be conducted under the direction of a Level II EMS Instructor credentialed at or above the level of application; and
 - (B) For a credential to teach at the EMT-I or EMT-P level, this evaluation shall be conducted under the direction of the educational medical advisor, or a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor;
 - (C) For a credential to teach at the EMD level, this evaluation shall be

conducted under the direction of the educational medical advisor or a Level I EMS Instructor credentialed at the EMD level designated by the educational medical advisor;

- (4) have two years teaching experience as a Level I EMS Instructor or a teaching experience approved as equivalent by the OEMS;
- (5) successfully complete the "EMS Education Administration Course" conducted by a North Carolina Community College; and
- (6) attend an OEMS Instructor workshop sponsored by the OEMS;

(b) The credential of a Level II EMS Instructor is valid for four years, unless any of the following occurs:

- (1) The OEMS imposes an administrative action against the instructor credential; or
- (2) The instructor fails to maintain a current EMT, EMT-I, EMT-P, or EMD credential at the highest level that the instructor is approved to teach.

*History Note: Authority G.S. 143-508(d)(3);
Temporary Adoption Eff. January 1, 2002;
Eff. February 1, 2004;
Amended Eff. January 1, 2009.*

10A NCAC 13P .0509 CREDENTIALING OF INDIVIDUALS TO ADMINISTER LIFESAVING TREATMENT TO PERSONS SUFFERING AN ADVERSE REACTION TO AGENTS THAT MIGHT CAUSE ANAPHYLAXIS

(a) To become credentialed by the North Carolina Medical Care Commission to administer epinephrine to persons who suffer adverse reactions to agents that might cause anaphylaxis, a person shall meet the following:

- (1) Be 18 years of age or older; and
- (2) successfully complete an educational program taught by a physician licensed to practice medicine in North Carolina or designee of the physician. The educational program shall instruct individuals in the appropriate use of procedures for the administration of epinephrine to pediatric and adult victims who suffer adverse reactions to agents that might cause anaphylaxis and shall include the following:
 - (A) definition of anaphylaxis;
 - (B) agents that might cause anaphylaxis and the distinction between them, including drugs, insects, foods, and inhalants;
 - (C) recognition of symptoms of anaphylaxis for both pediatric and adult victims;
 - (D) appropriate emergency treatment of anaphylaxis as a result of agents that might cause anaphylaxis;

- (E) availability and design of packages containing equipment for administering epinephrine to victims suffering from anaphylaxis as a result of agents that might cause anaphylaxis;
- (F) pharmacology of epinephrine including indications, contraindications, and side effects;
- (G) discussion of legal implications of rendering aid; and
- (H) instruction that treatment is to be utilized only in the absence of the availability of physicians or other practitioners who are authorized to administer the treatment.

(b) A credential to administer epinephrine to persons who suffer adverse reactions to agents that might cause anaphylaxis shall be issued by the North Carolina Medical Care Commission upon receipt of a completed application signed by the applicant and the physician who taught or was responsible for the educational program. Applications may be obtained from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707. All credentials shall be valid for a period of four years.

(c) This Rule enables only those individuals who do not hold a North Carolina EMS credential and are not associated or affiliated with an EMS system, EMS agency, or emergency response provider to provide care pending arrival of the emergency responders dispatched through a 911 center to an EMS event involving a person suffering an anaphylactic reaction.

*History Note: Authority G.S. 143-508(d)(11); 143-509(9);
Temporary Adoption Eff. January 1, 2003; January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009; February 1, 2004.*

10A NCAC 13P .0511 CRIMINAL HISTORIES

(a) The criminal background histories for all individuals who apply for EMS credentials, seek to renew EMS credentials, or hold EMS credentials shall be reviewed pursuant to G.S. 131E-159(g).

(b) In addition to Paragraph (a) of this Rule, the OEMS shall carry out the following for all EMS Personnel whose primary residence is outside North Carolina, individuals who have resided in North Carolina for 60 months or less, and individuals under investigation that may be subject to administrative enforcement action by the Department under the provisions of Rule .0701(e) of this Subchapter:

- (1) obtain a signed consent form for a criminal history check;
- (2) obtain fingerprints on an SBI identification card; and
- (3) obtain the criminal history from the Department of Justice.

(c) An individual is not eligible for initial or renewal of EMS credentials if the applicant refuses to consent to any criminal history check required by G.S. 131E-159(g).

History Note: Authority G.S. 143-508(d)(3),(10); 131E-159(g); 114-19.21; Eff. January 1, 2009.

**10A NCAC 13P .0601 CONTINUING EDUCATION
EMS EDUCATIONAL INSTITUTION REQUIREMENTS**

(a) Continuing Education EMS Educational Institutions shall be credentialed by the OEMS to provide EMS continuing education programs.

(b) Continuing Education EMS Educational Institutions shall have:

- (1) at least a Level I EMS Instructor as program coordinator. The program coordinator shall hold a Level I EMS Instructor credential at a level equal to or greater than the highest level of continuing education program offered in the EMS System or Specialty Care Transport Program;
- (2) a continuing education program consistent with the EMS System or Specialty Care Transport Program continuing education plan for EMS personnel:
 - (A) In an EMS System, the continuing education programs for EMD, EMT-I, and EMT-P shall be reviewed and approved by the medical director of the EMS System.
 - (B) In a Model EMS System, the continuing education program shall be reviewed and approved by the system continuing education coordinator and medical director.
 - (C) In a Specialty Care Transport Program, the continuing education program shall be reviewed and approved by Specialty Care Transport Program Continuing Education Coordinator and the medical director;
- (3) access to instructional supplies and equipment necessary for students to complete educational programs as defined in Rule .0501(c) of this Subchapter;
- (4) educational programs offered in accordance with Rule .0501(c) of this Subchapter;
- (5) an Educational Medical Advisor if offering educational programs that have not been reviewed and approved by a medical director of an EMS System or Specialty Care Transport Program. The Educational Medical Advisor shall meet the criteria as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and

- (6) written educational policies and procedures describing the delivery of educational programs, the record-keeping system detailing student attendance and performance, and the selection and monitoring of EMS instructors.

(c) An application for credentialing as a Continuing Education EMS Educational Institution shall be submitted to the OEMS for review. The application shall demonstrate that the applicant meets the requirements in Paragraph (b) of this Rule.

(d) Continuing Education EMS Educational Institution credentials are valid for a period of four years.

History Note: Authority G.S. 143-508(d)(4), (13); Temporary Adoption Eff. January 1, 2002; Eff. January 1, 2004; Amended Eff. January 1, 2009.

**10A NCAC 13P .0602 BASIC EMS EDUCATIONAL
INSTITUTION REQUIREMENTS**

(a) Basic EMS Educational Institutions may offer MR, EMT, and EMD courses for which they have been credentialed by the OEMS.

(b) For initial courses, Basic EMS Educational Institutions shall have:

- (1) at least a Level I EMS Instructor as lead course instructor for MR and EMT courses. The lead course instructor must be credentialed at a level equal to or higher than the course offered;
- (2) at least a Level I EMS Instructor credentialed at the EMD level as lead course instructor for EMD courses;
- (3) a lead EMS educational program coordinator. This individual may be either a Level II EMS Instructor credentialed at or above the highest level of course offered by the institution, or a combination of staff who cumulatively meet the requirements of the Level II EMS Instructor referenced in this Subparagraph. These individuals may share the responsibilities of the lead EMS educational coordinator. The details of this option shall be defined in the educational plan required in Subparagraph (b)(5) of this Rule. Basic EMS Educational Institutions offering only EMD courses may meet this requirement with a Level I EMS Instructor credentialed at the EMD level;
- (4) an Educational Medical Advisor that meets the criteria as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection" incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost;

- (5) written educational policies and procedures describing the delivery of educational programs, the record-keeping system detailing student attendance and performance; and the selection and monitoring of EMS instructors; and
- (6) access to instructional supplies and equipment necessary for students to complete educational programs as defined in Rule .0501(b) of this Subchapter.

(c) For EMS continuing education programs, Basic EMS Educational Institutions shall meet the requirements defined in Paragraphs (a) and (b) of Rule .0601 of this Section.

(d) An application for credentialing as a Basic EMS Educational Institution shall be submitted to the OEMS for review. The proposal shall demonstrate that the applicant meets the requirements in Paragraphs (b) and (c) of this Rule.

(e) Basic EMS Educational Institution credentials are valid for a period of four years.

*History Note: Authority G.S. 143-508(d)(4), (13);
Temporary Adoption Eff. January 1, 2002;
Eff. January 1, 2004;
Amended Eff. January 1, 2009.*

10A NCAC 13P .0603 ADVANCED EMS EDUCATIONAL INSTITUTION REQUIREMENTS

(a) Advanced EMS Educational Institutions may offer all EMS educational programs for which they have been credentialed by the OEMS.

(b) For initial courses, Advanced EMS Educational Institutions shall have:

- (1) at least a Level I EMS Instructor as lead course instructor for MR and EMT courses. The lead course instructor must be credentialed at a level equal to or higher than the course offered;
- (2) at least a Level I EMS Instructor credentialed at the EMD level as lead course instructor for EMD courses;
- (3) a Level II EMS Instructor as lead instructor for EMT-I and EMT-P courses. The lead course instructor must be credentialed at a level equal to or higher than the course offered;
- (4) a lead EMS educational program coordinator. This individual may be either a Level II EMS Instructor credentialed at or above the highest level of course offered by the institution, or a combination of staff who cumulatively meet the requirements of the Level II EMS Instructor referenced in this Subparagraph. These individuals may share the responsibilities of the lead EMS educational coordinator. The details of this option shall be defined in the educational plan required in Subparagraph (b)(6) of this Rule;
- (5) an Educational Medical Advisor that meets the criteria as defined in the "North Carolina College of Emergency Physicians: Standards

for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost;

- (6) written educational policies and procedures describing the delivery of educational programs, the record-keeping system detailing student attendance and performance; and the selection and monitoring of EMS instructors; and

- (7) access to instructional supplies and equipment necessary for students to complete educational programs as defined in Rule .0501(b) of this Subchapter.

(c) For EMS continuing education programs, Advanced EMS Educational Institutions shall meet the requirements defined in Paragraphs (a) and (b) of Rule .0601 of this Section.

(d) An application for credentialing as an Advanced EMS Educational Institution shall be submitted to the OEMS for review. The application shall demonstrate that the applicant meets the requirements in Paragraphs (b) and (c) of this Rule.

(e) Advanced Educational Institution credentials are valid for a period of four years.

*History Note: Authority G.S. 143-508(d)(4), (13);
Temporary Adoption Eff. January 1, 2002;
Eff. February 1, 2004;
Amended Eff. January 1, 2009.*

10A NCAC 13P .0701 DENIAL, SUSPENSION, AMENDMENT OR REVOCATION

(a) The Department may deny, suspend, or revoke the permit of an ambulance or EMS nontransporting vehicle if the EMS Provider:

- (1) fails to comply with the requirements of Section .0200 of this Subchapter;
- (2) obtains or attempts to obtain a permit through fraud or misrepresentation; or
- (3) fails to provide emergency medical care within the defined EMS service area in a timely manner.

(b) In lieu of suspension or revocation, the Department may issue a temporary permit for an ambulance or EMS nontransporting vehicle whenever the Department finds that:

- (1) the EMS Provider to which that vehicle is assigned has failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that Article;
- (2) there is a reasonable probability that the EMS Provider can remedy the permit deficiencies within a length of time determined by the department; and
- (3) there is a reasonable probability that the EMS Provider will be willing and able to remain in compliance with the rules regarding vehicle permits for the foreseeable future.

(c) The Department shall give the EMS Provider written notice of the temporary permit. This notice shall be given personally or by certified mail and shall set forth:

- (1) the duration of the temporary permit not to exceed 60 days;
- (2) a copy of the vehicle inspection form;
- (3) the statutes or rules alleged to be violated; and
- (4) notice of the EMS Provider's right to a contested case hearing on the temporary permit.

(d) The temporary permit is effective immediately upon its receipt by the EMS Provider and remains in effect until the earlier of the expiration date of the permit or until the Department:

- (1) restores the vehicle to full permitted status; or
- (2) suspends or revokes the vehicle permit.

(e) The Department may amend, deny, suspend, or revoke the credentials of EMS personnel for any of the following reasons:

- (1) failure to comply with the applicable performance and credentialing requirements as found in this Subchapter;
- (2) making false statements or representations to the OEMS or willfully concealing information in connection with an application for credentials;
- (3) being unable to perform as credentialed EMS personnel with reasonable skill and safety to patients and the public by reason of illness, use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality;
- (4) unprofessional conduct, including a failure to comply with the rules relating to the proper function of credentialed EMS personnel contained in this Subchapter or the performance of or attempt to perform a procedure that is detrimental to the health and safety of any person or that is beyond the scope of practice of credentialed EMS personnel or EMS instructors;
- (5) conviction in any court of a crime involving moral turpitude, a conviction of a felony, or conviction of a crime involving the scope of practice of credentialed EMS personnel;
- (6) by false representations obtaining or attempting to obtain money or anything of value from a patient;
- (7) adjudication of mental incompetence;
- (8) lack of competence to practice with a reasonable degree of skill and safety for patients including a failure to perform a prescribed procedure, failure to perform a prescribed procedure competently or performance of a procedure that is not within the scope of practice of credentialed EMS personnel or EMS instructors;
- (9) making false statements or representations, willfully concealing information, or failing to respond within a reasonable period of time and

in a reasonable manner to inquiries from the OEMS;

- (10) testing positive for any substance, legal or illegal, that is likely to impair the physical or psychological ability of the credentialed EMS personnel to perform all required or expected functions while on duty;
- (11) representing or allowing others to represent that the credentialed EMS personnel has a credential that the credentialed EMS personnel does not in fact have;
- (12) failure to comply with G.S. 143-518 regarding the use or disclosure of records or data associated with EMS Systems, Specialty Care Transport Programs, or patients;
- (13) refusing to consent to any criminal history check required by G.S. 131E-159;
- (14) abandoning or neglecting a patient who is in need of care, without making reasonable arrangements for the continuation of such care;
- (15) harassing, abusing, or intimidating a patient either physically or verbally;
- (16) falsifying a patient's record or any controlled substance records;
- (17) falsifying any record used in the process of obtaining an initial EMS credential or in the renewal of an EMS credential;
- (18) engaging in any activities of a sexual nature with a patient including kissing, fondling or touching while responsible for the care of that individual;
- (19) any criminal arrests that involve charges which have been determined by the Department to indicate a necessity to seek action in order to further protect the public pending adjudication by a court; or
- (20) altering an EMS credential, using an EMS credential that has been altered or permitting or allowing another person to use his or her EMS credential for the purpose of alteration. Altering includes changing the name, expiration date or any other information appearing on the EMS credential.

(f) The Department may amend any EMS Provider license by reducing it from a full license to a provisional license whenever the Department finds that:

- (1) the licensee has failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that article;
- (2) there is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- (3) there is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

(g) The Department shall give the licensee written notice of the amendment of the EMS Provider license. This notice shall be given personally or by certified mail and shall set forth:

- (1) the length of the provisional EMS Provider license;
 - (2) the factual allegations;
 - (3) the statutes or rules alleged to be violated; and
 - (4) notice to the EMS provider's right to a contested case hearing on the amendment of the EMS Provider license.
- (h) The provisional EMS Provider license is effective immediately upon its receipt by the licensee and shall be posted in a prominent location at the primary business location of the EMS Provider, accessible to public view, in lieu of the full license. The provisional license remains in effect until the Department:
- (1) restores the licensee to full licensure status; or
 - (2) revokes the licensee's license.
- (i) The Department may revoke or suspend an EMS Provider license whenever the Department finds that the licensee:
- (1) has failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that article and it is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time;
 - (2) has failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that article and, although the licensee may be able to remedy the deficiencies within a reasonable period of time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future;
 - (3) has failed to comply with the provision of G.S. 131E, Article 7, and the rules adopted under that article that endanger the health, safety or welfare of the patients cared for or transported by the licensee;
 - (4) obtained or attempted to obtain an ambulance permit, EMS nontransporting vehicle permit, or EMS Provider license through fraud or misrepresentation; or
 - (5) is continuing to operate within an EMS System after a Board of County Commissioners has terminated its affiliation with the licensee.
- (j) The issuance of a provisional EMS Provider license is not a procedural prerequisite to the revocation or suspension of a license pursuant to Paragraph (i) of this Rule.
- (k) The Department may amend, deny, suspend, or revoke the credential of an EMS educational institution for any of the following reasons:
- (1) failure to comply with the requirements of Section .0600 of this Subchapter; or
 - (2) obtaining or attempting to obtain a credential through fraud or misrepresentation.
- (l) The Department may amend, deny, suspend, or revoke the approval of an EMS System or designation of a Model EMS System for any of the following reasons:
- (1) failure to comply with the requirements of Section .0200 of this Subchapter; or
 - (2) obtaining or attempting to obtain designation through fraud or misrepresentation.
- (m) The Department may amend, deny, suspend, or revoke the designation of a Specialty Care Transport Program for any of the following reasons:
- (1) failure to comply with the requirements of Section .0300 of this Subchapter; or
 - (2) obtaining or attempting to obtain designation through fraud or misrepresentation.
- (n) The OEMS may deny the initial or renewal designation, without first allowing a focused review, of a trauma center for any of the following reasons:
- (1) failure to comply with G.S. 131E-162 and the rules adopted under that Statute;
 - (2) attempting to obtain a trauma center designation through fraud or misrepresentation;
 - (3) endangerment to the health, safety, or welfare of patients cared for in the hospital; or
 - (4) repetition of contingencies placed on the trauma center in previous site visits.
- (o) When a trauma center is required to have a focused review, it must demonstrate compliance with the provisions of G.S.131E-162 and the rules adopted under that Statute within one year or less.
- (p) The OEMS may revoke a trauma center designation at any time or deny a request for renewal of designation, whenever the OEMS finds that the trauma center has failed to comply with the provisions of G.S. 131E-162 and the rules adopted under that Statute; and
- (1) it is not probable that the trauma center can remedy the deficiencies within one year or less;
 - (2) although the trauma center may be able to remedy the deficiencies within a reasonable period of time, it is not probable that the trauma center shall be able to remain in compliance with designation rules for the foreseeable future;
 - (3) the trauma center fails to meet the requirements of a focused review; or
 - (4) failure to comply endangers the health, safety, or welfare of patients cared for in the trauma center.
- (q) The OEMS shall give the trauma center written notice of revocation. This notice shall be given personally or by certified mail and shall set forth:
- (1) the factual allegations;
 - (2) the statutes or rules alleged to be violated; and
 - (3) notice of the hospital's right to a contested case hearing on the amendment of the designation.
- (r) Focused review is not a procedural prerequisite to the revocation of a designation pursuant to Paragraph (p) of this Rule.
- (s) With the OEMS' approval, a trauma center may voluntarily withdraw its designation for a maximum of one year by submitting a written request. This request shall include the reasons for withdrawal and a plan for resolution of the issues. To reactivate the designation, the facility shall provide written

documentation of compliance. Voluntary withdrawal shall not affect the original expiration date of the trauma center's designation.

(t) If the trauma center fails to resolve the issues which resulted in a voluntary withdrawal within the specified time period for resolution, the OEMS may revoke the trauma center designation.

(u) In the event of a revocation or voluntary withdrawal, the OEMS shall provide written notification to all hospitals and emergency medical services providers within the trauma center's defined trauma primary catchment area. The OEMS shall provide written notification to all hospitals and emergency medical services providers within the trauma center's defined trauma primary catchment area if, and when, the voluntary withdrawal reactivates to full designation.

History Note: Authority G.S. 131E-155.1(d); 131E-157(c); 131E-159(a),(f); 131E-162; 143-508(d)(10); Temporary Adoption Eff. January 1, 2002; Eff. January 1, 2004; Amended Eff. January 1, 2009.

10A NCAC 13P .0801 TRAUMA SYSTEM DEFINITIONS

History Note: Authority G.S. 131E-162; Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Repealed Eff. January 1, 2009.

10A NCAC 13P .0901 LEVEL I TRAUMA CENTER CRITERIA

To receive designation as a Level I Trauma Center, a hospital shall have the following:

- (1) A trauma program and a trauma service that have been operational for at least 12 months prior to application for designation;
- (2) Membership in and inclusion of all trauma patient records in the North Carolina Trauma Registry for at least 12 months prior to submitting a Request for Proposal;
- (3) A trauma medical director who is a board-certified general surgeon. The trauma medical director must:
 - (a) Have a minimum of three years clinical experience on a trauma service or trauma fellowship training;
 - (b) Serve on the center's trauma service;
 - (c) Participate in providing care to patients with life-threatening or urgent injuries;
 - (d) Participate in the North Carolina Chapter of the ACS Committee on Trauma as well as other regional and national trauma organizations;
 - (e) Remain a provider in the ACS' ATLS Course and in the provision of trauma-related instruction to other health care personnel; and

- (f) Be involved with trauma research and the publication of results and presentations;
- (4) A full-time TNC/TPM who is a registered nurse, licensed by the North Carolina Board of Nursing;
- (5) A full-time TR who has a working knowledge of medical terminology, is able to operate a personal computer, and has the ability to extract data from the medical record;
- (6) A hospital department/division/section for general surgery, neurological surgery, emergency medicine, anesthesiology, and orthopaedic surgery, with designated chair or physician liaison to the trauma program for each;
- (7) Clinical capabilities in general surgery with separate posted call schedules. One shall be for trauma, one for general surgery and one back-up call schedule for trauma. In those instances where a physician may simultaneously be listed on more than one schedule, there must be a defined back-up surgeon listed on the schedule to allow the trauma surgeon to provide care for the trauma patient. If a trauma surgeon is simultaneously on call at more than one hospital, there shall be a defined, posted trauma surgery back-up call schedule composed of surgeons credentialed to serve on the trauma panel;
- (8) A trauma team to provide evaluation and treatment of a trauma patient 24 hours per day that includes:
 - (a) An in-house trauma attending or PGY4 or senior general surgical resident. The trauma attending participates in therapeutic decisions and is present at all operative procedures.
 - (b) An emergency physician who is present in the Emergency Department 24 hours per day who is either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine). Emergency physicians caring only for pediatric patients may, as an alternative, be boarded or prepared in pediatric emergency medicine. Emergency physicians must be board-certified within five years after successful completion of a residency in emergency medicine and serve as a designated member of the trauma team to ensure immediate care for the injured patient until the arrival of the trauma surgeon;

- (c) Neurosurgery specialists who are never simultaneously on-call at another Level II or higher trauma center, who are promptly available, if requested by the trauma team leader, unless there is either an in-house attending neurosurgeon, a PGY2 or higher in-house neurosurgery resident or an in-house trauma surgeon or emergency physician as long as the institution can document management guidelines and annual continuing medical education for neurosurgical emergencies. There must be a specified back-up on the call schedule whenever the neurosurgeon is simultaneously on-call at a hospital other than the trauma center;
- (d) Orthopaedic surgery specialists who are never simultaneously on-call at another Level II or higher trauma center, who are promptly available, if requested by the trauma team leader, unless there is either an in-house attending orthopaedic surgeon, a PGY2 or higher in-house orthopaedic surgery resident or an in-house trauma surgeon or emergency physician as long as the institution can document management guidelines and annual continuing medical education for orthopaedic emergencies. There must be a specified written back-up on the call schedule whenever the orthopaedist is simultaneously on-call at a hospital other than the trauma center;
- (e) An in-house anesthesiologist or a CA3 resident as long as an anesthesiologist on-call is advised and promptly available if requested by the trauma team leader; and
- (f) Registered nursing personnel trained in the care of trauma patients;
- (9) A written credentialing process established by the Department of Surgery to approve mid-level practitioners and attending general surgeons covering the trauma service. The surgeons must have board certification in general surgery within five years of completing residency;
- (10) Neurosurgeons and orthopaedists serving the trauma service who are board certified or eligible. Those who are eligible must be board certified within five years after successful completion of the residency;
- (11) Written protocols relating to trauma management formulated and updated to remain current;
- (12) Criteria to ensure team activation prior to arrival, and trauma attending arrival within 15 minutes of the arrival of trauma and burn patients that include the following conditions:
 - (a) Shock;
 - (b) Respiratory distress;
 - (c) Airway compromise;
 - (d) Unresponsiveness (GSC less than nine) with potential for multiple injuries;
 - (e) Gunshot wound to neck, chest or abdomen;
 - (f) Patients receiving blood to maintain vital signs; and
 - (g) ED physician's decision to activate;
- (13) Surgical evaluation, based upon the following criteria, by the trauma attending surgeon who is promptly available:
 - (a) Proximal amputations;
 - (b) Burns meeting institutional transfer criteria;
 - (c) Vascular compromise;
 - (d) Crush to chest or pelvis;
 - (e) Two or more proximal long bone fractures; and
 - (f) Spinal cord injury.

A PGY4 or higher surgical resident, a PGY3 or higher emergency medicine resident, a nurse practitioner or physician's assistant, who is a member of the designated surgical response team, may initiate the evaluation;
- (14) Surgical consults for patients with traumatic injuries, at the request of the ED physician, will be conducted by a member of the trauma surgical team. Criteria for the consults include:
 - (a) Falls greater than 20 feet;
 - (b) Pedestrian struck by motor vehicle;
 - (c) Motor vehicle crash with:
 - (i) Ejection (includes motorcycle);
 - (ii) Rollover;
 - (iii) Speed greater than 40 mph; or
 - (iv) Death of another individual in the same vehicle; and
 - (d) Extremes of age, less than five or greater than 70 years.

A senior surgical resident may initiate the evaluation;
- (15) Clinical capabilities (promptly available if requested by the trauma team leader, with a posted on-call schedule), that include individuals credentialed in the following:
 - (a) Cardiac surgery;
 - (b) Critical care;
 - (c) Hand surgery;

- (d) Microvascular/replant surgery, or if service is not available, a transfer agreement must exist;
- (e) Neurosurgery (The neurosurgeon must be dedicated to one hospital or a back-up call schedule must be available. If fewer than 25 emergency neurosurgical trauma operations are done in a year, and the neurosurgeon is dedicated only to that hospital, then a published back-up call list is not necessary);
- (f) Obstetrics/gynecologic surgery;
- (g) Ophthalmic surgery;
- (h) Oral maxillofacial surgery;
- (i) Orthopaedics (dedicated to one hospital or a back-up call schedule must be available);
- (j) Pediatric surgery;
- (k) Plastic surgery;
- (l) Radiology;
- (m) Thoracic surgery; and
- (n) Urologic surgery;
- (16) An Emergency Department that has:
 - (a) A designated physician director who is board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine);
 - (b) 24-hour-per-day staffing by physicians physically present in the ED such that:
 - (i) At least one physician on every shift in the ED is either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine) to serve as the designated member of the trauma team to ensure immediate care until the arrival of the trauma surgeon. Emergency physicians caring only for pediatric patients may, as an alternative, be boarded in pediatric emergency medicine. All emergency physicians must be board-certified within five years after successful completion of the residency;
 - (ii) All remaining emergency physicians, if not board-certified or prepared in emergency medicine as outlined in Subitem (16)(b)(i) of this Rule, are board-certified, or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine, with each being board-certified within five years after successful completion of a residency; and
- (iii) All emergency physicians practice emergency medicine as their primary specialty.
- (c) Nursing personnel with experience in trauma care who continually monitor the trauma patient from hospital arrival to disposition to an intensive care unit, operating room, or patient care unit;
- (d) Equipment for patients of all ages to include:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators, pocket masks, and oxygen);
 - (ii) Pulse oximetry;
 - (iii) End-tidal carbon dioxide determination equipment;
 - (iv) Suction devices;
 - (v) Electrocardiograph-oscilloscope-defibrillator with internal paddles;
 - (vi) Apparatus to establish central venous pressure monitoring;
 - (vii) Intravenous fluids and administration devices that include large bore catheters and intraosseous infusion devices;
 - (viii) Sterile surgical sets for airway control/cricothyrotomy, thoracotomy, vascular access, thoracostomy, peritoneal lavage, and central line insertion;
 - (ix) Apparatus for gastric decompression;
 - (x) 24-hour-per-day x-ray capability;

- (xi) Two-way communication equipment for communication with the emergency transport system;
- (xii) Skeletal traction devices, including capability for cervical traction;
- (xiii) Arterial catheters;
- (xiv) Thermal control equipment for patients;
- (xv) Thermal control equipment for blood and fluids;
- (xvi) A rapid infuser system;
- (xvii) A dosing reference and measurement system to ensure appropriate age related medical care;
- (xviii) Sonography; and
- (xix) A doppler;
- (17) An operating suite that is immediately available 24 hours per day and has:
 - (a) 24-hour-per-day immediate availability of in-house staffing;
 - (b) Equipment for patients of all ages that includes:
 - (i) Cardiopulmonary bypass capability;
 - (ii) Thermal control equipment for patients;
 - (iii) Thermal control equipment for blood and fluids;
 - (iv) 24-hour-per-day x-ray capability including c-arm image intensifier;
 - (v) Endoscopes and bronchoscopes;
 - (vi) Craniotomy instruments;
 - (vii) The capability of fixation of long-bone and pelvic fractures; and
 - (viii) A rapid infuser system;
- (18) A postanesthetic recovery room or surgical intensive care unit that has:
 - (a) 24-hour-per-day in-house staffing by registered nurses;
 - (b) Equipment for patients of all ages that includes:
 - (i) The capability for resuscitation and continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) The capability for continuous monitoring of intracranial pressure;
 - (iii) Pulse oximetry;
 - (iv) End-tidal carbon dioxide determination capability;
- (v) Thermal control equipment for patients; and
- (vi) Thermal control equipment for blood and fluids;
- (19) An intensive care unit for trauma patients that has:
 - (a) A designated surgical director for trauma patients;
 - (b) A physician on duty in the intensive care unit 24 hours per day or immediately available from within the hospital as long as this physician is not the sole physician on-call for the Emergency Department;
 - (c) Ratio of one nurse per two patients on each shift;
 - (d) Equipment for patients of all ages that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators, and pocket masks);
 - (ii) An oxygen source with concentration controls;
 - (iii) A cardiac emergency cart;
 - (iv) A temporary transvenous pacemaker;
 - (v) Electrocardiograph-oscilloscope-defibrillator;
 - (vi) Cardiac output monitoring capability;
 - (vii) Electronic pressure monitoring capability;
 - (viii) A mechanical ventilator;
 - (ix) Patient weighing devices;
 - (x) Pulmonary function measuring devices;
 - (xi) Temperature control devices; and
 - (xii) Intracranial pressure monitoring devices.
 - (e) Within 30 minutes of request, the ability to perform blood gas measurements, hematocrit level, and chest x-ray studies;
- (20) Acute hemodialysis capability;
- (21) Physician-directed burn center staffed by nursing personnel trained in burn care or a transfer agreement with a burn center;
- (22) Acute spinal cord management capability or transfer agreement with a hospital capable of caring for a spinal cord injured patient;
- (23) Radiological capabilities that include:
 - (a) 24-hour-per-day in-house radiology technologist;

- (b) 24-hour-per-day in-house computerized tomography technologist;
 - (c) Sonography;
 - (d) Computed tomography;
 - (e) Angiography;
 - (f) Magnetic resonance imaging; and
 - (g) Resuscitation equipment that includes airway management and IV therapy;
 - (24) Respiratory therapy services available in-house 24 hours per day;
 - (25) 24-hour-per-day clinical laboratory service that must include:
 - (a) Analysis of blood, urine, and other body fluids, including micro-sampling when appropriate;
 - (b) Blood-typing and cross-matching;
 - (c) Coagulation studies;
 - (d) Comprehensive blood bank or access to community central blood bank with storage facilities;
 - (e) Blood gases and pH determination; and
 - (f) Microbiology;
 - (26) A rehabilitation service that provides:
 - (a) A staff trained in rehabilitation care of critically injured patients;
 - (b) Functional assessment and recommendations regarding short- and long-term rehabilitation needs within one week of the patient's admission to the hospital or as soon as hemodynamically stable;
 - (c) In-house rehabilitation service or a transfer agreement with a rehabilitation facility accredited by the Commission on Accreditation of Rehabilitation Facilities;
 - (d) Physical, occupational, speech therapies, and social services; and
 - (e) Substance abuse evaluation and counseling capability;
 - (27) A performance improvement program, as outlined in the North Carolina Chapter of the American College of Surgeons Committee on Trauma document "Performance Improvement Guidelines for North Carolina Trauma Centers," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. This performance improvement program must include:
 - (a) The state Trauma Registry whose data is submitted to the OEMS at least weekly and includes all the center's trauma patients as defined in Rule .0102(68) of this Subchapter
- who are either diverted to an affiliated hospital, admitted to the trauma center for greater than 24 hours from an ED or hospital, die in the ED, are DOA or are transferred from the ED to the OR, ICU, or another hospital (including transfer to any affiliated hospital);
- (b) Morbidity and mortality reviews including all trauma deaths;
 - (c) Trauma performance committee that meets at least quarterly and includes physicians, nurses, pre-hospital personnel, and a variety of other healthcare providers, and reviews policies, procedures, and system issues and whose members or designee attends at least 50 percent of the regular meetings;
 - (d) Multidisciplinary peer review committee that meets at least quarterly and includes physicians from trauma, neurosurgery, orthopaedics, emergency medicine, anesthesiology, and other specialty physicians, as needed, specific to the case, and the trauma nurse coordinator/program manager and whose members or designee attends at least 50 percent of the regular meetings;
 - (e) Identification of discretionary and non-discretionary audit filters;
 - (f) Documentation and review of times and reasons for trauma-related diversion of patients from the scene or referring hospital;
 - (g) Documentation and review of response times for trauma surgeons, neurosurgeons, anesthesiologists or airway managers, and orthopaedists. All must demonstrate 80 percent compliance.
 - (h) Monitoring of trauma team notification times;
 - (i) Review of pre-hospital trauma care that includes dead-on-arrivals; and
 - (j) Review of times and reasons for transfer of injured patients;
- (28) An outreach program that includes:
 - (a) Transfer agreements to address the transfer and receipt of trauma patients;
 - (b) Programs for physicians within the community and within the referral area (that include telephone and on-site consultations) about how to access the trauma center resources and refer patients within the system;

- | | |
|--|--|
| <p>(c) Development of a Regional Advisory Committee as specified in Rule .1102 of this Subchapter;</p> <p>(d) Development of regional criteria for coordination of trauma care;</p> <p>(e) Assessment of trauma system operations at the regional level; and</p> <p>(f) ATLS;</p> <p>(29) A program of injury prevention and public education that includes:</p> <p style="padding-left: 20px;">(a) Epidemiology research that includes studies in injury control, collaboration with other institutions on research, monitoring progress of prevention programs, and consultation with researchers on evaluation measures;</p> <p style="padding-left: 20px;">(b) Surveillance methods that includes trauma registry data, special Emergency Department and field collection projects;</p> <p style="padding-left: 20px;">(c) Designation of a injury prevention coordinator; and</p> <p style="padding-left: 20px;">(d) Outreach activities, program development, information resources, and collaboration with existing national, regional, and state trauma programs.</p> <p>(30) A trauma research program designed to produce new knowledge applicable to the care of injured patients that includes:</p> <p style="padding-left: 20px;">(a) An identifiable institutional review board process;</p> <p style="padding-left: 20px;">(b) Educational presentations that must include 12 education/outreach presentations offered outside the trauma center over a three-year period; and</p> <p style="padding-left: 20px;">(c) 10 peer-reviewed publications over a three-year period that could come from any aspect of the trauma program; and</p> <p>(31) A written continuing education program for staff physicians, nurses, allied health personnel, and community physicians that includes:</p> <p style="padding-left: 20px;">(a) A general surgery residency program;</p> <p style="padding-left: 20px;">(b) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all attending general surgeons on the trauma service, orthopedists, and neurosurgeons, with at least 50 percent of this being external education including conferences and meetings outside of the trauma center. Continuing education based on the</p> | <p>reading of content such as journals or other continuing medical education documents is not considered education outside of the trauma center;</p> <p>(c) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all emergency physicians, with at least 50 percent of this being external education including conferences and meetings outside of the trauma center or visiting lecturers or speakers from outside the trauma center. Continuing education based on the reading of content such as journals or other continuing medical education documents is not considered education outside of the trauma center;</p> <p>(d) ATLS completion for general surgeons on the trauma service and emergency physicians. Emergency physicians, if not boarded in emergency medicine, must be current in ATLS;</p> <p>(e) 20 contact hours of trauma-related continuing education (beyond in-house in-services) every two years for the TNC/TPM;</p> <p>(f) 16 hours of trauma-registry-related or trauma-related continuing education every two years, as deemed appropriate by the trauma nurse coordinator/program manager for the trauma registrar;</p> <p>(g) At least an 80 percent compliance rate for 16 hours of trauma-related continuing education (as approved by the TNC/TPM) every two years related to trauma care for RN's and LPN's in transport programs, Emergency Departments, primary intensive care units, primary trauma floors, and other areas deemed appropriate by the TNC/TPM; and</p> <p>(h) 16 hours of trauma-related continuing education every two years for mid-level practitioners routinely caring for trauma patients.</p> |
|--|--|
- History Note: Authority G.S. 131E-162; Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2009; January 1, 2004.*
- 10A NCAC 13P .0902 LEVEL II TRAUMA CENTER CRITERIA**

To receive designation as a Level II Trauma Center, a hospital shall have the following:

- (1) A trauma program and a trauma service that have been operational for at least 12 months prior to application for designation;
- (2) Membership in and inclusion of all trauma patient records in the North Carolina Trauma Registry for at least 12 months prior to submitting a Request for Proposal;
- (3) A trauma medical director who is a board-certified general surgeon. The trauma medical director must:
 - (a) Have at least three years clinical experience on a trauma service or trauma fellowship training;
 - (b) Serve on the center's trauma service;
 - (c) Participate in providing care to patients with life-threatening urgent injuries;
 - (d) Participate in the North Carolina Chapter of the ACS' Committee on Trauma as well as other regional and national trauma organizations; and
 - (e) Remain a provider in the ACS' ATLS and in the provision of trauma-related instruction to other health care personnel;
- (4) A full-time trauma nurse coordinator TNC/TPM who is a registered nurse, licensed by the North Carolina Board of Nursing;
- (5) A full-time TR who has a working knowledge of medical terminology, is able to operate a personal computer, and has the ability to extract data from the medical record;
- (6) A hospital department/division/section for general surgery, neurological surgery, emergency medicine, anesthesiology, and orthopedic surgery, with designated chair or physician liaison to the trauma program for each;
- (7) Clinical capabilities in general surgery with separate posted call schedules. One shall be for trauma, one for general surgery and one back-up call schedule for trauma. In those instances where a physician may simultaneously be listed on more than one schedule, there must be a defined back-up surgeon listed on the schedule to allow the trauma surgeon to provide care for the trauma patient. If a trauma surgeon is simultaneously on call at more than one hospital, there shall be a defined, posted trauma surgery back-up call schedule composed of surgeons credentialed to serve on the trauma panel;
- (8) A trauma team to provide evaluation and treatment of a trauma patient 24 hours per day that includes:
 - (a) A trauma attending or PGY4 or senior general surgical resident. The trauma attending participates in therapeutic decisions and is present at all operative procedures.
 - (b) An emergency physician who is present in the Emergency Department 24 hours per day who is either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine) or board-certified or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine and practices emergency medicine as his primary specialty. This emergency physician if prepared or eligible must be board-certified within five years after successful completion of the residency and serves as a designated member of the trauma team to ensure immediate care for the injured patient until the arrival of the trauma surgeon;
 - (c) Neurosurgery specialists who are never simultaneously on-call at another Level II or higher trauma center, who are promptly available, if requested by the trauma team leader, as long as there is either an in-house attending neurosurgeon; a PGY2 or higher in-house neurosurgery resident; or in-house emergency physician or the on-call trauma surgeon as long as the institution can document management guidelines and annual continuing medical education for neurosurgical emergencies. There must be a specified back-up on the call schedule whenever the neurosurgeon is simultaneously on-call at a hospital other than the trauma center;
 - (d) Orthopaedic surgery specialists who are never simultaneously on-call at another Level II or higher trauma center, who are promptly available, if requested by the trauma team leader, as long as there is either an in-house attending orthopaedic surgeon; a PGY2 or higher in-house orthopaedic surgery resident; or in-house emergency physician or the on-call trauma surgeon as long as the institution can document management guidelines and annual continuing medical education for orthopaedic emergencies. There must be a

- specified back-up on the call schedule whenever the orthopaedic surgeon is simultaneously on-call at a hospital other than the trauma center; and
- (e) An in-house anesthesiologist or a CA3 resident unless an anesthesiologist on-call is advised and promptly available after notification or an in-house CRNA under physician supervision, practicing in accordance with G.S. 90-171.20(7)e, pending the arrival of the anesthesiologist;
- (9) A credentialing process established by the Department of Surgery to approve mid-level practitioners and attending general surgeons covering the trauma service. The surgeons must have board certification in general surgery within five years of completing residency;
 - (10) Neurosurgeons and orthopaedists serving the trauma service who are board certified or eligible. Those who are eligible must be board certified within five years after successful completion of the residency;
 - (11) Written protocols relating to trauma care management formulated and updated to remain current;
 - (12) Criteria to ensure team activation prior to arrival, and attending arrival within 20 minutes of the arrival of trauma and burn patients that include the following conditions:
 - (a) Shock;
 - (b) Respiratory distress;
 - (c) Airway compromise;
 - (d) Unresponsiveness (GCS less than nine with potential for multiple injuries;
 - (e) Gunshot wound to neck, chest or abdomen;
 - (f) Patients receiving blood to maintain vital signs; and
 - (g) ED physician's decision to activate;
 - (13) Surgical evaluation, based upon the following criteria, by the health professional who is promptly available:
 - (a) Proximal amputations;
 - (b) Burns meeting institutional transfer criteria;
 - (c) Vascular compromise;
 - (d) Crush to chest or pelvis;
 - (e) Two or more proximal long bone fractures; and
 - (f) Spinal cord injury;
 - (14) Surgical consults, based upon the following criteria, by the health professional who is promptly available:
 - (a) Falls greater than 20 feet;
 - (b) Pedestrian struck by motor vehicle;
- (c) Motor vehicle crash with:
 - (i) Ejection (includes motorcycle);
 - (ii) Rollover;
 - (iii) Speed greater than 40 mph; or
 - (iv) Death of another individual in the same vehicle; or
 - (d) Extremes of age, less than five or greater than 70 years;
- (15) Clinical capabilities (promptly available if requested by the trauma team leader, with a posted on-call schedule), that include individuals credentialed in the following:
 - (a) Critical care;
 - (b) Hand surgery;
 - (c) Neurosurgery (The neurosurgeon must be dedicated to one hospital or a back-up call schedule must be available. If fewer than 25 emergency neurosurgical trauma operations are done in a year, and the neurosurgeon is dedicated only to that hospital, then a published back-up call list is not necessary.);
 - (d) Obstetrics/gynecologic surgery;
 - (e) Ophthalmic surgery;
 - (f) Oral maxillofacial surgery;
 - (g) Orthopaedics (dedicated to one hospital or a back-up call schedule must be available);
 - (h) Plastic surgery;
 - (i) Radiology;
 - (j) Thoracic surgery; and
 - (k) Urologic surgery;
 - (16) An Emergency Department that has:
 - (a) A physician director who is board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine);
 - (b) 24-hour-per-day staffing by physicians physically present in the Emergency Department who:
 - (i) Are either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine or board-certified or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine). These emergency physicians must be board-

- certified within five years after successful completion of a residency;
 - (ii) Are hospital designated members of the trauma team; and
 - (iii) Practice emergency medicine as their primary specialty;
- (c) Nursing personnel with experience in trauma care who continually monitor the trauma patient from hospital arrival to disposition to an intensive care unit, operating room, or patient care unit;
- (d) Equipment for patients of all ages that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators, pocket masks, and oxygen);
 - (ii) Pulse oximetry;
 - (iii) End-tidal carbon dioxide determination equipment;
 - (iv) Suction devices;
 - (v) An electrocardiograph-oscilloscope-defibrillator with internal paddles;
 - (vi) An apparatus to establish central venous pressure monitoring;
 - (vii) Intravenous fluids and administration devices that include large bore catheters and intraosseous infusion devices;
 - (viii) Sterile surgical sets for airway control/cricothyrotomy, thoracotomy, vascular access, thoracostomy, peritoneal lavage, and central line insertion;
 - (ix) An apparatus for gastric decompression;
 - (x) 24-hour-per-day x-ray capability;
 - (xi) Two-way communication equipment for communication with the emergency transport system;
 - (xii) Skeletal traction devices, including capability for cervical traction;
 - (xiii) Arterial catheters;
 - (xiv) Thermal control equipment for patients;
 - (xv) Thermal control equipment for blood and fluids;
 - (xvi) A rapid infuser system;
 - (xvii) A dosing reference and measurement system to ensure appropriate age related medical care;
 - (xviii) Sonography; and
 - (xix) A Doppler;
- (17) An operating suite that is immediately available 24 hours per day and has:
 - (a) 24-hour-per-day immediate availability of in-house staffing;
 - (b) Equipment for patients of all ages that includes:
 - (i) Thermal control equipment for patients;
 - (ii) Thermal control equipment for blood and fluids;
 - (iii) 24-hour-per-day x-ray capability, including c-arm image intensifier;
 - (iv) Endoscopes and bronchoscopes;
 - (v) Craniotomy instruments;
 - (vi) The capability of fixation of long-bone and pelvic fractures; and
 - (vii) A rapid infuser system;
- (18) A postanesthetic recovery room or surgical intensive care unit that has:
 - (a) 24-hour-per-day in-house staffing by registered nurses;
 - (b) Equipment for patients of all ages to include:
 - (i) Capability for resuscitation and continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) Capability for continuous monitoring of intracranial pressure;
 - (iii) Pulse oximetry;
 - (iv) End-tidal carbon dioxide determination capability;
 - (v) Thermal control equipment for patients; and
 - (vi) Thermal control equipment for blood and fluids;
- (19) An intensive care unit for trauma patients that has:
 - (a) A hospital designated surgical director of trauma patients;
 - (b) A physician on duty in the intensive care unit 24 hours per day or immediately available from within the hospital as long as this physician

- is not the sole physician on-call for the Emergency Department;
- (c) Ratio of one nurse per two patients on each shift;
- (d) Equipment for patients of all ages that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators, and pocket masks);
 - (ii) An oxygen source with concentration controls;
 - (iii) A cardiac emergency cart;
 - (iv) A temporary transvenous pacemaker;
 - (v) Electrocardiograph-oscilloscope-defibrillator;
 - (vi) Cardiac output monitoring capability;
 - (vii) Electronic pressure monitoring capability;
 - (viii) A mechanical ventilator;
 - (ix) Patient weighing devices;
 - (x) Pulmonary function measuring devices;
 - (xi) Temperature control devices; and
 - (xii) Intracranial pressure monitoring devices; and
- (e) Within 30 minutes of request, the ability to perform blood gas measurements, hematocrit level, and chest x-ray studies;
- (20) Acute hemodialysis capability or utilization of a transfer agreement;
- (21) Physician-directed burn center staffed by nursing personnel trained in burn care or a transfer agreement with a burn center;
- (22) Acute spinal cord management capability or transfer agreement with a hospital capable of caring for a spinal cord injured patient;
- (23) Radiological capabilities that include:
 - (a) 24-hour-per-day in-house radiology technologist;
 - (b) 24-hour-per-day in-house computerized tomography technologist;
 - (c) Sonography;
 - (d) Computed tomography;
 - (e) Angiography; and
 - (f) Resuscitation equipment that includes airway management and IV therapy;
- (24) Respiratory therapy services available in-house 24 hours per day;
- (25) 24-hour-per-day clinical laboratory service that must include:
 - (a) Analysis of blood, urine, and other body fluids, including micro-sampling when appropriate;
 - (b) Blood-typing and cross-matching;
 - (c) Coagulation studies;
 - (d) Comprehensive blood bank or access to a community central blood bank with storage facilities;
 - (e) Blood gases and pH determination; and
 - (f) Microbiology;
- (26) A rehabilitation service that provides:
 - (a) A staff trained in rehabilitation care of critically injured patients;
 - (b) For trauma patients, functional assessment and recommendation regarding short- and long-term rehabilitation needs within one week of the patient's admission to the hospital or as soon as hemodynamically stable;
 - (c) In-house rehabilitation service or a transfer agreement with a rehabilitation facility accredited by the Commission on Accreditation of Rehabilitation Facilities;
 - (d) Physical, occupational, speech therapies, and social services; and
 - (e) Substance abuse evaluation and counseling capability;
- (27) A performance improvement program, as outlined in the North Carolina Chapter of the American College of Surgeons Committee on Trauma document "Performance Improvement Guidelines for North Carolina Trauma Centers," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. This performance improvement program must include:
 - (a) The state Trauma Registry whose data is submitted to the OEMS at least weekly and includes all the center's trauma patients as defined in Rule .0102(68) of this Subchapter who are either diverted to an affiliated hospital, admitted to the trauma center for greater than 24 hours from an ED or hospital, die in the ED, are DOA or are transferred from the ED to the OR, ICU, or another hospital (including transfer to any affiliated hospital);
 - (b) Morbidity and mortality reviews that include all trauma deaths;
 - (c) Trauma performance committee that meets at least quarterly and includes

- physicians, nurses, pre-hospital personnel, and a variety of other healthcare providers, and reviews policies, procedures, and system issues and whose members or designee attends at least 50 percent of the regular meetings;
- (d) Multidisciplinary peer review committee that meets at least quarterly and includes physicians from trauma, neurosurgery, orthopaedics, emergency medicine, anesthesiology, and other specialty physicians, as needed, specific to the case, and the TNC/TPM and whose members or designee attends at least 50 percent of the regular meetings;
 - (e) Identification of discretionary and non-discretionary audit filters;
 - (f) Documentation and review of times and reasons for trauma-related diversion of patients from the scene or referring hospital;
 - (g) Documentation and review of response times for trauma surgeons, neurosurgeons, anesthesiologists or airway managers, and orthopaedists. All must demonstrate 80 percent compliance;
 - (h) Monitoring of trauma team notification times;
 - (i) Review of pre-hospital trauma care to include dead-on-arrivals; and
 - (j) Review of times and reasons for transfer of injured patients;
- (28) An outreach program that includes:
- (a) Transfer agreements to address the transfer and receipt of trauma patients;
 - (b) Programs for physicians within the community and within the referral area (that include telephone and on-site consultations) about how to access the trauma center resources and refer patients within the system;
 - (c) Development of a Regional Advisory Committee as specified in Rule .1102 of this Subchapter;
 - (d) Development of regional criteria for coordination of trauma care; and
 - (e) Assessment of trauma system operations at the regional level;
- (29) A program of injury prevention and public education that includes:
- (a) Designation of an injury prevention coordinator; and
 - (b) Outreach activities, program development, information resources, and collaboration with existing national, regional, and state trauma programs; and
- (30) A written continuing education program for staff physicians, nurses, allied health personnel, and community physicians that includes:
- (a) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all attending general surgeons on the trauma service, orthopaedics, and neurosurgeons, with at least 50 percent of this being external education including conferences and meetings outside of the trauma center or visiting lecturers or speakers from outside the trauma center. Continuing education based on the reading of content such as journals or other continuing medical education documents is not considered education outside of the trauma center;
 - (b) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all emergency physicians, with at least 50 percent of this being external education including conferences and meetings outside of the trauma center or visiting lecturers or speakers from outside the trauma center. Continuing education based on the reading of content such as journals or other continuing medical education documents is not considered education outside of the trauma center;
 - (c) ATLS completion for general surgeons on the trauma service and emergency physicians. Emergency physicians, if not boarded in emergency medicine, must be current in ATLS.
 - (d) 20 contact hours of trauma-related continuing education (beyond in-house in-services) every two years for the TNC/TPM;
 - (e) 16 hours of trauma-registry-related or trauma-related continuing education every two years, as deemed appropriate by the TNC/TPM, for the trauma registrar;
 - (f) at least 80 percent compliance rate for 16 hours of trauma-related

continuing education (as approved by the TNC/TPM) every two years related to trauma care for RN's and LPN's in transport programs, Emergency Departments, primary intensive care units, primary trauma floors, and other areas deemed appropriate by the trauma nurse coordinator/program manager; and

(g) 16 contact hours of trauma-related continuing education every two years for mid-level practitioners routinely caring for trauma patients.

*History Note: Authority G.S. 131E-162;
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

10A NCAC 13P .0903 LEVEL III TRAUMA CENTER CRITERIA

To receive designation as a Level III Trauma Center, a hospital shall have the following:

- (1) A trauma program and a trauma service that have been operational for at least 12 months prior to application for designation;
- (2) Membership in and inclusion of all trauma patient records in the North Carolina Trauma Registry for at least 12 months prior to submitting a Request for Proposal application;
- (3) A trauma medical director who is a board-certified general surgeon. The trauma medical director must:
 - (a) Serve on the center's trauma service;
 - (b) Participate in providing care to patients with life-threatening or urgent injuries;
 - (c) Participate in the North Carolina Chapter of the ACS' Committee on Trauma; and
 - (d) Remain a provider in the ACS' ATLS Course in the provision of trauma-related instruction to other health care personnel;
- (4) A hospital designated trauma nurse coordinator TNC/TPM who is a registered nurse, licensed by the North Carolina Board of Nursing;
- (5) A TR who has a working knowledge of medical terminology, is able to operate a personal computer, and has the ability to extract data from the medical record;
- (6) A hospital department/division/section for general surgery, emergency medicine, anesthesiology, and orthopaedic surgery, with designated chair or physician liaison to the trauma program for each;
- (7) Clinical capabilities in general surgery with a written posted call schedule that indicates who

is on call for both trauma and general surgery. If a trauma surgeon is simultaneously on call at more than one hospital, there must be a defined, posted trauma surgery back-up call schedule composed of surgeons credentialed to serve on the trauma panel. The trauma service director shall specify, in writing, the specific credentials that each back-up surgeon must have. These must state that the back-up surgeon has surgical privileges at the trauma center and is boarded or eligible in general surgery (with board certification in general surgery within five years of completing residency);

- (8) Response of a trauma team to provide evaluation and treatment of a trauma patient 24 hours per day that includes:
 - (a) A trauma attending whose presence at the patient's bedside within 30 minutes of notification is documented and who participates in therapeutic decisions and is present at all operative procedures;
 - (b) An emergency physician who is present in the ED 24 hours per day who is either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine) or board-certified or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine and practices emergency medicine as his primary specialty. This emergency physician if prepared or eligible must be board-certified within five years after successful completion of the residency and serve as a hospital designated member of the trauma team to ensure immediate care for the trauma patient until the arrival of the trauma surgeon; and
 - (c) An anesthesiologist who is on-call and promptly available after notification by the trauma team leader or an in-house CRNA under physician supervision, practicing in accordance with G.S. 90-171.20(7)e, pending the arrival of the anesthesiologist within 30 minutes of notification;
- (9) A credentialing process established by the Department of Surgery to approve mid-level practitioners and attending general surgeons covering the trauma service. The surgeons must have board certification in general

- surgery within five years of completing residency;
- (10) Board certification or eligibility of orthopaedists and neurosurgeons (if participating), with board certification within five years after successful completion of residency;
- (11) Written protocols relating to trauma care management formulated and updated. Activation guidelines shall reflect criteria that ensures patients receive timely and appropriate treatment including stabilization, intervention and transfer. Documentation of effectiveness of variances from activation criteria addressed in Items (12), (13), and (14) of this Rule must be available for review;
- (12) Criteria to ensure team activation prior to arrival of trauma and burn patients that include the following conditions:
 - (a) Shock;
 - (b) Respiratory distress;
 - (c) Airway compromise;
 - (d) Unresponsiveness (GSC less than nine) with evidence for multiple injuries;
 - (e) Gunshot wound to neck, or torso; or
 - (f) ED physician's decision to activate;
- (13) Trauma Treatment Guidelines based on facility capabilities that ensure surgical evaluation or appropriate transfer, based upon the following criteria, by the health professional who is promptly available:
 - (a) Proximal amputations;
 - (b) Burns meeting institutional transfer criteria;
 - (c) Vascular compromise;
 - (d) Crush to chest or pelvis;
 - (e) Two or more proximal long bone fractures;
 - (f) Spinal cord injury; and
 - (g) Gunshot wound to the head;
- (14) Surgical consults or appropriate transfers determined by Trauma Treatment Guidelines based on facility capabilities, based upon the following criteria, by the health professional who is promptly available:
 - (a) Falls greater than 20 feet;
 - (b) Pedestrian struck by motor vehicle;
 - (c) Motor vehicle crash with:
 - (i) Ejection (includes motorcycle);
 - (ii) Rollover;
 - (iii) Speed greater than 40 mph; or
 - (iv) Death of another individual in the same vehicle; and
 - (d) Extremes of age, less than five or greater than 70 years;
- (15) Clinical capabilities (promptly available if requested by the trauma team leader, with a posted on-call schedule) that include individuals credentialed in the following:
 - (a) Orthopaedics;
 - (b) Radiology; and
 - (c) Neurosurgery, if actively participating in the acute resuscitation and operative management of patients managed by the trauma team;
- (16) An Emergency Department that has:
 - (a) A physician director who is board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine);
 - (b) 24-hour-per-day staffing by physicians physically present in the Emergency Department who:
 - (i) Are either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine) or board-certified or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine. These emergency physicians must be board-certified within five years after successful completion of a residency;
 - (ii) Are designated members of the trauma team to ensure immediate care to the trauma patient; and
 - (iii) Practice emergency medicine as their primary specialty;
 - (c) Nursing personnel with experience in trauma care who continually monitor the trauma patient from hospital arrival to disposition to an intensive care unit, operating room, or patient care unit;
 - (d) Resuscitation equipment for patients of all ages that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators, pocket masks, and oxygen);
 - (ii) Pulse oximetry;

- (iii) End-tidal carbon dioxide determination equipment;
 - (iv) Suction devices;
 - (v) An Electrocardiograph-oscilloscope-defibrillator with internal paddles;
 - (vi) Apparatus to establish central venous pressure monitoring;
 - (vii) Intravenous fluids and administration devices that include large bore catheters and intraosseous infusion devices;
 - (viii) Sterile surgical sets for airway control/cricothyrotomy, thoracotomy, vascular access, thoracostomy, peritoneal lavage, and central line insertion;
 - (ix) Apparatus for gastric decompression;
 - (x) 24-hour-per-day x-ray capability;
 - (xi) Two-way communication equipment for communication with the emergency transport system;
 - (xii) Skeletal traction devices;
 - (xiii) Thermal control equipment for patients;
 - (xiv) Thermal control equipment for blood and fluids;
 - (xv) A rapid infuser system;
 - (xvi) A dosing reference and measurement system to ensure appropriate age related medical care; and
 - (xvii) A Doppler;
- (17) An operating suite that has:
- (a) Personnel available 24 hours a day, on-call, and available within 30 minutes of notification unless in-house;
 - (b) Age-specific equipment that includes:
 - (i) Thermal control equipment for patients;
 - (ii) Thermal control equipment for blood and fluids;
 - (iii) 24-hour-per-day x-ray capability, including c-arm image intensifier;
 - (iv) Endoscopes and bronchoscopes;
 - (v) Equipment for long bone and pelvic fracture fixation; and
 - (vi) A rapid infuser system;
- (18) A postanesthetic recovery room or surgical intensive care unit that has:
- (a) 24-hour-per-day availability of registered nurses within 30 minutes from inside or outside the hospital;
 - (b) Equipment for patients of all ages that includes:
 - (i) The capability for resuscitation and continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) Pulse oximetry;
 - (iii) End-tidal carbon dioxide determination;
 - (iv) Thermal control equipment for patients; and
 - (v) Thermal control equipment for blood and fluids;
- (19) An intensive care unit for trauma patients that has:
- (a) A trauma surgeon who actively participates in the committee overseeing the ICU;
 - (b) A physician on duty in the intensive care unit 24-hours-per-day or immediately available from within the hospital (which may be a physician who is the sole physician on-call for the ED);
 - (c) Equipment for patients of all ages that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators and pocket masks);
 - (ii) An oxygen source with concentration controls;
 - (iii) A cardiac emergency cart;
 - (iv) A temporary transvenous pacemaker;
 - (v) An electrocardiograph-oscilloscope-defibrillator;
 - (vi) Cardiac output monitoring capability;
 - (vii) Electronic pressure monitoring capability;
 - (viii) A mechanical ventilator;
 - (ix) Patient weighing devices;
 - (x) Pulmonary function measuring devices; and
 - (xi) Temperature control devices; and
 - (d) Within 30 minutes of request, the ability to perform blood gas measurements, hematocrit level, and chest x-ray studies;

- (20) Acute hemodialysis capability or utilization of a written transfer agreement;
- (21) Physician-directed burn center staffed by nursing personnel trained in burn care or a written transfer agreement with a burn center;
- (22) Acute spinal cord management capability or transfer agreement with a hospital capable of caring for a spinal cord injured patient;
- (23) Acute head injury management capability or transfer agreement with a hospital capable of caring for a head injury;
- (24) Radiological capabilities that include:
 - (a) Radiology technologist and computer tomography technologist available within 30 minutes of notification or documentation that procedures are available within 30 minutes;
 - (b) Computed Tomography;
 - (c) Sonography; and
 - (d) Resuscitation equipment that includes airway management and IV therapy;
- (25) Respiratory therapy services on-call 24 hours per day;
- (26) 24-hour-per-day clinical laboratory service that must include:
 - (a) Analysis of blood, urine, and other body fluids, including micro-sampling when appropriate;
 - (b) Blood-typing and cross-matching;
 - (c) Coagulation studies;
 - (d) Comprehensive blood bank or access to a community central blood bank with storage facilities;
 - (e) Blood gases and pH determination; and
 - (f) Microbiology;
- (27) In-house rehabilitation service or transfer agreement with a rehabilitation facility accredited by the Commission on Accreditation of Rehabilitation Facilities;
- (28) Physical therapy and social services;
- (29) A performance improvement program, as outlined in the North Carolina Chapter of the American College of Surgeons Committee on Trauma document "Performance Improvement Guidelines for North Carolina Trauma Centers," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. This performance improvement program must include:
 - (a) The state Trauma Registry whose data is submitted to the OEMS at least weekly and includes all the center's trauma patients as defined in Rule .0102(68) of this Subchapter who are either diverted to an affiliated hospital, admitted to the trauma center for greater than 24 hours from an ED or hospital, die in the ED, are DOA or are transferred from the ED to the OR, ICU, or another hospital (including transfer to any affiliated hospital);
 - (b) Morbidity and mortality reviews including all trauma deaths;
 - (c) Trauma performance committee that meets at least quarterly and includes physicians, orthopaedics and neurosurgery if participating in trauma service, nurses, pre-hospital personnel, and a variety of other healthcare providers, and reviews policies, procedures, and system issues and whose members or designee attends at least 50 percent of the regular meetings;
 - (d) Multidisciplinary peer review committee that meets at least quarterly and includes physicians from trauma, emergency medicine, and other specialty physicians as needed specific to the case, and the trauma nurse coordinator/program manager and whose members or designee attends at least 50 percent of the regular meetings;
 - (e) Identification of discretionary and non-discretionary audit filters;
 - (f) Documentation and review of times and reasons for trauma-related diversion of patients from the scene or referring hospital;
 - (g) Documentation and review of response times for trauma surgeons, airway managers, and orthopaedists. All must demonstrate 80 percent compliance;
 - (h) Monitoring of trauma team notification times;
 - (i) Documentation (unless in-house) and review of Emergency Department response times for anesthesiologists or airway managers and computerized tomography technologist;
 - (j) Documentation of availability of the surgeon on-call for trauma, such that compliance is 90 percent or greater where there is no trauma surgeon back-up call schedule;
 - (k) Trauma performance and multidisciplinary peer review committees may be incorporated together or included in other staff meetings as appropriate for the

- facility performance improvement rules;
- (l) Review of pre-hospital trauma care including dead-on-arrivals; and
 - (m) Review of times and reasons for transfer of injured patients;
- (30) An outreach program that includes:
- (a) Transfer agreements to address the transfer and receipt of trauma patients; and
 - (b) Participation in a RAC;
- (31) Coordination or participation in community prevention activities; and
- (32) A written continuing education program for staff physicians, nurses, allied health personnel, and community physicians that includes:
- (a) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all attending general surgeons on the trauma service, orthopaedists, and neurosurgeons if participating in trauma service, with at least 50 percent of this being external education including conferences and meetings outside of the trauma center or visiting lecturers or speakers from outside the trauma center. Continuing education based on the reading of content such as journals or other continuing medical education documents is not considered education outside of the trauma center;
 - (b) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all emergency physicians, with at least 50 percent of this being external education including conferences and meetings outside of the trauma center or visiting lecturers or speakers from outside the trauma center. Continuing education based on the reading of content such as journals or other continuing medical education documents is not considered education outside of the trauma center;
 - (c) ATLS completion for general surgeons on the trauma service and emergency physicians. Emergency physicians, if not boarded in emergency medicine, must be current in ATLS;
 - (d) 20 contact hours of trauma-related continuing education (beyond in-house in-services) every two years for the TNC/TPM;
 - (e) 16 hours of trauma-registry-related or trauma-related continuing education every two years, as deemed appropriate by the TNC/TPM, for the trauma registrar;
 - (f) At least an 80 percent compliance rate for 16 hours of trauma-related continuing education (as approved by the trauma nurse coordinator/program manager) every two years related to trauma care for RN's and LPN's in transport programs, Emergency Departments, primary intensive care units, primary trauma floors, and other areas deemed appropriate by the trauma nurse coordinator/program manager; and
 - (g) 16 hours of trauma-related continuing education every two years for mid-level practitioners routinely caring for trauma patients.

*History Note: Authority G.S. 131E-162;
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

10A NCAC 13P .0904 INITIAL DESIGNATION PROCESS

- (a) For initial Trauma Center designation, the hospital shall request a consult visit by OEMS and have the consult within one year prior to submission of the RFP.
- (b) A hospital interested in pursuing Trauma Center designation shall submit a letter of intent 180 days prior to the submission of an RFP to the OEMS. The letter shall define the hospital's primary trauma catchment area. Simultaneously, Level I or II applicants shall also demonstrate the need for the Trauma Center designation by submitting one original and three copies of documents that include:
 - (1) The population to be served and the extent to which the population is underserved for trauma care with the methodology used to reach this conclusion;
 - (2) Geographic considerations to include trauma primary and secondary catchment area and distance from other Trauma Centers; and
 - (3) Evidence the Trauma Center will admit at least 1200 trauma patients yearly or show that its trauma service will be taking care of at least 240 trauma patients with an Injury Severity Score (ISS) greater than or equal to 15 yearly. This criteria shall be met without compromising the quality of care or cost

effectiveness of any other designated Level I or II Trauma Center sharing all or part of its catchment area or by jeopardizing the existing Trauma Center's ability to meet this same 240-patient minimum.

(c) The hospital must be actively participating in the state Trauma Registry and submit data to the OEMS at least weekly and include all the Trauma Center's trauma patients as defined in Rule .0102(68) of this Subchapter who are either diverted to an affiliated hospital, admitted to the Trauma Center for greater than 24 hours from an ED or hospital, die in the ED, are DOA or are transferred from the ED to the OR, ICU, or another hospital (including transfer to any affiliated hospital) a minimum of 12 months prior to application.

(d) OEMS shall review the regional Trauma Registry data, from both the applicant and the existing trauma center(s), and ascertain the applicant's ability to satisfy the justification of need information required in Subparagraphs (b)(1) through (3) of this Rule. Simultaneously, the applicant's primary RAC shall be notified by the OEMS of the application and be provided the regional data as required in Subparagraphs (b)(1) through (3) of this Rule submitted by the applicant for review and comment. The RAC shall be given a minimum of 30 days to submit any concerns in writing for OEMS' consideration. If no comments are received, OEMS shall proceed.

(e) OEMS shall notify the hospital in writing of its decision to allow submission of an RFP. The RAC shall also be notified by the OEMS so that any necessary changes in protocols can be considered.

(f) OEMS shall notify the respective Board of County Commissioners in the applicant's trauma primary catchment area of the request for initial designation to allow for comment.

(g) Hospitals desiring to be considered for initial trauma center designation shall complete and submit one paper copy with signatures and an electronic copy of the RFP to the OEMS at least 90 days prior to the proposed site visit date.

(h) For Level I, II, and III applicants, the RFP shall demonstrate that the hospital meets the standards for the designation level applied for as found in Rules .0901, .0902, or .0903 of this Section.

(i) If OEMS does not recommend a site visit based upon failure to comply with Rules .0901, .0902, or .0903, the reasons shall be forwarded to the hospital in writing within 30 days of the decision. The hospital may reapply for designation within six months following the submission of an updated RFP. If the hospital fails to respond within six months, the hospital shall reapply following the process outlined in Paragraphs (a) through (h) of this Rule.

(j) If the OEMS recommends the hospital for a site visit, the OEMS shall notify the hospital within 30 days and the site visit shall be conducted within six months of the recommendation. The site visit date shall be mutually agreeable to the hospital and the OEMS.

(k) Any in-state reviewer for a Level I or II visit (except the OEMS representatives) shall be from outside the planning region in which the hospital is located. The composition of a Level I or II state site survey team shall be as follows:

- (1) One out-of-state Fellow of the ACS, experienced as a site surveyor, who shall be designated the primary reviewer;
- (2) One emergency physician who works in a trauma center, is a member of the American College of Emergency Physicians, and is boarded in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine);
- (3) One in-state trauma surgeon who is a member of the North Carolina Committee on Trauma;
- (4) One out-of-state trauma nurse coordinator/program manager and one in-state trauma nurse coordinator/program manager; and
- (5) OEMS Staff.

(l) All site team members for a Level III visit shall be from in-state, and all (except for the OEMS representatives) shall be from outside the planning region in which the hospital is located. The composition of a Level III state site survey team shall be as follows:

- (1) One Fellow of the ACS, who is a member of the North Carolina Committee on Trauma and shall be designated the primary reviewer;
- (2) One emergency physician who currently works in a designated trauma center, is a member of the North Carolina College of Emergency Physicians, and is boarded in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine);
- (3) A trauma nurse coordinator/program manager; and
- (4) OEMS Staff.

(m) On the day of the site visit the hospital shall make available all requested patient medical charts.

(n) The lead researcher of the site review team shall give a verbal post-conference report representing a consensus of the site review team at the summary conference. A written consensus report shall be completed, to include a peer review report, by the primary reviewer and submitted to OEMS within 30 days of the site visit.

(o) The report of the site survey team and the staff recommendations shall be reviewed by the State Emergency Medical Services Advisory Council at its next regularly scheduled meeting which is more than 45 days following the site visit. Based upon the site visit report and the staff recommendation, the State Emergency Medical Services Advisory Council shall recommend to the OEMS that the request for Trauma Center designation be approved or denied.

(p) All criteria defined in Rule .0901, .0902, or .0903 of this Section shall be met for initial designation at the level requested. Initial designation shall not be granted if deficiencies exist.

(q) Hospitals with a deficiency(ies) shall be given up to 12 months to demonstrate compliance. Satisfaction of deficiency(ies) may require an additional site visit. If compliance is not demonstrated within the time period, to be defined by OEMS, the hospital shall submit a new application and updated

RFP and follow the process outlined in Paragraphs (a) through (h) of this Rule.

(r) The final decision regarding Trauma Center designation shall be rendered by the OEMS.

(s) The OEMS shall notify the hospital in writing, of the State Emergency Medical Services Advisory Council's and OEMS' final recommendation within 30 days of the Advisory Council meeting.

(t) If a trauma center changes its trauma program administrative structure (such that the trauma service, trauma medical director, trauma nurse coordinator/program manager or trauma registrar are relocated on the hospital's organizational chart) at any time, it shall notify OEMS of this change in writing within 30 days of the occurrence.

(u) Initial designation as a trauma center is valid for a period of three years.

*History Note: Authority G.S. 131E-162; 143-509(3);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009.*

10A NCAC 13P .0905 RENEWAL DESIGNATION PROCESS

(a) Hospitals may utilize one of two options to achieve Trauma Center renewal:

- (1) Undergo a site visit conducted by OEMS to obtain a four-year renewal designation; or
- (2) Undergo a verification visit arranged by the ACS, in conjunction with OEMS, to obtain a four-year renewal designation.

(b) For hospitals choosing Subparagraph (a)(1) of this Rule:

- (1) Prior to the end of the designation period, the OEMS shall forward to the hospital an RFP for completion. The hospital shall, within 10 days of receipt of the RFP, define for OEMS the Trauma Center's trauma primary catchment area. Upon this notification, OEMS shall notify the respective Board of County Commissioners in the applicant's trauma primary catchment area of the request for renewal to allow for comment.
- (2) Hospitals shall complete and submit one paper copy and an electronic copy of the RFP to the OEMS and the specified site surveyors at least 30 days prior to the site visit. The RFP shall include information that supports compliance with the criteria contained in Rule .0901, .0902, or .0903 of this Section as it relates to the Trauma Center's level of designation.
- (3) All criteria defined in Rule .0901, .0902, or .0903 of this Section, as relates to the Trauma Center's level of designation, shall be met for renewal designation.
- (4) A site visit shall be conducted within 120 days prior to the end of the designation period. The site visit shall be scheduled on a date mutually agreeable to the hospital and the OEMS.

(5) The composition of a Level I or II site survey team shall be the same as that specified in Rule .0904(k) of this Section.

(6) The composition of a Level III site survey team shall be the same as that specified in Rule .0904(l) of this Section.

(7) On the day of the site visit the hospital shall make available all requested patient medical charts.

(8) The primary reviewer of the site review team shall give a verbal post-conference report representing a consensus of the site review team at the summary conference. A written consensus report shall be completed, to include a peer review report, by the primary reviewer and submitted to OEMS within 30 days of the site visit.

(9) The report of the site survey team and a staff recommendation shall be reviewed by the State Emergency Medical Services Advisory Council at its next regularly scheduled meeting which is more than 30 days following the site visit. Based upon the site visit report and the staff recommendation, the State Emergency Medical Services Advisory Council shall recommend to the OEMS that the request for Trauma Center renewal be approved; approved with a contingency(ies) due to a deficiency(ies) requiring a focused review; approved with a contingency(ies) not due to a deficiency(ies) requiring a consultative visit; or denied.

(10) Hospitals with a deficiency(ies) have up to 10 working days prior to the State EMS Advisory Council meeting to provide documentation to demonstrate compliance. If the hospital has a deficiency that cannot be corrected in this period prior to the State EMS Advisory Council meeting, the hospital, instead of a four-year renewal, shall be given a time period (up to 12 months) to demonstrate compliance and undergo a focused review, that may require an additional site visit. The hospital shall retain its Trauma Center designation during the focused review period. If compliance is demonstrated within the prescribed time period, the hospital shall be granted its designation for the four-year period from the previous designation's expiration date. If compliance is not demonstrated within the time period, as specified by OEMS, the Trauma Center designation shall not be renewed. To become redesignated, the hospital shall submit an updated RFP and follow the initial applicant process outlined in Rule .0904 of this Section.

(11) The final decision regarding trauma center renewal shall be rendered by the OEMS.

- (12) The OEMS will notify the hospital of the State Emergency Medical Services Advisory Council's and OEMS' final recommendation within 30 days of the Advisory Council meeting.
- (13) The four-year renewal date that may be eventually granted shall not be extended due to the focused review period.
- (c) For hospitals choosing Subparagraph (a)(2) of this Rule:
 - (1) At least six months prior to the end of the Trauma Center's designation period, the trauma center must notify the OEMS of its intent to undergo an ACS verification visit. It must simultaneously define in writing to the OEMS its trauma primary catchment area. Trauma Centers choosing this option must then comply with all the ACS' verification procedures, as well as any additional state criteria as outlined in Rule .0901, .0902, or .0903, as apply to their level of designation.
 - (2) When completing the ACS' documentation for verification, the Trauma Center must ensure access to the ACS on-line PRQ (pre-review questionnaire) to OEMS. The Trauma Center must simultaneously complete documents supplied by OEMS to verify compliance with additional North Carolina criteria (i.e., criteria that exceed the ACS criteria) and forward these to OEMS and the ACS.
 - (3) The OEMS shall notify the Board of County Commissioners within the trauma center's trauma primary catchment area of the Trauma Center's request for renewal to allow for comments.
 - (4) The Trauma Center must make sure the site visit is scheduled to ensure that the ACS' final written report, accompanying medical record reviews and cover letter are received by OEMS at least 30 days prior to a regularly scheduled State Emergency Medical Services Advisory Council meeting to ensure that the Trauma Center's state designation period does not terminate without consideration by the State Emergency Medical Services Advisory Council.
 - (5) The composition of the Level I or Level II site team must be as specified in Rule .0904(k) of this Section, except that both the required trauma surgeons and the emergency physician may be from out-of-state. Neither North Carolina Committee on Trauma nor North Carolina College of Emergency Physician membership is required of the surgeons or emergency physician, respectively, if from out-of-state. The date, time, and all proposed site team members of the site visit team must be submitted to the OEMS for review at least 45 days prior to the site visit. The OEMS will approve the site visit schedule if the schedule does not conflict with the ability of attendance by required OEMS staff. The OEMS will approve the proposed site team members if the OEMS determines there is no conflict of interest, such as previous employment, by any site team member associated with the site visit.
- (6) The composition of the Level III site team must be as specified in Rule .0904(l) of this Section, except that the trauma surgeon, emergency physician, and trauma nurse coordinator/program manager may be from out-of-state. Neither North Carolina Committee on Trauma nor North Carolina College of Emergency Physician membership is required of the surgeon or emergency physician, respectively, if from out-of-state. The date, time, and all proposed site team members of the site visit team must be submitted to the OEMS for review at least 45 days prior to the site visit. The OEMS will approve the site visit schedule if the schedule does not conflict with the ability of attendance by required OEMS staff. The OEMS will approve the proposed site team members if the OEMS determines there is no conflict of interest, such as previous employment, by any site team member associated with the site visit.
- (7) All state Trauma Center criteria must be met as defined in Rules .0901, .0902, and .0903 of this Section, for renewal of state designation. An ACS' verification is not required for state designation. An ACS' verification does not ensure a state designation.
- (8) ACS reviewers shall complete the state designation preliminary reporting form immediately prior to the post conference meeting. This document and the ACS final written report and supporting documentation described in Paragraph (10) of this Rule shall be used to generate a staff summary of findings report following the post conference meeting for presentation to the NC EMS Advisory Council for redesignation.
- (9) The final written report issued by the ACS' verification review committee, the accompanying medical record reviews (from which all identifiers may be removed), and cover letter must be forwarded to OEMS within 10 working days of its receipt by the Trauma Center seeking renewal.
- (10) The OEMS shall present its summary of findings report to the State Emergency Medical Services Advisory Council at its next regularly scheduled meeting. The State EMS Advisory Council shall recommend to the Chief of the OEMS that the request for Trauma Center renewal be approved; approved with a contingency(ies) due to a deficiency(ies) requiring a focused review;

approved with a contingency(ies) not due to a deficiency(ies); or denied.

- (11) The OEMS shall notify the hospital in writing of the State Emergency Medical Services Advisory Council's and OEMS' final recommendation within 30 days of the Advisory Council meeting.
- (12) Hospitals with contingencies, as the result of a deficiency(ies), as determined by OEMS, have up to 10 working days prior to the State EMS Advisory Council meeting to provide documentation to demonstrate compliance. If the hospital has a deficiency that cannot be corrected in this time period prior to the State EMS Advisory Council meeting, the hospital, instead of a four-year renewal, may undergo a focused review (to be conducted by the OEMS) whereby the Trauma Center is given up to 12 months to demonstrate compliance. Satisfaction of contingency(ies) may require an additional site visit. The hospital shall retain its Trauma Center designation during the focused review period. If compliance is demonstrated within the prescribed time period, the hospital shall be granted its designation for the four-year period from the previous designation's expiration date. If compliance is not demonstrated within the time period, as specified by OEMS, the Trauma Center designation shall not be renewed. To become redesignated, the hospital shall submit a new RFP and follow the initial applicant process outlined in Rule .0904 of this Section.

(d) If a Trauma Center currently using the ACS' verification process chooses not to renew using this process, it must notify the OEMS at least six months prior to the end of its state trauma center designation period of its intention to exercise the option in Subparagraph (a)(1) of this Rule.

*History Note: Authority G.S. 131E-162; 143-509(3);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

10A NCAC 13P .1001 DENIAL, FOCUSED REVIEW, VOLUNTARY WITHDRAWAL, OR REVOCATION OF TRAUMA CENTER DESIGNATION

10A NCAC 13P .1002 PROCEDURES FOR APPEAL OF DENIAL, FOCUSED REVIEW, OR REVOCATION

*History Note: Authority G.S. 131E-162;
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Repealed Eff. January 1, 2009.*

10A NCAC 13P .1101 STATE TRAUMA SYSTEM

(a) The state trauma system consists of regional plans, policies, guidelines and performance improvement initiatives by the

RACs to create an Inclusive Trauma System monitored by the OEMS.

(b) Each hospital and EMS System shall affiliate as defined in Rule .0102(4) of this Subchapter and participate with the RAC that includes the Level I or II Trauma Center in which the majority of trauma patient referrals and transports occur. Each hospital and EMS System shall submit to the OEMS patient transfer patterns from data sources that support the choice of their primary RAC affiliation. Each RAC shall include at least one Level I or II Trauma Center.

(c) The OEMS shall notify each RAC of its hospital and EMS System membership.

(d) Each hospital and each EMS System must update and submit its RAC affiliation information to the OEMS no later than July 1 of each year. RAC affiliation may only be changed during this annual update and only if supported by a change in transfer patterns. Documentation detailing these new transfer patterns must be included in the request to change affiliation.

*History Note: Authority G.S. 131E-162;
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009.*

10A NCAC 13P .1102 REGIONAL TRAUMA SYSTEM PLAN

(a) A Level I or II Trauma Center shall facilitate development of and provide RAC staff support that includes the following:

- (1) The trauma medical director(s) from the lead RAC agency;
- (2) Trauma nurse coordinator(s) or program manager(s) from the lead RAC agency; and
- (3) An individual to coordinate RAC activities.

(b) The RAC membership shall include the following:

- (1) The trauma medical director(s) and the trauma nurse coordinator(s) or program manager(s) from the lead RAC agency;
- (2) If on staff, an outreach coordinator(s), injury prevention coordinator(s) or designee(s), as well as a RAC registrar or designee(s) from the lead RAC agency;
- (3) A senior level hospital administrator;
- (4) An emergency physician;
- (5) A representative from each EMS system participating in the RAC;
- (6) A representative from each hospital participating in the RAC;
- (7) Community representatives; and
- (8) An EMS System physician involved in medical oversight.

(c) The RAC shall develop and submit a plan within one year of notification of the RAC membership, or for existing RACs within six months of the implementation date of this rule, to the OEMS containing:

- (1) Organizational structure to include the roles of the members of the system;
- (2) Goals and objectives to include the orientation of the providers to the regional system;

- (3) RAC membership list, rules of order, terms of office, meeting schedule (held at a minimum of two times per year);
 - (4) Copies of documents and information required by the OEMS as defined in Rule .1103 of this Section;
 - (5) System evaluation tools to be utilized;
 - (6) Written documentation of regional support for the plan; and
 - (7) Performance improvement activities to include utilization of patient care data.
- (d) The RAC shall submit to the OEMS an annual progress report no later than July 1 of each year that assesses compliance with the regional trauma system plan and specifies any updates to the plan.
- (e) Upon OEMS' receipt of a letter of intent for initial Level I or II Trauma Center designation pursuant to Rule .0904(b) of this Subchapter, the applicant's RAC shall be provided the applicant's data from OEMS to review and comment.
- (f) The RAC has 30 days to comment on the request for initial designation.
- (g) The OEMS shall notify the RAC of the OEMS approval to submit an RFP so that necessary changes in protocols can be considered.

*History Note: Authority G.S. 131E-162;
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009.*

**10A NCAC 13P .1103 REGIONAL TRAUMA SYSTEM
POLICY DEVELOPMENT**

The RAC shall oversee the development, implementation, and evaluation of the regional trauma system that includes:

- (1) A public information and education program to include system access and injury prevention;
- (2) Written trauma system guidelines addressing the following:
 - (a) Regional communications;
 - (b) Triage;
 - (c) Treatment at the accident scene, and in the pre-hospital, inter-hospital, and Emergency Department to include guidelines to facilitate the rapid assessment and initial resuscitation of the severely injured patient. Criteria addressing management during transport shall include continued assessment and management of airway, cervical spine, breathing, circulation, neurologic and secondary parameters, communication, and documentation;
 - (d) Transport to determine the appropriate mode of transport and level of care required to transport, considering patient condition, requirement for trauma center

- resources, family requests, and capability of transferring entity;
 - (e) Bypass procedures that define:
 - (i) circumstances and criteria for bypass decisions;
 - (ii) time and distance criteria; and
 - (iii) mode of transport which bypasses closer facilities; and
 - (f) Accident scene and inter-hospital diversion procedures that include delineation of specific factors such as hospital census or acuity, physician availability, staffing issues, disaster status, or transportation which would require routing of a patient to another hospital or Trauma Center;
- (3) Transfer agreements (including those with other hospitals, as well as specialty care facilities such as burn, pediatrics, spinal cord, and rehabilitation) which shall outline mutual understandings between facilities to transfer/accept certain patients. These shall specify responsible parties, documentation requirements, and minimum care requirements; and
- (4) A performance improvement plan that includes:
- (a) A regional trauma peer review committee of the RAC:
 - (i) whose membership and responsibilities are defined in G.S. 131E-162; and
 - (ii) that continuously evaluates the regional trauma system through structured review of process of care and outcomes; and
 - (b) Utilization of patient care data.

*History Note: Authority G.S. 131E-162;
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2009; January 1, 2004.*

**10A NCAC 13Q .0101 FORMULA FOR ALLOCATION
OF STATE FUNDS**

**10A NCAC 13Q .0102 FORMULA FOR ALLOCATION
OF FEDERAL FUNDS**

**10A NCAC 13Q .0103 IMPLEMENTATION OF
FUNDING FORMULA**

*History Note: Authority G.S. 143-508;
Eff. July 1, 1994;
Repealed Eff. January 1, 2009.*

10A NCAC 13R .0101 MOBILE INTENSIVE CARE UNIT I

History Note: Authority G.S. 131E-157(a); 131E-158(b); 131E-159(b);
Eff. November 26, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. June 1, 1994; September 1, 1986; October 28, 1981;
Repealed Eff. January 1, 2009.

10A NCAC 13R .0103 MOBILE INTENSIVE CARE UNIT III

History Note: Authority G.S. 131E-157(a); 131E-158(b); 131E-159(b);
Eff. November 26, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. June 1, 1994; September 1, 1986; October 28, 1981;
Repealed Eff. January 1, 2009.

10A NCAC 13R .0104 MOBILE INTENSIVE CARE UNIT IV

History Note: Authority G.S. 131E-157(a); 131E-158(b); 131E-159(b);
Eff. March 1, 1989;
Amended Eff. June 1, 1994;
Repealed Eff. January 1, 2009.

10A NCAC 13R .0105 ADVANCED LIFE SUPPORT NONTRANSPORTING UNIT

History Note: Authority G.S. 131E-157(a);
Eff. November 26, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. March 1, 1989; September 1, 1986;
Repealed Eff. January 1, 2009.

10A NCAC 13R .0201 GENERAL**10A NCAC 13R .0202 MOBILE INTENSIVE CARE UNIT (MICU) I**

History Note: Authority G.S. 131E-157(a);
Eff. November 26, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. November 1, 1995; August 1, 1994; November 1, 1989, March 1, 1989; September 1, 1986;
Repealed Eff. January 1, 2009.

10A NCAC 13R .0204 MOBILE INTENSIVE CARE UNIT III

History Note: Authority G.S. 131E-157(a);
Eff. November 26, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. November 1, 1995; August 1, 1994; November 1, 1989; March 1, 1989;

Repealed Eff. January 1, 2009.

10A NCAC 13R .0205 MOBILE INTENSIVE CARE UNIT IV

History Note: Authority G.S. 131E-157(a);
Eff. March 1, 1989;
Amended Eff. November 1, 1995; August 1, 1994;
Repealed Eff. January 1, 2009.

10A NCAC 13R .0206 ADVANCED LIFE SUPPORT NONTRANSPORTING UNIT

History Note: Authority G.S. 131E-157(a);
Eff. September 1, 1986;
Amended Eff. November 1, 1995; March 1, 1989;
Repealed Eff. January 1, 2009.

10A NCAC 13R .0301 TWO-WAY RADIO

History Note: Authority G.S. 131E-157(a);
Eff. November 26, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. March 1, 1989; September 1, 1986;
Repealed Eff. January 1, 2009.

10A NCAC 22O .0106 CHIROPRACTIC SERVICES

(a) No reimbursement from North Carolina Medicaid shall be made for x-rays or other diagnostic or therapeutic services provided by a chiropractor except as provided in this Rule.

(b) Medicaid coverage of chiropractic services is limited to manual manipulation of the spine to correct a subluxation.

(c) Subluxation shall be confirmed by physical examination or by one set of x-rays taken within six months of the initial date of service.

(d) The treatment plan shall document:

- (1) the symptoms or diagnosis treated;
- (2) diagnostic procedures and treatment modalities used;
- (3) results of diagnostic procedures and treatments; and
- (4) anticipated length of treatments.

(e) Medical documentation shall support continued treatment.

(f) Chiropractic providers shall meet the educational requirements as outlined in 42 CFR 410.21(a).

History Note: Authority G.S. 108A-25(b); 108A-54; 42 C.F.R. 440.60;
Eff. February 1, 1976;
Amended Eff. September 30, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. January 1, 2009; May 1, 1990; January 1, 1984.

10A NCAC 63C .0204 FILLING OF VACANCIES

(a) The Division shall make available a listing of available Business Enterprises facilities to all licensees.

(b) Licensees who wish to apply for any of the locations listed may forward an application to the office of the Chief of Business Enterprises.

(c) Transfers and promotions shall be based on the following procedures:

- (1) The Division shall send a notice of available facilities to all operators and licensees on the last 10 working day of the month. The notice shall provide a description of the vacancy and who to contact for more information.
- (2) All applications shall be post-marked by the 10th of the month following the notice and mailed to the office of the Chief of Business Enterprises.
- (3) The Interview Committee shall interview all applicants on the second Friday of the month which follows the application deadline.
- (4) At least 10 working days prior to the interview, the Business Enterprises Counselor who works with the applicant shall calculate the applicant's points for sanitation, seniority, Financial Analysis/Operating Standards [Subparagraphs (d), (1), (2), (3) of this Rule] and inform the applicant of his point total. The applicant shall have five working days to review the point total and request any adjustments.
- (5) After adding together the points from the sanitation, seniority, Financial Analysis/Operating Standards, Customer Relations and Oral Exam/Interview Sections [Subparagraphs (d), (1), (2), (3), (4), (5), (6), (7) of this Rule] for each applicant, the applicant with the highest point total (if above 60 points) shall be awarded the vacancy. If the applicant with the highest point total declines to accept the location, it shall be offered to the next highest applicant (if above 60 points) and so on. In the case of an exact tie, the applicant with the most time in the Business Enterprises Program shall be awarded the location.
- (6) Applicants shall be notified as soon as possible after their interview whether or not they have been awarded a location. This notification shall be by telephone and followed up in writing.
- (7) Upon being awarded a location, the applicant shall have 30 days to fill the vacancy. The Division shall agree to a different time frame if adhering to the 30-day time frame would cause a hardship to the applicant awarded the facility. The location shall not be filled for 15 working days following the award to allow time for administrative appeals to be filed. If an appeal is filed, the location shall not be filled until the appeal is resolved. If there is

only one applicant for a location, the 15-day waiting period shall not apply.

- (8) If an applicant is awarded a facility and has not had an Operator Agreement with the Agency in the last two years, and the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect, the applicant shall repeat the necessary on-the-job-training. The Interview Committee may also recommend refresher course training to assure qualified management.
- (9) Licensees/operators not selected may file an administrative appeal as provided for in Subchapter 63C Section .0400. The fifteen-day limit to file an appeal shall begin from the date the licensee/operator is informed by telephone of the results of the award.
- (10) An applicant must have operated a Business Enterprises location for six months prior to the cut-off date for calculating financial performance according to standards to be considered an operator, otherwise, the operator shall be in licensee status. The cut-off date is defined as the 12-month period ending with the last day of the same month in which the vacancy is advertised.
- (11) If an operator leaves the Business Enterprises Program and then applies for a location within 12 months of leaving, his financial performance according to standards for the 12 months prior to his leaving shall be used to calculate points in the Financial Performance Section.
- (12) Financial analyses of facilities shall be done every two years. The analysis shall be on the facility not the operator; however, an operator may request a new analysis after at least four months in the new facility. If an applicant's financial analysis is less than two years old and the applicant's performance is neither above 100 percent nor below 85 percent on either measure, the financial analysis is current.
- (13) An applicant who does not hold the required level of license for the vacancy may be awarded the facility contingent upon successfully completing the required training. Applicants who hold the required level of license but have not operated a facility at that level for at least two years shall complete refresher on-the-job training if the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect.
- (14) An operator may not sit on the Interview Committee for a location for which he/she is applying or if a member of his/her immediate family has applied for a vacant facility. For

this purpose immediate family is defined as spouse, parent, child, brother and sister. Also included are the step, half and in-law relationships. If the Vice-Chairman and the Chairman of the Elected Committee of Vendors and the Chairman of the sub-committee on Transfer and Promotion are all restricted from sitting on the Interview Committee under this Rule, those three must pick another Elected Committee of Vendors member to sit on the Interview Committee.

- (15) The schedule for awarding vacancies may be changed to accommodate holidays, too many applications to process in one day, or at any time necessary due to program conflicts as determined by the chief of Business Enterprises and the Vice-Chairman of the Elected Committee of Vendors. All applicants shall be notified in writing of the date, time and place of their interview.

- (16) Applicants shall be reimbursed for their expenses to come to the interview at the state's per diem rates. The Business Enterprises Program shall only reimburse for two interviews per year. After that, applicants shall bear their own expenses for coming to interviews. Licensees who have active rehabilitation cases shall be reimbursed through the rehabilitation program.

(d) The Division shall use the following criteria in determining points:

- (1) Sanitation:
- (A) Ten point maximum;
 - (B) One point for each sanitation grade point above ninety;
 - (C) Sanitation grade to be arrived at by averaging all sanitation scores received during last two years;
 - (D) Five points shall be subtracted for any adjusted B grade in the last two years;
 - (E) The Business Enterprises Counselor shall determine an adjusted grade by adding back in any points subtracted for deficiencies over which the operator has no control. The operator shall inform Business Enterprises Counselor when an inspection has occurred so he can review the inspection and adjust the grade if needed. The operator shall make sure the Business Enterprises Counselor has copies of every sanitation inspection form from the relevant period so that he or she can calculate an accurate grade.
- (2) Seniority:
- (A) Five point maximum;
 - (B) Seniority points shall be awarded as follows:

Years in Business Enterprises Program – Points

- 0 to 4.99 - 0 points
- 5 to 9.99 - 1 point
- 10 to 14.99 - 2 points
- 15 to 19.99 - 3 points
- 20 to 24.99 - 4 points
- 25 and over - 5 points

- (C) Seniority is defined as the amount of time in yearly increments an individual has been working in the Business Enterprises Program as an operator. An operator must work 51 percent of the working days in a month to receive credit for that month. The cutoff date for accruing time in the Program is the end of the month when the vacancy is advertised. Business Enterprises operators shall receive credit for one year of seniority for any combined 12-month period.

- (3) Performance According to Financial Analysis/Operating Standards: Operating standards are determined by tabulating all the invoices for purchases for resale for each facility for a period of three months. The optimum sales and gross profit percentage is determined by computing the maximum potential for sales and gross profit without consideration for theft, waste or poor management. Each operator is required to maintain 85 percent of the optimum standard established for each facility for sales and gross profit. Eighty-five percent of the optimum sales and gross profit percentage is considered the operating standard for each facility.

- (A) 50 Points Maximum;
- (B) Applicants shall receive 20 points for meeting or exceeding 85 percent of their sales standard;
- (C) Applicants shall receive 20 points for meeting or exceeding 85 percent of their gross profit percentage standard;
- (D) Applicants shall receive five points for meeting or exceeding 92.5 percent of their sales optimum;
- (E) Applicants shall receive five points for meeting or exceeding 92.5 percent of their gross profit percentage optimum.

- (4) Customer and Building Management Relations:

- (A) Five points shall be deducted for each written site management complaint in the past two years, up to a maximum of 10 points.
- (B) If the applicant has more than three written site management complaints,

he shall not be considered for the award. No site management complaint that is more than three years old may be used against an operator. Site management is defined as the property official for the property on which a BEP facility is located.

(5) Oral Exam/Interview:

- (A) 30 points maximum.
- (B) Interview shall be face to face (no conference calls).
- (C) All applicants shall be interviewed.
- (D) The Interview Committee shall consist of:
 - (i) The Chief of Business Enterprises, or Deputy Chief or Assistant Director of Programs and Facilities as designated by Chief,
 - (ii) The Area Rehabilitation Supervisor or B.E. Counselor for the area in which the vacancy occurs, and
 - (iii) The Vice-Chairman of the Elected Committee of Vendors or the Chairman in his absence, or in the absence of the Chairman, the Chairman of the Transfer and Promotion subcommittee.

(E) The Oral Exam part shall consist of 10 questions drawn either from a pool of standard questions or developed by the Interview Committee prior to the interview. The oral exam questions shall relate to any special needs of the vacant facility as well as to standard responsibilities and knowledge areas of Business Enterprises operators. Each member of the Interview Committee shall evaluate the applicant's response to each question in the oral exam. The applicant shall receive one point by demonstrating basic knowledge, the applicant shall receive one and one-half points for demonstrating above average knowledge, and the applicant shall be awarded two points for demonstrating exceptional knowledge for each interview question. There shall be at least one question involving a calculation and a talking calculator shall be provided, although applicants may bring their own. The oral exam shall yield a possible 20 points.

(F) The interview part shall consist of a variety of questions in a give and take format. Each member of the Interview Committee shall evaluate the applicant's response to the interview questions and shall award up to 10 additional points based on the applicant's previous food service experience, knowledge and financial performance. If the applicant meets the requirements for the facility, the applicant shall receive five additional points. If the applicant's qualifications exceed the requirements of the facility, he may be awarded up to ten additional points. The interview shall include the following elements: questions related to business philosophy to promote general discussion to enable the interview panel to evaluate the applicant's expertise, maturity, experience and ability; a discussion of any related work experience outside the Business Enterprises Program; at least two business math questions. Since points are awarded for seniority, time in the Business Enterprises Program shall not be considered as a reason to award points; however, relevant work experience in the Business Enterprises Program may be discussed and taken into consideration. Applicants may bring letters of recommendation, certificates, and other documents that would aid the Interview Committee in awarding its discretionary points.

(G) Each interviewer shall award discretionary points individually and the total score of Oral Exam and Interview points from each interviewer shall be averaged and added to the applicant's points from the other Sections.

(6) Licensees and trainees:

(A) A licensee who has no previous experience in the North Carolina Business Enterprises Program shall be assigned 35 points in the Financial Analysis/Operating Standards category. If the licensee scores 90 percent or above on the National Restaurant Association's ServSafe exam, he/she shall be awarded three points in the sanitation category.

(B) A licensee with previous Business Enterprises experience shall be

assigned 35 points in the Financial Analysis/Operating Standards category. Previous sanitation records shall be considered, if available; or the applicant may take the National Restaurant Association's ServSafe exam. If the licensee scores 90 percent or above on the ServSafe exam, he/she shall be given three points in the Sanitation Section.

- (C) Applicants shall have satisfactorily completed Level I training or have a Level I license to be interviewed. The four levels of Business Enterprises facilities are defined as follows: Level I has no cooking or on-site food preparation and includes only service via vending machines or over the counter service including snacks, candy, pre-packaged sandwiches, coffee, and assorted beverages. Level II service is similar to a deli operation where hot and cold food is prepared on site. Level III service includes all of the above with the addition of a grill and fryer. Level IV service consists of full-service cafeteria style facilities. An applicant shall score at least 60 total points to be awarded a location. If the applicant scores at least 55 points but less than 60 points, the interview panel may make a conditional award if the panel agrees it is in the best interest of the Business Enterprises Program.

History Note: Authority G.S. 111-27; 143B-157; 20 U.S.C. sec. 107; Eff. October 1, 1978; Amended Eff. January 1, 2009; August 1, 2002; May 1, 1996; December 1, 1993; February 1, 1986; February 1, 1981.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 10B .0203 SANCTIONS FOR VIOLATIONS BY INDIVIDUALS

When any person certified by the Commission is found to have knowingly and willfully violated any provision or requirement of the rules in this Subchapter, the Commission may take action to correct the violation and to ensure that the violation does not re-occur, including:

- (1) issuing an oral warning and request for compliance;
- (2) issuing a written warning and request for compliance;
- (3) issuing an official written reprimand;

- (4) summarily suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual upon a specific finding that allowing the individual to work poses a danger to the public health, safety and welfare; or
- (5) revoking or denying the individual's certification. Where action is being taken against an instructor or school director the Probable Cause Committee shall specify a period of time for the revocation or denial not to exceed five years. Where action is being taken against an applicant for justice officer certification or a certified justice officer, the sanctions set out in 12 NCAC 10B .0205 apply.

History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1991; Recodified from 12 NCAC 10B .0206 Eff. January 1, 1992; Amended Eff. January 1, 2009; January 1, 1993.

12 NCAC 10B .0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION

(a) The Commission shall revoke or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a felony; or
- (2) a crime for which the authorized punishment could have been imprisonment for more than two years.

(b) The Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within a one year time period as specified by the rules in this Subchapter;
- (2) fails to meet or maintain any of the employment or certification standards required by 12 NCAC 10B .0300;
- (3) fails to satisfactorily complete the in-service training requirements as presented in 12 NCAC 10B .2000 and .2100 or 12 NCAC 09E .0100;
- (4) has refused to submit to the drug screen as required by the rules in this Chapter or the rules of the Criminal Justice Education and Training Standards Commission or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the employing agency through which the officer is certified;
- (5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported to any commission, agency, or board established to

certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer, a corrections officer as defined in 12 NCAC 09G .0102 or a criminal justice officer as defined in 12 NCAC 09A .0103(6), unless the positive result is due to a medically indicated cause.

(c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:

- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
- (2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
- (3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
- (4) has been removed from office by decree of the Superior Court in accordance with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230; or
- (5) has been denied certification or had such certification suspended or revoked by the North Carolina Criminal Justice Education and Training Standards Commission, or a similar North Carolina, out-of-state or federal approving, certifying or licensing agency.

(d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor

and which occurred after the date of appointment;

- (2) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment;
- (3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(b) as Class B misdemeanors regardless of the date of commission or conviction;
- (4) an accumulation of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor, regardless of the date of commission or conviction except the applicant shall be certified if the last conviction or commission occurred more than two years prior to the date of appointment; or
- (5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor regardless of the date of commission or conviction.

(e) Without limiting the application of G.S. 17E, a person who has had his certification suspended or revoked shall not exercise the authority or perform the duties of a justice officer during the period of suspension or revocation.

(f) Without limiting the application of G.S. 17E, a person who has been denied certification revoked shall not be employed or appointed as a justice officer or exercise the authority or perform the duties of a justice officer.

(g) If the Commission does revoke, suspend, or deny the certification of a justice officer pursuant to this Rule, the period of such sanction shall be as set out in 12 NCAC 10B .0205.

History Note: Authority G.S. 17E-7;

Eff. January 1, 1990;

Amended Eff. July 1, 1990;

Recodified from 12 NCAC 10B .0204 Eff. January 1, 1991;

Amended Eff. April 1, 1991; January 1, 1991;

Recodified from 12 NCAC 10B .0207 Eff. January 1, 1992;

Amended Eff. January 1, 2009; January 1, 2008; January 1, 2007; January 1, 2006; March 1, 2005; January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1995; January 1, 1994; January 1, 1993.

**12 NCAC 10B .0205 PERIOD OF SUSPENSION:
REVOCATION: OR DENIAL**

When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall be:

- (1) permanent where the cause of sanction is:
 - (a) commission or conviction of a felony;
 - (b) commission or conviction of a crime for which authorized punishment included imprisonment for more than two years; or
 - (c) the second revocation, suspension, or denial of an officer's certification for

- any of the causes requiring a five-year period of revocation, suspension, or denial as set out in Item (2) of this Rule.
- (2) not less than five years where the cause of sanction is:
- (a) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(1);
 - (b) material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;
 - (c) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;
 - (d) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aiding another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Sub-Item also applies to obtaining or attempting to obtain credit for in-service training as required by 12 NCAC 10B .1700, .1800, .2000, or .2100;
 - (e) failure to make either of the notifications as required by 12 NCAC 10B .0301(a)(7);
 - (f) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or
 - (g) a positive result on a drug screen, or a refusal to submit to drug testing as required by the rules in this Chapter or the rules of the Criminal Justice Education and Training Standards Commission or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the employing agency through which the officer is certified.

The Commission may either reduce or suspend the periods of sanction under this Item or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to

- reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.
- (3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:
- (a) failure to meet or satisfy relevant basic training requirements;
 - (b) failure to meet or maintain the minimum standards of employment or certification;
 - (c) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 10B .2000 or .2100 or 12 NCAC 09E .0100;
 - (d) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(2), (3), (4) and (5); or
 - (e) denial, suspension, or revocation of certification pursuant to 12 NCAC 10B .0204(c)(5).

The Commission may either reduce or suspend the periods of sanction where revocation, denial or suspension of certification is based upon Subparagraphs .0204(d)(3), (d)(4), and (d)(5) or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.

History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1991; Recodified from 12 NCAC 10B .0208 Eff. January 1, 1992; Amended Eff. January 1, 2009; January 1, 2008; January 1, 2007; January 1, 2006; March 1, 2005; January 1, 1995; January 1, 1994; January 1, 1993; January 1, 1992.

12 NCAC 10B .0304 MEDICAL EXAMINATION

- (a) Each applicant for certification or enrollee in a Commission-certified basic training course shall complete, sign and date the Commission's Medical History Statement Form (F-1) and shall be examined by either a physician, surgeon, physician's assistant or nurse practitioner or other licensed independent practitioner who is licensed in North Carolina or who is authorized to practice medicine in accordance with the rules and regulations of the United States Armed Forces to help determine his/her fitness in carrying out the physical requirements of the position of justice officer.
- (b) Prior to conducting the examination, the physician, surgeon, physician's assistant or nurse practitioner or other licensed independent practitioner shall:

- (1) read the "Medical Screening Guidelines Implementation Manual for Certification of Justice Officers" in the State of North Carolina as published by the North Carolina Department of Justice. Copies of this publication may be obtained at no cost at the time of the adoption of this Rule by contacting the North Carolina Department of Justice, Sheriffs' Standards Division, PO Box 629, Raleigh, North Carolina 27602; and
- (2) read, sign, and date the Medical History Statement Form (F-1); and
- (3) read the F-2A Form attached to the Medical Examination Report Form (F-2).

(c) The examining physician, surgeon, physician's assistant or nurse practitioner or other licensed independent practitioner shall record the results of the examination on the Medical Examination Report Form (F-2) and sign and date the form.

(d) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid one year from the date the examination was conducted and are completed prior to:

- (1) the applicant's beginning the Detention Officer Certification Course, the Basic Law Enforcement Training Course, or the Telecommunicator Certification Course; and
- (2) the applicant's applying to the Commission for Certification.

Note: Although not presently required, it is recommended by the Commission that each candidate for the position of justice officer be examined by a licensed psychiatrist or clinical psychologist, or be administered a psychological evaluation test battery, to determine his/her suitability to perform the essential job functions of a justice officer.

History Note: Authority G.S. 17E-7; Eff. January 1, 1989; Amended Eff. January 1, 1996; January 1, 1993; January 1, 1991; January 1, 1990; Temporary Amendment Eff. March 1, 1998; Amended Eff. January 1, 2009; August 1, 2002; April 1, 2001; August 1, 1998.

12 NCAC 10B .0406 LATERAL TRANSFER/REINSTATEMENTS

- (a) The General or Grandfather Certification of an officer meeting the requirements of 12 NCAC 10B .0103(9) may laterally transfer to an agency and be certified upon compliance with this Rule, without having to repeat the requirements set out in 12 NCAC 10B .0303.
- (b) The employing agency shall verify the applicant's certification status with the Division prior to submission of the application for certification as a justice officer.
- (c) In order for an officer to be certified pursuant to Paragraph (a) of this Rule, the employing agency shall submit to the Division, along with the Report of Appointment (F-4 or F-4T), the documents required in 12 NCAC 10B .0408.

(d) An officer whose certification has been suspended pursuant to 12 NCAC 10B .0204(b)(1) may have that certification reinstated provided that:

- (1) the period of suspension has been six months or less; and
- (2) the employing agency submits to the Division, along with a Report of Appointment, the documents required in 12 NCAC 10B .0305.
- (3) the officer has successfully completed the basic training requirements as prescribed in 12 NCAC 10B .0500 or .0600 or .1300.

(e) An officer for whom a Report of Separation (Form F-5) has been submitted to the Division, and who is re-appointed in the same agency, may be reinstated provided that:

- (1) the period of separation has been six-months or less; and
- (2) the employing agency submits to the Division, along with a Report of Appointment, the documents required in 12 NCAC 10B .0305.

(f) Requirements of Paragraph (c) of this Rule are waived for officers whose certifications are reinstated pursuant to Paragraphs (d) and (e) of this Rule.

(g) All information maintained pursuant to the requirements of this Rule shall be subject to all state and federal laws governing confidentiality.

History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1989; Amended Eff. January 1, 1994; January 1, 1993; January 1, 1992; July 1, 1990; Temporary Amendment Eff. March 1, 1998; Amended Eff. January 1, 2009; January 1, 2005; August 1, 2002; August 1, 1998.

12 NCAC 10B .0704 RESPONSIBILITIES: SCHOOL DIRECTORS, DETENTION OFFICER COURSE

(a) In planning, developing, coordinating, and delivering each commission-certified Detention Officer Certification Course, the school director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter.
 - (A) The Detention Officer Certification Course shall be presented with a minimum of 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed, with the exception of weeks in which there are regularly scheduled holidays.
 - (B) In the event of exceptional or emergency circumstances, the Director shall, upon written finding of justification, grant a waiver of the minimum hours requirement.
- (2) Select and schedule instructors who are properly certified by the Commission. The selecting and scheduling of instructors is subject to special requirements as follows:

- (A) No single individual may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any one delivery except as set forth in Part (a)(2)(B) of this Rule.
 - (B) Where the school director shows exceptional or emergency circumstances and the school director documents that an instructor is properly certified to instruct more than 35 percent of the total hours of the curriculum, the Director of the Division shall grant written approval for the expansion of the individual instructional limitation.
 - (C) The appropriate number of instructors for specific topic areas shall be scheduled as required in 12 NCAC 10B .0703.
- (3) Provide each instructor with a commission-approved course outline and all necessary additional information concerning the instructor's duties and responsibilities.
 - (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this Chapter and to minimize repetition and duplication of subject matter.
 - (5) Arrange for the timely availability of appropriate audiovisual aids and materials, publications, facilities and equipment for training in all topic areas as required in the "Detention Officer Certification Course Management Guide".
 - (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:
 - (A) Effective course delivery;
 - (B) Establishing responsibilities and obligations of agencies or departments employing course trainees; and
 - (C) Regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records.

A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.
 - (7) If appropriate, recommend housing and dining facilities for trainees.
 - (8) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) along with the following attachments:
 - (A) A comprehensive course schedule showing arrangement of topical presentations and proposed instructional assignments;
 - (B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors. The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all commission rules; if school's rules are found to be in violation, the Director shall notify the school director of deficiency, and approval shall be withheld until all matters are in compliance with the Commissions' rules.
 - (9) Administer the course delivery in accordance with the rules in this Chapter and ensure that the training offered is as effective as possible.
 - (10) Monitor or designate a certified instructor to monitor the presentations of all probationary instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. A person holding General Instructor Certification under the Criminal Justice Education and Training Standards Commission may evaluate instructors teaching any lecture portion of the course. However, if a Limited Lecturer is evaluated during the practical portion of a block of instruction, he/she must be evaluated by either the School Director or another instructor holding the equivalent type of certification. These evaluations shall be prepared on commission forms and forwarded to the Division at the conclusion of each delivery. Based on this evaluation the school director shall recommend approval or denial of requests for Detention Officer Instructor Certification, Limited Lecturer Certification or Professional Lecturer Certification. The observations shall be of sufficient duration to ensure the instructor is using the Instructional System Development model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of

- the approved lesson plan, and the results of the students evaluations of the instructor.
- (11) Monitor or designate a certified instructor to monitor the presentations of all other instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. A person holding General Instructor Certification under the Criminal Justice Education and Training Standards Commission may evaluate instructors teaching any lecture portion of the course. However, if a Limited Lecturer is evaluated during the practical portion of a block of instruction, he/she must be evaluated by either the School Director or another instructor holding the equivalent type of certification. Instructor evaluations shall be prepared on commission forms in accordance with the rules in this Chapter. These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by a representative of the Commission upon request. The observations shall be of sufficient duration to ensure the instructor is using the Instructional System Development model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor.
 - (12) Ensure that any designated certified instructor who is evaluating the instructional presentation of another holds certification in the same instructional topic area as that being taught.
 - (13) Administer or designate a person to administer appropriate tests as determined necessary at various intervals during course delivery.
 - (14) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated.
 - (15) During a delivery of the Detention Officer Certification Course, make available to authorized representatives of the Commission three hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all course work.
 - (16) Not more than ten days after receiving from the Commission's representative the Report of Examination Scores, submit to the

Commission a Post-Delivery Report of Training Course Presentation (Form 7-B).

- (b) In addition to the requirements in 12 NCAC 10B .0704(a), the school director shall be readily available to students and Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable numbers, shall be filed with the commission-certified training delivery site and the Division prior to the beginning of a scheduled course delivery.

History Note: Authority G.S. 17E-4;

Eff. January 1, 1989;

Amended Eff. January 1, 2009; January 1, 2006; January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1994; January 1, 1992.

12 NCAC 10B .0708 ADMINISTRATION OF TELECOMMUNICATOR CERTIFICATION COURSE

(a) The executive officer or officers of the institution or agency sponsoring a Telecommunicator Certification Course shall have primary responsibility for implementation of the rules in this Section and for administration of the school.

(b) The executive officers shall designate a compensated staff member to be the school director. No more than two school directors shall be designated at each certified institution/agency to deliver a Telecommunicator Certification Course. The school director shall have administrative responsibility for planning scheduling, presenting, coordinating, reporting, and generally managing each sponsored telecommunicator certification course and shall be readily available at all times during course delivery as specified in 12 NCAC 10B .0709(b). The School Director may designate a Qualified Assistant to assist in the administration of the Telecommunicator Certification Course, where the School Director has provided justification for the need to including overlapping or simultaneous Commission-mandated courses, satellite delivery locations, or responsibility for multiple courses. This person must be selected by the School Director who will forward identifying and contact information to the Division. Division staff will conduct a course orientation with the designated person. In order to retain the designation as a qualified assistant, the person must attend the Annual School Directors' Conference.

(c) The executive officers of the institution or agency sponsoring the Telecommunicator Certification Course shall:

- (1) acquire and allocate sufficient financial resources to provide commission-certified instructors and to meet other necessary program expenses;
- (2) provide secretarial, clerical, and other supportive staff assistance as required by the school director; and
- (3) provide or make available facilities, equipment, materials, and supplies for comprehensive and qualitative course delivery, as required in the "Telecommunicator Certification Course Management Guide."

History Note: Authority G.S. 17E-4;

Eff. April 1, 2001;

Amended Eff. January 1, 2009; August 1, 2002.

12 NCAC 10B .0709 RESPONSIBILITIES: SCHOOL DIRECTORS, TELECOMMUNICATOR CERTIFICATION COURSE

(a) In planning, developing, coordinating, and delivering each commission-certified Telecommunicator Certification Course, the school director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter;
- (2) Select and schedule instructors who are properly certified by the Commission;
- (3) Provide each instructor with a commission-approved course outline and all necessary additional information concerning the instructor's duties and responsibilities;
- (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this Chapter and to minimize repetition and duplication of subject matter;
- (5) Arrange for the timely availability of appropriate audiovisual aids and materials, publications, facilities and equipment for training in all topic areas as required in the "Telecommunicator Certification Course Management Guide";
- (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:
 - (A) Effective course delivery;
 - (B) Instruction on the responsibilities and obligations of agencies or departments employing course trainees; and
 - (C) Regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records.

A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the Pre-Delivery Report of Training Course Presentation, Form F-7A-T. A copy of such rules shall also be given to each trainee and to the sheriff or agency head of each trainee's employing agency at the time the trainee enrolls in the course;

- (7) If appropriate, recommend housing and dining facilities for trainees;
- (8) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A-T) along with the following attachments:
 - (A) A comprehensive course schedule showing arrangement of topical presentations and proposed instructional assignments;

(B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors. The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all commission rules; if school's rules are found to be in violation, the Director shall notify the school director of deficiency, and approval shall be withheld until all matters are in compliance with the Commissions' rules;

- (9) Administer the course delivery in accordance with the rules in this Chapter and ensure that the training offered is as effective as possible;
- (10) Monitor or designate a certified instructor to monitor the presentations of all probationary instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. A person holding General Instructor Certification under the Criminal Justice Education and Training Standards Commission may evaluate instructors teaching any lecture portion of the course. These evaluations shall be prepared on commission forms and forwarded to the Division at the conclusion of each delivery. Based on this evaluation the school director shall recommend approval or denial of requests for Telecommunicator Instructor Certification or Professional Lecturer Certification. The observations shall be of sufficient duration to ensure the instructor is using the Instructional System Development model as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor;
- (11) Monitor or designate a certified instructor to monitor the presentations of all other instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. A person holding General Instructor Certification under the Criminal Justice Education and Training Standards Commission may evaluate instructors teaching any lecture portion of the course. Instructor evaluations shall be prepared on commission-approved forms in accordance with the rules in

this Chapter. The observations shall be of sufficient duration to ensure the instructor is using the Instructional System Development model as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor. These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by a representative of the Commission upon request;

- (12) Ensure that any designated certified instructor who is evaluating the instructional presentation of another holds certification in the same instructional topic area as that being taught;
- (13) Administer or designate a person to administer appropriate tests as determined necessary at various intervals during course delivery;
- (14) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated;
- (15) During a delivery of the Telecommunicator Certification Course, make available to authorized representatives of the Commission two hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all course work; and
- (16) Not more than 10 days after receiving from the Commission's representative the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B-T).

(b) The school director shall be readily available to students and Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable numbers, shall be filed with the commission-certified training delivery site and the Division prior to the beginning of a scheduled course delivery.

History Note: Authority G.S. 17E-4;

Eff. April 1, 2001;

Amended Eff. January 1, 2009; January 1, 2006; January 1, 2005.

12 NCAC 10B .2004 INSTRUCTORS

The following requirements and responsibilities are hereby established for instructors who conduct a Commission-mandated In-Service Training Program:

- (1) The instructors shall:

- (a) hold General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0302, .0304, and .0306;
- (b) hold Professional Lecturer Instructor certification issued by either the Commission as set out in either 12 NCAC 10B .0906 or .0916, or the Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0306, or General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0302, .0304, and .0306, when teaching a legal block of instruction;
- (c) hold Professional Lecturer Instructor certification issued by the Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0306, when teaching a medical or psychological block of instruction; or
- (d) hold Specific Instructor Certification issued by the Criminal Justice Education and Training Standards Commission when teaching the lesson plans published by the NC Justice Academy as follows:
 - (i) Firearms must be taught by a Firearms Instructor certified in accordance with 12 NCAC 09B .0304(e);
 - (ii) Weapons Retention and Disarming Techniques must be taught by Subject Control Arrest Techniques Instructor certified in accordance with 12 NCAC 09B .0304(e);
 - (iii) Spontaneous Attack Defense must be taught by a Subject Control Arrest Techniques Instructor certified in accordance with 12 NCAC 09B .0304(b);
 - (iv) Handcuffing and Impact Weapons Refresher must be taught by a Subject Control Arrest Techniques Instructor certified in accordance with 12 NCAC 09B .0304(e);
 - (v) Wellness and Stress Awareness must be taught by a Physical Fitness Instructor certified in

- accordance with 12 NCAC 09B .0304(g); and
- (vi) Law Enforcement Driver Training (classroom and practical) must be taught by a Specialized Law Enforcement Driver Training Instructor certified in accordance with 12 NCAC 09B .0304(f).

In addition, each instructor certified by the Criminal Justice Commission to teach in a Commission-certified course shall remain competent in his/her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and successfully completing all instructor updates issued by the Commission.

- (2) The use of guest participants is permitted provided they are subject to the direct on-site supervision of a commission-certified instructor.
- (3) The instructor shall deliver the training consistent with the specifications as established in the rules in this Section.
- (4) The instructor shall document the successful or unsuccessful completion of training for each person attending a training program and forward a record of their completion to each person's Sheriff or Department Head.

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 2007;
Amended Eff. January 1, 2009.*

12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS

(a) A Sheriff or Department Head may choose to use a lesson plan developed by the North Carolina Justice Academy, or may opt to use a lesson plan for any of the topical areas developed by another entity. The Sheriff or Department Head may also opt to use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training in 12 NCAC 09B .0209.

(b) The 2006 Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Ethics;
- (3) Juvenile Minority Sensitivity Training;
- (4) Methamphetamine Awareness or Methamphetamine Investigative Issues;
- (5) Firearms Training and Requalification for deputy sheriffs and detention officers as set out in Section .2100 of this Subchapter; and
- (6) Any topic areas of the Sheriff's choosing.

(c) The 2007 Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Ethics (on-duty or off-duty);
- (3) Juvenile Minority Sensitivity Training;
- (4) Domestic Violence;
- (5) Interacting with Special Populations (which shall include autism);
- (6) Firearms Training and Requalification for deputy sheriffs and detention officers as set out in Section .2100 of this Subchapter; and
- (7) Any topic areas of the Sheriff's choosing.

(d) The 2007 Detention Officer In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Detention Legal Update;
- (2) Ethics for Detention Officers;
- (3) Special Inmate Population Management; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(e) The 2007 Telecommunicator In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Handling Suicidal Callers;
- (2) Emergency Call Taking Procedures;
- (3) Terrorism Training an Awareness Level For Telecommunicators;
- (4) Officer Safety Training for Telecommunicators; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

(f) The 2008 Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Career Survival: Truth or Consequences;
- (3) Juvenile Minority Sensitivity Training;
- (4) Response to Critical Incidents;
- (5) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (6) Any topic areas of the Sheriff's choosing.

(g) The 2008 Detention Officer In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Detention Officer Legal Update;
- (2) Professionalism for Detention Officers;
- (3) Inmate Movement; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(h) The 2008 Telecommunicator In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Teletypewriter (TTY);
- (2) Customer Service;
- (3) Incident Command; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(i) The 2009 Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Career Survival: Training & Standards Issues;
- (3) Juvenile Minority Sensitivity Training: Juvenile Law;
- (4) Domestic Violence;
- (5) Drug Diversion for Patrol Officers;

- (6) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (7) Any topic areas of the Sheriff's choosing.
- (j) The 2009 Detention Officer In-Service Training Program requires 16 hours of training in the following topical areas:
 - (1) Career Survival for Detention Officers;
 - (2) Recognition of Mental Illnesses and Suicide Identifiers;
 - (3) Detention Officer Legal Update; and
 - (4) Any topic areas of the Sheriff's or Department Head's choosing.
- (k) The 2009 Telecommunicator In-Service Training Program requires 16 hours of training in the following topical areas:
 - (1) Professionalism in Emergency Services;
 - (2) Dealing with the Mentally Ill;
 - (3) Community, School and Campus Safety Issues for Telecommunicators; and
 - (4) Any topic areas of the Sheriff's or Department Head's choosing.

*History Note: Authority G.S. 17E-4; 17E-7;
 Eff. January 1, 2007;
 Amended Eff. January 1, 2009; January 1, 2008.*

12 NCAC 10B .2007 SHERIFF/AGENCY HEAD RESPONSIBILITIES

Each Sheriff or Department Head shall ensure that the respectively required In-Service Training Program established by this Section is conducted. In addition, the Sheriff or Department Head shall:

- (1) report to the Division those deputy sheriffs, detention officers and telecommunicators who are inactive;
- (2) maintain a roster of each deputy sheriff, detention officer and telecommunicator who successfully completes the respectively required In-Service Training Program;
- (3) report to the Division by January 15th, 2007, those active deputy sheriffs who fail to complete the 2006 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005. The reporting shall be on a Commission form;
- (4) report to the Division by January 15th, 2008:
 - (a) those active telecommunicators who fail to complete the 2007 Telecommunicator Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (b) those active detention officers who fail to complete the 2007 Detention Officer In-Service Training Program in accordance with 12 NCAC 10B .2005; and
 - (c) those active deputy sheriffs who fail to complete the 2007 Law Enforcement In-Service Training

- Program in accordance with 12 NCAC 10B .2005;
 - (5) The reporting shall be on a Commission form. report to the Division by January 15th, 2009:
 - (a) those active telecommunicators who fail to complete the 2008 Telecommunicator Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (b) those active detention officers who fail to complete the 2008 Detention Officer In-Service Training Program in accordance with 12 NCAC 10B .2005; and
 - (c) those active deputy sheriffs who fail to complete the 2008 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (6) The reporting shall be on a Commission form. report to the Division by January 15th, 2010:
 - (a) those active telecommunicators who fail to complete the 2008 Telecommunicator Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (b) those active detention officers who fail to complete the 2008 Detention Officer In-Service Training Program in accordance with 12 NCAC 10B .2005; and
 - (c) those active deputy sheriffs who fail to complete the 2008 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005.
- The reporting shall be on a Commission form.

*History Note: Authority G.S. 17E-4; 17E-7;
 Eff. January 1, 2007;
 Amended Eff. January 1, 2009; January 1, 2008.*

12 NCAC 10B .2008 FAILURE TO COMPLETE IN-SERVICE TRAINING PROGRAMS

- (a) Failure to complete the respectively required In-Service Training Program(s), except as set forth in Paragraph (c) of this Rule, in accordance with this Section shall result in the summary suspension of certification by the Commission if the Commission finds that the public health, safety, or welfare requires immediate action.
- (b) Certification may be reinstated at the request of the justice officer's Sheriff/Agency Head provided the justice officer completes the respectively required In-Service Training Program within one year of the date of suspension of certification. An In-Service Training Program completed under this provision shall be credited to the prior year of non-compliance and shall not be credited toward the current year of completion.
- (c) Failure to qualify a justice officer in accordance with Section .2100 of these Rules is governed by 12 NCAC 10B .2105.

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 2007;
Amended Eff. January 1, 2009.*

TITLE 13 – DEPARTMENT OF LABOR

13 NCAC 13 .0101 DEFINITIONS

The following definitions apply throughout the rules in this Chapter, and shall be construed as controlling in case of any conflict with the definitions contained in any other standard or code:

- (1) "Accepted Design and Construction Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (ASME Code), or a comparable code with standards that the Chief Inspector determines to be as safe as the ASME Code.
- (2) "Appurtenance" means any control, fitting, appliance or device attached to or working in conjunction with the boiler proper or pressure vessel.
- (3) "ASME Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers.
- (4) "Audit" means activities, other than those identified as certificate inspections, conducted by the Chief Inspector or his designee. These activities include, in part:
 - (a) reviews and surveys for ASME and National Board stamp issuance and renewal;
 - (b) audits conducted on an authorized inspector at the location of a manufacturer or repair organization as may be required by the ASME Code, National Board Inspection Code, or National Board Rules for Commissioned Inspectors; and
 - (c) audits pursuant to evaluation for the issuance of North Carolina Specials.
- (5) "Automatically fired boiler" means a boiler that cycles automatically in response to a control system and which does not require a constant attendant for the purpose of introducing fuel into the combustion chamber or to control electrical input.
- (6) "Authorized Inspection Agency" means an organization employing commissioned inspectors including the following:
 - (a) the Department of Labor, Boiler Safety Bureau;
 - (b) an inspection agency of an insurance company licensed to write boiler and pressure vessel insurance; or
 - (c) an owner-user inspection agency that meets the requirements of G.S. 95-69.15.
- (7) "Authorized inspector" means an employee of an Authorized Inspection Agency who is commissioned by the National Board and this State, holds an appropriate endorsement on his/her National Board Commission, and inspects as the third party inspector in ASME Code manufacturing facilities.
- (8) "Boiler", as defined in G.S. 95-69.9(b), includes the following types of boilers:
 - (a) "Exhibition boiler" means a historical or antique boiler which generates steam or hot water for the purposes of entertaining or educating the public or is used for demonstrations, tourist travel or exhibitions. This term includes steam tractors, threshers, steam powered sawmills, and similar usages.
 - (b) "High pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig, or water is heated to a temperature greater than 250°F and a pressure greater than 160 psig for use external to itself. High pressure boilers include the following:
 - (i) Electric boilers.
 - (ii) Miniature boilers.
 - (iii) High temperature water boilers.
 - (iv) High temperature liquid boilers (other than water).
 - (c) "Low pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of not more than 15 psig, or water is heated to a temperature not greater than 250°F and a pressure not greater than 160 psig, including the following:
 - (i) "Hot water heating boiler" means a low pressure boiler that supplies heated water that is returned to the boiler from a piping system and is used normally for building heat applications (hydronic boiler).
 - (ii) "Hot water supply boiler" means a low pressure boiler that furnishes hot water to be used externally to itself (domestic water boiler).
 - (iii) "Steam heating boiler" means a low pressure boiler that generates steam to be used normally for building heat applications.
 - (d) "Model hobby boiler" means a boiler which generates steam, whether

- stationary or mobile, where the boiler does not exceed 20 square feet heating surface, a shell diameter of 16 inches, a volume of 5 cubic feet and a pressure not exceeding 150 psig and is used for the purpose of entertainment or exhibiting steam technology.
- (e) "Water heater" means a closed vessel in which water is heated by the combustion of fuel, by electricity, or by any other source and withdrawn for potable use external to the system at pressures not exceeding 160 psig and temperatures not exceeding 210°F.
- (9) "Boiler blowoff" means that system associated with the rapid draining of boiler water to remove concentrated solids which have accumulated as a natural result of steam generation. This term also applies to the blowoff for other boiler appurtenances, such as the low-water fuel cutoff.
- (10) "Boiler proper or pressure vessel" means the internal mechanism, shell, and heads of a boiler or pressure vessel terminating at:
- (a) the first circumferential joint for welded end connections;
 - (b) the face of the first flange in bolted flange connections; or
 - (c) the first threaded joint in threaded connections.
- (11) "Bureau" means the Boiler Safety Bureau of the North Carolina Department of Labor.
- (12) "Certificate inspection" means an inspection, the report of which is used by the Chief Inspector as justification for issuing, withholding or revoking the inspection certificate. The term certificate inspection also applies to the external inspection conducted in accordance with this Chapter whether or not a certificate is intended to be issued as a result of the inspection.
- (13) "Certificate of competency" means the certificate issued by the Commissioner to a person who has passed the National Board inspectors examination.
- (14) "Condemned boiler or pressure vessel" means a boiler or pressure vessel:
- (a) that has been found not to comply with G.S. Chapter 95, Article 7A, or this Chapter;
 - (b) that constitutes a menace to public safety; and
 - (c) that cannot be repaired or altered so as to comply with G.S. Chapter 95, Article 7A, and this Chapter.
- (15) "Coil type watertube boiler" means a boiler having no steam space, such as a steam drum, whereby the heat transfer portion of the water containing space consists only of a coil of pipe or tubing.
- (16) "Commissioned inspector" means an employee of an Authorized Inspection Agency that is commissioned by the National Board and the State of North Carolina and who is charged with conducting in-service inspections of pressure equipment and inspecting repairs or alterations to that equipment.
- (17) "Design criteria" means accepted design and construction code requirements relating to the mode of design and construction of a boiler or pressure vessel.
- (18) "External inspection" means an inspection of the external surfaces and appurtenances of a boiler or pressure vessel. An external inspection may entail the "shutting down" of a boiler or pressure vessel while it is in operation, including inspection of internal surfaces, if the inspector determines this action is warranted.
- (19) "Hydropneumatic storage tank" means a pressure vessel used for storage of water at ambient temperature not to exceed 120°F and where a cushion of air is contained within the vessel.
- (20) "Imminent danger" means any condition or practice in any location that a boiler or pressure vessel is being operated which is such that a danger exists, and which could reasonably be expected to cause death or serious physical harm immediately if the condition is not abated.
- (21) "Insurance inspector" means the special inspector employed by an insurance company, and holding a valid North Carolina Commission and National Board Commission.
- (22) "Internal inspection" means as complete an examination as can reasonably be made of the internal and external surfaces and appurtenances of a boiler or pressure vessel while it is shut down.
- (23) "Maximum allowable working pressure (MAWP)" means the maximum gauge pressure as determined by employing the stress values, design rules and dimensions designated by the accepted design and construction code or as determined by the Chief Inspector in accordance with this Chapter.
- (24) "Menace to public safety" means a boiler or pressure vessel that cannot be operated without a risk of injury to persons and property.
- (25) "Miniature boiler" means a boiler which does not exceed any of the following:
- (a) 16 inch inside shell diameter;
 - (b) 20 square feet of heating surface (does not apply to electrically fired boilers);

- (c) 5 cubic feet volume; and
- (d) 100 psig maximum allowable working pressure.
- (26) "National Board Commission" means the commission issued by the National Board to those individuals who have passed the National Board commissioning examination and have otherwise fulfilled the requirements of the National Board Rules for Commissioned Inspectors.
- (27) "National Board Inspection Code (NBIC)" means the ANSI/NB-23 standard published by the National Board, as adopted by the Bureau.
- (28) "Nonstandard boiler or pressure vessel" means:
 - (a) high pressure boilers contracted for or installed before December 7, 1935;
 - (b) heating boilers contracted for or installed before January 1, 1951;
 - (c) pressure vessels contracted for or installed before January 1, 1976;
 - (d) hydropneumatic storage tanks contracted for or installed before January 1, 1986; and
 - (e) boilers or pressure vessels for which the ASME Code is not intended to apply, other than those boilers and pressure vessels to which the term North Carolina Special applies.
- (29) "Normal working hours" means between the hours of 6:00 AM and 6:00 PM, Monday through Friday, except for state recognized holidays established in 25 NCAC 01E.0901.
- (30) "North Carolina Commission" means the commission issued by the Board, to holders of a National Board Commission, authorizing them to conduct inspections in this State.
- (31) "North Carolina Special" means a boiler or pressure vessel that is not constructed under the accepted design and construction code and for which the owner/operator must apply for a special inspection certificate with the Chief Inspector.
- (32) "NPS" means nominal pipe size.
- (33) "Nuclear component" means the items in a nuclear power plant such as pressure vessels, piping systems, pumps, valves, and component supports.
- (34) "Nuclear system" means a system comprised of nuclear components which collectively serve the purpose of producing and controlling an output of thermal energy from nuclear fuel and includes those associated systems essential to the function and overall safety of the power system.
- (35) "Operating pressure" means the pressure at which a boiler or pressure vessel operates. It shall not exceed the MAWP except as shown in Section I of the ASME Code for forced flow steam generators.
- (36) "Owner or user" means any person or legal entity responsible for the operation of any boiler or pressure vessel installed in this State. This term also applies to a contractor, installer, or agent of the owner or user, as applicable.
- (37) "Owner-user inspector" means an individual who holds a valid North Carolina Commission and National Board Commission and is employed by a company operating pressure vessels for its own use and not for resale, and maintains an inspection program that meets the requirements of the National Board for periodic inspection of pressure vessels owned or used by that company.
- (38) "Pressure piping" means piping including welded piping, external to high pressure boilers from the boiler proper to the required valve(s).
- (39) "Pressure relief devices" mean the devices on boilers and pressure vessels set to open and relieve the pressure in the event of an over pressurization event, and include the following:
 - (a) "Non-reclosing pressure relief device" means a pressure relief device designed to remain open after operation and includes a rupture disk which is a non-reclosing pressure relief device actuated by static pressure upstream of the device and designed to function by the bursting of a pressure retaining disk.
 - (b) "Pressure relief valve" means a pressure relief device that is designed to reclose and prevent the further flow of fluid after normal conditions have been restored. These devices include:
 - (i) "Relief valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve which opens further with the increase in pressure over the opening pressure.
 - (ii) "Safety relief valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action or by opening in proportion to the increase in pressure over the opening pressure.
 - (iii) "Safety valve" means an automatic pressure relief

- valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action.
- (40) "PSIG" means pounds per square inch gauge.
 - (41) "Reinspection or Follow-Up Inspection" means as complete an examination as is necessary to verify that any repair or corrective action required as a result of a certificate inspection is completed.
 - (42) "Service vehicle" means a vehicle mounted with an air storage tank and often with other storage tanks that have oil, grease or other fluids. The purpose of the vehicle is to service vehicles and equipment in the field away from the owners shop.
 - (43) "Shop inspection" means an inspection conducted by an Authorized Inspector pursuant to an inspection service agreement whereby the fabrication process or the repair or alteration of a boiler or pressure vessel is observed to ensure compliance with ASME and the National Board.
 - (44) "Special inspection" means any inspection conducted by a Deputy Inspector other than a regularly scheduled inspection. Special inspection also includes the performance of an inspection by a Deputy Inspector which requires that the inspector make a special trip to meet the needs of the individual or organization requesting the inspection, including conducting certificate inspections during hours other than normal working hours, and inspection of field repairs and alterations.
 - (45) "Special inspector" means a National Board commissioned inspector employed by an insurance company authorized to write boiler and pressure vessel insurance in the state of North Carolina.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Temporary Amendment [(16)]; Eff. March 10, 1982, for a Period of 120 Days to Expire on July 8, 1982; Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995; January 1, 1987; January 1, 1986; June 1, 1982.

13 NCAC 13 .0202 INSPECTOR QUALIFICATION

- (a) Deputy Inspectors conducting certificate inspections shall be in possession of a valid North Carolina Commission. Special Inspectors and Owner-User Inspectors shall be in possession of a National Board Commission and a North Carolina Commission.
- (b) A North Carolina Commission shall be issued to an inspector who has passed an examination administered by the Chief Inspector on the Uniform Boiler and Pressure Vessel Act and the rules of this Chapter. There is no fee for this examination.
- (c) If an inspector's North Carolina Commission becomes inactive for more than one calendar year, or if the inspector does

not conduct at least one inspection in North Carolina per calendar year, the inspector must retake and pass this examination before becoming active again in this state.

(d) National Board examinations are administered on the first Wednesday and Thursday of March, June, September and December. Applicants for the examination shall contact the Chief Inspector by the 10th of the month prior to the month in which they desire to sit for the examination.

(e) The National Board examination covers the construction, installation, operation, maintenance and repair of boilers and pressure vessels and their appurtenances, and is administered upon payment to the Department of Labor of a fee of one hundred dollars (\$100.00). Unsuccessful Applicants who desire to retake the National Board examination must pay an additional one hundred dollar (\$100.00) fee before retaking the examination.

(f) A grade of 70 percent or greater must be attained to achieve a passing grade on both examinations.

History Note: Authority G.S. 95-69.11; 95-69.15; Eff. May 29, 1981; Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995; September 1, 1986.

13 NCAC 13 .0203 NORTH CAROLINA COMMISSION

(a) When requested by the employer, a North Carolina Commission, bearing the signature of the Commissioner, shall be issued by the Board to persons holding a valid National Board Commission who have taken and passed the examination specified in 13 NCAC 13 .0202(b).

(b) Requests for a North Carolina Commission shall be processed upon proof of a National Board Commission and payment of a twenty five dollar (\$25.00) fee to the Department of Labor.

(c) North Carolina Commissions are valid through December 31, at which time the inspector's employer shall submit a renewal application and a twenty five dollar (\$25.00) fee to the Department of Labor.

(d) The North Carolina Commission shall be returned by the employing company with notification of termination date to the Bureau within 30 days of termination of employment.

(e) A North Carolina Commission may be suspended or revoked by the Board in accordance with G.S. 95-69.13 for incompetence, untrustworthiness or falsification of any statement in an application or inspection report. The Board shall give notice of the commencement of proceedings for suspension or revocation of a commission pursuant to G.S. 150B-23. A North Carolina Commission may be suspended prior to the hearing if the Chief Inspector determines that the public health, safety or welfare requires this action. In this case, the proceedings shall be promptly commenced and determined in accordance with G.S. 150B-3. The Board's decision regarding the competency of an inspector shall be determined after consideration of the knowledge, skill, and care ordinarily possessed and employed by boiler and pressure vessel inspection personnel in good standing. Industry custom and practice shall be considered but are not determinative. Failure to conduct the inspections in accordance with this Chapter shall constitute

incompetence. The inspector shall be given the opportunity to show that he is conducting his duties in a competent manner and that suspension or revocation is unwarranted. If the inspector believes that the decision of the Board is not warranted, he may file a petition for judicial review pursuant to Article 4 of Chapter 150B of the N.C. General Statutes.

History Note: Authority G.S. 95-69.11; 95-69.15; Eff. May 29, 1981; Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995; March 2, 1992; September 1, 1986.

13 NCAC 13 .0204 CONFLICT OF INTEREST

An inspector shall not engage in any conduct or endeavor that would constitute a conflict of interest including the following:

- (1) Ownership or employment in any kind of boiler or pressure vessel sales or service business;
- (2) Ownership or employment in any kind of boiler or pressure vessel parts or appurtenances sales or service business;
- (3) Consultative services for accepted design and construction codes or National Board quality program design or implementation; or
- (4) Inspection services outside the purview of the employing entity.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995.

13 NCAC 13 .0205 OWNER-USER INSPECTION AGENCY

(a) A company seeking to conduct inspections of its own pressure vessels shall file an application with the Chief Inspector and obtain approval from the Board.

(b) The company shall, in its application, designate a supervisor who shall be an engineer within its employ, who, upon approval of the application, shall:

- (1) ascertain that the company's inspectors, pursuant to Rules .0202 and .0203 of this Section are issued owner-user commission cards;
 - (2) supervise inspections of pressure vessels and see that an inspection report, signed by the owner-user inspector, is filed at the equipment site;
 - (3) notify the Chief Inspector of any unsafe pressure vessel which presents a condition of imminent danger;
 - (4) maintain a master file of inspection records which shall be made available for examination by the Chief Inspector or his representative during business hours:
- (A) identifying each pressure vessel by serial number and abbreviated description; and
 - (B) showing the date of the last and next scheduled inspection;

- (5) on a date mutually agreed upon with the Chief Inspector, file an annual statement signed by the supervisor, showing the number of boilers and certifying that each inspection was conducted pursuant to this Chapter, accompanied by an administrative fee of twenty dollars (\$20.00) per vessel.

(c) Inspection certificates are not required for pressure vessels inspected under an owner-user program.

History Note: Authority G.S. 95-69.11; 95-69.15; 95-69.16; Eff. May 29, 1981; Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995; March 2, 1992; September 1, 1986.

13 NCAC 13 .0206 OWNERS OR USERS TO NOTIFY CHIEF INSPECTOR OF ACCIDENTS

(a) The owner or user of a boiler or pressure vessel shall notify the Chief Inspector within 24 hours when a device is rendered inoperative due to an over pressurization, dry firing or any related event that causes damage to the equipment, real or personal property, personal injury, or death.

(b) No person shall remove or disturb the boiler, pressure vessel, or any of its parts, before an investigation by the Chief Inspector or designee has been made, except for the purpose of conserving life or limiting consequential damages.

(c) Insurance inspectors who elect to investigate an accident shall not have equipment removed from the location until an investigation has been made by the Chief Inspector or designee.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995.

13 NCAC 13 .0208 INSURANCE COMPANIES TO NOTIFY CHIEF INSPECTOR

(a) All insurance companies shall notify the Chief Inspector within 30 days regarding actions taken on all boiler or pressure vessel risks, including:

- (1) the issuance of a policy;
- (2) the cancellation of a policy;
- (3) the non-renewal or suspension of a policy because of unsafe conditions; or
- (4) removal of a boiler or pressure vessel from service.

(b) Such notification shall be made by using the National Board form NB-4, or a form determined by the Chief Inspector to be equivalent to the National Board form, and include reference to the following:

- (1) Object, date of service and effective date;
- (2) Owner's number;
- (3) Jurisdiction number;
- (4) National Board number;
- (5) Name of manufacturer;
- (6) Name of owner including county;
- (7) Location of object including county;
- (8) User of object;
- (9) Date of last inspection for certificate;

- (10) Whether or not a certificate of inspection was issued; and
- (11) Reason for discontinuance or cancellation.

History Note: Authority G.S. 95-69.11; 95-69.14;
Eff. May 29, 1981;
Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995.

**13 NCAC 13 .0301 INSPECTION
 DOCUMENTATION**

- (a) The inspector shall document the results of the inspection on a written inspection report or in an electronic format recognized by the Chief Inspector.
- (b) If the inspector finds that the boiler or pressure vessel is in compliance with the rules in this Chapter, he shall indicate on the report that the boiler or pressure vessel is satisfactory.
- (c) If the inspector finds the boiler or pressure vessel is not in compliance with the rules in this Chapter, he shall specify on the inspection report the deficiencies and the required repairs or corrective action.
- (d) The inspector shall determine if the deficiency is such that operation of the boiler or pressure vessel creates a condition of imminent danger. If a condition of imminent danger exists, the inspector shall state on the inspection report that operation of the boiler or pressure vessel is to cease until completion of the necessary repairs or corrective action. The inspector shall notify the Chief Inspector upon discovery of any condition of imminent danger.
- (e) If the condition of the boiler or pressure vessel is such that repairs or corrective action cannot bring the boiler or pressure vessel into compliance, the inspector shall recommend to the Chief Inspector that the boiler or pressure vessel be condemned from further use.
- (f) For inspections revealing deficiencies, the inspector shall provide a copy of the inspection report to the owner/user which details the violation and corrective action required.
- (g) The Bureau shall issue an invoice to the owner or user for the inspections made and for issuance of the inspection certificate. The owner or user shall remit payment as indicated on the invoice within 30 days to the North Carolina Department of Labor.

History Note: Authority G.S. 95-69.11; 95-69.16;
Eff. May 29, 1981;
Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995;
August 1, 1988.

13 NCAC 13 .0302 CERTIFICATE ISSUANCE

- (a) The Chief Inspector shall issue an inspection certificate to the owner/user, upon receipt of payment, when the boiler or pressure vessel is found to be in compliance with this Chapter.
- (b) The owner shall post the inspection certificate under protective cover in a prominent place visible to the operator while reading the pressure, or if a pressure gauge is not required to be installed, while observing operation of the boiler or pressure vessel, unless environmental conditions or proprietary reasons make it impracticable. The certificate shall be maintained in a readily retrievable location if the conditions make it impracticable to post.

- (c) If the Chief Inspector determines that a boiler or pressure vessel is exposing the public to an unsafe condition likely to result in serious personal injury or property damage, the Chief Inspector may refuse to issue or renew or may revoke, suspend or amend an inspection certificate; provided, however, that whenever any action is taken under this Paragraph, the affected party shall be given notice of the availability of an administrative hearing and of judicial review in accordance with Chapter 150B of the N.C. General Statutes.

History Note: Authority G.S. 95-69.11; 95-69.17;
Eff. May 29, 1981;
Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995.

**13 NCAC 13 .0401 DESIGN AND CONSTRUCTION
 STANDARDS**

- (a) The design, construction, installation, inspection, stamping, and operation of all boilers and pressure vessels shall conform to the rules in this Chapter and the accepted design and construction code.
- (b) Repairs and alterations to boilers and pressure vessels shall conform to the requirements of the National Board Inspection Code.
- (c) The rules of this Chapter shall control when any conflict is found to exist between the Rules and the accepted design and construction code or the National Board Inspection Code.
- (d) Welded repairs and alterations may be made only by an individual or organization in possession of a valid certificate of authorization for use of the National Board "R" symbol stamp.
- (e) Repairs of safety valves or safety relief valves shall be made by an individual or organization in possession of a valid certificate of authorization for use of the National Board "VR" symbol stamp.

History Note: Authority G.S. 95-69.11; 95-69.13; 95-69.14;
Eff. May 29, 1981;
Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995;
February 1, 1989; February 1, 1985; June 1, 1982.

**13 NCAC 13 .0403 MAXIMUM ALLOWABLE
 WORKING PRESSURE**

- (a) An inspector may lower the maximum allowable working pressure of any boiler or pressure vessel because of age, condition or the circumstances under which it is operated.
- (b) The inspector shall justify the reduction in the maximum allowable working pressure and note the new maximum allowable working pressure on the inspection report.
- (c) No boiler or pressure vessel may be operated in excess of the maximum allowable working pressure as stated on the inspection certificate or outside of the temperature ranges for which the boiler or pressure vessel was designed.
- (d) If a boiler or pressure vessel has its maximum allowable working pressure reduced under this chapter, the owner or user may appeal the inspector's decision to the Chief Inspector in accordance with the requirements of 13 NCAC 13 .0304.

History Note: Authority G.S. 95-69.11; 95-69.14;
Eff. May 29, 1981;
Amended Eff. January 1, 2009; January 1, 1995.

13 NCAC 13 .0404 CONTROLS AND SAFETY DEVICES

Boilers and pressure vessels shall be equipped with all suitable controls and safety devices required for safe operation of the equipment. Controls and safety devices shown in Table-0404 in this Rule are considered minimum requirements for the various

types of boilers and pressure vessels listed. All devices required in this Rule and shown in Table-0404 are suitable for the maximum allowable operating pressure and temperature of the boiler or pressure vessel on which they are installed. The design, construction, installation, and operational requirements for controls and safety devices are as required in Rules .0405 through .0420 of this Section.

TABLE-0404

REQUIRED DEVICE AND REFERENCED RULE	HIGH PRESSURE BOILER	STEAM HEATING BOILER	HOT WATER HEATING BOILER	HOT WATER SUPPLY BOILER	WATER HEATER	PRESSURE VESSEL
Pressure Relief Device .0405	X	X	X	X	X	X
High Limit Control .0406	X	X	X	X	X	X
Pressure Gauge .0407	X	X	X	X		X
Steam Syphon (steam boilers only) .0407	X	X				
Water Column & Gauge Glass (steam boilers only) .0408	X	X				
Low-Water Fuel Cutoff (If input > 400,000 Btu) .0409	X	X	X	X		
Temperature Gauge .0410			X	X	X	
Bottom Blowoff Valves .0411	X	X				
Drain Valves .0411	X	X	X	X	X	X
Make-up Water Stop Valve(s) .0411	X	X	X	X	X	
Expansion Tank .0412			X	X	X	
Flame Failure Control .0420	X	X	X	X		

History Note: Authority G.S. 95-69.11; 95-69.14;
Eff. January 1, 1995;
Amended Eff. January 1, 2009; July 1, 2006.

13 NCAC 13 .0405 PRESSURE RELIEF DEVICES

(a) Boilers and pressure vessels shall be protected from overpressurization by a pressure relief device. All pressure relief devices installed on any boiler or pressure vessel shall be constructed and stamped in accordance with the accepted design and construction code.

(b) All pressure relief devices shall be stamped and capacity certified by the manufacturer indicating compliance with the National Board. The stamping shall include the set pressure (that pressure at which the valve is set to open) and the relieving capacity (the rate of flow).

(c) High pressure boilers with over 500 square feet of heating surface and electrically fired boilers having an input in excess of 1100 kW shall be provided with a minimum of two safety valves. For high pressure boilers with a combined bare tube and extended water-heating surface area exceeding 500 square feet, one safety valve is required if the design steam generating capacity of the boiler is less than 4,000 pounds of steam per hour.

(d) Safety valves and safety relief valves for heating boilers shall have a seat diameter of not less than ½ inch, and not more than 4 ½ inches.

(e) Pressure relief devices shall have a set pressure and relieving capacity in accordance with the accepted design and construction code requirements for the type equipment on which the pressure

relief device is installed. At least one pressure relief device shall have the set pressure set at not greater than the maximum allowable working pressure of the boiler or pressure vessel. The relieving capacity shall not be less than the minimum required relieving capacity indicated on the manufacturer's name plate or stamping, or as otherwise required by the accepted design and construction code. Safety relief valves installed on water heaters shall be of the combination temperature and pressure relieving type.

(f) All safety valves installed on high pressure boilers shall be installed on top of the boiler, or in the case of watertube boilers on top of the upper drum, with the spindle in the vertical position. All safety valves and safety relief valves installed on heating boilers shall be on top of the boiler or on an opening at the highest practicable part of the side of the boiler, but in no case shall the safety valve be installed below the normal operating level for a steam boiler. Safety valves and safety relief valves installed on hot water heating boilers, hot water supply boilers, and steam heating boilers shall be installed with the spindles mounted in the vertical position. Safety relief valves for water heaters may be installed with the spindles mounted in either the vertical or horizontal position. In no case may pressure relief devices be mounted on appurtenances.

(g) The distance between the pressure relief device outlet nozzle on the boiler and the pressure relief device inlet shall be kept to a

minimum consistent with the size of the pressure relief device and the pipe sizes required. In no case shall any valves or stops be installed in the inlet piping to the pressure relief device or in the discharge piping from the pressure relief device. The boiler outlet and the piping between the boiler outlet and the pressure relief device shall have a cross sectional area of not less than the cross sectional area of the pressure relief device inlet.

(h) Discharge piping from the pressure relief device outlet shall be the same size, or larger, than the outlet pipe connection on the pressure relief device and shall be extended full size to a safe location. A safe location shall be interpreted to mean a location within six inches of the finished floor of the mechanical room, to a location outside the building terminating a safe distance above the building roof or to a location outside the building within six inches above the finished grade. For vessels such as organic fluid heaters where the medium presents a hazard, the discharge shall be to a containment vessel large enough to hold all anticipated pressure relief discharges. When pressure relief device discharge piping is routed vertically, piped drainage shall be provided by the use of drip pan elbows installed on the outlet of each pressure relief device served.

(i) Multiple pressure relief devices may be piped to the point of discharge using a common discharge header pipe. The header pipe size shall have a diameter sufficient to provide an equivalent cross-sectional area equal to or larger than the sum of the cross-sectional areas of the pressure relief device outlets to which it is connected.

(j) Pressure relief devices on pressure vessels may be installed with the spindle in the vertical or horizontal position. The pressure relief device inlet, discharge piping, and the requirement for piping the discharge to a safe location shall be the same as noted for boilers. The requirement for discharge piping is optional for pressure vessels used to store compressed air, inert gasses, water, or other fluids no more hazardous than water.

(k) Pressure relief devices for direct fired pressure vessels and for those used as air compressor storage tanks shall be installed directly on the pressure vessel with no intervening valves. Pressure relief devices for all other pressure vessels may be installed directly on the pressure vessel or in the piping system, except as modified in this Rule. A stop valve may be installed between a pressure vessel and the pressure relief device if one of the following is satisfied:

- (1) the stop valve is normally locked in the open position, and may only be closed when there is a full time attendant stationed at the stop valve when it is in the closed position for testing purposes; or
- (2) isolating the pressure relief device from the pressure vessel by closing the stop valve also isolates the pressure vessel from the source of pressure.

(l) Pressure relief devices shall be sealed to prevent the valve from being taken apart without breaking the seal. Pressure relief devices for boilers and pressure vessels containing air, water, or steam, shall be provided with a test lever, pull test ring or other mechanism which may be used to test the operation of the valve. Pressure relief devices which are required to be provided with a testing mechanism shall be readily accessible for testing from

the work platform or other means, such as a pull chain, shall be provided so that the pressure relief device can be tested from the work platform.

(m) When a hot water supply boiler or storage vessel is heated indirectly by steam or hot water in a coil or pipe, the pressure relief device capacity shall be determined by the heating surface available for heat transfer, and the pressure relief device shall not be less than 1 inch diameter.

(n) A person shall not:

- (1) attempt to remove, tamper, alter or conduct any work on any pressure relief device while the boiler or pressure vessel is in operation, except as permitted by the accepted design and construction code or the National Board Inspection Code;
- (2) load a pressure relief device in any manner to maintain a working pressure in excess of the maximum allowable working pressure as stated on the inspection certificate;
- (3) operate any boiler or pressure vessel without the safety appliances as described in this Chapter, the accepted design and construction code, and the National Board Inspection Code;
- (4) use a pressure relief device required by this Chapter as an operating pressure control; or
- (5) remove the seal and attempt to adjust or otherwise work on a pressure relief device unless the person/company removing the seal is a authorized holder of a National Board "VR" stamp.

(o) If an owner or user can demonstrate that a pressure vessel is operating in a system of such design that the maximum allowable working pressure cannot be exceeded, the Chief Inspector shall waive the requirement for installation of a pressure relief device if the pressure vessel meets the safety requirements greater than or equal to the level of protection afforded by this Chapter and the accepted design and construction code, and does not pose a danger to persons or property.

(p) Pressure relief device piping shall be supported so that the piping is supported with no additional force being applied to the pressure relief device.

(q) Hydropneumatic storage tanks shall be provided with a relief valve of not less than ¾ inch NPS and rated in standard cubic feet per minute (SCFM). The relief valve shall be installed on top of the tank. This rule applies to any equipment installed after January 1, 2009. Preexisting installed equipment shall meet the criteria effective on January 1, 1995 and does not require a change-out of the existing relief valve unless the current relief valve becomes defective.

(r) Dead weight safety valves are prohibited from use on any boiler or pressure vessel regulated by this Chapter.

(s) When the minimum safety valve relieving capacity is not found on the data plate, the following guide may be used to determine the required safety valve capacity for steam boilers. The factor noted in the table shall be multiplied by the heating surface of the boiler to determine required safety valve relieving capacity.

Table-0405 Guide for Estimating Steaming Capacity Based on Heating Surface		
	Firetube Boilers	Watertube Boilers
Boiler heating surface:		
Hand-fired	5	6
Stoker-fired	7	8
Oil, gas, or pulverized fuel	8	10
Waterwall heating surface:		
Hand-fired	8	8
Stoker-fired	10	12
Oil, gas, or pulverized fuel	14	16
Copper-finned watertube		
Hand-fired	N/A	4
Stoker-fired	N/A	5
Oil, gas, or pulverized fuel-fired	N/A	6

History Note: Authority G.S. 95-69.11; 95-69.14;
 Eff. May 29, 1981;
 Amended Eff. June 1, 1992; February 1, 1985;
 Recodified from 13 NCAC 13 .0404 Eff. January 1, 1995;
 Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995.

13 NCAC 13 .0409 AUTOMATIC LOW-WATER FUEL CUTOFF CONTROLS AND WATER-FEEDING DEVICES

(a) Each automatically fired steam or vapor boiler, except miniature boilers, shall meet the following criteria:

- (1) Have at least two automatic low-water fuel cutoff devices.
- (2) One of the low-water fuel cutoff devices may also be used to regulate the normal water level.
- (3) Each cutoff device shall be installed to prevent startup and to shut down the boiler fuel or energy supply automatically when the surface of the water falls to a level not lower than the lowest visible part of the gauge glass.
- (4) One control shall be set to function ahead of the other. The lower fuel cutoff device shall be equipped with a manual reset which shall prevent the boiler from being fired after the low water limit has been reached until the operator resets the switch manually.
- (5) The low-water fuel cutoffs shall be attached directly to the boiler or to the water column. For float type low-water fuel cutoffs installed external to the boiler, each device shall be installed in individual chambers which shall be attached to the boiler by separate pipe connections below the waterline. Piping from the boiler shall be not less than 1 inch NPS. Low-water fuel cutoff designs embodying a float and float bowl shall have a vertical straightaway valved drain pipe of not less than ¾ inch NPS at the lowest point in the water-equalizing pipe connections by which

the bowl and the equalizing pipe can be flushed and the device tested.

(b) Each automatically fired hot water heating boiler with heat input greater than 400,000 Btu/hr (117 kW) shall meet the following criteria:

- (1) Be protected by a low-water fuel cutoff intended for hot water service.
- (2) The fuel cutoff device shall be installed to prevent startup and to shut down the boiler fuel or energy supply automatically when the surface of the water falls to a level not lower than the lowest safe permissible water level established by the boiler manufacturer.
- (3) The fuel cutoff device shall be equipped with a manual reset which shall prevent the boiler from being fired after the lowest water level has been reached until the operator resets the switch manually.
- (4) The low-water fuel cutoff installed in a hot water heating boiler system may be installed anywhere in the system above the lowest safe permissible water level established by the boiler manufacturer so long as there is no isolation valve installed between the device and the boiler. Connections to the system shall be not less than 1 inch NPS.
- (5) A means shall be provided for testing the operation of the low-water fuel cutoff on a hot water heating boiler system without resorting to draining the entire system.

(c) Coil type boilers or watertube boilers requiring forced circulation to prevent overheating of the coils or tubes may have a flow-sensing device installed at or near the boiler proper, in lieu of a low-water fuel cutoff, to automatically cut off the fuel

supply when the circulation of flow is interrupted. If there is a definitive water line, a low-water fuel cutoff complying with the forgoing shall be provided in addition to the flow-sensing device.

(d) Electric boilers where uncovering of the electrical element can lead to an unsafe condition shall be equipped with a low-water fuel cutoff device. In the case of electrode type boilers, where the reduction in water level provides a self-limiting control on heat input, a low-water cutoff control is not required.

(e) Automatically fired boilers shall be provided with a system to automatically maintain a constant water level so that the water level cannot fall below the lowest safe water line.

(f) Low water fuel cutoff devices embodying a float and float bowl shall be installed so that the boiler feedwater or makeup water cannot be introduced through the float chamber.

History Note: Authority G.S. 95-69.14;

Eff. May 29, 1982;

Recodified from 13 NCAC 13 .0416 Eff. January 1, 1995;

Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995.

13 NCAC 13 .0412 EXPANSION TANKS

(a) Hot water heating systems shall allow for thermal expansion and contraction of the piping to prevent excessive stress from being introduced into the pipe or connected equipment.

(b) When new equipment is installed and a backflow prevention system is installed or already exists on a potable water supply line for a water heater, expansion tanks shall be installed. For water heaters, backflow preventers or check valves may be installed at the meter in water systems.

(c) When expansion tanks are used they shall be constructed and stamped in accordance with the requirements of this Chapter for pressure vessels, unless exempted due to the vessel size or operating limits.

(d) For a closed type system the expansion tank shall be not less than that determined as follows:

$$V_t = [(0.00041T - 0.0466)V_s]/[(Pa/P_f) - (Pa/P_o)]$$

where:

V_t = minimum volume of tank(s), gal

V_s = volume of system, not including tanks, gal

T = average operating temperature, deg F

P_a = atmospheric pressure, psi

P_f = fill pressure, psi

P_o = maximum operating pressure, psi.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Recodified from 13 NCAC 13 .0410 Eff. January 1, 1995;

Amended Eff. January 1, 2009; January 1, 1995.

13 NCAC 13 .0414 GAS-FIRED JACKETED STEAM KETTLE

Gas-fired jacketed steam kettles having a steam space of such size that they are subject to the rules in this Chapter shall be equipped with the operating controls and safety devices required for boilers, except that only one low water fuel cutoff control is required.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995.

13 NCAC 13 .0416 REINSTALLATION OF CERTAIN BOILERS AND PRESSURE VESSELS

(a) A boiler or pressure vessel that is not constructed pursuant to the accepted design and construction code shall not be reinstalled at any location in this State when the reinstallation is accompanied by a change of ownership of the boiler or pressure vessel unless the owner/user receives authorization in writing from the Chief Inspector.

(b) Used boilers or pressure vessels shall not be installed unless an application for permission to install the equipment has been approved in writing according to the rules in this Chapter by the Chief Inspector followed by a certificate inspection by a Deputy Inspector.

(c) Applications to install used or nonstandard boilers or pressure vessels must be made in writing to the Chief Inspector.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Recodified from 13 NCAC 13 .0406 Eff. January 1, 1995;

Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995.

13 NCAC 13 .0417 SUPPORTS

Each boiler and pressure vessel shall be supported by masonry or structural supports of sufficient strength and rigidity to safely support the boiler or pressure vessel and its contents and distribute the weight contained thereon. There shall be no excessive vibration in the boiler, pressure vessel, or connected piping or fittings.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Recodified from 13 NCAC 13 .0408 Eff. January 1, 1995;

Amended Eff. January 1, 2009.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 01S .0101 FEES

For enrollment in the North Carolina Environmental Education Certification Program an applicant shall submit to the Office of Environmental Education an enrollment application, provided by the Office of Environmental Education, accompanied by a fee of fifty dollars (\$50.00).

History Note: Authority G.S. 143B-285.21; 143B-285.22; 143B-285.23; 150B-19(5)(d);

Eff. January 1, 2009.

15A NCAC 02B .0311 CAPE FEAR RIVER BASIN

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

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
 - (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Winston-Salem Regional Office
585 Waughtown Street
Winston-Salem, North Carolina
 - (B) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina
 - (C) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina
 - (D) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina
 - (E) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina
 - (F) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.
- (b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards was amended effective:
- (1) March 1, 1977;
 - (2) December 13, 1979;
 - (3) December 14, 1980;
 - (4) August 9, 1981;
 - (5) April 1, 1982;
 - (6) December 1, 1983;
 - (7) January 1, 1985;
 - (8) August 1, 1985;
 - (9) December 1, 1985;
 - (10) February 1, 1986;
 - (11) July 1, 1987;
 - (12) October 1, 1987;
 - (13) March 1, 1988;
 - (14) June 1, 1988;
 - (15) July 1, 1988;
 - (16) January 1, 1990;
 - (17) August 1, 1990;
 - (18) August 3, 1992;
 - (19) September 1, 1994;
 - (20) August 1, 1998;
 - (21) April 1, 1999;
 - (22) August 1, 2002;
 - (23) November 1, 2004;
 - (24) November 1, 2007;
 - (25) January 1, 2009.
- (c) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective June 1, 1988 as follows:
- (1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
 - (2) Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.
 - (d) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.
 - (e) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective January 1, 1990 as follows:
 - (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
 - (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
 - (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.
 - (f) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.
 - (g) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and

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

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

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

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

(j) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.

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

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

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

- (1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all

tributaries was reclassified from Class WS-III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

- (2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

The "@" symbol as used in this Paragraph means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule 15A NCAC 02B .0215(3)(b)(i)(E) (Fresh Surface Water Quality Standards for Class WS-III Waters), then that development is not subject to the stormwater requirements as described in rule 15A NCAC 02H .1006 (Stormwater Requirements: High Quality Waters).

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

- (1) A portion of Rocky River [Index Number 17-43-(1)] from a point approximately 0.3 mile upstream of Town of Siler City upper reservoir dam to a point approximately 0.3 mile downstream of Lacy Creek from WS-III to WS-III CA.
- (2) A portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point approximately 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) A portion of Mud Lick Creek (Index No. 17-43-6) from a point approximately 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) A portion of Lacy Creek (17-43-7) from a point approximately 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.

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

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (3) Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

- (4) Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (5) Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (6) Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (7) Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (8) The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (9) Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (10) Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

(p) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective January 1, 2009 as follows:

- (1) A portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from Smithfield Packing Company's intake, located approximately two miles upstream of County Road 1316, to a point approximately 0.5 miles upstream of Smithfield Packing Company's intake from Class C to Class WS-IV CA.
- (2) A portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from a point approximately 0.5 miles upstream of Smithfield Packing Company's intake to a point approximately one mile upstream of Grays Creek from Class C to Class WS-IV.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
Eff. February 1, 1976;

Amended Eff. January 1, 2009; November 1, 2007; November 1, 2004; August 1, 2002; April 1, 1999; August 1, 1998; September 1, 1994; June 1, 1994; August 3, 1992; August 1, 1990.

15A NCAC 02B .0601 SITE SPECIFIC WATER QUALITY MANAGEMENT PLAN FOR THE GOOSE CREEK WATERSHED (YADKIN PEE-DEE RIVER BASIN): PURPOSE

The Goose Creek watershed in the Yadkin Pee-Dee River Basin provides habitat for an aquatic animal species that is listed as federally endangered by the U.S. Fish and Wildlife Service under the provisions of the Endangered Species Act, 16 U.S.C. 1531-1544. Maintenance and recovery of the water quality conditions required to sustain and recover the federally-listed endangered species thereby protects the biological integrity of the waters. The Goose Creek watershed, which includes Goose

Creek (Index # 13-17-18), Stevens Creek (Index # 13-17-18-1), Paddle Branch (Index # 13-17-18-2), Duck Creek (Index # 13-17-18-3) and all tributaries, shall be protected by the site-specific management strategy described in Rules .0601 through .0609 of this Section.

The purpose of the actions required by this site-specific management strategy is for the maintenance and recovery of the water quality conditions required to sustain and recover the federally endangered Carolina heelsplitter (*Lasmigona decorata*) species. Management of the streamside zones to stabilize streambanks and prevent sedimentation are critical measures to restore water quality to sustain and enable recovery of the federally endangered Carolina heelsplitter. Site-specific management strategies shall be implemented to:

- (1) control stormwater for projects disturbing one acre or more of land as described in Rule .0602,
- (2) control wastewater discharges as described in Rule .0603,
- (3) control toxicity to streams supporting the Carolina heelsplitter as described in Rule .0604, and
- (4) maintain riparian buffers as described in Rules .0605 through .0609.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); 143-215.8A;
Eff. January 1, 2009.

15A NCAC 02B .0603 SITE SPECIFIC WATER QUALITY MANAGEMENT PLAN FOR THE GOOSE CREEK WATERSHED (YADKIN PEE-DEE RIVER BASIN): WASTEWATER CONTROL REQUIREMENTS

No new National Pollution Discharge Elimination System "NPDES" wastewater discharges or expansions to existing discharges shall be permitted.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); 143-215.8A;
Eff. January 1, 2009.

15A NCAC 02B .0605 SITE SPECIFIC WATER QUALITY MANAGEMENT PLAN FOR THE GOOSE CREEK WATERSHED (YADKIN PEE-DEE RIVER BASIN): RIPARIAN BUFFER WIDTHS

In this watershed, undisturbed riparian buffers are required within 200 feet of waterbodies within the 100-Year Floodplain and within 100 feet of waterbodies that are not within the 100-Year Floodplain. The 100-Year Floodplain is the one percent Annual Chance Floodplain as delineated by the North Carolina Floodplain Mapping Program in the Division of Emergency Management. Within the buffer areas that are regulated by this Rule, redevelopment is allowed for residential structures and redevelopment of non-residential structures is allowed provided that less than an additional half acre is disturbed during the redevelopment activity for non-residential structures. Redevelopment is defined in 15A NCAC 02H .1002(14). Exceptions to undisturbed forested riparian buffer requirements are set forth in Rule .0607 of this Section. Activities shall

require stormwater control as required by Rule .0602 of this Section.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); 143-215.8A; Eff. January 1, 2009.

15A NCAC 02D .0521 CONTROL OF VISIBLE EMISSIONS

(a) Purpose. The intent of this Rule is to prevent, abate and control emissions generated from fuel burning operations and industrial processes where an emission can reasonably be expected to occur, except during startup, shutdowns, and malfunctions approved according to procedures set out in Rule .0535 of this Section.

(b) Scope. This Rule shall apply to all fuel burning sources and to other processes that may have a visible emission. However, sources subject to a visible emission standard in Rules .0506, .0508, .0524, .0543, .0544, .1110, .1111, .1205, .1206, .1210, .1211, or .1212 of this Subchapter shall meet that standard instead of the standard contained in this Rule. This Rule does not apply to engine maintenance, rebuild, and testing activities where controls are infeasible, except it does apply to the testing of peak shaving and emergency generators. (In deciding if controls are infeasible, the Director shall consider emissions, capital cost of compliance, annual incremental compliance cost, and environmental and health impacts.)

(c) For sources manufactured as of July 1, 1971, visible emissions shall not be more than 40 percent opacity when averaged over a six-minute period. However, except for sources required to comply with Paragraph (g) of this Rule, six-minute averaging periods may exceed 40 percent opacity if:

- (1) No six-minute period exceeds 90 percent opacity;
- (2) No more than one six-minute period exceeds 40 percent opacity in any hour; and
- (3) No more than four six-minute periods exceed 40 percent opacity in any 24-hour period.

(d) For sources manufactured after July 1, 1971, visible emissions shall not be more than 20 percent opacity when averaged over a six-minute period. However, except for sources required to comply with Paragraph (g) of this Rule, six-minute averaging periods may exceed 20 percent opacity if:

- (1) No six-minute period exceeds 87 percent opacity;
- (2) No more than one six-minute period exceeds 20 percent opacity in any hour; and
- (3) No more than four six-minute periods exceed 20 percent opacity in any 24-hour period.

(e) Where the presence of uncombined water is the only reason for failure of an emission to meet the limitations of Paragraph (c) or (d) of this Rule, those requirements shall not apply.

(f) Exception from Opacity Standard in Paragraph (d) of this Rule. Sources subject to Paragraph (d) of this Rule shall be allowed to comply with Paragraph (c) of this Rule if:

- (1) The owner or operator of the source demonstrates compliance with applicable particulate mass emissions standards; and

- (2) The owner or operator of the source submits data necessary to show that emissions up to those allowed by Paragraph (c) of this Rule shall not violate any national ambient air quality standard.

The burden of proving these conditions shall be on the owner or operator of the source and shall be approached in the following manner. The owner or operator of a source seeking an exception shall apply to the Director requesting this modification in its permit. The applicant shall submit the results of a source test within 90 days of application. Source testing shall be by the appropriate procedure as designated by rules in this Subchapter. During this 90-day period the applicant shall submit data necessary to show that emissions up to those allowed by Paragraph (c) of this Rule will not contravene ambient air quality standards. This evidence shall include an inventory of past and projected emissions from the facility. In its review of ambient air quality, the Division may require additional information that it considers necessary to assess the resulting ambient air quality. If the applicant can thus show that it will be in compliance both with particulate mass emissions standards and ambient air quality standards, the Director shall modify the permit to allow emissions up to those allowed by Paragraph (c) of this Rule.

(g) For sources required to install, operate, and maintain continuous opacity monitoring systems (COMS), compliance with the numerical opacity limits in this Rule shall be determined as follows excluding startups, shutdowns, maintenance periods when fuel is not being combusted, and malfunctions approved as such according to procedures approved under Rule .0535 of this Section:

- (1) No more than four six-minute periods shall exceed the opacity standard in any one day; and
- (2) The percent of excess emissions (defined as the percentage of monitored operating time in a calendar quarter above the opacity limit) shall not exceed 0.8 percent of the total operating hours. If a source operates less than 500 hours during a calendar quarter, the percent of excess emissions shall be calculated by including hours operated immediately previous to this quarter until 500 operational hours are obtained.

In no instance shall excess emissions exempted under this Paragraph cause or contribute to a violation of any emission standard in this Subchapter or 40 CFR Part 60, 61, or 63 or any ambient air quality standard in Section 15A NCAC 02D .0400 or 40 CFR Part 50.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. February 1, 1976; Amended Eff. January 1, 2009; July 1, 2007; January 1, 2005; June 1, 2004; April 1, 2003; April 1, 2001; July 1, 1998; July 1, 1996; December 1, 1992; August 1, 1987; January 1, 1985; May 30, 1978.

15A NCAC 02D .0614 COMPLIANCE ASSURANCE

MONITORING

(a) General Applicability. With the exception of Paragraph (b) of this Rule, the requirements of this part shall apply to a pollutant-specific emissions unit at a facility required to obtain permit under 15A NCAC 02Q .0500 if the unit satisfies all of the following criteria:

- (1) The unit is subject to an emission limitation or standard for the applicable regulated air pollutant (or a surrogate thereof), other than an emission limitation or standard that is exempt under Subparagraph (b)(1) of this Rule;
- (2) The unit uses a control device to achieve compliance with any such emission limitation or standard; and
- (3) The unit has potential pre-control device emissions of the applicable regulated air pollutant that are equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source. For purposes of this Subparagraph, "potential pre-control device emissions" means the same as "potential to emit," as defined in 15A NCAC 02Q .0103, except that emission reductions achieved by the applicable control device shall not be taken into account.

(b) Exemptions.

- (1) Exempt emission limitations or standards. The requirements of this Rule shall not apply to any of the following emission limitations or standards:
 - (A) emission limitations or standards proposed by the Administrator of the Environmental Protection Agency after November 15, 1990 pursuant to section 111 or 112 of the federal Clean Air Act;
 - (B) stratospheric ozone protection requirements under title VI of the federal Clean Air Act;
 - (C) Acid Rain Program requirements pursuant to sections 404, 405, 406, 407(a), 407(b), or 410 of the federal Clean Air Act;
 - (D) emission limitations or standards or other applicable requirements that apply solely under an emissions trading program approved under the rules of this Subchapter and Subchapter 15A NCAC 02Q and that are incorporated in a permit issued under 15A NCAC 02Q .0500;
 - (E) an emissions cap that is approved under the rules of this Subchapter and Subchapter 15A NCAC 02Q and incorporated in a permit issued under 15A NCAC 02Q .0500; or
 - (F) emission limitations or standards for which a permit issued under 15A

NCAC 02Q .0500 specifies a continuous compliance determination method, as defined in 40 CFR 64.1. (This exemption shall not apply if the applicable compliance method includes an assumed control device emission reduction factor that could be affected by the actual operation and maintenance of the control device (such as a surface coating line controlled by an incinerator for which continuous compliance is determined by calculating emissions on the basis of coating records and an assumed control device efficiency factor based on an initial performance test; in this example, this exemption would apply to the control device and capture system, but not to the remaining elements of the coating line, such as raw material usage).

- (2) Exemption for backup utility power emissions units. The requirements of this Rule shall not apply to a utility unit, as defined in 40 CFR 72.2, that is municipally-owned if the owner or operator provides documentation in a permit application submitted under 15A NCAC 02Q .0500 that:

- (A) The utility unit is exempt from all monitoring requirements in 40 CFR Part 75 (including the appendices thereto);
- (B) The utility unit is operated for the sole purpose of providing electricity during periods of peak electrical demand or emergency situations and will be operated consistent with that purpose throughout the permit term. The owner or operator shall provide historical operating data and relevant contractual obligations to document that this criterion is satisfied; and
- (C) The actual emissions from the utility unit, based on the average annual emissions over the last three calendar years of operation (or such shorter time period that is available for units with fewer than three years of operation) are less than 50 tons per year and are expected to remain so.

- (c) For the purposes of this Rule, the definitions in 40 CFR 64.1 shall apply with the following exceptions:

- (1) "Applicable requirement" and "regulated air pollutant" shall have the same definition as in 15A NCAC 02Q .0103.
- (2) "Part 70 or 71 permit application" means an application (including any supplement to a previously submitted application) submitted by

the owner or operator to obtain a permit under 15A NCAC 02Q .0500.

- (3) "Part 70 or 71 permit" means a permit issued under 15A NCAC 02Q .0500.
- (4) "Permitting authority" means the Division of Air Quality.

(d) The owner or operator subject to the requirements of this rule shall comply with these requirements:

- (1) 40 CFR 64.3, Monitoring Design Criteria;
- (2) 40 CFR 64.4, Submittal Requirements;
- (3) 40 CFR 64.5, Deadlines for Submittals;
- (4) 40 CFR 64.7, Operation of Approved Monitoring; and
- (5) 40 CFR 64.9, Reporting and Recordkeeping Requirements.

(e) The Division shall follow the procedures and requirements in 40 CFR Part 64.6, Approval of Monitoring, in reviewing and approving or disapproving monitoring plans and programs submitted under this Rule.

(f) Based on the result of a determination made under 40 CFR 64.7(d)(2), the Director may require the owner or operator to develop and implement a quality improvement plan. If a quality improvement plan is required, the quality improvement plan shall be developed and implemented according to the procedures and requirements of 40 CFR 64.8, Quality Improvement Plan (QIP) Requirements.

(g) Nothing in this Rule shall:

- (1) excuse the owner or operator of a source from compliance with any existing emission limitation or standard, or any existing monitoring, testing, reporting or recordkeeping requirement that may apply under federal, state, or local law, or any other applicable requirements. The requirements of this Rule shall not be used to justify the approval of monitoring less stringent than the monitoring that is required under another Rule in this Subchapter or Subchapter 15A NCAC 02Q or Title 40 of the CFR and are not intended to establish minimum requirements for the purpose of determining the monitoring to be imposed under another Rule in this Subchapter or Subchapter 15A NCAC 02Q or Title 40 of the CFR. The purpose of this Rule is to require, as part of the issuance of a permit under 15A NCAC 2Q .0500, improved or new monitoring at those emissions units where monitoring requirements do not exist or are inadequate to meet the requirements of this Rule;
- (2) restrict or abrogate the authority of the Division to impose additional or more stringent monitoring, recordkeeping, testing, or reporting requirements on any owner or operator of a source under any provision of this Subchapter or Subchapter 15A NCAC 02Q or the General Statutes;

- (3) restrict or abrogate the authority of the Division to take any enforcement action for any violation of an applicable requirement; or
- (4) restrict the authority of the Administrator of the Environmental Protection Agency or of any person to take action under Section 304 of the federal Clean Air Act as stated under 40 CFR 64.10.

History Note: Authority G.S. 143-215.3(a)(3); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. April 1, 1999; Amended Eff. January 1, 2009.

15A NCAC 02D .0901 DEFINITIONS

For the purpose of this Section, the following definitions apply:

- (1) "Coating" means a functional, protective, or decorative film applied in a thin layer to a surface.
- (2) "Coating applicator" means an apparatus used to apply a surface coating.
- (3) "Coating line" means one or more apparatus or operations in a single line wherein a surface coating is applied, dried, or cured and which include a coating applicator and flashoff area and may include an oven or associated control devices.
- (4) "Continuous vapor control system" means a vapor control system which treats vapors displaced from tanks during filling on a demand basis without intermediate accumulation.
- (5) "Delivered to the applicator" means the condition of coating after dilution by the user just before application to the substrate.
- (6) "Flashoff area" means the space between the application area and the oven.
- (7) "High solids coating" means a coating which contains a higher percentage of solids and a lower percentage of volatile organic compounds and water than conventional organic solvent borne coatings.
- (8) "Hydrocarbon" means any organic compound of carbon and hydrogen only.
- (9) "Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.
- (10) "Intermittent vapor control system" means a vapor control system which employs an intermediate vapor holder to accumulate vapors displaced from tanks during filling. The control device treats the accumulated vapors only during automatically controlled cycles.

- | | |
|--|---|
| <p>(11) "Loading rack" means an aggregation or combination of loading equipment arranged so that all loading outlets in the combination can be connected to a tank truck or trailer parked in a specified loading space.</p> <p>(12) "Low solvent coating" means a coating which contains a substantially lower amount of volatile organic compounds than conventional organic solvent borne coatings; it usually falls into one of three major groups of high solids, waterborne, or powder coatings.</p> <p>(13) "Organic material" means a chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.</p> <p>(14) "Oven" means a chamber within which heat is used to bake, cure, polymerize, or dry a surface coating.</p> <p>(15) "Potential emissions" means the quantity of a pollutant which would be emitted at the maximum capacity of a stationary source to emit the pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is described or contained as a condition in the federally enforceable permit. Secondary emissions do not count in determining potential emissions of a stationary source. Fugitive emissions count, to the extent quantifiable, in determining the potential emissions only in these cases:</p> <ul style="list-style-type: none"> (a) petroleum refineries; (b) chemical process plants; and (c) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels. <p>(16) "Prime coat" means the first film of coating applied to a surface to protect it or to prepare it to receive subsequent coatings.</p> <p>(17) "Reasonably available control technology" (also denoted as RACT) means the lowest emission limit which a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. It may require technology which has been applied to similar, but not necessarily identical, source categories.</p> <p>(18) "Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by</p> | <p>American Society for Testing and Materials, Part 17, 1973, D-323-72 (reapproved 1977).</p> <p>(19) "Shutdown" means the cessation of operation of a source or a part thereof or emission control equipment.</p> <p>(20) "Solvent" means organic materials which are liquid at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.</p> <p>(21) "Standard conditions" means a temperature of 68degrees Fahrenheit and pressure of 29.92 inches of mercury.</p> <p>(22) "Stage I", means vapor control systems that minimize, collect, and transfer vapors in a gasoline storage tank, displaced by the incoming gasoline, which are routed through pipes and hoses back into the tank truck tank to be transported to where the truck is loaded and the vapors are recovered or destroyed. Vent lines on storage tanks with vapor control systems use pressure release valves or flow restrictors to minimize releases to the atmosphere.</p> <p>(23) "Startup" means the setting in operation of a source or emission control equipment.</p> <p>(24) "Substrate" means the surface to which a coating is applied.</p> <p>(25) "Topcoat" means the final films of coating applied in a multiple or single coat operation.</p> <p>(26) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks," 1962.</p> <p>(27) "Vapor collection system" means a vapor transport system which uses direct displacement by the liquid loaded to force vapors from the tank into a vapor control system.</p> <p>(28) "Vapor control system" means a system which prevents release to the atmosphere of at least 90 percent by weight of organic compounds in the vapors displaced from a tank during the transfer of gasoline.</p> <p>(29) "Volatile organic compound" (also denoted as VOC) means any compound of carbon whose volatile content can be determined by the procedure described in Section .2600 of this Subchapter excluding any compound that is listed under 40 CFR 51.100(s) as having been determined to have negligible photochemical reactivity.</p> |
|--|---|

History Note: Authority G.S. 143-215.3(a)(1); Eff. July 1, 1979; Amended Eff. January 1, 2009; June 1, 2008; July 1, 1996; December 1, 1993; July 1, 1991; March 1, 1991; December 1, 1989.

15A NCAC 02D .0902 APPLICABILITY

(a) The rules in this Section do not apply except as specifically set out in this Rule.

(b) Regardless of any other statement of applicability of this Section, this Section does not apply to:

- (1) sources whose emissions of volatile organic compounds are not more than 15 pounds per day, except that this Section does apply to the manufacture and use of cutback asphalt and to gasoline service stations or gasoline dispensing facilities regardless of levels of emissions of volatile organic compounds;
- (2) sources whose emissions do not exceed 800 pounds of volatile organic compounds per calendar month and that are:
 - (A) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
 - (B) bench-scale experimentation, chemical or physical analyses, training or instruction from not-for-profit, non-production educational laboratories;
 - (C) bench-scale experimentation, chemical or physical analyses, training or instruction from hospitals or health laboratories pursuant to the determination or diagnoses of illness; or
 - (D) research and development laboratory activities provided the activity produces no commercial product or feedstock material; or
- (3) emissions of volatile organic compounds during startup or shutdown operations from sources which use incineration or other types of combustion to control emissions of volatile organic compounds whenever the off-gas contains an explosive mixture during the startup or shutdown operation if the exemption is approved by the Director as meeting the requirements of this Subparagraph.

(c) The following rules of this Section apply statewide:

- (1) .0925, Petroleum Liquid Storage in Fixed Roof Tanks, for fixed roof tanks at gasoline bulk plants and gasoline bulk terminals;
- (2) .0926, Bulk Gasoline Plants;
- (3) .0927, Bulk Gasoline Terminals;
- (4) .0928, Gasoline Service Stations Stage I;
- (5) .0932, Gasoline Truck Tanks and Vapor Collection Systems;
- (6) .0933, Petroleum Liquid Storage in External Floating Roof Tanks, for external floating roof

tanks at bulk gasoline plants and bulk gasoline terminals;

- (7) .0948, VOC Emissions from Transfer Operations;
- (8) .0949, Storage of Miscellaneous Volatile Organic Compounds; and
- (9) .0958, Work Practices for Sources of Volatile Organic Compounds.

(d) All sources located in Mecklenburg County that were required to comply with any of the Rules in Subparagraphs (d)(1) or (2) of this Rule before July 5, 1995 shall continue to comply with these Rules:

- (1) .0917 through .0937 of this Section, or
- (2) .0943 through .0945 of this Section.

(e) The Rules in this Section apply to facilities with the potential to emit greater than or equal to 100 tons of volatile organic compounds per year in the following areas:

- (1) Cabarrus County
- (2) Gaston County
- (3) Lincoln County
- (4) Mecklenburg County
- (5) Rowan County
- (6) Union County
- (7) Davidson Township and Coddle Creek Township in Iredell County

(f) If a violation of the ambient air quality standard for ozone is measured in accordance with 40 CFR 50.9 in Davidson, Forsyth, or Guilford County or that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River, the Director shall initiate analysis to determine the control measures needed to attain and maintain the ambient air quality standard for ozone. By the following May 1, the Director shall implement the specific stationary source control measures contained in this Section that are required as part of the control strategy necessary to bring the area into compliance and to maintain compliance with the ambient air quality standard for ozone. The Director shall implement the rules in this Section identified as being necessary by the analysis by notice in the North Carolina Register. The notice shall identify the rules that are to be implemented and shall identify whether the rules implemented are to apply in Davidson, Forsyth, or Guilford County or that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River or any combination thereof. At least one week before the scheduled publication date of the North Carolina Register containing the Director's notice implementing rules in this Section, the Director shall send written notification to all permitted facilities within the county in which the rules are being implemented that are or may be subject to the requirements of this Section informing them that they are or may be subject to the requirements of this Section. (For Forsyth County, "Director" means for the purpose of notifying permitted facilities in Forsyth County, the Director of the Forsyth County local air pollution control program.) Compliance shall be in accordance with Rule .0909 of this Section.

(g) If a violation of the ambient air quality standard for ozone is measured in accordance with 40 CFR 50.9 in Durham or Wake County or Dutchville Township in Granville County, the

Director shall initiate analysis to determine the control measures needed to attain and maintain the ambient air quality standard for ozone. By the following May 1, the Director shall implement the specific stationary source control measures contained in this Section that are required as part of the control strategy necessary to bring the area into compliance and to maintain compliance with the ambient air quality standard for ozone. The Director shall implement the rules in this Section identified as being necessary by the analysis by notice in the North Carolina Register. The notice shall identify the rules that are to be implemented and shall identify whether the rules implemented are to apply in Durham or Wake County or Dutchville Township in Granville County or any combination thereof. At least one week before the scheduled publication date of the North Carolina Register containing the Director's notice implementing rules in this Section, the Director shall send written notification to all permitted facilities within the county in which the rules are being implemented that are or may be subject to the requirements of this Section informing them that they are or may be subject to the requirements of this Section. Compliance shall be in accordance with Rule .0909 of this Section.

(h) If EPA reclassifies the Charlotte-Gastonia-Rock Hill ozone nonattainment area as serious for ozone under Section 182 of the federal Clean Air Act, the rules in this Section shall apply to facilities in Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties and Davidson and Coddle Creek townships in Iredell County with the potential to emit at least 50 tons but less than 100 tons of volatile organic compounds per year. Within 60 days of the reclassification, the Director shall notice the applicability of these Rules to these facilities in the North Carolina Register and shall send written notification to all permitted facilities within the counties in which the rules are being implemented that are or may be subject to the requirements of this Section informing them that they are or may be subject to the requirements of this Section. (For Mecklenburg County, "Director" means for the purpose of notifying permitted facilities in Mecklenburg County, the Director of the Mecklenburg County local air pollution control program.) Compliance shall be according to Rule .0909 of this Section.

(i) Sources whose emissions of volatile organic compounds are not subject to limitation under this Section may still be subject to emission limits on volatile organic compounds in Rules .0524, .1110, or .1111 of this Subchapter.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);

Eff. July 1, 1979;

Amended Eff. January 1, 2009; July 1, 2007; March 1, 2007; August 1, 2004; July 1, 2000; April 1, 1997; July 1, 1996; July 1, 1995; May 1, 1995; July 1, 1994.

15A NCAC 02D .0909 COMPLIANCE SCHEDULES FOR SOURCES IN NONATTAINMENT AREAS

(a) Applicability. With the exceptions in Paragraph (b) of this Rule, this Rule applies to all sources covered by Paragraph (e), (f), (g), or (h) of Rule .0902 of this Section.

(b) Exceptions. This Rule does not apply to:

- (1) sources in Mecklenburg County required to comply with the requirements of this Section under Rule .0902(d) of this Section; or
- (2) sources required to comply with the requirements of this Section under Rule .0902(c) of this Section.

(c) Maintenance area and Charlotte ozone nonattainment area contingency plan. The owner or operator of any source subject to this Rule because of the application of Paragraph (f), (g), or (h) of Rule .0902 of this Section shall adhere to the following increments of progress and schedules:

- (1) if compliance is to be achieved by installing emission control equipment, replacing process equipment, or modifying existing process equipment:
 - (A) The owner or operator shall submit a permit application and a compliance schedule within six months after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone;
 - (B) The compliance schedule shall contain the following increments of progress:
 - (i) a date by which contracts for the emission control system and process equipment shall be awarded or orders shall be issued for purchase of component parts;
 - (ii) a date by which on-site construction or installation of the emission control and process equipment shall begin; and
 - (iii) a date by which on-site construction or installation of the emission control and process equipment shall be completed;
 - (C) Final compliance shall be achieved within three years after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone.
- (2) if compliance is to be achieved by using low solvent content coating technology:
 - (A) The owner or operator shall submit a permit application and a compliance schedule within six months after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone;

- (B) The compliance schedule shall contain the following increments:
 - (i) a date by which research and development of low solvent content coating shall be completed if the Director determines that low solvent content coating technology has not been sufficiently researched and developed;
 - (ii) a date by which evaluation of product quality and commercial acceptance shall be completed;
 - (iii) a date by which purchase orders shall be issued for low solvent content coatings and process modifications;
 - (iv) a date by which process modifications shall be initiated; and
 - (v) a date by which process modifications shall be completed and use of low solvent content coatings shall begin;
 - (C) Final compliance shall be achieved within three years after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone.
 - (3) The owner or operator shall certify to the Director within five days after each increment deadline of progress in this Paragraph, whether the required increment of progress has been met.
- (d) Nonattainment areas. The owner or operator of any source subject to this Rule because of the application of Paragraph (e) of Rule .0902 of this Section shall adhere to the following increments of progress and schedules:
- (1) if compliance is to be achieved by installing emission control equipment, replacing process equipment, or modifying existing process equipment:
 - (A) The owner or operator shall submit a permit application and a compliance schedule by August 1, 2007;
 - (B) The compliance schedule shall contain the following increments of progress:
 - (i) a date by which contracts for the emission control system and process equipment shall be awarded or orders shall be issued for purchase of component parts;
 - (ii) a date by which on-site construction or installation of the emission control and process equipment shall begin; and
 - (iii) a date by which on-site construction or installation of the emission control and process equipment shall be completed.
 - (C) Final compliance shall be achieved no later than April 1, 2009.
 - (2) if compliance is to be achieved by using low solvent content coating technology:
 - (A) The owner or operator shall submit a permit application and a compliance schedule by August 1, 2007;
 - (B) The compliance schedule shall contain the following increments:
 - (i) a date by which research and development of low solvent content coating shall be completed if the Director determines that low solvent content coating technology has not been sufficiently researched and developed;
 - (ii) a date by which evaluation of product quality and commercial acceptance shall be completed;
 - (iii) a date by which purchase orders shall be issued for low solvent content coatings and process modifications;
 - (iv) a date by which process modifications shall be initiated; and
 - (v) a date by which process modifications shall be completed and use of low solvent content coatings shall begin.
 - (C) Final compliance shall be achieved no later than April 1, 2009.
 - (3) The owner or operator shall certify to the Director within five days after the deadline, for each increment of progress in this Paragraph, whether the required increment of progress has been met.
 - (e) If the Director requires a test to demonstrate that compliance has been achieved, the owner or operator of sources subject to this Rule shall conduct a test and submit a final test report within six months after the stated date of final compliance.
 - (f) Sources already in compliance.
 - (1) Maintenance area and Charlotte ozone nonattainment area contingency plan. Paragraph (c) of this Rule shall not apply to sources that are in compliance with applicable rules of this Section when the Director notices the implementation of rules in the North

Carolina Register that resolves a violation of the ambient air quality standard for ozone and that have determined and certified compliance to the satisfaction of the Director within six months after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone.

- (2) Nonattainment areas. Paragraphs (d) of this Rule shall not apply to sources in an area named in Paragraph (e) of Rule .0902 of this Section that are in compliance with applicable rules of this Section on March 1, 2007.

(g) New sources.

- (1) Maintenance area and Charlotte ozone nonattainment area contingency plan. The owner or operator of any new source of volatile organic compounds not in existence or under construction before the date that the Director notices in the North Carolina Register in accordance with Paragraph (f), (g), or (h) of Rule .0902 of this Section the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone, shall comply with all applicable rules in this Section upon start-up of the source.
- (2) Nonattainment areas. The owner or operator of any new source of volatile organic compounds not in existence or under construction before March 1, 2007 in an area identified in Paragraph (e) of Rule .0902 shall comply with all applicable rules in this Section upon start-up of the source.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. July 1, 1979; Amended Eff. January 1, 2009; July 1, 2007; March 1, 2007; July 1, 2000; April 1, 1997; July 1, 1995; July 1, 1994; July 1, 1988; January 1, 1985.

15A NCAC 02D .0952 PETITION FOR ALTERNATIVE CONTROLS FOR RACT

- (a) With the exception in Paragraph (b) of this Rule, this Rule applies to all sources covered under this Section.
- (b) This Rule does not apply to sources in Mecklenburg County to which Rules .0917 through .0937 of this Section apply and which are located at a facility where the total potential emissions of volatile organic compounds from all stationary sources at the facility are greater than or equal to 100 tons per year.
- (c) If the owner or operator of any source of volatile organic compounds subject to the requirements of this Section, can demonstrate that compliance with rules in this Section would be technologically or economically infeasible, he may petition the Director to allow the use of alternative operational or equipment controls for the reduction of volatile organic compound emissions. Petition shall be made for each source to the Director.

(d) The petition shall contain:

- (1) the name and address of the company and the name and telephone number of a company officer over whose signature the petition is submitted;
- (2) a description of all operations conducted at the location to which the petition applies and the purpose that the volatile organic compound emitting equipment serves within the operations;
- (3) reference to the specific operational and equipment controls under the rules of this Section for which alternative operational or equipment controls are proposed;
- (4) a description of the proposed alternative operational or equipment controls, the magnitude of volatile organic compound emission reduction that will be achieved, and the quantity and composition of volatile organic compounds that will be emitted if the alternative operational or equipment controls are instituted;
- (5) a plan, which will be instituted in addition to the proposed alternative operational or equipment controls, to reduce, where technologically and economically feasible, volatile organic compound emissions from other source operations at the facility, further than that required under the rules of this Section, if these sources exist at the facility, such that aggregate volatile organic compound emissions from the facility will in no case be greater through application of the alternative control than would be allowed through conformance with the rules of this Section;
- (6) a schedule for the installation or institution of the alternative operational or equipment controls in conformance with Rule .0909 of this Section, as applicable; and
- (7) certification that emissions of all other air contaminants from the subject source are in compliance with all applicable local, state and federal laws and regulations.

The petition may include a copy of the permit application and need not duplicate information in the permit application.

(e) The Director shall approve a petition for alternative control if:

- (1) The petition is submitted in accordance with Paragraph (d) of this Rule;
- (2) The Director determines that the petitioner cannot comply with the rules in question because of technological or economical infeasibility;
- (3) All other air contaminant emissions from the facility are in compliance with, or under a schedule for compliance as expeditiously as practicable with, all applicable local, state, and federal regulations; and

- (4) The petition contains a schedule for achieving and maintaining reduction of volatile organic compound emissions to the maximum extent feasible and as expeditiously as practicable.

(f) When controls different from those specified in the appropriate emission standards in this Section are approved by the Director, the permit shall contain a condition stating such controls.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);
Eff. July 1, 1994;
Amended Eff. January 1, 2009; April 1, 2003; July 1, 1995; May 1, 1995.

15A NCAC 02D .0953 VAPOR RETURN PIPING FOR STAGE II VAPOR RECOVERY

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a); 150B-21.6;
Eff. July 1, 1994;
Amended Eff. July 1, 1998; July 1, 1996;
Repealed Eff. January 1, 2009.

15A NCAC 02D .0954 STAGE II VAPOR RECOVERY

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a); 150B-21.6;
Eff. May 1, 1995;
Amended Eff. April 1, 2003; April 1, 1997; July 1, 1996; April 1, 1996; May 1, 1995;
Repealed Eff. January 1, 2009.

15A NCAC 02D .1808 EVALUATION OF NEW OR MODIFIED SWINE FARMS

(a) Purpose. The purpose of this Rule is to specify the methods for evaluating new or modified swine farms for compliance with the performance standard in G.S. 143-215.10I (b)(3).

(b) Applicability. This Rule applies to new or modified swine farms required by G.S. 143-215.10I to meet the performance standard in G.S. 143-215.10I (b)(3).

(c) Requirements. New or modified swine farms subject to this rule shall comply with the requirements in this Section.

(d) Evaluation of new or modified swine farms. For the purpose of evaluating odor at new or modified swine farms for compliance with the performance standard in G.S. 143-215.10I (b)(3), the following shall apply:

- (1) When a field olfactometry method and instrumentation is used to determine odor intensity at the designated evaluation location, as specified in Rule .1802(e) of this Section, the measured dilution-to-threshold ratio shall be less than or equal to 7:1 as determined using the manufacturer's instrument procedures and instructions; or
- (2) When odor intensity is determined using an Odor Intensity Referencing Scale (OIRS) as specified in ASTM 544-99, the instantaneous observed level shall be less than the equivalent

of 225 parts per million n-butanol in air. In addition, the average of 30 consecutive observations conducted over a minimum of 30-minutes at designated evaluation locations shall be less than the equivalent of 75 parts per million n-butanol in air and a minimum of four readings out of the minimum 30 readings shall be less than or equal to the equivalent 25 parts per million n-butanol in air.

History Note: Authority G.S. 143-215.10I; 143-215.3(a)(1); 143-215.107(a)(11); 143-215.108(a);
Eff. January 1, 2009.

15A NCAC 02Q .0102 ACTIVITIES EXEMPTED FROM PERMIT REQUIREMENTS

(a) This Rule does not apply to facilities required to have a permit under Section .0500 of this Subchapter. This Rule applies only to permits issued under Section .0300 of this Subchapter.

(b) If a source is subject to any of the following rules, then the source is not exempted from permit requirements, and the exemptions in Paragraph (c) of this Rule do not apply:

- (1) new source performance standards under 15A NCAC 02D .0524 or 40 CFR Part 60, except when the following activities are eligible for exemption under Paragraph (c) of this Rule:
 - (A) 40 CFR Part 60, Subpart Dc, industrial, commercial, and institutional steam generating units;
 - (B) 40 CFR Part 60, Subparts K, Ka, or Kb, volatile organic liquid storage vessels;
 - (C) 40 CFR Part 60, Subpart AAA, new residential wood heaters;
 - (D) 40 CFR Part 60, Subpart JJJ, petroleum dry cleaners;
 - (E) 40 CFR Part 60, Subpart WWW, municipal solid waste landfills;
 - (F) 40 CFR Part 60, Subpart IIII, stationary compression ignition internal combustion engines; or
 - (G) 40 CFR Part 60, Subpart JJJJ, stationary spark ignition internal combustion engines;
- (2) national emission standards for hazardous air pollutants under 15A NCAC 02D .1110 or 40 CFR Part 61, except asbestos demolition and renovation activities, which are eligible for exemption under Paragraph (c) of this Rule;
- (3) prevention of significant deterioration under 15A NCAC 02D .0530;
- (4) new source review under 15A NCAC 02D .0531 or .0532;
- (5) sources of volatile organic compounds subject to the requirements of 15A NCAC 02D .0900 that are located in Mecklenburg County according to 15A NCAC 02D .0902 (d);

- (6) sources required to apply maximum achievable control technology (MACT) for hazardous air pollutants under 15A NCAC 02D .1109, .1111, .1112, or 40 CFR Part 63 that are required to have a permit under Section .0500 of this Subchapter;
- (7) sources at facilities subject to 15A NCAC 02D .1100. (If a source does not emit a toxic air pollutant for which the facility at which it is located has been modeled, it shall be exempted from needing a permit if it qualifies for one of the exemptions in Paragraph (c) of this Rule).
- (c) The following activities do not need a permit or permit modification under Section .0300 of this Subchapter; however, the Director may require the owner or operator of these activities to register them under 15A NCAC 02D .0200:
 - (1) activities exempted because of category:
 - (A) maintenance, upkeep, and replacement:
 - (i) maintenance, structural changes, or repairs which do not change the capacity of such process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality or nature or increase in quantity of emission of regulated air pollutants;
 - (ii) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or insulation removal;
 - (iii) use of office supplies, supplies to maintain copying equipment, or blueprint machines;
 - (iv) use of fire fighting equipment;
 - (v) paving parking lots; or
 - (vi) replacement of existing equipment with equipment of the same size, type, and function that does not result in an increase to the actual or potential emission of regulated air pollutants and that does not affect the compliance status, and with replacement equipment that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated under that permit without any changes in the permit;
- (B) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (C) laboratory activities:
 - (i) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
 - (ii) bench-scale experimentation, chemical or physical analyses, training or instruction from not-for-profit, non-production educational laboratories;
 - (iii) bench-scale experimentation, chemical or physical analyses, training or instruction from hospitals or health laboratories pursuant to the determination or diagnoses of illness; or
 - (iv) research and development laboratory activities provided the activity produces no commercial product or feedstock material;
- (D) storage tanks:
 - (i) storage tanks used solely to store fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas or liquefied petroleum gas;
 - (ii) storage tanks used to store gasoline or ethanol-based fuels for which there are no applicable requirements except Stage I controls under 15A NCAC 02D .0928;
 - (iii) storage tanks used solely to store inorganic liquids; or
 - (iv) storage tanks or vessels used for the temporary containment of materials resulting from an emergency

- response to an unanticipated release of hazardous materials;
- (E) combustion and heat transfer equipment:
 - (i) space heaters burning distillate oil, kerosene, natural gas, or liquefied petroleum gas operating by direct heat transfer and used solely for comfort heat;
 - (ii) residential wood stoves, heaters, or fireplaces;
 - (iii) hot water heaters which are used for domestic purposes only and are not used to heat process water;
- (F) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no applicable requirements;
- (G) gasoline distribution: gasoline service stations or gasoline dispensing facilities;
- (H) dispensing equipment: equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling oils;
- (I) solvent recycling: portable solvent distillation systems used for on-site solvent recycling if:
 - (i) The portable solvent distillation system is not:
 - (I) owned by the facility, and
 - (II) operated at the facility for more than seven consecutive days; and
 - (ii) The material recycled is recycled at the site of origin;
- (J) processes:
 - (i) electric motor burn-out ovens with secondary combustion chambers or afterburners;
 - (ii) electric motor bake-on ovens;
 - (iii) burn-off ovens for paint-line hangers with afterburners;
 - (iv) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes where bleach or solvent dyes are not used;
- (K) solid waste landfills: municipal solid waste landfills (This Part does not apply to flares and other sources of combustion at solid waste landfills; these flares and other combustion sources are required to be permitted under 15A NCAC 02Q .0300 unless they qualify for another exemption under this Paragraph.);
- (L) miscellaneous:
 - (i) motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines;
 - (ii) non-self-propelled non-road engines, except generators, regulated by rules adopted under Title II of the Federal Clean Air Act (Generators are required to be permitted under 15A NCAC 02Q .0300 unless they qualify for another exemption under this Paragraph.);
 - (iii) portable generators regulated by rules adopted under Title II of the Federal Clean Air Act;
 - (iv) equipment used for the preparation of food for direct on-site human consumption;
 - (v) a source whose emissions are regulated only under Section 112(r) or Title VI of the Federal Clean Air Act;
 - (vi) exit gases from in-line process analyzers;
 - (vii) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
 - (viii) refrigeration equipment that is consistent with Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the Federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA under Title VI for stratospheric ozone protection, except those units used as or in conjunction with air pollution control equipment (A unit used as or in conjunction with air

- pollution control equipment is required to be permitted under 15A NCAC 02Q .0300 unless it qualifies for another exemption under this Paragraph);
 - (ix) equipment not vented to the outdoor atmosphere with the exception of equipment that emits volatile organic compounds (Equipment that emits volatile organic compounds is required to be permitted under 15A NCAC 02Q .0300 unless it qualifies for another exemption under this Paragraph);
 - (x) equipment that does not emit any regulated air pollutants;
 - (xi) facilities subject only to a requirement under 40 CFR Part 63 (This Subpart does not apply when a control device is used to meet a MACT or GACT emission standard; a control device used to meet a MACT or GACT emission standard is required to be permitted under 15A NCAC 02Q .0300 unless it qualifies for another exemption under this Paragraph);
 - (xii) sources for which there are no applicable requirements;
 - (xiii) animal operations not required to have control technology under 15A NCAC 02D .1800 (If an animal operation is required to have control technology, it shall be required to have a permit under this Subchapter).
- (2) activities exempted because of size or production rate:
 - (A) storage tanks:
 - (i) above-ground storage tanks with a storage capacity of no more than 1100 gallons storing organic liquids with a true vapor pressure of no more than 10.8 pounds per square inch absolute at 70o F; or
 - (ii) underground storage tanks with a storage capacity of no more than 2500 gallons storing organic liquids with
 - a true vapor pressure of no more than 10.8 psi absolute at 70o F;
 - (B) combustion and heat transfer equipment:
 - (i) fuel combustion equipment, except for internal combustion engines, firing exclusively kerosene, No. 1 fuel oil, No. 2 fuel oil, equivalent unadulterated fuels, or a mixture of these fuels or one or more of these fuels mixed with natural gas or liquefied petroleum gas with a heat input of less than:
 - (I) 10 million Btu per hour for which construction, modification, or reconstruction commenced after June 9, 1989; or
 - (II) 30 million Btu per hour for which construction, modification, or reconstruction commenced before June 10, 1989;
 (Internal combustion engines are required to be permitted under 15A NCAC 02Q .0300 unless they qualify for another exemption under this Paragraph);
 - (ii) fuel combustion equipment, except for internal combustion engines, firing exclusively natural gas or liquefied petroleum gas or a mixture of these fuels with a heat input rating less than 65 million Btu per hour (Internal combustion engines are required to be permitted under 15A NCAC 02Q .0300 unless they qualify for another exemption under this Paragraph);
 - (iii) space heaters burning waste oil if:
 - (I) The heater burns only oil that the owner or operator generates or used oil from do-it-yourself oil changers who

- generate used oil as household wastes;
 - (II) The heater is designed to have a maximum capacity of not more than 500,000 Btu per hour; and
 - (III) The combustion gases from the heater are vented to the ambient air;
- (iv) fuel combustion equipment with a heat input rating less than 10 million Btu per hour that is used solely for space heating except:
 - (I) space heaters burning waste oil, or
 - (II) internal combustion engines;
- (v) emergency use generators and other internal combustion engines not regulated by rules adopted under Title II of the Federal Clean Air Act, except self-propelled vehicles, that have a rated capacity of no more than:
 - (I) 680 kilowatts (electric) or 1000 horsepower for natural gas-fired engines;
 - (II) 1800 kilowatts (electric) or 2510 horsepower for liquefied petroleum gas-fired engines;
 - (III) 590 kilowatts (electric) or 900 horsepower for diesel-fired or kerosene-fired engines; or
 - (IV) 21 kilowatts (electric) or 31 horsepower for gasoline-fired engines;

(Self-propelled vehicles with internal combustion engines are exempted under Subpart (1)(c)(L)(i) of this Paragraph.)
- (vi) portable generators and other portable equipment with
 - internal combustion engines not regulated by rules adopted under Title II of the Federal Clean Air Act, except self-propelled vehicles, that operate at the facility no more than a combined 350 hours for any 365-day period provided the generators or engines have a rated capacity of no more than 750 kilowatt (electric) or 1100 horsepower each and provided records are maintained to verify the hours of operation (Self-propelled vehicles with internal combustion engines are exempted under Subpart (1)(c)(L)(i) of this Paragraph.);
 - (vii) peak shaving generators that produce no more than 325,000 kilowatt-hours of electrical energy for any 12-month period provided records are maintained to verify the energy production on a monthly basis and on a 12-month basis;
- (C) gasoline distribution: bulk gasoline plants with an average daily throughput of less than 4000 gallons;
- (D) processes:
 - (i) graphic arts operations, paint spray booths or other painting or coating operations without air pollution control devices (water wash and filters that are an integral part of the paint spray booth are not considered air pollution control devices), and solvent cleaning operations located at a facility whose facility-wide actual emissions of volatile organic compounds are less than five tons per year (Graphic arts operations, coating operations, and solvent cleaning operations are defined in 15A NCAC 02Q .0803);
 - (ii) sawmills that saw no more than 2,000,000 board feet per year provided only green wood is sawed;

- | | |
|--|--|
| <p>(iii) perchloroethylene dry cleaners that emit less than 13,000 pounds of perchloroethylene per year;</p> <p>(iv) electrostatic dry powder coating operations with filters or powder recovery systems including electrostatic dry powder coating operations equipped with curing ovens with a heat input of less than 10,000,000 Btu per hour;</p> <p>(E) miscellaneous:</p> <p>(i) any source whose emissions would not violate any applicable emissions standard and whose potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., potential uncontrolled emissions, are each no more than five tons per year and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff except:</p> <p>(I) storage tanks,</p> <p>(II) fuel combustion equipment,</p> <p>(III) space heaters burning waste oil,</p> <p>(IV) generators, excluding emergency generators, or other non-self-propelled internal combustion engines,</p> <p>(V) bulk gasoline plants,</p> <p>(VI) printing, paint spray booths, or other painting or coating operations,</p> <p>(VII) sawmills,</p> <p>(VIII) perchloroethylene dry cleaners, or</p> <p>(IX) electrostatic dry powder coating operations, provided that the total potential emissions of particulate, sulfur</p> | <p>dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the facility are each less than 40 tons per year and the total potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rates or provided that the facility has an air quality permit. (A source identified in Sub-subpart (I) through (IX) of this Part is required to be permitted under 15A NCAC 02Q .0300 unless it qualifies for another exemption under this Paragraph);</p> <p>(ii) any facility whose actual emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., uncontrolled emissions, are each less than five tons per year, whose potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rate, and none of whose sources would violate an applicable emissions standard;</p> <p>(iii) any source that only emits hazardous air pollutants that are not also a particulate or a volatile organic compound and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff emission rates; or</p> <p>(iv) any incinerator covered under Subparagraph (c)(4) of 15A NCAC 02D .1201;</p> |
|--|--|

- (F) case-by-case exemption: activities that the applicant demonstrates to the satisfaction of the Director:
- (i) to be negligible in their air quality impacts;
 - (ii) not to have any air pollution control device; and
 - (iii) not to violate any applicable emission control standard when operating at maximum design capacity or maximum operating rate, whichever is greater.

(d) Because an activity is exempted from being required to have a permit does not mean that the activity is exempted from any applicable requirement or that the owner or operator of the source is exempted from demonstrating compliance with any applicable requirement.

(e) Emissions from stationary source activities identified in Paragraph (c) of this Rule shall be included in determining compliance with the toxic air pollutant requirements under 15A NCAC 02D .1100 or 02Q .0700 according to 15A NCAC 02Q .0702 (exemptions from air toxic permitting).

(f) The owner or operator of a facility or source claiming an exemption under Paragraph (c) of this Rule shall provide the Director documentation upon request that the facility or source is qualified for that exemption.

(g) If the Director finds that an activity exempted under Paragraph (c) of this Rule is in violation of or has violated a rule in 15A NCAC 02D, he shall revoke the permit exemption for that activity and require that activity to be permitted under this Subchapter if necessary to obtain or maintain compliance.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.108;

Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. July 1, 1994;

Amended Eff. April 1, 1999; July 1, 1998; July 1, 1997; November 1, 1996;

Temporary Amendment Eff. December 1, 1999;

Amended Eff. January 1, 2009; July 1, 2007; June 29, 2006; July 18, 2002; July 1, 2000.

15A NCAC 02Q .0304 APPLICATIONS

(a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained and shall be filed in writing according to Rule .0104 of this Subchapter.

(b) Information to accompany application. Along with filing a complete application form, the applicant shall also file the following:

- (1) for a new facility or an expansion of existing facility, a consistency determination according to G.S. 143-215.108(f) that:
 - (A) bears the date of receipt entered by the clerk of the local government, or

(B) consists of a letter from the local government indicating that all zoning or subdivision ordinances are met by the facility;

(2) for a new facility or an expansion of existing facility in an area without zoning, an affidavit and proof of publication of a legal notice as required under Rule .0113 of this Subchapter;

(3) for a new facility or modification of an existing facility, a written description of current and projected plans to reduce the emissions of air contaminants by source reduction and recycling according to G.S. 143-215.108(g); the description shall include:

(A) for an existing facility, a summary of activities related to source reduction and recycling and a quantification of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction and recycling; or

(B) for a new facility, a summary of activities related to and plans for source reduction and recycling; and

(4) for permit renewal, an emissions inventory that contains the information specified under 15A NCAC 02D .0202, Registration of Air Pollution Sources (the applicant may use emission inventory forms provided by the Division to satisfy this requirement); and

(5) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if the Director finds this information necessary to evaluate the source, its air pollution abatement equipment, or the facility:

(A) The applicant is financially qualified to carry out the permitted activities, or

(B) The applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged, and has been in substantial compliance with federal and state environmental laws and rules.

(c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 (prevention of significant deterioration) or .0531 (new source review for sources in nonattainment areas), applicants shall file air permit applications at least 180 days before the projected construction date. For all other sources, applicants shall file air permit applications at least 90 days before the projected date of construction of a new source or modification of an existing source.

(d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the originally permitted source, application for permit change may be made by letter to the Director at the address specified in Rule .0104 of

this Subchapter. The permit renewal, name, or ownership change letter must state that there have been no changes in the permitted facility since the permit was last issued. However, the Director may require the applicant for ownership change to submit additional information, if the Director finds the following information necessary to evaluate the applicant for ownership change, showing that:

- (1) The applicant is financially qualified to carry out the permitted activities, or
- (2) The applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged, and has been in substantial compliance with federal and state environmental laws and rules.

To make a name or ownership change, the applicant shall send the Director the number of copies of letters specified in Rule .0305(a)(3) or (4) of this Section signed by a person specified in Paragraph (j) of this Rule.

(e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting procedures may be made by letter to the Director at the address specified in Rule .0104 of this Subchapter. To make changes in construction or test dates or reporting procedures, the applicant shall send the Director the number of copies of letters specified in Rule .0305(a)(5) of this Section signed by a person specified in Paragraph (j) of this Rule.

(f) When to file applications for permit renewal. Applicants shall file applications for renewals such that they are mailed to the Director at the address specified in Rule .0104 of this Subchapter and postmarked at least 90 days before expiration of the permit.

(g) Name, or ownership change. The permittee shall file requests for permit name or ownership changes as soon as the permittee is aware of the imminent name or ownership change.

(h) Number of copies of additional information. The applicant shall submit the same number of copies of additional information as required for the application package.

(i) Requesting additional information. Whenever the information provided on the permit application forms does not adequately describe the source and its air cleaning device, the Director may request that the applicant provide any other information that the Director considers necessary to evaluate the source and its air cleaning device. Before acting on any permit application, the Director may request any information from an applicant and conduct any inquiry or investigation that he considers necessary to determine compliance with applicable standards.

(j) Signature on application. Permit applications submitted pursuant to this Rule shall be signed as follows:

- (1) for corporations, by a principal executive officer of at least the level of vice-president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the emissions described in the permit application form originates;
- (2) for partnership or limited partnership, by a general partner;

- (3) for a sole proprietorship, by the proprietor;
- (4) for municipal, state, federal, or other public entity, by a principal executive officer, ranking elected official, or other duly authorized employee.

(k) Application fee. With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit application processing fee shall accompany each application. The permit application processing fees are defined in Section .0200 of this Subchapter. A permit application is incomplete until the permit application processing fee is received.

(l) Correcting submittals of incorrect information. An applicant has a continuing obligation to submit relevant facts pertaining to his permit application and to correct incorrect information on his permit application.

(m) Retaining copy of permit application package. The applicant shall retain for the duration of the permit term one complete copy of the application package and any information submitted in support of the application package.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Eff. July 1, 1994; Amended Eff. January 1, 2009; December 1, 2005; July 1, 1999.

15A NCAC 02Q .0902 TEMPORARY CRUSHERS

(a) For the purposes of this Rule, "temporary crusher" means a crusher that will not be operated at any one facility or site for more than 12 months.

(b) This Rule applies to any temporary crusher that:

- (1) crushes no more than 300,000 tons at any one facility or site;
- (2) burns no more than 17,000 gallons of diesel fuel at any one facility or site if it uses:
 - (A) a diesel-fired generator, or
 - (B) a diesel engine to drive the crusher;
- (3) does not operate at a quarry that has an air permit issued under this Subchapter;
- (4) continuously uses water spray to control emissions from the crusher; and
- (5) does not operate at a facility that is required to have a mining permit issued by the Division of Land Resources.

(c) The owner or operator of a temporary crusher and any associated generators shall comply with rules of Subchapter 02D .0510 (Particulates From Sand, Gravel, Or Crushed Stone Operations), .0516 (Sulfur Dioxide Emissions From Combustion Sources), .0521 (Control Of Visible Emissions), .0524 (New Source Performance Standards, 40 CFR Part 60, Subparts OOO and IIII), .0535 (Excess Emissions Reporting And Malfunctions), .0540 (Particulates From Fugitive Non-Process Dust), and .1806 (control and prohibition of odorous emissions).

(d) The owner or operator of a temporary crusher shall not cause or allow any material to be produced, handled, transported, or stockpiled so that the ambient air quality standards for particulate matter (PM_{2.5}, PM₁₀, and total suspended particulate) are not exceeded beyond the property line.

(e) The owner or operator of a temporary crusher shall maintain records of the amount of material crushed and the quantity of fuel burned in the diesel-fired generator or engine so that the Division can determine upon review of these records that the crusher qualifies to be covered under this Rule.

(f) The owner or operator of a temporary crusher shall label each crusher, hopper, feeder, screen, conveyor, elevator, and generator with a permanent and unique identification number.

(g) If a source is covered under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart OOO), the owner or operator of a temporary crusher shall submit to the Director notifications required under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart OOO).

(h) If the Director or his authorized representative requests copies of notifications or testing records required under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart OOO), the owner or operator of a temporary crusher shall submit the requested notifications or testing records within two business days of such a request.

(i) If a source is covered under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart IIII), the owner or operator of a compression ignition internal combustion engine (CI ICE) for a temporary crusher shall submit to the Director notifications required under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart IIII).

(j) If the Director or his authorized representative requests copies of notifications or testing records required under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart IIII), the owner or operator of a compression ignition internal combustion engine (CI ICE) for temporary crusher shall submit the requested notifications or testing records within two business days of such a request.

(k) If the owner or operator of a crusher plans or has the design potential to operate a crusher at a facility or site for more than twelve months, he shall apply for and shall have received an air quality permit issued under this Subchapter before beginning operations.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(10); 143-215.108; Eff. January 1, 2005; Amended Eff. January 1, 2009.

15A NCAC 02T .1304 STATE PERMITTING REQUIREMENTS

(a) This rule applies to animal waste management systems that meet the definition of an animal operation in G.S. 143-215.10B but are not subject to regulation under Rule .1305.

(b) An animal waste management plan shall be submitted as follows:

- (1) The animal waste management practices or combination of practices which are selected to comprise a plan for a specific facility must meet NRCS standards, or the standard of practices adopted by the Soil and Water Conservation Commission pursuant to 15A NCAC 06F .0104, or standards for any combination of practices which provide water quality protection and are approved by one of these two agencies; and all applicable state statutes and rules at the time of development

or design. NRCS standards relating to phosphorus application rates for animal waste are not incorporated as part of this rule.

- (2) As required by G.S. 143-215.10C, plans must be approved by a technical specialist and the certificate must be submitted to the Division on Division supplied forms or forms approved by the Division as providing the same information as required by the Division's forms. The technical specialist must certify that the best management practices that comprise the plan meet the applicable standards and specifications.

- (3) The land application and siting setbacks must meet the applicable conditions established in G.S. 106-803 and NRCS standards at the time of construction.

- (4) New and expanded animal waste treatment systems such as lagoons and waste storage structures shall be located at least 100 feet from a perennial stream or perennial waterbody. For new and expanding systems, this setback requirement shall also apply to areas in feedlots where an established vegetative cover will not be maintained because of the concentration of animals, with the exception of stock trails and stream crossings.

- (5) The waste shall not be applied at greater than agronomic rates.

- (6) For animal waste management facilities desiring to increase their animal population beyond that permitted, a new individual permit or new certificate of coverage to operate under a general permit must be issued before the additional animals are stocked.

(c) For each change of ownership of the system, the new owner must notify the Division in writing within 60 days of transfer of ownership.

(d) New and expanding swine facilities must demonstrate compliance with Rule .1307 of this Section prior to receiving a permit from the Division.

History Note: Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A; 143-215.10I; Eff. September 1, 2006; Amended Eff. January 1, 2009.

15A NCAC 02T .1305 NPDES PERMITTING REQUIREMENTS

(a) This Rule applies to animal waste management systems subject to regulation under 40 CFR § 122.23 and G.S. 143-215.10C.

(b) With the exception of dry litter poultry systems, an animal waste management plan shall be submitted as follows:

- (1) The animal waste management practices or combination of practices which are selected to comprise a plan for a specific facility must meet NRCS standards, or the standard of

practices adopted by the Soil and Water Conservation Commission pursuant to 15A NCAC 06F .0104, or standards for any combination of practices which provide water quality protection and are approved by one of these two agencies; and all applicable state statutes and rules and all applicable federal requirements at the time of development or design.

- (2) As required by G.S. 143-215.10C, plans must be approved by a technical specialist and the certificate must be submitted to the Division on Division supplied forms or forms approved by the Division as providing the same information as required by the Division's forms. The technical specialist must certify that the best management practices that comprise the plan meet the applicable standards and specifications.
- (3) The land application and siting setbacks must meet the applicable conditions established in G.S. 106-803, NRCS standards and 40 CFR Part 412 at the time of construction.
- (4) New and expanded animal waste treatment systems such as lagoons and waste storage structures shall be located at least 100 feet from a perennial stream or perennial waterbody. For new and expanding systems, this setback requirement shall also apply to areas in feedlots where an established vegetative cover will not be maintained because of the concentration of animals, with the exception of stock trails and stream crossings.
- (5) The waste shall not be applied at greater than agronomic rates.
- (6) For animal waste management facilities desiring to increase their animal population beyond that permitted, a new individual permit or new certificate of coverage to operate under a general permit must be issued before the additional animals are stocked.

(c) Dry litter poultry systems, for the purpose of this Rule and G.S. 143-215.10C, shall submit an animal waste management plan as follows:

- (1) The animal waste management practices or combination of practices which are selected to comprise a plan for a specific facility must meet NRCS standards, or the standard of practices adopted by the Soil and Water Conservation Commission, or standards for any combination of practices which provide water quality protection and are approved by one of these two agencies; and all applicable state statutes and rules and all applicable federal requirements at the time of development or design.
- (2) The land application and siting setbacks must meet the conditions established in NRCS

standards and 40 CFR Part 412 at the time of construction.

- (3) New and expanded animal waste structures such as houses and dry stacks shall be protected from the 100-year flood as determined by the Federal Emergency Management Agency.
- (4) The waste shall not be applied at greater than agronomic rates.
- (5) For animal waste management facilities desiring to increase their animal population beyond that permitted, a new individual permit or new certificate of coverage to operate under a general permit must be issued before the additional animals are stocked.

(d) For each change of ownership of the system, the new owner must notify the Division in writing within 60 days of transfer of ownership.

(e) Systems shall meet all applicable requirements of 40 CFR Part 122 and 40 CFR Part 412.

(f) New and expanding swine facilities must demonstrate compliance with Rule .1307 of this Section prior to receiving a permit from the Division.

History Note: Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A; 143-215.10I; Eff. September 1, 2006; Amended Eff. January 1, 2009.

15A NCAC 02T .1307 SWINE WASTE MANAGEMENT SYSTEM PERFORMANCE STANDARDS

(a) This Rule applies to animal waste management systems subject to regulation under G.S. 143-215.10I.

(b) An animal waste management system that serves a swine farm subject to regulation under G.S. 143-215.10I, shall meet all of the following performance standards:

- (1) Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff. To meet this standard:
 - (A) Earthen structures must be designed and constructed with synthetic liners to eliminate seepage.
 - (B) Solids storage structures shall meet applicable engineering practices and NRCS design standards.
 - (C) The Certified Animal Waste Management Plan (CAWMP) must meet current NRCS standards for a Comprehensive Nutrient Management Plan (CNMP) as defined by Part 600, Subpart E of the NRCS National Planning Procedures Handbook, which are hereby incorporated by reference, including any subsequent additions or amendments. The handbook may be downloaded at no cost from the NRCS website:

- http://www.nrcs.usda.gov/technical/af_o/cnmp_guide_index.html
- (D) Swine waste treatment structures that automatically convey swine waste using pumps must have audible and visible high water alarms with an auto dialer device set to contact the farm owner or farm manager; a gravity overflow to a basin that can contain the flow rate of the largest pump in the system for the maximum amount of time that an operator will not be on-site; or a secondary containment structure designed, constructed, and operated to contain the volume of the largest animal waste treatment structure and the flow rate of the largest pump in the system for the maximum amount of time that an operator will not be on-site.
 - (E) No more than the equivalent volume of one month of design flow of untreated swine waste shall be accumulated and stored prior to the initiation of treatment.
- (2) Substantially eliminate atmospheric emission of ammonia. To meet this standard:
- (A) Combined ammonia emissions from swine waste treatment and storage structures may not exceed an annual average of 0.2 kg NH₃-N/wk/1,000 kg of steady-state live weight;
 - (B) Ammonia emissions from land application sites shall not exceed an annual average of 0.2 kg NH₃-N/wk/1,000 kg of steady-state live weight; and
 - (C) Ammonia emissions from the swine farm must not exceed an annual average of 0.9 kg NH₃-N/wk/1,000 kg of steady-state live weight.
- (3) Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the swine farm is located. To meet this standard, swine waste management systems must reduce odor levels, frequency, and duration from the whole farm, such that the requirements of 15A NCAC 02D .1808 are met at the property boundary.
- (4) Substantially eliminate the release of disease-transmitting vectors and airborne pathogens. To meet this standard:
- (A) Swine waste management systems shall meet the vector attraction reduction requirements in Rule .1107 of this Subchapter for the land application of separated solids and biological residuals.
 - (B) Swine waste management systems shall meet the pathogen reduction requirements in Rule .1106 of this Subchapter for Class A biosolids that are to be land applied pursuant to Rule .1106(a)(1) or for Class B biosolids that are to be otherwise applied to land.
 - (C) Fecal coliform concentrations in the final liquid effluent shall not exceed an annual average of 7,000 Most Probable Number/100mL.
- (5) Substantially eliminate nutrient and heavy metal contamination of soil and groundwater. To meet this standard, swine waste management systems that land apply effluent shall:
- (A) Meet the current NRCS requirements for a Comprehensive Nutrient Management Plan (CNMP) as defined by Part 600, Subpart E of the NRCS National Planning Procedures Handbook; and
 - (B) Demonstrate through predictive calculations or modeling that land application of swine waste at the proposed rate will not cause or contribute to a violation of groundwater standards under 15A NCAC 02L.

History Note: Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A; 143-215.10I; Eff. January 1, 2009.

15A NCAC 02T .1308 EVALUATION AND APPROVAL OF SWINE WASTE MANAGEMENT SYSTEMS

(a) This Rule establishes requirements for the evaluation, approval and permitting of swine waste management systems that are required to meet the performance standards in Rule .1307 of this Section.

(b) APPLICATION: The applicant shall submit a permit application in writing to the Division showing that a swine waste management system meets the performance standards. The application shall include the following:

- (1) operation and maintenance procedures, system classification, proposed management entity and system operator requirements;
- (2) a description of the swine waste management system, including materials used in construction, and its proposed use;
- (3) a summary of any literature, published research, and previous experience with and performance of a waste management system of similar waste characteristics;
- (4) results of 12 months of testing, research or monitoring of pilot- or full-scale operational system(s); and shall identify whether the testing, research or monitoring provided was

conducted by a third party research or testing organization;

- (5) documentation of the protocol used to evaluate the performance of the swine waste management system;
- (6) the identity and qualifications, if applicable, of any proposed research or testing organization and the principal investigators, and an affidavit certifying that the organization and principal investigators have no conflict of interest and do not stand to gain financially from the sale of the technology;
- (7) an affidavit certifying that the swine waste management system submitted for approval is the same as the certified or listed product; or identify any modifications made to the submitted system;
- (8) a procedure to address system malfunction and replacement;
- (9) notification of any proprietary or trade secret information, system, component, or device;
- (10) engineering design documents. If required by G.S. 89C, a professional engineer shall prepare these documents. The following documents shall be provided to the Division by the applicant:
 - (A) engineering plans for the entire system, including treatment, storage, application, and disposal facilities and equipment except those previously permitted unless those previously permitted are directly tied into the new units or are critical to the understanding of the complete process;
 - (B) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the finished product including leakage testing; and
 - (C) engineering calculations including hydraulic and pollutant loading for each treatment unit, treatment unit sizing criteria, hydraulic profile of the treatment system, total dynamic head and system curve analysis for each pump, buoyancy calculations, and irrigation design;
- (11) a complete permit application in accordance with Section .0100 of this Subchapter; and
- (12) In lieu of the requirements of Subparagraphs (b)(3) through (b)(6), the applicant may submit data from a full-scale facility previously permitted by the Division.

(c) **APPROVAL OF NEW OR EXPANDING SWINE WASTE MANAGEMENT SYSTEMS:** The Division shall review all applications submitted in accordance with Rule .0107 of this Subchapter. The Division shall approve the swine waste management system in accordance with Rule .0108 of this

Subchapter, when the applicant can show that the performance standards of Rule .1307 of this Section will be met.

(d) **MONITORING REQUIREMENTS:** Once the newly permitted system reaches full capacity or within six months, whichever comes sooner, the permittee shall monitor system performance for two years with quarterly sampling to assure that the treatment system is meeting performance standards. If, after two years the treatment system is compliant with Rule .1307 of this Section, the permittee shall monitor for compliance with the performance standards in Rule .1307 on the following schedule:

- (1) Ammonia emissions monitoring from swine waste treatment and storage structures shall be as follows:
 - (A) Ammonia air emissions from open-air structures shall be directly sampled once per calendar year, with alternating years having sampling during the summer and winter seasons, or
 - (B) Liquid from open-air waste treatment and storage structures shall be sampled at a minimum of once per quarter.
- (2) Monitoring of odor intensity shall be on an annual basis, with alternating years having sampling during the summer and winter seasons.
- (3) Effluent monitoring shall be at a minimum of once per quarter.

History Note: Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A; 143-215.10I; Eff. January 1, 2009.

15A NCAC 02T .1309 LAGOON CONVERSION REQUIREMENTS

(a) This Rule applies to existing animal waste management systems that convert from anaerobic lagoons as the primary method of treatment to an animal waste management system that meets the requirements of Rule .1307 of this Section, and have not expanded the steady-state live weight of the swine farm.

(b) Upon approval by the Division, a permittee may abandon and close out an animal waste management system permitted under Rules .1307 and .1308 of this Section and revert to the requirements of Rule .1304 or .1305 of this Section. The Division shall approve the reversion if all of the following criteria are met:

- (1) The animal waste management system is constructed according to the design and specifications approved by the Division according to the rules in this section;
- (2) The animal waste management system is operated and maintained in accordance with the rules in this Section;
- (3) The permit for the anaerobic lagoon animal waste management system issued prior to 1 September 2007 pursuant to S.L. 2007-523(1)(b) remains valid; and

- (4) The anaerobic lagoon animal waste management system has been maintained and can operate in compliance with the requirements of its permit.

History Note: Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A; 143-215.10I;
Eff. January 1, 2009.

TITLE 17 – DEPARTMENT OF REVENUE

17 NCAC 05C .2004 EXTENSION OF FILING DATE

For tax years beginning before January 1, 2008, a corporation will receive a seven-month extension of time to file its corporate franchise and income tax return if the corporation timely files Form CD-419, Application for Extension of Time To File Corporate Franchise and Income Tax Return. For tax years beginning on or after January 1, 2008, the extension of time is six months. Payment of tax is not required to obtain an extension; however, interest accrues at the rate set under G.S. 105-241.21(a) on the amount not paid by the original due date of the corporate franchise and income tax return and the failure to pay penalty in G.S. 105-236(4) applies to the amount not paid by the original due date of the return.

History Note: Authority G.S. 105-262; 105-263;
Eff. April 1, 1999;
Amended Eff. January 1, 2009; July 1, 1999; January 1, 1994.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 34 - BOARD OF FUNERAL SERVICE

21 NCAC 34A .0103 PETITION FOR NOMINATION

All petitions for nomination of a person to the North Carolina Crematory Authority must be submitted on forms provided by the Board. The nominee shall furnish the name of the nominee and the signatures of three crematory operators.

History Note: Authority G.S. 90-210.122(c); 90-210.134(a);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. January 1, 2009; August 1, 2004; July 1, 1991.

21 NCAC 34A .0104 VOTING RECORDS

The Board shall maintain records for elections to the North Carolina Crematory Authority to show that a ballot was mailed to each crematory licensee and to show whether a ballot-enclosing envelope has been returned. Voting records shall include the name, address, and license number of the crematory operator, a record of whether and when the ballot has been mailed, and a record of whether and when the ballot-enclosing envelope has been returned.

History Note: Authority G.S. 90-210.23(a); 90-210.122(c); 90-210.134(a);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. January 1, 2009; August 1, 2004; July 1, 1991;
September 1, 1979.

21 NCAC 34A .0108 REQUESTS FOR DECLARATORY RULING

(a) For the purpose of dealing with a request by a person aggrieved for a declaratory ruling, pursuant to G.S. 150B-4, the following procedures shall apply:

- (1) The request shall be in writing on a form provided by the Board, dated and verified by the person submitting the same, and shall be submitted in person or by mail to the office of the Board.
- (2) The form shall require the individual to submit the name and address of the person submitting the same; his or her license number or numbers if licensed by the Board; his or her current employment; a description of the rule or statute referred to; a statement of any facts the applicability of which to a rule or statute the person is questioning; and a statement of the manner in which the person is aggrieved by the rule or statute or its potential application to him or her.
- (3) Within 30 days after receiving such a request completed form, the Board shall meet, at which meeting at least a quorum of its members shall be present, to consider the request. At such meeting the Board shall make a decision by majority vote of those present as to whether to issue the ruling. The Board shall issue a ruling except:
 - (A) when it finds that the person making the request is not a "person aggrieved", as defined in G.S. 150B-2(6); or
 - (B) when it finds, in a request concerning the validity of a rule, that the circumstances are so unchanged since the adoption of the rule in question that a ruling would not be warranted; or
 - (C) when it finds, in a request concerning the validity of a rule, that the rulemaking record shows that the Board considered all specified relevant factors when it adopted the rule in question.

(b) The Board shall, not later than the 60th day after it received such a request, deposit in the United States mail, postage prepaid, a written statement addressed to the person making the request and setting forth the Board's ruling on the merits of the request for a declaratory ruling, or setting forth the reason the ruling was not made, as the case may be. If the Board decides to make the ruling, it may make the ruling at the meeting convened

to consider the request, or it may defer its ruling until a later date, but not later than the 60th day after the request for a ruling is received. Before making the ruling the Board may gather additional information, may give notice to other persons and may permit such other persons to submit information or arguments under such conditions as are set forth in such notice. Such ruling shall be made by the Board at a meeting at which at least a quorum of its members shall be present and by majority vote of those present.

History Note: Authority G.S. 90-210.23(a); 150B-4; Eff. February 1, 1976; Readopted Eff. September 27, 1977; Amended Eff. January 1, 2009; July 1, 2004.

21 NCAC 34A .0127 FILING OF DOCUMENTS

Any document that does not require a fingerprint card or the payment of a fee, or that does not pertain to elections to the N.C. Crematory Authority or to a resident traineeship, may be filed with the Board by U.S. mail, private courier service, facsimile, or hand delivery. All other documents must be filed by U.S. mail, private courier service, or hand delivery. Documents shall be considered filed on the date of receipt or, if sent by U.S. mail or private courier service, on the date of postmark or date stamp used by the private courier respectively.

History Note: Authority G.S. 90-210.23(a); Eff. January 1, 2009.

21 NCAC 34B .0103 AUTHORIZED PRACTICE: SUPERVISION

(a) Duly certified resident trainees in training for funeral service, duly certified resident trainees in training for funeral directing and duly certified resident trainees in training for embalming, while participating in learning experiences and while supervised by a person licensed by the Board as a funeral service licensee, funeral director or embalmer, respectively, may assist in the practice of funeral service, funeral directing or embalming respectively, as limited by this Rule.

(b) A licensee wishing to supervise a trainee shall meet the following requirements:

- (1) The licensee shall have either practiced continuously in North Carolina for a minimum of five years before the date of the application, or shall have taken a trainee supervisor certification course provided by the Board; and
- (2) The licensee shall not have any disciplinary action taken by the Board or the licensing board of any other jurisdiction to suspend or revoke his or her license during the five years preceding the application.

(c) Duly certified resident trainees in training for funeral service or for funeral directing, while participating in learning experiences and while supervised by a person licensed by the Board as a preneed sales licensee, may also assist in the preneed funeral planning activities described in 21 NCAC 34D .0202(b)(1), (2), (4), and (5).

(d) No credit shall be given for the resident trainee's work that is unsupervised or performed under the supervision of a person not

registered with the Board as the resident trainee's supervisor. If the registered supervisor does not supervise the resident trainee for a continuous period of more than two weeks, the traineeship under that supervisor shall terminate, requiring a new traineeship application. When a resident trainee assists in funeral service, funeral directing, embalming or preneed funeral planning on the funeral home premises, a licensed supervisor shall be on the funeral home premises where and while such activities are performed; provided that a licensed supervisor shall be present in the same room whenever a resident trainee accepts any initial payment or negotiates any contract for funeral services either at-need or pre-need with the public. When a resident trainee assists in funeral service, funeral directing, embalming or any funeral planning off the funeral home premises, such activities shall be performed only in the presence of a licensed supervisor employed with the establishment with which the resident trainee is registered.

(e) A licensed supervisor shall review with the purchaser any contract negotiated by a resident trainee, and then the licensed supervisor shall obtain the purchaser's signature on the contract in the licensed supervisor's presence.

(f) The resident trainee's license certificate for indicating the trainee's authority to assist in the activities described and authorized in this Rule and in 21 NCAC 34D .0202(b) is the resident trainee pocket certificate.

History Note: Authority G.S. 90-210.23(a),(f); 90-210.25(a)(4),(5)d.; 90-210.67(a); 90-210.69(a); Eff. February 1, 1976; Readopted Eff. September 27, 1977; Amended Eff. January 1, 2009; November 1, 2004; August 1, 1998; June 1, 1994.

21 NCAC 34B .0120 TRAINEE FINAL AFFIDAVIT FORM

Upon the conclusion of a resident traineeship with a licensed supervisor, the supervisor shall submit an affidavit to certify that the trainee has served and performed certain work under him as required by G.S. 90-210.25(a)(4). The affidavit shall be submitted within 30 days on forms provided by the Board and require the affiant to furnish the names of the licensee and the trainee; dates and place of service; the number of funerals, preneed funeral contracts and embalmings that the trainee has assisted in during traineeship; and any other information the Board deems necessary as required by law.

History Note: Authority G.S. 90-210.23(a),(d),(f); 90-210.25(a)(4)f.; 90-210.67(a); 90-210.69(a); Eff. February 1, 1976; Readopted Eff. September 27, 1977; Amended Eff. January 1, 2009; November 1, 2004; June 1, 1994; August 1, 1988; September 1, 1979.

21 NCAC 34B .0202 APPLICATIONS

(a) Applicants to take the examination for a license shall apply to the Board upon forms to be furnished by the Board. The application must be verified by the applicant and received by the Board at least 30 days prior to the date of the examination.

Applicants are ineligible to take the examination before completing their educational requirements.

(b) If the applicant does not sit for all examinations within 12 months of the filing date, the applicant forfeits the pending application and fee, and the applicant shall submit a new application and fee.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(1),(2),(3);
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. January 1, 2009; October 1, 1983.

21 NCAC 34B .0408 CONTINUING EDUCATION PROGRAM

(a) For licensees required to complete CE as a prerequisite to annual license renewal, the five hours of approved CE shall meet the following requirements:

- (1) Up to two hours may be in courses required by the Board. If the Board requires licensees to take a particular required course or courses, the Board shall notify licensees no later than October 1 of the year preceding the calendar year in which the course(s) will be required.
- (2) Licensees may take up to two hours of continuing education each year by computer-based CE approved by the Board as set forth in 21 NCAC 34B .0414.
- (3) Licensees may not receive more than two hours of credit for continuing education courses in preneed each year.
- (4) Licensees may not receive credit hours for taking the same CE course within two years.

(b) A newly admitted active licensee may include as credit hours, which may be carried over to the next succeeding year, any approved continuing education hours earned after that licensee's graduation from mortuary science college.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Amended Eff. January 1, 2009.

21 NCAC 34B .0414 ACCREDITATION OF COMPUTER-BASED CE

(a) Effective for courses attended on or after January 1, 2009, a licensee may receive up to two hours of credit each year for participation in a course on CD-ROM or on-line. A CD-ROM course is an educational seminar on a compact disk that is accessed through the CD-ROM drive of the user's personal computer. An on-line course is an educational seminar available on a provider's website reached via the Internet.

(b) A licensee may apply up to two credit hours of computer-based CE to a CE deficit from a preceding calendar year. A computer-based CE credit hour applied to a deficit from a preceding year will be included in calculating the maximum of two hours of computer-based CE allowed in the preceding calendar year. A licensee may carry over to the next calendar year no more than two credit hours of computer-based CE pursuant to 21 NCAC 34B .0408. A credit hour carried-over

pursuant to 21 NCAC 34B .0408 shall not be included in calculating the two hours of computer-based CE allowed in any one calendar year.

(c) To be accredited, a computer-based CE course must meet all of the conditions imposed by the rules in this Subchapter, except where otherwise noted, and be interactive, permitting the participant to communicate, via telephone, electronic mail, or a website bulletin board, with the presenter or other participants.

(d) The sponsor of an on-line course must have a reliable method for recording and verifying attendance. The sponsor of a CD-ROM course must demonstrate that there is a reliable method for the user or the sponsor to record and verify participation in the course. A participant may log on and off of a computer-based CE course provided the total time spent participating in the course is equal to or exceeds the credit hours assigned to the program. A copy of the record of attendance must be forwarded to the Board within 30 days after a licensee completes his or her participation in the course.

(e) After approval of a computer-based CE course, the sponsor may replay the computer-based CE course indefinitely until any change is made to the course content. Any modification to an approved computer-based CE course shall require the sponsor to submit a new application for approval but the sponsor may continue to show the previously approved version of the course.

History Note: Authority G.S. 90-210.23(a); 90-210.25(a)(5);
Eff. July 1, 2005;
Amended Eff. January 1, 2009; March 1, 2008.

21 NCAC 34B .0615 FUNERAL ESTABLISHMENT INSPECTION FORM

The findings of all funeral establishment inspections shall be recorded and filed on report forms provided by the Board. The funeral establishment shall furnish the name and address of the establishment; names of the owner, manager, licensees and resident trainees; verification by the funeral establishment that any violations have been corrected, the date of the verification, and other information the Board deems necessary as required by law. Verifications by an official of the funeral establishment that any violations have been corrected must be received by the Board no later than seven days after the date for compliance.

History Note: Authority G.S. 90-210.23(a),(d),(e); 90-210.24;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. January 1, 2009; November 1, 2004.

21 NCAC 34C .0306 RETENTION OF RECORDS

A copy of all death certificates, authorizations, waivers, statements, reports and other documents required by G.S. 90-210.120 through G.S. 90-210.134 and by the rules in this Subchapter shall be retained by the crematory licensee for a period of three years and shall, during that period, be subject to inspection by the Board or its agents.

History Note: Authority G.S. 90-210.127; 90-210.134(a);
Eff. July 1, 1991;
Amended Eff. January 1, 2009; July 1, 2004.

21 NCAC 34D .0101 APPROVAL OF CONTRACT FORMS

All preneed funeral contracts shall be transacted on forms prescribed by the Board. The Board may prescribe different forms for standard or inflation-proof contracts or for trust or insurance contracts. Each preneed funeral contract form shall contain the following information:

- (1) Is written in clear, understandable language and is printed in easy-to-read type, size and style on paper not larger than 8 1/2 by 14 inches, with printing on both sides permitted.
- (2) States or provides space for inserting the name, address and preneed funeral establishment license number of the contracting funeral establishment.
- (3) Provides space for inserting the names, addresses and Social Security numbers of the purchaser and contract beneficiary.
- (4) States that a description of the merchandise and services purchased is attached to the seller's and purchaser's copies of the contract and is a part of the agreement. The attachment shall be a form provided by the Board satisfying the requirements of a "statement of goods and services selected" as described in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
- (5) Discloses any penalties or restrictions, including geographical restrictions, on the delivery of merchandise and services.
- (6) States whether it is a standard or inflation-proof contract and summarizes, consistent with North Carolina law, the incidents of such type of contract.
- (7) Provides space for inserting the financial transaction.
- (8) Provides space for the purchaser to indicate, by the purchaser's signature or initials, the following:
 - (a) The purchaser's choice of trust-funded or insurance-funded contract.
 - (b) That the purchaser acknowledges that the funeral establishment will retain, and not deposit in trust, a stated percentage (not more than 10%) of the purchaser's payments.
 - (c) The purchaser's choice of revocable or irrevocable contract.
 - (d) That the purchaser acknowledges that the sale was made at the funeral establishment's place of business, so as to negate the cancellation rights connected with an off-premises sale.
- (9) Contains notice, in bold type, of the purchaser's right to cancel an off-premises sale.
- (10) Contains notice, in bold type, that if the purchaser does not receive notification from

the Board, within 30 days, that it has received a copy of the contract, the purchaser should notify the Board at its current, stated address and telephone number.

- (11) Explains the parties' rights and obligations, consistent with North Carolina law, with respect to contract revocation, default, the funeral establishment's retention of a portion of the purchase price free of the trust, and the substitution of funeral homes to perform the contract.
- (12) Contains a notice of the existence of the Board's preneed recovery fund.
- (13) Contains, or refers to an attachment containing, all funeral sales disclosures to consumers as required by federal and North Carolina law.
- (14) Provides spaces for the signatures of the parties to the contract, including the signature and preneed sales license number of the preneed sales licensee who sold the contract. The following shall appear, in bold type, beneath the signature of the preneed sales licensee: "Signed and preneed sales license number affixed in presence of Purchaser at time of sale."
- (15) Any other information the Board deems necessary and is required by law.

History Note: Authority G.S. 90-210.62(b); 90-210.69(a),(c)(6); Eff. July 1, 1993; Amended Eff. January 1, 2009; August 1, 1998.

21 NCAC 34D .0106 TRANSFER OF TRUST PRENEED CONTRACTS TO ANOTHER JURISDICTION

(a) In order to revoke a preneed funeral contract under G.S. 90-210.65(e)(1), the preneed contract purchaser, or after the death of the preneed contract purchaser, the preneed contract beneficiary or his or her legal representative, shall submit a written request to the Board. The request shall contain a written request to transfer the contract; the domicile of the preneed contract beneficiary at the time of the request; the mailing address of the requesting party, if different from the domicile of the preneed contract beneficiary; and a copy of the new preneed contract executed under the laws of the state of the preneed contract beneficiary's domicile.

(b) Upon finding that the contract may be revoked under G.S. 90-210.65(e)(1), the Board shall order the contract revoked and the funds be transferred to the succeeding funeral establishment under G.S. 90-210.63. A copy of the Board's order shall be served on the preneed contract beneficiary, the contracting funeral establishment, and the financial institution or insurance company holding the preneed funeral funds.

History Note: Authority G.S. 90-210.65(e)(1); 90-210.69(a); Eff. January 1, 2009.

CHAPTER 36 - BOARD OF NURSING

21 NCAC 36 .0302 ESTABLISHMENT OF A NURSING PROGRAM - INITIAL APPROVAL

(a) At least six months prior to the proposed enrollment of students in a nursing program, an institution seeking approval to operate a nursing program shall employ a program director qualified pursuant to 21 NCAC 36 .0317(c) to develop the application documenting the following:

- (1) a narrative description of the organizational structure of the program and its relationship to the controlling institution, including accreditation status. The controlling institution must be an accredited institution;
- (2) a general overview of the proposed total curriculum that includes:
 - (A) program philosophy, purposes, and objectives;
 - (B) master plan of the curriculum, indicating the sequence for both nursing and non-nursing courses, as well as prerequisites and corequisites;
 - (C) course descriptions and course objectives for all courses; and
 - (D) course syllabi pursuant to 21 NCAC 36.0321(i) for all first-year nursing courses;
- (3) proposed student population;
- (4) projected student enrollment;
- (5) evidence of learning resources to implement and maintain the program;
- (6) financial resources adequate to begin and maintain program;
- (7) physical facilities adequate to house the program;
- (8) support services available to the program from the institution;
- (9) approval of the program by the governing body of the parent institution; and
- (10) a plan with a specified time frame for:
 - (A) availability of qualified faculty as specified in 21 NCAC 36 .0318;
 - (B) course syllabi as specified in 21 NCAC 36.0321(h) of this Section for all nursing courses;
 - (C) student policies pursuant to 21 NCAC 36 .0320 of this Section for admission, progression, and graduation of students; and
 - (D) total program evaluation pursuant to 21 NCAC 36 .0317(e).

(b) The application to establish a nursing program must be on a Board form, contain current and accurate information, be complete, and be signed by the program director and the chief executive officer of the controlling institution.

(c) The completed application shall be received by the Board not less than 90 days prior to a regular meeting of the Board to be considered on the agenda of that meeting.

(d) The Board shall conduct an on-site survey of the proposed program and agencies and afford the petitioning institution an opportunity to respond to the survey.

(e) The Board shall consider all evidence, including the application, the survey report, and any testimony from representatives of the petitioning institution in determining approval status.

(f) If the Board finds, from the evidence presented, that the resources and plans meet all rules for establishing a new nursing program, the Board shall grant Initial Approval including a maximum enrollment and implementation date.

(g) If the Board determines that a proposed program does not comply with all rules, initial approval shall be denied.

(h) Failure of the controlling institution to submit documentation consistent with the time specified in the plan of Subparagraph (a)(10) of this Rule shall result in Initial Approval being rescinded.

(i) Following the Initial Approval, if the first class of students are not enrolled in the program within one year, the approval shall be rescinded.

(j) For 12 months following rescinded approval, the controlling institution shall not submit an application for establishing a nursing program.

(k) A program may retain Initial Approval Status for the time necessary for full implementation of the curriculum.

(l) Programs with Initial Approval shall be surveyed:

- (1) during the final term of curriculum implementation of the program; and
- (2) when there is information that the program may not be complying with Section .0300.

(m) If at any time it comes to the attention of the Board that a program on initial approval is not complying with Section .0300 of this Chapter, the program, upon written notification, shall:

- (1) correct the area of noncompliance and submit written evidence of correction to the Board; or
- (2) submit and implement a plan for correction to the Board.

(n) If the Board determines that the program does not comply with Paragraph (m) of this Rule, Initial Approval shall be rescinded.

(o) If, following the survey during the final term for curriculum implementation, the Board finds that the program is complying with Section .0300 of this Chapter, the Board shall place the program on Full Approval status.

(p) If, following the survey during the final term for curriculum implementation the Board finds that the program does not comply with the Section .0300 of this Chapter, the Board shall rescind Initial Approval and provide the program with written notice of the Board's decision.

(q) Upon written request from the program submitted within 10 business days of the Board's written notice, the Board shall schedule a hearing within 30 business days from the date on which the request was received.

(r) Following the hearing and consideration of all evidence provided, the Board shall assign the program Full Approval status or shall enter an Order rescinding the Initial Approval status, which shall constitute closure of the program pursuant to 21 NCAC 36 .0309.

History Note: Authority G.S. 90-171.23(b)(8); 90-171.38; Eff. February 1, 1976; Amended Eff. June 1, 1992; January 1, 1989; November 1, 1984; May 1, 1982; Temporary Amendment Eff. October 11, 2001; Amended Eff. January 1, 2009; December 1, 2005; August 1, 2002.

CHAPTER 38 - BOARD OF OCCUPATIONAL THERAPISTS

21 NCAC 38 .0201 APPLICATION PROCESS

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

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

(b) An applicant previously licensed in any state re-entering the field of occupational therapy after not practicing occupational therapy for more than 24 months shall complete 90 days of general, supervised, re-entry fieldwork and shall provide to the Board;

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

History Note: Authority G.S. 90-270.69(4); 90-270.70; Eff. July 1, 1985; Amended Eff. July 1, 2007; May 1, 1989; May 1, 1987; Amended Eff. Pending Legislative Review.

21 NCAC 38 .0304 GROUNDS FOR LICENSE DENIAL OR DISCIPLINE

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

- (1) writing a check given to the Board in payment of required fees which is returned unpaid;
- (2) allowing an unlicensed occupational therapist or occupational therapy assistant to practice under the licensee's supervision or control;
- (3) making any false statement or giving any false information in connection with an application for a license or renewal of a license or any investigation by the Board or the Board's designee;
- (4) committing a crime the circumstances of which relate to the occupational therapy profession;
- (5) violating any federal or state statute or rule which relates to the occupational therapy profession;
- (6) practicing occupational therapy while the licensee's ability to practice was impaired by alcohol or other drugs or a physical or mental disability or disease;
- (7) engaging in sexual misconduct. For the purposes of this Paragraph, sexual misconduct includes:
 - (A) Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while an Occupational Therapist or Occupational Therapy Assistant/patient relationship exists with that person;
 - (B) Making sexual advances, requesting sexual favors or engaging in physical contact of a sexual nature with patients or clients;
- (8) obtaining or attempting to obtain payment by fraud or deceit;
- (9) violating any Order of the Board;
- (10) failing to properly make the disclosures required by 21 NCAC 38 .0305;
- (11) abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of care;
- (12) recording or communicating false or misleading data, measurements or notes regarding a patient;
- (13) delegating responsibilities to a person when the licensee delegating knows or has reason to know that the competency of that person is impaired by physical or psychological ailments, or by alcohol or other pharmacological agents, prescribed or not;
- (14) practicing or offering to practice beyond the scope permitted by law;

- (15) accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;
- (16) performing, without supervision, professional services which the licensee is authorized to perform only under the supervision of a licensed professional;
- (17) harassing, abusing, or intimidating a patient either physically or verbally;
- (18) failure to exercise supervision over persons who are authorized to practice only under the supervision of the licensed professional;
- (19) promoting an unnecessary device, treatment intervention or service for the financial gain of the practitioner or of a third party;
- (20) delegating professional responsibilities to a person when the licensee delegating the responsibilities knows or has reason to know that the person is not qualified by training, by experience, or by licensure to perform the responsibilities;
- (21) billing or charging for services or treatments not performed; or
- (22) making treatment recommendations based on the extent of third party benefits instead of the patient's condition.

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

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

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

History Note: Authority G.S. 90-270.69(4); 90-270.76;
Eff. July 1, 1985;
Amended Eff. January 1, 2009; July 1, 2007; May 1, 1989.

CHAPTER 48 - BOARD OF PHYSICAL THERAPY EXAMINERS

21 NCAC 48G .0111 EXEMPTIONS AND DEFERMENTS

(a) To qualify for an exemption or deferment from the rules in this Subchapter, a licensee must furnish the applicable information required on the Continuing Competence Compliance Form.

(b) A member of the United States Armed Services is exempt from compliance if on active duty for a period of at least 120 consecutive days. The reporting period shall commence on January 1 following the licensee's discharge from active duty.

(c) The Board shall grant an exemption from completing applicable continuing competence requirements for up to two years to any licensee who becomes disabled or sustains a personal hardship that makes completion of continuing competence requirements impractical.

(d) In cases of personal or family emergencies, the Board shall allow the licensee up to an additional one year to complete the applicable continuing competence requirements.

(e) Upon written application to the Board, any licensee who is 65 years of age or older and is not engaged in practice or patient treatment shall be granted an exemption of up to two years from completing continuing competence requirements.

(f) Other requests for partial exemptions or deferments for hardships or circumstances beyond the control of the licensee shall be granted by the Board upon written application of the licensee.

(g) A licensee seeking an exemption or deferment pursuant to this Rule shall provide written documentation to the Board to support the exemption or deferment.

History Note: Authority G.S. 90-270.26(3a);
Eff. January 1, 2009.

21 NCAC 48G .0203 REVIVAL OF LAPSED LICENSE

(a) A license that has been lapsed less than one year may be revived by payment of the revival of lapsed license fee and the current year's renewal fee and by completion of the revival form.

(b) A license that has lapsed more than one year but less than five years may be revived by completion of the revival form, and:

- (1) completing 30 units (if reviving a physical therapist license) or 20 units (if reviving a physical therapist assistant license) of continuing competence as provided in the rules in this Subchapter;
- (2) payment of the revival of lapsed license fee; and
- (3) payment of the current year's renewal fee.

(c) A license that has lapsed more than five years may be revived by completion of the application forms; and

- (1) passing the "PT exam" (if trained as a physical therapist) or the "PTA exam" (if trained as a physical therapist assistant);
- (2) compiling at least 500 hours within the period of one year in the following manner: between 50 and 200 class hours of course work (ie, refresher course, continuing education, pertinent college courses) approved by the Board as designed to demonstrate proficiency in current physical therapy theory and practice, and the remaining hours working as an aide

- under the supervision of a licensed physical therapist; or
- (3) endorsement of a current license in another state as provided by 21 NCAC 48B .0102.

History Note: Authority G.S. 90-270.26; 90-270.32; 90-270.33;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. January 1, 2009; August 1, 1998; August 1, 1991; October 1, 1989; April 1, 1989; May 1, 1988.

CHAPTER 63 – SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

21 NCAC 63 .0102 DEFINITIONS

Whenever used in this Chapter, the definitions set forth in G.S. 90B-3 are herein incorporated by reference. The following definitions apply in this Chapter:

- | | |
|--|---|
| <p>(1) NCSWCLB - this designation represents the North Carolina Social Work Certification and Licensure Board.</p> <p>(2) CSW - this designation represents the certified social worker level of certification.</p> <p>(3) CMSW - this designation represents the certified master social worker level of certification.</p> <p>(4) CSWM - this designation represents the certified social work manager level of certification.</p> <p>(5) LCSW - this designation represents the licensed clinical social worker level of certification.</p> <p>(6) P-LCSW - this designation represents the provisionally licensed clinical social worker level of certification.</p> <p>(7) Reprimand. Reprimand is a public rebuke and sanction by the Board for practice misconduct. A reprimand typically is given for less severe offenses and may require specific follow-up actions by the social worker.</p> <p>(8) Censure. Censure is an act involving severe condemnation and a sanction by the Board for practice misconduct. Censuring is typically for severe offenses and may require specific follow-up actions by the social worker.</p> <p>(9) Probation. Probation is a stay of revocation or suspension allowing limited practice within preconditions established by the Board. Violations of these conditions may result in revocation.</p> <p>(10) Suspension. Suspension is the withdrawal of privilege to practice for a specific period of time.</p> <p>(11) Revocation. Revocation is the withdrawal of privilege to practice as a certified or licensed social worker in the State of North Carolina.</p> | <p>(12) Clinical Social Work Experience. As it relates to the work experience required for LCSW licensure, two years of clinical social work experience in direct practice shall mean the professional application of master or doctoral social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial function. Clinical social work experience requires the application of clinical knowledge and clinical skills in the areas of assessment, diagnosis, and treatment of one or more of the following disorders or conditions: mental, emotional, addictive, or behavioral disorders and conditions. In addition, the clinical social work experience may also include clinical case management, information and referral, mediation, client education, clinical supervision and clinical consultation that is directly related to the treatment plan or personal care plan of a client/consumer.</p> <p>(13) Diagnosis. In the context of licensed clinical social work practice is the process of distinguishing, beyond the general social work assessment, among one or more of the following: mental, emotional, addictive, behavioral, or developmental disorders and conditions; within a psychosocial framework on the basis of their similar and unique characteristics consistent with accepted classifications systems.</p> <p>(14) Clinical Case Management. A comprehensive approach to care integrating an array of interventions; to include planning, implementation and management of care for clients with one or more of the following: mental, emotional, addictive, behavioral, or developmental disorders and conditions. Interventions by the clinical case manager shall involve face-to-face contact with the client on a regular basis, shall be grounded in clinical social work theory, and guided by the client's treatment plan or personal care plan.</p> <p>(15) Treatment. Clinical social work intervention, including individual, couples, family, or group psychotherapy, that is empirically grounded and used to help resolve symptoms of one or more of the following: mental, emotional, addictive, behavioral, or developmental disorders and conditions.</p> |
|--|---|

History Note: Authority G.S. 90B-3; 90B-6; Eff. August 1, 1987; Temporary Amendment Eff. October 1, 1999; Amended Eff. January 1, 2009; July 1, 2000.

21 NCAC 63 .0204 REFERENCES

- (a) Applicants for the LCSW and CSWM classifications shall have a minimum of three references related to the applicant's

experience, as required by G.S. 90B-7(d) and (e). Applicants for other classifications shall have a minimum of three references. Relatives of applicants, clients, or subordinates of applicants may not submit references for applicants. A current Board member shall not submit a reference for an applicant unless he/she is the applicant's current or only social work supervisor. In such a case the Board member may submit a reference, but he/she shall excuse himself/herself from review of that particular applicant.

(b) All references must come from individuals who have or had a professional association with the applicant and have knowledge of the applicant's professional experience in the practice of social work.

(c) One reference must be from one who has been or is currently a supervisor in a social work setting.

History Note: Authority G.S. 90B-6; 90B-7; Eff. August 1, 1987; Temporary Amendment Eff. October 1, 1999; Amended Eff. January 1, 2009; April 1, 2001.

21 NCAC 63 .0211 WORK EXPERIENCE

(a) For the Licensed Clinical Social Worker credential:

- (1) Two years of post-MSW clinical social work experience shall mean 3,000 clock hours of work or employment for a fee or salary while engaged in the practice of clinical social work. The 3,000 hours shall be accumulated over a period of time not less than two years nor more than six years. Practicum or internship experience gained as part of any educational program shall not be included.
- (2) Appropriate supervision shall mean supervision in person by an MSW who is also a Licensed Clinical Social Worker and who is in good standing with the Board. A supervisor formally disciplined by any professional credentialing body or professional organization, or who has violated the provisions of an occupational licensing Board may not provide supervision to a provisional licensee without the written permission of the Board. The Provisional Licensed Clinical Social Worker's (P-LCSW) clinical social work supervisor shall have an additional two years of clinical social work experience post LCSW licensure.
- (3) Appropriate supervision shall be that which is provided on a regular basis with at least one hour of supervision during every 30 hours of experience. A minimum of 100 hours of supervision is required. It is the professional responsibility of the clinical supervisor to make the initial determination whether or not the applicant's work experience meets the definition of clinical social work practice. The Board shall make the final determination whether or not the applicant's work experience meets the definition of clinical social work

practice. Appropriate supervision may be individual or group supervision. Individual supervision shall mean one on one, in person, supervision by an MSW who is also an LCSW where the supervisor reviews and discusses clinical social work cases and provides evaluative comments and direction to the P-LCSW. Group supervision shall mean supervision provided by an MSW who is also an LCSW in a group setting, during which the supervisor reviews and discusses clinical social work cases and provides feedback and direction to each P-LCSW in the group. A maximum of 25 hours of group supervision may be applied toward meeting the supervision requirements for the LCSW.

(b) For the Certified Social Work Manager credential:

- (1) Two years of post social work degree experience shall mean 3,000 clock hours of employment for a salary while engaged in administrative social work duties including, policy and budgetary development and implementation, supervision and management, program evaluation, planning, and staff development. Such duties shall be carried out in an administrative setting where social work or other mental health services are delivered. The 3,000 hours shall be accumulated over a period of time not less than two years nor more than six years. Practicum or internship experience gained as part of any educational program shall not be included.
- (2) Appropriate supervision shall mean supervision in person by a social work administrator certified by the Board on at least one level who has a minimum of five years of administrative experience in a social work or mental health setting. Appropriate supervision shall be that which is provided on a regular basis throughout the applicant's two years of administrative social work experience. A minimum of 100 hours of supervision is required. A maximum of 50 hours of group supervision may be applied toward meeting the supervision requirements for the CSWM.

History Note: Authority G. S. 90B-6; 90B-7; Temporary Adoption Eff. October 1, 1999; Eff. July 1, 2000; Amended Eff. January 1, 2009; September 1, 2005.

21 NCAC 63 .0213 TEMPORARY LICENSES

The Board may issue a non-renewable temporary reciprocal license pursuant to G.S. 90B-8(b), that is valid for no more than six months, upon receipt of a twenty five dollar (\$25.00) fee.

History Note: Authority G.S. 90B-6; 90B-6.2; 90B-8; Temporary Adoption Eff. October 1, 1999; Eff. July 1, 2000;

Amended Eff. January 1, 2009.

21 NCAC 63 .0401 CONTINUING EDUCATION REQUIREMENTS

(a) Continuing education for certification or licensure renewal is required to maintain professional knowledge and technical competency. Renewal of certification or licensure requires 40 contact hours of continuing education credits approved by the Board within each two year renewal cycle. However, if a certification or licensure is for less than a full two-year period, then 30 contact hours of continuing education credits are required. One unit of credit is equal to one contact hour. One academic course hour of credit is equal to 15 contact hours. Credit for auditing an academic course shall be for actual clock hours attended during which instruction was given with one clock hour equal to one contact hour of credit.

(b) During each renewal period all certified and licensed social workers shall engage in a minimum of four contact hours of continuing education focused on ethics related to social work practice and ethical decision-making.

(c) The following activities may be approved for continuing education:

- (1) academic social work courses taken for credit or audit;
- (2) agency-based staff development, seminars, institutes, workshops, mini courses or conferences oriented to social work practice, values, skills and knowledge;
- (3) cross-disciplinary offerings from medicine, law and the behavioral/social sciences or other disciplines, if such offerings are related to social work practice, values, skills and knowledge;
- (4) distance learning activities including online courses and home study courses which have been pre-approved by the Association of Social Work Boards (ASWB) or the North Carolina Chapter of the National Association of Social Workers (NASW-NC). The maximum continuing education credit granted for distance learning activities is one half of the required hours, up to a maximum of 20 contact hours per renewal period;
- (5) study groups focusing on social work practice if the following can be documented:
 - (A) study topic;
 - (B) study material;
 - (C) facilitator; and
 - (D) date and hours of attendance.

(d) Credit shall not be granted for:

- (1) identical programs completed within the same renewal period;
- (2) job orientation;
- (3) on the job training; or
- (4) supervision and case consultation.

*History Note: Authority G.S. 90B-6; 90B-9;
Eff. August 1, 1987;
Amended Eff. September 1, 1993;*

*Temporary Amendment Eff. October 1, 1999;
Amended Eff. January 1, 2009; September 1, 2005; April 1, 2001.*

21 NCAC 63 .0403 RENEWAL FEES

(a) Fees for renewal of certificates or licenses:

- (1) For Certified Social Workers (CSW's) the renewal fee shall be sixty dollars (\$60.00).
- (2) For Certified Master Social Workers (CMSW's) the renewal fee shall be seventy-five dollars (\$75.00)
- (3) For Licensed Clinical Social Workers (LCSW's) the renewal fee shall be one hundred twenty-five dollars (\$125.00).
- (4) For Certified Social Work Managers (CSWM's) the renewal fee shall be one hundred twenty-five dollars (\$125.00).

(b) Persons whose applications for renewal are received by the Board after the renewal date of their certificate or license, but no later than 60 days after the renewal date, shall be assessed a late renewal fee of fifty dollars (\$50.00) in addition to any other applicable fees.

*History Note: Authority G.S. 90B-6; 90B-6.2; 90B-9(b);
Eff. August 1, 1987;
Amended Eff. August 1, 1990;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. January 1, 2009; March 1, 2006; July 1, 2000.*

21 NCAC 63 .0509 PUBLIC STATEMENTS

(a) Public statements, announcements of services and promotional activities of social workers serve the purpose of providing sufficient information to aid consumers in making informed judgments and choices. Social workers shall state accurately, objectively and without misrepresentation their professional qualifications, affiliations and functions as well as those of the institutions or organizations with which they or their statement may be associated. They shall correct misrepresentations by others with respect to these matters.

(b) In announcing availability for professional services, a social worker shall use his or her name, type and level(s) of certification and licensure; and may use highest relevant academic degree from an accredited institution; specialized post-graduate training; address and telephone number; office hours; type of services provided; appropriate fee information; foreign languages spoken; and policy with regard to third-party payments.

(c) Social workers shall not offer to perform any service beyond the scope permitted by law or beyond the scope of their competence. They shall not engage in any form of advertising which is false, fraudulent, deceptive, or misleading. They shall neither solicit nor use recommendations or testimonials from clients.

(d) Social workers shall respect the rights and reputations of professional organizations with which they are affiliated. They shall not falsely imply sponsorship or certification by such organizations. When making public statements, the social worker shall make clear which are personal opinions and which are authorized statements on behalf of an organization.

(e) A social worker shall display his or her license or certificate at the social worker's primary place of practice as required by G.S. 90B-15.

History Note: Authority G.S. 90B-6; 90B-11;
Eff. March 1, 1994;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. January 1, 2009; July 1, 2000.

21 NCAC 63 .0901 APPLICATIONS FOR A CERTIFICATE OF REGISTRATION

Social Work Licensees who wish to form a Professional Corporation or Limited Liability Company must apply to the North Carolina Social Work Certification and Licensure Board for a Certificate of Registration, pursuant to Chapter 55B of the North Carolina General Statutes. The following fees apply:

- (1) Fifty dollars (\$50.00) – application fee for a certificate of registration for a professional corporation or limited liability company;
- (2) Twenty-five dollars (\$25.00) – annual renewal fee for the certificate of registration for a professional corporation or limited liability company; and
- (3) Twenty-five (\$25.00) – fee for amendments(s) to the certificate of registration for a professional corporation or limited liability company. An amendment to the Certificate of Registration shall be required for a change in name, address, or professional services provided; changes to the articles of organization or incorporation; change in ownership or members. Any social workers who has been granted a Certificate of Registration from this Board shall inform the

Board of other changes in writing and at no additional cost within 30 days from the effective date of the change.

History Note: Authority G.S. 55B-10; 55B-11; 57C-2-01(c); 90B-6.2; 90B-11;
Eff. January 1, 2009.

21 NCAC 63 .0902 RENEWAL OF CERTIFICATE OF REGISTRATION

(a) A Certificate of Registration issued by the Board shall be renewed annually prior to the expirations date printed on the certificate.

(b) A Certificate of Registration will be suspended for failure to renew within 30 days after the expiration date and will be reported to the Office of the Secretary of State.

(c) The Board may reinstate a Certificate of Registration suspended under this subsection within the calendar year upon payment of the required renewal fee plus an additional fee for late renewal as provided in G.S. 55B-11.

History Note: Authority G.S. 55B-11; 57C-2-01(c); 90B-6; 90B-6.2; 90B-11;
Eff. January 1, 2009.

21 NCAC 63 .0903 DISOLVING THE PROFESSIONAL ENTITY

Professional entities registered with the Board and who dissolve, shall provide written notice to the Board within 30 days of the effective date the entity dissolved.

History Note: Authority G.S. 55B-10; 57C-2-01(c); 90B-6; 90B-11;
Eff. January 1, 2009.

This Section contains information for the meeting of the Rules Review Commission on Thursday, February 19, 2009 9:00 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 no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

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

COMMISSION COUNSEL

Joe DeLuca (919)431-3081
Bobby Bryan (919)431-3079

RULES REVIEW COMMISSION MEETING DATES

February 19, 2009 March 19, 2008
April 16, 2009 May 21, 2009

AGENDA***RULES REVIEW COMMISSION
Thursday, February 19, 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. Board of Agriculture – 02 NCAC 38 .0701 (DeLuca)
 - B. Commission for Mental Health – 10A NCAC 27G .0504 (DeLuca)
 - C. Private Protective Services Board – 12 NCAC 07D .0402, .0501 (Bryan)
 - D. Sheriff's Education and Training Standards Commission – 12 NCAC 10B .0202 (Bryan)
 - E. Environmental Management Commission – 15A NCAC 02D .1205, .1212 (DeLuca)
 - H. Marine Fisheries Commission – 15A NCAC 03I .0101, .0104 (Bryan)
 - I. Marine Fisheries Commission – 15A NCAC 03J .0502 (Bryan)
 - J. Coastal Resources Commission – 15A NCAC 07J .0701 (DeLuca)
 - K. Board of Cosmetic Art Examiners – 21 NCAC 14H .0105 (DeLuca)
- IV. Review of Log of Permanent Rule filings for rules filed between December 23, 2008 and January 20, 2009 (attached)
- V. Review of Temporary Rules
- VI. Commission Business
 - Next meeting: March 19, 2009

Commission Review
Log of Permanent Rule Filings
December 23, 2008 through January 20, 2009

MEDICAL CARE COMMISSION

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

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

<u>Renewal Designation Process</u>	10A NCAC 13P .0905
Amend/*	

HHS - MENTAL HEALTH, DIVISION OF

The rules in Subchapter 26C concern other general mental health rules including designation of facilities for the custody and treatment of involuntary clients (.0100); research (.0200); death reporting (.0300); miscellaneous (.0400); summary suspension and revocation (.0500); and removal of local management entity functions (.0600).

<u>Scope</u>	10A NCAC 26C .0101
Amend/*	
<u>Application</u>	10A NCAC 26C .0102
Amend/*	
<u>Review Process</u>	10A NCAC 26C .0103
Amend/*	
<u>Designation</u>	10A NCAC 26C .0104
Amend/*	
<u>Appeal</u>	10A NCAC 26C .0105
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/*		

HEARING AID DEALERS AND FITTERS, BOARD OF

The rules in Chapter 22 are from the Hearing Aid Dealers and Fitters Board.

The rules in Subchapter 22B concern rule making procedures including petitions for rule making (.0100); notice (.0200); hearings (.0300); emergency rules (.0400); declaratory rulings (.0500); and fees (.0600).

<u>Fee Schedule</u>	21	NCAC 22B .0603
Amend/*		

STATE PERSONNEL COMMISSION

The rules in Subchapter 1D are the rules dealing with compensation and include administration of the pay plan (.0100); new appointments (.0200); promotion (.0300); demotions or reassignments (.0400); separation (.0500); reallocation (.0600); salary range revision (.0700); initial classification (.0800); transfer (.0900); reinstatement (.1000); longevity pay (.1200); holiday premium pay (.1300); shift premium pay (.1400); emergency call-back pay (.1500); foreign service pay (.1600); employment of physicians for extended duty (.1800); hours of work and overtime compensation (.1900); unemployment insurance (.2000); special salary adjustments (.2100); comprehensive compensation system (.2500); in-range salary adjustments (.2600); and severance salary continuation (.2700).

<u>Sign-On Bonus</u>	25	NCAC 01D .0116
Adopt/*		
<u>Severance Salary Continuation</u>	25	NCAC 01D .2701
Amend/*		

BUILDING CODE COUNCIL

<u>NC Residential Code - Wood Decks</u>	Appendix M
Amend/*	
<u>NC Building Code - Press Boxes</u>	1104.3.2
Amend/*	
<u>NC Building Code - Temporary Overflow Shelter</u>	202
Amend/*	
<u>NC Building Code - Temporary Overflow Shelters</u>	422.1
Amend/*	
<u>NC Fire Code - Temporary Overflow Shelter</u>	202
Amend/*	
<u>NC Fire Code - Temporary Overflow Shelters</u>	316.1
Amend/*	

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
Tyvonnie Sheri Glenn v. Value Options	08 DHR 1628	May	09/19/08
Amanda Hennes v. N.C. Department of Health and Human Services	08 DHR 1696	Gray	09/22/08
Bobbie L Cribb v. Office of Administrative Hearings	08 DHR 1714	Gray	09/08/08
Irene McLendon/Mikala McLendon v. Value Options	08 DHR 1722	Webster	10/01/08
Keyanna Byrd v. DHHS	08 DHR 1751	Webster	10/01/08
Janelle Gatewood v. Value Options	08 DHR 1763	Webster	10/10/08
Roxanne Haughton v. Value Options/DMA	08 DHR 1799	Elkins	10/14/08
Joshua Dmae Thompson (Consumer) 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