

NORTH CAROLINA REGISTER

VOLUME 24 • ISSUE 17 • Pages 1497 – 1584

March 1, 2010

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Contact List for Rulemaking Questions or Concerns

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

Office of Administrative Hearings
Rules Division
1711 New Hope Church Road (919) 431-3000
Raleigh, North Carolina 27609 (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 (919) 431-3000
Raleigh, North Carolina 27609 (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 (919) 807-4700
Raleigh, North Carolina 27603-8005 (919) 733-0640 FAX
Contact: Anca Grozav, Economic Analyst osbmruleanalysis@osbm.nc.gov (919)807-4740

NC Association of County Commissioners
215 North Dawson Street (919) 715-2893
Raleigh, North Carolina 27603
contact: Jim Blackburn jim.blackburn@ncacc.org
Rebecca Troutman rebecca.troutman@ncacc.org

NC League of Municipalities (919) 715-4000
215 North Dawson Street
Raleigh, North Carolina 27603
contact: Erin L. Wynia ewynia@nclm.org

Governor's Review

Edwin M. Speas, Jr. edwin.speas@nc.gov
General Counsel to the Governor (919) 733-5811
116 West Jones Street
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Legislative Process Concerning Rule-making

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

contact: Karen Cochrane-Brown, Staff Attorney Karen.cochrane-brown@ncleg.net
Jeff Hudson, Staff Attorney Jeffrey.hudson@ncleg.net

NORTH CAROLINA REGISTER
Publication Schedule for January 2010 – December 2010

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
24:13	01/04/10	12/09/09	01/19/10	03/05/10	03/22/10	05/01/10	05/12/10	10/01/10
24:14	01/15/10	12/22/09	01/30/10	03/16/10	03/22/10	05/01/10	05/12/10	10/12/10
24:15	02/01/10	01/08/10	02/16/10	04/05/10	04/20/10	06/01/10	01/26/11	10/29/10
24:16	02/15/10	01/25/10	03/02/10	04/16/10	04/20/10	06/01/10	01/26/11	11/12/10
24:17	03/01/10	02/08/10	03/16/10	04/30/10	05/20/10	07/01/10	01/26/11	11/26/10
24:18	03/15/10	02/22/10	03/30/10	05/14/10	05/20/10	07/01/10	01/26/11	12/10/10
24:19	04/01/10	03/11/10	04/16/10	06/01/10	06/21/10	08/01/10	01/26/11	12/27/10
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25:11	12/01/10	11/05/10	12/16/10	01/31/11	02/21/11	04/01/11	05/2012	08/28/11
25:12	12/15/10	11/22/10	12/30/10	02/14/11	02/21/11	04/01/11	05/2012	09/11/11

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 46

TEMPORARY SUSPENISON OF MOTOR VEHICLE REGULATIONS TO ENSURE RESTORATION OF UTILITY SERVICES THROUHOUT THE STATE

WHEREAS, Governor Perdue and I have conferred and I am entering this executive order at her request pursuant to N.C.G.S. § 147-11.1(a)(2); and

WHEREAS, I have determined that a state of emergency exists due to the threatened winters storm and its after-effects in North Carolina, thereby justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations); and

WHEREAS, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum gas to residential and commercial establishments is essential during wintertime and any interruption in the delivery of those fuels threatens the public welfare; and

WHEREAS, the prompt restoration of utility services to citizens is essential to their safety and well being; and

WHEREAS, 49 CFR § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. §§ 166A-4 and 166A-6.03(b), the Governor may declare that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service for drivers proscribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels and restoration of utility services; and

WHEREAS, under N.C.G.S. § 166A-6(c)(3) with the concurrence of the Council of State, the Governor is authorized to waive certain motor vehicle weight restrictions and registration requirements during the time of emergency.

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

Section 1.

The Department of Crime Control and Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers proscribed by the Department of Crime Control and Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations) does not apply to the commercial drivers' licenses and insurance requirements.

Section 3.

The Department of Crime Control & Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, 105-449.49 for the vehicles transporting equipment and supplies for the restoration of utility services along North Carolina roadways to our impacted counties.

Section 4.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties **have not been waived** under the following conditions:

- A. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- B. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- C. When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length 75 feet from bumper to bumper.

Section 5.

Vehicles referenced under Sections 1 and 3 shall be exempt from the following registration requirements:

- A. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.
- B. The registration requirements under N.C.G.S. § 20-382 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.

- C. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 6.

The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 7.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1-6 of this Executive Order in a manner which will implement this rule without endangering motorists in North Carolina.

Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with the cold weather and winter storm.

Section 9.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

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 **twenty-ninth** day of **January** in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.



Walter H. Dalton
Acting Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 47

PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA DUE TO A WINTER STORM

WHEREAS, I have determined that a state of emergency, as defined in G.S. § 166A-4 and G.S. § 14-288.1(10), in the State of North Carolina due to the winter storm that started on January 29, 2010.

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

Section 1. Pursuant to G.S. §§ 166A-5 and 14-288.15, therefore, I proclaim that a state of emergency exists in the State.

Section 2. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. I hereby delegate to Reuben F. Young, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

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

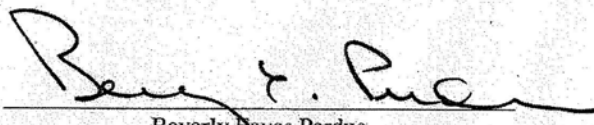
Section 5. Further, I direct Reuben F. Young, Secretary of Crime Control and Public Safety, to seek direct assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 6. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

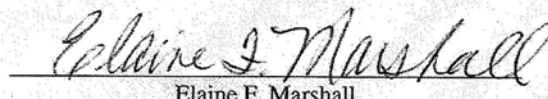
Section 7. This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

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 **thirtieth** day of **January** in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Paves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

**NOTICE OF RESCHEDULED HEARING
15A NCAC 02B .0225 OUTSTANDING RESOURCE WATERS
15A NCAC 02B .0307 NEW RIVER BASIN**

A Notice of Text was previously published in the 24:14 issue of the NC Register for proposed amendments to these rules. The notice included a public hearing scheduled for February 1, 2010, as well as a comment period ending March 16, 2010. This public hearing was cancelled. Due to the cancellation of this public hearing, a public hearing has been rescheduled for March 16, 2010, at 6:30 p.m. at the Ashe Family Central cafeteria located at 626 Ashe Central School Road, Jefferson, NC. All previously submitted comments will be considered and comments will continue to be accepted through April 30, 2010. Written comments can be sent to the attention of Jamie McNees to either the postal address, email or fax number listed in this notice.

**Address: Jamie McNees
DENR/Division of Water Quality/Planning Section
1617 Mail Service Center
Raleigh, NC 27699-1617
Fax: (919) 807-6497
Jamie.McNees@ncdenr.gov**



U.S. Department of Justice
Civil Rights Division

TCH:RSB:JBG:JDH:par
DJ 166-012-3
2009-3848

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

January 14, 2010

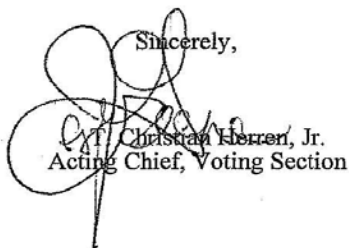
David A. Holec, Esq
City Attorney
P.O. Box 7207
Greenville, North Carolina 27835-7207

Dear Mr. Holec:

This refers to two annexations (Ordinance Nos. 09-45 and 09-60) and their designation to districts for the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on November 23, 2009.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

A handwritten signature in black ink, appearing to read "Christian Herren, Jr.", is written over the typed name and title.

Christian Herren, Jr.
Acting Chief, Voting Section



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

February 3, 2010

Ms. Barbara Howe
Libertarian Party North Carolina
PO Box 28141
Raleigh, NC 27611-8141

Re: Request for advisory opinion

Dear Ms. Howe:

I am in receipt of your letter dated December 31, 2009, in which you seek an opinion as to whether appropriations from the North Carolina Political Parties Financing Fund to the Libertarian Party North Carolina can be used to pay outstanding legal fees incurred by the Party. The following opinion is provided pursuant to N.C. Gen. Stat. § 163-278.23 and can be relied upon as provided by that statute.

Article 22B of Chapter 163 of the North Carolina General Statutes sets forth the legitimate expenses for which funds from the North Carolina Political Parties Financing Fund can be used. As provided by N.C.G.S. § 163-278.42(e), these funds can only be used for legitimate campaign expenses. As a means of illustration, examples of legitimate campaign expenses are provided. Each of these examples provide for expenses that are related to a campaign including expenses incurred to comply with campaign finance and disclosure laws. Additionally, these funds could be used for Party headquarters operations but only as those expenses relate to an upcoming general election. No funds can be spent directly or indirectly for any candidate or selection of a candidate in a primary or nominating convention. It is my opinion that the only permissible way these funds could be used to pay outstanding legal expenses would be if those legal expenses were incurred as a result of a campaign relating to an upcoming general election. If the legal expenses were not for that purpose, then funds from the North Carolina Political Parties Financing Fund could not be used. We could assist you in making this determination only if we are provided the facts about the specific purpose of the legal expenses.


Effective January 1, 2008, any individual serving or seeking office collecting funds for the purpose of funding a legal action or potential legal action is required to establish a legal expense fund. Article 22M of Chapter 163 of the North Carolina General Statutes addresses the regulations of such a legal expense fund. The legislation does not address other political committees' collection of funds for the purpose of funding a legal action or potential legal action.

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However, if the Libertarian Party of North Carolina chooses to raise funds for that purpose, they could do so as set forth in Article 22M. N.C. G.S. § 163-278.320 provides the permitted uses of legal expense funds. If a party committee established such a fund it would be limited to using those funds for any legal action or potential legal action brought against the party. This would not include utilizing those funds to pay legal expenses of a candidate of that party. Legal expense funds could only fund party specific legal expenses, not for any other purpose.

If you should have additional questions about establishing such a fund, please don't hesitate to contact myself or Kim Strach, Deputy Director-Campaign Finance. This opinion is based upon the information provided by you in your December 31, 2009 letter. If any information in that letter should change, you should consult with our office to ensure that this opinion would still be 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
Executive Director

cc: Julian Mann, Codifier of Rules



STATE BOARD OF ELECTIONS

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GARY O. BARTLETT
Executive Director

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

February 3, 2010

Mr. Ralph Burroughs
479 Plymouth Avenue
Winston-Salem, NC 27104

Re: Request for advisory opinion

Dear Mr. Burroughs:

I am in receipt of your letter dated December 9, 2009, in which you seek an opinion with respect to contribution solicitation legislation affecting NC General Assembly members. Your letter also seeks explanation of particular references contained in data obtained from our office. Pursuant to N.C.G.S. § 163-278.23, I will provide responses to each of your questions.

You initially state in your letter your understanding that "members of the NC House of Representatives may not solicit at any time PACs who employ lobbyists, or lobbyists, who act without PAC affiliation." Pursuant to N.C. Gen. Stat. § 163-278.13B(b)(1), members or candidates for the Council of State and members and candidates for the NC General Assembly are prohibited from soliciting lobbyists and PACs that employ a lobbyist during regular sessions of the North Carolina General Assembly. Lobbyists are prohibited from giving to members and candidates for the Council of State and members and candidates for the NC General Assembly at any time. PACs that employ a lobbyist are not prohibited from contributing to members and candidates for the Council of State and the NC General Assembly at times when the NC General Assembly is not in regular session. Additionally, it is not unlawful for members and candidates for the Council of State and the NC General Assembly to solicit contributions from PACs that employ a lobbyist at times other than during regular sessions of the NC General Assembly.

The word "Lobbyist" inserted in the address line of some PACs in the data provided indicates PACs that employed a lobbyist at some time in the past. Several years ago this was an internal mechanism used by our staff to identify PACs that employ a lobbyist. That designation is no longer used as part of our internal processes. However, those notations have not been removed from our database. To avoid future confusion, we will work to remove those designations. We obtain information on lobbyists and PACs that employ a lobbyist from the NC Secretary of State's office. Therefore, during regular sessions of the NC General Assembly you can check the registered lobbyist list to see which PACs may employ a lobbyist and are therefore ineligible to contribute to your candidate. Our website links to the NC Secretary of State's registered

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lobbyist list and can be accessed through the Campaign Finance page at www.sboe.state.nc.us. As stated above, it would not be a violation of the campaign finance statutes for a member of the NC General Assembly to solicit contributions from PACs that employ a lobbyist at times other than when the NC General Assembly is in regular session. Your letter also asks whether it would be a breach of ethics. The opinion in this letter is limited to matters under our jurisdiction. Any questions regarding laws related to ethics should be directed to the NC Ethics Commission.

This opinion is based upon the information provided by you in your December 9, 2009 letter. If any information in that letter should change, you should consult with our office to ensure that this opinion would still be 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
Executive Director

cc: Julian Mann, Codifier of Rules

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.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt the rules cited as 15A NCAC 02D .0961-.0968, amend the rules cited as 15A NCAC 02D .0530-.0531, .0902, .0909, .0922, .0923, .0935, .0951-.0952; 02Q .0306, and repeal the rules cited as 15A NCAC 02D .0917, .0920-.0921, .0934, .0936.

Proposed Effective Date: July 1, 2010

Public Hearing:

Date: April 27, 2010

Time: 6:00 p.m.

Location: Mecklenburg Government Center, Room CH-14, 600 E. 4th Street, Charlotte, NC 28202

Date: April 29, 2010

Time: 6:00 p.m.

Location: DENR-Division of Air Quality, Central Office, Air Quality Annex Training Room (AQ-526), 2728 Capital Blvd, Raleigh, NC 27604

Reason for Proposed Action:

Hearing 1: 15A NCAC 02D .0530, *Prevention of Significant Deterioration*, is proposed for amendment, to clarify that installation of BACT applies to all new natural gas-fired electrical utility generating units for which cost recovery is sought under the Clean Smokestacks Act. Amendments to Rule 15A NCAC 02D .0531, *Sources in Nonattainment Areas*, is proposed for amendment to remove pollutant specific references that require sources to continue measures after an area's redesignation to attainment and replace description of nonattainment areas with reference to 40 CFR 81.334 that identifies nonattainment areas.

Hearing 2: 15A NCAC 02D .0900, *Volatile Organic Compounds*, is proposed for amendment to incorporate EPA Control Techniques Guidelines concerning what types of controls could constitute RACT for eleven source categories to comply with the requirements of Sections 172(c)(1) and 182(b)(2).

1. Amendments to 15A NCAC 02D Rules -

.0909 *Compliance Schedules for Sources in Nonattainment Areas*; .0922, *Metal Furniture Coatings*; .0923, *Surface Coating of Large Appliance Parts*; .0935, *Factory Surface Coating Of Flat Wood Paneling*; .0902, *Applicability*; .0951, *Miscellaneous Volatile Organic Compound Emissions*; .0952 *Petition for Alternative Controls for RACT*.

Also proposes amendments to 15A NCAC 02Q .0306, *Permits Requiring Public Participation*.

2. Adoptions of the Rules to 15A NCAC 02D Rules -

.0961, *Offset Lithographic Printing and Letterpress Printing*; .0962, *Industrial Cleaning Solvents*; .0963, *Fiberglass Boat Manufacturing*; .0964, *Miscellaneous Industrial Adhesives*; .0965, *Flexible Package Printing*; .0966, *Paper, Film and Foil Coatings*; .0967, *Miscellaneous Metal and Plastic Parts Coatings*; .0968, *Automobile and Light-Duty Truck Assembly Coatings*.

3. Repeals of the current 15A NCAC 02D Rules -

.0917, *Automobile and Light-duty Truck Manufacturing*; .0921, *Fabric and Vinyl Coating*; .0920, *Paper Coating*; .0934, *Coating of Miscellaneous Metal Parts and Products*; and .0936, *Graphic Arts*.

Procedure by which a person can object to the agency on a proposed rule: Mail a letter including your specific reasons to: Mr. Michael Abraczinskas, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1641.

Comments may be submitted to: Michael Abraczinskas, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1641, phone (919)715-3473, fax (919)715-7476, email Michael.abraczinskas@ncdenr.gov

Comment period ends: April 30, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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: A copy of the fiscal note can be obtained from the agency.

- ☐ **State**
- ☒ **Local – 15A NCAC 02D .0530-.0531**
- ☐ **Substantial Economic Impact (≥\$3,000,000)**
- ☒ **None – 15A NCAC 02D, .0902, .0909, .0917, .0920-.0921, .0922, .0923, .0935, .0934, .0936, .0951-.0952, .0961-.0968; 02Q .0306**

Fiscal Note posted at
http://www.osbm.state.nc.us/pdf_files/DENR110609.pdf

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

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

**SUBCHAPTER 02D - AIR POLLUTION CONTROL
 REQUIREMENTS**

SECTION .0500 - EMISSION CONTROL STANDARDS

**15A NCAC 02D .0530 PREVENTION OF SIGNIFICANT
 DETERIORATION**

(a) The purpose of the Rule is to implement a program for the prevention of significant deterioration of air quality as required by 40 CFR 51.166.

(b) For the purposes of this Rule the definitions contained in 40 CFR 51.166(b) and 40 CFR 51.301 shall apply except the definition of "baseline actual emissions."

(1) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated new source review (NSR) pollutant, as determined in accordance with Parts (A) through (C) of this Subparagraph:

(A) For an existing emissions unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Division for a permit required under this Rule. The Director shall allow a different time period, not to exceed 10 years immediately preceding the date that a complete permit application is received by the Division, if the owner or operator demonstrates that it is more representative of normal source operation. For the purpose of determining baseline actual emissions, the following shall apply:

- (i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
- (ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was

operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) For an existing emission unit (other than an electric utility steam generating unit), the average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply. However, if the State has taken credit in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) for an emission limitation that is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under part 63 of the Code of Federal Regulations, the baseline actual emissions shall be adjusted to account for such emission reductions.

(iv) For an electric utility steam generating unit, the average rate shall be adjusted downward to reflect any emissions reductions under G. S. 143-215.107D and for which cost recovery is sought pursuant to G. S. 62-133.6.

(v) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period for each regulated NSR pollutant can be used for each regulated NSR pollutant.

(vi) The average rate shall not be based on any consecutive 24-month period for which there is inadequate

information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subparts (ii) and (iii) of this Part.

(B) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(C) For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing emissions units in accordance with the procedures contained in Part (A) of this Subparagraph, and for a new emissions unit in accordance with the procedures contained in Part (B) of this Subparagraph.

(2) In the definition of "net emissions increase," the reasonable period specified in 40 CFR 51.166(b)(3)(ii) shall be seven years.

(3) The limitation specified in 40 CFR 51.166(b)(15)(ii) shall not apply.

(c) All areas of the State shall be classified as Class II except that the following areas are Class I:

- (1) Great Smoky Mountains National Park;
- (2) Joyce Kilmer Slickrock National Wilderness Area;
- (3) Linville Gorge National Wilderness Area;
- (4) Shining Rock National Wilderness Area;
- (5) Swanquarter National Wilderness Area.

(d) Redesignations of areas to Class I or II may be submitted as state proposals to the Administrator of the Environmental Protection Agency (EPA), if the requirements of 40 CFR 51.166(g)(2) are met. Areas may be proposed to be redesignated as Class III, if the requirements of 40 CFR 51.166(g)(3) are met. Redesignations may not, however, be proposed which would violate the restrictions of 40 CFR 51.166(e). Lands within the boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body.

(e) In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the values set forth in 40 CFR 51.166(c). However, concentration of the pollutant shall not exceed standards set forth in 40 CFR 51.166(d).

(f) Concentrations attributable to the conditions described in 40 CFR 51.166(f)(1) shall be excluded in determining compliance with a maximum allowable increase. However, the exclusions referred to in 40 CFR 51.166(f)(1)(i) or (ii) shall be limited to five years as described in 40 CFR 51.166(f)(2).

(g) Major stationary sources and major modifications shall comply with the requirements contained in 40 CFR 51.166(i) and (a)(7) and by extension in 40 CFR 51.166(j) through (o) and

(w). The transition provisions allowed by 40 CFR 52.21 (i)(11)(i) and (ii) and (m)(1)(vii) and (viii) are hereby adopted under this Rule. The minimum requirements described in the portions of 40 CFR 51.166 referenced in this Paragraph are hereby adopted as the requirements to be used under this Rule, except as otherwise provided in this Rule. Wherever the language of the portions of 40 CFR 51.166 referenced in this Paragraph speaks of the "plan," the requirements described therein shall apply to the source to which they pertain, except as otherwise provided in this Rule. Whenever the portions of 40 CFR 51.166 referenced in this Paragraph provide that the State plan may exempt or not apply certain requirements in certain circumstances, those exemptions and provisions of nonapplicability are also hereby adopted under this Rule. However, this provision shall not be interpreted so as to limit information that may be requested from the owner or operator by the Director as specified in 40 CFR 51.166(n)(2).

(h) New natural gas-fired electrical utility generating units for which cost recovery is sought pursuant to G.S. 62-133.6 shall install best available control technology for NO_x and SO₂, regardless of applicability of the rest of this Rule.

(i) 40 CFR 51.166(w)(10)(iv)(a) is changed to read: "If the emissions level calculated in accordance with Paragraph (w)(6) of this Section is equal to or greater than 80 percent of the PAL [plant wide applicability limit] level, the Director shall renew the PAL at the same level." 40 CFR 51.166(w)(10)(iv)(b) is not incorporated by reference.

(j) 15A NCAC 02Q .0102 and .0302 are not applicable to any source to which this Rule applies. The owner or operator of the sources to which this Rule applies shall apply for and receive a permit as required in 15A NCAC 02Q .0300 or .0500.

(k) When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of this Rule shall apply to the source or modification as though construction had not yet begun on the source or modification.

(l) The provisions of 40 CFR 52.21(r)(2) regarding the period of validity of approval to construct are incorporated by reference except that the term "Administrator" is replaced with "Director".

(m) Volatile organic compounds exempted from coverage in 40 CFR 51.100(s) shall also be exempted when calculating source applicability and control requirements under this Rule.

(n) The degree of emission limitation required for control of any air pollutant under this Rule shall not be affected in any manner by:

- (1) that amount of a stack height, not in existence before December 31, 1970, that exceeds good engineering practice; or
- (2) any other dispersion technique not implemented before then.

(o) A substitution or modification of a model as provided for in 40 CFR 51.166(l) shall be subject to public comment procedures in accordance with the requirements of 40 CFR 51.102.

(p) Permits may be issued on the basis of innovative control technology as set forth in 40 CFR 51.166(s)(1) if the requirements of 40 CFR 51.166(s)(2) have been met, subject to

the condition of 40 CFR 51.166(s)(3), and with the allowance set forth in 40 CFR 51.166(s)(4).

(q) If a source to which this Rule applies impacts an area designated Class I by requirements of 40 CFR 51.166(e), notice to EPA will be provided as set forth in 40 CFR 51.166(p)(1). If the Federal Land Manager presents a demonstration described in 40 CFR 51.166(p)(3) during the public comment period or public hearing to the Director and if the Director concurs with this demonstration, the permit application shall be denied. Permits may be issued on the basis that the requirements for variances as set forth in 40 CFR 51.166(p)(4), (p)(5) and (p)(7), or (p)(6) and (p)(7) have been satisfied.

(r) A permit application subject to this Rule shall be processed in accordance with the procedures and requirements of 40 CFR 51.166(q). Within 30 days of receipt of the application, applicants shall be notified if the application is complete as to initial information submitted. Commencement of construction before full prevention of significant deterioration approval is obtained constitutes a violation of this Rule.

(s) Approval of an application with regard to the requirements of this Rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of other rules of this Subchapter or Subchapter 02Q of this Title and any other requirements under local, state, or federal law.

(t) When a source or modification subject to this Rule may affect the visibility of a Class I area named in Paragraph (c) of this Rule, the following procedures shall apply:

- (1) The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application or within 30 days of receiving advance notification of an application. The notification shall be at least 30 days prior to the publication of notice for public comment on the application. The notification shall include a copy of all information relevant to the permit application including an analysis provided by the source of the potential impact of the proposed source on visibility.
- (2) The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of notification. If the Director finds that the analysis of the Federal Land Manager fails to demonstrate to his satisfaction that an adverse impact on visibility will result in the Class I area, the Director shall provide in the notice of public hearing on the application, an explanation of his decision or notice as to where the explanation can be obtained.
- (3) The Director may require monitoring of visibility in or around any Class I area by the proposed new source or modification when the visibility impact analysis indicates possible visibility impairment.

(u) If the owner or operator of a source is using projected actual emissions to avoid applicability of prevention of significant deterioration requirements, the owner or operator shall notify the

Director of the modification before beginning actual construction. The notification shall include:

- (1) a description of the project,
- (2) identification of sources whose emissions could be affected by the project,
- (3) the calculated projected actual emissions and an explanation of how the projected actual emissions were calculated, including identification of emissions excluded by 40 CFR 51.166(b)(40)(ii)(c),
- (4) the calculated baseline actual emissions and an explanation of how the baseline actual emissions were calculated, and
- (5) any netting calculations if applicable.

If upon reviewing the notification, the Director finds that the project will cause a prevention of significant deterioration evaluation, then the Director shall notify the owner or operator of his findings. The owner or operator shall not make the modification until it has received a permit issued pursuant to this Rule. If a permit revision is not required pursuant to this rule, the owner or operator shall maintain records of annual emissions in tons per year, on a calendar year basis related to the modifications for 10 years following resumption of regular operations after the change if the project involves increasing the emissions unit's design capacity or its potential to emit the regulated NSR pollutant; otherwise these records shall be maintained for five years following resumption of regular operations after the change. The owner or operator shall submit a report to the director within 60 days after the end of each year during which these records must be generated. The report shall contain the items listed in 40 CFR 51.166(r)(6)(v)(a) through (c). The owner or operator shall make the information documented and maintained under this Paragraph available to the Director or the general public pursuant to the requirements in 40 CFR 70.4(b)(3)(viii).

(v) The reference to the Code of Federal Regulations (CFR) in this Rule are incorporated by reference unless a specific reference states otherwise. The version of the Code of Federal Regulations incorporated in this Rule is that as of June 13, 2007. ~~2007 except those provisions noticed as stayed in 69 FR 40274, and does not include any subsequent amendments or editions to the referenced material.~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(5); 143-215.107(a)(7); 143-215.108(b); 150B-21.6.

15A NCAC 02D .0531 SOURCES IN NONATTAINMENT AREAS

(a) For the purpose of this Rule the definitions contained in 40 CFR 51.165(a)(1) and 40 CFR 51.301 shall apply except the definition of "baseline actual emissions."

- (1) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated new source review (NSR) pollutant, as determined in accordance with Parts (A) through (C) of this Subparagraph:
 - (A) For an existing emissions unit, baseline actual emissions means the average rate, in tons per year, at

which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Division for a permit required under this Rule. The Director shall allow a different time period, not to exceed 10 years immediately preceding the date that a complete permit application is received by the Division, if the owner or operator demonstrates that it is more representative of normal source operation. For the purpose of determining baseline actual emissions, the following shall apply:

- (i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
- (ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
- (iii) For an existing emission unit (other than an electric utility steam generating unit), the average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply. However, if the State has taken credit in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) for an emission limitation that is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under part 63 of the Code of Federal Regulations, the baseline

actual emissions shall be adjusted to account for such emission reductions.

- (iv) For an electric utility steam generating unit, the average rate shall be adjusted downward to reflect any emissions reductions under G.S. 143-215.107D and for which cost recovery is sought pursuant to G.S. 62-133.6.

- (v) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period for each regulated NSR pollutant.

- (vi) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subparts (ii) and (iii) of this Part.

- (B) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

- (C) For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing emissions units in accordance with the procedures contained in Part (A) of this Subparagraph, and for a new emissions unit in accordance with the procedures contained in Part (B) of this Subparagraph.

- (2) In the definition of "net emissions increase," the reasonable period specified in 40 CFR 51.165(a)(1)(vi)(C)(1) shall be seven years.

- (b) Redesignation to Attainment. If any county or part of a county to which this Rule applies is later designated in 40 CFR 81.334 as attainment ~~for ozone or carbon monoxide~~, all sources

in that county subject to this Rule before the redesignation date shall continue to comply with this Rule.

(c) Applicability. 40 CFR 51.165(a)(2) is incorporated by reference. This Rule applies to areas designated as nonattainment in 40 CFR 81.334, including any subsequent amendments or editions, the following areas:

~~(1) Ozone Nonattainment Areas, to major stationary sources and major modifications of sources of volatile organic compounds or nitrogen oxides for which construction commences after the area in which the source is located is designated according to Part (A) or (B) of this Subparagraph:~~

~~(A) areas designated in 40 CFR 81.334 as nonattainment for ozone, or~~

~~(B) any of the following areas and in that area only when the Director notices in the North Carolina Register that the area is in violation of the ambient air quality standard for ozone:~~

~~(i) Charlotte/Gastonia, consisting of Mecklenburg and Gaston Counties; with the exception allowed under Paragraph (1) of this Rule;~~

~~(ii) Greensboro/Winston-Salem/High Point, consisting of Davidson, Forsyth, and Guilford Counties and that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River; or~~

~~(iii) Raleigh/Durham, consisting of Durham and Wake Counties and Dutchville Township in Granville County.~~

~~Violations of the ambient air quality standard for ozone shall be determined according to 40 CFR 50.9.~~

~~(2) Carbon Monoxide Nonattainment Areas. This Rule applies to major stationary sources and major modifications of sources of carbon monoxide located in areas designated in 40 CFR 81.334 as nonattainment for carbon monoxide and for which construction commences after the area in which the source is located is listed in 40 CFR 81.334 as nonattainment for carbon monoxide.~~

(d) This Rule is not applicable to:

(1) complex sources of air pollution regulated only under Section .0800 of this Subchapter and not under any other rule in this Subchapter;

(2) emission of pollutants at the new major stationary source or major modification located in the nonattainment area that are pollutants other than the pollutant or pollutants for which the area is nonattainment. (A major stationary source or major modification that is major for volatile organic compounds or nitrogen oxides is also major for ozone.);

(3) emission of pollutants for which the source or modification is not major;

(4) a new source or modification that qualifies for exemption under the provision of 40 CFR 51.165(a)(4); or

(5) emission of compounds listed under 40 CFR 51.100(s) as having been determined to have negligible photochemical reactivity except carbon monoxide.

(e) 15A NCAC 02Q .0102 and .0302 are not applicable to any source to which this Rule applies. The owner or operator of the source shall apply for and receive a permit as required in 15A NCAC 02Q .0300 or .0500.

(f) To issue a permit to a source to which this Rule applies, the Director shall determine that the source meets the following requirements:

(1) The new major stationary source or major modification will emit the nonattainment pollutant at a rate no more than the lowest achievable emission rate;

(2) The owner or operator of the proposed new major stationary source or major modification has demonstrated that all major stationary sources in the State that are owned or operated by this person (or any entity controlling, controlled by, or under common control with this person) are subject to emission limitations and are in compliance, or on a schedule for compliance that is federally enforceable or contained in a court decree, with all applicable emission limitations and standards of this Subchapter that EPA has authority to approve as elements of the North Carolina State Implementation Plan for Air Quality;

(3) The owner or operator of the proposed new major stationary source or major modification will obtain sufficient emission reductions of the nonattainment pollutant from other sources in the nonattainment area so that the emissions from the new major source and associated new minor sources will be less than the emissions reductions by a ratio of at least 1.00 to 1.15 for volatile organic compounds and nitrogen oxides and by a ratio of less than one to one for carbon monoxide. The baseline for this emission offset shall be the actual emissions of the source from which offset credit is obtained. Emission reductions shall not include any reductions resulting from compliance (or scheduled compliance) with applicable rules in effect before the application. The difference

between the emissions from the new major source and associated new minor sources of carbon monoxide and the emission reductions shall be sufficient to represent reasonable further progress toward attaining the National Ambient Air Quality Standards. The emissions reduction credits shall also conform to the provisions of 40 CFR 51.165(a)(3)(ii)(A) through (G) and (J); and

- (4) The North Carolina State Implementation Plan for Air Quality is being carried out for the nonattainment area in which the proposed source is located.

(g) New natural gas-fired electrical utility generating units for which cost recovery is sought pursuant to G.S. 62-133.6 shall install lowest achievable emission rate technology for NO_x and SO₂, regardless of the applicability of the rest of this Rule.

(h) 40 CFR 51.165(f) is incorporated by reference except that 40 CFR 51.165(f)(10)(iv)(A) is changed to read: "If the emissions level calculated in accordance with Paragraph (f)(6) of this Section is equal to or greater than 80 percent of the PAL level, the Director shall renew the PAL at the same level." 40 CFR 51.165(f)(10)(iv)(B) is not incorporated by reference.

(i) When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of this Rule shall apply to the source or modification as though construction had not yet begun on the source or modification.

(j) To issue a permit to a source of a nonattainment pollutant, the Director shall determine, in addition to the other requirements of this Rule, that an analysis (produced by the permit applicant) of alternative sites, sizes, production processes, and environmental control techniques for the source demonstrates that the benefits of the source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(k) The provisions of 40 CFR 52.21(r)(2) regarding the period of validity of approval to construct are incorporated by reference except that the term "Administrator" is replaced with "Director".

(l) Approval of an application regarding the requirements of this Rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of other rules of this Chapter and any other requirements under local, state, or federal law.

(m) When a source or modification subject to this Rule may affect the visibility of a Class I area named in Paragraph (c) of Rule .0530 of this Section, the following procedures shall be followed:

- (1) The owner or operator of the source shall provide an analysis of the impairment to visibility that would occur because of the source or modification and general commercial, industrial and other growth associated with the source or modification;
- (2) The Director shall provide written notification to all affected Federal Land Managers within

30 days of receiving the permit application or within 30 days of receiving advance notification of an application. The notification shall be at least 30 days before the publication of the notice for public comment on the application. The notification shall include a copy of all information relevant to the permit application including an analysis provided by the source of the potential impact of the proposed source on visibility;

- (3) The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of notification. If the Director finds that the analysis of the Federal Land Manager fails to demonstrate to his satisfaction that an adverse impact on visibility will result in the Class I area, the Director shall provide in the notice of public hearing on the application, an explanation of his decision or notice where the explanation can be obtained;

- (4) The Director shall issue permits only to those sources whose emissions will be consistent with making reasonable progress toward the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory Class I areas when the impairment results from manmade air pollution. In making the decision to issue a permit, the Director shall consider the cost of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source; and

- (5) The Director may require monitoring of visibility in or around any Class I area by the proposed new source or modification when the visibility impact analysis indicates possible visibility impairment.

The requirements of this Paragraph shall not apply to nonprofit health or nonprofit educational institutions.

~~(n) Paragraphs (f) and (j) of this Rule shall not apply to a new major stationary source or a major modification of a source of volatile organic compounds or nitrogen oxides for which construction commences after the area in which the source is located has been designated according to Part (e)(1)(B) of this Rule and before the area is designated in 40 CFR 81.334 as nonattainment for ozone if the owner or operator of the source demonstrates, using the Urban Airshed Model (UAM), that the new source or modification will not contribute to or cause a violation. The model used shall be that maintained by the Division. The Division shall run the model only after the permit application has been submitted. The permit application shall be incomplete until the modeling analysis is completed. The owner or operator of the source shall apply such degree of control and obtain such offsets necessary to demonstrate the new source or modified source will not cause or contribute to a violation.~~

~~(o)(n)~~ If the owner or operator of a source is using projected actual emissions to avoid applicability of nonattainment new

source review, the owner or operator shall notify the director of the modification before beginning actual construction. The notification shall include:

- (1) a description of the project,
- (2) identification of sources whose emissions could be affected by the project,
- (3) the calculated projected actual emissions and an explanation of how the projected actual emissions were calculated, including identification of emissions excluded by 40 CFR 51.165(a)(1)(xxviii)(B)(3),
- (4) the calculated baseline actual emissions and an explanation of how the baseline actual emissions were calculated, and
- (5) any netting calculations if applicable.

If upon reviewing the notification, the Director finds that the project will cause a nonattainment new source review evaluation, then the Director shall notify the owner or operator of his findings. The owner or operator shall not make the modification until it has received a permit issued pursuant to this Rule. If a permit revision is not required pursuant to this Rule, the owner or operator shall maintain records of annual emissions in tons per year on a calendar year basis related to the modifications for 10 years following resumption of regular operations after the change if the project involves increasing the emissions unit's design capacity or its potential to emit the regulated NSR pollutant; otherwise these records shall be maintained for five years following resumption of regular operations after the change. The owner or operator shall submit a report to the director within 60 days after the end of each year during which these records must be generated. The report shall contain the items listed in 40 CFR 51.165(a)(6)(v)(A) through (C). The owner or operator shall make the information documented and maintained under this Paragraph available to the Director or the general public pursuant to the requirements in 40 CFR 70.4(b)(3)(viii).

~~(p)(o)~~ The references to the Code of Federal Regulations (CFR) in this Rule are incorporated by reference unless a specific reference states otherwise. Except for 40 CFR 81.334, the version of the Code of Federal Regulations incorporated in this Rule is that as of June 13, 2007. ~~2007, those provisions noticed as stayed in 69 FR 40274, and does not include any subsequent amendments or editions to the referenced material.~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.108(b).

SECTION .0900 - VOLATILE ORGANIC COMPOUNDS

15A NCAC 02D .0902 APPLICABILITY

(a) The rules in this Section do not apply except as specifically set out in this Rule.

(b) This Section applies to sources that emit greater than or equal to 15 pounds of volatile organic compounds per day.

(c) Rules .0925, .0926, .0927, .0928, .0931, .0932, .0933, and .0958 of this Section apply regardless of the level of emissions of volatile organic compounds.

~~(b)(d)~~ 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)(1)~~ sources whose emissions do not exceed that emit less than 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)(2)~~ 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.

~~(e)(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)(f) 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~~

~~(g) If any county or part of a county to which this Section applies is later designated in 40 CFR 81.334 as attainment, all sources in that county subject to this Section before the redesignation to attainment shall continue to comply with this Section.~~

~~(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.~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

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)~~ (f) 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 Paragraph (e) of Rule .0902(e) .0902 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)~~(f) 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)~~(f) 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)~~ (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)~~ (f) of Rule .0902 shall comply with all applicable rules in this Section upon start-up of the source.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0917 AUTOMOBILE AND LIGHT-DUTY TRUCK MANUFACTURING

- (a) For the purpose of this Rule, the following definitions apply:
- (1) ~~"Application area" means the area where the coating is applied by dipping or spraying.~~
 - (2) ~~"Manufacturing plant" means a facility where auto body parts are manufactured or finished for eventual inclusion into a finished product ready for sale to vehicle dealers. Customizers, body shops and other repainters are not part of this definition.~~
 - (3) ~~"Automobile" means all passenger cars or passenger car derivatives capable of seating 12 or fewer passengers.~~
 - (4) ~~"Light duty trucks" means any motor vehicles rated at 8,500 pounds gross weight or less which are designed primarily for purpose of transportation or are derivatives of such vehicles except automobiles.~~
- (b) ~~This Rule applies to the application area(s), flashoff area(s), and oven(s), of automotive and light duty truck manufacturing plants involved in prime, topcoat and final repair coating operations.~~
- (c) ~~With the exception stated in Paragraph (d) of this Rule, emissions of volatile organic compounds from any automotive or light duty truck manufacturing plant coating line subject to this Rule shall not exceed:~~

- (1) ~~1.4 pounds of volatile organic compounds per gallon of solids delivered to the applicator from prime application, flashoff area, and oven operations;~~
- (2) ~~4.5 pounds of volatile organic compounds per gallon of solids delivered to the applicator from topecoat and surface application, flashoff area, and oven operation;~~
- (3) ~~13.8 pounds of volatile organic compounds per gallon of solids delivered to the applicator from final repair application, flashoff area, and oven operation.~~

~~(d) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any automotive or light duty truck manufacturing plant coating line subject to this Rule shall not exceed:~~

- ~~(1) 1.2 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the applicator from prime application, flashoff area, and oven operations;~~
- ~~(2) 2.8 pounds of volatile organic compounds per gallon of coating, daily weighted average, excluding water and exempt compounds, delivered to the applicator from topecoat and surface application, flashoff area, and oven operation;~~
- ~~(3) 4.8 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the applicator from final repair application, flashoff area, and oven operation.~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0920 PAPER COATINGS

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Knife coating" means the application of a coating material to a substrate by means of drawing the substrate beneath a knife that spreads the coating evenly over the full width of the substrate.
- (2) "Paper coating" means decorative, protective, or functional coatings put on paper and pressure sensitive tapes regardless of substrate. The coatings shall be distributed uniformly across the web. Related web coating processes on plastic film and decorative coatings on metal foil are included in this definition. Saturation operations are included in this definition.

- (3) "Roll coating" means the application of a coating material to a substrate by means of hard rubber or steel rolls.
- (4) "Rotogravure coating" means the application of a coating material to a substrate by means of a roll coating technique in which the substance to be applied is temporarily retained in etchings on the coating roll. The coating material is picked up in these recessed areas and is transferred to the substrate.

(b) This Rule applies to roll, knife or rotogravure coater(s) and drying oven(s) of paper coating lines.

(c) With the exception stated in Paragraph (d) of this Rule, emissions of volatile organic compounds from any paper coating line subject to this Rule shall not exceed 4.8 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator from a paper coating line.

(d) Any source which has chosen to control emissions of volatile organic compounds under Rule .0518 (e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any paper coating line subject to this Rule shall not exceed 2.9 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from a paper coating line.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0921 FABRIC AND VINYL COATING

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Fabric coating" means applying protective or functional coatings to a textile substance with a knife, roll, rotogravure, rotary screen, or flat screen coater to impart properties that are not initially present, such as strength, stability, water or acid repellency, or appearance. Printing on textile fabric for decorative or other purposes is not part of this definition. Saturation operations are included in this definition.
- (2) "Knife coating" means the application of a coating material to a substrate by means of drawing the substrate beneath a knife which spreads the coating evenly over the full width of the substrate.
- (3) "Roll coating" means the application of a coating material to a substrate by means of hard rubber or steel rolls.
- (4) "Rotogravure coating" means the application of a coating material to a substrate by means of a roll coating technique in which the pattern to be applied is etched on the coating roll. The coating material is picked up in these recessed areas and is transferred to the substrate.

(5) ~~"Vinyl coating" means applying a functional, decorative, or protective topecoat, or printing on vinyl coated fabric or vinyl sheets.~~

(6) ~~"Rotary screen or flat screen coating" means the application of a coating material to a substrate by means of masking the surface and applying a color or finish using a screen either in flat form or rotary form.~~

(b) ~~This Rule applies to roll, knife, rotogravure, rotary screen, or flat screen coater(s) and drying oven(s) of fabric and vinyl coating lines.~~

(c) ~~With the exception stated in Paragraph (d) of this Rule, emissions of volatile organic compounds from any fabric coating line or vinyl coating line subject to this Rule shall not exceed:~~

(1) ~~4.8 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator from a fabric coating line;~~

(2) ~~7.9 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator from a vinyl coating line.~~

(d) ~~Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any fabric coating line or vinyl coating line subject to this Rule shall not exceed:~~

(1) ~~2.9 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from a fabric coating line;~~

(2) ~~3.8 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from a vinyl coating line.~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0922 METAL FURNITURE COATINGS

(a) For the purpose of this Rule, the following definitions apply:

(1) "Application area" means the area where the coating is applied by spraying, dipping, or flowcoating techniques.

(2) "Coating unit" means one or more coating areas and any associated drying area and/or oven wherein a coating is applied, dried, or cured.

(2)(3) "Metal furniture coating" coatings" means the surface coating of any furniture made of metal or any metal part which will be assembled with other metal, wood, fabric, plastic, or glass parts to form a furniture piece: paints, sealants, caulks, inks, adhesives, and maskants.

(b) This Rule applies to application area(s), flashoff area(s), and oven(s) of metal furniture coating lines involved in prime and topecoat or single coating operations: each metal furniture surface

coating unit source whose emissions of volatile organic compounds exceeds the threshold established in 15A NCAC 02D .0902(b).

(c) With the exception stated in Paragraph (d)(f) of this Rule, emissions of all volatile organic compounds from metal furniture coating line unit subject to this Rule shall not exceed: exceed 5.1 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator from prime and topecoat or single coat operations:

(1) 2.3 pounds of volatile organic compounds per gallon of coating excluding water and exempt compounds (3.3 pounds of volatile organic compounds per gallon of solids) delivered from general, one component or general, multi-component types of coating operations; and

(2) 3.0 pounds of volatile organic compounds per gallon of coating excluding water and exempt compounds (5.1 pounds of volatile organic compounds per gallon of solids) delivered from any other types of coating operations.

(d) ~~Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any metal furniture coating line subject to this Rule shall not exceed 3.0 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from prime and topecoat or single coat operations.~~

(d) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of coating materials used at metal furniture surface coating units unless the facility maintains records to document the volatile organic compounds content of coating materials from the manufacturer.

(e) Emissions limits established in Subparagraph (c)(2) of this Rule do not apply to stencil coatings, safety-indicating coatings, solid film lubricants, electric-insulating and thermal-conducting coatings, touch up and repair coatings, coating application utilizing hand- held aerosol cans, or cleaning operations.

(f) Any coating unit which has chosen to use add-on control for coating operations rather than the emission limits established in Paragraph (c) of this Rule shall install control equipment with an overall control efficiency of 90 percent or use a combination of coating and add-on control equipment on a coating unit to meet limits established in Paragraph (c) of this Rule.

(g) The owner or operator of any facility subject to this rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0923 SURFACE COATING OF LARGE APPLIANCE PARTS

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Application area" means the area where the coating is applied by spraying, dipping, or flow coating techniques.
- (2) ~~"Single coat" means a single film of coating applied directly to the metal substrate omitting the primer application.~~
- (2) "Coating unit" means a unit that consists of a series of one or more coating applicators and any associated drying area or oven where a coating is dried, or cured.
- (3) "Large appliances" appliance part" means doors, cases, lids, panels, and interior support parts of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, and other similar products; any organic surface-coated metal lid, door, casing, panel, or other interior or exterior metal part or accessory that is assembled to form a large appliance product.
- (4) "Large appliance product" means any organic surface-coated metal range, oven, microwave oven, refrigerator, freezer, washer, dryer, dishwasher, water heater, or trash compactor manufactured for household, commercial, or recreational use.

(b) This Rule applies to ~~application area(s), flashoff area(s), and oven(s) of large appliance coating lines involved in prime, single, or topecoat coating operations; each large appliance coating unit source whose volatile organic compounds emissions exceed the threshold established in 15A NCAC 02D .0902(b).~~

(c) This Rule does not apply to the use of quick drying lacquers for repair of scratches and nicks, which occur during assembly, if the volume of coating does not exceed one quart in any eight-hour period.

(d)(c) ~~With the exception stated in Paragraph (e) of this Rule, emissions of all volatile organic compounds from any large appliance coating line unit subject to this Rule shall not exceed; exceed 4.5 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator from prime, single, or topecoat coating operations.~~

- (1) 2.3 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds (3.3 pounds of volatile organic compounds per gallon of solids) delivered from general, one component coating or general, multi-component types of coating operations; and
- (2) 2.8 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds (4.5 pounds of volatile organic compounds per gallon of solids) delivered from any other types of coating operations.

(e) ~~Any source which has chosen to control emissions of volatile organic compounds under Rule .0518 (e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those~~

~~contained in Paragraph (d) of this Rule. Emissions of volatile organic compounds from any large appliance coating line subject to this Rule shall not exceed 2.8 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from prime, single, or topecoat any coating operations.~~

(d) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of coating materials used at surface coating of large appliances parts facilities unless the facility maintains records to document the volatile organic compounds content of coating materials from the manufacturer.

(e) Emissions limits established in Subparagraph (c)(2) of this Rule do not apply to stencil coatings, safety-indicating coatings, solid film lubricants, electric-insulating and thermal-conducting coatings, touch up and repair coatings, coating applications utilizing hand-held aerosol cans, or any cleaning material.

(f) Any coating unit which has chosen to use add-on controls for coating operations rather than the emission limits established in Paragraph (c) of this Rule shall install control equipment with an overall control efficiency of 90 percent or use a combination of coating and add-on control equipment on a coating unit to meet limits established in Paragraph (c) of this Rule.

(g) The owner or operator of any facility subject to this Rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0934 COATING OF MISCELLANEOUS METAL PARTS AND PRODUCTS

(a) For the purpose of this Rule, the following definitions apply:

- (1) ~~"Heat sensitive material" means materials that cannot be exposed to temperatures greater than 180°F to 200°F.~~
- (2) ~~"Air dried coating" means coatings which are dried by the use of air or a forced air drier.~~
- (3) ~~"Clear coat" means a coating which lacks color and opacity.~~
- (4) ~~"Extreme performance coatings" means coatings designed for harsh exposure or extreme environmental conditions.~~
- (5) ~~"Extreme environmental conditions" means exposure to:~~
 - (A) ~~the weather at all times;~~
 - (B) ~~temperatures consistently above 203°F;~~
 - (C) ~~detergents, scouring, solvents, or corrosive atmospheres; or~~
 - (D) ~~other similar environmental conditions.~~

(b) This Rule applies to application areas, flashoff areas, ovens and other processes that are used in the coating of metal parts and products of the following types of manufacturing plants:

- (1) ~~large farm machinery including harvesting, fertilizing and planting machines, tractors, combines, and other similar machines;~~

- (2) ~~small farm machinery including lawn and garden tractors, lawn mowers, rototillers, and other similar machines;~~
- (3) ~~small appliances including fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, and other similar machines;~~
- (4) ~~commercial machinery including computers and auxiliary equipment, typewriters, calculators, vending machines, and other similar machines;~~
- (5) ~~industrial machinery including pumps, compressors, conveyor components, fans, blowers, transformers, and other similar machines;~~
- (6) ~~fabricated metal products including metal covered doors, frames and other similar structures; and~~
- (7) ~~any other manufacturing plant that coats metal parts or products.~~

(e) ~~This Rule does not apply to:~~

- (1) ~~sources covered by Rules .0917, .0918, .0919, .0922, .0923, and .0924 of this Section;~~
- (2) ~~architectural and maintenance coating;~~
- (3) ~~coating of airplane exterior;~~
- (4) ~~automobile refinishing;~~
- (5) ~~customized coating of automobiles and trucks;~~
~~or~~
- (6) ~~exterior of marine vessels.~~

(d) ~~With the exception stated in Paragraph (e) of this Rule, emissions of volatile organic compounds from any coating line subject to this Rule shall not exceed:~~

- (1) ~~10.3 pounds of volatile organic compounds per gallon of solids delivered to a coating applicator that applies clear coatings;~~
- (2) ~~6.7 pounds of volatile organic compounds per gallon of solids delivered to a coating applicator in a coating application system that utilized air or forced air driers;~~
- (3) ~~6.7 pounds of volatile organic compounds per gallon of solids delivered to a coating applicator that applies extreme performance coatings;~~
- (4) ~~5.1 pounds of volatile organic compounds per gallon of solids delivered to a coating applicator that applies coatings of five or more color changes or of five or more colors or applies the coating that is the first coat on untreated ferrous substrate; or~~
- (5) ~~where there are less than five color changes and less than five colors are applied:~~
 - (A) ~~0.4 pounds of volatile organic compounds per gallon of solids delivered to a coating applicator that applies powder coatings; or~~
 - (B) ~~5.1 pounds of volatile organic compounds per gallon of solids delivered to a coating applicator for any other type of coating. Whenever more than one of the aforementioned~~

~~emission limitations may apply to a process, then the least stringent emission limitation shall apply to the process.~~

(e) ~~Any source which has chosen to control emissions of volatile organic compounds under Rule .0518(e) of this Subchapter and which has installed air pollution control equipment in accordance with an air quality permit in order to comply with this Rule before December 1, 1989, may comply with the limits contained in this Paragraph instead of those contained in Paragraph (d) of this Rule. Emissions of volatile organic compounds from any coating line subject to this Rule shall not exceed:~~

- (1) ~~4.3 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator that applies clear coatings;~~
- (2) ~~3.5 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator in a coating application system that utilized air or forced air driers;~~
- (3) ~~3.5 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator that applies extreme performance coatings;~~
- (4) ~~3.0 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator that applies coatings of five or more color changes or of five or more colors or applies the coating that is the first coat on untreated ferrous substrate; or~~
- (5) ~~where there are less than five color changes and less than five colors are applied:~~
 - (A) ~~0.4 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to a coating applicator that applies powder coatings; or~~
 - (B) ~~3.0 pounds of volatile organic compounds per gallon, excluding water and exempt solvents, delivered to a coating applicator for any other type of coating.~~

~~Whenever more than one of the aforementioned emission limitations may apply to a process, then the least stringent emission limitation shall apply to the process.~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0935 FACTORY SURFACE COATING OF FLAT WOOD PANELING

(a) For the purpose of this Rule, the following definitions apply:

- (1) ~~"Class II hardboard paneling finishes" means finishes which meet the specifications of Voluntary Product Standard PS 59 73 as~~

approved by the American National Standards Institute.

- (1) Flat wood paneling coatings means wood paneling product that are any interior, exterior or tileboard (class I hardboard) panel to which a protective, decorative, or functional material or layer has been applied.
- (2) "Hardboard" is a panel manufactured primarily from inter-felted lignocellulosic fibers which are consolidated under heat and pressure in a hot press.
- (3) "Hardwood plywood" means plywood whose surface layer is a veneer of hardwood.
- (4) "Natural finish hardwood plywood panel" means a panel whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.
- (5) "Particle board" means a manufactured board made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure. Thin particleboard has a thickness of one fourth inch or less.
- (6) "Printed panel" means a panel whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.
- (7)(2) "Tileboard" means paneling that has a colored waterproof surface coating a premium interior wall paneling product made of hardboard that is used in high moisture area of the home.

(b) This Rule applies to factory finishing of the following flat wood products: each flat wood paneling coatings source whose volatile organic compounds emissions exceed the threshold established in 15A NCAC 02D .0902(b) at the facilities with flat wood paneling coating applications for the following products:

- (1) printed decorative interior wall panels made of hardwood plywood and thin particleboard; panels made of hardwood, plywood, or thin particleboard;
- (2) natural finish hardwood plywood panels; and
- (2) exterior siding made of solid wood, hardboard, or waferboard; and
- (3) class II finishes of hardboard paneling.
- (3) tileboard made of hardboard.

(e) This Rule does not apply to the following factory finished flat wood products:

- (1) exterior siding;
- (2) tileboard;
- (3) particleboard used in cabinetry or furniture;
- (4) insulation board; or
- (5) softwood plywood.

~~(d)(c)~~ Emissions of volatile organic compounds from any factory finished flat wood product operation subject to this Rule shall not exceed: exceed 2.1 pounds of volatile organic compounds per gallon material excluding water and exempt compounds (2.9 pounds of volatile organic compounds per gallon solids.)

- (1) 6.0 pounds of volatile organic compounds per 1,000 square feet of coated finished product of printed interior wall panels made of hardwood plywood and thin particle board; or
- (2) 12.0 pounds of volatile organic compounds per 1,000 square feet of coated finished product of natural finish hardwood plywood panels; or
- (3) 10.0 pounds of volatile organic compounds per 1,000 square feet of coated finished product of class II finishes on hardboard paneling.

(d) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of coating materials used at surface coating of flat wood paneling facilities unless the facility maintains records to document the volatile organic compounds content of coating materials from the manufacturer.

(e) Any facility that meet definition of Paragraph (b) of this Rule and which has chosen to use add-on controls for flat wood paneling coating operation rather than the emission limits established in Paragraph (c) of this Rule shall install control equipment with an overall control efficiency of 90 percent or use a combination of coating and add-on control equipment on a flat wood paneling coating operation to meet limits established in Paragraph (c) of this Rule.

(f) The owner or operator of any facility subject to this rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0936 GRAPHIC ARTS

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which both the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastometric materials.
- (2) "Packaging rotogravure printing" means printing with a gravure press upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operation, formed into containers and labels for articles to be sold.
- (3) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.
- (4) "Publication rotogravure printing" means printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.
- (5) "Roll printing" means the application of words, designs and pictures to a substrate by means of hard rubber or steel rolls.

(b) This Rule applies to:

- ~~(1) flexographic printing, packaging rotogravure printing and publication rotogravure printing operations; or~~
- ~~(2) machines that have both coating units and printing units.~~

~~(e) This Rule does not apply to facilities where the potential emissions of volatile organic compounds is less than 100 tons per year.~~

~~(d) Emissions of volatile organic compounds from any printing press or drying oven of a printing operation subject to this Rule shall not be discharged into the atmosphere unless:~~

- ~~(1) The captured volatile organic compound emissions are reduced by at least 90 percent by an incineration system or 95 percent by a carbon adsorption system or any other control system; and:~~
 - ~~(A) For packaging rotogravure printing operations, at least 65 percent overall reduction of the volatile organic compound emissions is achieved;~~
 - ~~(B) For publication rotogravure printing operations at least 75 percent overall reduction of the volatile organic compound emissions is achieved; and~~
 - ~~(C) For flexographic printing operations, at least 60 percent overall reduction of the volatile organic compound emissions is achieved;~~
- ~~(2) The solvent portion of the ink, as it is applied on the substrate, consists of at least 75 percent water by volume and no more than 25 percent organic solvent by volume;~~
- ~~(3) The ink contains by volume at least 60 percent nonvolatile material;~~
- ~~(4) The printing system uses a combination of solvent borne and water borne ink such that at least a 70 percent by volume overall reduction in solvent usage is achieved when compared to all solvent borne ink usage; or~~
- ~~(5) The ink, including any solvents that may be added to it, contains no more than 0.5 pounds of volatile organic compounds per pound of solids in the ink; only flexographic printing and packaging rotogravure printing may use this option.~~

~~(e) When a facility complies with this Rule using the provision of Subparagraph (d)(4) of this Rule, the permit shall contain a condition stating the maximum quantity of solvent borne ink that each printing unit may use or that the facility as a whole may use.~~

~~(f) Equivalency calculations for emissions trading, cross line averaging, or determining compliance with add on control equipment shall be performed in units of pounds of volatile organic compounds per gallon of solids.~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0951 MISCELLANEOUS VOLATILE ORGANIC COMPOUND EMISSIONS

(a) With the exceptions in Paragraph (b) of this Rule, this Rule applies to all facilities that use volatile organic compounds as solvents, carriers, material processing media, or industrial chemical reactants, or in other similar uses, or that mix, blend, or manufacture volatile organic compounds for which there is no other applicable emissions control rule in this Section except Rule .0958 of this Section. If the only other applicable emissions control rule for the facility in this Section is Rule .0958, then both this Rule and Rule .0958 apply.

(b) This Rule does not apply to architectural or maintenance coating.

(c) The owner or operator of any facility to which this Rule applies shall:

- (1) install and operate reasonable available control technology; or
- (2) limit emissions of volatile organic compounds from coating lines not covered by Rules .0917 through .0922, .0923, .0924, .0934, or .0935 through .0936 or .0961 through .0968 from this Section to no more than 6.7 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator.

(d) If the owner or operator of a facility chooses to install reasonable available control technology under Subparagraph (c)(1) of this Rule, the owner or operator shall submit:

- (1) the name and location of the facility;
- (2) information identifying the source for which a reasonable available control technology limitation or standard is being proposed;
- (3) a demonstration that shows the proposed reasonable available control technology limitation or standard satisfies the requirements for reasonable available control technology; and
- (4) a proposal for demonstrating compliance with the proposed reasonable control technology limitation or standard.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

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)(b)~~ 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)(c)~~ 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)~~(d) 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)~~(e) 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.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0961 OFFSET LITHOGRAPHIC PRINTING AND LETTERPRESS PRINTING

(a) For the purpose of this Rule, the following definitions apply:

- (1) "First installation date" means the actual date when this control device becomes operational. This date does not change if the control device is later redirected to a new press
- (2) "Fountain solution" means water-based solution that applies to lithographic plate to render the non-image areas unreceptive to the ink.
- (3) "Letterpress printing" means a printing process in which the image area is raised relative to the non-image area and the paste ink is transferred to the substrate directly from the image surface.
- (4) "Offset lithography" means an indirect method of printing when ink transferred from the lithographic plate to a rubber-covered intermediate "blanket" cylinder and then transferred from the blanket cylinder to the substrate.
- (5) "Sheet-fed printing" means an indirect method of printing when ink transferred from the lithographic plate to a rubber-covered intermediate "blanket" cylinder and then transferred from the blanket cylinder to the substrate.
- (6) "Web printing" means printing when continuous rolls of substrate material are fed to the press and rewound or cut to size after printing.

(b) This Rule applies to any offset lithographic and any letterpress printing operations sources whose emissions of volatile organic compounds exceed the threshold established in 15A NCAC 02D .0902(b).

(c) Volatile organic compounds content in the fountain solution from on-press (as-applied) for heatset web offset lithographic printing shall not exceed 1.6 percent alcohol (by weight) in the fountain or equivalent. This level of control for volatile organic compounds shall be achieved by:

- (1) reducing the on-press (as-applied) alcohol content to 1.6 percent alcohol or less (by weight); or
- (2) use three percent alcohol or less (by weight) the on-press (as-applied) in the fountain solution if the fountain solution is refrigerated to below 60°F; or

- (3) use five percent alcohol substitute or less (by weight) the on-press (as-applied) and no alcohol in the in the fountain solution.

(d) Volatile organic compounds content in the fountain solution from on-press (as-applied) sheet-fed lithographic printing five percent alcohol (by weight) in the fountain or equivalent. This level of control for volatile organic compounds shall be achieved by:

- (1) reducing the on-press (as-applied) alcohol content to five percent alcohol or less (by weight); or
- (2) use 8.5 percent alcohol or less (by weight) the on-press (as-applied) in the fountain solution if the fountain solution is refrigerated to below 60°F; or
- (3) use five percent alcohol substitute or less (by weight) the on-press (as-applied) and no alcohol in the in the fountain solution.

(e) Volatile organic compounds content in the fountain solution from on-press (as-applied) coldset web offset lithographic printing shall not exceed five percent alcohol substitute or less (by weight) and no alcohol in the fountain solution.

(f) Emissions of volatile organic compounds from any single letterpress printing heatset press subject to this Rule shall not exceed 25 tons per year. This level of control shall be achieved by using petroleum ink oil with volatile organic compounds content 31.25 tons per year volatile organic compounds or less because of the 20 percent ink oil retention.

(g) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of coating materials used at offset lithographic printing and letterpress printing facilities unless the facility maintains records to document the volatile organic compounds content of coating materials from the manufacturer.

(h) Any single letterpress printing heatset dryer owner or operator subject to this Rule, who has chosen to use add-on control for letterpress printing operation rather than to comply with the emission limits established in Paragraph (f) of this Rule shall install control equipment with:

- (1) 90 percent control efficiency for a control device whose first installation date was prior to July 1, 2010; or
- (2) 95 percent control efficiency for a control device whose first installation date was on or after July 1, 2010.

(i) The control limits established in:

- (1) Paragraph (d) shall not be applied to sheet-fed presses with maximum sheet size 11x 17 inches or smaller, or to any press with total fountain solution reservoir of less than one gallon;
- (2) Paragraphs (d), (e), and (f) shall not be applied to sheet-fed or coldest web inks, sheet-fed or coldest web varnishes, waterborne coatings or radiation (ultra-violet light or electron beam) cured materials used on offset lithographic presses or letterpress presses;
- (3) Paragraph (c) and (d) shall not be applied to a press with a potential to emit below 25 tons

per year used for book printing, and presses with maximum web width of 22 inches or less; and

- (4) Paragraph (f) shall not be applied to a heatset press used for book printing, and a headset press with maximum web width of 22 inches or less.

(j) All cleaning materials used in amount more than 110 gallons per year for cleaning a press, press parts, or to remove dried ink from areas around the press shall contain less than 70 weight percent volatile organic compounds or have volatile organic compounds composite vapor pressure less than 10 mm Hg at 20°C.

(k) The owner or operator of any facility subject to this Rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0962 INDUSTRIAL CLEANING SOLVENTS

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Organic solvent" means a liquid hydrocarbon, such as methyl ethyl ketone or toluene, used to dissolve paints, varnishes, grease, oil, or other hydrocarbons.
- (2) "Solvent cleaning" means the process of removing the excess penetrant from the surface or a part by wiping, flushing, or spraying with a solvent for the penetrant.

(b) This Rule applies to sources whose volatile organic compound emissions exceed the threshold established in 15A NCAC 02D .0902(b) from the following cleaning operations:

- (1) spray gun cleaning;
- (2) spray booth cleaning;
- (3) large manufactured components cleaning;
- (4) parts cleaning;
- (5) equipment cleaning;
- (6) line cleaning;
- (7) floor cleaning;
- (8) tank cleaning; and
- (9) small manufactured components cleaning.

(c) Cleaning operations covered by Rules .0921, .0923, .0930, .0934, .0935, .0936, .0961, .0962, .0963, .0964, .0965, .0966, .0967, and .0968 of this Section are exempted from the requirements of this Rule.

(d) Any cleaning material of the nine cleaning operations listed in Paragraph (b) of this Rule shall have:

- (1) volatile organic compounds content that does not exceed 0.42 pounds per gallon; or
- (2) composite vapor limit of eight millimeters of mercury (mmHg) at 20 degrees Celsius.

(e) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of coating materials used in industrial cleaning solvents operations unless the facility maintains records to document the volatile organic compounds content of coating materials from the manufacturer.

(f) Facilities which have chosen to use add-on control rather than to comply with the emission limits established in Paragraph

(g) of this Rule shall install control equipment with 85 percent overall efficiency.

(h) The owner or operator of any facility subject to this Rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0963 FIBERGLASS BOAT MANUFACTURING MATERIALS

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Closed molding" means any fabrication techniques in which pressure is used to distribute the resin through the reinforcing fabric placed between two mold surfaces to either saturate the fabric or fill the mold cavity.
- (2) "Monomer" means a volatile organic compound that partly combines with itself, or other similar compounds, by a cross-linking reaction to become a part of the cured resin.
- (3) "Open molding" means the open mold which is first spray-coated with a clear or pigmented polyester resin known as a gel coat. The gel coat will become the outer surface of the finished part.

(b) This Rule applies to a facility that manufactures hulls or decks of boats and related parts, build molds to make fiberglass

boat hulls or decks and related parts from fiberglass, or make polyester resin putties for assembling fiberglass parts and whose volatile organic compounds emissions exceed the threshold established in 15A NCAC 02D .0902(b) from sources for the following operations:

- (1) open molding and gel coat operations (including pigmented gel coat, clear gel coat, production resin, tooling gel coat, and tooling resin);
- (2) resins and gel coat mixing operations; and
- (3) resins and gel coat application equipment cleaning operations.

(c) The following activities are exempted from the provisions of this Rule:

- (1) surface coatings applied to fiberglass boats;
- (2) surface coatings for fiberglass and metal recreational boats (pleasure craft); and
- (3) industrial adhesives used in the assembly of fiberglass boats.

(d) Volatile organic compounds content limits in resin and gel coat that are used for any molding operations listed in Paragraph (b) of this Rule and closed molding operations that do not meet the definition established in Subparagraph (a)(2) of this Rule, such as vacuum bagging operations, shall not exceed monomer volatile organic compounds limits established in Table 1:

Table 1 Organic Hazardous Air Pollutants Content Requirements for Open Molding Resin and Gel Coat Operations (40 CFR 63, Subpart VVVV.)

<u>Material</u>	<u>Application Method</u>	<u>Limit of Weighted-Average Monomer VOC Content (weight percent)</u>
<u>Production resin</u>	<u>Atomized (spray)</u>	<u>28</u>
<u>Production resin</u>	<u>Nonatomized</u>	<u>35</u>
<u>Pigmented gel coat</u>	<u>Any method</u>	<u>33</u>
<u>Clear gel coat</u>	<u>Any method</u>	<u>48</u>
<u>Tooling resin</u>	<u>Atomized</u>	<u>30</u>
<u>Tooling resin</u>	<u>Nonatomized</u>	<u>39</u>
<u>Tooling gel coat</u>	<u>Any method</u>	<u>40</u>

The average monomer volatile organic compounds contents listed in the Table 1 shall be determined by using Equation 1:

$$\sum_{i=1}^n (M_i \text{ VOC}_i)$$

Weighted Average Monomer VOC Content =

$$\frac{\sum_{i=1}^n (M_i)}{n}$$

Where: M_i = mass of open molding resin or gel coat i used in the past 12 month in an operation, megagrams.

VOC_i = monomer volatile organic compounds content, by weight percent, of open molding resin or gel coat i used in the past 12 month in an operation.

n = number of different open molding resins or gel coats used in the past 12 month in an operation.

(e) Molding monomer and non-monomer volatile organic compounds limits established in Paragraph (d) of this Rule shall not be applicable to:

- (1) production resins (including skin coat resins) that shall meet specifications for use in military vessels or shall be approved by the U.S. Coast Guard for the use in the construction of lifeboats, rescue boats, and other life saving appliances approved under 46 CFR subchapter Q, or the construction of small passenger vessels regulated by 46 CFR Subchapter T. Production resins that meet these criteria shall be applied with nonatomizing resin application equipment;
- (2) production and tooling resins, and pigmented, clear, and tooling gel coat used for part or mold repair and touch up. Total resin and gel coat materials that meet these criteria shall not exceed one percent by weight of all resin and gel coat used at a facility on a 12-month rolling-average basis; or
- (3) pure, 100-percent vinylester resin used for skin coats that shall be applied with nonatomizing resin application equipment and with the total amount of the resin materials not exceeding five percent by weight of all resin used at a factory on 12-month rolling-average basis.

(f) Any molding resin and gel coat operations listed in Paragraph (b) of this Rule, that a facility chooses to include into average emissions among different operations to meet numerical monomer volatile organic compounds emission rate limits rather than to comply with the emission limits established in Paragraph (d) of this Rule shall use:

- (1) Equation 2 to estimate a facility-specific monomer volatile organic compounds mass emission limit (12-month rolling average). Estimations of emissions average shall be determined on 12-month rolling average basis at the end of every month (12 times per year).

Equation 2:

$$\text{Monomer VOC Limit} = 46(M_R) + 159(M_{PG}) + 291(M_{CG}) + 54(M_{TR}) + 214(M_{TG})$$

Where:

Monomer VOC Limit = total allowable monomer volatile organic compounds that can be emitted from the open molding operations included in the average, kilograms per 12-month period.

M_R = mass of production resin used in the past 12 month excluding any materials that are exempt, megagrams.

M_{PG} = mass of pigmented gel coat used in the past 12 month, excluding any materials that are exempt, megagrams.

M_{CG} = mass of clear gel coat used in the past 12 month, excluding any materials that are exempt, megagrams

M_{TR} = mass of tooling resin coat used in the past 12 month, excluding any materials that are exempt, megagrams

M_{TG} = mass of tooling gel coat used in the past 12 month, excluding any materials that are exempt, megagrams

The numerical coefficients associated with each term on the right hand side of Equation 2 are the allowable monomer volatile organic compounds emission rate for that particular material in units of kilograms of VOC per megagrams of material used.

- (2) Equation 3 to demonstrate that the monomer volatile organic compounds emissions from the operations included in the average do not exceed the emission limit calculated using Equation 2 from Subparagraph (f)(1) of this Rule for the same 12-month period. This demonstration shall be conducted at the end of the first 12-month averaging period and at the end of every subsequent month for only those operations and materials that included in the average.

Equation 3:

$$\text{Monomer VOC emissions} = (PV_R)(M_R) + (PV_{PG})(M_{PG}) + (PV_{CG})(M_{CG}) + (PV_{TR})(M_{TR}) + (PV_{TG})(M_{TG})$$

Where:

Monomer VOC emissions = monomer volatile organic compounds emissions calculated using the monomer volatile organic compounds emission equation for each operation included in the average, kilograms.

PV_R = weighted-average monomer volatile organic compounds emission rate for production resin used in the past 12 month, kilograms per megagram.

M_R = Mass of production resin used in the past 12 month, megagrams.

PV_{PG} = weighted-average monomer volatile organic compounds emission rate for pigmented gel coat used in the past 12 month, kilograms per megagram.

M_{PG} = mass of pigmented gel coat used in the past 12 month, megagrams.

PV_{CG} = weighted-average monomer volatile organic compounds emission rate for clear gel coat used in the past 12 month, kilograms per megagram.

M_{CG} = Mass of clear gel coat used in the past 12 month, megagrams.

PV_{TR} = Weighted-average monomer volatile organic compounds emission rate for tooling resin used in the past 12 month, kilograms per megagram.

M_{TR} = Mass of tooling resin used in the past 12 month, megagrams.

PV_{TG} = Weighted-average monomer volatile organic compounds emission rate for tooling gel coat used in the past 12 month, kilograms per megagram.

M_{TG} = Mass of tooling gel coat used in the past 12 month, megagrams.

(3) Equation 4 to compute the weighted-average monomer volatile organic compounds emission rate for the previous 12 month for each open molding resin and gel coat operation included in the average to apply the results in Equation 3.

Equation 4:

$$PV_{OP} = \frac{\sum_{i=1}^n (M_i PV_i)}{\sum_{i=1}^n (M_i)}$$

Where:

PV_{OP} = weighted-average monomer volatile organic compounds emission rate for each open molding operation (PV_R , PV_{PG} , PV_{CG} , PV_{TR} , and PV_{TG}) included in the average, kilograms of monomer volatile organic compounds per megagram of material applied.

M_i = mass or resin or gel coat i used within an operation in the past 12 month, megagrams.

n = number of different open molding resins and gel coats used within an operation in the past 12 month.

PV_i = the monomer volatile organic compounds emission rate for resin or gel coat i used within an operation in the past 12 month, kilograms of monomer volatile organic compounds per megagram of material applied.

Equations in Table 2 shall be used to compute PV

Table 2 Compliant Materials Monomer Volatile Organic Compounds Content for Open Molding Resin and Gel Coat.

<u>For this material</u>	<u>and this application method</u>	<u>Use this formula to calculate the monomer VOC emission rate</u>
<u>1. Production resin, tooling resin</u>	<u>a. Atomized</u>	<u>$0.014 \times (\text{Resin VOC}\%)^{2.425}$</u>
	<u>b. Atomized, plus vacuum bagging with roll-out</u>	<u>$0.01185 \times (\text{Resin VOC}\%)^{2.425}$</u>
	<u>c. Atomized, plus vacuum bagging without roll-out</u>	<u>$0.00945 \times (\text{Resin VOC}\%)^{2.425}$</u>
	<u>d. Nonatomized</u>	<u>$0.014 \times (\text{Resin VOC}\%)^{2.275}$</u>
	<u>e. Nonatomized, plus vacuum bagging with roll-out</u>	<u>$0.0110 \times (\text{Resin VOC}\%)^{2.275}$</u>
	<u>f. Nonatomized, plus vacuum bagging without roll-out</u>	<u>$0.0076 \times (\text{Resin VOC}\%)^{2.275}$</u>
<u>2. Pigmented gel coat, clear gel coat, tooling gel coat</u>	<u>All methods</u>	<u>$0.445 \times (\text{Gel coat VOC}\%)^{1.675}$</u>

(g) If any molding resin and gel coat operations listed in Paragraph (b) of this Rule, chooses to use of higher-monomer volatile organic compounds materials rather than to comply with the emission limits established in Paragraph (d) of this Rule it shall:

- (1) install control equipment to meet the emission limit determined by Equation 2 in Subparagraph (f)(1) of this Rule, applying the mass of each material used during the control device performance test in Equation 2 to determine the emission limit (in kilogram of monomer VOC) that is applicable during the test, instead of using the mass of each material as it established in Subparagraph (f)(1) of this Rule;
- (2) monitor and record relevant control device and capture system operating parameters during the control device performance test to use the recorded values to establish operating limits for those parameters;
- (3) monitor the operating parameters for the control device and emissions capture system and maintain the parameters within the established limits;

(h) Any molding resin and gel coat operations that use a filled production resin or filled tooling resin shall calculate the emission rate for the filled production resin or filled tooling resin on as applied basis using Equation 5. If the filled resin:

- (1) is used as a production resin than the value of PVF calculated by Equation 5 shall not exceed 46 kilograms of monomer VOC per megagram of filled resin applied;
- (2) is used as a tooling resin than the value of PVF calculated by Equation 5 shall not exceed 54 kilograms of monomer VOC per megagram of filled resin applied;
- (3) is included in the emissions averaging procedure than the facility use the value of PVF calculated by Equation 5 for the value PV_i in Equation 4 in Subparagraph (f)(3) of this Rule.

Equation 5:

$$PV_F = PV_U \times \frac{(100 - \% \text{Filler})}{100}$$

Where: PV_F = The as-applied monomer volatile organic compounds emission rate for the filled production resin or tooling resin, kilograms monomer VOC per megagram of filled material.

PV_U = The monomer volatile organic compounds emission rate for the neat (unfilled) resin before filler is added, as calculated using the formulas in Table 2. of Subparagraph (f)(3) of this Rule.

%Filler = The weight-percent of filler in the as-applied filled resin system.

(i) All resins and gel coats included in volatile organic compounds limits described in Paragraphs (d) through (h) shall meet non-monomer volatile organic compounds content limit of five percent.

(j) If the non-monomer volatile organic compounds content of a resin or gel coat exceeds five percent, then the excess non-monomer volatile organic compounds over five percent shall be counted toward the monomer volatile organic compounds content.

(k) SCAQMD Method 312-91, Determination of Percent Monomer in Polyester Resins, revised April 1996 shall be used to determine the monomer volatile organic compounds content of resin and gel coat materials unless the facility maintains records to document the volatile organic compounds content of resin and gel coat materials from the manufacturer.

(l) All resin and gel coat mixing containers with a capacity equal to or greater than 55 gallons, including those used for on-site mixing of putties and polyputties, shall have a cover with no visible gaps in place at all times except the following operations:

- (1) when material is being manually added to or removed from a container;
- (2) when mixing or pumping equipment is being placed or removed from a container.

(m) Volatile organic compounds cleaning solvents for routine application equipment cleaning shall contain no more than five percent volatile organic compounds by weight, or have a composite vapor pressure of no more than 0.50 mm Hg at 68 OF.

(n) Only non-volatile organic compounds solvents shall be used to remove cured resin and gel coat from application equipment.

(o) The owner or operator of any facility subject to this Rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0964 MISCELLANEOUS INDUSTRIAL ADHESIVES

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Air-assisted airless spray" means a system that consists of an airless spray gun with a compressed air jet at the gun tip to atomize the adhesive.
- (2) "Airless spray" means the application of an adhesive through an atomizing nozzle at high pressure (1,000 to 6,000 pounds per square inch) by a pump forces.
- (3) "Application process" means a process that consists of a series of one or more adhesive applicators and any associated drying area or oven where an adhesive is applied, dried and cured.
- (4) "Dip Coating" means application where substrates are dipped into a tank containing the adhesive. The substrates are then withdrawn from the tank and any excess adhesive is allowed to drain.

(5) "Electrocoating" means a specialized form of dip coating where opposite electric charges are applied to the waterborne adhesive and the substrate.

(6) "Electrostatic spray" means application where the adhesive and substrate are oppositely charged.

(7) "Flow coating" means conveying the substrate over an enclosed sink where the adhesive is applied at low pressure as the item passes under a series of nozzles.

(8) "HVLP" means a system with specialized nozzles that provide better air and fluid flow at lower air pressure, shape spray pattern, and guide high volumes of atomized adhesive particles to the substrate using lower air pressure (10 pounds per square inch or less at the spray cap).

(9) "Roll coating", "brush coating", and "hand application" means application of high viscosity adhesives onto small surface area.

(b) Control of volatile organic compounds emissions from miscellaneous industrial adhesives product categories covered

by Rules .0921, .0923, .0934, .0935, .0936, .0961, .0962, .0963, .0964, .0965, .0966, .0967, and .0968 of this Section are exempted from the requirements of this Rule.

(c) This Rule applies to miscellaneous industrial adhesive application sources whose volatile organic compounds emissions exceed the threshold established in 15A NCAC 02D .0902(b).

(d) With the exception established in Paragraph (b) of this Rule, all volatile organic compounds containing materials applied by each miscellaneous industrial adhesive application processes before control shall:

- (1) not exceed limits established in Table 1 of this Paragraph; and
- (2) be used in one of the following application methods in conjunction with using low volatile organic compounds adhesives or adhesive primers:
 - (A) electrostatic spray;
 - (B) HVLP spray;
 - (C) Flow coat;
 - (D) roll coat or hand application, including non-spray application methods similar to hand or mechanically powered caulking gun, brush, or direct hand application;

(E) Dip coat (including electrodesposition);

(F) Airless spray;

(G) Air-assisted airless spray; or

(H) Other adhesive application method capable of achieving a transfer efficiency equivalent to or better than that achieved by HVLP spraying.

(e) Emission limits established in Subparagraph (d)(1) of this Rule shall be:

- (1) met by averaging the volatile organic compounds content of materials used on a single application unit for each day; and
- (2) calculated as mass of volatile organic compounds per volume of adhesive primer excluding water and exempt compounds, as applied.

(f) If an adhesive is used to bond dissimilar substrates together in general adhesive application process (Table 1), then the applicable substrate category with the highest volatile organic compounds emission limit shall be established as the limit for such application.

Table 1. Volatile Organic Compounds Emission Limits for General and Specialty Adhesive Application Process.

General Adhesive Application Processes	Recommended VOC Emission Limit (lb/gal)
Reinforced Plastic Composite	1.7
Flexible vinyl	2.1
Metal	0.3
Porous Material (Except Wood)	1
Rubber	2.1
Wood	0.3
Other Substrates	2.1
Specialty Adhesive Application Processes	Recommended VOC Emission Limit (lb/gal)
Ceramic Tile Installation	1.1
Contact Adhesive	2.1
Cove Base Installation	1.3
Floor Covering Installation (Indoor)	1.3
Floor Covering Installation (Outdoor)	2.1
Floor Covering Installation (Perimeter Bonded Sheet Vinyl)	5.5
Metal to Urethane/Rubber Molding or Casting	7.1
Motor Vehicle Adhesive	2.1
Motor Vehicle Weatherstrip Adhesive	6.3
Multipurpose Construction	1.7
Plastic Solvent Welding (ABS)	3.3
Plastic Solvent Welding (Except ABS)	4.2
Sheet Rubber Lining Installation	7.1
Single-Ply Roof Membrane Installation/Repair (Except EPDM)	2.1
Structural Glazing	0.8
Thin Metal Laminating	6.5

<u>Tire Repair</u>	<u>0.8</u>
<u>Waterproof Resorcinol Glue</u>	<u>1.4</u>
<u>Adhesive Primer Application Processes</u>	<u>Recommended VOC Emission Limit¹ (lb/gal)</u>
<u>Motor Vehicle Glass Bonding Primer</u>	<u>7.5</u>
<u>Plastic Solvent Welding Adhesive Primer</u>	<u>5.4</u>
<u>Single-Ply Roof Membrane Adhesive Primer</u>	<u>2.1</u>
<u>Other Adhesive Primer</u>	<u>2.1</u>

(g) Any miscellaneous industrial adhesive application processes subject to this Rule, which chooses to use add-on control for adhesive application processes rather than to comply with the emission limits established in Paragraph (d) of this Rule, shall install control equipment with overall control efficiency of 85 percent or use a combination of adhesives and add-on control equipment on an application process to meet limits established in Paragraph (d) of this Rule.

(h) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of adhesives, other than reactive adhesives, and the procedure established in Appendix A of the NESHAP for surface coating of plastic parts (40 CFR Part 63, Subpart PPPP) shall be used to determine the volatile organic compounds content of reactive adhesives unless the facility maintains records to document the volatile organic compounds content of adhesives from the manufacturer.

(i) The owner or operator of any facility subject to this Rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0965 FLEXIBLE PACKAGE PRINTING

(a) For the purpose of this Rule, the following definitions apply:

- (1) "First installation date" means the actual date when the equipment or control device becomes operational. This date does not change if the equipment or control device is later moved to a new location.
- (2) "Flexible Packaging" means any package or part of a package the shape of which can be readily changed.
- (3) "Flexographic printing" means a printing process in which an image is raised above the printing plate, and the image carrier is made of rubber or other elastomeric materials.
- (4) "Rotogravure press" means an unwind or feed section, which may include more than one unwind or feed station (such as on a laminator), series of individual work stations, one or more of which is a rotogravure print station, any dryers associated with the work stations, and a rewind, stack, or collection section.
- (5) "Rotogravure printing" means a printing process in which an image (type and art) is etched or engraved below the surface of a plate or cylinder.

(b) This Rule applies to flexible packaging printing press sources whose emissions of volatile organic compounds exceed the threshold established in 15A NCAC 02D .0902(b).

(c) Volatile organic compounds content of materials used on any single flexible packaging printing press subject to this Rule shall not exceed 0.8 lb volatile organic compounds per one lb of solids applied, or 0.16 lb volatile organic compounds per one lb of materials applied limits that are consistent with 80 percent overall emissions reduction level and reflect similar control levels as the capture and control option.

(d) Any flexible packaging printing press which has chosen to use add-on control for coating operations rather than to comply with the emission limits established in Paragraph (c) of this Rule shall install control equipment with:

- (1) 65 percent overall control based on a capture efficiency of 75 percent and a control device efficiency of 90 percent for a press that was first installed prior to March 14, 1995 and that is controlled by an add-on control device whose first installation date prior to July 1, 2010; or
- (2) 70 percent overall control based on a capture efficiency of 75 percent and a control device efficiency of 95 percent for a press that was first installed prior to March 14, 1995 and that is controlled by an add-on control device whose first installation date was on or after July 1, 2010; or
- (3) 75 percent overall control based on a capture efficiency of 85 percent and a control device efficiency of 95 percent for a press that was first installed on or after March 14, 1995 and that is controlled by an add-on control device whose first installation date was prior July 1, 2010; or
- (4) 80 percent overall control based on a capture efficiency of 85 percent and a control device efficiency of 95 percent for a press that was first installed on or after March 14, 1995 and that is controlled by an add-on control device whose first installation date was on or after July 1, 2010.

(e) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of coating materials used at flexible package printing facilities unless the facility maintains records to document the volatile organic compounds content of coating materials from the manufacturer.

(f) The owner or operator of any facility subject to this Rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0966 PAPER, FILM AND FOIL COATINGS

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Paper, film, and foil coating line" means a series of coating applicators, flash-off areas, and any associated curing/drying equipment between one or more unwind/feed stations and one or more rewind/cutting stations.
- (2) "Fabric coating" means applying protective or functional coatings to a textile substance with a knife, roll, rotogravure, rotary screen, or flat screen coater to impart properties that are not initially present, such as strength, stability, water or acid repellency, or appearance. Printing on textile fabric for decorative or other purposes is not part of this definition. Saturation operations are included in this definition.
- (3) "Flexographic coating" means that the area to be coated is delineated by a raised surface on a flexible plate.
- (4) "Rotary screen or flat screen coating" means the application of a coating material to a substrate by means of masking the surface and applying a color or finish using a screen either in flat form or rotary form.
- (5) "Rotogravure coating" means the application of a coating material to a substrate by means of a roll coating technique in which the pattern to be applied is etched on the coating roll. The coating material is picked up in these recessed areas and is transferred to the substrate.

(b) With the exception in Paragraph (c) of this Rule, this Rule applies to paper, film and foil surface coating operations sources, including related cleaning activity, whose emissions of volatile organic compounds exceed the threshold established in 15A NCAC 02D .0902(b), at the facility that applies:

- (1) paper, film, or foil surfaces in the manufacturing of products for pressure sensitive tape and labels (including fabric coated for use in pressure sensitive tapes and labels; photographic film; industrial and decorative laminates; abrasive products (including fabric coated for use in abrasive products) and flexible packaging (including coating of non-woven polymer substrates for use in flexible packaging); and
- (2) coatings during miscellaneous coating applications for production of corrugated and solid fiber boxes; die-cut paper paperboard, and cardboard; converted paper and paperboard not elsewhere classified; folding paperboard boxes, including sanitary boxes; manifold business forms and related products;

plastic aseptic packaging; and carbon paper and inked ribbons.

(c) The following types of coatings are not covered by this Rule:

- (1) coatings performed on or in-line with any offset lithographic, screen, letterpress, flexographic, rotogravure, or digital printing press; or
- (2) size presses and on machine coaters that function as part of an in- line papermaking system.

(d) With the exception stated in Paragraph (c) of this Rule, emissions of volatile organic compounds from:

- (1) pressure sensitive tape and label surface paper, film, and foils with the potential to emit, prior to controls, less than 25 tons per year of volatile organic compounds from coatings shall not exceed 0.20 pounds volatile organic compounds per pound of solids applied (0.067 pounds volatile organic compounds per pound of coating);
- (2) paper, film, and foil surface coating lines with the potential to emit, prior to controls less than 25 tons per year of volatile organic compounds from coatings shall not exceed 0.40 pounds of volatile organic compounds per pound of solids(0.08 pounds volatile organic compounds per pound of coating).

(e) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of coating materials used at paper, film and foil coatings facilities unless the facility maintains records to document the volatile organic compounds content of coating materials from the manufacturer.

(f) Any individual paper, film, and foil with the potential to emit, prior to controls, at least 25 tons per year of volatile organic compounds from coatings shall apply control with overall volatile organic compounds efficiency of 90 percent rather than the emission limits established in Paragraph (d) of this Rule or use a combination of coating and add-on control equipment on a coating unit to meet limits that are equivalent to 90 percent overall control efficiency.

(g) The owner or operator of any facility subject to this Rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0967 MISCELLANEOUS METAL AND PLASTIC PARTS COATINGS

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Air dried coating" means coatings which are dried by the use of air or a forced air drier.
- (2) "Coating unit" means series one or more coating applicators and any associated drying area and oven wherein a coating is applied, dried, and cured.

(b) This Rule applies to miscellaneous metal and plastic parts surface coating units whose volatile organic compounds emissions exceed the threshold established in 15A NCAC 02D

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.0902(b) for coating and related cleaning activities of the following types of products:

- (1) fabricated metal products, molded plastic parts, small and large farm machinery, commercial and industrial machinery and equipment;
- (2) automotive or transportation equipment, interior or exterior automotive parts, construction equipment, motor vehicle accessories, bicycles and sporting goods;
- (3) toys, recreational vehicles, pleasure craft (recreational boats), extruded aluminum structural components, railroad cars, heavier vehicles, lawn and garden equipment;
- (4) business machines, laboratory and medical equipment; and

- (5) electronic equipment, steel drums metal pipes, and numerous other industrial and household products.

(c) This Rule does not apply to:

- (1) coatings that are applied to test panels and coupons as part of research and development, quality control;
- (2) performance testing activities at paint research or manufacturing facility; or
- (3) sources covered by Rules .0921, .0922, .0923, .0935, .0936, .0961 .0962, .0963, .0964, .0965, .0966, .0967, and .0968 of this Section.

(d) With the exception stated in Paragraph (c) of this Rule, emissions of volatile organic compounds before control for surface coating of:

- (1) Metal parts and products shall not exceed limits as established in Table 1;

Table 1. Metal Parts and Products Volatile Organic Compounds content Limits

<u>Coating Category</u>	<u>Air Dried lb VOC/gal coating</u>	<u>Baked lb VOC/gal coating</u>
<u>General One Component; General Multi Component; Military Specification</u>	<u>2.8</u>	<u>2.3</u>
<u>Camouflage; Electric-Insulating Varnish; Etching Filler; High Temperature; Metallic; Mold-Seal; Pan Backing; Pretreatment Coatings; Drum Coating, New, Interior; Drum Coating, Reconditioned, Exterior; Silicone Release; Vacuum-Metalizing</u>	<u>3.5</u>	<u>3.5</u>
<u>Extreme High-Gloss; Extreme Performance; Heat-Resistant; Repair and Touch Up; Solar-Absorbent</u>	<u>3.5</u>	<u>3.0</u>
<u>High Performance Architectural</u>	<u>6.2</u>	<u>6.2</u>
<u>Prefabricated Architectural Multi-Component; Prefabricated Architectural One-Component</u>	<u>3.5</u>	<u>2.3</u>
<u>Drum Coating, New, Exterior</u>	<u>2.8</u>	<u>2.8</u>
<u>Drum Coating, Reconditioned, Interior</u>	<u>4.2</u>	<u>4.2</u>

- (2) Plastic parts and products shall not exceed limits as established in Table 2;

Table 2. Metal Parts and Products Volatile Organic Compounds content Limits

<u>Coating Category</u>	<u>lbs VOC/gal coating</u>
<u>General One Component</u>	<u>2.3</u>
<u>General Multi Component; Metallic</u>	<u>3.5</u>
<u>Electric Dissipating Coatings and Shock-Free Coatings; Optical Coatings; Vacuum-Metalizing</u>	<u>6.7</u>
<u>Extreme Performance</u>	<u>3.5 (2-pack coatings)</u>
<u>Military Specification</u>	<u>2.8 (1 pack) 3.5 (2 pack)</u>
<u>Mold-Seal</u>	<u>6.3</u>
<u>Multi-colored Coatings</u>	<u>5.7</u>

- (3) automotive/transportation and business machine plastic parts shall not exceed limits as established in Table 3;

Table 3. Automotive/Transportation and Business Machine Plastic Parts Volatile Organic Compounds content Limits

<u>Coating Category</u>	<u>lbs VOC/gal coating</u>
<u>Automotive/Transportation Coatings</u>	
<u>I. High Bake Coatings – Interior and Exterior Parts</u>	
<u>Non-flexible Primer</u>	<u>3.5</u>
<u>Base Coats; Non-basecoat/clear coat; Flexible Primer</u>	<u>4.3</u>
<u>Clear Coat</u>	<u>4.0</u>
<u>II. Low Bake/Air Dried Coatings – Exterior Parts</u>	
<u>Primers; Basecoat; Non-basecoat/clearcoat</u>	<u>4.8</u>
<u>Clearcoats</u>	<u>4.5</u>
<u>III. Low Bake/Air Dried Coatings – Interior Parts</u>	
<u>IV. Touchup and Repair Coatings</u>	
<u>Business Machine Coatings</u>	
<u>Primers; Topcoat Texture Coat; Touchup and repair</u>	<u>2.9</u>
<u>Fog Coat</u>	<u>2.2</u>

(4) pleasure craft shall not exceed limits as established in Table 4;

Table 4. Pleasure Craft Surface Coating Volatile Organic Compounds content Limits

<u>Coating Category</u>	<u>lbs VOC/gal coating</u>
<u>Extreme High Gloss Topcoat</u>	<u>4.1</u>
<u>High Gloss Topcoat Finish; Primer/Surfacer; All other pleasure craft surface coatings for metal or plastic</u>	<u>3.5</u>
<u>Pretreatment Wash Primers</u>	<u>6.5</u>
<u>High Build Primer Surfacer; Other Substrate Antifoulant Coating</u>	<u>2.8</u>
<u>Aluminum Substrate Antifoulant Coating</u>	<u>4.7</u>

(5) motor vehicle materials shall not exceed limits as established in Table 5.

Table5. Motor Vehicle Materials Volatile Organic Compounds Content Limits

<u>Coating Category</u>	<u>lbs VOC/gal coating</u>
<u>Motor vehicle cavity wax; Motor vehicle sealer; Motor vehicle deadener;</u>	<u>5.4</u>
<u>Motor vehicle underbody coating; Motor vehicle trunk interior coating</u>	
<u>Motor vehicle gasket/gasket sealing material; Motor vehicle bedliner</u>	<u>1.7</u>
<u>Motor vehicle lubricating wax/compound</u>	<u>5.8</u>

(e) With the exception of motor vehicle materials coatings, any miscellaneous metal and plastic parts coatings operations facility may choose combination of low volatile organic compounds coatings and add-on control equipment on a coating unit. Emissions of volatile organic compounds before control with such combination shall not exceed limits for surface coating of:

(1) Metal parts and products as established in Table 1;

Table 1. Metal Parts and Products Volatile Organic Compounds content Limits

<u>Coating Category</u>	<u>Air Dried</u>	<u>Baked</u>
	<u>lb VOC/gal solids</u>	<u>lb VOC/gal solids</u>
<u>General One Component; General Multi Component; Military Specification;</u>	<u>4.52</u>	<u>3.35</u>
<u>Etching Filler; High Temperature; Metallic; Mold-Seal; Pan Backing; Pretreatment Coatings; Silicone Release; Drum Coating, New, Interior; Drum Coating, Reconditioned, Exterior; Vacuum-Metalizing</u>	<u>6.67</u>	<u>6.67</u>
<u>Extreme High-Gloss; Extreme Performance; Heat-</u>	<u>6.67</u>	<u>5.06</u>

<u>Resistant; Solar-Absorbent</u>		
<u>High Performance Architectural</u>	<u>38.0</u>	<u>38.0</u>
<u>Prefabricated Architectural Multi-Component</u>	<u>6.67</u>	<u>3.35</u>
<u>Prefabricated Architectural One-Component</u>	<u>6.67</u>	<u>3.35</u>
	<u>6.67</u>	<u>6.67</u>
<u>Drum Coating, New, Exterior</u>	<u>4.52</u>	<u>4.52</u>
<u>Drum Coating, Reconditioned, Interior</u>	<u>6.67</u>	<u>9.78</u>

(2) plastic parts and products as established in Table 2;

Table 2. Plastic Parts and Products Volatile Organic Compounds content Limits

<u>Coating Category</u>	<u>lbs VOC/gal solids</u>
<u>General One Component</u>	<u>3.35</u>
<u>General Multi Component; Metallic</u>	<u>6.67</u>
<u>Electric Dissipating Coatings and Shock-Free Coatings Optical Coatings; Vacuum-Metalizing</u>	<u>74.7</u>
<u>Extreme Performance</u>	<u>6.67(2-pack)</u>
<u>Military Specification</u>	<u>4.52 (1 pack)</u> <u>6.67 (2 pack)</u>
<u>Mold-Seal</u>	<u>43.7</u>
<u>Multi-colored Coatings</u>	<u>25.3</u>

(3) automotive/transportation and business machine plastic parts as established in Table 3;

Table 3. Automotive/Transportation and Business Machine Plastic Parts Volatile Organic Compounds content Limits

<u>Coating Category</u>	<u>lbs VOC/gal solids</u>
<u>Automotive/Transportation Coatings¹</u>	
<u>I. High Bake Coatings – Interior and Exterior Parts</u>	
<u>Flexible Primer</u>	<u>11.58</u>
<u>Non-flexible Primer; Non-basecoat/clear coat</u>	<u>6.67</u>
<u>Base Coats</u>	<u>10.34</u>
<u>Clear Coat</u>	<u>8.76</u>
<u>II. Low Bake/Air Dried Coatings – Exterior Parts</u>	
<u>Primers</u>	<u>13.8</u>
<u>Basecoat; Non-basecoat/clearcoat</u>	<u>15.59</u>
<u>Clearcoats:</u>	<u>11.58</u>
<u>III. Low Bake/Air Dried Coatings – Interior Parts</u>	<u>15.59</u>
<u>IV. Touchup and Repair Coatings</u>	<u>17.72</u>
<u>Business Machine Coatings</u>	
<u>Primers; Topcoat; Texture Coat; Touchup and repair</u>	<u>4.8</u>
<u>Fog Coat</u>	<u>3.14</u>

(4) pleasure craft surface coatings as established in Table 4;

Table 4. Pleasure Craft surface Coatings Volatile Organic Compounds content Limits

<u>Coating Category</u>	<u>lbs VOC/gal solids</u>
<u>Extreme High Gloss Topcoat</u>	<u>9.2</u>
<u>High Gloss Topcoat; Finish Primer/Surfacer; All other pleasure craft surface coatings for metal or plastic</u>	<u>6.7</u>

<u>Pretreatment Wash Primers</u>	<u>55.6</u>
<u>Aluminum Substrate Antifoulant Coating</u>	<u>12.8</u>
<u>High Build Primer Surfacer; Other Substrate Antifoulant Coating</u>	<u>4.4</u>

(e) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of coating materials used at miscellaneous metal and plastic part coating facilities unless the facility maintains records to document the volatile organic compounds content of coating materials from the manufacturer.

(f) With the exception of motor vehicle materials coatings, any miscellaneous metal and plastic parts coatings operations facility may choose to use add-on control equipment with an overall control efficiency of 90 percent in lieu of using low-VOC coatings and specified application methods.

(g) The owner or operator of any facility subject to this Rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0968 AUTOMOBILE AND LIGHT-DUTY TRUCK ASSEMBLY COATINGS

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Automobile" means a motor vehicle designed to carry up to eight passengers, excluding vans, sport utility vehicles, and motor vehicles designed primarily to transport light loads of property.
- (2) "Electrodeposition" means a process of applying a protective, corrosion-resistant waterborne primer on exterior and interior surfaces that provides thorough coverage of recessed areas. It is a dip coating method that uses an electrical field to apply or deposit the conductive coating onto the part. The object being painted acts as an electrode that is oppositely charged from the particles of paint in the dip tank.
- (3) "Final repair" means the operations performed and coating(s) applied to completely assembled motor vehicles or to parts that are not yet on a completely assembled vehicle to correct damage or imperfections in the coating.
- (4) "Light-duty truck" means vans, sport utility vehicles, and motor vehicles designed primarily to transport light loads of property with gross vehicle weight rating of 8,500 pounds or less.
- (5) "Primer-surfacer" means an intermediate protective coating applied over the electrodeposition primer (EDP) and under the topcoat. Primer-surfacer provides adhesion, protection, and appearance properties to the total finish.
- (6) "Solids turnover ratio (R_T)" means the ratio of total volume of coating solids that is added to the EDP system in a calendar month divided by the total volume design capacity of the EDP system.

(b) This Rule applies to automobile and light-duty truck assembly coating operations and related cleaning activities whose emissions of volatile organic compounds exceed the threshold established in 15A NCAC 02D .0902(b) at:

(1) automobile or light-duty assembly plants during the vehicle assembly processes with the following primary coating product applications:

- (A) new automobile or new light-duty truck bodies, or body parts for new automobiles or new light-duty trucks; or
- (B) other parts that are coated along with these bodies or body parts; or
- (C) additional coatings which include glass bonding primer, adhesives, cavity wax, sealer, deadener, gasket/gasket sealing material, underbody coating, trunk interior coating, bedliner, weatherstrip adhesive, and lubricating waxes/compounds; and

(2) coatings used in facilities that perform these coating operations on a contractual basis without coatings used at plastic or composites molding facilities

(c) This Rule does not apply to:

- (1) aerosol coatings of automobile and light-truck assembly coatings; or
- (2) coatings that are applied to other parts intended for use in new automobiles or new light-duty trucks (e.g., application of spray primer, color and clear coat to fascia or bumpers) on coating lines that are not related to the vehicle assembly process at automobile or light-duty assembly plants. They are covered by Rules .0964, and .0967 of this Section; and
- (3) aftermarket repair or replacement parts for automobiles or light-duty trucks that are covered by Rules .0964, and .0967 of this Section.

(d) With the exception of materials supplied in containers with a net volume of 16 ounces or less, or a net weight of one pound or less, emissions of volatile organic compounds before control for:

- (1) automobile and light-duty truck assembly coatings shall not exceed limits established in Table 1

Table 1. Volatile Organic Compounds emission limits for automobile and light-duty truck assembly coatings.

Assembly Coating Process	Volatile Organic Compounds Emission Limit		
<u>Electrodeposition primer (EDP) operations (including application area, spray/rinse stations, and curing oven)</u>	<u>When solids turnover ratio (R_T) ≥ 0.16:</u>	<u>When $0.040 \leq R_T < 0.160$:</u>	<u>When $R_T < 0.040$:</u>
	<u>0.07lb/gal coatings solids applied.</u>	<u>$0.084^{0.160-R_T} \times 8.34$ lb/gal coating solids applied.</u>	<u>No VOC emission limit.</u>
<u>Primer-surfacer operations (including application area, flash-off area, and oven)</u>	<u>12.0 lb VOC/gal deposited solids on a daily weighted average basis as determined by following the procedures in the revised Automobile Topcoat Protocol</u>		
<u>Topcoat operations (including application area, flash-off area, and oven)</u>	<u>12.0 lb VOC/gal deposited solids on a daily weighted average basis as determined by following the procedures in the revised Automobile Topcoat Protocol</u>		
<u>Final repair operations</u>	<u>4.8 lb VOC/gallon of coating less water and less exempt solvents on a daily weighted average basis or as an occurrence weighted average.</u>		
<u>Combined primer-surfacer and topcoat operations</u>	<u>12.0 lb VOC/gal deposited solids on a daily weighted average basis as determined by following the procedures in the revised Automobile Topcoat Protocol</u>		

- (2) miscellaneous materials used at automobile and light-duty truck assembly coatings facilities shall not exceed limits established in Table 2.

Table 2. Volatile Organic Compounds emission limits for miscellaneous materials used at automobile and light-duty truck assembly coating facility (grams of VOC per liter of coating excluding water exempt compounds, as applied)

<u>Material</u>	<u>Recommended VOC Emission Limit</u>
<u>Automobile and light-duty truck glass bonding primer</u>	<u>900</u>
<u>Automobile and light-duty truck adhesive</u>	<u>250</u>
<u>Automobile and light-duty truck cavity wax</u>	<u>650</u>
<u>Automobile and light-duty truck sealer</u>	<u>650</u>
<u>Automobile and light-duty truck deadener</u>	<u>650</u>
<u>Automobile and light-duty truck gasket/gasket sealing material</u>	<u>200</u>
<u>Automobile and light-duty truck underbody coating</u>	<u>650</u>
<u>Automobile and light-duty truck trunk interior coating</u>	<u>650</u>
<u>Automobile and light-duty truck bedliner</u>	<u>200</u>
<u>Automobile and light-duty truck weatherstrip adhesive</u>	<u>750</u>
<u>Automobile and light-duty truck lubricating wax/compound</u>	<u>700</u>

(e) EPA Method 24 (CFR Part 60, Appendix A-7) shall be used to determine the volatile organic compounds content of coatings, other than reactive adhesives used at automobile and light-duty truck coating facilities unless the facility maintains records to document the volatile organic compounds content of coating materials from the manufacturer.

(f) The emission limits established in Paragraph (d) of this Rule can be achieved with a combination of higher-solid solvent-borne coatings, efficient application equipment and bake oven exhaust control.

(g) The owner or operator of any facility subject to this Rule shall comply with the Rules .0903 and .0958 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

**SUBCHAPTER 02Q - AIR QUALITY PERMITS
PROCEDURES**

**SECTION .0300 - CONSTRUCTION AND OPERATION
PERMITS**

**15A NCAC 02Q .0306 PERMITS REQUIRING PUBLIC
PARTICIPATION**

(a) The Director shall provide for public notice for comments with an opportunity for the public to request a public hearing on draft permits for the following:

- (1) any source that may be designated by the Director based on public interest relevant to air quality;
- (2) a source to which 15A NCAC 02D .0530 or .0531 applies;
- (3) a source whose emission limitation is based on a good engineering practice stack height that exceeds the height defined in 15A NCAC 02D .0533(a)(4)(A), (B), or (C);
- (4) a source required to have controls more stringent than the applicable emission standards in 15A NCAC 02D .0500 according to 15A NCAC 02D .0501 when necessary to comply with an ambient air quality standard under 15A NCAC 02D .0400;
- (5) alternative controls different than the applicable emission standards in 15A NCAC 02D .0900 according to 15A NCAC 02D .0952;
- (6) a limitation on the quantity of solvent-borne ink that may be used by a printing unit or printing system according to 15A NCAC 02D ~~.0936~~, .0961 and .0965;
- (7) an allowance of a particulate emission rate of 0.08 grains per dry standard cubic foot for an incinerator constructed before July 1, 1987, in accordance with 15A NCAC 02D .1204(c)(2)(B) and .1208 (b)(2)(B);
- (8) an alternative mix of controls under 15A NCAC 02D .0501(f);
- (9) a source that is subject to the requirements of 15A NCAC 02D .1109 or .1112;
- (10) a source seeking exemption from the 20-percent opacity standard in 15A NCAC 02D .0521 under 15A NCAC 2D .0521(f);
- (11) a source using an alternative monitoring procedure or methodology under 15A NCAC 02D .0606(g) or .0608(g); or
- (12) the owner or operator requests that the draft permit go to public notice with an opportunity to request a public hearing.

(b) On the Division's website, the Director shall post a copy of the draft permit that changes classification for a facility by placing a physical or operational limitation in it to avoid the applicability of rules in 15A NCAC 02Q .0500. Along with the draft permit, the Director shall also post a public notice for comments with an opportunity to request a public hearing on that draft permit. The public notice shall contain the information specified in 15A NCAC 02Q .0307(c) and shall allow at least 30 days for public comment.

(c) If EPA requires the State to submit a permit as part of the North Carolina State Implementation Plan for Air Quality (SIP) and if the Commission approves a permit containing any of the conditions described in Paragraph (a) of this Rule as a part of the SIP, the Director shall submit the permit to the EPA on behalf of the Commission for inclusion as part of the federally approved SIP.

Authority G.S. 143-215.3(a)(1),(3); 143-215.108; 143-215.114A; 143-215.114B; 143-215.114C.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 19 – BOARD OF ELECTROLYSIS EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Electrolysis Examiners intends to adopt the rules cited as 21 NCAC 19 .0204, .0404-.0413, .0501; amend the rules cited as 21 NCAC 19 .0101, .0103-.0104, .0201-.0202, .0601-.0605, .0608-.0609, .0611-.0614, .0617-.0619, .0622, .0701-.0702, .0704; and repeal the rules cited as 21 NCAC 19 .0401-.0403.

Proposed Effective Date: July 1, 2010

Public Hearing:

Date: April 27, 2010

Time: 11:00 a.m.

Location: NC Board of Electrolysis Examiners, Pinehurst Building, 2 Centerview Drive, Greensboro, NC 27407

Reason for Proposed Action: *The General Assembly pursuant to S.L. 2007-489 added the regulation of Laser Hair Removal. This changed the fee schedule and raised the age from 18 to 21. The Board in reviewing the current rules has modified the rules to reflect current practices and techniques and to clarify language.*

Procedure by which a person can object to the agency on a proposed rule: *Send written objections to: Chairman, NC Board of Electrolysis Examiners, Pinehurst Building Box 34, 2 Centerview Drive, Greensboro, NC 27407.*

Comments may be submitted to: *Chairman, NC Board of Electrolysis Examiners, Pinehurst Building Box 34, 2 Centerview Drive, Greensboro, NC 27407*

Comment period ends: April 30, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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**
☐ **Substantial Economic Impact** ($\geq \$3,000,000$)
☒ **None**

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 19 .0101 ADDRESS

The mailing address of the Board is: North Carolina Board of Electrolysis Examiners, ~~801 Hillsborough Street, Post Office Box 10834, Raleigh, North Carolina 27605-0834.~~ 2 Centerview Drive, Pinehurst Building, Suite 60, Greensboro, NC 27407.

Authority G.S. 88A-6.

21 NCAC 19 .0103 DEFINITIONS

In this Chapter, "continuing education unit" or "CEU" means 10 contact hours of participation in an organized continuing education experience that is:

- (1) related to the practice of ~~electrolysis; and electrolysis or laser or light-based hair reduction;~~
- (2) obtained after the original granting of ~~licensure; licensure;~~
- (3) in compliance with the International Association for Continuing Education and Training (IACET) standards; and
- (4) submitted to and approved by the board 30 days prior to the event.

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

21 NCAC 19 .0104 ADVERTISING

No advertisement by an electrologist, ~~or~~ for the services of any electrologist, ~~licensed by this Board~~ shall be false or misleading. An electrologist who fails to correct such an ~~advertisement,~~ advertisement or who fails to cause it to be ~~corrected, corrected~~ within 10 days at the earliest opportunity after receipt of written notice by the Board ~~shall be~~ is subject to disciplinary action in accordance with G.S. 88A-21.

Authority G.S. 88A-6; 88A-21.

SECTION .0200 – APPLICATION PROCEDURES

21 NCAC 19 .0201 FEES

(a) The following fees ~~shall be~~ are payable to the Board:

- (1) Application for licensure as an electrologist
~~\$100.00~~ \$125.00
- (2) Initial license for electrologist
~~\$100.00~~ \$125.00
- (3) Examination or reexamination
~~\$100.00~~ \$125.00

- (4) ~~Renewal of electrologist's license~~ Application for licensure as a laser hair practitioner
~~\$125.00~~
- (5) ~~Application for certification as an electrology instructor~~ Initial license for laser hair practitioner
~~\$100.00~~ \$125.00
- (6) ~~Renewal of instructor's certificate~~ licensure of electrologist
~~\$ 60.00~~ \$125.00
- (7) ~~Application for certification as a Board approved school of electrology~~ Renewal of licensure for laser hair practitioner
~~\$500.00~~ \$125.00
- (8) ~~Renewal of school certification~~ Application for certification as an electrology instructor
~~\$250.00~~ \$150.00
- (9) ~~Certification of out of state schools~~ Application for certification as a laser hair practitioner instructor
~~\$ 75.00~~ \$150.00
- (10) ~~Certification of out of state renewals~~ Renewal of certification for electrology instructor
~~\$ 50.00~~ \$125.00
- (11) ~~Office inspection or reinspection~~ Renewal of certification for laser hair practitioner instructor
~~\$ 75.00~~ \$125.00
- (12) ~~License by reciprocity~~ Application for certification as Board approved school of electrology (in state)
~~\$100.00~~ \$250.00
- (13) ~~Late renewal charge~~ Application for certification as Board approved school of laser hair removal (in-state)
~~\$ 50.00~~ \$250.00
- (14) ~~Reinstatement of expired license~~ Application for certification as Board approved school of electrology (out of state)
~~\$250.00~~ \$350.00
- (15) ~~Reactivation of license~~ Application for certification as Board approved school for laser hair removal (out of state)
~~\$150.00~~ \$350.00
- (16) ~~Duplicate license~~ Renewal of certification as Board approved school of electrology (in state)
~~\$ 25.00~~ \$150.00
- (17) Renewal of certification as Board approved school of laser hair removal (in state)
\$150.00
- (18) Renewal of certification as Board approved school of electrology (out of state)
\$100.00
- (19) Renewal of certification as Board approved school of laser hair removal (in state)
\$150.00
- (20) Office inspection or re-inspection \$100.00
- (21) License by reciprocity \$125.00
- (22) Late renewal charge \$ 50.00
- (23) Reinstatement of expired license \$250.00
- (24) Reactivation of license \$150.00
- (25) Duplicate license \$ 25.00

(b) All fees shall be paid by check or money order, made payable to "The North Carolina Board of Electrolysis Examiners".

Authority G.S. 88A-9.

21 NCAC 19 .0202 APPLICATION FOR LICENSURE

(a) All applicants for licensure as an electrologist shall submit an application on the form provided by the Board, accompanied by proof of being 21 years of age, a passport photograph taken within the past two years, recent photograph, the required application fee, any information required by Paragraphs ~~(b) and (c)~~ (b), (c) and (d) of this Rule, and if applicable, ~~proof of completion of high school or equivalency certificate and certification of completion from each electrology institution attended with verification of the number of hours completed in theory and clinical training.~~

~~(b) All applications for licensure under G.S. 88A-11(1) must be:~~

- ~~(1) — accompanied by proof of practice before the statutory deadline; and~~
- ~~(2) — either actually received by the Board or postmarked before the statutory deadline for applications.~~

~~(c) All applications for licensure under G.S. 88A-11(2) must be accompanied by:~~

- ~~(1) — the address of the licensing agency in the other state or jurisdiction;~~
- ~~(2) — any information such as a license number needed to identify the applicant in correspondence with that agency; and~~
- ~~(3) — a statement authorizing that agency to certify to the Board that the applicant is currently licensed or certified by the other state or jurisdiction and is in good standing, to inform the Board whether there are any pending complaints about the applicant, and to provide the Board with a copy of the licensing requirements in that state or jurisdiction.~~

~~(d) Proof of age shall be shown by certified copy of a birth certificate. If the applicant cannot obtain a certified copy of the birth certificate, the applicant shall attach an explanation why no birth certificate is obtainable and shall submit other proof of age. Other proof of age includes passports, current life insurance policies held for at least one year showing date of birth, entries in family bibles, medical or school records showing date of birth, and marriage licenses showing age.~~

~~(e) Proof of practice before the prior practice deadline set in G.S. 88A-11(1) may be shown by sworn affidavit of a person unrelated to the applicant stating that the applicant did practice electrology before that date. The affidavit shall also state where the applicant practiced.~~

~~(f) The Board may reject incomplete or partial applications.~~

~~(b) All applications for licensure under G.S. 88A-11(2) must be accompanied by:~~

- ~~(1) the address of the licensing agency in the other state or jurisdiction;~~
- ~~(2) any information such as a license number needed to identify the applicant in correspondence with the agency; and~~
- ~~(3) a statement authorizing that agency to certify to the Board that the applicant is licensed or certified by the other state or jurisdiction and~~

is in good standing, to inform the Board whether there are any pending complaints about the applicant, and to provide the Board with a copy of the licensing requirements in that state of jurisdiction

(c) Proof of age shall be shown by certified copy of a birth certificate. If the applicant cannot obtain a certified copy of the birth certificate, the applicant shall attach an explanation as to why no birth certificate is obtainable and shall submit other proof of age. Other proof of age includes passports, current life insurance policies held for at least one year showing date of birth, entries in family bibles, medical or school records showing date of birth, and marriage licenses showing age.

(d) Applicants from the unlicensed state or a licensed state that requires less than 600 hours of certified education shall submit proof of practice of no less than five years supported by tax records, copy of privilege license or business documenting previous practice of electrolysis prior to date of application.

(e) All new electrologist applicants must take and pass both a written and a practical examination except for Board-approved reciprocity applicants.

(f) In addition to maintaining an active electrologist license from NCBEE, a laser hair practitioner shall submit:

(1) a certification of 40 hours of laser, light source, or pulsed light treatment certification course approved by the Board that encompasses the laser or light device being used by the laser hair practitioner.

(2) a "Supervisory Agreement" between the laser hair practitioner and a "Supervising Physician" licensed with the North Carolina Medical Board (NCMB) as defined under G.S. Article 1 Chapter 90. The elements of this agreement shall contain:

(A) supervising physician's name and address, including attestation that supervisor is licensed to practice medicine in NC and will maintain licensure during time frame of agreement;

(B) supervising physician is knowledgeable in the use of the specifically listed devices;

(C) supervising physician ensures the laser hair practitioner has training to safely and effectively perform laser hair reduction with the listed devices;

(D) supervising physician is providing personal and responsible direction to the laser hair reduction practitioner;

(E) a list of devices/makes/models being used by the laser hair practitioner;

(F) a copy of the "Supervisory Agreement" form is filed with NCBEE and a copy is available in the office of the "Supervising Physician" and the laser hair practitioner for inspection.

(g) The board shall reject an incomplete or partial application.

Authority G.S. 88A-6; 88A-9; 88A-10; 88A-11(1); 88A-21.

Note: Current Rule .0204 will be renumbered to .0205.

21 NCAC 19 .0204 APPLICATION FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF A LASER HAIR PRACTITIONER LICENSE

(a) Unless the applicant's laser hair practitioner license expired more than 90 days prior to the filing of an application for renewal, each applicant for license renewal pursuant to G.S. 88A-12 shall pay the required renewal fee, including the late renewal charge if applicable, and shall provide proof of compliance with 21 NCAC 19 .0701(a).

(b) A laser hair practitioner whose license has been expired for more than 90 days but less than five years shall apply for reinstatement by sending the Board a written request for reinstatement, paying the reinstatement fee, and providing proof of competence pursuant to 21 NCAC 19 .0701(c).

(c) A laser hair practitioner who has been on the inactive list for less than five years who desires to be returned to active status shall send the Board a written request for return to the active list, pay the renewal fee, and provide proof of competence pursuant to 21 NCAC 19 .0701(b).

(d) Proof of compliance with 21 NCAC 19 .0701 may be provided either:

- (1) by affidavit of the applicant listing the programs or courses taken, the entity that offered the program or course, the CEUs obtained, and the date and location of the program or course; or
- (2) by copies of a certificate of completion issued by the entity that offered the program or course, identifying the course and showing the date, location, and number of hours taken by the applicant.

(e) Application, renewal, reinstatement, and reactivation of a laser hair practitioner license all require that the applicant have an active electrologist license from the NCBE.

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

SECTION .0400 - SANITATION, EQUIPMENT AND SUPPLIES

21 NCAC 19 .0401 INFECTION CONTROL STANDARDS

~~(a) No electrologist or student who has weeping dermatitis or draining lesions shall participate in direct client care and care of client care equipment until the condition has cleared. Electrologists and students who have other infectious diseases or conditions shall follow any applicable control measures for communicable diseases and conditions set out in 15A NCAC 19A .0200 as adopted by the Division of Health Services of the Department of Environment, Health, and Natural Resources and incorporated herein by reference, including any subsequent amendments and editions. Copies of 15A NCAC 19A .0200 may be obtained without charge by writing HIV/STD, Control Branch, P. O. Box 27689, Raleigh, North Carolina 27611.~~

~~(b) No electrologist or student shall work on any client who has weeping dermatitis or draining lesions.~~

~~(c) All electrologists and students shall wash hands before beginning work on a client, after touching sores and skin eruptions, after contact with blood or body fluids containing visible blood, and before putting on and after removing gloves. Soaps, detergents, or germicidal skin preparations shall be used to wash hands.~~

~~(d) Each client's skin must be cleaned before treatment by removing visible soil with soap and water or a germicidal skin preparation, then wiping with an antiseptic product applied with material such as cotton balls.~~

~~(e) All electrologists and students shall wear nonsterile examination gloves during all client care procedures. Gloves may not be washed or disinfected for reuse; each client shall be treated with fresh, unused gloves.~~

~~(f) All equipment and instruments shall be cleaned and either sterilized or disinfected in accordance with 21 NCAC 19 .0402.~~

~~(g) Any gowns, lab coats or coveralls worn by electrologists or students must be changed if contaminated with blood or body fluids.~~

~~(h) Any paper or cotton towels or sheets used to cover the treatment table and for draping shall be changed after use by each client and replaced with fresh, unused or laundered towels or sheets. If gowns are provided for clients, each client shall receive a fresh, unused paper gown or a freshly laundered cloth gown.~~

~~(i) All electrologists and students shall keep the workplace area clean and litter free, including the treatment table and the surfaces of equipment.~~

~~(j) Used disposable needles and other sharp items must be placed in puncture resistant containers for disposal. Such containers shall be kept easily accessible to the workplace area. Other used discarded materials (for example, paper towels, tissue, cotton balls, Q tips, gloves) shall be placed and sealed in a plastic bag for disposal.~~

~~(k) Any soiled linen shall be placed in a regular laundry bag or closed container and kept until it can be laundered.~~

~~(l) Any staff member who is not an electrologist or student but who participates in client care or care of client care equipment shall comply with this Rule.~~

Authority G.S. 88A-16.

21 NCAC 19 .0402 STERILIZATION AND DISINFECTION

~~(a) Equipment and instruments shall be sterilized or disinfected before use on a client in accordance with the following schedule: Category I (Critical): Instruments and objects that come into direct contact with the blood stream and other normally sterile areas of the body. Items in this category must be purchased sterile or sterilized using an autoclave or dry heat sterilizer.~~

~~Category II (Semiacritical): Instruments and objects that come into direct contact with nonmucous membranes or skin that is not intact.~~

~~Items in this category shall either be:~~

- (1) ~~purchased sterile or sterilized, using an autoclave or a dry heat sterilizer, or chemical sterilization using a method recommended by the Association for Practitioners in Infection Control, or~~
- (2) ~~given a physical cleaning followed by high-level disinfection using a method recommended by the Association for Practitioners in Infection Control.~~

Category III (Noncritical): Instruments and objects that do not ordinarily touch the client or those that contact only intact skin.

Items in this category need not be sterilized but shall be cleaned with a detergent and hot water or given low level disinfection using a method recommended by the Association for Practitioners in Infection Control.

- (b) ~~Autoclaves and dry heat sterilizers shall be of a type approved by the Federal Food and Drug Administration.~~
- (c) ~~Disposable instruments and other items may not be resterilized or re-disinfected for reuse on another client.~~
- (d) ~~Glass bead sterilizers may not be used.~~
- (e) ~~Instruments and other items to be sterilized must be cleaned prior to sterilization. Cleaning may be done either manually, using water and detergent, scrubbing with a small brush, and thoroughly rinsing; or ultrasonically, following the manufacturer's directions. Items not to be used immediately following sterilization must be packaged for storage prior to sterilization.~~
- (f) ~~Packaged sterilized items must be either discarded or, if not disposable, resterilized after their shelf life has expired.~~
- (g) ~~Biological indicators must be run on a monthly basis on autoclaves or dry heat sterilizers used to sterilize instruments and other items to be used in electrolysis. Chemical (color change) indicators shall be used on or in each package container to indicate items have been exposed to a sterilization process. A record of the results of each test and records of any repairs to autoclaves or dry heat sterilizers must be kept for at least 18 months. Every electrologist and student shall be responsible for insuring that the requirements of this Paragraph are followed for each autoclave or dry heat sterilizer used in sterilizing any instruments or other items used by that person.~~

Authority G.S. 88A-16.

21 NCAC 19 .0403 OFFICES

(a) Each office, wherever located, shall have at least the following:

- (1) ~~treatment table or other piece of furniture for placing clients for treatment;~~
- (2) ~~at least one circuline type lamp, halogen lamp, or other type or magnifying lamp;~~
- (3) ~~accessible handwashing facilities on the same floor and accessible toilet facilities in the same building, and both must have a supply of either soap or a germicidal skin preparation for washing hands;~~
- (4) ~~a supply of nonsterile examination gloves, cotton balls and antiseptic product for cleaning client's skin, materials for cleaning instruments~~

~~and other items, materials for cleaning the workplace or documentation of cleaning contract, paper or cotton towels, and puncture resistant containers and plastic bags for used materials;~~

- (5) ~~sterilization equipment and supplies needed for the sterilization methods chosen;~~
- (6) ~~a covered trash can and, if linens are used, a laundry bag or closed container for laundry, readily available to each workplace area; and~~
- (7) ~~storage facilities sufficient to contain the equipment, instruments and supplies of the electrolysis practice.~~

(b) ~~Each office shall be kept clean and orderly, including all workplace areas, lavatory and water closet facilities, and all equipment.~~

Authority G.S. 88A-16.

21 NCAC 19 .0404 DEFINITIONS AND OVERVIEW

(a) As used in this Section:

- (1) "Alcohol-based hand rub" means the alcohol-containing preparation designed for application to the hands for reducing the number of viable microorganisms on the hands. In the United States, such preparations usually contain 60 - 95 percent ethanol or isopropanol. Formulations include foams, gels and liquid rinses. These products do not remove soil, but can be used for hand-antiseptis.
- (2) "Antiseptic" means a germicide used on skin or living tissue to inhibit or destroy microorganisms. The chemicals and concentrations used for antiseptis are not typically the same as those used for disinfection; therefore, antiseptic products are not appropriate in any instance for use in cleaning or disinfecting inanimate substances. Antiseptics are regulated by the Food and Drug Administration (FDA).
- (3) "Aseptic technique" means the term used to describe the precautionary measures taken to help reduce the risk of post treatment infections by decreasing the opportunity of microorganisms to enter the body. These procedures will also help reduce the electrologist's risk of exposure to pathogens. Examples of aseptic technique are appropriately timed handwashing, disinfection/sterilization of inanimate surfaces or instruments, appropriate use of personal protective clothing or barriers, proper containment and disposal of waste, consistent personal and instrument/surface manipulations to minimize cross contamination.
- (4) "Autoclave (steam sterilizer)" means a vessel used for sterilization by application of

- saturated steam under pressure and heat. Autoclaves are regulated by the FDA.
- (5) "Biological indicator" means a commercially prepared device with a known population of highly resistant bacterial spores used to test the method of sterilization being monitored. The indicator is used to demonstrate that conditions necessary to achieve sterilization were met during the cycle being monitored. Biological indicators are regulated by the FDA.
- (6) "Chemical indicator means" the item used to monitor certain parameters of a heat sterilization process by means of a characteristic color change, usually chemically treated paper strips. A chemical indicator does not indicate that sterilization has been achieved, and most indicate only that the temperature needed has been attained. Other types of chemical indicator are capable of "integrating" time at a particular temperature before color change. Chemical indicators are regulated by the FDA.
- (7) "Cleaning" means the removal of all visible residual material from objects using friction, detergent and water to remove organic debris. Cleaning shall be done prior to disinfection and sterilization procedures.
- (8) "Contaminated" means the presence of potentially infectious pathogenic microorganisms on animate or inanimate objects.
- (9) "Critical items" means instruments or objects that will come in direct contact with the bloodstream or other normally sterile areas of the body. Critical items must be either pre-sterilized and disposable or subjected to sterilization before use.
- (10) "Decontamination" means use of physical or chemical means to remove, inactivate, or destroy pathogens on a surface or item so that they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.
- (11) "Disinfectant" means a chemical agent used on hard inanimate surfaces and objects to destroy or irreversibly inactivate infectious fungi and bacteria but not necessarily their spores. Chemical disinfectants are classified as "high-level," "intermediate-level," and "low-level" according to their comparative levels of potency and intended uses, but not as a final step in reprocessing of instruments.
- (A) "High-level disinfection" means the disinfection process that inactivates some, but not necessarily all, bacterial spores. This powerful process will also kill M. tuberculosis var. bovis, (a resistant laboratory test organism used to classify the
- potencies of disinfectant chemicals), as well as other bacteria, fungi, and viruses. High-level disinfection is the minimum treatment recommended by the CDC in guidelines for the reprocessing of semi-critical instruments or devices. Examples of high-level disinfectants include Glutaraldehyde-, chlorine dioxide-, hydrogen peroxide, orthophthalaldehyde-, and peracetic acid-based formulations. These are commercially available germicides that have been cleared by the FDA as sterilants/disinfectants (all but one product to date) or simply as "high-level disinfectants."
- (B) "Intermediate-level disinfection" means a disinfection process capable of killing M. tuberculosis var. bovis, but not bacterial spores. When using a process that kills M. tuberculosis var. bovis, you will also inactivate organisms with a lesser degree of intrinsic resistance, such as most vegetative bacteria and fungi as well as viruses such as hepatitis B virus (HBV) and HIV. Examples of intermediate-level disinfectants include alcohols (70 to 90 percent ethanol or isopropanol), chlorine compounds (free chlorine, i.e., hypochlorous acids derived from sodium or calcium hypochlorite), and certain phenolic or iodophor preparations, depending on formulation. Intermediate-level disinfectants are regulated by EPA.
- (C) "Low-level disinfection" means a process capable of inactivating most bacteria, some viruses and fungi but not bacterial spores or Mycobacterium tuberculosis var. bovis. Examples of low-level disinfectants are quaternary ammonium compounds and certain iodophors or phenolics. Like intermediate-level products, low-level disinfectants are regulated by EPA and are appropriate for disinfecting environmental or medical equipment (non-instrument) surfaces.
- (12) "Disinfection" means a procedure that reduces the level of microbial contamination. There is a broad range of activity that extends from sterility at one extreme to a minimal reduction in the number of microbial contaminants at the other.

- (13) "Dry heat sterilizer" means a forced air oven-type device specifically designed to sterilize items by exposure to high temperatures for designated exposure periods. Dry heat sterilizers are regulated by the FDA.
- (14) "Electrology/electroepilation" means the procedure of using a needle with electrolysis, Thermolysis or blended currents for permanent hair removal.
- (15) "Environmental surfaces" means includes surfaces in the electrology treatment room, which may potentially contribute to cross-contamination by hands of the electrologist or by contact with instruments that will subsequently come into contact with clients. These surfaces shall be properly maintained to minimize their potential role in disease transmission.
- (16) "Enzyme detergent" means the detergent that helps break down organic soils and fats, and suspends particles during cleaning. An enzyme detergent is used as a soaking solution for critical and non-critical instruments and as the detergent used in the ultrasonic device. Temperature and dilution affect the efficacy of enzyme detergents.
- (17) "Epilator cords" means insulated plastic covered cords used to complete current circuit between the epilator and the epilator needle or the indifferent electrode. Epilator cords are non-critical items.
- (18) "Forceps" means the instrument or "tweezers" used in electrology treatments to lift the hair from the follicle. Forceps used in electrology are not intended to be critical items, but may come in contact with blood, serum or other material and shall be sterile when used.
- (19) "Gloves" means coverings for the hands made of various materials, which provide a protective barrier against infections and toxic substances. There are three types of gloves that can be used by electrologists:
- (A) Non-sterile, medical grade, disposable patient examination gloves, made of natural rubber latex or synthetic material, are worn during electrology treatments and during cleaning procedures to provide a barrier to prevent exposure to potentially infectious materials and other contaminants. Medical grade gloves are regulated by the FDA.
- (B) Food-handler gloves may be worn as a protective disposable barrier over exam gloves during treatment interruption to prevent contamination from touching objects such as drawer and doorknobs, phone receivers, computer keyboards, or pens and charts. They are not worn for treatment or decontamination procedures. Over-gloves are discarded after each use.
- (C) General purpose, heavy-duty, reusable, puncture resistant utility (e.g., rubber household) gloves may be used for housekeeping chores such as instrument cleaning and decontamination procedures that involve potential contact with blood. These gloves are washed and dried between each use and shall be labeled for use by one individual. They shall be discarded when showing evidence of deterioration. Utility gloves are not promoted for medical use; therefore, are not regulated by the FDA.
- (20) "Hand hygiene" means the general term that applies to:
- (A) "Handwashing" means The decontamination process for the removal of soil and transient microorganisms from the hands by a vigorous rubbing together of all surfaces of lathered hands for at least 15 seconds, followed by rinsing under a stream of water.
- (B) "Antiseptic handwash" means Washing hands with water and soap or other detergents containing an antiseptic agent.
- (C) "Antiseptic hand rub" means Applying an antiseptic hand rub product, (e.g. alcohol-based hand rub) to all surfaces of the hands to reduce the number of microorganisms present.
- (D) "Surgical hand antisepsis" means Antiseptic handwash or antiseptic hand rub performed preoperatively by surgical personnel to eliminate transient and reduce resident hand flora. Antiseptic detergent preparations often have persistent antimicrobial activity.
- (21) "Hospital disinfectant" means a chemical germicide with label claims for effectiveness against Salmonella choleraesuis, Staphylococcus aureus and Pseudomonas aeruginosa. Hospital disinfectants may be classed as either low-level or intermediate-level in their spectrum of activity as indicated by label claims. These classes of germicides are regulated by EPA and are appropriate for environmental or medical device surfaces but not as a final step in reprocessing of medical instruments.

- (22) "Indifferent electrode" means the stainless steel bar held by the client during electrolysis treatments to complete current circuit with galvanic/electrolysis modality or with the use of a timer delay switch in automatic delivery epilators. Indifferent electrodes are non-critical items.
- (23) "Instruments" means tools or devices designed to perform a specific function, such as grasping, holding, or retracting.
- (24) "Intact skin" means skin, in which the natural protective barrier has not been altered by infection or trauma.
- (25) "Latex allergy" means a systemic or local allergic response to various latex proteins to which the individual has been sensitized.
- (26) "Mechanical/visible indicators" means monitoring devices built into a sterilizer, such as indicating thermometers, recording thermometers, pressure gauges and automatic controls, which are used to assist in identifying and preventing malfunctions and operational errors and for recordkeeping purposes.
- (27) "Needle" means the wire filament which is inserted into the hair follicle for application of current in electrolysis. Needles used in electrolysis are not intended to be critical items, but may come in contact with blood, serum or other material and shall be pre-sterilized disposable only.
- (28) "Non-critical items" means instruments or environmental surfaces that will come in contact only with intact skin. If properly cleaned and maintained, these surfaces carry relatively little risk of transmitting infection directly or indirectly to clients.
- (29) "Non-intact skin" means skin, in which there is a break in the skin's natural integrity, (e.g., exposed skin that is chapped, abraded, or afflicted with dermatitis).
- (30) "Packaging" means a generic term meant to include all types of containment, such as woven or non-woven wraps, paper or film pouches or rigid container systems.
- (31) "Pathogen" means a microorganism or substance capable of producing a disease.
- (32) "Parenteral" means of piercing mucous membranes or skin barrier through such events as needlesticks, human bites, cuts, and abrasions.
- (33) "Phoresis rollers" means stainless steel rollers used to apply current to skin before or after electrolysis treatment. Phoresis rollers are not intended to be semi-critical instruments, but may come in contact with non-intact skin, so they shall be sterilized or exposed to high-level disinfection.
- (34) "Plain soap" means a detergent-based cleanser without antimicrobial additives used for the primary purpose of physical removal of dirt and transient microorganisms. Soap is used in handwashing to suspend microorganisms and allows them to be rinsed off.
- (35) "Protective disposable barriers" means a disposable, moisture-resistant covering, which reduces the potential for contaminating environmental or medical device surfaces that may be difficult or inconvenient to clean and disinfect routinely, e.g., tables and pillows, or hard-to-clean surfaces such as light handles and epilator surfaces.
- (36) "Reprocessing" means the process of cleaning, disinfecting or sterilizing a reusable instrument that has been used or contaminated in order that it be made safe for its intended use.
- (37) "Semi-critical items" means instruments that may come in contact with mucous membranes and non-intact skin, but do not ordinarily penetrate body surfaces. Semi-critical items require sterilization or exposure to high-level disinfection.
- (38) "Sharps container" means a specially manufactured and labeled, leak-proof, rigid, puncture-resistant, durable plastic container into which needles are placed after use and designed to be disposed of as an item of regulated medical waste.
- (39) "Sterility assurance file" means the record containing the sterilizer maintenance and use log and culture report from each biological monitor.
- (40) "Sterilization" means the process which destroys all forms of microbial life. The recommended methods of sterilization of instruments and items used in the practice of electrolysis are the dry heat sterilizer or the autoclave. These methods are standardized and shall be routinely monitored for effectiveness monthly.
- (41) "Tips for epilator needle" means the cap or plastic tip that surrounds the base of the needle and covers the pin device where the needle shank is seated. Tips for epilator needle holder are considered non-critical items, but on occasion may come in contact with blood, so they shall be cleaned and treated with an intermediate-level disinfectant before use.
- (42) "Treatment room" means the operatory where electrolysis treatments are performed.
- (43) "Ultrasonic cleaner" means the processing unit using ultrasonic waves transmitted through the cleaning solution in a mechanical process known as cavitation. The sound waves produce tiny air bubbles on instrument surfaces, which scrub tightly adhering or embedded particles from solid surfaces. Ultrasonic cleaning is particularly effective in

removing soil deposits from hard-to-reach areas

(b) Overview of Standards - Electrology shall be viewed as parenteral when developing standards for client safety. Electrology procedures do not routinely penetrate to sterile tissue although there are occasions where the needle may become contaminated with blood, serum or other material. For this reason, all needles used in electrology procedures shall be single-use, pre-sterilized, and disposable. Other procedures, such as removing ingrown hair, result in blood contamination of instruments and can, therefore, contaminate related surfaces. For this reason all reusable instruments, including forceps, are sterilized using a standard method that shall be routinely monitored for effectiveness (e.g., dry heat sterilizer or autoclave). The intended use of other items used during treatment will dictate whether or not sterilization is needed, or if disinfection is needed, which level of disinfection is appropriate. Cleaning of instruments and other surfaces must precede either sterilization or disinfection procedures. Instruments that do not encounter blood or sterile tissue during use do not routinely require sterilization. During treatment of each client and during reprocessing of instruments gloves are worn. A proper hygienic environment shall be maintained and infection control procedures followed to minimize the risk of transmission of infectious diseases between the practitioner and the client.

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21 NCAC 19 .0405 HAND HYGIENE

(a) Standards for hand hygiene - Hand hygiene is considered one of the most important procedures for preventing the transmission of infection.

- (1) Hands are cleansed by washing with plain liquid soap and water or degermed by hand antisepsis with alcohol-based hand rubs (if hands are not visibly soiled):
 - (A) Before and after treatment of each client.
 - (B) Before donning gloves and immediately after gloves are removed.
- (2) Hands are washed thoroughly with soap and water:
 - (A) When visibly soiled; and
 - (B) Immediately if bare-handed contact with blood, body fluids, secretions, excretions, non-intact skin, mucous membranes or contaminated equipment occurs.
- (3) Handwashing technique with plain soap and water includes:
 - (A) Wetting hands with running water and applying liquid soap in the amount recommended by the manufacturer;
 - (B) Rubbing hands together for 15 to 30 seconds, covering all surfaces of hands, including between fingers and fingernail areas;

- (C) Rinsing hands under a stream of water;
 - (D) Drying hands with a clean disposable paper towel;
 - (E) Turning faucets off with the paper towel; and
 - (F) Disposing of the paper towel in the appropriate covered receptacle located in the treatment room.
- (4) Hand antisepsis, achieved by using alcohol-based antiseptic hand rubs includes:
- (A) Applying the product label recommended amount of alcohol gel or rinse to the palm of one hand;
 - (B) Rubbing hands together, covering all surfaces of hands, especially between fingers and fingernail areas;
 - (C) Continue rubbing hands together for 15 to 25 seconds until the alcohol dries.

(b) Control measures for hand hygiene

- (1) Hand transfer can be a significant mode of transmission of bacteria and viruses from person to person, from person to surface or vice-versa. Handwashing uses plain or non-antimicrobial soaps, which are detergent-based cleansers that have no bactericidal activity. Washing with plain soap will accomplish a physical removal of soil and microorganisms by mechanical action. Hand antisepsis uses antimicrobial soaps or alcohol-based hand rubs, which contain ingredients with in vitro and in vivo activity against microorganisms on the skin, resulting in a reduction of the number of microbial flora on hands.
- (2) The cleaning activity of plain (non-antimicrobial) soap can be attributed to its detergent properties, which result in the removal of dirt, soil, and various organic substances from the hands. Handwashing with plain soap can remove loosely adherent transient flora. Follow the manufacturer's recommendations regarding the volume of product to use. Wash hands with warm water, not hot water, because repeated exposure to hot water may increase the risk of dermatitis. Residual moisture on hands after handwashing has been found to play an important role in the transfer of bacteria and viruses, so a longer duration of hand drying will result in fewer bacteria transferring to other surfaces. Handwashing products can become contaminated and support the growth of microorganisms, so adding soap to a partially empty soap dispenser can lead to bacterial contamination of soap; therefore, liquid products are to be stored in closed containers and dispensed from either disposable

- containers or containers that are washed and dried before refilling.
- (3) According to the CDC Guideline for Hand Hygiene in Health-Care Settings alcohol-based products are more effective for standard hand hygiene by health-care-workers (HCW) than soaps. The antimicrobial activity of alcohols can be attributed to their ability to denature proteins. Alcohol solutions containing 60% to 95% alcohol are most effective, and higher concentrations are less potent. The ideal volume of product to apply to the hands is not known and may vary for different formulations. However, if hands feel dry after rubbing hands together for 10-15 seconds, an insufficient volume of product likely was applied. Follow the manufacturer's recommendations regarding the volume of product to use. Alcohols are not appropriate for use when hands are visibly dirty or contaminated with body fluids or visible blood products. After 5 to 10 uses of alcohol-based products, handwashing with soap and water is needed to remove a build up buildup of emollients. Since alcohols are flammable, it is important to rub hands together after application of alcohol-based products until all the alcohol has evaporated. Use containers which will minimize evaporation.
- (4) When selecting products for hand hygiene, solicit information from manufacturers regarding any known interactions between products used to clean hands, and the types of gloves used.

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21 NCAC 19 .0406 USE OF GLOVES

(a) Standards for use of gloves

- (1) Gloves are worn during hand-contaminating activities:
- (A) A fresh pair of non-sterile, medical grade, latex, nitril or vinyl disposal examination gloves are worn during the treatment of each client or when contact with blood or other potentially infectious materials mucous membranes, and non-intact skin could occur.
- (B) Exam or utility gloves are worn during the procedures of soaking, cleaning, rinsing, drying and packaging of forceps and other contaminated instruments.
- (2) Decontaminate hands in accordance with the Hand Hygiene Standards before putting on gloves and immediately after gloves are removed.
- (3) When a treatment session is interrupted:

- (A) Use protective disposal barriers; or
- (B) Remove and discard gloves; and decontaminate hands before touching items or surfaces (i.e., telephone, computer, door knobs); then decontaminate hands before re-gloving with a fresh pair of gloves before resuming treatment.
- (4) Torn or perforated gloves are removed immediately; hands are decontaminated then re-gloved with fresh gloves.
- (5) After each treatment gloves are removed and disposed of in the appropriate receptacle located in the treatment room and hands are immediately decontaminated.
- (b) Control measures for use of gloves
- (1) Electrolysis is considered a parenteral procedure, which can result in direct contact with blood and non-intact skin; therefore, the electrologist wears a fresh pair of medical grade disposable examination gloves during each client encounter.
- (2) The CDC has recommended that HCW's wear gloves to:
- (A) reduce the risk of personnel acquiring infections from patients;
- (B) prevent health-care worker flora from being transmitted to patients;
- (C) reduce transient contamination of the hands of personnel by flora that can be transmitted from one patient to another. The Occupational Safety and Health Administration (OSHA) mandate that gloves be worn during all patient-care activities that may involve exposure to blood or body fluids.
- (3) Gloves are worn in addition to and not as a substitute for hand hygiene practices. When gloves are worn, hand hygiene practices are also recommended because gloves do not provide complete protection against hand contamination. The consistent wearing of gloves will decrease the risk of potential exposure.
- (4) OSHA prohibits washing or decontaminating disposable (single use) exam gloves for reuse. In addition, the use of petroleum-based hand lotions or creams may adversely affect the integrity of latex gloves.
- (5) The consistent wearing of gloves will decrease the risk of potential exposure. Wearing gloves will also protect the client from potential exposure to the microbial flora of the electrologist, including blood-borne organisms shall there be cuts, scrapes, or micro-lesions on the electrologist's hands. Torn or perforated gloves shall be removed immediately and hands washed after gloves are removed

because pathogens can gain access to the electrologist's hands via small defects in gloves or by contamination of the hands during glove removal.

- (6) Determine duration of glove use/exposure. Determine electrologist and client allergies before wearing latex gloves. Several factors have been linked with latex sensitization, including the presence of allergic conditions (e.g., asthma, eczema, hay fever), all allergy cosmetic powders or foods, and frequency or duration of glove use/exposure. The FDA has approved several powder-free latex gloves with reduced protein contents, as well as synthetic gloves that can be made available for use by latex-sensitive electrologists.

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21 NCAC 19 .0407 CLEANING AND STERILIZATION OF INSTRUMENTS/ITEMS AND OTHER SAFETY PRECAUTIONS

(a) Standards for cleaning and sterilization of instruments/items and other safety precautions - Coordinate necessary sterilized instruments and supplies needed for each treatment in a manner whereby adherence to aseptic technique is maintained with minimal modes and sources of contamination. Wear gloves when handling soiled instruments. Caution shall be taken to avoid puncture injuries from instruments.

- (1) Needles - Needles are:
 - (A) Single -use, pre-sterilized, and disposal.
 - (B) Stored in a manner that will maintain sterile conditions of contents, away from wetness or humidity extremes.
 - (C) Not recapped, bent, or otherwise manipulated by hand prior to disposal to avoid accidental puncture injury.
 - (D) Placed in a puncture resistant sharps container immediately after use, when opened and found damaged, when contaminated before use, or when not used before pre-printed expiration date.
- (2) Forceps, phoresis rollers and tips – Forceps, phoresis rollers and tips are:
 - (A) Processed before initial use and after use on the client to make safe for use during the next client encounter.
 - (B) Reprocessed after a 24 hour period when packaging is opened and instruments are unused or when contaminated before use. (e.g., dropped or placed on surface not protected by barriers).
- (3) Processing protocols for forceps, phoresis rollers and tips. Instruments and items are accumulated in a covered holding container by submersion in a solution of a protein-

dissolving enzyme detergent and water, following manufacturer's instruction for dilution, rinsed and drained, placed in the basket of a covered ultrasonic cleaning unit containing a fresh solution, of a protein-dissolving enzyme detergent, following manufacturer's instructions for dilution and ultrasonic running times. Basket is removed from ultrasonic unit, rinsed under running water, drained and items are air dried on a clean, disposal, absorbent, non-shedding cloth in an area protected from exposure to contaminants with a hot air dryer or placed into drying cabinet. Forceps, rollers and heat-stable tips are packaged individually or small multiples in woven or non-woven wraps, paper of film pouches or rigid container systems for the sterilization process. Packaged instruments and items are placed in an autoclave or dry heat sterilizer with chemicals indicator, loading and running the sterilizer according to manufacturer's instructions. If dry heat sterilizers are use, heat-sensitive tips are subjected to an intermediate-level disinfectant, rinsed and dried. After processing, instruments and items are stored in a clean, dry, covered container, drawer or closed cabinet, which prevents the contents from coming into contact with dust, moisture, unnecessary touching and soil.

- (4) Sterilization:
 - (A) Methods of Sterilization: For dry heat, the minimum time-temperature relationships required are 340°F (170°C) for one hour or 320°F (160°C) for two hours. For autoclave (steam under pressure), the time-temperature-pressure relationship required is 15-20 minutes at 121 degree C (250 degree F) and (***) psi (pounds per square inch) for packaged instruments and items. Follow the sterilizer manufacturer's instructions for the unit you have if times and temperatures differ from those given.
 - (B) Use of Sterilizers: The temperature and exposure time for using dry heat sterilizers and autoclaves relates only to the time of exposure after attainment of the specific temperature and does not include a penetration of heat-up lag time. Exposure time does not include drying and cool-down time. Sterilizers shall have visible physical indicators (e.g. thermometers, timers). Visually check sterilizer gauges during the cycle. Sterilizers shall be loaded,

operated and maintained according to manufacturer's instructions. The interior of these devices shall be cleaned according to the manufacturer's instructions. Use Sterilizers that are regulated by the FDA. Chemical (i.e., color change) indicators shall be used on each package, and optionally, placed inside packages containing multiple instructions. Chemical indicators shall be visible on the outside of each package sterilized and indicates that instruments/items have been exposed to a sterilization process, but it does not guarantee sterility. Biological monitors shall be used no less than once a month (per sterilizer) according to manufacturer's instruction to ensure proper mechanical function of the sterilizer. Lab reports shall be filed in a permanent Sterility Assurance File.

- (C) Packaging for sterilization: When choosing package material, consider size, shape and number of instruments to be sterilized. The package material shall be able to withstand the physical conditions of the selected sterilization process. There shall be enough space between items in packaging for sterilization of all surfaces to occur. Follow manufacturer's recommendation for spacing of package items in the sterilizer. After sterilization, the package material shall provide a barrier to microorganism, repel all liquids, protect sterilized items during normal handling, and provide for aseptic removal of contents.
- (5) Other treatment related items:
 - (A) Indifferent electrodes, cords for epilator and eye shields are cleaned, dried and subjected to intermediate-level disinfection before initial use and after each treatment, replaced when showing signs of wear and tear.
 - (B) Ultrasonic cleaning units and all other containers and their removable parts are used during soaking and cleaning procedures are cleaned and dried daily and used and maintained according to manufacturers instructions.
 - (C) Environmental surfaces directly related to treatment are cleaned and subjected to low-level disinfection

daily and when ever visibly contaminated.

(b) Control measures for cleaning

- (1) Cleaning is the basic first step for all decontamination because it physically removes debris and reduces the number of microorganisms present. Cleaning is the removal of organic material or soil from objects and is normally done by using detergent and water.
- (2) Generally, cleaning is designed to remove rather than kill microorganisms. Immediate decontamination of instruments after use is an important step in providing protection to the electrologist and to help prevent the transmission of pathogens.
- (3) Technology has provided cleaning products and devices that are especially appropriate for the cleaning of instruments used in electrology. Enzyme detergents and ultrasonic cleaning units are examples of appropriate devices used to clean electrology instruments and items. The use of an ultrasonic cleaning unit will reduce the electrologist's risk for exposure to puncture injuries that can occur during the scrubbing of instruments. A physical cleaning is always done before disinfection or sterilization.

(c) Control measures for sterilization

- (1) Instruments that can penetrate soft tissue during electrology procedures are the needle and forceps. To assure the highest level of client safety, needles shall be single use, pre-sterilized, and disposable. Forceps shall be thoroughly cleaned and then sterilized before initial use and after use on the client to reduce the risk of transmission of infection and disease. While tips are considered non-critical items, they may come in contact with blood during a treatment. For this reason, they shall be processed with forceps. All tips tolerate autoclave sterilization; if dry heat sterilization is used, electrologists are encouraged to use heat-stable tips.
- (2) Do not use the following:
 - (A) The endodontic dry heat sterilizer known as the glass bead sterilizer shall not be used in the practice of electrolysis since it is no longer cleared to market by the FDA. The FDA Dental Device Classification Panel has stated that the glass bead sterilizer presents "a potential unreasonable risk of illness or injury to the patient because the device may fail to sterilize dental instruments adequately."
 - (B) Some high-level disinfectants, including Glutaraldehyde-based

germicides, are not recommended as an applicable method of sterilization of instruments and items, based on their toxicity level, instability, and impracticality. Sterilization with liquid chemical germicides is not capable of being biologically monitored. If an electrolysis device is heat-stable, the proper method of reprocessing is by using a heat-based method such as a steam autoclave or dry air oven.

- (C) Carbon rollers for phoresis are porous and cannot be sterilized or disinfected; therefore, they shall not be used. Household bleach is not labeled for disinfecting instruments.

(d) Control measures for disinfecting - Chemical disinfectants are regulated either by the Food and Drug Administration (FDA) for medical instrument uses or the Environmental Protection Agency (EPA) for environmental surface uses. Intended uses and directions for use are found both on the labels of the products and/or in package inserts. Material Safety and Data Sheets (MSDS) for each product are available from the manufacturer. Disinfectant products are divided into two major types: hospital and general use. Hospital type disinfectants are the most critical to infection control and are used on medical and dental instruments, floors, walls, bed linens, toilet seats, and other surfaces. General disinfectants are the major source of products used in households, swimming pools, and water purifiers.

Non-critical equipment and environmental surfaces are cleaned and then treated with either intermediate-level, or low-level disinfectants. Intermediate-level disinfection kills mycobacteria, most viruses, and bacteria with a chemical germicide registered as a "tuberculocide" by the EPA. Low-level disinfection kills some viruses and bacteria with a chemical germicide registered as a hospital disinfectant by the EPA.

(e) Control measures for disposal of needles - Do not overfill the sharps container. When the sharps container is $\frac{3}{4}$ full, seal it securely and follow state and local regulations to dispose of it.

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21 NCAC 19 .0408 ENVIRONMENTAL CONTROL AND HOUSEKEEPING

(a) Standards for environmental control and housekeeping - A proper hygienic environment shall be the goal of the electrologist and electrology instructor. A variety of microorganisms are normal contaminants of environmental surfaces; therefore routine cleaning and removal of soil are recommended. Most microorganisms found on environmental surfaces are non-pathogens, but conscientious sanitation and disinfection techniques control cross-infection.

(1) Environmental Control

- (A) Each treatment room is kept clean, lighted, and ventilated, contains disposable paper towels and appropriate hand washing products

with easily accessible sink with hot and cold running water, contains labeled covered storage for supplies, contains a puncture resistant sharps container labeled as a biohazard, contains covered trash containers, and has availability to toilet facilities with sink, liquid hand soap and disposal paper towels.

- (B) Treatment table surfaces are made of materials that can be washed with detergents and treated with disinfectants and covered with fresh disposal paper drapes or barrier before each client treatment. Headrests are covered with fresh disposable paper or barrier before each client treatment. When body areas are treated and bare skin may come in contact with the treatment table surface, the surface must be covered with an appropriate size fresh disposal paper drape or barrier.

- (C) Containers for dispensing products, such as liquid soap, alcohol hand-rubs and treatment supplies must be labeled. All treatment supplies must be disposal or if reusable must be cleaned and dried before being refilled with fresh products.

- (D) When using creams, lotions, ointments and antiseptics during treatment, follow aseptic techniques for dispensing products, follow manufacturer's recommendation for use, and dispose of product and container when contaminated or expiration date is reached.

- (E) Environmental surfaces that are touched during treatment, such as epilator needle holder and cords, epilator cart, magnification lamps, light devices and epilator controls are covered with fresh protective disposal barrier before each treatment of a client or decontaminated after each treatment of a client, following manufacturer's instruction of products.

- (F) Disposable items such as cotton, paper drapes and protective barriers are stored in covered containers, closed cabinets or drawers before use, and discarded into a covered trash container lined with a plastic bag, securely fastened when ready for disposal, and disposed daily into the regular trash, unless otherwise

specified by state and local health regulations.

- (G) Reusable items such as sheets, pillowcases and towels, used to cover treatment table or as a client drape are stored in covered containers, closed cabinets or drawers before use, placed in a covered container, labeled as "soiled laundry" after use, laundered with detergent and water temperatures that will ensure adequate cleaning and thermal disinfection, and dried completely in a gas or electric clothes dryer, at high temperatures.

(2) Housekeeping:

- (A) A low-level hospital-grade disinfectant registered with the Environmental Protection Agency (EPA) is used for cleaning non-critical environmental surfaces.
- (B) All other environmental surfaces in the treatment room are kept in a state of visible cleanliness by cleaning with water and detergent and using a hospital-grade disinfectant/detergent designed for general housekeeping purposes as indicated on the product label.

(b) Control measures for environmental control and housekeeping

- (1) Hospital-grade disinfectants registered with the EPA shall be used for environmental surface cleaning. Product labels give the EPA registration number and shall give adequate safety and precautionary information. Manufacturer's instructions on the use of the product shall be followed. Information on specific manufacturer label claims and the classification of disinfectants can be obtained by writing the Anti Microbial Division, EPA 751OC, Office of Pesticides Programs, 401 M Street SW, Washington, DC 20460. <http://www.epa.gov/>.
- (2) Environmental surfaces are "non-critical" and may be divided into at least two major subdivisions according to decreasing risk of disease transmission:
 - (A) medical equipment surfaces such as frequently touched epilator surfaces, magnifying lamps, epilator carts, and
 - (B) housekeeping surfaces such as floors, walls, door knobs, tabletops, and window sills.
- (3) Adequate levels of safety for surfaces of electrology equipment (non-critical surfaces) may be achieved by simple washing or scrubbing with detergent and warm water or, depending on the equipment surface and the

nature and degree of contamination, cleaning followed by an application of an intermediate-to low-level chemical germicide. Follow manufacturer's instructions for application and exposure times of disinfectant products.

- (4) Cleaning schedules and methods vary according to the type of surface to be cleaned and the amount and type of soil present. Countertops shall be of smooth, non-porous material and shall be cleaned daily, taking special care in the areas where the procedures of cleaning and sterilizing instruments and items takes place. Items on countertops shall be maintained in a sanitary manner. Sinks and toilet facilities shall be cleaned daily. Non-critical equipment, environmental surfaces, doorknobs, telephones, and treatment tables in the treatment room shall be cleaned and disinfected. Floors and carpets shall be vacuumed and cleaned. Walls, blinds and curtains shall be cleaned when visibly soiled.

Authority G.S. 88A-16.

21 NCAC 19 .0409 CLIENT CONSIDERATIONS

(a) Standards for client consideration

(1) Client Consideration:

- (A) Standards Precautions shall be consistently used for all clients.
- (B) A complete past and current health history shall be obtained from each client prior to treatment. The client's health status shall be updated and evaluated on an on-going basis and referred to an appropriate physician as indicated.
- (C) The Client's skin shall be evaluated prior to each treatment and the client shall be referred to an appropriate physician if indicated.

(2) Pre and Post Treatment of Skin Site:

- (A) Before treatment, the skin site shall be cleansed using soap and water then wiped with an antiseptic skin preparation.
- (B) Clients shall be instructed on appropriate post-treatment care to promote healing of the treated skin site.

(b) Control measures for client considerations

- (1) The client's skin shall be examined for signs of infection or rashes prior to each treatment. Treatment shall be delayed if actual or potential signs or symptoms of infection are present. The practitioner shall refer the client to an appropriate physician when evaluation of health history or skin examination indicates. The general health status of the client may be a predisposing factor in susceptibility to

infection and normal healing. Professional interpretations require careful observation and good judgment.

- (2) Cleansing the skin with soap and water prior to treatment serves to physically remove dirt and contaminating microorganisms. Wiping with an antiseptic will help to inhibit or destroy microorganisms. An FDA regulated antiseptic shall be chosen that does not cause irritation to the skin surface.

Authority G.S. 88A-16.

21 NCAC 19 .0410 HEPATITIS B VIRUS (HBV) VACCINATION

(a) Standards - The Centers for Disease Control and Prevention (CDC) reports that HBV infection is a major infectious occupational hazard for health care workers. This risk of acquiring HBV from occupational exposures is dependent on the frequency of percutaneous and percutaneous exposure to blood or blood products. Practitioners and electrology students should consider being immunized against Hepatitis B virus (HBV).

(b) Control measures for hbv vaccination

- (1) The CDC states that health care workers may be at risk for hepatitis B virus (HBV) exposure if their tasks involve contact with blood or blood-contaminated body fluids; therefore, such workers shall be vaccinated.
- (2) Risks among health care professionals vary during the training and working career, but are often highest during the professional training period. For this reason, the student's vaccination for HBV shall be completed before electrology training begins.
- (3) In 1986 the FDA approved a new recombinant hepatitis B vaccine. It consists of highly purified hepatitis B surface antigen (part of the virus) that is produced by cells of bakers' yeast. The vaccine is a result of a genetic recombinant technique and contains no human source materials; therefore, there is no risk of acquiring a disease from the vaccine.
- (4) Practitioners shall contact their personal physician for appropriate immunization against hepatitis B.

Authority G.S. 88A-16.

21 NCAC 19 .0411 FOLLOW-UP PROCEDURES FOR EXPOSURES TO HEPATITIS, HIV, AND OTHER BLOOD-BORNE PATHOGENS

(a) Standards - Health care workers who have percutaneous or mucous membrane exposure to blood and other body fluids are at risk for infection, including HBV, HCV and HIV infection. The CDC concludes in a continuing study that, while HIV infection is a real risk to health care workers, the risk is low and can be minimized by taking appropriate precautions. Identified risk factors for HIV and HCDV transmission are almost identical to those for HBV transmission. Despite the similarities in the

modes of transmission, the risk of HBV infection in health care settings far exceed that for HIV or HCV infection. The following steps shall be taken when a puncture injury has occurred:

- (1) Remove and discard gloves.
- (2) Wash exposed surface with running water and soap. If wound is bleeding, allow to bleed. After cleaning the wound, apply an antiseptic product.
- (3) Immediate contact is made to practitioner's personal physician for appropriate consultation, and for necessary post-exposure strategies.
- (4) Document of the exposure is made including:
 - (A) Date and time of exposure;
 - (B) Details of the procedure being performed, including where and how the exposure occurred;
 - (C) Details of the exposure, including the type and amount of fluid or material and the severity of the exposure (e.g., for a percutaneous exposure and depth of injury; for a skin or mucous membrane exposure, the estimated volume of materials and the condition of the skin);
 - (D) Details of the exposure source (e.g., whether the source material contained HBV, HCV or HIV);
 - (E) Details about the exposed person (e.g., hepatitis B vaccination and vaccine-response status);
 - (F) Details about counseling, post-exposure, circumstance under which exposure occurred, name of source client, HIV and/or hepatitis status of source client, status of practitioner's testing, follow-up testing and any necessary post-exposure prophylaxis.

(b) Control measures for follow up procedures - Careful clinical skills shall be practiced and Standard Precautions followed to prevent puncture injury or mucous membrane exposure to blood. Proper management of exposures is necessary including first-aid measures, medical follow-up including collection and testing of blood of source person and exposed person, necessary prophylaxis and written documentation. In the event of exposure to blood and body fluids containing visible blood, the steps recommended in this Rule shall be followed.

Authority G.S. 88A-16.

21 NCAC 19 .0412 STANDARD PRECAUTIONS AS RECOMMENDED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION

(a) Standards – Standard precautions appropriate to the practice of electrology are included in the Standards, Rules .0402-.0408 of this Section.

(b) Control measures for standards precaution

- (1) These precautions as included in the Standards shall be performed universally for all clients.
 - (2) Standard Precautions are intended to prevent parenteral, mucous membrane, and non-intact skin exposures of health-care workers to blood-borne pathogens. In addition, immunization with HBV vaccine is recommended as an important adjunct to Standard Precautions for health-care workers who have accidental exposures to blood.
 - (3) The following Standard Precautions are appropriate for the care of all clients during electrolysis treatments:
 - (A) Wash hands or use hand antisepsis BEFORE and AFTER each client contact.
 - (B) Wear gloves when touching blood, body fluids, secretions, excretions, contaminated items, mucous membranes and non-intact skin.
 - (C) Take care to prevent puncture injuries when using instruments during and after procedures; when cleaning instruments; and when disposing of used needles.
 - (D) Use adequate procedures for routine care, cleaning, and disinfection of environmental surfaces, and other frequently touched surfaces.
 - (4) Electrolysis does not generate splashes or sprays of blood and body fluids. For this reason, the following Standard Precautions are not necessary in electrolysis, however may be used in certain circumstances:
 - (A) Wearing mask and eye protection or a face shield to protect mucous membranes of the eyes, nose and mouth during procedures and client care activities that are likely to generate splashes or sprays of blood and body fluids.
 - (B) Wearing gown to protect skin and prevent soiling of clothing during procedures that are likely to generate splashes or sprays of blood and body fluids. Remove soiled gown as promptly as possible and wash hands.
 - (4) same building, and both must have a supply of either soap or a germicidal skin preparation for washing hands;
 - (4) have a supply of nonsterile examination gloves, cotton balls and antiseptic product for cleaning client's skin, materials for cleaning instruments and other items, materials for cleaning the workplace or documentation of cleaning contract, paper or cotton towels, and puncture resistant containers and plastic bags for used materials;
 - (5) have sterilization equipment and supplies needed for the sterilization methods chosen;
 - (6) have a covered trash can and, if linens are used, a laundry bag or closed container for laundry, readily available to each workplace area;
 - (7) have storage facilities sufficient to contain the equipment, instruments and supplies of the electrolysis practice; and
 - (8) have clean and orderly workplace areas, lavatory, water closet facilities and equipment.
- (b) In addition to the items required in Paragraph (a) of this Rule, each laser practitioner office shall require the following:
- (1) All doors leading to laser room shall have laser specific American National Standard Institute (ANSI) Z136.1 safety signs displayed;
 - (2) No mirrors that are not covered or reflective surfaces;
 - (3) Laser safety eyewear labeled with the same wavelength as the laser operated and labeled with optical density;
 - (4) All windows protected from laser beam with either an opaque material or white blinds;
 - (5) A readily available fire extinguisher in treatment room;
 - (6) Face Masks;
 - (7) Air filter;
 - (8) A laser or light-based hair removal practice shall be maintained in accordance with local zoning regulations; and
 - (9) Lasers and light-based devices must be maintained and operated in accordance with Occupational Safety and Health Administration (OSHA) standards with proper signage.
- (c) A copy of the current "Supervisory Agreement" shall be available in the office and available for inspection.

Authority G.S. 88A-16.

21 NCAC 19 .0413 ELECTROLOGIST AND LASER HAIR PRACTITIONER OFFICES

- (a) Each Electrolysis office, wherever located, shall:
- (1) have treatment table or other piece of furniture for placing clients for treatment;
 - (2) have at least one circuline-type lamp, halogen lamp, or other type or magnifying lamp;
 - (3) have accessible hand washing facilities on the same floor and accessible toilet facilities in the

SECTION .0500 - PHYSICIAN/LASER HAIR PRACTITIONER GUIDELINES

21 NCAC 19 .0501 SUPERVISING PHYSICIAN

- (a) A laser hair practitioner must obtain a "Supervising Physician".
- (b) A laser hair practitioner shall not operate any laser equipment without a signed "Supervisory Agreement" in

accordance with 21 NCAC 19 .0202 in place and on file with the NCBEE.

(c) Before commencing practice a laser hair practitioner must submit to the NCBEE the name of the supervising physician, business address, business phone number, NCMB medical license number and a copy of signed "Supervisory Agreement".

(d) A laser hair practitioner shall notify the NCBEE within 30 days of the termination of the "Supervisory Agreement" with the supervising physician.

Authority G.S. 88A-11.1.

SECTION .0600 – SCHOOLS

21 NCAC 19 .0601 CURRICULUM

(a) The course of study for electrolysis shall consist of at least 600 clock hours of instruction in theory and clinical practice as set out in the following table:

Subject	Theory Hours	Clinical Hours
General Orientation	20	0
Rules of the school		
Personal hygiene and dress		
Professional ethics and office rules		
State and local laws governing electrolysis		
History of <u>electrolysis</u>		
Trichology (Hair Growth)	20	0
Hair structure and function		
Growth cycles, including regrowth cycles		
Follicle structure and function		
Endocrinology	20	0
Causes of hair growth, including new hair stimulation		
Study and function of glands		
Dermatology	30	0
Skin structure and function		
Disease of the skin (as related to the practice of electrology)		
Reaction of the skin as related to the clinical application of electrolysis		
Neurology/Angiology (as related to electrology)	20	0
Nervous system		
Pain thresholds		
Pain variables		
Synoptic responses		
Circulatory system		
Cardiovascular system		
Lymphatic system		
Bacteriology	25	40
Sanitation		
Sterilization		
Rules and standards promulgated by the Board		
Principles of Electricity	20	80
Short wave (Alternating) current		
Direct (Galvanic) current		
Equipment	30	200
Modalities		
Electrolysis (DC - Galvanic)		
Thermolysis (SW - Shortwave)		
Blend (Combination of Galvanic and Shortwave)		
Variables		
Probes		
Intensity		
Timing		
Depth of insertion		

Equipment maintenance and upkeep		
General Treatment Procedure	25	30
Consultation with clients		
Consultation instruction shall include methods of developing case histories and health history assessments and providing information on hair growth cycles, modalities used, pain factors, scheduling of appointments, and fees		
Positioning and draping		
Development of Practice	20	20
Public relations and advertisement		
Office procedure and management		
Record keeping		
Telephone etiquette		
Housekeeping (Office)		
Totals:	230	370

(b) The course of study for laser hair removal shall consist of at least 40 clock hours of instruction in theory and clinical practice, with a minimum of 25 hours in practical hands on instruction and at least 15 hours of basic science/Didactic instruction in the use of laser and light-based hair removal or reduction devices in the following topics:

- (1) Biology of hair;
- (2) Laser and light-based terminology;
- (3) Laser physics;
- (4) The different types of laser and light-based hair removal devices;
- (5) Safety and precautions;
- (6) Tissue interaction;
- (7) Fitzpatrick skin typing;
- (8) Patient history form and consultation;
- (9) Treatment contraindications;
- (10) Sterilization procedures;
- (11) Draping of patient;
- (12) Pre and post care;
- (13) Photo documentation; and
- (14) Photosensitive drugs and disorders.

Authority G.S. 88A-6; 88A-19; 88A-19.1.

21 NCAC 19 .0602 APPLICATION FOR CERTIFICATION

Each person applying for a school certification shall submit to the Board the information required by G.S. 88A-19 for Board approved schools of electrology and by G.S. 88A-19.1 for Board approved schools of laser, light-sourced, or pulsed light treatments and:

- (1) A copy of the student contract required by Rule .0605 of this Section; and
- (2) A copy of the form for student authorization to receive electrolysis and or laser hair removal treatment required by Rule .0605 of this Section.

Authority G.S. 88A-6; 88A-19; 88A-19.1.

21 NCAC 19 .0603 CERTIFICATIONS NOT TRANSFERABLE

Consistent with G.S. ~~88A-19~~, 88A-19 and G.S. 88A-19.1, school certifications are valid only for the location named in the certification and are not transferable either to a new owner or to a new location. A school shall within 10 business days notify

the Board in writing of a sale, transfer, change in management or change in ownership. Each school shall display its certification in a conspicuous place near the main entrance.

Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20.

21 NCAC 19 .0604 PROGRAM DIRECTORS

Each school certified by the Board shall at all times be under the direction and supervision of a program director. The program director of each school shall be responsible for the organization, administration, development and general effectiveness of the school's electrolysis and/or laser, light source, or pulsed-light treatments training program.

Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20.

21 NCAC 19 .0605 ENROLLMENT PROCEDURES

(a) Every school certified by the Board shall furnish to each student upon enrollment a signed copy of the school contract with the student and a copy of the school handbook which shall include the school curriculum as approved by the Board. The school shall also furnish to each student upon enrollment a copy

of the statutes and rules governing electrologists and/or laser hair practitioners and the sanitation standards issued by the Board.

(b) Every school shall obtain from each student on enrollment a signed copy of the student's permission to receive electrolysis and/or laser, light source, or pulsed-light treatment. Any limitations on treatment shall be listed on the permission form.

(c) Within 10 business days after each student's enrollment, every school shall furnish the Board with the following:

- (1) The name, address, date of enrollment, telephone number and specification of day or evening classes of each student, recorded on the school's stationery;
- (2) A statement signed by the student stating that he or she has received a copy of the statutes and the rules governing electrologists and/or laser hair practitioners and the sanitation standards issued by the Board and is cognizant of the fact that in order to qualify for an electrologist and/or laser hair removal license the student must meet the requirements of ~~G.S. 88A-10~~ and/or G.S. 88A-11.1.

Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20.

21 NCAC 19 .0608 SCHOOL EQUIPMENT

(a) Every electrolysis school certified by the Board shall provide and maintain at least the following equipment:

- (1) one high frequency or thermolysis (short wave) machine;
- (2) one galvanic/thermolysis (blend) machine;
- (3) stainless steel, insulated, and disposable epilation probes (or needles) of sizes 002, 003, 004, and 005;
- (4) at least one circuline-type lamp, halogen lamp, or other type of magnifying lamp per treatment table;
- (5) two treatment tables and chairs for clients and adjustable chairs or stools for students;
- (6) a cabinet for towels and utilities for each table;
- (7) a covered trash container for each table;
- (8) covered containers for all lotions, soaps, cotton balls, tissues and other supplies and sterilizing solutions;
- (9) six dozen ~~fine pointed~~ epilation forceps (or tweezers);
- (10) one plastic puncture resistant container (for used sharps) for each table;
- (11) one autoclave sterilizer, dry heat sterilizer and ultrasonic cleaner;
- (12) audio-visual teaching materials and ~~equipment~~ Equipment; and
- (13) one multi-needle epilator.

(b) Only Federal Communication Commission F.C.C(FCC) approved types of epilators registered by the federal Food and Drug Administration (FDA) shall be used by each school in training students.

(c) All epilators, autoclaves, and dry heat sterilizers shall be state-of-the-art and shall be monitored monthly to ascertain effectiveness. Any changes from the list of equipment provided

to the Board pursuant to G.S. 88A-19(a)(3) shall be reported to the Board.

Authority G.S. 88A-6; 88A-19; 88A-20.

21 NCAC 19 .0609 SCHOOL LIBRARY

Every school certified by the Board shall maintain a library containing at least one copy of each textbook used and shall make the books in the library available for use by the students. In addition, the school library shall contain the current copy of the International Board of Electrologist Certification (IBEC) compendium of study in preparation for examination by the Board.

Authority G.S. 88A-6; 88A-19; 88A-20.

21 NCAC 19 .0611 IDENTIFICATION OF ELECTROLYSIS STUDENTS

(a) Each student at a school ~~certified~~ approved by the Board must wear identification which clearly indicates the student's name and whether the student is a primary, junior, or senior student at all times when the student is at school. A student shall be classified as a primary student until the completion of 200 hours of the curriculum. A student shall be classified as a junior student during the time the student is completing between 200 and 400 hours of the curriculum. A student shall be classified as a senior student after completion of 400 hours of the curriculum.

(b) Every school shall notify the Board of the type of insignia issued by the school to be used by its students.

Authority G.S. 88A-6; 88A-19; 88A-20.

21 NCAC 19 .0612 STUDENT PRACTICAL WORK; CREDIT FOR OBSERVING AND SERVING AS A CLIENT

(a) No practical work may be done by students attending a school ~~certified~~ approved by the Board except within the school premises and under the direct supervision of a licensed instructor.

(b) Hours of credit shall be given to a student for time spent as a client in the ratio of one hour of practical credit for every three hours as a client. The maximum hours of practical credit to be given a student for time spent as a client or observing will be 30 credit hours. Any student observing, or as a client, may receive either theory or clinical practice hours but not both for the same unit of time.

Authority G.S. 88A-6; 88A-19; 88A-20.

21 NCAC 19 .0613 STUDENT/TEACHER RATIO AND EQUIPMENT

(a) For electrology, at least one instructor per 12 students, or fraction thereof, shall be in attendance at all times when students are engaged in practical work. The school shall provide necessary equipment for each student and client.

(b) For laser, at least one instructor per 12 students, or fraction thereof, shall be in attendance at all times when students are engaged in practical work. A skills attained checklist that matches current curriculum requirements in Rule .0601(b) of this

Section shall be completed and signed off on by the instructor for each student. The school shall provide necessary equipment for each student and client.

Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20.

21 NCAC 19 .0614 SCHOOL HOURS AND SCHEDULE

Every electrology or laser school certified by the Board shall maintain regular class hours with a daily schedule which shall be submitted to the Board for its approval every six months.

Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20.

21 NCAC 19 .0617 SCHOOL ADVERTISEMENTS

A school certified by the Board for electrology or laser may advertise as such, but shall not in any way hold itself out as an electrolysis or laser hair removal office.

Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20.

21 NCAC 19 .0618 PRIVATE PRACTICE IN A SCHOOL BUILDING

No private electrolysis shall be ~~maintained~~ conducted in any room or enclosure ~~where during the time a school's activities are conducted.~~ Any private practice in a school building must have a separate entrance for the working quarters and a separate name and sign.

Authority G.S. 88A-6; 88A-16; 88A-19; 88A-20.

21 NCAC 19 .0619 EQUIPMENT ENDORSEMENTS AND SALES PROHIBITED

No school certified by the Board may endorse, recommend, advertise, promote, or sell any type of laser, light-based devices, epilator or other electrolysis or laser hair removal equipment to the students in the school or permit any other person to do so.

Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20.

21 NCAC 19 .0622 CERTIFICATION OF SCHOOLS IN OTHER STATES OR JURISDICTIONS

(a) The Board ~~will~~ shall certify a school in another state or jurisdiction for purposes of G.S. 88A-10 provided that:

- (1) The school applies for certification, submits the information required by G.S. 88A-19(a)(1) - (6), and meets the requirements of 21 NCAC 19 .0602, .0606, .0607, .0608, and .0609;
- (2) If the school is in a state or jurisdiction that approves electrolysis schools, the school is approved by the proper agency for that state or jurisdiction; and
- (3) The school has a curriculum of at least 600 hours.

~~(b) A school located in another state or jurisdiction shall pay an application fee of seventy five dollars (\$75.00) and a yearly certification fee of fifty dollars (\$50.00).~~

~~(c)~~ (b) The Board shall revoke the certification of a school in another state or jurisdiction upon a proof that the school in a

jurisdiction that licenses electrologists has lost its approval in that state.

~~(d)~~ (c) The school must agree to teach North Carolina's sanitation standards to any student who states to the school an intention of taking North Carolina's licensing examination.

Authority G.S. 88A-6; 88A-9; 88A-19; 88A-21.

SECTION .0700 - CONTINUING EDUCATION

21 NCAC 19 .0701 CONTINUING ED REQ/LICENSE RENEWAL, REINSTATEMENT / REACTIVATION

(a) Each electrologist licensed in this State shall complete at least one CEU (10 hours) of continuing education for each renewal period as a requirement for renewal of the electrologist's license. ~~Over any two renewal periods, the Board will give credit for no more than one-half CEU in the area of business management.~~

(b) An electrologist or laser hair practitioner who has been placed on the inactive list by the Board for less than five years may present evidence of completion of one CEU (10 hours) within the 12 months preceding application for return to active status in satisfaction of the competency requirement of G.S. 88A-14 before the Board will return the electrologist or laser hair practitioner to active status.

(c) An electrologist or laser hair practitioner whose license has been expired for 90 days or more but less than five years may present evidence of completion of one CEU (10 hours) for each renewal period or part of a renewal period that has elapsed since the electrologist's or laser hair practitioner's license was last current in satisfaction of the competency requirement of G.S. 88A-12. At least one of the CEUs offered in satisfaction of a competency requirement must be completed within the 12 months immediately preceding the application for reinstatement.

(d) No more than 10 hours over a five year period may be approved through correspondence, on-line, or distance learning courses.

(e) Not more than one 10 hours may be carried over per renewal period.

(f) In the initial year of licensure, new licensees tested after the sixth month of the calendar year shall not be required to obtain CEUs until the following renewal year.

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

21 NCAC 19 .0702 BOARD APPROVAL OF COURSES

(a) The Board shall approve a program or course if it is:

- (1) In any subject required by 21 NCAC 19 .0601;
- (2) Offered by one of the following entities:
 - (A) A college or university authorized to grant degrees in this State;
 - (B) A state or national professional electrolysis and/or laser association; or
 - (C) A school ~~certified~~ or CE provider approved by the Board.

- (D) American Society of Laser Medicine (ASLM);
- (E) American Academy of Dermatology (AAD);
- (F) An entity providing a program of Certified Medical Education (CME);
or
- (G) A course approved by the board.

(b) The entity offering the program or course shall provide the Board with the information listed in Paragraph ~~(b)~~(c) of this Rule and shall certify to the Board the names of all electrologists licensed by the Board who attended the program or course and their actual hours of attendance.

~~(b)~~(c) The Board will not approve a program or course without the following information:

- (1) Title, location, and date of the course,
- (2) Sponsoring entity,
- (3) Course objective and content,
- (4) Hours of study,
- (5) Name, education, and background of each instructor.

~~(e)~~(d) An electrologist or laser hair practitioner seeking credit for a program or course offered by an entity not listed in Paragraph (a) of this Rule may request that the Board approve the course by submitting in writing, at least two months in advance of the course registration date, the information listed in Paragraph (b) of this Rule on an application form provided by the Board.

~~(d)~~(e) The Board shall approve a program or course if requested pursuant to Paragraph ~~(e)~~(d) of this Rule on a finding that it offers an educational experience designed to enhance the practice of electrology or laser hair reduction as required by G.S. 88A-13. In determining whether or not to make this finding, the Board shall consider the program or course in light of the criteria set forth in The Continuing Education Unit Criteria and Guidelines, 5th edition, current edition, as adopted by the International Association for Continuing Education and Training (IACET) and incorporated herein by reference without including subsequent amendments or editions. The presence of all criteria or the absence of individual criteria shall not be conclusive. Copies of The Continuing Education Unit Criteria and Guidelines, 5th edition, current edition, may be obtained at a charge of nine dollars (\$9.00) per copy for one to four copies [seven dollars (\$7.00) for IACET members] by writing IACET at 1101 Connecticut Avenue NW, Suite 700, Washington, D.C. 20036, 1760 Old Medow Road, Suite 500, McLean, VA 22102, by phone at (703) 506-3275, Fax (703) 506-3266, or online at www.IACET.org. ~~The Board shall notify the electrologist by mail of the Board's findings and decision. A change in subject matter, length, or instructor of a course requires reapproval by the Board. The entity offering the program or course shall either provide to the electrologist or provide directly to the Board certification of the electrologist's actual hours of attendance after the program or course is completed.~~

(f) The Board shall notify the electrologist by mail of the Board's findings and decision. A change in subject matter, length, or instructor of a course requires re-approval by the Board. The entity offering the program or course shall either provide to the electrologist or provide directly to the Board

certification of the electrologist's actual hours of attendance after the program or course is completed.

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

21 NCAC 19 .0704 TIME LIMITS ON CREDIT

An electrologist or laser hair practitioner may carry over up to one CEU from one renewal period to the next. An electrologist or laser hair practitioner applying for reinstatement under 21 NCAC 19 .0203(b) who is presenting CEUs in satisfaction of competency requirements may, however, subject to the requirements of 21 NCAC 19 .0701(c), receive credit for that purpose for any CEUs taken during the time the applicant's license was expired.

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

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CHAPTER 64 - BOARD OF EXAMINERS OF SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists intends to adopt the rule cited as 21 NCAC 64 .0219.

Proposed Effective Date: July 1, 2010

Public Hearing:

Date: April 23, 2010

Time: 1:00 p.m.

Location: North Raleigh Hilton, 33415 Wake Forest Road, Raleigh, NC

Reason for Proposed Action: To keep up with technology.

Procedure by which a person can object to the agency on a proposed rule: Any person may object to the proposed rule by attending the public hearing on April 23, 2010 and/or by submitting a written objection by April 30, 2010 to John C. Randall, 3101 Tower Blvd., 1315, Durham, NC 27707.

Comments may be submitted to: John C. Randall, 3101 Tower Blvd., 1315, Durham, NC 27707; phone (919) 403-0351

Comment period ends: April 30, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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**
☐ **Substantial Economic Impact** ($\geq \$3,000,000$)
☒ **None**

SECTION .0200 - INTERPRETATIVE RULES**21 NCAC 64 .0219 TELEPRACTICE**

Telepractice means the use of telecommunications and information technologies for the exchange of encrypted patient data, obtained through real-time interaction, from one site to another for the provision of speech and language pathology and

audiology services to patients through hardware or internet connection.

- (1) Licensees of this Board may evaluate and treat patients receiving clinical services in North Carolina by utilizing telepractice.
- (2) The Board requires telepractice to occur in real time and anonymity and in a manner sufficient to ensure and secure patient privacy.
- (3) Telepractice is subject to the same standard of practice as if the person being treated were physically present with the licensee. The standard of practice is the full responsibility of the licensee and cannot be delegated.
- (4) Staff and licensees involved in telepractice must be trained in the use of telepractice equipment and competent in its operation.

Authority G.S. 90-304(a)(3).

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 January 21, 2010.

REGISTER CITATION TO THE NOTICE OF TEXT

MENTAL HEALTH, COMMISSION FOR

<u>Schedule II</u>	10A	NCAC	26F	.0103*	n/a G.S. 90-88(d)
<u>Schedule V</u>	10A	NCAC	26F	.0106*	n/a G.S. 90-88(d)

INSURANCE, DEPARTMENT OF

<u>Cigarette Fire-Safety Standards</u>	11	NCAC	05A	.0801	24:08 NCR
<u>Definitions</u>	11	NCAC	05D	.0101*	24:08 NCR
<u>Display Operator's Identification Badges</u>	11	NCAC	05D	.0102*	24:08 NCR
<u>Display Operator's Permit</u>	11	NCAC	05D	.0103*	24:08 NCR
<u>Assistant Display Operator's Permit</u>	11	NCAC	05D	.0104*	24:08 NCR
<u>Assistant Display Operator's Certification</u>	11	NCAC	05D	.0105*	24:08 NCR
<u>Application for Permit</u>	11	NCAC	05D	.0106*	24:08 NCR
<u>Examination</u>	11	NCAC	05D	.0107*	24:08 NCR
<u>Application for Reciprocity</u>	11	NCAC	05D	.0108*	24:08 NCR
<u>Permit Renewal</u>	11	NCAC	05D	.0109*	24:08 NCR
<u>Fees</u>	11	NCAC	05D	.0110	24:08 NCR
<u>Notification to OSFM</u>	11	NCAC	05D	.0111*	24:08 NCR
<u>Replacement and Duplicate Permit</u>	11	NCAC	05D	.0112*	24:08 NCR
<u>Report of Theft or Loss of Pyrotechnics</u>	11	NCAC	05D	.0113*	24:08 NCR
<u>Report of Injury or Property Damage</u>	11	NCAC	05D	.0114*	24:08 NCR
<u>Inspections</u>	11	NCAC	05D	.0115*	24:08 NCR
<u>Foreign HMO: Successful Operation</u>	11	NCAC	11C	.0308	24:07 NCR
<u>Health Insurance Risk Pool Notice Language Requirements</u>	11	NCAC	12	.0331*	24:08 NCR
<u>Use of Senior-Specific Certifications and Professional De...</u>	11	NCAC	12	.0461*	24:08 NCR
<u>Foreign Company Must Have Conducted Successful Business</u>	11	NCAC	14	.0504	24:07 NCR
<u>Waivers of Three-Year Net Income Requirement</u>	11	NCAC	14	.0505	24:07 NCR

PRIVATE PROTECTIVE SERVICES BOARD

<u>Records</u>	12	NCAC	07D	.0109	23:22 NCR
<u>Definitions</u>	12	NCAC	07D	.1301	24:05 NCR
<u>Required Continuing Education Hours</u>	12	NCAC	07D	.1302	24:05 NCR
<u>Accreditation Standards</u>	12	NCAC	07D	.1303*	24:05 NCR
<u>Non-resident Licensee Continuing Education Credits</u>	12	NCAC	07D	.1304*	24:05 NCR
<u>Recording and Reporting Continuing Education Credits</u>	12	NCAC	07D	.1305	24:05 NCR
<u>Non-compliance</u>	12	NCAC	07D	.1306	24:05 NCR
<u>Credit for CE Courses</u>	12	NCAC	07D	.1307	24:05 NCR

ALARM SYSTEMS LICENSING BOARD

<u>Fees for Licenses</u>	12	NCAC	11	.0203	24:04 NCR
<u>Fees for Registration</u>	12	NCAC	11	.0302	24:04 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>General Requirements</u>	15A	NCAC	02N	.0901*	23:21 NCR
<u>Tanks</u>	15A	NCAC	02N	.0903*	23:21 NCR

SECRETARY OF STATE, DEPARTMENT OF THE

<u>Senior Designation as Dishonest or Unethical Practice</u>	18	NCAC	06B	.0201	24:08 NCR
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DENTAL EXAMINERS, BOARD OF

<u>Dental Licensure by Credentials</u>	21	NCAC	16B	.0501*	24:02 NCR
<u>Dental Hygiene Licensure by Credentials</u>	21	NCAC	16C	.0501*	24:02 NCR

HEARING AID DEALERS AND FITTERS BOARD

<u>Committee on Investigations</u>	21	NCAC	22L	.0101*	24:02 NCR
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LICENSED PROFESSIONAL COUNSELORS, BOARD OF

<u>Continuing Education</u>	21	NCAC	53	.0603*	24:06 NCR
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SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

<u>Client Relationships</u>	21	NCAC	68	.0509*	24:05 NCR
<u>Remuneration</u>	21	NCAC	68	.0511*	24:05 NCR

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 26F .0103 SCHEDULE II

(a) Schedule II shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name or brand name designated and as specified in G.S. 90-90. Each drug or substance has been assigned the Drug Enforcement Administration controlled substances code number set forth in the Code of Federal Regulations, Title 21, Section 1308.12.

(b) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds Lisdexamfetamine, its salts, isomers, and salts of its isomers to Schedule II for Stimulants.

(c) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds Tapendatol, its esters, ethers, salts, isomers and salts of its isomers, esters and ethers to Schedule II for Opiates.

History Note: Authority G.S. 90-88; 90-90; 143B-147; Eff. June 30, 1978; Amended Eff. January 1, 1994; April 1, 1993; August 1, 1991; August 1, 1989; Temporary Amendment Eff. May 13, 1997; Amended Eff. February 1, 2010; June 1, 2009; August 1, 2002; July 1, 1998.

10A NCAC 26F .0106 SCHEDULE V

(a) Schedule V shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name or brand name designated, listed in this Rule.

(b) Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

- (1) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams,
- (2) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams,
- (3) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams,
- (4) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit,
- (5) not more than 100 milligrams of opium per 100 milliliters or per 100 grams,

- (6) not more than 0.5 milligrams of difenoxin and not less than 25 micrograms atropine sulfate per dosage unit.
- (c) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers: Pyrovalerone - 1485.
- (d) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts: Lacosamide.

History Note: Authority G.S. 90-88; 90-93; 143B-147; Eff. June 30, 1978; Amended Eff. February 1, 2010; April 1, 1992; August 1, 1988; December 1, 1987; April 1, 1983.

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 05A .0801 CERTIFICATIONS

- (a) Certifications and fees submitted pursuant to G.S. 58-92-20 shall be sent to:

NCDOI-OSFM
NC Fire Safety Programs
1202 Mail Service Center
Raleigh, NC 27699-1202

- (b) OSFM shall return incomplete certifications. The submitter shall complete or correct the original submittal within 90 days after the date of return. If the submitter fails to return a completed or corrected submittal within the 90-day period, the submitter shall pay the fee specified in G.S. 58-92-20(e) for each subsequent submittal.

- (c) Payment of all fees under Article 92 of Chapter 58 of the General Statutes shall be remitted by way of a check drawn on a bank. As used in this Paragraph, "bank" has the meaning set forth in Section 2(c) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(c)).

History Note: Authority G.S. 58-2-40; 58-92-20; 58-92-35; 58-92-30(g); Eff. February 1, 2010.

11 NCAC 05D .0101 DEFINITIONS

As used in this Subchapter:

- (1) "Assistant display operator" means an individual who assists the operator in exhibiting, using, handling, manufacturing, or discharging pyrotechnics at a concert or public exhibition in this State.
- (2) "ATF" means the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives.
- (3) "Display Operator" means an individual who exhibits, uses, handles, manufactures, or

- discharges pyrotechnics at a concert or public exhibition in this State.
- (4) "NFPA" means the National Fire Protection Association.
 - (5) "OSFM" means the Office of State Fire Marshal in the North Carolina Department of Insurance.
 - (6) "Permit" means a display operator permit.
 - (7) "Permittee" means an individual to whom a display operator permit has been issued by OSFM under Article 82A of Chapter 58 of the General Statutes and this Subchapter.
 - (8) "Proximate audience display" means a display of special effects fireworks that occurs within a building or structure or that occurs outside before an audience closer than 75 feet to the pyrotechnics in accordance with NFPA 1126.
 - (9) "Proximate Operators Permit" means a permit for an operator for pyrotechnic devices used for special effects by professionals in the performing arts in conjunction with theatrical, musical, or other productions that are similar to consumer fireworks in chemical compositions and construction, but are not intended for consumer use and are not labeled as such.
 - (10) "Pyrotechnics" has the same meaning as in G.S. 14-414.

History Note: Authority G.S. 58-82A-1; Eff. February 1, 2010.

11 NCAC 05D .0102 DISPLAY OPERATOR'S IDENTIFICATION BADGES

OSFM shall issue an identification badge to a display operator and an assistant display operator, which will serve as the permit. The display operator or assistant display operator shall be in possession of, and display his or her identification badge on his or her person, at all times during the delivery, setup, and performance of the display.

History Note: Authority G.S. 58-82A-1; 58-82A-3; Eff. February 1, 2010.

11 NCAC 05D .0103 DISPLAY OPERATOR'S PERMIT

- (a) The applicant shall provide proof of successful completion of the OSFM training program or another program that OSFM determines to be substantially equivalent to the OSFM training program.
- (b) The applicant must achieve a passing score of 80 percent on the written examination required by G.S. 58-82A-3(b)(4).
- (c) The applicant shall submit evidence of participation in the safe performance of three pyrotechnic displays.
- (d) In order to operate proximate audience displays as a permittee, the applicant shall submit evidence of participation in the safe performance of three proximate audience displays.

History Note: Authority G.S. 58-82A-1; 58-82A-3;

Eff. February 1, 2010.

11 NCAC 05D .0104 ASSISTANT DISPLAY OPERATOR'S PERMIT

OSFM shall not issue an assistant display operator's permit to any individual who has applied for the permit unless the applicant has read OSFM fireworks safety guidelines and correctly answered 80 percent of the questions contained in the operator's assistant exam.

*History Note: Authority G.S. 58-82A-1;
Eff. February 1, 2010.*

11 NCAC 05D .0105 ASSISTANT DISPLAY OPERATOR'S CERTIFICATION

(a) An individual may assist with the set up, safety, firing, and removal of pyrotechnics displays without a permit as long as the assistant does not handle pyrotechnics materials covered under the ATF licensing requirements, provided that the individual shows the county fire code official that he or she:

- (1) Has read and understands OSFM fireworks safety guidelines and correctly answered 80 percent of the questions contained in the operators assistant exam; and
- (2) Signs the OSFM fireworks safety application form and provides a fire code official with the signed application form.

(b) As used in this Rule, "fire code official" means an individual certified by the North Carolina Code Officials Qualification Board as the primary official responsible for the enforcement of the North Carolina Fire Code within a county or city.

(c) Upon successful completion of the show, the assistant certification card issued by the code official may be sent in a sealed envelope to:

Office of the State Fire Marshal
Pyrotechnic Permitting
1202 Mail Service Center
Raleigh, NC 27699-1202

Receipt of the certification card with all information provided assures the applicant that OSFM shall give credit towards the completion of the three show requirement for Pyrotechnics and Proximate Operators.

(d) The application and all additional documentation provided for certification shall be retained by the code official for a minimum of 72 hours following the completion of the permitted show.

*History Note: Authority G.S. 58-82A-1;
Eff. February 1, 2010.*

11 NCAC 05D .0106 APPLICATION FOR PERMIT

(a) All applications for a permit shall be signed by the applicant and submitted on forms provided by OSFM and must be accompanied by the following additional information:

- (1) A copy of the applicant's driver's license or other government issued identification that includes the date of birth and photograph;
- (2) A 2 inch by 2 inch photograph, taken within the preceding two years. The photograph must

show the applicant from a front view with his or her full-face and head and shoulders visible. OSFM shall reject photographs showing the applicant wearing sunglasses, hats, scarves, or any objects that obscure the applicant's identity;

- (3) The applicable permit fee.

(b) Upon receipt and review of the application, OSFM shall issue the appropriate permission letter to take an examination or shall notify the applicant of the reason for the denial of the permit.

*History Note: Authority G.S. 58-82A-1;
Eff. February 1, 2010.*

11 NCAC 05D .0107 EXAMINATION

(a) An applicant must complete a written examination designed to demonstrate the applicant's knowledge of Article 54 of Chapter 14 of the General Statutes, this Subchapter, and NFPA 1123, NFPA 1126 standards relating to safe practices for the storage, use, handling, discharge and display of pyrotechnics administered by OSFM and achieve a passing score of at least 80.

(b) The examination shall be prepared by OSFM.

(c) Persons who do not pass the examination may retake the examination two times after the initial failed test. Thirty days must elapse between a failed examination and a subsequent examination.

*History Note: Authority G.S. 58-82A-1;
Eff. February 1, 2010.*

11 NCAC 05D .0108 APPLICATION FOR RECIPROCITY

(a) Display operators who are licensed or permitted in other states shall submit:

- (1) the OSFM permit application;
- (2) the state license or state permit for which the applicant is seeking reciprocity; and
- (3) a letter from the reciprocal state issuing agency indicating the applicant's license or permit is in good standing.

(b) The applicant for an operator's permit shall be at least 21 years of age at the time of application.

(c) The applicant for an assistant operators permit shall be at least 18 years of age at the time of application.

*History Note: Authority G.S. 58-82A-1; 58-82A-3;
Eff. February 1, 2010.*

11 NCAC 05D .0109 PERMIT RENEWAL

(a) Permittees may apply for renewal of their permits during the 60-day period before and 60-day period after the permit expiration date. Submission of a renewal application shall be on forms provided by OSFM, and shall be submitted together with the required fee.

(b) Any permit that is not renewed within 60 days after its expiration shall be cancelled. Any requests after that date to renew or restore shall be treated as a new application.

(c) During the 60-day period after the permit expiration, no permittee shall engage in any conduct or activities for which a permit is required until the permit is renewed or issued as a new permit.

(d) A permittee who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall be granted an extension of time to pay any permit renewal application fee as a condition of renewing a permit. The extension is for the same period that would apply if the fee were a tax.

*History Note: Authority G.S. 58-82A-1;
Eff. February 1, 2010.*

11 NCAC 05D .0110 FEES

Applicants and permittees shall pay the following nonrefundable fees to OSFM for administration of pyrotechnics training and permitting:

- | | | |
|-----|---|----------|
| (1) | Display operator initial permit application | |
| | | \$100.00 |
| (2) | Display operator permit renewal application | |
| | | \$100.00 |

*History Note: Authority G.S. 58-82A-1; 58-82A-3;
Eff. February 1, 2010.*

11 NCAC 05D .0111 NOTIFICATION TO OSFM

(a) Written communications to OSFM shall be mailed to:

Office of the State Fire Marshal
Pyrotechnic Permitting
1202 Mail Service Center
Raleigh, North Carolina 27699-1202

(b) A permittee shall notify OSFM in writing within seven calendar days after any of the following events:

- (1) Discovery that his/her permit has been lost, stolen, or destroyed; or
- (2) The permittee's reciprocal out-of-state license or permit has been terminated, suspended, or revoked. The permittee shall also send OSFM a copy of any written notice of termination, suspension, or revocation; or
- (3) A violation of any requirement of a permit issued under G.S. 14-413; or
- (4) A conviction of a crime under Article 54 of Chapter 14 of the General Statutes.

(c) A permittee shall notify OSFM in writing within 10 days after a change in the permittee's address or name.

*History Note: Authority G.S. 58-82A-1; 58-82A-3;
Eff. February 1, 2010.*

11 NCAC 05D .0112 REPLACEMENT AND DUPLICATE PERMIT

(a) If a permit has been lost, stolen, or destroyed, the permittee shall notify OSFM. Upon receipt of the written notification, OSFM shall issue a replacement permit.

(b) If a permit becomes worn or damaged to the extent that it is illegible in any respect, or if the permittee changes his or her address or name, the permittee shall return the permit to OSFM.

Upon receipt of the original permit and proof of any changes necessary to maintain correct information, OSFM shall issue a replacement permit.

*History Note: Authority G.S. 58-82A-1;
Eff. February 1, 2010.*

11 NCAC 05D .0113 REPORT OF THEFT OR LOSS OF PYROTECHNICS

(a) A permittee shall report the theft or loss of pyrotechnics to the county sheriff or city police, to ATF and to OSFM, by telephone, within eight hours after the permittee discovers the theft or loss. OSFM may be reached at 919-661-5880 during normal working hours and at the North Carolina Highway Patrol dispatch number, 919-733-3861, outside normal working hours.

(b) Within 24 hours after discovery of the loss or theft, the permittee shall provide OSFM written notice that includes a description of the pyrotechnics, including the manufacturer, brand name, any manufacturer marking and quantity, and a description of the circumstances surrounding the theft or loss. The written notice shall also name the law enforcement agencies contacted by the permittee under Paragraph (a) of this Rule.

*History Note: Authority G.S. 58-82A-1;
Eff. February 1, 2010.*

11 NCAC 05D .0114 REPORT OF INJURY OR PROPERTY DAMAGE

(a) A permittee shall notify OSFM within 24 hours after any of the following involving pyrotechnics:

- (1) A fire causing property damage in excess of one thousand dollars (\$1,000) to an automobile or ten thousand dollars (\$10,000) to real property; or
- (2) An injury to any person caused by the display resulting in hospitalization; or
- (3) Damage to property in excess of one thousand dollars (\$1,000), not related to fire.

(b) OSFM may be reached at 919-661-5880 during normal working hours and at the North Carolina Highway Patrol dispatch number, 919-733-3861, outside normal working hours.

(c) The permittee shall submit a written report to OSFM within three days after a pyrotechnics display conducted by the permittee if any of the following occurred:

- (1) Any of the incidents identified in Paragraph (a) of this Rule; or
- (2) Whenever a defective pyrotechnic product or equipment resulting in any amount of injury or damage occurs.

*History Note: Authority G.S. 58-82A-1;
Eff. February 1, 2010.*

11 NCAC 05D .0115 INSPECTIONS

(a) A permittee shall make any records required under Article 54 of Chapter 14 of the General Statutes and Article 82A of Chapter 58 of the General Statutes available to authorized representatives of OSFM or a city or county fire code official.

(b) A permittee shall allow the display site, storage facility, or delivery point to be inspected at all times by authorized representatives of OSFM or a city or county fire code official.

History Note: Authority G.S. 58-82A-1;
Eff. February 1, 2010.

11 NCAC 11C .0308 FOREIGN HMO: SUCCESSFUL OPERATION

History Note: Authority G.S. 58-2-40; 58-67-10;
Eff. April 1, 1993;
Amended Eff. April 1, 1994;
Repealed Eff. February 1, 2010.

11 NCAC 12 .0331 HEALTH INSURANCE RISK POOL NOTICE LANGUAGE REQUIREMENTS

(a) The definitions contained in G.S. 58-3-276 are incorporated by reference.

(b) As of the effective date of this Rule, notices required under G.S. 58-3-276 shall be provided by the insurer to the applicant by:

- (1) first-class mail or other nationally recognized carrier to the applicant's address as provided in the application, or
- (2) by electronic mail as may be elected by the applicant to receive communications from the insurer, or
- (3) electronically through or as part of the online application process, or
- (4) by hand delivery by an agent or other insurer designated courier.

(c) The notice in Paragraph (b) shall be in Times New Roman 10-point font or other equivalent font and contain the following wording:

"In response to your application for individual health insurance coverage, you have received from [INSERT INSURER'S NAME] (i) a notice of a denial of coverage or (ii) an offer of coverage with a conditional rider that limits the coverage. We are therefore required to inform you that you may be eligible for health insurance coverage through the North Carolina Health Insurance Risk Pool, known as "Inclusive Health."

Inclusive Health is a state subsidized health insurance coverage option for individuals with pre-existing medical conditions who either are unable to qualify for or cannot find more affordable individual health insurance coverage. Inclusive Health's premiums are not based on specific medical conditions and are capped by law. You cannot be rejected by Inclusive Health because of health conditions. You may contact the North Carolina Health Insurance Risk Pool for information on specific eligibility criteria and the type of benefit plans available at:

North Carolina Health Insurance Risk Pool, dba Inclusive Health
P.O. Box 30909
Raleigh, NC 27622
(866) 665-2117

www.inclusivehealth.org

The Consumer Services Division of the North Carolina Department of Insurance is available to assist you with your questions about health insurance. You may contact the Consumer Services Division at:

North Carolina Department of Insurance – Consumer Services Division

1201 Mail Service Center

Raleigh, NC 27699-1201

800-546-5664 - in North Carolina only

919-807-6750 - outside North Carolina"

(d) The notice required under this Rule may be delivered to an applicant along with the notice required by G.S. 58-39-55 relating to the adverse underwriting decision described in G.S. 58-50-195(a)(1) and G.S. 58-50-195(a)(2) when the adverse underwriting decision notice is provided in writing.

History Note: Authority G.S. 58-2-40; 58-3-27;
Eff. February 1, 2010.

11 NCAC 12 .0461 USE OF SENIOR-SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS

(a) This Rule applies to the solicitation, sale, or purchase of, or advice made in connection with the solicitation, sale or purchase of a life insurance or annuity product.

(b) The NAIC Model Regulation on the Use of Senior-Specific Certifications and Professional Designations ("Model Regulation"), as adopted by the National Association of Insurance Commissioners at the Fall National Meeting of 2008, including subsequent amendments and editions, is hereby incorporated by reference. Copies of the Model Regulation are available free of charge from the Life and Health Division by email at l&hinbox@ncdoi.gov or the Department of Insurance Website at www.ncdoi.com.

(c) As used in the Model Regulation, "reference to State unfair trade practices act" means Article 63 of Chapter 58 of the General Statutes and "insert reference to enabling legislation" means G.S. 58-63-75.

History Note: Authority G.S. 58-2-40; 58-63-75;
Eff. February 1, 2010.

11 NCAC 14 .0504 FOREIGN COMPANY MUST HAVE CONDUCTED SUCCESSFUL BUSINESS

11 NCAC 14 .0505 WAIVERS OF THREE-YEAR NET INCOME REQUIREMENT

History Note: Authority G.S. 58-2-40; 58-16-5(2);
Eff. April 1, 1990;
Amended Eff. July 1, 2004; April 1, 1993;
Repealed Eff. February 1, 2010.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 07D .0109 RECORDS

(a) All records pertinent to an audit or an investigation required to be maintained by G.S. 74C or 12 NCAC 07D shall be subject to inspection by the administrator or his staff upon demand between 8:00 a.m. - 5:00 p.m. Monday through Friday.

(b) All licensees having registered employees shall submit a copy of their quarterly Employment Security Commission form NCUI 101-625 to the administrator's office at the same time the form is submitted to the Employment Security Commission. The Board may request, and the licensee shall provide within 10 days of the request, the businesses' Employment Security Commission account number along with the personal identification number (PIN) so that the Board may access the data electronically.

(c) All records required to be kept by 12 NCAC 7D shall be retained for at least three years.

History Note: Authority G.S. 74C-5; Eff. June 1, 1984; Amended Eff. February 1, 2010; July 1, 1987.

12 NCAC 07D .1301 DEFINITIONS

In addition to the definitions set forth in 12 NCAC 07D .0104, the following definitions shall apply to this Section:

- (1) "continuing education" or "CE" refers to any educational activity approved by the Board to be a continuing education activity.
- (2) "credit hour" means 60 minutes of continuing education instruction.
- (3) "year" refers to the calendar year after the issuance of a new or renewal license.
- (4) "licensee" shall refer to an individual who holds a private protective services license issued by the Board.

History Note: Authority G.S. 74C-2; 74C-4; 74C-5; 74C-22; Eff. February 1, 2010.

12 NCAC 07D .1302 REQUIRED CONTINUING EDUCATION HOURS

Each licensee shall complete at least 12 credit hours of continuing education training during each two year renewal period. Credit shall be given only for classes that have been approved by the Board. A licensee who attends a complete meeting of a regularly scheduled meeting of the Private Protective Services Board shall receive one credit hour for each meeting that the licensee attends, with credit being given for a maximum of two meetings per year with no more than four credit hours per renewal period.

History Note: Authority G.S. 74C-2; 74C-4; 74C-5; 74C-22; Eff. February 1, 2010.

12 NCAC 07D .1303 ACCREDITATION STANDARDS

(a) CE courses may obtain the sanction of the Private Protective Services Board by submitting the following information to the Board for consideration:

- (1) the nature and purpose of the course;
- (2) the course objectives or goals;

- (3) the outline of the course, including the number of training hours for each segment; and
- (4) the identity of the instructor.

(b) To determine if a course will receive sanctioning from the Private Protective Services Board, the Board shall complete the following review:

- (1) The matter will be referred to the Training and Education Committee for the appointment of a sub-committee that shall review the course under consideration. The sub-committee shall consist of at least two industry members of the Training and Education Committee. Other members of the sub-committee may be appointed at the discretion of the Training and Education Committee Chairman.
- (2) The sub-committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives.
- (3) When the sub-committee completes its review, it shall report to the Training and Education Committee. The Training and Education Committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objective. The Training and Education Committee shall then report the findings with a recommendation of acceptance or denial to the Private Protective Services Board.

(c) Upon receipt of the Training and Education Committee report, the Private Protective Services Board will determine by majority vote if the course will be sanctioned for continuing education credits. In making its determination, the Board shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objective.

(d) Each approved course shall remain a validly approved course for four years from the date of approval by the Board, unless the identity of the course instructor changes.

History Note: Authority G.S. 74C-2; 74C-4; 74C-5; 74C-22; Eff. February 1, 2010.

12 NCAC 07D .1304 NON-RESIDENT LICENSEE CONTINUING EDUCATION CREDITS

A non-resident licensee shall obtain the required continuing education credits as set forth in 12 NCAC 07D .1302. If a non-resident licensee resides in a state that requires continuing education for a private protective services business license, then the continuing education courses to be offered in the state of residence may be considered by the North Carolina Private Protective Services Board for sanctioning in North Carolina on an individual course basis. In determining if the course is to be sanctioned, the Board shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objection.

History Note: Authority G.S. 74C-2; 74C-4; 74C-5; 74C-22; Eff. February 1, 2010.

12 NCAC 07D .1305 RECORDING AND REPORTING CONTINUING EDUCATION CREDITS

(a) Each licensee shall be responsible for recording and reporting continuing education credits to the Board at the time of license renewal, and for each course taken such report shall include a certificate of course completion that is signed by at least one course instructor, indicates the name of the licensee who completed the course, indicates the date of course completion, and indicates the number of hours taken by the licensee. Credit shall not be given if a certificate of course completion is dated more than two years from the license renewal date. Each course instructor shall be required to maintain a course roster and shall verify the identity of each participant by a government issued photo identification, such as a driver's license. Said roster shall be delivered to the Board's office within two weeks of the completion date of the course.

(b) All applications for renewal of a license shall have a CE Certificate(s) attached verifying completion of the required number of credit hours. If an applicant is filing an application designated as "new" and the applicant has been licensed for any period of time within the previous two years, the applicant shall attach a CE Certificate(s) verifying completion of the required number of credit hours. An applicant shall not be required to submit a CE Certificate if the applicant is filing an application designated as a "transfer" or "duplicate" and if the applicant has a current license issued by the Board.

History Note: Authority G.S. 74C-2; 74C-4; 74C-5; 74C-22; Eff. February 1, 2010.

12 NCAC 07D .1306 NON-COMPLIANCE

If a licensee fails to comply with this Section of the rules, his license shall not be renewed.

History Note: Authority G.S. 74C-2; 74C-4; 74C-5; 74C-22; Eff. February 1, 2010.

12 NCAC 07D .1307 CREDIT FOR CE COURSES

Licensees shall receive credit for completion of CE courses approved by the Board after January 1, 2010. After January 1, 2012, all licensees shall submit certificates of CE completion with their renewal applications.

History Note: Authority G.S. 74C-2; 74C-4; 74C-5; 74C-22; Eff. February 1, 2010.

12 NCAC 11 .0203 FEES FOR LICENSES

(a) Application license fees are as follows:

- (1) One hundred fifty dollars (\$150.00) non-refundable initial application fee;
- (2) Three hundred seventy-five dollar (\$375.00) biennial fee for a new or renewal license;
- (3) One hundred fifty dollars (\$150.00) branch office license fee;
- (4) One hundred dollars (\$100.00) late renewal fee to be paid in addition to the renewal fee if

the license has not been renewed on or before the expiration date.

(b) Fees shall be paid in the form of a check or money order made payable to the Alarm Systems Licensing Board.

History Note: Authority G.S. 74D-7; Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. January 1, 1986; Temporary Amendment Eff. October 6, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. February 1, 2010; March 1, 1993.

12 NCAC 11 .0302 FEES FOR REGISTRATION

(a) Registration fees are as follows:

- (1) Forty-five dollar (\$45.00) non-refundable biennial registration fee;
- (2) Ten dollar (\$10.00) non-refundable re-issue fee for lost cards or for registration of an employee who changes employment to another licensee;
- (3) Ten dollar (\$10.00) non-refundable annual multiple registration fee;
- (4) Ten dollar (\$10.00) fee for each reconsideration of a registration permit that has been previously filed with the Board but returned to the licensee or applicant for correctable errors.

(b) Fees shall be paid in the form of a check or money order made payable to the Alarm Systems Licensing Board.

History Note: Authority G.S. 74D-7; Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. January 1, 1986; Temporary Amendment Eff. October 6, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. February 1, 2010; April 1, 2005; March 1, 1993.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02N .0901 GENERAL REQUIREMENTS

(a) This Section applies to a UST system or UST system component installation or replacement completed on or after November 1, 2007.

(b) A UST system or UST system component shall not be installed or replaced within an area defined at 15A NCAC 02N .0301(b).

(c) A tank shall meet the requirements for secondary containment including interstitial release detection monitoring in accordance with this Rule.

(d) All UST system components other than tanks including connected piping, underground ancillary equipment, dispensers, line leak detectors, submersible pumps, spill buckets, siphon bars, and remote fill pipes shall meet the requirements for secondary containment including interstitial release detection monitoring in accordance with this Rule. Gravity-fed vertical fill pipes, vapor recovery, vent lines, and containment sumps are excluded from the secondary containment requirements in this Rule.

(e) A UST system design is required for installation or replacement of a UST system, UST, or connected piping. If required by G.S. 89C, UST system designs must be prepared by a Professional Engineer licensed by the North Carolina Board of Examiners for Engineers and Surveyors.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined via letter dated December 20, 1993, that preparation of a UST system design constitutes practicing engineering under G.S. 89C.]

(f) If required by the equipment manufacturer, persons installing, replacing or repairing UST systems or UST system components must be trained and certified by the equipment manufacturer or the equipment manufacturer's authorized representative to install, replace or repair such equipment.

(g) UST systems or UST system components shall be installed, tested, operated, and maintained in accordance with the manufacturer's specifications and the codes of practice, and industry standards described at 15A NCAC 02N .0907.

(h) UST systems or UST system components shall not be installed or replaced in areas where they will be in contact with contaminated soil or free product.

(i) Secondary containment systems shall be designed, constructed, installed and maintained to:

- (1) Detect the failure of the inner wall and outer wall for UST system components with double wall construction;
- (2) Contain regulated substances released from a UST system until they are detected and removed;
- (3) Prevent a release of regulated substances to the environment outside of the containment system;
- (4) Direct releases to a monitoring point or points;
- (5) Provide a release detection monitoring device or monitoring method for the interstitial space;
- (6) Continuously monitor the inner and outer walls of double-walled tanks for breaches of integrity using pressure, vacuum or hydrostatic monitoring methods or monitor the interstitial space of double-walled tanks for releases using an electronic liquid detecting sensor method along with periodic testing as specified in Rule .0903(f);
- (7) Continuously monitor the inner and outer walls of double-walled non-tank components for breaches of integrity using pressure, vacuum, or hydrostatic methods, or monitor a non-tank component for releases by using an electronic liquid detecting sensor placed in a containment sump and in the interstitial space

of a double-walled spill bucket along with periodic integrity testing as specified in Rules .0904(h), .0905(f), and .0906(e); and

- (8) Provide a printed record of release detection monitoring results and an alarm history for each month.

(j) Electronic liquid detecting sensors used to monitor the interstitial space of double-walled tanks and non-tank components shall meet the following requirements:

- (1) Electronic liquid detecting sensors used for tanks and spill buckets must be located at the lowest point in the interstitial space. Electronic liquid detecting sensors used for containment sumps must be located as specified in Rule .0905(d).
- (2) A tank must have a method to verify that an electronic liquid detecting sensor is located at the lowest point of the interstitial space. Verification of the sensor location must be available for inspection.
- (3) Electronic liquid detecting sensors must detect the presence of any liquid in the interstitial space and must activate an alarm when any type of liquid is detected.
- (4) Any liquid detected in the interstitial space must be removed within 48 hours of discovery.

(k) New or replacement dispensers shall be provided with under dispenser containment sumps and shall meet the secondary containment requirements and performance standards of this Rule.

(l) All release detection monitoring equipment shall be installed, calibrated, operated and maintained in accordance with manufacturer's instructions. All release detection monitoring equipment shall be checked annually for operability, proper operating condition and proper calibration in accordance with the manufacturers written guidelines. The results of the last annual check must be recorded, maintained at the UST site or the tank owner or operator's place of business, and made available for inspection.

(m) Releases detected in an interstitial space shall be reported in accordance with Rule .0601 and investigated in accordance with the manufacturers written guidelines. Any changes in the original physical characteristics or integrity of a piping system or a containment sump must also be reported in accordance with Rule .0601 and investigated in accordance with the manufacturer's written guidelines.

(n) UST systems and UST system components shall also meet all of the installation requirements specified in 40 CFR 280.20(c), (d) and (e). In addition, overfill prevention equipment shall be checked annually for operability, proper operating condition and proper calibration in accordance with the manufacturer's written guidelines. The results of the last annual check must be recorded, maintained at the UST site or the tank owner or operator's place of business, and made available for inspection.

History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); Eff. November 1, 2007;

Amended Eff. February 1, 2010.

15A NCAC 02N .0903 TANKS

(a) Tanks must be protected from external corrosion in accordance with 40 CFR 280.20(a)(1), (3) or (5).

(b) The exterior surface of a tank shall bear a permanent marking, code stamp or label showing the following information:

- (1) The engineering standard used;
- (2) The diameter in feet;
- (3) The capacity in gallons;
- (4) The materials of construction of the inner and outer walls of the tank including any external or internal coatings;
- (5) Serial number or other unique identification number designated by the tank manufacturer;
- (6) Date manufactured; and
- (7) Identity of manufacturer.

(c) Whenever an existing tank is removed prior to installation of a new tank, piping that does not meet the standards of this Section shall also be removed. The replacement tank shall not be connected to piping that does not meet the standards of this Section.

(d) Tanks that will be reused must be certified by the tank manufacturer prior to re-installation and must meet all of the requirements of this Section. Tank owners and operators must submit proof of certification to the Division along with a notice of intent (Rule .0902).

(e) Tanks shall be tested before and after installation in accordance with the following requirements:

- (1) Pre- Installation Test - Before installation, the primary containment and the interstitial space shall be tested in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems" is hereby incorporated by reference including subsequent amendments and editions. A copy can be obtained from Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma 74101-2380 at a cost of ninety-five dollars (\$95.00). The presence of soap bubbles or water droplets during a pressure test, any change in vacuum beyond the limits specified by the tank manufacturer during a vacuum test, or any change in liquid level in an interstitial space liquid reservoir beyond the limits specified by the tank manufacturer, shall be considered a failure of the integrity of the tank.
- (2) Post-installation Test – The interstitial space shall be checked for a loss of pressure or vacuum, or a change in liquid level in an interstitial space liquid reservoir. Any loss of pressure or vacuum beyond the limits specified by the tank manufacturer, or a change in liquid level beyond the limits specified by the tank

manufacturer, shall be considered a failure of the integrity of the tank.

- (3) If a tank fails a pre-installation or post-installation test, tank installation shall be suspended until the tank is replaced or repaired in accordance with the manufacturer's specifications. Following any repair, the tank shall be re-tested in accordance with Subparagraph (e)(1) of this Rule if it failed the pre-installation test and in accordance with Subparagraph (e)(2) of this Rule if it failed the post-installation test.

(f) The interstitial spaces of tanks that are not monitored using vacuum, pressure or hydrostatic methods must be tested for tightness before UST system start-up, between six months and the first anniversary of start-up and every three years thereafter. The interstitial space shall be tested using an interstitial tank tightness test method that is capable of detecting a 0.10 gallon per hour leak rate with a probability of detection (Pd) of at least 95 percent and a probability of false alarm (Pfa) of no more than five percent. The test method must be evaluated by an independent testing laboratory, consulting firm, not-for-profit research organization or educational institution using the most recent version of the United States Environmental Protection Agency's (EPA's) "Standard Test Procedures for Evaluating Leak Detection Methods." EPA's "Standard Test Procedures for Evaluating Leak Detection Methods" is hereby incorporated by reference including subsequent amendments and additions. A copy may be obtained by visiting EPA's Office of Underground Storage Tank web site: www.epa.gov/OUST/pubs/protocol.htm at a cost of zero dollars (\$0.00). The independent testing laboratory, consulting firm, not-for-profit research organization or educational institution must certify that the test method can detect a 0.10 gallon per hour leak rate with a Pd of at least 95 percent and a Pfa of no more than five percent for the specific tank model being tested. If a tank fails an interstitial tank tightness test, it must be replaced or repaired by the manufacturer or the manufacturer's authorized representative in accordance with manufacturer's specifications. Tank owners and operators shall report all failed interstitial tank tightness tests to the Division within 24 hours. Following any repair, the tank interstitial space shall be re-tested for tightness. The most recent interstitial tightness test record must be maintained at the UST site or the tank owner's place of business and must be available for inspection.

History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);

Eff. November 1, 2007;

Amended Eff. February 1, 2010.

TITLE 18 – DEPARTMENT OF THE SECRETARY OF STATE

18 NCAC 06B .0201 SENIOR DESIGNATION AS DISHONEST OR UNETHICAL PRACTICE

(a) This Rule applies to natural persons registered with the Division as securities dealers, securities salesmen, investment advisers or investment adviser representatives.

(b) The NASAA Model Rule On The Use of Senior-Specific Certifications and Professional Designation, as adopted March 20, 2008, including subsequent amendments and editions, is hereby incorporated by reference. Copies of the NASAA Model Rule On The Use of Senior-Specific Certifications and Professional Designation are available free of charge on the Division's web page at www.sosnc.com or at the NASAA web site, www.nasaa.org, under "Adopted Model Rules."

(c) As used in the Model Rule, the "appropriate State securities act provisions" are G.S. 78A-39 and 78C-19.

History Note: Authority G.S. 78A-39; 78A-49; 78C-19; 78C-30; 150B-21.6; Eff. February 1, 2010.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

21 NCAC 16B .0501 DENTAL LICENSURE BY CREDENTIALS

(a) An applicant for a dental license by credentials shall submit to the Board:

- (1) a completed, notarized application form provided by the Board;
- (2) the licensure by credentials fee;
- (3) an affidavit from the applicant stating for the five years immediately preceding the application:
 - (A) the dates that and locations where the applicant has practiced dentistry;
 - (B) that the applicant has provided at least 5000 hours of clinical care directly to patients, not including post graduate training, residency programs or an internship and
 - (C) that the applicant has continuously held an active, unrestricted dental license issued by another U.S. state or any U.S. territory;
- (4) if applicable, a statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges;
- (5) if applicable, a statement disclosing and explaining periods, within the last 10 years, of observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or

state drug treatment program, or impaired dentists or other impaired professionals program;

- (6) a copy of an unexpired course completion certification card in cardiopulmonary resuscitation; and
- (7) a statement disclosing whether or not the applicant holds or has ever held a registration with the federal Drug Enforcement Administration (DEA) and whether such registration has ever been surrendered, surrendered for cause, or revoked.

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental license by credentials shall arrange for and ensure the submission to the Board office, the following documents as a package, with each document in an unopened envelope sealed by the entity involved:

- (1) official transcripts from the applicant's dental school verifying that the applicant has graduated from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;
- (2) if the applicant is or has ever been employed as a dentist by or under contract with a federal agency, a letter certifying the applicant's current status and disciplinary history from each federal agency where the applicant is or has been employed or under contract;
- (3) certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and complete information regarding any disciplinary action taken or investigation pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
- (4) a report from the National Practitioner Databank;
- (5) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant must submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant;
- (6) a score certification letter from a dental professional regulatory board or regional testing agency of a passing score on a clinical licensure examination substantially equivalent to the clinical licensure examination required in North Carolina and such examination shall be administered by the dental professional regulatory board or its designated agent other than an educational institution. The score certification letter shall:
 - (A) state that the examination included procedures performed on human subjects as part of the assessment of

restorative clinical competencies and included evaluations in at least four of the following subject areas:

- (i) periodontics, clinical abilities testing;
- (ii) endodontics, clinical abilities testing;
- (iii) amalgam preparation and restoration;
- (iv) anterior composite preparation and restoration;
- (v) posterior ceramic or composite preparation and restoration;
- (vi) cast gold, clinical abilities testing;
- (vii) prosthetics, written or clinical abilities testing;
- (viii) oral diagnosis, written or clinical abilities testing; or
- (ix) oral surgery, written or clinical abilities testing.

(B) state that licensure examinations after January 1, 1998 included:

- (i) anonymity between candidates and examination raters;
- (ii) standardization and calibration of raters; and
- (iii) a mechanism for post exam analysis;

(7) the applicant's passing score on the Dental National Board Part I and Part II written examination administered by the Joint Commission on National Dental Examinations; and

(8) the applicant's passing score on the licensure examination in general dentistry conducted by a regional testing agency or independent state licensure examination substantially equivalent to the clinical licensure examination required in North Carolina as set out in Subparagraph (b)(6) of this Rule.

(c) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. If all of the information is not received as a complete package, the application shall be returned to the applicant.

(d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application.

(e) An applicant for dental licensure by credentials must successfully complete written examinations as set out in G.S. 90-36 and, if deemed necessary based on the applicant's history, a clinical simulation examination administered by the Board. If the applicant fails any of the examinations, the applicant may retake the examination failed two additional times during a one year period.

(f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be required.

(g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

History Note: Authority G.S. 90-28; 90-36; Temporary Adoption Eff. January 1, 2003; Eff. January 1, 2004; Recodified from 21 NCAC 16B .0401 Eff. March 1, 2006; Amended Eff. February 1, 2010.

21 NCAC 16C .0501 DENTAL HYGIENE LICENSURE BY CREDENTIALS

(a) An applicant for a dental hygiene license by credentials shall submit to the Board:

- (1) a completed, notarized application form provided by the Board;
- (2) the licensure by credentials fee;
- (3) an affidavit from the applicant stating for the two years immediately preceding the application:

(A) the dates that and locations where the applicant has practiced dental hygiene;

(B) that the applicant has provided at least 2000 hours of clinical care directly to patients; and

(C) that the applicant has continuously held an active, unrestricted dental hygiene license issued by another U.S. state or any U.S. territory.

(4) a statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges;

(5) if applicable, a statement disclosing and explaining periods, within the last 10 years, of observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dental hygiene or other impaired professionals program; and

(6) a copy of an unexpired course completion certification card in cardiopulmonary resuscitation.

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental hygiene license by credentials shall arrange for and ensure the submission to the Board office, the following documents as a package, with each document in an unopened envelope sealed by the entity involved:

- (1) official transcripts certifying that the applicant has graduated from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association;

- (2) if the applicant is or has ever been employed as a dentist or dental hygienist by or under contract with a federal agency, a certification letter of the applicant's current status and disciplinary history from each federal agency where the applicant is or has been employed or under contract;
- (3) certificate of the applicant's licensure status from the regulatory authority or other occupational or professional regulatory authority and information regarding all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental hygiene license or other occupational or professional license;
- (4) a report from the National Practitioner Databank, if reporting is required or allowed by federal law;
- (5) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant must submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant;
- (6) the applicant's passing score on the National Board Dental Hygiene Examination administered by the Joint Commission on National Dental Examinations; and
- (7) the applicant's passing score on the licensure examination conducted by a regional testing agency or independent state licensure examination that is substantially equivalent to the clinical licensure examination required in North Carolina.

(c) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. If all of the information is not received as a complete package, the application shall be returned to the applicant.

(d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application.

(e) An applicant for dental hygiene licensure by credentials must successfully complete written examinations and, if deemed necessary based on the applicant's history, a clinical simulation examination administered by the Board. If the applicant fails any of the examinations, the applicant may retake the examination failed two additional times during a one year period.

(f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be required.

(g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

*History Note: Authority G.S. 90-223; 90-224.1;
Temporary Adoption Eff. January 1, 2003;*

*Eff. January 1, 2004;
Recodified from Rule .0401 Eff. June 1, 2006;
Amended Eff. February 1, 2010.*

CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD

21 NCAC 22L .0101 COMMITTEE ON INVESTIGATIONS

(a) Upon receipt of a written and signed charge alleging misconduct against a licensee or registrant of the Board, the Board shall inform the accused party in writing of the nature of the charges as filed with the Board. The Board shall not accept anonymous complaints alleging misconduct against a licensee or registrant of the Board.

(b) The accused party shall respond to the charges by filing a written answer with the Board within 20 days of the receipt of the notification of charges.

(c) The Board shall provide the complaining party with a copy of the accused party's answer and within 20 days from receipt thereof the complaining party shall file a reply to the accused party's answer.

(d) The Board's Executive Secretary shall refer the charges as filed with the Board, the answer, and the reply to the Committee on Investigations (hereinafter referred to as "Committee") unless the complaining party withdraws the complaint at the time the reply cited in Paragraph (c) of this Rule is filed. The Committee shall consist of two members of the Board, one of whom shall serve as chairman.

(e) Whenever the Board receives a written and signed complaint with documentation of an advertisement which, on its face, appears to contain a violation of the Board's Statute or Rules, the advertisement shall be referred to the Committee for investigation.

(f) The Committee shall investigate each complaint or advertisement referred to it by the Board and as part of the investigation shall invite the accused party and the complaining party before the Committee and the Board's legal counsel to present their oral statements, but neither party shall be compelled to attend.

(g) If the complaint has not been withdrawn by the complaining party at the time of the completion of the investigation, the Committee, after consulting with the Board's legal counsel, shall submit its findings to the Board and the Board shall determine whether or not there is probable cause to believe that the accused party has violated any standard of conduct which would justify a disciplinary hearing based upon the grounds as specified in G.S. 93D-13 or this Chapter.

(h) If probable cause is found, the Board shall authorize a Notice of Hearing to be served on the licensee or registrant as required by G.S. 150B, Article 3A.

(i) If probable cause is found, but it is determined that a disciplinary hearing is not warranted, the Board may issue a private reprimand to the accused party. A statement of such reprimand shall be mailed to the accused party. Within 20 days after receipt of the reprimand, the accused party may refuse the reprimand. Such refusal shall be addressed to the Committee and

filed with the Secretary for the Board. The legal counsel for the Board may thereafter prepare, file, and serve a Notice of Hearing as necessary. If the letter of reprimand is accepted, a record of the reprimand shall be maintained in the office of the Board.

(j) If no probable cause is found, the Board shall dismiss the charges and direct the Committee to prepare a statement of the reasons therefor which shall be mailed to the accused party and the complaining party.

(k) Any committee member is disqualified to participate further in the contested case involving any person for whom the committee member participated in the investigatory process.

History Note: Authority G.S. 93D-3; 150B-38;

Eff. January 1, 1992;

Amended Eff. February 1, 2010; April 1, 1996.

CHAPTER 53 - BOARD OF LICENSED PROFESSIONAL COUNSELORS

21 NCAC 53 .0603 CONTINUING EDUCATION

(a) Continuing education is required for the renewal of licenses to ensure that Licensed Professional Counselor Associates, Licensed Professional Counselors, and Licensed Professional Counselor Supervisors maintain their professional knowledge and competency in the field of counseling. Continuing education activities appropriate for the purpose of license renewal are those that are directed toward professionals in the mental health field and that focus on increasing knowledge and skills in the practice of counseling in one or more of the following content areas:

- (1) counseling theory;
- (2) human growth and development;
- (3) social and cultural foundations;
- (4) the helping relationship;
- (5) group dynamics;
- (6) lifestyle and career development;
- (7) appraisal of individuals;
- (8) diagnosis and treatment planning;
- (9) research and evaluation;
- (10) professional orientation; and
- (11) ethics.

(b) Forty contact hours of continuing education, including a minimum of three contact hours of ethics, are required within the two-year license renewal period. However, in the cases of newly issued licenses in which the initial renewal periods are less than two full years, 30 contact hours, including a minimum of three contact hours of ethics, are required. Contact hours are defined as the number of actual clock hours spent in direct participation in a structured education format as a learner. Typically, one Continuing Education Unit (CEU) is equivalent to 10 contact hours. In a college or university graduate course, one semester hour of credit is equivalent to 15 contact hours and one quarter hour of credit is equivalent to 10 contact hours.

(c) Continuing education training provided by one of the following national organizations, their affiliates or by a vendor approved by one of the following organizations shall be approved:

- (1) American Counseling Association;
- (2) American Association of State Counseling Boards;
- (3) National Board for Certified Counselors; and
- (4) Commission on Rehabilitation Counselor Certification.

(d) Continuing education training provided by one of the following national organizations, their affiliate or by a vendor approved by one of the following organizations shall be approved for no more than 15 contact hours for any given renewal period as defined in Rule .0601 of this same Chapter.

- (1) American Association of Christian Counselors;
- (2) National Association of Pastoral Counselors;
- (3) National Rehabilitation Association;
- (4) National Association of Alcoholism & Drug Abuse Counselors;
- (5) National Association of Social Workers;
- (6) American Association Marriage and Family Therapy;
- (7) National Area Health Education Center Organization;
- (8) American Psychological Association;
- (9) International Employee Assistance Professional Association; and
- (10) Employee Assistance Certification Commission.

(e) Evidence of completion of continuing education training shall consist of a certificate of attendance and completion signed by the responsible officer of a continuing education provider, and shall include date(s) of attendance, number of hours, name of attendee, and name of course.

(f) Continuing education activities also acceptable for renewal of licensure are as follows:

- (1) Contact hours shall be awarded for academic credit granted during a renewal period from a regionally accredited institution of higher education for work done in a counseling or counseling related subject. A copy of a transcript or grade report is the required documentation. Documentation must contain the following information:
 - (A) date(s) of attendance;
 - (B) number of semester hours earned;
 - (C) name of attendee; and
 - (D) name of course.

Contact hours are as defined in Paragraph (b) of this Rule. Completion dates must fall within the renewal period as defined in G.S. 90-339.

- (2) Publication activities used for contact hours are limited to articles written by the licensee and published in peer reviewed journals, editing of a chapter in a book based on counseling or counseling related material, or authoring or co-authoring a published book on counseling or counseling related material. Publication dates must fall within the renewal period as defined in G.S. 90-339. Required

documentation is a copy of the cover page of the article(s) or book, copy of the copyright page denoting date of publication; for a chapter in an edited book, a copy of the table of contents listing the chapter is also required. Ten contact hours shall be approved for each publication activity. The maximum contact hours allowed per any given renewal period as defined in G.S. 90-339 is 10. Contact hours awarded for publication activities shall not be applied to the three contact hour requirement for ethics.

- (3) Contact hours shall be awarded for academic credit granted during a renewal period from a regionally accredited institution of higher education for work done toward the completion of a dissertation. Required documentation is a copy of a transcript or grade report showing credit earned during the renewal period. The maximum contact hours allowed per any given renewal period, as defined in G.S. 90-339 is 10. Contact hours are as defined in Paragraph (b) of this Rule. Completion dates must fall within the renewal period as defined in G.S. 90-339. Contact hours awarded for dissertation shall not be applied to the three contact hour requirement for ethics.
- (4) Contact hours shall be awarded for clinical supervision, as defined by Rule .0208 of this Chapter, which was received by the licensee during the renewal period. Contact hours shall not be granted for clinical supervision provided by the licensee to others. The maximum contact hours awarded for clinical supervision is 10. Contact hours are defined as the number of actual clock hours spent in direct, clinical supervision. Required documentation is a letter from the qualified clinical supervisor as defined by Rule .0209 of this Chapter, who provided the clinical supervision received, verifying a licensee's participation in the activity. The letter shall confirm the dates of the activity, the number of participation hours, and the position or title and credential of the provider. Dates of activity must fall within the renewal period as defined in G.S. 90-339. Contact hours awarded for clinical supervision shall not be applied to the three contact hour requirement for ethics.
- (5) Contact hours shall be awarded for the following leadership positions:
 - (A) Officer of state, regional, or national counseling organization;
 - (B) editor or editorial board member of a professional counseling journal;

- (C) member of a state, regional, or national counseling committee producing a written product; and
- (D) chair of a major state, regional or national counseling conference or convention.

The leadership position must be occupied for a minimum of six months and dates must fall within the renewal period as defined in G.S. 90-339. The required documentation is a letter of confirmation of the leadership position, the nature of the position or service rendered, and the signature of an officer of the organization. Ten contact hours shall be approved for each leadership position held. The maximum contact hours allowed per any given renewal period as defined in G.S. 90-339 is 10. Contact hours awarded for leadership shall not be applied to the three contact hour requirement for ethics.

- (6) Contact hours shall be awarded for hours obtained in activities or workshops for which the licensee was a presenter. The dates of activities presented must fall within the renewal period as defined in G.S. 90-339 and focus on one or more of the approved content areas. The maximum contact hours awarded for presenting professional activities/workshops is five. The required documentation is a letter of confirmation from the organization for which the licensee presented and shall contain the following information:

- (A) date(s) of presentation;
- (B) name of presentation;
- (C) and length of presentation.

Contact hours are defined as the number of actual clock hours spent in presenting. Contact hours awarded for presenting shall not be applied to the three contact hour requirement for ethics.

- (g) If documentation for continuing education is not identifiable as dealing with counseling, the Board shall request a written description of the continuing education and how it applies to the professional practice of counseling. If the Board determines that the training is not appropriate, the individual shall be given 90 days from the date of notification to replace the hours not approved. Those hours shall be considered replacement hours and shall not be applied to the next renewal period.

- (h) Licensed Professional Counselor Supervisors must meet all the continuing education requirements outlined in Paragraph (a) through (g) of this Rule and in addition must provide documentation of a minimum of 10 contact hours of continuing education training related to professional knowledge and competency in the field of counseling supervision. Continuing education trainings appropriate for the purpose of supervision credential renewal are those that are directed toward professionals in the mental health field, which focus on increasing knowledge and skills in the practice of counseling supervision, and are completed during the renewal period as defined in G.S. 90-339.

*History Note: Authority G.S. 90-334(g); 90-339(b);
Eff. July 1, 1995;
Amended Eff. February 1, 2010.*

CHAPTER 68 – SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

21 NCAC 68 .0509 CLIENT RELATIONSHIPS

(a) The substance abuse professional shall not enter into a client/professional relationship with members of one's immediate family. For the purpose of this Rule "immediate family" means spouse, parent, sibling, child, grandparent, grandchild, stepchild, stepparent, parent-in-law, and child-in-law.

(b) The professional shall avoid dual relationships that could impair professional judgment or increase the risk of exploitation of a client.

(c) Sexual activity or sexual contact of a substance abuse professional with a client shall be restricted as follows:

- (1) The substance abuse professional shall not engage in or solicit sexual activity or sexual contact with a current client.
- (2) The substance abuse professional shall not engage in or solicit sexual activity or sexual contact with a former client for five years after the termination of the counseling or consulting relationship.
- (3) The substance abuse professional shall not engage in or solicit sexual activity or sexual contact with any client the professional knows to be currently in treatment at his or her own agency or place of professional employment.
- (4) The substance abuse professional shall not knowingly engage in or solicit sexual activity or sexual contact with any identified former client of his or her own agency or place of professional employment for five years after the termination of the counseling or consulting relationship if both the professional was employed at the agency and the former client was a client of the agency during the same time period.
- (5) Because sexual activity with a client is harmful to the client, a substance abuse professional shall not engage in sexual activities with a former client even after a five-year interval unless the substance abuse professional who engages in such activity after the five years following cessation or termination of treatment bears the burden of demonstrating that there has been no harm to the client in light of all relevant factors, including the following:
 - (A) The amount of time that has passed since treatment services were terminated;

- (B) The nature and duration of the treatment services;
- (C) The circumstances of termination;
- (D) The client's personal history;
- (E) The client's current mental status;
- (F) The likelihood of adverse impact on the client and others; and
- (G) Any statement made or action taken by the substance abuse professional during the course of treatment suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client.

(d) The substance abuse professional shall not misuse his or her professional relationship for sexual, financial, or any other personal advantage.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.44;

Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1996;

Amended Eff. February 1, 2010; April 1, 2001; August 1, 2000.

21 NCAC 68 .0511 REMUNERATION

(a) The substance abuse professional shall establish financial arrangements in professional practice and in accord with the best interests of the client or person served, the professional and of the profession.

(b) The substance abuse professional shall not send or receive any commission, rebate, or any other form of remuneration for referral of a client or a person served for professional services.

(c) The substance abuse professional shall not accept a private fee or any other gift or gratuity having a cumulative value of twenty-five dollars (\$25.00) or more for professional work with a person who is receiving such services with the professional or through the professional's institution or agency.

(d) A particular agency may make written provisions for private work with its clients or persons served by members of its staff and in such instances the client or person served shall be apprised of all policies affecting him or her. Additional referral options shall be presented to the client or person served if available.

(e) A substance abuse professional shall not use his or her employer's organization to solicit clients or persons served for one's private practice without written authorization from the employer.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.44;

Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1996;

Amended Eff. February 1, 2010; April 1, 2001; August 1, 2000.

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	Randall May
Selina Brooks	A. B. Elkins II
Melissa Owens Lassiter	Joe Webster
Don Overby	

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
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A list of Child Support Decisions may be obtained by accessing the OAH Website: <http://www.ncoah.com/hearings/decisions/>

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Rickie Annas v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry	09 DHR 2962	Brooks	08/10/09
Berta Spencer v. NC Dept. of Health and Human Services	09 DHR 3000	Cella	10/07/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 3002	Webster	07/17/09
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Brenda V. Patterson v. State Department of Social Services	09 DHR 3004	Webster	07/17/09
Mary's House, Inc., MHL #041-288, Craig Thomas, Executive Director v. Ms. Emery Milliken, General Counsel, Department of Health and Human Services, Office of Legal Affairs	09 DHR 3008	Mann	07/22/09
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Shawanda Ann Barnes V. Cherry Hospital	09 DHR 3076	Lassiter	09/28/09
St. Francis of Charlotte, Inc. Francis Ford Provider #83022329B and 83022329H v. NC Dept. of Health and Human Services, Div. of Medical Assistance	09 DHR 3101	Brooks	09/23/09
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Amanda L. Brewer v. DHHS	09 DHR 3541	Elkins	08/21/09
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Pamela Ann Hedgecock v. NC Dept. of Health and Human Services, Division of health Service Regulation	09 DHR 3763	Brooks	10/30/09
TLC Adult Home, Sonja Hazelwood v. NC Dept. of Health and Human Services, Division of Health Service Regulation	09 DHR 3776	Gray	09/16/09
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Omnicare of Hickory, Jackie Knight v. N.C Dept. of Health and Human Services	09 DHR 4069	Brooks	10/07/09
Charles D. Harris v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section	09 DHR 4107	Brooks	10/29/09
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Vickie Blair v. Office of Administrative Hearings	09 DHR 4236	May	09/27/09
Leilani Michelle Adames v. Linda Waugh, RN, BSN HCPR Investigator Health Care Personnel Registry Investigations	09 DHR 4275	May	09/22/09
Erica M. Small v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section	09 DHR 4299	Brooks	09/11/09
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Battlecat Productions, Inc., D/B/A Battlecat Marine v. East Carolina University and State of NC Dept. of Purchase and Contract	09 4788	DOA	Gray	10/08/09
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Ross Patton Gilmore v. North Carolina Alarm Licensing Board	09 DOJ 2452	Morrison		06/04/09	
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Richard Lee Powers, Sr. and Richard Lee Powers, Jr. v. Private Protective Services Board	09 DOJ 3488	Morrison		12/15/09	
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Edward A. Patterson v. Attorney General's Office	09 DOJ 4146	Webster		08/28/09	
Luther Daniel Stidham v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 4219	May		10/01/09	
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Donna F. Levi v. Department of State Treasurer 09 DST 0161 Gray 07/17/09
Hilda Harris Member ID: 1725605 v. Department of State Treasurer Retirement Systems Division 09 DST 1290 Overby 05/27/09
Queen N. Thompson v. NC Office of State Treasurer 09 DST 3682 Brooks 12/01/09
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John David Erwin v. NC Dept. of Public Instruction 08 EDC 1827 Brooks 05/27/09
Frederick Moore v. State Board of Education, Department of Public Instruction 08 EDC 3035 May 09/30/09 24:16 NCR 1448
Michelle Sara Rodriguez v. National Board Certification Appeals Panel/Division of Talent Management and Development 08 EDC 3219 Brooks 08/21/09
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Sandra Chesser v. State Board of Education 09 EDC 4435 May 10/01/09
Ashley Chrisp v. NC Dept. of Public Instruction 09 EDC 5160 Brooks 10/23/09

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The Town of Franklin Government of NC v. NC Dept. of Environment and Natural Resources, Division of Water Quality and Duke Energy Carolinas, LLC 07 EHR 2201 Brooks 09/24/09
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Old Mill Forestry, LLC v. N.C. Department of Environment and Natural Resources, Division of Water Quality 08 EHR 1806 Lassiter 05/08/09
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Saint Gobain Containers, Inc. v. NC Dept. of Environment and Natural Resources, Division of Air Quality 09 EHR 1616 Overby 10/23/09
John C Campbell Folk School, John M Clarke, Bldgs & Ground Mgr v. NCDENR Public Water Supply Section 09 EHR 1852 Overby 06/03/09
Doug Jernigan v. NC Dept. of Environment and Natural Resources, Division of Air Quality 09 EHR 3118 Elkins 10/16/09
Appalachian Stove Fab, Inc., James Rice v. Western North Carolina Regional Air Quality Agency 09 EHR 3785 Gray 08/06/09
Woodfield Gardens Apartments, Loretta Sims, v. NC Dept. of Environment and Natural Resources, Division of Envir Health 09 EHR 4330 May 10/09/09
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Wade Bryan Bulloch v. N.C. Department of Crime Control and Public Safety, N.C. Highway 05 OSP 1178 Gray 01/15/10 24:16 NCR 1394

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Fatima Akhtar v. NC Dept of Commerce	08 OSP 0171	Gray	08/05/09		
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Vickye Williams Herring, NC Employment Security Commission	09 OSP 3501	Elkins	07/30/09		
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Charles Nathan v. Robeson Co. DSS Foster Care Unit	09 OSP 3543	Elkins	10/08/09		
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Thomas E. Freeman, Jr. v. The people associated with NC Dept. of Health and Human Services and Whitaker School	09 OSP 4795	Overby	09/18/09		
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Robert Lee Evans v. NC Office of Administrative Hearings	09 SOS 2300	Lassiter	06/03/09		
Asali J. Howard v. North Carolina Department of The Secretary Of State	09 SOS 2707	May	07/16/09		
Pamela Nickles v. Dept. of Secretary of NC State	09 SOS 3120	Brooks	10/16/09		
Stanley Young v. The Notary Public Section	09 SOS 4001	Brooks	09/18/09		
Jeremy Glen Blow v. NC Office of the Secretary of State	09 SOS 4245	Overby	09/14/09		
Martha C. Graybeal v. NC Dept. of the Secretary of State Certification Filing Division	09 SOS 4273	Brooks	10/07/09		
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Karen E. Current v. UNC Hospitals	09 UNC 4019	Gray	09/08/09
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