

# ***NORTH CAROLINA REGISTER***

**VOLUME 32 • ISSUE 08 • Pages 720 – 790**

**October 16, 2017**

<b>I. EXECUTIVE ORDERS</b>	
Executive Order No. 22 .....	720 – 721
<b>II. PROPOSED RULES</b>	
Agriculture and Consumer Services, Department of Agriculture, Board of .....	722 – 734
Natural and Cultural Resources, Department of Department .....	734 – 738
Environmental Quality, Department of Environmental Management Commission .....	738 – 752
Occupational Licensing Boards and Commissions Certified Public Accountant Examiners, Board of .....	753 – 754
<b>III. TEMPORARY RULES</b>	
Environmental Quality, Department of Environmental Management Commission .....	755 – 760
<b>IV. RULES REVIEW COMMISSION</b> .....	761 – 785
<b>V. CONTESTED CASE DECISIONS</b>	
Index to ALJ Decisions .....	786 – 790

**PUBLISHED BY**

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

*Julian Mann III, Director  
Molly Masich, Codifier of Rules  
Dana McGhee, Publications Coordinator  
Lindsay Woy, Editorial Assistant*

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

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

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

Office of Administrative Hearings  
Rules Division  
1711 New Hope Church Road (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 McGhee, Publications Coordinator dana.mcgee@oah.nc.gov (919) 431-3075  
Lindsay Woy, Editorial Assistant lindsay.woy@oah.nc.gov (919) 431-3078

### **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: Abigail Hammond, Commission Counsel abigail.hammond@oah.nc.gov (919) 431-3076  
Amber Cronk May, Commission Counsel amber.may@oah.nc.gov (919) 431-3074  
Amanda Reeder, Commission Counsel amanda.reeder@oah.nc.gov (919) 431-3079  
Jason Thomas, Commission Counsel jason.thomas@oah.nc.gov (919) 431-3081  
Alexander Burgos, Paralegal alexander.burgos@oah.nc.gov (919) 431-3080  
Julie Brincefield, Administrative Assistant julie.brincefield@oah.nc.gov (919) 431-3073

### **Fiscal Notes & Economic Analysis and Governor's Review**

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  
Carrie Hollis, Economic Analyst osbmruleanalysis@osbm.nc.gov (919) 807-4757

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

contact: Amy Bason amy.bason@ncacc.org

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

contact: Sarah Collins scollins@nclm.org

### **Legislative Process Concerning Rule-making**

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

Karen Cochrane-Brown, Director/Legislative Analysis Division karen.cochrane-brown@ncleg.net  
Jeff Hudson, Staff Attorney jeffrey.hudson@ncleg.net

**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2017 – December 2017

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 <sup>th</sup> day from publication in the Register
31:13	01/03/17	12/07/16	01/18/17	03/06/17	03/20/17	05/01/17	05/2018	09/30/17
31:14	01/17/17	12/20/16	02/01/17	03/20/17	04/20/17	06/01/17	05/2018	10/14/17
31:15	02/01/17	01/10/17	02/16/17	04/03/17	04/20/17	06/01/17	05/2018	10/29/17
31:16	02/15/17	01/25/17	03/02/17	04/17/17	04/20/17	06/01/17	05/2018	11/12/17
31:17	03/01/17	02/08/17	03/16/17	05/01/17	05/22/17	07/01/17	05/2018	11/26/17
31:18	03/15/17	02/22/17	03/30/17	05/15/17	05/22/17	07/01/17	05/2018	12/10/17
31:19	04/03/17	03/13/17	04/18/17	06/02/17	06/20/17	08/01/17	05/2018	12/29/17
31:20	04/17/17	03/24/17	05/02/17	06/16/17	06/20/17	08/01/17	05/2018	01/12/18
31:21	05/01/17	04/07/17	05/16/17	06/30/17	07/20/17	09/01/17	05/2018	01/26/18
31:22	05/15/17	04/24/17	05/30/17	07/14/17	07/20/17	09/01/17	05/2018	02/09/18
31:23	06/01/17	05/10/17	06/16/17	07/31/17	08/21/17	10/01/17	05/2018	02/26/18
31:24	06/15/17	05/24/17	06/30/17	08/14/17	08/21/17	10/01/17	05/2018	03/12/18
32:01	07/03/17	06/12/17	07/18/17	09/01/17	09/20/17	11/01/17	05/2018	03/30/18
32:02	07/17/17	06/23/17	08/01/17	09/15/17	09/20/17	11/01/17	05/2018	04/13/18
32:03	08/01/17	07/11/17	08/16/17	10/02/17	10/20/17	12/01/17	05/2018	04/28/18
32:04	08/15/17	07/25/17	08/30/17	10/16/17	10/20/17	12/01/17	05/2018	05/12/18
32:05	09/01/17	08/11/17	09/16/17	10/31/17	11/20/17	01/01/18	05/2018	05/29/18
32:06	09/15/17	08/24/17	09/30/17	11/14/17	11/20/17	01/01/18	05/2018	06/12/18
32:07	10/02/17	09/11/17	10/17/17	12/01/17	12/20/17	02/01/18	05/2018	06/29/18
32:08	10/16/17	09/25/17	10/31/17	12/15/17	12/20/17	02/01/18	05/2018	07/13/18
32:09	11/01/17	10/11/17	11/16/17	01/02/18	01/22/18	03/01/18	05/2018	07/29/18
32:10	11/15/17	10/24/17	11/30/17	01/16/18	01/22/18	03/01/18	05/2018	08/12/18
32:11	12/01/17	11/07/17	12/16/17	01/30/18	02/20/18	04/01/18	05/2018	08/28/18
32:12	12/15/17	11/22/17	12/30/17	02/13/18	02/20/18	04/01/18	05/2018	09/11/18

## **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) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) 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; and
- (7) 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.



# State of North Carolina

**ROY COOPER**  
GOVERNOR

September 18, 2017

## EXECUTIVE ORDER NO. 22

### NOTICE OF TERMINATION OF EXECUTIVE ORDER NO. 20 AND AMENDING EXECUTIVE ORDER NO. 21

**WHEREAS**, Executive Order No. 20 was issued on September 6, 2017, declaring a state of emergency due to the approach of Hurricane Irma for the entire State of North Carolina; and

**WHEREAS**, Executive Order No. 21 was issued on September 6, 2017, waiving the maximum hours of service for drivers transporting supplies and equipment for utility restoration and essentials, and with the concurrence of the Council of State temporarily suspended size and weight restrictions on vehicles used for utility restoration, carrying essentials and agricultural commodities on the interstate and intrastate highways due to the anticipated damage and impacts from Hurricane Irma.

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

#### Section 1.

Pursuant to N.C.G.S. § 166A-19.20(c) the state of emergency that was declared by Executive Order No. 20 is hereby terminated immediately.

#### Section 2.

Executive Order No. 21 will remain in effect until 11:59 p.m. October 6, 2017. The order is amended to repeal the following clause:

**WHEREAS**, I have declared that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6), 166A-19.3(19) and 166A-19.20 exists due Hurricane Irma and its likely impact in this State; and

Replacing it with the following clause:

**WHEREAS**; although I have terminated Executive Order No. 20, issued on September 6, 2017, there continues to be a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(19) for the purposes of responding to the ongoing impacts from Hurricane Irma in Florida, Georgia, South Carolina, and the U.S. Virgin Islands. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) is the state of North Carolina for the purpose of allowing vehicles used for emergency response and relief to pass through the State without undue delay.

Section 3.

Section 10 of Executive Order No. 21 is rewritten to read as follows:

This order will not trigger the prohibitions against excessive pricing in the emergency area in North Carolina for Hurricane Irma, notwithstanding the provisions of N.C.G.S. § 166A-19.23.

Section 4.

The remaining provisions in Executive Order No. 21 remain in effect until 11:59 p.m. October 6, 2017, and maybe extended if necessary to provide relief to the impacted states and territories.

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 18<sup>th</sup> day of September in the year of our Lord two thousand and seventeen.

  
\_\_\_\_\_  
Roy Cooper  
Governor

ATTEST:

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State



**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

## TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to adopt the rules cited as 02 NCAC 09B .0134, .0135 and amend the rule cited as 02 NCAC 09B .0116.

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm>

**Proposed Effective Date:** February 1, 2018

**Instructions on How to Demand a Public Hearing:** (must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than October 31, 2017 to Tina Hlabse, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.

**Reason for Proposed Action:** The Produce Safety Rule, 21 C.F.R Part 112, establishes for the first time science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption. The rules will help ensure the safety of produce, help prevent and contain the spread of disease, and protect consumers. On May 9, 2016, NCDA&CS submitted a letter of intent to the FDA to adopt the FDA Produce Safety Rule in its entirety and federal funding is contingent on the adoption of the rule. The Human PC Rule, 21 C.F.R Part 117, creates new requirements for the production of human food and revises previous requirements. For example, the rule requires certain domestic and foreign facilities to establish and implement hazard analysis and risk-based preventative controls for human food, modifies FDA's long-standing current good manufacturing practices, and clarifies the scope of the exemption for farms. One of the goals for both the Produce Safety Rule and the Human PC Rule is to shift away from primarily reacting to problems after they occur but to focus on prevention and contain problems when they do occur. In addition, to effectively implement both the Produce Safety and the Human PC Rules, NCDA&CS is proposing to define the term "establishment" to include farms, adopt a rule to clarify that failure to comply with the Produce Safety Rule and the Human PC Rule may result in adulteration or misbranding, and define "processed food", "major food allergen." And "knowingly" or "knew." As rules adopted under the North Carolina Food, Drug, and Cosmetic Act, the Produce Safety Rule and Human PC Rule will be subject to state enforcement under the Act.

**Comments may be submitted to:** Tina Hlabse, Secretary, 1001 Mail Service Center, Raleigh, NC 27699-1001; email [tina.hlabse@ncagr.gov](mailto:tina.hlabse@ncagr.gov)

**Comment period ends:** December 15, 2017

**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 (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

## CHAPTER 09 - FOOD AND DRUG PROTECTION

### SUBCHAPTER 09B - RULES AND STANDARDS ADOPTED BY REFERENCE

#### 02 NCAC 09B .0116 ADOPTIONS BY REFERENCE

- (a) The Board incorporates by reference, including subsequent amendments and editions, "Official Methods of Analysis of AOAC," published by the Association of Official Analytical Chemists. Copies of this document may be obtained from the Association of Official Analytical Chemists International, Department 0742, 1970 Chain Bridge Road, McLean, VA 22109-0742, at a cost of six hundred thirty dollars (\$630.00).
- (b) The Board incorporates by reference, including subsequent amendments and editions, "U.S. Pharmacopeia National Formulary USP XXXIII-NFXXVIII" and supplements, published by the U.S. Pharmacopeial Convention, Inc. Copies of this document may be obtained from The United States Pharmacopeial Convention, Inc., Attention: Customer Service,

12601 Twinbrook Parkway, Rockville, MD 20852, at a cost of eight-hundred fifty dollars (\$850.00).

(c) The Board incorporates by reference, including subsequent amendments and editions, "ASTM Standards on Engine Coolants," published by ASTM International. Copies of this document may be obtained from ASTM International, 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959, at a cost of two hundred eleven dollars (\$211.00).

(d) The Board incorporates by reference, including subsequent amendments and editions, "EPA Manual of Chemical Methods for Pesticides and Devices" and supplements, published by AOAC. Copies of this document may be obtained online from the Environmental Protection Agency National Service Center for Environmental Publications at <http://nepis.epa.gov/EXE/ZyPURL.cgi?Dockey=2000YS3Y.txt>.

(e) The Board incorporates by reference, including subsequent amendments and editions, "Pesticide Analytical Manual," Volumes I and II, published by the United States Department of Health and Human Services, Food and Drug Administration. Copies of this document may be obtained online at <http://www.fda.gov/Food/ScienceResearch/LaboratoryMethods/PesticideAnalysisManualPAM/default.htm>.

(f) The Board incorporates by reference, including subsequent amendments and editions, "FDA Compliance Policy Guides," published by the United States Department of Health and Human Services, Food and Drug Administration. Copies of this document may be obtained online at <http://www.fda.gov/iceci/compliancemanuals/compliancepolicyguidancemanual/default.htm> or from the State Information Branch (HFC-151), Division of Federal-State Relations, US Food and Drug Administration, 5600 Fishers Lane, Room 12-07, Rockville, MD 20857.

(g) The Board incorporates by reference, including subsequent amendments and editions, "Bergey's Manual of Determinative Bacteriology," Lippincott, Williams & Wilkins Company, Baltimore. Copies of this document may be obtained from the Lippincott, Williams & Wilkins Company, P.O. Box 1620, Hagerstown, MD 21741 at a cost of one hundred thirty-seven dollars and ninety-nine cents (\$137.99).

(h) The Board incorporates by reference, including subsequent amendments and editions, "Microbiology Laboratory Guidebook," published by the United States Department of Agriculture, Food Safety and Inspection Service, Washington, DC. Copies of this document may be obtained online from [http://www.fsis.usda.gov/science/microbiological\\_Lab\\_Guidebook/](http://www.fsis.usda.gov/science/microbiological_Lab_Guidebook/) at no charge.

(i) The Board incorporates by reference, including subsequent amendments and editions, "FDA Bacteriological Analytical Manual," published by the United States Department of Health and Human Services, Food and Drug Administration. Copies of this document may be obtained online at <http://www.fda.gov/Food/FoodScienceResearch/LaboratoryMethods/ucm114664.htm> at no charge.

(j) The Board incorporates by reference, including subsequent amendments and editions, "Standard Methods for the Examination of Dairy Products," published by the American Public Health Association. Copies of this document may be obtained from the American Public Health Association

Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of eighty-five dollars (\$85.00).

(k) The Board incorporates by reference, including subsequent amendments and editions, "Compendium of Methods for the Microbiological Examination of Foods," published by the American Public Health Association. Copies of this document may be obtained from the American Public Health Association Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of one hundred fifty dollars (\$150.00).

(l) The Board incorporates by reference, including subsequent amendments and editions, "Bergey's Manual of Systematic Bacteriology," Springer Publishing, New York, NY. Copies of this document may be obtained from Springer Publishing, 233 Spring Street, New York, NY, 10013 at a cost of one hundred fifty-nine dollars (\$159.00).

(m) The Board incorporates by reference, including subsequent amendments and editions, "Manual of Clinical Microbiology," published by the American Society for Microbiology. Copies of this document may be obtained from the American Society for Microbiology Press, PO Box 605, Herndon, VA 22070, at a cost of two hundred sixty-nine dollars and ninety-five cents (\$269.95).

(n) The Board incorporates by reference, including subsequent amendments and editions, "Standard Methods for the Examination of Water and Waste Water," published by American Public Health Association, American Water Works Association, and Water Pollution Control Federation. Copies of this document may be obtained from the American Public Health Association Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of two hundred ninety-five dollars (\$295.00).

(o) The Board incorporates by reference, including subsequent amendments and editions, the following parts or sections of the Code of Federal Regulations, Title 21, Chapter I, as promulgated by the Commissioner of the Food and Drug Administration under the authority of the Federal Food, Drug, and Cosmetic Act:

	Part or	
	Section	Description of Part or Section
(1)	1.1	General
(2)	1.3	Labeling - Definitions
(3)	1.20	Presence of Mandatory Label Information
(4)	1.21	Failure to Reveal Material Facts
(5)	1.24	Exemptions from Required Label Statements
(6)	1.326	Who is Subject to this Subpart?
(7)	1.327	Who is Excluded from All or Part of the Regulations in this Subpart?
(8)	1.328	What Definitions Apply to this Subpart?
(9)	1.329	Do Other Statutory Provisions and Regulations Apply?
(10)	1.330	Can Existing Records Satisfy the Requirements of this Subpart?
(11)	1.337	What Information Must Non-transporters Establish and Maintain to Identify the Nontransporter and Transporter Immediate Previous Sources of Food?
(12)	1.345	What Information Must Non-transporters Establish and Maintain to Identify



- |      |   |      |  |
|------|---|------|--|
|      | the Nontransporter and Transporter Immediate Subsequent Recipients of Food?   | (48) | 109 Unavoidable Contaminants in Food for Human Consumption and Food-Packaging Material                                       |
| (13) | 1.352 What Information Must Transporters Establish and Maintain?  | (49) | 110 Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food                                     |
| (14) | 1.360 What are the Record Retention Requirements?   | (50) | 111 Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements |
| (15) | 1.361 What are the Record Availability Requirements?  | (51) | 113 Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers  |
| (16) | 1.362 What Records are Excluded from this Subpart?  | (52) | 114 Acidified Foods  |
| (17) | 1.363 What are the Consequences of Failing to Establish, or Maintain Records or Make Them Available to FDA as Required by this Subpart? | (53) | 115 Shell Eggs   |
| (18) | 1.368 What are the Compliance Dates for this Subpart?   | (54) | 118 Production, Storage, and Transportation of Shell Eggs  |
| (19) | 2.25 Grain Seed Treated with Poisonous Substances; Color Identification to Prevent Adulteration of Human and Animal Food                | (55) | 120 Hazard Analysis and Critical Control Point (HACCP) Systems   |
| (20) | 2.35 Use of Secondhand Containers for the Shipment or Storage of Food and Animal Feed   | (56) | 123 Fish and Fishery Products  |
| (21) | 7.1 Scope   | (57) | 129 Processing and Bottling of Bottled Drinking Water (Except as amended by 02 NCAC 09C .0700 - Bottled Water)               |
| (22) | 7.3 Definitions   | (58) | 130 Food Standards: General  |
| (23) | 7.12 Guaranty   | (59) | 131 Milk and Cream   |
| (24) | 7.13 Suggested Forms of Guaranty  | (60) | 133 Cheeses and Related Cheese Products  |
| (25) | 7.40 Recall Policy  | (61) | 135 Frozen Desserts  |
| (26) | 7.41 Health Hazard Evaluation and Recall Classification   | (62) | 136 Bakery Products  |
| (27) | 7.42 Recall Strategy  | (63) | 137 Cereal Flours and Related Products   |
| (28) | 7.45 Food and Drug Administration - Requested Recall  | (64) | 139 Macaroni and Noodle Products   |
| (29) | 7.46 Firm-initiated Recall  | (65) | 145 Canned Fruits  |
| (30) | 7.49 Recall Communications  | (66) | 146 Canned Fruit Juices  |
| (31) | 7.50 Public Notification of Recall  | (67) | 150 Fruit Butters, Jellies, Preserves, and Related Products  |
| (32) | 7.53 Recall Status Reports  | (68) | 152 Fruit Pies   |
| (33) | 7.55 Termination of a Recall  | (69) | 155 Canned Vegetables  |
| (34) | 7.59 General Industry Guidance  | (70) | 156 Vegetable Juices   |
| (35) | 70 Color Additives  | (71) | 158 Frozen Vegetables  |
| (36) | 73 Listing of Color Additives Exempt from Certification   | (72) | 160 Eggs and Egg Products  |
| (37) | 74 Listing of Color Additives Subject to Certification  | (73) | 161 Fish and Shellfish (Except Section 161.30 and 161.130 through 161.145)   |
| (38) | 81 General Specifications and General Restrictions for Provisioned Color Additives for Use in Foods, Drugs and Cosmetics                | (74) | 163 Cacao Products   |
| (39) | 82 Listing of Certified Provisionally Listed Colors and Specifications  | (75) | 164 Tree Nut and Peanut Products   |
| (40) | 100 General   | (76) | 165 Beverages  |
| (41) | 101 Food Labeling   | (77) | 166 Margarine  |
| (42) | 102 Common or Usual Name for Nonstandardized Foods  | (78) | 168 Sweeteners and Table Syrups  |
| (43) | 104 Nutritional Quality Guidelines for Foods  | (79) | 169 Food Dressings and Flavorings  |
| (44) | 105 Foods for Special Dietary Use   | (80) | 170 Food Additives   |
| (45) | 106 Infant Formula Quality Control Procedures   | (81) | 172 Food Additives Permitted for Direct Addition to Food for Human Consumption   |
| (46) | 107 Infant Formula  | (82) | 173 Secondary Direct Food Additives Permitted in Food for Human Consumption  |
| (47) | 108 Emergency Permit Control  | (83) | 174 Indirect Food Additives: General   |
|      |   | (84) | 175 Indirect Food Additives: Adhesives and Components of Coatings  |
|      |   | (85) | 176 Indirect Food Additives: Paper and Paperboard Components   |
|      |   | (86) | 177 Indirect Food Additives: Indirect Food Additives: Polymers   |
|      |   | (87) | 178 Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers  |

- |       |     |  |       |     |  |
|-------|-----|--|-------|-----|--|
| (88)  | 179 | Irradiation in the Production, Processing and Handling of Food   | (120) | 861 | Procedures for Performance Standards Development   |
| (89)  | 180 | Food Additives Permitted in Food or in Contact with Food on an Interim Basis Pending Additional Study                  | (121) | 870 | Cardiovascular Devices   |
| (90)  | 181 | Prior-Sanctioned Food Ingredients  | (122) | 882 | Neurological Devices   |
| (91)  | 182 | Substances Generally Recognized as Safe  | (123) | 884 | Obstetrical and Gynecological Devices  |
| (92)  | 184 | Direct Food Substances Affirmed as Generally Recognized as Safe  | (124) | 895 | Banned Devices   |
| (93)  | 186 | Indirect Food Substances Affirmed as Generally Recognized as Safe  | (125) | 500 | General  |
| (94)  | 189 | Substances Prohibited from Use in Human Food   | (126) | 501 | Animal Food Labeling   |
| (95)  | 190 | Dietary Supplements  | (127) | 502 | Common or Usual Names for Nonstandardized Animal Foods   |
| (96)  | 200 | General  | (128) | 509 | Unavoidable Contaminants in Animal Food and Food-Packaging Material                            |
| (97)  | 201 | Labeling   | (129) | 510 | New Animal Drugs   |
| (98)  | 202 | Prescription Drug Advertising  | (130) | 511 | New Animal Drugs for Investigational Use   |
| (99)  | 210 | Current Good Manufacturing Practice in Manufacturing, Processing, Packing or Holding of Drugs; General                 | (131) | 514 | New Animal Drug Applications   |
| (100) | 211 | Current Good Manufacturing Practice for Finished Pharmaceuticals   | (132) | 520 | Oral Dosage Form New Animal Drugs  |
| (101) | 225 | Current Good Manufacturing Practice for Medicated Feeds  | (133) | 522 | Implantation or Injectable Dosage Form New Animal Drugs  |
| (102) | 226 | Current Good Manufacturing Practice for Type A Medicated Articles  | (134) | 524 | Ophthalmic and Topical Dosage Form New Animal Drugs  |
| (103) | 250 | Special Requirements for Specific Human Drugs  | (135) | 526 | Intramammary Dosage Form New Animal Drugs  |
| (104) | 290 | Controlled Drugs   | (136) | 529 | Certain Other Dosage Form New Animal Drugs   |
| (105) | 299 | Drugs; Official Names and Established Names  | (137) | 556 | Tolerances for Residues of New Animal Drugs in Food  |
| (106) | 300 | General  | (138) | 558 | New Animal Drugs for Use in Animal Feeds   |
| (107) | 310 | New Drugs  | (139) | 570 | Food Additives   |
| (108) | 312 | Investigational New Drug Application   | (140) | 573 | Food Additives Permitted in Feed and Drinking Water of Animals                                 |
| (109) | 314 | Applications for FDA Approval to Market New Drug   | (141) | 582 | Substances Generally Recognized as Safe  |
| (110) | 320 | Bioavailability and Bioequivalence Requirements  | (142) | 584 | Food Substances Affirmed as Generally Recognized as Safe in Feed and Drinking Water of Animals |
| (111) | 330 | Over-the-Counter (OTC) Human Drugs Which are Generally Recognized as Safe and Effective and Not Misbranded             | (143) | 589 | Substances Prohibited from Use in Animal Food or Feed  |
| (112) | 331 | Antacid Products for Over-the-Counter (OTC) Human Use  | (144) | 700 | General  |
| (113) | 332 | Antiflatulent Products for Over-the-Counter Human Use  | (145) | 701 | Cosmetic Labeling  |
| (114) | 361 | Prescription Drugs for Human Use Generally Recognized as Safe and Effective and Not Misbranded: Drugs Used in Research | (146) | 720 | Voluntary Filing of Cosmetic Product Ingredient Composition Statements                         |
| (115) | 369 | Interpretive Statements Re: Warnings on Drugs and Devices for Over-the-Counter Sale                                    | (147) | 740 | Cosmetic Product Warning Statements  |
| (116) | 809 | In Vitro Diagnostic Products for Human Use   |       |     |  |
| (117) | 812 | Investigational Device Exemptions  |       |     |  |
| (118) | 820 | Quality System Regulation  |       |     |  |
| (119) | 860 | Medical Device Classification Procedures   |       |     |  |

Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(p) The Board incorporates by reference, including subsequent amendments and editions, "Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities," 40 C.F.R. Part 180. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(q) The Board incorporates by reference, including subsequent amendments and editions, "Definitions and Standards of Identity or Composition for Meats, Meat By-products, and Meat Food

Products," 9 C.F.R. Part 319. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(r) The Board incorporates by reference, including subsequent amendments and editions, "Definitions and Standards of Identity or Composition for Poultry and Poultry Products," 9 C.F.R. Sections 381.155 through 381.170. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(s) The Board incorporates by reference, including subsequent amendments and editions, Title 9, Part 317.2(1) of the Code of Federal Regulations. Copies of Title 9 of the Code of Federal Regulations may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at a cost of sixty-four dollars (\$64.00).

(t) The Board incorporates by reference, including subsequent amendments and editions, Title 9, Part 381.125(b) of the Code of Federal Regulations. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(u) The Board incorporates by reference, including subsequent amendments and editions, a document entitled, "Fresh Air '2000' - A Look At FDA's Medical Gas Requirements," published by the United States Department of Health and Human Services, Food and Drug Administration. A copy of this material may be obtained at no cost from the Food and Drug Protection Division of the North Carolina Department of Agriculture and Consumer Services.

(v) The Board incorporates by reference the definition of "dietary supplement" found at 21 USC 321(ff).

(w) The Board incorporates by reference, including subsequent amendments and editions, the following parts or sections of the Code of Federal Regulations, Title 21, Chapter I, as promulgated by the Commissioner of the Food and Drug Administration under the authority of the Federal Food, Drug, and Cosmetic Act:

- (1) 112 Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption
- (2) 117 Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food

Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(x) The Board incorporates by reference the definition of "processed food" found at 21 USC 321(gg).

(y) The Board incorporates by reference the definition of "major food allergen" found at 21 USC 321(qq).

(z) The Board incorporates by reference the definition of "knowingly" or "knew" found at 21 USC 321(bb).

Authority G.S. 106-139; 106-245.16; 106-245.22; 106-245.32; 106-267.

## **02 NCAC 09B .0134      DEFINING ESTABLISHMENT**

The term "establishment" under the North Carolina Food, Drugs and Cosmetics Act, N.C. Gen. Stat. § 106-120 et seq. shall include farms as defined under 21 CFR 112.3, which is hereby incorporated by reference including later amendments or editions and can be accessed free of cost at <http://www.gpoaccess.gov/cfr/index.html>.

Authority G.S. 106-139.

## **02 NCAC 09B .0135      ADULTERATION AND MISBRANDING**

(a) Failure to comply with 21 C.F.R. Part 112 as adopted under 02 NCAC 09B .0116(w)(1) may render food adulterated or misbranded, or both, under G.S. 106-129 and G.S. 106-130 for purposes of G.S. 106-122(1)-(3).

(b) Failure to comply with 21 C.F.R. Part 117 as adopted under 02 NCAC 09B .0116(w)(2) may render food adulterated or misbranded, or both, under G.S. 106-129 and G.S. 106-130 for purposes of G.S. 106-122(1)-(3).

Authority G.S. 106-122; 106-129; 106-130; 106-139.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Board of Agriculture intends readopt with substantive changes the rules cited as 02 NCAC 60B .0402, .0701, .0702, .0804; 60C .0101, .0102, .0202-.0204, .0209 and readopt without substantive changes the rules cited as 02 NCAC 60B .0101, .0201, .0202, .0205, .0302, .0401, .0603-.0605, .0805, .0901, .1003-.1032; 60C .0201, .0205-.0208.*

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm>

**Proposed Effective Date:** February 1, 2018

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than October 31, 2017 to Tina Hlabse, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.*

**Reason for Proposed Action:** *The proposed rules were classified as "necessary with substantive public interest" during the periodic review and expiration of existing rules process and are now being readopted. Some are being readopted without any changes being made to what is currently in the code. Other changes include deleting unnecessary language and updating references to correct people and agencies. There are other small technical corrections to grammar and spelling.*

**Comments may be submitted to:** *Tina Hlabse, Secretary, 1001 Mail Service Center, Raleigh, NC 27699-1001; email [tina.hlabse@ncagr.gov](mailto:tina.hlabse@ncagr.gov)*

**Comment period ends:** *December 15, 2017*

**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 (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☐ No fiscal note required by G.S. 150B-21.4
- ☒ No fiscal note required by G.S. 150B-21.3A(d)(2)

## CHAPTER 60 - DIVISION OF FOREST RESOURCES

### SUBCHAPTER 60B - DIVISION PROGRAMS

#### SECTION .0100 - ADMINISTRATION

**02 NCAC 60B .0101 COUNTY COOPERATION: FISCAL ASPECTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

#### SECTION .0200 - FOREST FIRE CONTROL

**02 NCAC 60B .0201 BURNING PERMITS FOR FOREST FIRE PREVENTION: CANCELLATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .0202 SUMMONING FIRE FIGHTERS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .0205 PERSONAL INJURY LIABILITY DURING FOREST FIRE CONTROL (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

#### SECTION .0300 - PEST CONTROL

**02 NCAC 60B .0302 CONTROL ACTIONS AND LIMITATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

#### SECTION .0400 - FOREST MANAGEMENT

**02 NCAC 60B .0401 REFERRALS AND LIMITATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .0402 TECHNICAL SERVICES**

(a) Technical forestry services shall be provided to forest landowners, forest products operators and processors upon request. These services consist of the following:

- (1) Services provided without charge:
  - (A) examination of a forest tract (accompanied by the owner or ~~agent~~; agent) where general information is provided;
  - (B) recommendation of forest management systems that best meet the desires and objectives of the owner, that are compatible with good forestry practices and that protect the environment; practice plan preparation that includes specific recommendations to promote active forest management;
  - (C) assistance in locating markets for timber and other forest products (pine straw, chips);
  - (D) assistance to operators and processors in locating raw material supplies and markets for their products; and
  - (E) ~~assistance to processors to help increase their conversion efficiency from logs to manufactured products. quality control checks and inspections of forestry operations.~~
- (2) Services provided for a fee:
  - (A) marking and estimating timber for partial harvest or for other silvicultural purposes; ~~and~~
  - (B) custom forestry services such as site preparation, prescribed burning, tree planting, etc. (see 15A NCAC 09C .0600); and
  - (C) forest management and stewardship plan preparation and recommendation of forest management systems that best meet the desires and objectives of the owner, that are compatible with good forestry practices and that protect the environment.

(b) Services not furnished by the Division. Requests for these services usually shall be referred to consulting foresters. These are:

- (1) timber cruises and estimation of timber volume or value made for timber sale or inventory purposes;
- (2) damage appraisals, except by court order;
- (3) trespass investigations, except by court order;
- (4) quotation or establishment of prices on stumpage or cut timber; and
- (5) property line location and marking.

*Authority G.S. 106-22; 106-1001; 143B-10.*

## **SECTION .0600 - CUSTOM FORESTRY SERVICES**

### **02 NCAC 60B .0603 FEES FOR SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

### **02 NCAC 60B .0604 CONTRACTS FOR SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

### **02 NCAC 60B .0605 AUTHORITY TO SUB- CONTRACT CUSTOM SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

## **SECTION .0700 – FOREST DEVELOPMENT PROGRAM**

### **02 NCAC 60B .0701 ADMINISTRATION OF PROGRAM**

(a) The manner and requirements of making application for cost sharing funds pursuant to the Forest Development Act are as follows:

- (1) Any eligible landowner may apply for program cost sharing payment funds.
- (2) Application may be made by completing an application forms furnished by the department Division and returning it to one of the field offices of the Division of Forest Resources Division. An approved forest management plan relating to the application which assures forest productivity and provides environmental protection of the State's woodland must be on file with the North Carolina Forest Service Division of Forest Resources before the application may be accepted.

(b) The Secretary Commissioner of the Department of Environment and Natural Resources North Carolina Department of Agriculture and Consumer Services or his or her designee shall approve completed applications. Funds shall be allocated from the Forest Development Fund to the landowner for cost sharing on a "first come, first served" basis, determined by the date of receipt of the application in the North Carolina Forest Service Division of Forest Resources' office in Raleigh, and until all available funds are encumbered. An exception shall be made at the beginning of each fiscal year. At that time, all applications shall be held for a 10 day period to allow for inequities in the mail system. Should the applications received during the 10 day period exceed the funds available, allocation shall be made by proration and lottery. A prorata share of monies shall be made to the Division's three regions in accordance with the percent of total funds requested from each respective region. Applications from each region to

receive these funds shall be chosen through a public drawing. The drawing shall be held the second working day after the 10<sup>th</sup> of July at 10:00 a.m. in Raleigh in the conference room of the Division of Forest Resources. Should funds be exhausted during a fiscal year, applications shall be held in priority as received until the next fiscal year at which time they will be given priority above new applications. Applicants who start or complete their project without prior approval shall not be eligible to receive funding.

(c) At the beginning of each fiscal year, the Secretary Commissioner may designate a portion of funds for practices designed to encourage reforestation at reduced costs or for other special purposes in designated areas. Such designations shall be for the current fiscal year only. Funds may be designated for a "Plant-Only" allocation and for a "Mountain Area" allocation annually. The amount of these allocations shall be based on the prior year's demand for these allocations, however, any increase of these allocations shall not exceed 50% of the previous year's allocation. Funding so designated must be committed by March 31 for "Plant Only" practices and December 31 for "Mountain Area" practices. Funds remaining uncommitted after the specified date shall be reallocated on the "first come, first served" basis. The determination to designate funds by the Secretary Commissioner shall be made in writing not less than three months prior to beginning of the fiscal year for which funds are designated.

(d) Funds shall be allocated for replanting previously approved projects, when planting failure is not the result of negligence by the landowner. Requests shall be approved in the order received.

(e) The Division shall periodically review the actual costs of carrying out approved practices. Prior to the beginning of each fiscal year, the Secretary Commissioner shall establish either prevailing costs or flat rates for carrying out each approved practice on a regional basis throughout the state.

(f) No approval shall be given for carrying out practices on more than 100 acres by a landowner in any one fiscal year. This limitation does not apply where cost sharing has been approved and funds allotted on acreages approved in a previous fiscal year.

(g) The Division shall set the Cost-Sharing Reimbursement Rate for practices, sub-practices, and species. The Division shall periodically review the reimbursement rates and accomplishments of practices and sub-practices.

(g)(h) Maximum Cost-Sharing Cost-Sharing Rate. The maximum cost sharing cost-sharing rates shall not exceed 60%. Planting of Longleaf Pine, hardwoods, and wetland conifer species shall be cost shared at 60 percent. All other practices shall be cost shared at 40 percent.

(h)(i) Cost-Sharing Cost-Sharing Payment to Landowner. Cost sharing Cost-sharing payments shall be made upon certification by the Division of satisfactory completion of the practice(s) as prescribed in the management plan. Determination of satisfactory completion shall include; an assessment of the proper use of approved practices in relation to the silvicultural need of land, installation of appropriate best management practices to insure soil protection and water quality, and assurance that the installed practice is in compliance with all known environmental rules and regulations. Payments may be made following satisfactory completion of all approved practices or, practices. A partial payment may be made at the discretion request of the landowner, landowner following satisfactory completion of a sub-practice (s).

However, no more than two payments shall be made for sub-practices covered by any one application.

**(j) Withdrawal of Allotted Funds**

- (1) Funds allocated to an eligible landowner may be withdrawn at the end of the first full fiscal year following the year in which the funds were allotted if no work has been ~~started, unless an extension is granted by the Division.~~ started. The landowner must provide sufficient documentation to the Division for funds availability to extend into a second year.
- (2) Funds allocated may be withdrawn at the end of the second full fiscal year following the year of allocation if the practice has not been completed unless an extension is granted.
- (3) Funds paid as "partial payment" must be repaid to the Forest Development Fund if the project is started but not completed within the allotted time.
- (4) Extensions. A ~~12-month~~ 12-month extension may be granted by the Division when a project cannot be completed on schedule, through no fault of the applicant.

**(k)** Eligible landowners may appeal disagreements, disapproval of applications, or decisions on unsatisfactory completion of silvicultural or environmental practices in the manner established in 15A NCAC 01B .0200.

**(l)** Cost-shared project maintenance. The Division shall periodically check projects funded by the program to insure compliance with the 10-year maintenance requirement. Landowners with projects discovered to be destroyed or otherwise not maintained as specified in the approved plan shall be required to reimburse the program. The Division's Raleigh office shall be notified of all such projects and shall be responsible for seeking and collecting reimbursement as allowed in 113A-180.1.

*Authority G.S. 106-22; 106-1010; 106-1018; 143B-10(j).*

**02 NCAC 60B .0702 APPROVED PRACTICES AND SUB-PRACTICES**

The following practices and sub-practices are eligible for ~~cost share~~ cost-share payments:

- (1) Site Preparation. Preparation of a site for planting, seeding or natural regeneration of a commercial forest tree species; this may be accomplished by the following sub-practices used singularly or in combinations:
  - (a) Burning. The use of prescribed fire for the purpose of site preparation;
  - (b) Chopping. The use of a machine-pulled chopper to crush and chop non-merchantable trees, brush and other debris for the purpose of site preparation;
  - (c) Discing. The use of a machine-pulled disc to crush and destroy non-merchantable trees, brush and other debris for the purpose of site preparation;

~~(d)~~**(c)** KG/V-Blade Shear. The use of a sharp-edged, angled blade (KG or ~~V-blade~~) V-Blade) mounted on a tractor to shear non-merchantable trees and brush for the purpose of site preparation;

~~(e)~~**(d)** KG and Pile. The use of a sharp-edged, angled blade (called ~~KG blade~~ KG-Blade) mounted on a tractor to shear non-merchantable trees and brush for the purpose of site preparation; this sheared material and other debris are pushed into piles or windrows;

~~(f)~~**(e)** Rake & Pile. The use of a toothed, rake-type blade mounted on a tractor to push logging debris, but not roots or soil, into piles or windrows;

~~(g)~~**(f)** Bedding (Single or Double). The use of a bedding plow pulled by a tractor to prepare a bed or ridge for the purpose of site preparation;

~~(h)~~**(g)** V-Blade Bedding. The use of a sharp angled blade (not a KG- ~~blade~~ Blade) mounted on a tractor to shear non-merchantable trees and brush and a bedding plow pulled by a tractor to prepare a bed or ridge for the purpose of site preparation in a single pass operation;

~~(i)~~**(h)** Furrowing. The use of a plow pulled by a tractor to prepare a shallow trench or furrow to reduce competing vegetation for the purpose of site preparation;

~~(j)~~ ~~Bulldozing and Piling. The use of a bulldozer to push over non-merchantable trees and brush for the purpose of site preparation; the material is pushed into piles or windrows;~~

~~(k)~~ ~~Other. The use of hand tools or other machines to destroy or reduce competing vegetation for the purpose of site preparation;~~

~~(l)~~ ~~Chemical Control; Aerial. The use of herbicides, applied from the air, to reduce competing vegetation for the purpose of site preparation;~~

~~(m)~~**(i)** Chemical Control-Site Preparation. The use of aerial or ground chemical applications to reduce competing vegetation for the purpose of site preparation.

~~(n)~~**(j)** Other. The use of hand tools or other machines to destroy or reduce competing vegetation for the purpose of site preparation.

- (n) ~~Preharvest Treatment. Use of chemical or mechanical means, including hand methods, to control vegetation to develop a stand of trees from advanced hardwood regeneration, natural pine regeneration, or artificial regeneration. When using this practice the following criteria apply:~~
- ~~(i) The landowner must agree to harvest overstory stand once regeneration of at least 300 seedlings of a commercial timber species is established;~~
  - ~~(ii) This practice cannot be used to prepare an area for pine straw production; and~~
  - ~~(iii) The only other site preparation technique that may be cost shared at a later date is prescribed burning, if needed.~~
- (2) ~~Silvicultural Clearcut. The felling of trees in unmerchantable stands for the purpose of removing all stems in the overstory to allow regeneration of desirable species by exposing the site to direct sunlight:~~
- ~~(a) Fell and Leave. Felling all trees on an area with no removal of merchantable material, for the purpose of accomplishing a silvicultural clearcut;~~
  - ~~(b) Fell and Remove. Felling all trees on an area, both merchantable and unmerchantable, for the purpose of accomplishing a silvicultural clearcut; the stumpage value of all merchantable trees removed from the area, as determined by the Director, shall be deducted from the allowable cost of completing the practice.~~
- (3)(2) ~~Tree Planting or Seeding. Planting seedlings or applying seed to establish a commercial forest stand. This includes:~~
- ~~(a) Hand Planting. The use of planting bars or other hand tools to plant forest tree seedlings;~~
  - ~~(b) Machine Planting. The use of a planting machine to plant forest tree seedlings;~~
  - ~~(c) Machine Plant – Chemical. The combined use of a planting machine to plant forest tree seedlings and application equipment to apply herbicides to reduce competing vegetation in a single pass operation.~~
  - ~~(d) V Blade Planting. The use of a tractor with attached V shaped blade and planting machine to plant forest tree seedlings;~~
- ~~(e) Direct Seeding. The use of any type applicator to apply desirable forest tree seed directly to the soil.~~
- (4)(3) ~~Tree Planting Followed by Site Preparation. Tree planting followed by the use of a herbicide treatment; within one year after planting.~~
- (5) ~~Mixed Stand Plantings. Tree planting to establish a mixed pine hardwood stand, or a mixed stand of hardwood species.~~
- (6)(4) ~~Release of Seedlings. Reducing or eliminating unwanted vegetation that is competing with the established reproduction of desired tree species to ensure adequate regeneration (at least 300 seedlings) of a commercial timber species. This may be accomplished by one of the following treatments:~~
- ~~(a) Chemical Control: Aerial. The use of herbicides, applied from the air, to reduce competing vegetation for the purpose of releasing desirable reproduction; Chemical Control-Release. The use of herbicides, applied from the air or ground, to reduce competing vegetation for the purpose of releasing desirable reproduction.~~
  - ~~(b) Chemical Control; Ground. The use of hand tools or ground chemical applicators to reduce competing vegetation for the purpose of releasing desirable reproduction;~~
  - ~~(c)(b) Mechanical Control. The use of hand tools or machines to reduce competing vegetation for the purpose of releasing desirable reproduction.~~
- (7) ~~Uneven Aged Management. A planned sequence of silvicultural treatments designed to maintain and regenerate a stand with three or more age classes.~~
- (8)(5) ~~Forest Stand Improvement. Practices that improve tree growth and overall forest health to insure maximum growth potential of forest stands to commercial production levels. The practices listed below and approved for reimbursement will improve immature forest stands for silvicultural purposes:~~
- ~~(a) Understory Release Release. Complete removal or deadening of older trees or saplings that have no merchantable value, to improve growing conditions for desirable tree species;~~
  - ~~(b) Release of Seedling Seedlings. A mechanical or chemical treatment designed to free young trees from undesirable, usually over-topping, competing vegetation;~~
  - ~~(c) Cull-tree Removal Removal. Complete removal or deadening of~~

trees having no merchantable value because of defects or inferior species. Differs from understory release in that removal is to favor growth on remaining established poles and small sawtimber of better quality and species. This treatment is used only in stands beyond the sapling size class;

- (d) ~~Crop Tree Crown Release~~ Release. Removal or deadening of cull trees and other undesirable trees to release the crowns of crop trees with commercial value. Crop trees are high value species, which are dominant or co-dominant in position and are well-formed and free of major forest insects and diseases. Cull trees are trees that have little or no economic value due to poor form or presence of insects or disease. Less desirable trees have poorer growth characteristics or are in poorer condition than the crop trees;
- (e) ~~Non-Commercial Thinning~~ Thinning. A felling, deadening or removal of immature trees in a stand (predominately seedlings and saplings) which significantly reduces the stem density to accelerate growth and improve the health and form of the remaining trees;
- (f) ~~Prescribed Burning~~ Burning. The use of fire in a ~~planned and controlled~~ manner ~~to that provide~~ provides silvicultural ~~benefits~~ or forest health ~~benefits from forest fuel reduction or a reduced understory competition~~. ~~Prescribed burning must be conducted under the supervision of a "certified prescribed burner" (as defined by G.S. 113-60.41 of the North Carolina Prescribed Burning Act), using a burning plan; benefits; and~~
- (g) ~~Forest Fertilization~~ Fertilization. The addition of nutrient elements to the soil ~~at establishment or mid-rotation~~ to overcome nutrient deficiencies ~~or~~ to increase tree growth rates. rates on appropriate sites.

*Authority G.S. 106-22; 106-966; 106-1011; 106-1013; 106-1018; 143B-10(j).*

#### **SECTION .0800 - URBAN AND COMMUNITY FORESTRY**

##### **02 NCAC 60B .0804      LIMITATION OF SERVICES**

(a) Services to all categories of recipients ~~will can~~ be limited to a designated number of person days per ~~year~~. year depending on the type of request. ~~Specific limits will be determined after the~~

~~program has been operational for a period of one to two years. During that period of time the The Commissioner secretary will have has~~ discretionary authority to limit the number of days services to all categories of recipients in order to develop and improve ~~the~~ program ~~and~~ services. The ~~secretary~~ Commissioner may delegate totally or in part the discretionary authority.

(b) Certain services will not be furnished. These are:

- (1) acting as legal agent for recipients of program technical services,
- (2) providing land or boundary surveys or title search assistance,
- (3) performing appraisals involving the sale or exchange of real property,
- (4) assistance that exceeds limits established in (a) of this Rule,
- (5) enforcing state or local laws and regulations.

*Authority G.S. 106-22; 106-1001; 143B-10(j).*

#### **02 NCAC 60B .0805      PROCEDURES (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

##### **SECTION .0900 - N. C. PRESCRIBED BURNING ACT**

#### **02 NCAC 60B .0901      BURNER CERTIFICATION (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

##### **SECTION .1000 - DUPONT STATE FOREST**

#### **02 NCAC 60B .1003      PERMITS (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

#### **02 NCAC 60B .1004      ROCK OR CLIFF CLIMBING AND REPELLING (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

#### **02 NCAC 60B .1005      BATHING OR SWIMMING (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

#### **02 NCAC 60B .1006      HUNTING (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

#### **02 NCAC 60B .1007      FISHING (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

#### **02 NCAC 60B .1008      ANIMALS AT LARGE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

#### **02 NCAC 60B .1009      BOATING (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

#### **02 NCAC 60B .1010      CAMPING (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

#### **02 NCAC 60B .1011      SPORTS AND GAMES (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**



**02 NCAC 60B .1012 HORSES (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1013 BICYCLES (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1014 SKATES, BLADES AND BOARDS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1015 EXPLOSIVES (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1016 FIREARMS (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1017 FIRES (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1018 DISORDERLY CONDUCT  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1019 INTOXICATING BEVERAGES  
AND DRUGS (READOPTION WITHOUT SUBSTANTIVE  
CHANGES)**

**02 NCAC 60B .1020 DAMAGE TO BUILDINGS,  
STRUCTURES AND SIGNS (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1021 COMMERCIAL ENTERPRISES  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1022 NOISE REGULATIONS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1023 MEETINGS AND EXHIBITIONS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1024 ALMS AND CONTRIBUTIONS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1025 AVIATION (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1026 EXPULSION (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1027 MOTORIZED VEHICLES  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1028 FLOWERS, PLANTS,  
MINERALS, ETC. (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1029 TRASH AND DEBRIS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1030 FEES AND CHARGES  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1031 HOURS OF OPERATION  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 60B .1032 ENFORCEMENT (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**SUBCHAPTER 60C - FOREST PRACTICES  
GUIDELINES RELATED TO WATER QUALITY**

**SECTION .0100 - GENERAL PROVISIONS**

**02 NCAC 60C .0101 INTRODUCTION AND  
PURPOSE**

(a) Forests are a major contributor to the economy and quality of the environment in North Carolina. Forestry best management practices allow for the production, harvesting, and utilization of forest resources while maintaining satisfactory water quality. The rules in this Subchapter establish performance standards for the protection of water quality. The intent and purpose of these rules is not to cease or obstruct the lawful, proper and responsible use of forest resources. Persons must adhere to the standards related to land disturbing activities in order to retain the forestry exemption provided in North Carolina General Statute Chapter 113A-52.1, the N.C. Sedimentation Pollution Control Act of 1973 1973, as amended in 1989.

(b) ~~The North Carolina Forest Service Division of Forest Resources is responsible for the protection and development of forest resources in North Carolina, and has been designated by the Secretary of North Carolina Department of Environment, Health, and Natural Resources as the Division within the Department best able to assist the Secretary in the implementation of these rules. `herein designated as the lead agency for administering, monitoring, inspecting, and reporting on the standards in this Subchapter.~~

(c) Implementation of the standards in this Subchapter shall recognize that extreme and unusual weather can cause reasonable and otherwise adequate application of protective measures to fail. Where such measures fail and the resulting effect is not in compliance with a standard of this Subchapter, the responsible party(ies) shall implement additional and/or more effective measures. The Forestry Best Management Practices Manual, developed and published by the North Carolina Forest Service Division of Forest Resources in September, 1989, and as amended from time to time, contains specifications for a variety of practices which may be used to meet the performance standards set forth in this Subchapter. Best Management Practices (BMPs) shall should be developed and selected to allow for the variation in weather, topography, soil, and vegetation expected for the site and season. Implementation of these rules shall recognize that extreme and unusual weather can cause reasonable and otherwise adequate application of BMPs to fail to control sedimentation. Where installed BMPs fail, additional and more effective BMPs may be required. This manual and the rules in this Subchapter may be obtained by contacting the Director, Assistant Commissioner, North Carolina Forest Service Division, Division of Forest Resources, Raleigh, North Carolina.

Authority G.S. 106-895; 113A-52; 113A-52.01; 113A-52.1; 113A-61.1; 143-214.1; 143B-10.

## 02 NCAC 60C .0102 DEFINITIONS

In addition to the terms defined in G.S. 113-44.4 and 113A-52, the following definitions shall apply throughout this Subchapter:

- (1) "Accelerated Erosion" means any increase over the rate of natural erosion, as a result of land-disturbing activities.
- (2) "Access Road" means a temporary or permanent access ~~route~~ route upon which wheeled vehicles are intended to operate with repeated passes.
- (3) "Adverse Impact" as used for pesticides and fertilizers means actions which result in a violation of adopted water quality standards of the Environmental Management Commission Sections 15A NCAC 2B .0200 - Classifications and Water Quality Standards Applicable to Surface Waters of North Carolina, 15A NCAC 2L .0200 - Classifications and Water Quality Standards (related to groundwater) and the N.C. Pesticide Board Rule 2 NCAC 9L .1005 - Restricted Areas.
- (4) "Best Management Practice" (BMP) means a practice, or combination of practices, that is determined to be an effective and practicable (including technological, economic, and institutional considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.
- (5) "Channel" means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.
- (6) "Colloidal Particles" means fine grained materials, organic or inorganic, that are easily suspended such as clay particles.
- (7) ~~"Ford" means a submerged stream crossing which will bear intended traffic.~~
- (8)(7) "Ground Cover" means any natural vegetative growth or other natural or manmade material which renders the soil surface stable against accelerated erosion.
- (9)(8) ~~"Groundwater" means phreatic water or subsurface water in the zone of saturation. "Land Disturbing Activity" means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.~~
- (10)(9) ~~"Groundwater" means phreatic water or subsurface water in the zone of saturation.~~

"Land-Disturbing Activity" means the same as defined in G.S. 113A-52.

- (11)(10) ~~"Log Deck" means a place where logs are gathered in or near the forest for further transport, sometimes called a "landing". harvested trees or logs are gathered or staged in or near the forest for handling, sorting, merchandizing, temporary storage, and/or further transport.~~
- (12)(11) "Mill Site" means any place where forest products are stored, altered, or processed.
- (13)(12) "Permanently Stabilized" means the site is protected to the state at which no further accelerated erosion is expected to occur from the ~~forestry~~ forestry-related, land-disturbing activities.
- (14)(13) "Pesticides" means a chemical used to kill pests. The term includes insecticides, fungicides, herbicides, and rodenticides.
- (15)(14) "Site Preparation" means a forest activity to prepare the site for reforestation.
- (16)(15) "Skid Trail" means a temporary pathway principally used to drag or transport felled trees or logs or other woody material to a ~~landing, log deck or portable mill site.~~
- (17)(16) "Stream" means a body of concentrated flowing water in a natural low area of the land surface.
  - (a) "Ephemeral stream" means a stream that flows only during and for short periods following precipitation and flows in low areas that may or may not have a well-defined channel.
  - (b) "Intermittent stream" means a stream that flows only during wet periods of the year (30-90 percent of the time) and flows in a continuous well-defined channel.
  - (c) "Perennial stream" means a stream that flows throughout a majority of the year (greater than 90 percent of the time) and flows in a well-defined channel.
- (18)(17) "Streamside Management Zone (SMZ)" means an area along both sides of intermittent streams and perennial streams and along the margins of perennial waterbodies where extra precaution is used in carrying out ~~forest practices~~ forestry-related, land-disturbing activities in order to protect water quality.
- (19)(18) "Visible Sediment" means solid particulate matter, both mineral and organic, which can be seen with the unaided eye that has been or is being transported by water, air, gravity, or ice from its site of origin. This does not normally include colloidal sized particles.
- (20)(19) "Waterbody" means a natural or man-made basin that stores water, not including jurisdictional wetlands or beaver ponds.

(18)(20) "Working Days" means days exclusive of Saturdays and Sundays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

*Authority G.S. 113A-52; 113A-52.01; 113A-52.1.*

## **SECTION .0200 - PERFORMANCE STANDARDS**

### **02 NCAC 60C .0201 STREAMSIDE MANAGEMENT ZONE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

#### **02 NCAC 60C .0202 PROHIBITION OF DEBRIS ENTERING STREAMS AND WATERBODIES**

Stream obstruction and the impediment of stream flow and/or degradation of water quality shall be prevented by keeping soil and debris from construction, harvesting, mill site residue, and site preparation forestry-related, land-disturbing activities out of intermittent streams and perennial streams and perennial waterbodies.

*Authority G.S. 77-13; 77-14; 113A-52.1.*

#### **02 NCAC 60C .0203 ACCESS ROAD AND SKID TRAIL STREAM CROSSINGS**

Stream crossings shall be avoided when possible. Access roads and skid trails which must cross an intermittent stream or a perennial stream ~~stream~~ or a perennial waterbody ~~waterbody~~ shall be ~~constructed~~ installed so as to minimize the amount of visible sediment that enters the stream because of the construction, that stream or waterbody. These crossings shall be installed so that:

- (1) stream flow will not be obstructed or impeded;
- (2) no intermittent stream channel or perennial stream channel ~~or~~ perennial waterbody shall be used as an access road or skid trail;
- (3) crossings are provided with effective structures or ground cover to protect the stream banks and stream channel from accelerated erosion;
- (4) ~~they crossings~~ shall have sufficient water control devices to collect and divert surface flow from the access road or skid trail into undisturbed areas or other control structures to restrain accelerated erosion and prevent visible sediment from entering intermittent streams and perennial ~~streams~~ streams and perennial waterbodies; and
- (5) ground cover, or other means, sufficient to prevent visible sediment from entering intermittent streams and perennial streams and perennial waterbodies shall be provided within ten working days of initial disturbance and will be maintained until the site is permanently stabilized.

*Authority G.S. 77-13; 77-14; 113A-52.1.*

### **02 NCAC 60C .0204 ACCESS ROAD ENTRANCES**

~~Access road entrances intersecting public highways shall be constructed and maintained with measures, devices or techniques effective to prevent excessive soil and other debris from being carried to and deposited on the highway to the extent that sedimentation problems will result.~~ A forest access road entrance which intersects a paved road shall be installed and maintained to prevent visible sediment or other debris from being deposited onto the paved road to the extent that the visible sediment or other debris would enter an intermittent stream or a perennial stream or a perennial waterbody.

*Authority G.S. 113A-52.1; 136-92.1.*

### **02 NCAC 60C .0205 PROHIBITION/WASTE ENTERING STREAMS/WATERBODIES/GROUNDWATER (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

### **02 NCAC 60C .0206 PESTICIDE APPLICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

### **02 NCAC 60C .0207 FERTILIZER APPLICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

### **02 NCAC 60C .0208 STREAM TEMPERATURE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

### **02 NCAC 60C .0209 REHABILITATION OF PROJECT SITE**

Areas on the project site that have the potential for accelerated erosion, resulting in concentrated flow directly entering an intermittent stream or a perennial stream or a perennial waterbody, shall be provided with ground cover or other means of adequate sedimentation control within 30 working days after ceasing any phase of an operation or beginning a period of inactivity. In addition, effective sedimentation control measures or ground cover is required for any area that is contributing or has contributed visible sediment into an intermittent stream or a perennial stream or a perennial waterbody, regardless of when the visible sedimentation occurred as a result of the forestry-related, land-disturbing activity. Treatment and maintenance of those areas shall be sufficient to restrain accelerated erosion and prevent visible sediment from entering intermittent streams and perennial streams and perennial waterbodies until the site is permanently stabilized.

*Authority G.S. 113A-52.1.*

## **TITLE 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Department of Natural and Cultural Resources intends to amend the rules cited as 07 NCAC 02H .0103, .0106, .0302, .0305; 02I .0202, .0302, repeal the rules cited as 07 NCAC 02G .0101, .0102; 02H .0104, .0105, .0304; 02I*

.0101, and readopt with substantive changes the rule cited as 07 NCAC 02H .0303.

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.ncdcr.gov/>

**Proposed Effective Date:** February 1, 2018

**Public Hearing:**

**Date:** November 2, 2017

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

**Location:** Department of Natural and Cultural Resources, 109 E. Jones Street, Suite 310E (3<sup>rd</sup> Floor), Raleigh, NC 27601

**Reason for Proposed Action:** Rules 07 NCAC 02G .0101, .0102; 02H .0104, .0105, .0304; and 02I .0101 do not meet the definition of a rule as defined in G.S. 150B-2 and are hereby proposed for repeal.

Rule 07 NCAC 02H .0103 is amended to include clarifying language regarding access to library materials, the use of circulating and non-circulating library materials, and a borrower's responsibility for lost or damaged materials. Rule 07 NCAC 02H .0106 is amended with clarifying language regarding library services offered to State agencies. Rules 07 NCAC 02H .0302 and .0305 implement enactments of federal law related to the National Library Service. Rule 07 NCAC 02I .0202 is amended with clarifying language regarding State Aid Grants to public libraries. Rule 07 NCAC 02I .0302 is amended by adding language regarding the establishment of regional libraries.

Rule 07 NCAC 02H .0303 is proposed for re-adoption in response to the Periodic review and expiration of existing rules process (G.S. 150B-21.3A). Rule .0303 is rewritten with clarifying language regarding the application process for North Carolina's Library for the Blind and Physically Handicapped.

**Comments may be submitted to:** Shawn Middlebrooks, 4601 Mail Service Center, Raleigh, NC 27601; phone (919) 807-7275; email [shawn.middlebrooks@ncdcr.gov](mailto:shawn.middlebrooks@ncdcr.gov)

**Comment period ends:** December 15, 2017

**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 (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4
- ☒ No fiscal note required by G.S. 150B-21.3A(d)(2)

**CHAPTER 02 - STATE LIBRARY**

**SUBCHAPTER 02G - STATE LIBRARY OF NORTH CAROLINA**

**SECTION .0100 – DIVISIONAL RULES**

**07 NCAC 02G .0101 SCOPE OF RULES**

The rules in this Subchapter apply to the State Library of North Carolina, a division of the North Carolina Department of Cultural Resources, ~~which serves as the principal library of State government.~~

Authority G.S. 125-1; 125-2; 143B-10.

**07 NCAC 02G .0102 ELIGIBILITY FOR STATE LIBRARY SERVICES**

~~A public library must be legally established as specified in 07 NCAC 02I .0202 to be eligible for State and Federally funded programs administered by the State Library of North Carolina.~~

Authority G.S. 125-2; 125-7; 125-8.

**SUBCHAPTER 02H - LIBRARY SERVICES**

**SECTION .0100 – GOVERNMENT AND HERITAGE LIBRARY**

**07 NCAC 02H .0103 ACCESS AND CIRCULATION**

~~(a) Access and use of the Library's resource collections varies according to user profile, resource format, and circulation status of materials, as determined by the State Librarian.~~

~~(b) The Library shall provide State employees and the general public online access to digital resources in its collections using search and retrieval technologies that are accessible and usable by all.~~

~~(c) Certain printed materials in the Library's collections are designated non-circulating and shall not be used outside the Library. Non-circulating items include general reference materials, permanent depository copies of State documents, rare books, vertical file materials, periodicals, print newspapers, and the genealogy reference collection.~~

~~(d) State employees may borrow materials from the Library's circulating print, microform, and audiovisual collections for use outside the library. Non-State employees may borrow print, microform, and audiovisual materials from the Library through interlibrary loan at their local libraries, or they can use the material within the State Library.~~

~~(e) If any borrower loses or damages Library material charged in the borrower's name, the borrower is responsible for the cost of~~

~~replacing the material. Library borrowing privileges shall be withheld until payment is made.~~

~~(a) Use of Library resource collections shall vary in accordance with resource format and circulation status, as set forth in the rules in this Subchapter.~~

~~(b) Printed collection materials shall be designated as circulating or non-circulating. Circulated materials may be used outside of the Library in accordance with the rules set forth in this Subchapter. Select printed materials designated as non-circulating shall not be used outside the Library. Non-circulating items include general reference materials, permanent depository copies of State documents, rare books, vertical file materials, periodicals, print newspapers, and the genealogy reference collection.~~

~~(c) If a borrower loses or damages Library materials charged in the borrower's name, the borrower shall be responsible for the cost of replacing the material. Library borrowing privileges shall be withheld in accordance with Rule .0109 of this Subchapter.~~

*Authority G.S. 125-2.*

#### **07 NCAC 02H .0104 REPRODUCTION SERVICES**

~~The Library shall provide for the reproduction of library content in compliance with U.S. copyright law. State employees and members of the general public may photocopy or request digital reproduction of Library content at a cost fixed by the Library based on cost of equipment, supplies, and staff time. Photocopying equipment shall be available for use by library users. Library staff shall provide digital reproduction services.~~

*Authority G.S. 125-2; 143B-10.*

#### **07 NCAC 02H .0105 INFORMATION, REFERENCE AND RESEARCH SERVICES**

~~(a) State Library staff shall provide reference and research services for State employees to facilitate access to information and resources that address the business needs of State government.~~

~~(b) State Library staff shall provide information, reference services, and access to Library resources for the general public seeking information by or about North Carolina or conducting research related to North Carolina government, people, places, history, culture, statistical data, or genealogy.~~

~~(c) State Library staff shall provide instruction to state employees and the general public concerning the use of the Library's facilities and information tools and resources. Library staff shall develop and conduct informational and instructional programs related to information resources and library research.~~

*Authority G.S. 125-2; 143B-10.*

#### **07 NCAC 02H .0106 SERVICES FOR STATE AGENCIES**

~~(a) State Library staff shall consult with State agencies requesting assistance with projects, programs, or situations requiring professional library knowledge and expertise. Library staff may consult on issues related to cataloging, classification, metadata, access, digitization, digital information management, and preservation of print and digital resources, based on staff~~

~~availability and consideration of higher priority work as approved by the State Librarian.~~

~~(b) Cataloging staff shall perform classification, cataloging, and processing of library materials and resources for state government agencies on a priority basis. Before services are provided, the Library and the recipient State agency shall sign a memorandum of understanding that specifies the responsibilities and relationship between the two agencies and any costs required for library systems access and technologies.~~

~~(a) State agencies may receive library services, such as, cataloging, classification, collection assessment, metadata, digitization, digital information management, reference research, or the preservation of print and digital resources by submitting a request in writing to the State Library, 4640 Mail Service Center, Raleigh, NC 27699. All requests shall include the following:~~

- ~~(1) the name and address of the State agency;~~
- ~~(2) a description of the service(s) needed; and~~
- ~~(3) contact information for the State agency personnel overseeing the project.~~

~~(b) The State Librarian shall determine assistance considering factors which may include staff availability, work priorities, and accessibility of equipment and materials. The Library and the recipient State agency shall sign a memorandum of understanding that specifies the responsibilities and relationship between the two agencies for requests made under this Rule.~~

*Authority G.S. 125-2.*

### **SECTION .0300 – LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED**

#### **07 NCAC 02H .0302 ELIGIBILITY**

Eligibility for the services of the Library for the Blind and Physically Handicapped is shall be determined by the Federal guidelines in 36 C.F.R. 701.10 701.6 which is incorporated by reference, including subsequent amendments and editions, and available for free at [https://www.ecfr.gov/cgi-bin/text-idx?SID=56ff245ec016601b46b55f2331b4b7ee&mc=true&node=se36.3.701\\_16&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=56ff245ec016601b46b55f2331b4b7ee&mc=true&node=se36.3.701_16&rgn=div8) and is applied to all applicants.

*Authority G.S. 125-2.*

#### **07 NCAC 02H .0303 APPLICATION**

~~All users must complete an official application form and be certified in accordance with 36 C.F.R. 701.10 as eligible and meeting requirements established by the Library of Congress.~~

~~(a) To obtain services under Rule .0302 of this Section, users shall submit an application to the Library, 1841 Capital Boulevard, Raleigh, North Carolina 27635. Applications shall be submitted on a form prepared by the Library and include the user's:~~

- ~~(1) name, address and telephone number;~~
- ~~(2) county of residence;~~
- ~~(3) date of birth;~~
- ~~(4) gender;~~
- ~~(5) name, address, and telephone number of a friend or relative;~~
- ~~(6) status as an honorably discharged veteran of the Armed Forces of the United States;~~
- ~~(7) qualifying disability including:~~

- (A) blindness;
- (B) visual handicap;
- (C) physical handicap;
- (D) reading disability; or
- (E) deaf and blind;
- (8) degree of hearing impairment of either:
  - (A) moderate – some difficulty understanding speech; or
  - (B) profound – cannot hear or understand speech;
- (9) preferred items such as: books recorded on digital cartridge with digital player; braille books; large print books; or music;
- (10) necessity for special attachments such as: headphones; amplifier; breath switch; or remote control;
- (11) language preference;
- (12) service preference such as:
  - (A) requested materials only; or
  - (B) materials requested by the Library based upon selected reading preferences;
- (13) reading preferences such as: Fiction, Non-Fiction, Adventure, Aging/Retirement, Animal Stories, Arts, Best Sellers, Biography, Black Literature, Technology/Computers, Classics, Cooking/Homemaking, Current Events, Disabilities, Family Stories, Fantasy, Folklore/Fairy Tales, General Fiction, Health/Medicine, Historical Fiction, History-US, History-World, Humor, Marriage/Family, Mysteries, Nature, North Carolina, Occult/Horror, Plays, Poetry, Politics/Government, Psychology, Religious Inspiration, Religion (scholarly), Romance, Science, Science Fiction, Sea Stories, Short Stories, Sports, Spy Stories, Business, Travel, War Stories, or Western; and
- (14) reading restrictions such as: strong language, violence, or explicit descriptions of sex.

(b) Applications shall be certified by a competent authority and shall include the competent authority's name, address and telephone number, title and occupation, and an original signature. In cases of blindness, visual impairment, physical handicap, or reading disability from organic dysfunction, a competent authority shall be defined as provided in 36 CFR 701.6(b)(2)(i), which is incorporated by reference, including subsequent amendments and editions, and available for free at [https://www.ecfr.gov/cgi-bin/text-idx?SID=56ff245ec016601b46b55f2331b4b7ee&mc=true&node=se36.3.701\\_16&gn=di8](https://www.ecfr.gov/cgi-bin/text-idx?SID=56ff245ec016601b46b55f2331b4b7ee&mc=true&node=se36.3.701_16&gn=di8). A competent authority shall not be relatives of the applicant, even if otherwise qualified.

*Authority G.S. 125-2.*

#### **07 NCAC 02H .0304 LIBRARY COLLECTIONS**

(a) The Library shall perform the functions of a public library. Its collection consists of recreational and general informational materials selected and produced by the Library of Congress for

network distribution and additional materials selected by the Library.

(b) The Library reproduces titles in Braille and audio formats in compliance with U.S. copyright law.

*Authority G.S. 125-2; 143B-10.*

#### **07 NCAC 02H .0305 CIRCULATION**

(a) The Library shall provide materials and playback equipment according to the Library of Congress lending policies.

(b) The Library shall furnish deposit collections to libraries, hospitals, rest homes, and other institutions serving eligible visually and physically handicapped persons.

(c) The following practices by any Library patron shall result in the suspension of Library services:

- (1) repeated failure to return materials within the borrowing period;
- (2) willful and negligent damage to equipment or materials;
- (3) unauthorized use of materials or equipment, such as loan to an ineligible person or modification of equipment; or
- (4) repeated abusive verbal attacks or behavior toward Library staff that is offensive or threatening.

(a) The Library shall provide materials and playback equipment to users in accordance with the Library of Congress' NLS Network Library Manual hereby incorporated by reference, including subsequent amendments and additions, and accessible to users free of charge at <http://www.loc.gov/nlsold/nlm/>.

(b) The following violations by any Library user shall result in the suspension of Library services:

- (1) failure to return materials within the borrowing period. The borrowing period for materials are as follows:
  - (A) six weeks for books,
  - (B) two weeks for magazines, and
  - (C) three weeks for DVD and VHS tapes;
- (2) damage to equipment or materials;
- (3) unauthorized use of materials or equipment, such as loaning materials or equipment to an ineligible person or modification of items owned by the Library; or
- (4) exhibiting verbal or physical behavior toward Library staff that is abusive, offensive, or threatening, as determined by the Director of the Library for the Blind and Physically Handicapped.

(c) The period of suspension shall not exceed six months as determined by the Director of the Library for the Blind and Physically Handicapped. In setting the period of suspension, the Director shall consider the violation, the extent of harm to the Library's property, and any violations previously committed by the user. The Director shall send a letter of suspension to the user via U.S. Mail. The letter shall specify the violation and the period of suspension. Upon expiration of the suspension period, the user shall contact the Library for resumption of services.

*Authority G.S. 125-2.*

**SUBCHAPTER 02I - LIBRARY DEVELOPMENT**

**SECTION .0100 - ORGANIZATIONAL RULES**

**07 NCAC 02I .0101 SCOPE OF RULES**

~~The rules in this Subchapter apply to the Library Development Section of the State Library of North Carolina.~~

*Authority G.S. 125-2; 125-7; 125-8; 143B-10.*

**SECTION .0200 - STATE AID TO PUBLIC LIBRARIES**

**07 NCAC 02I .0202 STATE AID GRANTS**

Libraries shall qualify for State Aid Grants by meeting the requirements listed in Rule .0201 of this Section. All grants are shall be contingent upon appropriations budgeted by the General Assembly and subject to the approval of the Secretary of the Department of Natural and Cultural Resources based on the criteria in Rule .0201 of this Section. ~~Assembly. Eligible county, regional, and municipal library systems shall receive grants subject to the approval of the Secretary of the Department of Cultural Resources subject to requirements in Rule .0201 of this Subchapter. Block and per capita income equalization grants~~ State Aid Grants may be used for materials, salaries, equipment, and operating costs.

*Authority G.S. 125-7.*

**SECTION .0300 - ORGANIZATION OF REGIONAL LIBRARIES**

**07 NCAC 02I .0302 REGIONAL AGREEMENT**

- (a) An agreement establishing a regional library shall contain:
- (1) the structure of the regional library board of trustees;
  - (2) the powers and duties of the regional library board;
  - (3) the financial structure of the regional library;
  - (4) the terms of property ownership and any conditions of joint ownership including property rights in the event of withdrawal from or dissolution of the regional library;
  - (5) provisions for amendment;
  - (6) provisions for withdrawal by a member county or dissolution of the regional library; and
  - (7) provisions for termination of the regional agreement.

(b) Agreements establishing regional libraries shall comply with G.S. 160A, Article 20.

*Authority G.S. 125-2.*

**TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY**

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Environmental Management*

*Commission intends to amend the rules cited as 15A NCAC 13A .0101, .0114, readopt with substantive changes the rules cited as 15A NCAC 13A .0104-.0107, .0109-.0113, .0117-.0119, and readopt without substantive changes the rules cited as 15A NCAC 13A .0102, .0103, .0108, and .0116.*

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <http://deq.nc.gov/about/divisions/waste-management/hw/rules>

**Proposed Effective Date:** March 1, 2018

**Public Hearing:**

**Date:** November 15, 2017

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

**Location:** Green Square Building, Piedmont Conference Room (#1301), 217 W. Jones Street, Raleigh, NC

**Reason for Proposed Action:** 15A NCAC 13A .0107 is proposed for amendment due to a change in a federal regulation: 81 Federal Register (FR) 85732 (November 28, 2016) "Hazardous Waste Generator Improvements Rule". Proposed amendments are made to 15A NCAC 13A .0104-.0107, .0109-.0113 and .0117-.0119 as part of the periodic review of existing rules pursuant to G.S. 150B-21.3A. 15A NCAC 13A .0101 and .0114 are proposed for amendment to provide clarification and update references made in the rule.

**Comments may be submitted to:** Jenny Patterson, 1646 Mail Service Center, Raleigh, NC 27699-1646; phone (336) 767-0031; email [jenny.patterson@ncdenr.gov](mailto:jenny.patterson@ncdenr.gov)

**Comment period ends:** December 15, 2017

**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 (check all that apply).**



State funds affected



Environmental permitting of DOT affected

Analysis submitted to Board of Transportation

- ☒ **Local funds affected**
- ☒ **Substantial economic impact (≥\$1,000,000)**
- ☒ **Approved by OSBM**
- ☐ **No fiscal note required by G.S. 150B-21.4**
- ☐ **No fiscal note required by G.S. 150B-21.3A(d)(2)**

## CHAPTER 13 - SOLID WASTE MANAGEMENT

### SUBCHAPTER 13A - HAZARDOUS WASTE MANAGEMENT

#### SECTION .0100 - HAZARDOUS WASTE

##### 15A NCAC 13A .0101 GENERAL

(a) The Hazardous Waste Section of the Division of Waste Management shall administer the hazardous waste management program for the State of North Carolina.

(b) In applying the federal requirements incorporated by reference throughout this Subchapter, the following substitutions or exceptions shall apply:

When used in any of the federal regulations incorporated by reference throughout this Subchapter, except where the context requires references to remain without substitution (including with regard to forms, ~~publications~~ publications, and regulations concerning international shipments, variances from land disposal ~~restrictions~~ restrictions, and other program areas over which the federal government retains sole authority): "United States" shall mean the State of North Carolina; "Environmental Protection Agency," ~~"EPA"~~ "EPA," and "Agency" shall mean the Department of Environmental Quality; and "Administrator," "Regional Administrator," ~~"Assistant Administrator"~~ "Administrator," and "Director" shall mean the Secretary of the Department of Environmental Quality. The North Carolina Solid Waste Management Act and other applicable North Carolina General Statutes set forth in G.S. 130A shall be substituted for references to "the Solid Waste Disposal Act," "the Resource Conservation and Recovery Act" ~~Act~~ Act, and "RCRA" where required by context.

(c) In the event that there are inconsistencies or duplications in the requirements of those Federal rules incorporated by reference throughout this Subchapter and the State rules set out in this Subchapter, the provisions incorporated by reference shall prevail except where the State rules are more stringent.

(d) 40 CFR 260.1 through 260.3 (Subpart A), ~~"General,"~~ "General" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 260.11, ~~"References,"~~ "References" is incorporated by reference including subsequent amendments and editions.

(f) Copies of all materials in this Subchapter may be inspected or obtained as follows:

- (1) Persons interested in receiving rule-making notices concerning the North Carolina Hazardous Waste Management Rules shall submit a written request to the Hazardous Waste Section, 1646 Mail Service Center, Raleigh, N.C. 27699-1646. Upon receipt of

each request, individuals shall be placed on a mailing list to receive notices.

- (2) Material incorporated by reference in the Federal Register may be obtained electronically free of charge from the U. S. Government Bookstore's website at <https://bookstore.gpo.gov/products/sku/769-004-00000-9?etid=> for a cost of nine hundred twenty nine dollars (\$929.00) and United States Environmental Protection Agency website at <http://www.epa.gov/laws-regulations/regulations>, free of charge. <http://www.epa.gov/laws-regulations/regulations>.

- (3) ~~The North Carolina Hazardous Waste Management Rules may be obtained from the Hazardous Waste Section at the cost to the Section.~~

- (4)(3) All material is available for inspection at the Department of Environmental Quality, Hazardous Waste Section, 217 West Jones Street, Raleigh, NC and at <http://deq.nc.gov/about/divisions/waste-management/waste-management-rules/hazardous-waste-rules>. <http://deq.nc.gov/about/divisions/waste-management/hw/rules>.

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

##### 15A NCAC 13A .0102 DEFINITIONS (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

##### 15A NCAC 13A .0103 PETITIONS - PART 260 (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

##### 15A NCAC 13A .0104 PUBLIC INFORMATION - PART 2

(a) The provisions concerning requests for information in 40 CFR 2.100 to ~~2.124~~ 2.108 (Subpart A)(Subpart A), "Procedures for Disclosure of Records Under the Freedom of Information Act" are incorporated by reference including subsequent amendments and editions, except that ~~40 CFR 2.106(b), 2.112(f), and 2.120 are~~ 40 CFR 2.107 is not incorporated by reference.

(b) The ~~following address~~ address: Hazardous Waste Section - Records Request, Division of Waste Management, 1646 Mail Service Center, Raleigh, NC 27699-1646 is substituted for the addresses of the Records, FOIA, and Privacy Branch, Office of Environmental Information, Environmental Protection Agency, 1200 Pennsylvania Ave., N.W., Washington, DC 20460 in 40 CFR 2.101(a) and the Headquarters Freedom of Information Operations (~~4105~~)(1105), is substituted for the address 1200 Pennsylvania Ave., N.W., Washington, DC 20460 in ~~40 CFR 2.106(a) and 2.213(a)~~; Division of Waste Management, 1646 Mail Service Center, Raleigh, NC 27699-1646, 40 CFR 2.213(a).

(c) The provisions concerning confidentiality of business information in 40 CFR 2.201 to 2.311 (~~Subpart B~~)(Subpart B), "Confidentiality of Business Information" are incorporated by reference including subsequent amendments and editions, except



that 40 CFR 2.209 (b) and (c), 2.301, 2.302, 2.303, 2.304, 2.306, 2.307, 2.308, 2.309, 2.310 and 2.311 are not incorporated by reference.

*Authority G.S. 130A-294(c); 150B-21.6.*

**15A NCAC 13A .0105 RCRA / HAZARDOUS WASTE PERMIT REQUIREMENTS - PART 124**

(a) 40 CFR 124.1 through 124.21 (Subpart A), "General Program ~~Requirements~~", Requirements are incorporated by reference including subsequent amendments and ~~editions, except that 40 CFR 124.2(c) is not incorporated by reference.~~ editions.

(b) 40 CFR 124.31 through 124.33 (Subpart B), "Specific Procedures Applicable to RCRA ~~Permits~~", Permits are incorporated by reference including subsequent amendments and editions, except that 40 CFR 124.31(a), ~~124.32(a)~~ 124.32(a), and 124.33(a) are not incorporated by reference.

(1) The following shall be substituted for the provisions of 40 CFR 124.31(a) ~~which that~~ are not incorporated by reference:

(A) Applicability. The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units and shall also apply to RCRA part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations. For the purposes of this ~~Section~~, section, a "significant change" is any change that would qualify as a class 3 permit modification under 40 CFR 270.42.

(B) The requirements of this ~~Section~~ section ~~do shall~~ not apply to permit modifications under 40 CFR 270.42 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(2) The following shall be substituted for the provisions of 40 CFR 124.32(a) ~~which that~~ are not incorporated by reference:

(A) Applicability. The requirements of this ~~Section~~ section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units.

(B) The requirements of this ~~Section~~ section shall apply to RCRA part B applications seeking renewal of permits for such units under 40 CFR 270.51.

(C) The requirements of this ~~Section~~ section ~~do shall~~ not apply to permit modifications under 40 CFR 270.42 or permit applications submitted for the

sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(3) The following shall be substituted for the provisions of 40 CFR 124.33(a) ~~which that are~~ is not incorporated by reference: Applicability. The requirements of this ~~Section~~ section apply to all applications seeking RCRA permits for hazardous waste management units.

*Authority G.S. 130A-294(c); 150B-21.6.*

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

(a) 40 CFR 261.1 through 261.9 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.

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

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

(d) 40 CFR 261.30 through ~~261.37~~ 261.35 (Subpart D), "Lists of Hazardous Wastes" are incorporated by reference including subsequent amendments and editions.

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

(f) 40 CFR 261.140 through 261.151 (Subpart H), "Financial Requirements for Management of Excluded Hazardous Secondary Materials" are incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 261.170 through 261.179 (Subpart I), "Use and Management of Containers" are incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 261.190 through 261.200 (Subpart J), "Tank Systems" are incorporated by reference including subsequent amendments and editions.

(i) 40 CFR 261.400 through 261.420 (Subpart M), "Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials" are incorporated by reference including subsequent amendments and editions.

(j) 40 CFR 261.1030 through 261.1049 (Subpart AA), "Air Emission Standards for Process Vents" are incorporated by reference including subsequent amendments and editions.

(k) 40 CFR 261.1050 through 261.1079 (Subpart BB), "Air Emission Standards for Equipment Leaks" are incorporated by reference including subsequent amendments and editions.

(l) 40 CFR 261.1080 through 261.1090 (Subpart CC), "Air Emission Standards for Tanks and Containers" are incorporated by reference including subsequent amendments and editions.

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

*Authority G.S. 130A-294(c); 150B-21.6.*

**15A NCAC 13A .0107 STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE - PART 262**

- (a) 40 CFR ~~262.10~~ 262.1 through ~~262.12~~ 262.18 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions. In addition, a small quantity generator shall maintain aisle space of at least 2 feet in a central accumulation area to allow the unobstructed movement of personnel, fire prevention equipment, spill control equipment, and decontamination equipment.
- (b) 40 CFR 262.20 through 262.27 (Subpart B), "~~The Manifest~~" "Manifest Requirements Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 262.30 through ~~262.34~~ 262.35 (Subpart C), "~~Pre-Transport Requirements~~" "Pre-Transport Requirements Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 262.40 through 262.44 (Subpart D), "~~Recordkeeping and Reporting~~" "Recordkeeping and Reporting Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments and editions. In addition, a generator shall keep records of inspections and results of inspections required by Section ~~262.34~~ 40 CFR 262.16 and 262.17 for at least three years from the date of the inspection.
- (~~e~~) 40 CFR ~~262.50 through 262.58~~ (Subpart E), "~~Exports of Hazardous Waste~~" are incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 262.60 (Subpart F), "~~Imports of Hazardous Waste~~" is incorporated by reference including subsequent amendments and editions.
- (~~e~~) 40 CFR 262.70 (Subpart G), "Farmers" is incorporated by reference including subsequent amendments and editions.
- (~~h~~) (f) 40 CFR 262.80 through 262.89 (Subpart H), "~~Transfrontier Shipments of Hazardous Waste for Recovery within the OECD~~" "Transboundary Movements of Hazardous Waste for Recovery or Disposal" are incorporated by reference including subsequent amendments and editions, ~~except that 40 CFR 262.89(e) is not incorporated by reference.~~ editions.
- (~~g~~) (g) 40 CFR 262.200 through 262.216 (Subpart K), "Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities" ~~is~~ are incorporated by reference including subsequent amendments and editions.
- (h) 40 CFR 262.230 through 262.233 (Subpart L), "Alternative Standards for Episodic Generation" are incorporated by reference including subsequent amendments and editions.
- (i) 40 CFR 262.250 through 262.265 (Subpart M), "Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators" are incorporated by reference with subsequent amendments and editions. In addition, a large quantity generator shall maintain aisle space of at least two feet in a central accumulation area to allow the unobstructed movement of personnel, fire prevention equipment, spill control equipment, and decontamination equipment.
- (j) The ~~appendix~~ Appendix to 40 CFR Part 262 is incorporated by reference including subsequent amendments and editions.

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

**15A NCAC 13A .0108 STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE - PART 263 (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 13A .0109 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES - PART 264**

- (a) Any person who treats, ~~stores stores,~~ or disposes of hazardous waste shall comply with the requirements set forth in this Section. The treatment, ~~storage storage,~~ or disposal of hazardous waste is prohibited except as provided in this Section.
- (b) 40 CFR 264.1 through 264.4 (Subpart A), "~~General~~", "General" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 264.10 through 264.19 (Subpart B), "General Facility ~~Standards~~", Standards" are incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 264.30 through 264.37 (Subpart C), "Preparedness and ~~Prevention~~", Prevention" are incorporated by reference including subsequent amendments and editions.
- (e) 40 CFR 264.50 through 264.56 (Subpart D), "Contingency Plan and Emergency ~~Procedures~~", Procedures" are incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 264.70 through 264.77 (Subpart E), "Manifest System, Recordkeeping, and ~~Reporting~~", Reporting" are incorporated by reference including subsequent amendments and editions.
- (g) 40 CFR 264.90 through 264.101 (Subpart F), "Releases From Solid Waste Management ~~Units~~", Units" are incorporated by reference including subsequent amendments and editions. For the purpose of this incorporation by reference, "January 26, 1983" shall be substituted for "July 26, 1982" contained in 40 CFR 264.90(a)(2).
- (h) 40 CFR 264.110 through 264.120 (Subpart G), "Closure and ~~Post-Closure~~", Post-Closure" are incorporated by reference including subsequent amendments and editions.
- (i) 40 CFR 264.140 through 264.151 (Subpart H), "Financial ~~Requirements~~", Requirements" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 264.143(a)(3), (a)(4), (a)(5), (a)(6), 40 CFR 264.145(a)(3), (a)(4), (a)(5), ~~(a)(6), and 40 CFR 264.151(a)(1), Section 15~~ Section 15 of 40 CFR 264.151(a)(1) are not incorporated by reference.

- (1) The following shall be substituted for the provisions of 40 CFR 264.143(a)(3) ~~which were that are~~ not incorporated by reference: The owner or operator shall deposit the full amount of the closure cost estimate at the time the fund is established. ~~Within one year of February 1, 1987, an owner or operator using a closure trust fund established prior to February 1, 1987, shall deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or shall obtain other financial assurance as specified in this Section.~~

- (2) The following shall be substituted for the provisions of 40 CFR 264.143(a)(6) and 264.145(a)(6) which were that are not incorporated by reference:  
After the trust fund is established, whenever the current closure cost estimate changes, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator within 60 days after the change in the cost estimate, shall either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.
- (3) The following shall be substituted for the provisions of 40 CFR 264.145(a)(3) which were that are not incorporated by reference:
- (A) Except as otherwise provided in Part (i)(3)(B) of this Rule, the owner or operator shall deposit the full amount of the post-closure cost estimate at the time the fund is established.
- (B) If the Department finds that the owner or operator of an inactive hazardous waste disposal unit ~~cannot~~ is unable to provide financial assurance for post-closure through any other option (e.g. surety bond, letter of credit, or corporate guarantee), a plan for annual payments to the trust fund over the term of the RCRA post-closure permit ~~may~~ shall be established by the Department as a permit condition.
- (4) The following ~~additional requirement shall apply;~~ shall be substituted for Section 15 of 40 CFR 264.151(a)(1) that is not incorporated by reference:  
Section 15. Notice of Payment. The trustee shall notify the Department of payment to the trust fund, by certified mail within 10 days following said payment to the trust fund. The notice shall contain the name of the Grantor, the date of payment, the amount of payment, and the current value of the trust fund.
- (5) Concerning financial assurance for corrective action, the owner or operator shall choose from the financial instrument options provided in 40 CFR 264.145 Subpart H, or any combination of the financial instruments allowed by the Section to satisfy corrective action financial assurance requirements of 40 CFR 264.100 and 264.101. The wording of the financial assurance instrument or instruments shall be consistent with the wording provided in 40 CFR 264.151. The wording of the instrument used shall be modified to include the term "corrective action," as applicable.
- (j) 40 CFR 264.170 through 264.179 (Subpart I), "Use and Management of ~~Containers~~", Containers" are incorporated by reference including subsequent amendments and editions.
- (k) 40 CFR 264.190 through 264.200 (Subpart J), "~~Tank Systems~~", Systems" are incorporated by reference including subsequent amendments and editions.
- (l) The following are requirements for Surface Impoundments:
- (1) 40 CFR 264.220 through 264.232 (Subpart K), "~~Surface Impoundments~~", Impoundments" are incorporated by reference including subsequent amendments and editions.
- (2) The following are additional standards for surface impoundments:
- (A) ~~The~~ the liner system shall consist of at least two liners;
- (B) ~~Artificial~~ artificial liners shall be equal to or greater than 30 mils in thickness;
- (C) ~~Clayey~~ clayey liners shall be equal to or greater than five feet in thickness and have a maximum permeability of  $1.0 \times 10^{-7}$  cm/sec;
- (D) ~~Clayey~~ clayey liner soils shall have the same characteristics as described in Subparts (r)(4)(B)(ii), (iii), (iv), (vi) and (vii) of this Rule;
- (E) ~~A~~ a leachate collection system shall be constructed between the upper liner and the bottom liner;
- (F) ~~A~~ a leachate detection system shall be constructed below the bottom liner; and
- (G) ~~Surface~~ surface impoundments shall be constructed in such a manner to prevent landsliding, ~~slippage~~ slippage, or slumping.
- (m) 40 CFR 264.250 through 264.259 (Subpart L), "Waste ~~Piles~~", Piles" are incorporated by reference including subsequent amendments and editions.
- (n) 40 CFR 264.270 through 264.283 (Subpart M), "Land ~~Treatment~~", Treatment" are incorporated by reference including subsequent amendments and editions.
- (o) 40 CFR 264.300 through 264.317 (Subpart N), "~~Landfills~~", Landfills" are incorporated by reference including subsequent amendments and editions.
- (p) A long-term storage facility shall meet groundwater protection, closure and post-closure, and financial requirements for disposal facilities as specified in Paragraphs (g), (h), and (i) of this Rule.
- (q) 40 CFR 264.340 through 264.351 (Subpart O), "~~Incinerators~~", Incinerators" are incorporated by reference including subsequent amendments and editions.
- (r) The following are additional location standards for facilities:
- (1) In addition to the location standards set forth in ~~15A NCAC 13A-0109(e), Paragraph (c) of this Rule,~~ the Department, in determining whether to issue a permit for a hazardous waste management facility, shall consider the risks

- posed by the proximity of the facility ~~to~~ to: water table ~~levels, levels~~; flood ~~plains, plains~~; water ~~supplies, supplies~~; public water supply ~~watersheds, watersheds~~; ~~mines, mines~~; ~~natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites, and population centers~~ population centers; ~~natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites~~; and shall consider whether ~~provision has~~ provisions have been made for buffer ~~zones~~ zones, ~~as required by this Rule~~. The Department shall also consider ground water travel time, soil pH, soil cation exchange capacity, soil ~~composition~~ composition, and ~~permeability~~ permeability; ~~slope, climate, local land use~~; ~~slope; climate; local land use~~; transportation factors such as proximity to waste generators, route, route safety, and method of ~~transportation, transportation~~; aesthetic factors such as the visibility, appearance, and noise level of the facility; potential impact on air ~~quality, quality~~; and existence of seismic activity and cavernous bedrock. The basis for issuing or denying the permit are found in 40 CFR 264 as adopted by reference in this Rule.
- (2) The following minimum separation distances shall be required of all hazardous waste management facilities except that existing facilities shall be required to meet these minimum separation distances to the maximum extent feasible:
- (A) All hazardous waste management facilities shall be located at least 0.25 miles from institutions including but not limited to schools, health care facilities and prisons, unless the owner or operator ~~can demonstrate~~ demonstrates that no risks shall be posed by the proximity of the facility.
- (B) All hazardous waste treatment and storage facilities shall comply with the following separation distances: all hazardous waste shall be treated and stored a minimum of 50 feet from the property line of the facility; except that all hazardous waste with ignitable, ~~incompatible incompatible~~, or reactive characteristics shall be treated and stored a minimum of 200 feet from the property line of the facility if the area adjacent to the facility is zoned for any use other than industrial or is not zoned.
- (C) All hazardous waste landfills, long-term storage facilities, land treatment ~~facilities~~ facilities, and surface ~~impoundments~~, impoundments shall comply with the following separation distances:
- (i) ~~All all~~ hazardous waste shall be located a minimum of 200 feet from the property line of the facility;
- (ii) ~~Each each~~ hazardous waste landfill, long-term ~~storage~~ storage, or surface impoundment facility shall be constructed so that the bottom of the facility is 10 feet or more above the historical high ground water level. The historical high ground water level shall be determined by measuring the seasonal high ground water levels and predicting the long-term maximum high ground water level from published data on similar North Carolina topographic positions, elevations, geology, and climate; and
- (iii) ~~All all~~ hazardous waste shall be located a minimum of 1,000 feet from the zone of influence of any existing off-site ground water well used for drinking water, and outside the zone of influence of any existing or planned on-site drinking water well.
- (D) Hazardous waste storage and treatment facilities for liquid waste that is classified as ~~TC toxic, toxic, or acutely toxic~~ hazardous waste due to the Toxicity Characteristic, as defined in 40 CFR 261.24, or is classified as Acute Hazardous Waste or Toxic Waste, as described in 40 CFR 261.30(b), and is stored or treated in tanks or containers shall not be located:
- (i) in the recharge area of an aquifer ~~which that~~ is designated as an existing sole drinking water source as defined in the Safe Drinking Water Act, Section .1424(e) [42 U.S.C. 300h-3(e)] unless an adequate secondary containment system, as described in 40 CFR ~~264 264~~, ~~as adopted by reference in this Rule~~, is constructed, and after consideration of applicable factors in

- Subparagraph (r)(3) of this Rule, the owner or operator ~~can demonstrate~~ demonstrates no risk to public health;
- (ii) within 200 feet of surface water impoundments or surface water stream with continuous flow as defined by the United States Geological Survey;
  - (iii) in an area that will allow direct surface or subsurface discharge to WS-I, WS-II or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and 15A NCAC 18C .0102;
  - (iv) in an area that will allow direct surface or subsurface discharge to the watershed for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;
  - (v) within 200 feet horizontally of a 100-year floodplain elevation;
  - (vi) within 200 feet of a seismically active ~~area~~ area; ~~as defined in Paragraph (c) of this Rule~~; and
  - (vii) within 200 feet of a mine, cave, or cavernous bedrock.
- (3) The Department shall require any hazardous waste management facility to comply with greater separation distances or other protective measures when necessary to avoid risks posed by the proximity of the facility ~~to to:~~ water table levels, levels; flood plains, plains; water supplies, supplies; public water supply watersheds, watersheds; mines, mines; natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites, and population centers population centers; natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites; or to provide a buffer zone as required by this Rule. The Department shall also require protective measures when necessary to avoid unreasonable risks posed by the soil pH, soil cation exchange capacity, soil composition and ~~permeability, permeability; climate, slope;~~ climate; local land use; transportation factors such as proximity to waste generators, route, route safety, and method of ~~transportation, transportation;~~ aesthetic factors such as the visibility, appearance, and noise level of the ~~facility, facility;~~ potential impact on air quality,
- quality; and the existence of seismic activity and cavernous bedrock. In determining whether to require greater separation distances or other protective measures, the Department shall consider the following factors:
- (A) ~~All~~ all proposed hazardous waste activities and procedures to be associated with the transfer, storage, ~~treatment~~ treatment, or disposal of hazardous waste at the facility;
  - (B) ~~The~~ the type of hazardous waste to be treated, stored, or disposed of at the facility;
  - (C) ~~The~~ the volume of waste to be treated, stored, or disposed of at the facility;
  - (D) ~~Land~~ land use issues including the number of permanent residents in proximity to the facility and their distance from the facility;
  - (E) ~~The~~ the adequacy of facility design and plans for containment and control of sudden and non-sudden accidental events in combination with adequate off-site evacuation of potentially ~~adversely~~ impacted populations;
  - (F) ~~Other~~ other land use issues including the number of institutional and commercial structures such as airports and schools in proximity to the facility, their distance from the facility, and the particular nature of the activities that take place in those structures;
  - (G) ~~The~~ the lateral distance and slope from the facility to surface water supplies or to watersheds draining ~~directly~~ into surface water supplies;
  - (H) ~~The~~ the vertical distance, and type of soils and geologic conditions separating the facility from the water table;
  - (I) ~~The~~ the direction and rate of flow of ground water from the sites and the extent and reliability of on-site and nearby data concerning seasonal and long-term groundwater level fluctuations;
  - (J) ~~Potential~~ potential air emissions including rate, direction of movement, dispersion and exposure, whether from planned or accidental, uncontrolled releases; and
  - (K) ~~Any~~ any other relevant factors.
- (4) The following are additional location standards for landfills, long-term storage ~~facilities~~ facilities, and hazardous waste surface impoundments:

- (A) A hazardous waste landfill, long-term storage, or a surface impoundment facility shall not be located:
- (i) ~~In~~ in the recharge area of an aquifer which is an existing sole drinking water source;
  - (ii) ~~Within~~ within 200 feet of a surface water stream with continuous ~~flow~~ flow; ~~as defined by the United States Geological Survey;~~
  - (iii) ~~In~~ in an area that will allow direct surface or subsurface discharge to WS-I, WS-II or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and 15A NCAC 18C .0102;
  - (iv) ~~In~~ in an area that will allow direct surface or subsurface discharge to a watershed for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;
  - (v) ~~Within~~ within 200 feet horizontally of a 100-year flood hazard elevation;
  - (vi) ~~Within~~ within 200 feet of a seismically active ~~area~~ area; ~~as defined in Paragraph (c) of this Rule;~~ and
  - (vii) ~~Within~~ within 200 feet of a mine, ~~eave~~ cave, or cavernous bedrock.
- (B) A hazardous waste landfill or long-term storage facility shall be located in geologic formations with the following soil characteristics:
- (i) ~~The~~ the depth of the unconsolidated soil materials shall be equal to or greater than 20 feet;
  - (ii) ~~The~~ the percentage of fine-grained soil material shall be equal to or greater than 30 percent passing through a number 200 sieve;
  - (iii) ~~Soil~~ soil liquid limit shall be equal to or greater than 30;
  - (iv) ~~Soil~~ soil plasticity index shall be equal to or greater than 15;
  - (v) ~~Soil~~ soil compacted hydraulic conductivity shall be a maximum of  $1.0 \times 10^{-7}$  cm/sec;
  - (vi) ~~Soil~~ soil Cation Exchange Capacity shall be equal to or greater than 5
- milliequivalents per 100 grams;
- (vii) ~~Soil~~ soil Potential Volume Change Index shall be equal to or less than 4; and
  - (viii) ~~Soils~~ soils shall be underlain by a geologic formation having a rock quality designation equal to or greater than 75 percent.
- (C) A hazardous waste landfill or long-term storage facility shall be located in areas of low to moderate relief to the extent necessary to prevent landsliding or slippage and slumping. The site may be graded to comply with this standard.
- (5) All new hazardous waste impoundments that close with hazardous waste residues left in place shall comply with the standards for hazardous waste landfills in Subparagraph (r)(4) of this ~~Rule~~ Rule. ~~unless the applicant can demonstrate that equivalent protection of public health and environment is afforded by some other standard.~~
- (6) The owners and operators of all new hazardous waste management facilities shall construct and maintain a minimum of two observation wells, one upgradient and one downgradient of the proposed facility; and shall establish background groundwater concentrations and monitor annually for all hazardous wastes that the owner or operator proposes to store, treat, or dispose at the facility.
- (7) The owners and operators of all new hazardous waste facilities shall demonstrate that the community has had an opportunity to participate in the siting process by complying with the following:
- (A) The owners and operators shall hold at least one public meeting in the county in which the facility is to be located to inform the community of all hazardous waste management activities ~~including~~ including; ~~but not limited to:~~ the hazardous properties of the waste to be managed; the type of management proposed for the wastes; the mass and volume of the wastes; and the source of the wastes; and to allow the community to identify specific health, safety and environmental concerns or problems expressed by the community related to the hazardous waste activities associated with the facility. The owners and operators shall provide a public notice of this meeting at least 30 days prior to the meeting. Public

notice shall be documented in the facility permit application. The owners and operators shall submit as part of the permit application a complete written transcript of the meeting, all written material submitted that represents community concerns, and all other relevant written material distributed or used at the meeting. The written transcript and other written material submitted or used at the meeting shall be submitted to the local public library closest to and in the county of the proposed site with a request that the information be made available to the public.

- (B) For the purposes of this Rule, public notice shall include: notification of the boards of county commissioners of the county where the proposed site is to be located and all contiguous counties in North Carolina; a legal advertisement placed in a newspaper or newspapers serving those counties; and provision of a news release to at least one newspaper, one radio station, and one TV station serving these counties. Public notice shall include the time, place, and purpose of the meetings required by this Rule.
- (C) No less than 30 days after the first public meeting transcript is available at the local public library, the owners and operators shall hold at least one additional public meeting in order to attempt to resolve community concerns. The owners and operators shall provide public notice of this meeting at least 30 days prior to the meeting. Public notice shall be documented in the facility permit application. The owners and operators shall submit as part of the permit application a complete written transcript of the meeting, all written material submitted that represents community concerns, and all other relevant written material distributed or used at the meeting.
- (D) The application, written transcripts of all public meetings and any additional material submitted or used at the meetings, and any additions or corrections to the application, including any responses to notices of deficiencies shall be submitted to the local library closest to and in the county of the proposed site, with a request that the information be made

available to the public until the permit decision is made.

- (E) The Department shall consider unresolved community concerns in the permit review process and impose final permit conditions based on sound scientific, health, safety, and environmental principles as ~~authorized by applicable laws or rules.~~ authorized.

- (s) 40 CFR 264.550 through 264.555 (Subpart S), "Special Provisions for ~~Cleanup~~", Cleanup" are incorporated by reference including subsequent amendments and editions.
- (t) 40 CFR 264.570 through 264.575 (Subpart W), "Drip ~~Pads~~", Pads" are incorporated by reference including subsequent amendments and editions.
- (u) 40 CFR 264.600 through 264.603 (Subpart X), "Miscellaneous ~~Units~~", Units" are incorporated by reference including subsequent amendments and editions.
- (v) 40 CFR 264.1030 through 264.1049 (Subpart AA), "Air Emission Standards for Process ~~Vents~~", Vents" are incorporated by reference including subsequent amendments and editions.
- (w) 40 CFR 264.1050 through 264.1079 (Subpart BB), "Air Emission Standards for Equipment ~~Leaks~~", Leaks" are incorporated by reference including subsequent amendments and editions.
- (x) 40 CFR 264.1080 through 264.1091 (Subpart CC), "Air Emission Standards for Tanks, Surface Impoundments, and ~~Containers~~", Containers" are incorporated by reference including subsequent amendments and editions.
- (y) 40 CFR 264.1100 through ~~264.1102~~ 264.1110 (Subpart DD), "Containment ~~Buildings~~", Buildings" are incorporated by reference including subsequent amendments and editions.
- (z) 40 CFR 264.1200 through 264.1202 (Subpart EE), "Hazardous Waste Munitions and Explosives ~~Storage~~", Storage" are incorporated by reference including subsequent amendments and editions.
- (aa) Appendices to 40 CFR Part 264 are incorporated by reference including subsequent amendments and editions.

*Authority G.S. 130A-294(c); 150B-21.6.*

**15A NCAC 13A .0110 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES - PART 265**

- (a) 40 CFR 265.1 through 265.4 (Subpart A), "~~General~~", "General" are incorporated by reference including subsequent amendments and editions.
- (b) 40 CFR 265.10 through 265.19 (Subpart B), "General Facility ~~Standards~~", Standards" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 265.30 through 265.37 (Subpart C), "Preparedness and ~~Prevention~~", Prevention" are incorporated by reference including subsequent amendments and editions, ~~except that 265.35 is not incorporated by reference. editions.~~ The following shall be substituted for the provisions of 265.35. Required aisle space: The owner or operator must maintain aisle space of at least two feet to allow the unobstructed movement of

personnel, fire prevention equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

(d) 40 CFR 265.50 through 265.56 (Subpart D), "Contingency Plan and Emergency ~~Procedures~~", Procedures are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 265.70 through 265.77 (Subpart E), "Manifest System, Recordkeeping, and ~~Reporting~~", Reporting are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 265.90 through 265.94 (Subpart F), "Ground-Water ~~Monitoring~~", Monitoring are incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 265.110 through 265.121 (Subpart G), "Closure and ~~Post-Closure~~", Post-Closure are incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 265.140 through ~~265.154~~ 265.150 (Subpart H), "Financial ~~Requirements~~", Requirements are incorporated by reference including subsequent amendments and editions, except that 40 CFR 265.143(a)(3), (a)(4), (a)(5), (a)(6), and 40 CFR 265.145(a)(3), (a)(4), (a)(5), and (a)(6) are not incorporated by reference.

(1) The following shall be substituted for the provisions of 40 CFR 265.143(a)(3) ~~which were that are~~ not incorporated by reference: The owner or operator shall deposit the full amount of the closure cost estimate at the time the fund is established. ~~By November 19, 1981, an owner or operator using a closure trust fund established prior to November 19, 1980 shall deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or shall obtain other financial assurance as specified in this Section.~~

(2) The following shall be substituted for the provisions of 40 CFR 265.143(a)(6) and 265.145(a)(6) ~~which were that are~~ not incorporated by reference: After the trust fund is established, whenever the current closure cost estimate changes, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator within 60 days after the change in the cost estimate, shall either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this Section to cover the difference; and

(3) The following shall be substituted for the provisions of 40 CFR 265.145(a)(3) ~~which were that are~~ not incorporated by reference:

(A) Except as otherwise provided in Part (h)(3)(B) of this Rule, the owner or operator shall deposit the full amount

of the post-closure cost estimate at the time the fund is established.

(B) If the Department finds that the owner or operator of an inactive hazardous waste disposal unit ~~cannot is unable to~~ provide financial assurance for post-closure through any other option (e.g. surety bond, letter of credit, or corporate guarantee), a plan for annual payments to the trust fund during the interim status period shall be established by the Department by use of an ~~Administrative Order~~, order.

(i) 40 CFR 265.170 through 265.178 (Subpart I), "Use and Management of ~~Containers~~", Containers are incorporated by reference including subsequent amendments and editions. ~~Additionally, the owner or operator shall keep records and results of required inspections for at least three years from the date of the inspection.~~

(j) 40 CFR 265.190 through 265.202 (Subpart J), "Tank ~~Systems~~", Systems are incorporated by reference including subsequent amendments and editions.

(k) 40 CFR 265.220 through 265.231 (Subpart K), "Surface ~~Impoundments~~", Impoundments are incorporated by reference including subsequent amendments and editions.

(l) 40 CFR 265.250 through 265.260 (Subpart L), "Waste ~~Piles~~", Piles are incorporated by reference including subsequent amendments and editions.

(m) 40 CFR 265.270 through 265.282 (Subpart M), "Land ~~Treatment~~", Treatment are incorporated by reference including subsequent amendments and editions.

(n) 40 CFR 265.300 through 265.316 (Subpart N), "~~Landfills~~", Landfills are incorporated by reference including subsequent amendments and editions.

(o) 40 CFR 265.340 through ~~265.352~~ 265.369 (Subpart O), "~~Incinerators~~", Incinerators are incorporated by reference including subsequent amendments and editions.

(p) 40 CFR 265.370 through 265.383 (Subpart P), "Thermal ~~Treatment~~", Treatment are incorporated by reference including subsequent amendments and editions.

(q) 40 CFR 265.400 through 265.406 (Subpart Q), "Chemical, Physical, and Biological ~~Treatment~~", Treatment are incorporated by reference including subsequent amendments and editions.

(r) 40 CFR 265.440 through 265.445 (Subpart W), "Drip ~~Pads~~", Pads are incorporated by reference including subsequent amendments and editions.

(s) 40 CFR 265.1030 through 265.1049 (Subpart AA), "Air Emission Standards for Process ~~Vents~~", Vents are incorporated by reference including subsequent amendments and editions.

(t) 40 CFR 265.1050 through 265.1079 (Subpart BB), "Air Emission Standards for Equipment ~~Leaks~~", Leaks are incorporated by reference including subsequent amendments and editions.

(u) 40 CFR 265.1080 through 265.1091 (Subpart CC), "Air Emission Standards for Tanks, Surface Impoundments, and ~~Containers~~", Containers are incorporated by reference including subsequent amendments and editions.



(v) 40 CFR 265.1100 through ~~265.1102~~ 265.1110 (Subpart DD), "Containment ~~Buildings~~", Buildings are incorporated by reference including subsequent amendments and editions.

(w) 40 CFR 265.1200 through 265.1202 (Subpart EE), "Hazardous Waste Munitions and Explosives ~~Storage~~", Storage are incorporated by reference including subsequent amendments and editions.

(x) Appendices to 40 CFR Part 265 are incorporated by reference including subsequent amendments and editions.

*Authority G.S. 130A-294(c); 150B-21.6.*

**15A NCAC 13A .0111 STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES - PART 266**

(a) 40 CFR 266.20 through 266.23 (Subpart C), "Recyclable Materials Used in a Manner Constituting ~~Disposal~~", Disposal are incorporated by reference including subsequent amendments and editions.

(b) 40 CFR 266.70 (Subpart F), "Recyclable Materials Utilized for Precious Metal ~~Recovery~~", Recovery is incorporated by reference including subsequent amendments and editions. Off-site recycling facilities that receive materials described in 40 CFR 266.70(a) ~~must shall mark or label each container and tank holding recyclable materials at off-site precious metal recycling facilities with the words "Recyclable Material". manage the materials in accordance with and comply with 40 CFR 262.34(a) as incorporated by reference in 15A NCAC 13A .0107(e), excluding 262.34(a)(3). Each container and tank holding recyclable materials at off site precious metal recycling facilities must be labeled or marked with the words, "Recyclable Material".~~

(c) 40 CFR 266.80 (Subpart G), "Spent Lead-Acid Batteries Being ~~Reclaimed~~", Reclaimed is incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 266.100 through 266.112 (Subpart H), "Hazardous Waste Burned in Boilers and Industrial ~~Furnaces~~", Furnaces are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 266.200 through 266.206 (Subpart M), "Military ~~Munitions~~", Munitions are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 266.210 through 266.360 (Subpart N), "Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and ~~Disposal~~", Disposal are incorporated by reference including subsequent amendments and editions.

(g) Appendices to 40 CFR Part 266 are incorporated by reference including subsequent amendments and editions.

*Authority G.S. 130A-294(c); 150B-21.6.*

**15A NCAC 13A .0112 LAND DISPOSAL RESTRICTIONS - PART 268**

(a) 40 CFR 268.1 through ~~268.14~~ 268.9 (Subpart A), "~~General~~", General are incorporated by reference including subsequent amendments and editions.

(b) 40 CFR 268.10 through 268.14 (Subpart B), "Schedule for Land Disposal Prohibition and Establishment of Treatment

Standards" are incorporated by reference including subsequent amendments and editions.

~~(b)(c)~~ 40 CFR 268.20 through 268.39 (Subpart C), "Prohibitions on Land ~~Disposal~~", Disposal are incorporated by reference including subsequent amendments and editions, ~~except that 40 CFR 268.21 through 268.29 are not incorporated by reference.~~ editions.

~~(e)(d)~~ 40 CFR 268.40 through 268.49 (Subpart D), "Treatment ~~Standards~~", Standards are incorporated by reference including subsequent amendments and editions.

~~(d)(e)~~ 40 CFR 268.50 (Subpart E), "Prohibitions on ~~Storage~~", Storage is incorporated by reference including subsequent amendments and editions.

~~(e)(f)~~ Appendices to 40 CFR Part 268 are incorporated by reference including subsequent amendments and editions.

*Authority G.S. 130A-294(c); 150B-21.6.*

**15A NCAC 13A .0113 THE HAZARDOUS WASTE PERMIT PROGRAM - PART 270**

(a) 40 CFR 270.1 through 270.6 (Subpart A), "General ~~Information~~", Information are incorporated by reference including subsequent amendments and editions. For the purpose of this incorporation by reference, "January 26, 1983" shall be substituted for "July 26, 1982" contained in 40 CFR 270.1(c).

(b) 40 CFR 270.10 through 270.29 (Subpart B), "Permit ~~Application~~", Application are incorporated by reference including subsequent amendments and editions.

(c) ~~The following are additional~~ In addition to the specific Part B Permit Application information requirements for all hazardous waste ~~facilities~~; facilities as defined in 40 CFR 270.14, the owners and operators of hazardous waste facilities shall provide the following information:

- (1) ~~Description~~ description and documentation of the public meetings as required in 15A NCAC 13A .0109(r)(7);
- (2) ~~A a~~ description of the hydrological and geological properties of the site including flood plains, depth to water table, ground water travel time, seasonal and long-term groundwater level fluctuations, proximity to public water supply watersheds, consolidated rock, soil pH, soil cation exchange capacity, soil characteristics and composition and ~~permeability~~, permeability; existence of cavernous bedrock and seismic ~~activity~~, activity; ~~slope~~, slope; ~~mines~~, mines; ~~climate~~, climate; location and withdrawal rates of surface water users within the immediate drainage basin and well water users within a one mile radius of the facility; water quality information of both surface and groundwater within 1000 feet of the ~~facility~~, facility; and a description of the local air quality;
- (3) ~~A a~~ description of the facility's proximity to and potential impact on wetlands, endangered species habitats, parks, forests, wilderness areas, historical sites, mines, and air quality;

- (4) ~~A a~~ description of local land use including residential, industrial, commercial, recreational, ~~agricultural~~ agricultural, and the proximity to schools and airports;
  - (5) ~~A a~~ description of ~~of~~ the proximity of the facility to waste generators and population centers; a description of the method of waste transportation; the comments of the local community and state transportation authority on the proposed route, and route safety. Comments shall include proposed alternative routes and restrictions necessary to protect the public health;
  - (6) ~~A a~~ description of facility aesthetic factors including visibility, appearance, and noise level; and
  - (7) ~~A a~~ description of any other objective factors that the Department determines are ~~reasonably~~ related and relevant to the proper siting and operation of the facility.
- (d) In addition to the specific Part B Permit Application information requirements for hazardous waste disposal ~~facilities~~, facilities as defined in 40 CFR 270.17 through 270.19 and 270.21, ~~owners~~ owners, and operators of hazardous waste landfills or longterm storage facilities shall provide the following information:
- (1) ~~Design~~ design drawings and specifications of the leachate collection and removal system;
  - (2) ~~Design~~ design drawings and specifications of the artificial impervious liner;
  - (3) ~~Design~~ design drawings and specifications of the clay or clay-like liner below the artificial liner, and a description of the permeability of the clay or clay-like liner; and
  - (4) ~~A a~~ description of how hazardous wastes will be treated prior to placement in the facility.
- (e) In addition to the specific Part B Permit Application information requirements for surface ~~impoundments~~, impoundments as defined in 40 CFR 270.17, owners and operators of surface impoundments shall provide the following information:
- (1) ~~Design~~ design drawings and specifications of the leachate collection and removal system;
  - (2) ~~Design~~ design drawings and specifications of all artificial impervious liners;
  - (3) ~~Design~~ design drawings and specifications of all clay or clay-like liners and a description of the clay or clay-like liner; and
  - (4) ~~Design~~ design drawings and specifications that show that the facility has been constructed in a manner that will prevent landsliding, slippage, or slumping.
- (f) 40 CFR 270.30 through 270.33 (Subpart C), "Permit Conditions", Conditions" are incorporated by reference including subsequent amendments and editions.
- (g) 40 CFR 270.40 through 270.43 (Subpart D), "Changes to Permit", Permit" are incorporated by reference including subsequent amendments and editions.
- (h) 40 CFR 270.50 through 270.51 (Subpart E), "Expiration and Continuation of Permits", Permits" are incorporated by reference including subsequent amendments and editions.
- (i) 40 CFR 270.60 through ~~270.68~~ 270.66 (Subpart F), "Special Forms of Permits", Permits" are incorporated by reference including subsequent amendments and ~~editions~~, editions, ~~except that 40 CFR 270.67 and 270.68 are not incorporated by reference~~.
- (j) 40 CFR 270.70 through 270.73 (Subpart G), "Interim Status", Status" are incorporated by reference including subsequent amendments and editions. For the purpose of this incorporation by reference, "January 1, 1986" shall be substituted for "November 8, ~~1985~~ 1984" contained in 40 CFR 270.73(c).
- (k) 40 CFR 270.235, (Subpart I), "Integration with Maximum Achievable Control Technology (MACT) Standards", Standards" is incorporated by reference including subsequent amendments and editions.
- (l) The following are additional permitting requirements for hazardous waste facilities.
- (1) An applicant applying for a permit for a hazardous waste facility shall submit a disclosure statement to the Department as a part of the application for a ~~permit or any time thereafter specified by the Department~~ permit, a permit renewal, or a permit modification that involves a change in owner or operator. The disclosure statement shall be supported by an affidavit attesting to the truth and completeness of the facts asserted in the statement and shall include:
    - (A) ~~A a~~ brief description of the form of the business (e.g. partnership, sole proprietorship, corporation, association, or other);
    - (B) ~~The the~~ name and address of any hazardous waste facility constructed or operated after October 21, 1976 by the applicant or any parent or subsidiary corporation if the applicant is a corporation; and
    - (C) ~~A a~~ list identifying any legal action taken against any facility identified in Part (l)(1)(B) of this Rule involving:
      - (i) any administrative ruling or order issued by any state, ~~federal~~ federal, or local authority relating to revocation of any environmental or waste management permit or license, or to a violation of any state or federal statute or local ordinance relating to waste management or environmental protection;
      - (ii) any judicial determination of liability or conviction under any state or federal law or local ordinance relating to waste management or

- environmental protection;  
and
- (iii) any pending administrative or judicial proceeding of the type described in this Part.
- (D) ~~The~~ the identification of each action described in Part (l)(1)(C) of this Rule shall include the name and location of the facility that the action concerns, the agency or court that heard or is hearing the matter, the title, docket or case number, and the status of the proceeding.
- (2) In addition to the information set forth in Subparagraph (l)(1) of this Rule, the Department shall require from any applicant ~~such~~ additional information as it deems necessary to satisfy the requirements of G.S. 130A-295. ~~Such~~ The information may include:
- (A) ~~The~~ the names, addresses, and titles of all officers, directors, or partners of the applicant and of any parent or subsidiary corporation if the applicant is a corporation;
- (B) ~~The~~ the name and address of any company in the field of hazardous waste management in which the applicant business or any of its officers, directors, or partners, hold an equity interest and the name of the officer, director, or partner holding such interest; and
- (C) ~~A~~ a copy of any administrative ruling or order and of any judicial determination of liability or conviction described in Part (l)(1)(C) of this Rule, and a description of any pending administrative or judicial proceeding in that item.
- (3) If the Department finds that any part or parts of the disclosure statement is not necessary to satisfy the requirements of G.S. 130A-295, such information shall not be required.
- (m) An applicant for a ~~new~~, new or modification to an ~~existing~~, existing commercial facility ~~permit~~, permit shall provide a description and justification of the need for the facility.
- (n) Requirements for Off-site Recycling Facilities.
- (1) The permit requirements of 15A NCAC 13A .0109 apply to owners and operators of off-site recycling facilities unless excluded in Subparagraph (2) ~~of Paragraph (n)-~~ (n) of this Rule.
- (2) Requirements of ~~15A NCAC 13A .0113(n)(4),~~ Subparagraphs (n)(4), (5), (6), (7) and (8) of this Rule do not apply to owners and operators of off-site recycling facilities that recycle only precious metals as described in 40 CFR 266.70(a), ~~40 CFR 266.70(a), as incorporated by reference in 15A NCAC 13A .0111(b).~~
- (3) Off-site facilities that recycle precious metals shall ~~follow~~ comply with the regulations as described in 15A NCAC 13A .0111(b).
- (4) Notwithstanding any other statement of applicability, the following provisions of 40 CFR ~~Part 264, 264 as incorporated by reference,~~ shall apply to owners and operators of off-site recycling facilities except those excluded in ~~15A NCAC 13A .0113(n)(2);~~ Subparagraph (n)(2) of this Rule:
- (A) Subpart B - General Facility Standards;
- (B) Subpart C - Preparedness and Prevention;
- (C) Subpart D - Contingency Plan and Emergency Procedures;
- (D) Subpart E - Manifest System, Recordkeeping and Reporting;
- (E) Subpart G - Closure and Post-closure;
- (F) Subpart H - Financial Requirements;
- (G) Subpart I - Use and Management of Containers;
- (H) Subpart J - Tank Systems;
- (I) 264.101 - Corrective Action for Solid Waste Management Units;
- (J) Subpart X - Miscellaneous Units; and
- (K) Subpart DD - Containment Buildings.
- (5) The requirements listed in Subparagraph (n)(4) of this Rule apply to the entire off-site recycling facility, including all recycling units, staging and process areas, and permanent and temporary storage areas for wastes.
- (6) The following provisions of 15A NCAC 13A .0109 shall apply to owners and operators of off-site recycling facilities:
- (A) ~~The~~ the substitute financial requirements of Rule .0109(i)(1), (2) and (4); and
- (B) ~~The~~ the additional standards of Rule .0109(r)(1), (2), (3), (6) and (7).
- (7) The owner or operator of an off-site recycling facility shall keep a written operating record at his facility.
- (8) The following information ~~must~~ shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:
- (A) ~~A~~ a description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or recycling at the facility;
- (B) ~~The~~ the location of all hazardous waste within the facility and the quantity at each location. This information ~~must~~ shall include cross-references to specific manifest document numbers if the waste was accompanied by a manifest; and

- (C) ~~Documentation~~ documentation of the fate of all hazardous wastes received from off-site or generated on-site. This shall include records of the sale, reuse, off-site transfer, or disposal of all waste materials.

(o) Permit Fees for Commercial Hazardous Waste Facilities.

- (1) An applicant for a permit modification for a commercial hazardous waste facility shall pay an application fee for the Class of permit modification defined in 40 CFR 270.42 as follows:

- (A) Class 1 permit modification \$100;  
(B) Class 2 permit modification \$1,000; or  
(C) Class 3 permit modification \$5,000.

~~Note:~~ Class 1 permit modifications identified in Appendix I to 40 CFR 270.42 ~~which~~ that do not require prior approval of the Division Director are excluded from the fee requirement.

- (2) The application fee for a new permit, permit renewal, or permit modification ~~must~~ shall accompany the application, and is non-refundable. The application shall be considered incomplete until the fee is paid. Checks shall be made payable to: Division of Waste Management.

*Authority G.S. 130A-294(c); 130A-294.1; 130A-295(a)(1),(2), (c); 150B-21.6.*

**15A NCAC 13A .0114 REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS - PART 271**

40 CFR 271.17, "Sharing of ~~information~~"; Information" has been incorporated by reference including subsequent amendments and editions.

*Authority G.S. 130A-294(c); 150B-21.6.*

**15A NCAC 13A .0116 COMMERCIAL HAZARDOUS WASTE FACILITY SCORING FOR CATEGORY DETERMINATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 13A .0117 FEE SCHEDULE FOR COMMERCIAL HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES**

- (a) A commercial hazardous waste ~~storage~~, treatment, storage, or disposal facility other than a special purpose facility shall pay monthly, in addition to the fees applicable to all hazardous waste storage, treatment, or disposal facilities as required by G.S. 130A-294.1, a charge of forty-one dollars (\$41.00) per hour of operation. The fee shall be paid for any time when hazardous waste is managed or during periods of maintenance, repair, testing, or calibration. Each facility shall submit an operational schedule to the Department on a quarterly basis.

- (b) A special purpose commercial hazardous waste facility shall pay monthly, in addition to the fees applicable to all hazardous waste treatment, storage or disposal facilities as required by G.S. 130A-294.1, a charge per ton of hazardous waste received during

the previous month and an additional charge based on the ~~frequency of inspections as noted in the following schedules:~~ Category as determined in 15A NCAC .0116. Effective January 1, 2013, a special purpose commercial hazardous waste facility shall pay four dollars and fifty cents (\$4.50) per ton of hazardous waste received and:

<u>Category</u>	<u>Monthly Fee</u>
<u>1</u>	<u>\$1,332.00</u>
<u>2</u>	<u>\$2,664.00</u>
<u>3</u>	<u>\$3,996.00</u>
<u>4</u>	<u>\$5,328.00</u>
<u>5</u>	<u>\$6,660.00</u>
(1) <del>Effective April 1, 2011 to December 31, 2011, three dollars and fifty cents (\$3.50) per ton of hazardous waste received and:</del>	
<u>Category</u>	<u>Fee</u>
<u>1</u>	<u>\$1,110.00</u>
<u>2</u>	<u>\$2,220.00</u>
<u>3</u>	<u>\$3,330.00</u>
<u>4</u>	<u>\$4,440.00</u>
<u>5</u>	<u>\$5,550.00</u>
(2) <del>Effective January 1, 2012 to December 31, 2012, four dollars (\$4.00) per ton of hazardous waste received and:</del>	
<u>Category</u>	<u>Fee</u>
<u>1</u>	<u>\$1,221.00</u>
<u>2</u>	<u>\$2,442.00</u>
<u>3</u>	<u>\$3,663.00</u>
<u>4</u>	<u>\$4,884.00</u>
<u>5</u>	<u>\$6,105.00</u>
(3) <del>Effective January 1, 2013, four dollars and fifty cents (\$4.50) per ton of hazardous waste received and:</del>	
<u>Category</u>	<u>Fee</u>
<u>1</u>	<u>\$1,332.00</u>
<u>2</u>	<u>\$2,664.00</u>
<u>3</u>	<u>\$3,996.00</u>
<u>4</u>	<u>\$5,328.00</u>
<u>5</u>	<u>\$6,660.00</u>

*Authority G.S. 130A-295.02(h).*

**15A NCAC 13A .0118 STANDARDS FOR THE MANAGEMENT OF USED OIL**

- (a) 40 CFR 279.1 (Subpart A), "~~Definitions~~"; " Definitions" is incorporated by reference including subsequent amendments and editions, except that the Definition for "Used Oil" is defined by G.S. 130A-290(b) and is not incorporated by reference.

- (b) 40 CFR 279.10 through 279.12 (Subpart B), "~~Applicability~~"; "Applicability" are incorporated by reference including subsequent amendments and editions.

- (c) 40 CFR 279.20 through 279.24 (Subpart C), "Standards for Used Oil ~~Generators~~"; Generators" are incorporated by reference including subsequent amendments and editions.

- (d) 40 CFR 279.30 through 279.32 (Subpart D), "Standards for Used Oil Collection Centers and Aggregation ~~Points~~"; Points" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 279.40 through 279.47 (Subpart E), "Standards for Used Oil Transporter and Transfer ~~Facilities~~", Facilities" are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 279.50 through 279.59 (Subpart F), "Standards for Used Oil Processors and ~~Re-Refiners~~", Re-Refiners" are incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 279.60 through 279.67 (Subpart G), "Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy ~~Recovery~~", Recovery" are incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 279.70 through 279.75 (Subpart H), "Standards for Used Oil Fuel ~~Marketers~~", Marketers" are incorporated by reference including subsequent amendments and editions.

(i) 40 CFR 279.80 through ~~279.84~~ 279.82 (Subpart I), "Standards for Use as a Dust Suppressant and Disposal of Used Oil" are incorporated by reference including subsequent amendments and editions. ~~{Note: 40 CFR 279.82, editions, except that 40 CFR 279.82 which addresses used oil as a dust suppressant, is specifically not incorporated by reference. See also G.S. 130A-309.15 provides additional information for prohibited acts regarding used oil.}~~ oil, including used oil as a dust suppressant.

(j) ~~Additional State Requirements:~~

(1) ~~By July 1 of each year the following persons shall notify the Department by submitting an annual report listing the type and quantity of used oil transported, collected, and recycled during the preceding calendar year, on Department forms:~~

(A) ~~Persons transporting more than 500 gallons of used oil per week over public highways;~~

(B) ~~Collection facilities that annually receive more than 6,000 gallons of used oil excluding the volume of used oil collected from individuals that change their own personal motor oil;~~

(C) ~~Facilities that annually recycle more than 10,000 gallons of used oil; and~~

(D) ~~Public used oil collection centers.~~

(2) ~~The following persons are not required to comply with 15A NCAC 13A .0118(j)(1)~~

(A) ~~An electric utility that generates used oil which is reclaimed, recycled, or re-refined on site for use in its operations; and~~

(B) ~~An on-site burner that burns its own on-specification used oil provided that the facility is in compliance with any Air Quality permit requirements established by the Department.~~

(3) ~~An annual fee of twenty five dollars (\$25.00) shall be paid by all persons identified in 15A NCAC 13A .0118(j)(1)(A) through .0118(j)(1)(C) by July 1 of each year.~~

## **15A NCAC 13A .0119 STANDARDS FOR UNIVERSAL WASTE MANAGEMENT - PART 273**

(a) 40 CFR 273.1 through 273.9 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.

(b) 40 CFR 273.10 through 273.20 (Subpart B), "Standards for Small Quantity Handlers of Universal Waste" are incorporated by reference including subsequent amendments and editions.

(c) 40 CFR 273.30 through 273.40 (Subpart C), "Standards for Large Quantity Handlers of Universal Waste" are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 273.50 through 273.56 (Subpart D), "Standards for Universal Waste Transporters" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 273.60 through 273.62 (Subpart E), "Standards for Destination Facilities" are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 273.70 (Subpart F), "Import Requirements" is incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 273.80 through 273.81 (Subpart G), "Petitions to ~~include~~ Include Other Wastes Under 40 CFR Part 273" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 273.80(a) and (b), are not incorporated by reference.

(1) The following shall be substituted for the provisions of 40 CFR 273.80(a) ~~which were that are~~ not incorporated by reference:

Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment under this ~~Subpart~~ Subpart, and 15A NCAC ~~24B .0001~~ 15A NCAC 02I .0501 and 40 CFR 260.23.

(2) The following shall be substituted for the provisions of 40 CFR 273.80(b) ~~which were that are~~ not incorporated by reference:

To be successful, the petitioner must demonstrate to the satisfaction of the Administrator that regulation under the universal waste regulations of 40 CFR Part 273 is:

(A) appropriate for the waste or category of ~~waste~~; waste, will improve management practices for the waste or category of ~~waste~~; waste, and will improve implementation of the hazardous waste program;

(B) the petition must include the information required by ~~15A NCAC 24B .0001~~; 15A NCAC 02I .0501 and

(C) the petition shall also address as many of the factors listed in 40 CFR 273.81 as are appropriate for the waste or waste category addressed in the petition.

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

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

**CHAPTER 08 – BOARD OF CERTIFIED PUBLIC  
ACCOUNTANT EXAMINERS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of CPA Examiners intends to amend the rules cited as 21 NCAC 08F .0103 and .0502.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.nccpaboard.gov](http://www.nccpaboard.gov)

**Proposed Effective Date:** February 1, 2018

**Public Hearing:**

**Date:** November 20, 2017

**Time:** 11:30 a.m.

**Location:** NC State Board of CPA Examiners, 1101 Oberlin Road, Suite 104, Raleigh, NC 27605

**Reason for Proposed Action:** 21 NCAC 08F .0103 and .0502 are being amended to provide for criminal background checks for Uniform CPA Examination applicants and applicants for licensure in North Carolina to be able to determine good moral character of the applicants.

**Comments may be submitted to:** Robert N. Brooks, NC State Board of CPA Examiners, 1101 Oberlin Road, Suite 104, Raleigh, NC 27605; phone (919) 733-1425; fax (919) 733-4209; email [rbrooks@nccpaboard.gov](mailto:rbrooks@nccpaboard.gov)

**Comment period ends:** December 15, 2017

**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 (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

**SUBCHAPTER 08F - REQUIREMENTS FOR CERTIFIED  
PUBLIC ACCOUNTANT EXAMINATION AND  
CERTIFICATE APPLICANTS**

**SECTION .0100 - GENERAL PROVISIONS**

**21 NCAC 08F .0103 FILING OF EXAMINATION  
APPLICATIONS AND FEES**

(a) All applications for CPA examinations shall be filed with the Board and accompanied by the examination fee. The Board sets the fee for each examination at the amount that enables the Board to recover its actual costs of examination services. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned. CPA Exam applications and fee information are on the Board's website at [www.nccpaboard.gov](http://www.nccpaboard.gov) and may be requested from the Board.

(b) The initial application filed to take the examination shall include supporting documentation demonstrating that all legal requirements have been met, including:

- (1) minimum legal age;
- (2) education; and
- (3) good moral character.

(c) Any person born outside the United States shall furnish to the Board office evidence of citizenship; evidence of resident alien status; or

- (1) other bona fide evidence that the applicant is legally allowed to remain in the United States;
- (2) a notarized affidavit of intention to become a U.S. citizen; or
- (3) evidence that the applicant is a citizen of a foreign jurisdiction that extends to citizens of this State like or similar privileges to be examined.

(d) Official transcripts (originals-, not photocopies) signed by the college registrar and bearing the college seal are required to prove education and degree requirements. A letter from the college registrar of the school may be filed as documentation that the applicant has met the graduation requirements if the degree has not been awarded and posted to the transcript. No examination grades shall be released until an official transcript is filed with the Board confirming the education requirement as stated in the college registrar's letter.

(e) Applicants for re-examination shall not re-submit official transcripts, additional statements, or affidavits regarding education.

(f) To document good moral character as required by G.S. 93-12(5), three persons not related by blood or marriage to the applicant shall sign the application certifying the good moral character of the ~~applicant~~. applicant and the Board shall conduct a background check of the applicant including a check of criminal records.

(g) An applicant shall include as part of any application for the CPA examination a statement of explanation and a certified copy of the final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued, or pleaded nolo contendere to any criminal offense. An applicant shall not be required to disclose any arrest, charge, or conviction that has been expunged by the court.

(h) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(i) Two identical photographs shall accompany the application for the CPA examination. These photographs shall be of the applicant alone, 2x2 inches in size, front view, full face, taken in normal street attire without a hat or dark glasses, printed on paper with a plain light background and taken within the last six months. Photographs may be in black and white or in color. Retouched photographs shall not be accepted. Applicants shall write their names on the back of their photographs.

(j) If an applicant's name has legally changed and is different from the name on any transcript or other document supplied to the Board, the applicant shall furnish copies of the documents legally authorizing the name change.

(k) Candidates shall file initial and re-exam applications to sit for the CPA Examination on forms provided by the Board.

(l) Examination fees are valid for a six-month period from the date of the applicant's notice to schedule for the examination from the examination vendor.

(m) No application for examination shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

*Authority G.S. 93-2; 93-9(12); 93-10; 93-12(3); 93-12(4); 93-12(5); 93-12(7).*

#### **SECTION .0500 - APPLICATIONS FOR CERTIFICATES**

#### **21 NCAC 08F .0502 APPLICATION FOR CPA CERTIFICATE**

(a) A person applying for a certificate of qualification shall file with the Board an application and an experience affidavit on forms provided by the Board and supporting documentation to determine that the applicant has met the statutory and rule requirements. CPA certificate applications and fee information are on the Board's website at [www.nccpaboard.gov](http://www.nccpaboard.gov) or may be requested from the Board.

(b) The application for a CPA certificate shall include three certificates of good moral character provided by the Board and completed by ~~CPAs~~. CPAs and the Board shall conduct a background check of the applicant including a check of criminal records.

(c) An applicant shall include as part of any application for a CPA certificate a statement of explanation and a certified copy of final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued, or pleaded nolo contendere to any criminal offense. An applicant shall not be required to disclose any arrest, charge, or conviction that has been expunged by the court.

(d) If an applicant has been denied any license by any state or federal agency, the applicant shall also include as part of the application for the CPA certificate a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(e) No application for a certificate shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

*Authority G.S. 93-2; 93-9(12); 93-10; 93-12(3); 93-12(5).*

**Note from the Codifier:** The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270<sup>th</sup> day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270<sup>th</sup> day.  
This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

**TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Rule-making Agency:** Environmental Management Commission

**Rule Citation:** 15A NCAC 02L .0404-.0406, .0408, and .0409

**Effective Date:** July 1, 2017

**Date Approved by the Rules Review Commission:** September 21, 2017

**Reason for Action:** NC Session Law 2017-57 Section 13.19.(a) requires the adoption of temporary rules to define the Department's application of the requirements from SL 2015-241 until such time as permanent rulemaking is completed. NC Session Law 2015-241 Section 14.16B requires the amendment of rules that directed the owner or operator of a noncommercial underground storage tank (UST) not immediately respond to any release by trying to recover all accessible contamination. The Session Law directs the Department of Environmental Quality to classify the risk posed by a noncommercial UST discharge before the UST owner or operator is required to perform any cleanup action.

The amendments in 15A NCAC 02L .0404 clarify that the existing initial abatement actions requirements remain for a commercial UST release, and describe the emergency response, reporting, and, if determined by the Department to represent a 'high' risk, the initial abatement actions required for a noncommercial UST release in a manner consistent with SL 2015-241 Section 14.16B. The amendments in 15A NCAC 02L .0405 clarify that the Responsible Party shall comply with the existing limited site assessment requirements for a commercial UST release, and, (consistent with the initial abatement actions,) a noncommercial UST release if the release is determined by the Department to represent an unacceptable risk, in a manner consistent with SL 2015-241 Section 14.16B.

The amendments in 15A NCAC 02L .0406 differentiate the risk posed by a release of petroleum from a commercial UST, a release of motor fuel from a noncommercial UST (typically a farm tank), and a release (typically heating oil) from a noncommercial UST. An evaluation of historical data found noncommercial heating oil impacts to drinking wells extended only up to about 75 feet from the location of the release, a much shorter distance than found for commercial tanks or noncommercial motor fuel tanks, which can both reach 1000 feet (or more.) The amendments use 'high' and 'low' risk to satisfy the division in SL 2015-241 Section 14.16B between "unacceptable risk" and "low risk" noncommercial releases.

The amendments in 15A NCAC 02L .0408 clarify that the existing assessment and remediation requirements remain for a

commercial UST release and a noncommercial UST release, if determined by the Department to represent a 'high' risk, as required by SL 2015-241 Section 14.16B. The amendments also clarify that a formal soil cleanup report is only required for a 'low' risk commercial UST release, but not for noncommercial UST releases determined by the Department to be 'low' risk (as they received notification of no cleanup, no further cleanup, or no further action from the Department upon classification as 'low' risk.)

The amendments in 15A NCAC 02L .0409 includes public notification requirements for noncommercial UST releases that are determined to be 'low' risk and therefore do not have to perform initial abatement, site assessment, or other remediation to meet the groundwater or interim standards or maximum soil contaminant concentrations, as described under the preceding temporary rules.

**CHAPTER 02 - ENVIRONMENTAL MANAGEMENT**

**SUBCHAPTER 02L - GROUNDWATER CLASSIFICATION AND STANDARDS**

**SECTION .0400 - RISK-BASED ASSESSMENT AND CORRECTIVE ACTION FOR PETROLEUM UNDERGROUND STORAGE TANKS**

**15A NCAC 02L .0404 REQUIRED INITIAL ABATEMENT ACTIONS BY RESPONSIBLE PARTY**

(a) A responsible party for a commercial underground storage tank shall:

- (1) take ~~immediate~~ action to prevent any further discharge or release of petroleum from the underground storage tank; identify and mitigate any fire, ~~explosion~~ explosion, or vapor hazard; remove any free product; and comply with the requirements of Rules .0601 through ~~.0604~~ and .0604, .0701 through ~~.0703~~ and .0703, and .0705 of Subchapter ~~02N~~ 02N within 24 hours of discovery;
- (2) incorporate the requirements of 15A NCAC 02N .0704 into the submittal required under Item (3) of this Paragraph or the limited site assessment report required under 15A NCAC 02L .0405 of this Section, whichever is applicable. ~~Such~~ The submittals shall constitute compliance with the reporting requirements of 15A NCAC 02N .0704(b); and
- (3) submit within 90 days of the discovery of the discharge or release a soil contamination report containing information sufficient to show that remaining unsaturated soil in the side walls and at the base of the excavation does not contain



contaminant levels ~~which~~ that exceed either the "soil-to-groundwater" or the residential maximum soil contaminant concentrations established by the Department pursuant to 15A NCAC 02L .0411 of this Section, whichever is lower. If ~~such~~ the showing is made, the discharge or release shall be classified as low risk by the ~~Department;~~ Department as defined in Rules .0406 and .0407 of this Section.

(b) A responsible party for a noncommercial underground storage tank shall:

- (1) take necessary actions to protect public health, safety, and welfare and the environment, including actions to prevent any further discharge or release of petroleum from the noncommercial underground storage tank; to identify and mitigate any fire, explosion, or vapor hazard; and to report the release within 24 hours of discovery, in compliance with G.S. 143-215.83(a), G.S. 143-215.84(a), G.S. 143-215.85(b), and G.S. 143-215.94E; and
- (2) provide or otherwise make available any information required by the Department to determine the site risk as described in Rules .0405, .0406, and .0407 of this Section.

(c) The Department shall notify the responsible party for a noncommercial underground storage tank that no cleanup, no further cleanup, or no further action shall be required without requiring additional soil remediation pursuant to Rule .0408 of this Section, if the site is determined by the Department to be low risk. This classification shall be based on information provided to the Department that:

- (1) describes the source and type of the petroleum release, site-specific risk factors, and risk factors present in the surrounding area as defined in Rules .0406 and .0407 of this Section;
- (2) demonstrates that no remaining risk factors are present that are likely to be affected per G.S. 143-215.94V(b); or
- (3) documents that soils remaining onsite do not contain contaminant levels that exceed either the "soil-to-groundwater" or the residential maximum soil contaminant concentrations established by the Department pursuant to Rule .0411 of this Section, whichever is lower.

The Department shall reclassify the site as high risk, as defined in Rule .0406(1) of this Section, upon receipt of new information related to site conditions indicating that the discharge or release from a noncommercial underground storage tank poses an unacceptable risk or a potentially unacceptable risk to human health or the environment, as described in Rule .0407 of this Section.

*History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1; Recodified from 15A NCAC 02L .0115(c)(1)-(3); Amended Eff. December 1, 2005;*

Temporary Amendment Eff. September 29, 2017.

## 15A NCAC 02L .0405 REQUIREMENTS FOR LIMITED SITE ASSESSMENT

If the required showing for a commercial underground storage tank cannot be made or if the Department determines that a release from a noncommercial underground storage tank represents an unacceptable risk under 15A NCAC 02L .0404 of this Section, the responsible party shall submit within 120 days of the discovery of the discharge or release, or within such other greater time limit approved by the ~~Department;~~ Department pursuant to Item (10) of this Rule, a report containing information needed by the Department to classify the level of risk to human health and the environment posed by a discharge or release under 15A NCAC 02L .0406 of this Section. ~~Such~~ The report shall ~~include, at a minimum,~~ include:

- (1) a location map, based on a USGS topographic map, showing the radius of 1500 feet from the source area of a confirmed release or discharge and depicting all water supply wells and, wells, surface waters, and designated wellhead protection areas as defined in 42 U.S.C. 300h-7(e) within the 1500-foot radius. 42 U.S.C. 300h-7(e), is incorporated by reference including subsequent amendments and editions. Copies may be obtained at no cost from the U.S. Government Bookstore's website at <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap6A-subchapXII-partC-sec300h-7.htm>. The material is available for inspection at the Department of Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603. For purposes of this Section, source area means point of release or discharge from the underground storage tank system;
- (2) a determination of whether the source area of the discharge or release is within a designated wellhead protection area as defined in 42 U.S.C. 300h-7(e);
- (3) if the discharge or release is in the Coastal Plain physiographic region as designated on a map entitled "Geology of North Carolina" published by the Department in 1985, a determination of whether the source area of the discharge or release is located in an area in which there is recharge to an unconfined or semi-confined deeper aquifer ~~which~~ that is being used or may be used as a source of drinking water;
- (4) a determination of whether vapors from the discharge or release pose a threat of explosion due to the accumulation of vapors in a confined space or pose any other serious threat to public health, public ~~safety~~ safety, or the environment;
- (5) scaled site map(s) showing the location of the following ~~which~~ that are on or adjacent to the property where the source is located: site boundaries, roads, buildings, basements, floor and storm drains, subsurface utilities, septic

- tanks and leach fields, underground storage tank systems, monitoring wells, ~~borings~~ borings, and the sampling points;
- (6) the results from a limited site assessment ~~which~~ that shall include:
- (a) the analytical results from soil samples collected during the construction of a monitoring well installed in the source area of each confirmed discharge or release from a noncommercial or commercial underground storage tank and either the analytical results of a groundwater sample collected from the well or, if free product is present in the well, the amount of free product in the well. The soil samples shall be collected every five feet in the unsaturated zone unless a water table is encountered at or greater than a depth of 25 feet from land surface in which case soil samples shall be collected every 10 feet in the unsaturated zone. The soil samples shall be collected from suspected worst-case locations exhibiting visible contamination or elevated levels of volatile organic compounds in the borehole;
- (b) if any constituent in the groundwater sample from the source area monitoring well installed in accordance with Sub-item (a) of this Item, for a site meeting the high risk classification in 15A NCAC 02L .0406(1), exceeds the standards or interim standards established in 15A NCAC 02L .0202 by a factor of 10 and is a discharge or release from a commercial underground storage tank, the analytical results from a groundwater sample collected from each of three additional monitoring wells or, if free product is present in any of the wells, the amount of free product in such well. The three additional monitoring wells shall be installed as follows: as best as ~~can~~ may be determined, one upgradient of the source of contamination and two downgradient of the source of contamination ~~must~~ shall be located such that groundwater flow direction ~~can~~ may be determined; and
- (c) potentiometric data from all required wells;

- (7) the availability of public water supplies and the identification of properties served by the public water supplies within 1500 feet of the source area of a confirmed discharge or release;
- (8) the land use, including zoning if applicable, within 1500 feet of the source area of a confirmed discharge or release;
- (9) a discussion of site specific conditions or possible actions ~~which that~~ could result in lowering the risk classification assigned to the release. ~~Such~~ The discussion shall be based on information known or required to be obtained under this Paragraph; and
- (10) names and current addresses of all owners and operators of the underground storage tank systems for which a discharge or release is confirmed, the owner(s) of the land upon which such systems are located, and all potentially affected real property owners. When considering a request from a responsible party for additional time to submit the report, the Division shall consider the extent to which the request for additional time is due to factors outside of the control of the responsible party, the previous history of the person submitting the report in complying with deadlines established under the Commission's rules, the technical complications associated with assessing the extent of contamination at the site or identifying potential receptors, and the necessity for ~~immediate~~ action to eliminate an imminent threat to public health or the environment.

*History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1; Recodified from 15A NCAC 02L .0115(c)(4); Amended Eff. December 1, 2005; Temporary Amendment Eff. September 29, 2017.*

#### **15A NCAC 02L .0406 DISCHARGE OR RELEASE CLASSIFICATIONS**

The Department shall classify the risk of each known discharge or release as high, ~~intermediate~~ intermediate, or low risk unless the discharge or release has been classified under 15A NCAC 02L ~~.0404(3)~~ .0404(a)(3) or .0404(c) of this Section. For purposes of this Section:

- (1) "High risk" means that:
- (a) a water supply well, including one used for non-drinking purposes, has been contaminated by the release or discharge;
- (b) a water supply well used for drinking water is located within 1000 feet of the source area of a confirmed discharge or ~~release~~; release from a commercial underground storage tank or a noncommercial underground storage

- (c) tank storing motor fuel as defined by G.S. 143-215.94A(2)a., (7);  
a water supply well not used for drinking water is located within 250 feet of the source area of a confirmed discharge or ~~release~~; release from a commercial underground storage tank or a noncommercial underground storage tank storing motor fuel as defined by G.S. 143-215.94A(2)a., (7);
    - (d) the groundwater within 500 feet of the source area of a confirmed discharge or release from a commercial underground storage tank or a noncommercial underground storage tank storing motor fuel as defined by G.S. 143-215.94A(2)a., (7) has the potential for future use in that there is no source of water supply other than the groundwater;
    - (e) a water supply well, including one used for non-drinking purposes, is located within 150 feet of the source area of a confirmed discharge or release from a noncommercial underground storage tank storing heating oil for consumptive use on the premises;
    - ~~(e)~~(f) the vapors from the discharge or release pose a serious threat of explosion due to accumulation of the vapors in a confined space; or
    - ~~(f)~~(g) the discharge or release poses an imminent danger to public health, public safety, or the environment.
  - (2) "Intermediate risk" means that:
    - (a) surface water is located within 500 feet of the source area of a confirmed discharge or release from a commercial underground storage tank and the maximum groundwater contaminant concentration exceeds the applicable surface water quality standards and criteria found in 15A NCAC 02B .0200 by a factor of 10;
    - (b) in the Coastal Plain physiographic region as designated on a map entitled "Geology of North Carolina" published by the Department in 1985, the source area of a confirmed discharge or release from a commercial underground storage tank is located in an area in ~~which~~ that there is recharge to an unconfined or semi-confined deeper aquifer which the Department determines is being used or may be used as a source of drinking water;
  - (c) the source area of a confirmed discharge or release from a commercial underground storage tank is within a designated wellhead protection area, as defined in 42 U.S.C. 300h-7(e);
  - (d) the levels of groundwater contamination associated with a confirmed discharge or release from a commercial underground storage tank for any contaminant except ethylene dibromide, ~~benzene~~ benzene, and alkane and aromatic carbon fraction classes exceed 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard or interim standard established in 15A NCAC 02L .0202, whichever is lower; or
  - (e) the levels of groundwater contamination associated with a confirmed discharge or release from a commercial underground storage tank for ethylene dibromide and benzene exceed 1,000 times the federal drinking water standard set out in 40 CFR 141. 40 CFR 141, is incorporated by reference including subsequent amendments and editions. Copies may be obtained at no cost from the U.S. Government Bookstore's website at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol23/pdf/CFR-2015-title40-vol23-part141.pdf>. The material is available for inspection at the Department of Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603.
- (3) "Low risk" means that:
- (a) the risk posed does not fall within the ~~high or intermediate risk categories;~~ high risk category for any underground storage tank, or within the intermediate risk category for a commercial underground storage tank; or
  - (b) based on review of site-specific information, limited ~~assessment~~ assessment, or interim corrective actions, the Department determines that the discharge or release poses no significant risk to human health or the environment.
- If the criteria for more than one risk category applies, the discharge or release shall be classified at the highest risk level identified in 15A NCAC 02L .0407 of this Section.

*History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;  
*Recodified from 15A NCAC 02L .0115(d);*  
*Amended Eff. December 1, 2005;*  
*Temporary Amendment Eff. September 29, 2017.*

**15A NCAC 02L .0408 ASSESSMENT AND REMEDIATION PROCEDURES**

Assessment and remediation of soil contamination shall be addressed as follows:

- (1) At the time that the Department determines the risk posed by the discharge or release, the Department shall also determine, based on site-specific information, whether the site is "residential" or "industrial/commercial." For purposes of this Section, a site is presumed residential, but may be classified as industrial/commercial if the Department determines based on site-specific information that exposure to the soil contamination is limited in time due to the use of the site and ~~does~~ shall not involve exposure to children. For purposes of this Paragraph, "site" means both the property upon which the discharge or release has occurred and any property upon which soil has been affected by the discharge or release.
- (2) ~~The~~ For any discharge or release from a commercial underground storage tank, or for a discharge or release from a noncommercial underground storage tank classified by the Department as high risk, the responsible party shall submit a report to the Department assessing the vertical and horizontal extent of soil contamination.
- (3) For a discharge or release from a commercial underground storage tank classified by the Department as low risk, the responsible party shall submit a report demonstrating that soil contamination has been remediated to either the residential or industrial/commercial maximum soil contaminant concentration established by the Department pursuant to 15A NCAC 02L .0411 of this Section, whichever is applicable.
- (4) For a discharge or release classified by the Department as high or intermediate risk, the responsible party shall submit a report demonstrating that soil contamination has been remediated to the lower of:
  - (a) the residential or industrial/commercial maximum soil contaminant concentration, whichever is applicable, that has been established by the Department pursuant to 15A NCAC 02L .0411 of this Section; or
  - (b) the "soil-to-groundwater" maximum soil contaminant concentration that has been established by the

Department pursuant to 15A NCAC 02L .0411 of this Section.

*History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;  
*Recodified from 15A NCAC 02L .0115(i);*  
*Amended Eff. December 1, 2005;*  
*Temporary Amendment Eff. September 29, 2017.*

**15A NCAC 02L .0409 NOTIFICATION REQUIREMENTS**

(a) A responsible party who submits a corrective action plan ~~which that~~ proposes natural ~~attenuation or attenuation~~, to cleanup groundwater contamination to a standard other than a standard or interim standard established in 15A NCAC 02L .0202, or to cleanup soil other than to the standard for residential use or soil-to-groundwater contaminant concentration established pursuant to this Section, whichever is lowest, shall give notice to: the local Health Director and the chief administrative officer of each political jurisdiction in which the contamination occurs; all property owners and occupants within or contiguous to the area containing the contamination; and all property owners and occupants within or contiguous to the area where the contamination is expected to migrate. ~~Such~~ The notice shall describe the nature of the plan and the reasons supporting it. Notification shall be made by certified mail concurrent with the submittal of the corrective action plan. Approval of the corrective action plan by the Department shall be postponed for a period of 30 days following receipt of the request so that the Department may consider comments submitted. The responsible party shall, within a time frame determined by the Department to be sufficient, provide the Department with a copy of the notice and proof of receipt of each required notice, or of refusal by the addressee to accept delivery of a required notice. If notice by certified mail to occupants under this Paragraph is impractical, the responsible party ~~may~~ shall give notice by posting ~~such~~ the notice ~~prominently~~ in a manner designed to give actual notice to the occupants. If notice is made to occupants by posting, the responsible party shall provide the Department with a copy of the posted notice and a description of the manner in which such posted notice was given.

(b) A responsible party who receives a notice pursuant to 15A NCAC 02L .0404(c) or .0407(d) of this Section for a discharge or release ~~which that~~ has not been remediated to the groundwater standards or interim standards established in Rule .0202 of this Subchapter or to the lower of the residential or soil-to-groundwater contaminant concentrations established under 15A NCAC 02L .0411 of this Section, shall, within 30 days of the receipt of such notice, provide a copy of the notice to: the local Health Director and the chief administrative officer of each political jurisdiction in which the contamination occurs; all property owners and occupants within or contiguous to the area containing contamination; and all property owners and occupants within or contiguous to the area where the contamination is expected to migrate. Notification shall be made by certified mail. The responsible party shall, within a time frame determined by the Department, provide the Department with proof of receipt of the copy of the notice, or of refusal by the addressee to accept

delivery of the copy of the notice. If notice by certified mail to occupants under this Paragraph is impractical, the responsible party ~~may~~ shall give notice by posting a copy of the notice ~~prominently~~ in a manner designed to give actual notice to the occupants. If notice is made to occupants by posting, the responsible party shall provide the Department with a description of the manner in which ~~such~~ the posted notice was given.

*History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1; Recodified from 15A NCAC 02L .0115(j) and (k); Amended Eff. December 1, 2005; Temporary Amendment Eff. September 29, 2017.*

*This Section contains information for the meeting of the Rules Review Commission September 21, 2017 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS****Appointed by Senate**

Jeff Hyde (1<sup>st</sup> Vice Chair)  
Robert A. Bryan, Jr.  
Margaret Currin  
Jay Hemphill  
Jeffrey A. Poley

**Appointed by House**

Garth Dunklin (Chair)  
Andrew P. Atkins  
Anna Baird Choi  
Paul Powell  
Jeanette Doran

**COMMISSION COUNSEL**

Abigail Hammond (919)431-3076  
Amber Cronk May (919)431-3074  
Amanda Reeder (919)431-3079  
Jason Thomas (919)431-3081

**RULES REVIEW COMMISSION MEETING DATES**

October 19, 2017                      November 16, 2017  
December 14, 2017                  January 18, 2017

---

**RULES REVIEW COMMISSION MEETING  
MINUTES****September 21, 2017**

The Rules Review Commission met on Thursday, September 21, 2017, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew P. Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Jeff Poley, and Paul Powell.

Staff members present were Commission Counsels Amanda Reeder, Abigail Hammond, Amber Cronk May, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 10:01 a.m. with Chairman Dunklin presiding.

Chairman Dunklin read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

Commissioner Doran introduced Nada Modhazi, a student at Raleigh Charter High School, to the Commission.

**APPROVAL OF MINUTES**

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the August 17, 2017 meeting. There were none and the minutes were approved as distributed.

**FOLLOW UP MATTERS****Child Care Commission**

10A NCAC 09 .0102, .0201, .0204, .0205, .0301, .0302, .0304, .0403, .0508, .0509, .0510, .0511, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0608, .0701, .0702, .0703, .0704, .0705, .0707, .0710, .0711, .0712, .0713, .0714, .0801, .0802, .0803, .0804, .0806, .0901, .0902, .0903, .1001, .1002, .1003, .1004, .1005, .1101, .1102, .1103, .1104, .1105, .1106, .1301, .1302, .1303, .1304, .1401, .1402, .1403, .1701, .1702, .1703, .1704, .1706, .1707, .1708, .1709, .1710, .1711, .1712, .1713, .1714, .1716, .1718, .1719, .1720, .1721, .1722, .1723, .1724, .1725, .1726, .1727, .1728, .1729, .1730, .1801, .1802, .1803, .1804, .1901, .1903, .2101, .2102, .2214, .2215, .2318, .2401, .2402, .2403, .2404, .2405,

.2406, .2407, .2408, .2409, .2410, .2411, .2501, .2502, .2503, .2504, .2505, .2506, .2507, .2508, .2509, .2510, .2512, .2901, .2902, .2903, .2904, .2905, .3001, .3002, .3003, .3005, .3006, .3007, .3008, .3009, .3010, .3011, .3012, .3013, .3014, .3015, .3016, and .3017 – All rules were unanimously approved.

**Commission for Mental Health, Developmental Disabilities and Substance Abuse Services**

The Commission reviewed the rewritten rules in response to the June 15, 2017 objections. The Commission continued their objections to Rules .0205 and .0206 in accordance with G.S. 150B-21.12.

The Commission approved 10A NCAC 27H .0202, .0203, and .0204. In accordance with 26 NCAC 05 .0114, the Commission made their approval of Rule .0203 contingent upon a technical change to Item (5). The agency subsequently submitted Rule .0203 to satisfy the contingency.

The Commission objected to 10A NCAC 27H .0205, finding that the Commission for MH/DD/SAS lacked the statutory authority regarding (a), (e), (f), and (g).

The Commission also objected to 10A NCAC 27H .0206, finding that (b) was ambiguous as written with Commissioners Atkins, Choi, and Currin voting against the objection.

Commissioner Poley left the meeting during this discussion. He was not present for the vote concerning these Rules or for the remainder of the meeting.

Commissioner Hyde left the meeting during this discussion. He was not present for any discussion or vote for the remainder of the meeting before the closed session.

Richard P. Leissner, Jr., General Counsel for Trillium Health Resources, addressed the Commission.

William Walton, with the Attorney General's office, representing the agency, addressed the Commission.

Denise Baker, the rulemaking coordinator with the agency, addressed the Commission.

The meeting went into recess at 11:48 a.m. The meeting resumed at 11:57 a.m.

**Social Services Commission**

10A NCAC 70I .0101, .0201, .0202, .0302, .0305, .0306, .0308, .0405, .0503, .0504, .0506, .0601, .0604, .0609, .0613, and .0614 – All rules were unanimously approved.

**Social Services Commission**

10A NCAC 97B .0401, .0402, .0403; 97C .0104, .0106, .0108, .0109, and .0111 - The agency is addressing the objections from the July meeting. No action was required by the Commission.

Chairman Dunklin introduced OAH extern Haley McLoud to the Commission.

**LOG OF FILINGS (PERMANENT RULES)***Pre-Reviewed Rules***Radiation Protection Commission**

10A NCAC 15 .0611 was unanimously approved.

**Commission for Public Health Title 10A**

All rules were unanimously approved.

**Board of Recreational Therapy Licensure**

All rules were unanimously approved.

*Non Pre-Reviewed Rules***Criminal Justice Education and Training Standards Commission**

All rules were approved. Counsel advised the Commission to object due to failure to comply with the APA, but the Commission determined that the agency substantially complied with the APA pursuant to G.S. 150B-18, with Commissioner Doran voting against.

Whitney Belich, with the Attorney General's office, representing the agency, addressed the Commission.

Charminique Williams, the rulemaking coordinator with the agency, addressed the Commission.

**Wildlife Resources Commission**

All rules were unanimously approved.

**Commission for Public Health Title 15A**

All rules were unanimously approved.

**Local Government Commission**

All rules were unanimously approved.

**Board of Chiropractic Examiners**

21 NCAC 10 .0306 was unanimously approved.

Prior to the review of the rule from the Board of Chiropractic Examiners, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rule because her law firm provides legal services to the Board.

**Veterinary Medical Board**

21 NCAC 66 .0108 was unanimously approved.

**Building Code Council**

All rules were unanimously approved.

Barry Gupton, the rulemaking coordinator with the agency, addressed the Commission.

**LOG OF RULES (TEMPORARY RULES)****Environmental Management Commission**

All rules were unanimously approved.

**EXISTING RULES REVIEW****Banking Commission**

04 NCAC 03 - The Commission unanimously approved the report as submitted by the agency.

**Commission for Public Health**

10A NCAC 43A - The Commission unanimously approved the report as submitted by the agency.

**Commission for Public Health**

10A NCAC 43B - The Commission unanimously approved the report as submitted by the agency.

**Commission for Public Health**

10A NCAC 43F - The Commission unanimously approved the report as submitted by the agency.

**Social Services Commission**

10A NCAC 70H - The Commission unanimously approved the report as submitted by the agency.

The Commission previously deferred review of this report from the August meeting pursuant to Rule 26 NCAC 05 .0210 because it had a question regarding a discrepancy in the report.

**Board of Pharmacy**

21 NCAC 46 – The Commission unanimously approved the report as submitted by the agency.



**North Carolina Psychology Board**

21 NCAC 54 - The Commission unanimously approved the report as submitted by the agency.

**Department of Revenue**

17 NCAC 05 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than June 30, 2018 pursuant to G.S. 150B-21.3A(d)(2).

**Interpreter and Transliterator Licensing Board**

21 NCAC 25 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than January 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

**Board of Landscape Architects**

21 NCAC 26 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than January 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

**Board of Funeral Service**

21 NCAC 34 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than September 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Prior to the review of the readoption of the rules from the Board of Funeral Service, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the readoption of these Rules because her law firm provides legal services to the Board.

**COMMISSION BUSINESS**

The Commission voted on the rescheduling of the December meeting date. The December meeting will be held on December 14, 2017.

At 12:35 p.m., Chairman Dunklin ended the public meeting of the Rules Review Commission and called the meeting into closed session pursuant to G.S. 143-318.11(a)(3) to discuss the lawsuit filed by the State Board of Education against the Rules Review Commission.

The Commission came out of closed session and reconvened at 1:25 p.m., along with Commissioner Hyde.

The meeting adjourned at 1:25 p.m.

The next regularly scheduled meeting of the Commission is Thursday, October 19<sup>th</sup> at 10:00 a.m.

There is a digital recording of the entire meeting available from the Office of Administrative Hearings /Rules Division.

Respectfully Submitted,

---

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:

---

Garth Dunklin, Chair

**September 21, 2017**

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Rebel Stegman	DAHS/SS
Wanda G. Blevins	NCSS /PIT/ITK
Regent - L	NC DOS
Betsy Lettles	American Heart Assoc
Thomas R. Sullivan	NC Board of Chiropractic Examiners
Wisa Bradley	NC DOT
Mar Ann Bugher	NC DHHS /DAH/NSA
Tom M. Kelly	NCUMB
Curt P. Wilson	BOP
Carole Hollis	OSBM
Betsy Garrett	NCBRTL
Joseph Hays	IVC DPH
Nada Moez	
JOHN SEIBERT	NC DOR
Tricia Angeli	DPH
Cindy Callahan	DPH
Christina McLaurin	NCBFS
Jon Granger	NC DHHS
W. Denise Baker	NC DHHS DMH /DD/CA
Carrie Ruhoffman	NC WRC
Tamara Zmuda	NC DOS

**September 21, 2017**

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
William Walton	NC DOJ
Jenny Rollins	NC RPS
Christy Britt	NC RPS
Alexi Grober	NC DOJ
Kimberly Mallady	NC DCDEE
BARBY STEPTON	NC DOI/NCBCC
Chuck Church	NC DMV
Whitney Belich	NC DOJ
Richard Leissner	Trillium Health Resources
Jennifer Everett	DEQ
Katie Bosken	NC OCOB
Kristin Pke	NC OCOB
Lorrie Christy	NC OCOB
John Barkley	DOJ for DHHS
Charmique Williams	CJET
Nancy Sunn	NC DOJ
Laura Phoebe	DST
Heather West	NC DSS
Loni Pugh	NC DCDEE
Dan Am	DCET
Carlotta Duxon	DSS

Name	Agency
Shannon Deaton	NC Wildlife
Bob MARTIN	NC DPH
DAVID HATTOM	DHHS
Anna Davis	D & J
Maggie Crann	Bd Landscape Arch.
Janice Keith	DMV
Helen Vande	POT
Jeremy Poplawski	DEQ
Linda L Smith	DEQ
JAMES M. EDWARDS	DEQ
Scott Bulmer	DEQ



STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Street address:  
1711 New Hope Church Rd  
Raleigh, NC 27609-6285

September 21, 2017

John Seibert, Rulemaking Coordinator  
Department of Revenue  
Post Office Box 871  
Raleigh, North Carolina 27602

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 17 NCAC 05

Dear Mr. Seibert:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the September 21, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than June 30, 2018.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond  
Commission Counsel

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
---	---	---	---	---	---

An Equal Employment Opportunity Employer

**RRC DETERMINATION  
PERIODIC RULE REVIEW  
June 15, 2017  
APO Review: August 19, 2017  
Revenue, Department of  
Total: 11**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>
17 <a href="#"><u>NCAC 05B .1105</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05B .1108</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05B .1110</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05B .1406</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05C .0101</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05C .0403</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05C .0801</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05C .0907</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05C .1506</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05C .1702</u></a>	Necessary with substantive public interest
17 <a href="#"><u>NCAC 05D .0112</u></a>	Necessary with substantive public interest



STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Street address:  
1711 New Hope Church Rd  
Raleigh, NC 27609-6285

September 21, 2017

Caitlin Schwab, Rulemaking Coordinator  
Interpreter and Transliterator Licensing Board  
Post Office Box 20963  
Raleigh, North Carolina 27619

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 25

Dear Ms. Schwab:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the September 21, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than January 31, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond  
Commission Counsel

cc: John Green

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
fax: 919/431-3104

Judges and  
Assistants  
919/431-3000  
fax: 919/431-3100

Clerk's Office  
919/431-3000  
fax: 919/431-3100

Rules Review  
Commission  
919/431-3000  
fax: 919/431-3104

Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION  
PERIODIC RULE REVIEW**

**May 18, 2017**

**APO Review: July 22, 2017**

**Interpreter and Transliterator Licensing Board**

**Total: 2**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>
<u>21 NCAC 25 .0205</u>	Necessary with substantive public interest
<u>21 NCAC 25 .0501</u>	Necessary with substantive public interest

DRAFT





STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Street address:  
1711 New Hope Church Rd  
Raleigh, NC 27609-6285

September 21, 2017

Jeff Gray, Rulemaking Coordinator  
Board of Landscape Architects  
Post Office Box 1351  
Raleigh, North Carolina 27602

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 26

Dear Mr. Gray:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the September 21, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than January 31, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond  
Commission Counsel

cc: Margaret Craven

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
fax: 919/431-3104

Judges and  
Assistants  
919/431-3000  
fax: 919/431-3100

Clerk's Office  
919/431-3000  
fax: 919/431-3100

Rules Review  
Commission  
919/431-3000  
fax: 919/431-3104

Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION  
PERIODIC RULE REVIEW  
June 15, 2017  
APO Review: August 19, 2017  
Landscape Architects, Board of  
Total: 15**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>
21 NCAC 26 .0101	Necessary with substantive public interest
21 NCAC 26 .0103	Necessary with substantive public interest
21 NCAC 26 .0105	Necessary with substantive public interest
21 NCAC 26 .0201	Necessary with substantive public interest
21 NCAC 26 .0206	Necessary with substantive public interest
21 NCAC 26 .0207	Necessary with substantive public interest
21 NCAC 26 .0209	Necessary with substantive public interest
21 NCAC 26 .0210	Necessary with substantive public interest
21 NCAC 26 .0211	Necessary with substantive public interest
21 NCAC 26 .0301	Necessary with substantive public interest
21 NCAC 26 .0303	Necessary with substantive public interest
21 NCAC 26 .0306	Necessary with substantive public interest
21 NCAC 26 .0307	Necessary with substantive public interest
21 NCAC 26 .0401	Necessary with substantive public interest
21 NCAC 26 .0510	Necessary with substantive public interest



**STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Street address:  
1711 New Hope Church Rd  
Raleigh, NC 27609-6285

September 21, 2017

Christina McLaurin, Rulemaking Coordinator  
Board of Funeral Service  
1033 Wade Avenue, Suite 108  
Raleigh, North Carolina 27605

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 34**

Dear Mrs. McLaurin:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the September 21, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than September 30, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond  
Commission Counsel

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
fax: 919/431-3104

Judges and  
Assistants  
919/431-3000  
fax: 919/431-3100

Clerk's Office  
919/431-3000  
fax: 919/431-3100

Rules Review  
Commission  
919/431-3000  
fax: 919/431-3104

Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION  
PERIODIC RULE REVIEW  
June 15, 2017  
APO Review: August 19, 2017  
Funeral Service, Board of  
Total: 6**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>
21 <u>NCAC 34A .0201</u>	Necessary with substantive public interest
21 <u>NCAC 34B .0310</u>	Necessary with substantive public interest
21 <u>NCAC 34C .0305</u>	Necessary with substantive public interest
21 <u>NCAC 34D .0105</u>	Necessary with substantive public interest
21 <u>NCAC 34D .0203</u>	Necessary with substantive public interest
21 <u>NCAC 34D .0303</u>	Necessary with substantive public interest

**LIST OF APPROVED PERMANENT RULES**  
**September 21, 2017 Meeting**

**CHILD CARE COMMISSION**

<u>Definitions</u>	10A NCAC 09 .0102
<u>Inspections</u>	10A NCAC 09 .0201
<u>Changes Requiring Issuance of a New License</u>	10A NCAC 09 .0204
<u>Parental Access</u>	10A NCAC 09 .0205
<u>Pre-Licensing Requirements</u>	10A NCAC 09 .0301
<u>Application for a License for a Child Care Facility</u>	10A NCAC 09 .0302
<u>On-Going Requirements for a License</u>	10A NCAC 09 .0304
<u>Temporary Licenses for Centers</u>	10A NCAC 09 .0403
<u>Activity Schedules and Plans</u>	10A NCAC 09 .0508
<u>Learning Environment</u>	10A NCAC 09 .0509
<u>Activity Areas</u>	10A NCAC 09 .0510
<u>Activities for Children Under Two Years of Age</u>	10A NCAC 09 .0511
<u>Safe Environment</u>	10A NCAC 09 .0601
<u>Condition of Indoor Equipment and Furnishings</u>	10A NCAC 09 .0602
<u>Overnight Furnishings</u>	10A NCAC 09 .0603
<u>Safety Requirements</u>	10A NCAC 09 .0604
<u>Condition of Outdoor Learning Environment</u>	10A NCAC 09 .0605
<u>Safe Sleep Practices</u>	10A NCAC 09 .0606
<u>Emergency Preparedness and Response</u>	10A NCAC 09 .0607
<u>Prevention of Shaken Baby Syndrome and Abusive Head Trauma</u>	10A NCAC 09 .0608
<u>Health Standards for Child Care Providers, Substitute Pro...</u>	10A NCAC 09 .0701
<u>Standards for Substitutes and Volunteers</u>	10A NCAC 09 .0702
<u>General Statutory Requirements</u>	10A NCAC 09 .0703
<u>Preservice Requirements for Child Care Administrators</u>	10A NCAC 09 .0704
<u>Special Training Requirements</u>	10A NCAC 09 .0705
<u>In-Service Training Requirements</u>	10A NCAC 09 .0707
<u>Preservice Requirements for Lead Teachers, Teachers and A...</u>	10A NCAC 09 .0710
<u>Preservice Requirements for other Staff</u>	10A NCAC 09 .0711
<u>Staff/Child Ratios for Centers With A Licensed Capacity o...</u>	10A NCAC 09 .0712
<u>Staff/Child Ratios for Centers</u>	10A NCAC 09 .0713
<u>Other Staffing Requirements</u>	10A NCAC 09 .0714
<u>Application for Enrollment</u>	10A NCAC 09 .0801
<u>Emergency Medical Care</u>	10A NCAC 09 .0802
<u>Administering Medication</u>	10A NCAC 09 .0803
<u>Infectious and Contagious Diseases</u>	10A NCAC 09 .0804
<u>Toileting, Clothing and Linens</u>	10A NCAC 09 .0806
<u>General Nutrition Requirements</u>	10A NCAC 09 .0901
<u>General Nutrition Requirements for Infants</u>	10A NCAC 09 .0902
<u>Requirements for Children Aged 24 Months and Older</u>	10A NCAC 09 .0903
<u>Seat and Child Safety Seats</u>	10A NCAC 09 .1001
<u>Safe Vehicles</u>	10A NCAC 09 .1002
<u>Safe Procedures</u>	10A NCAC 09 .1003

<u>Staff/Child Ratios</u>	10A NCAC 09 .1004
<u>Off Premise Activities</u>	10A NCAC 09 .1005
<u>New Staff Orientation</u>	10A NCAC 09 .1101
<u>Health and Safety Training Requirements</u>	10A NCAC 09 .1102
<u>On-Going Training Requirements</u>	10A NCAC 09 .1103
<u>Professional Development Plan</u>	10A NCAC 09 .1104
<u>Training Approval</u>	10A NCAC 09 .1105
<u>Documentation of In-Service Training</u>	10A NCAC 09 .1106
<u>Building Code Requirements for Centers</u>	10A NCAC 09 .1301
<u>Building Code Requirements for Child Care Centers</u>	10A NCAC 09 .1302
<u>Building Code Requirements for Small Group Facilities Lic...</u>	10A NCAC 09 .1303
<u>Requirements for Child Care Centers Licensed in a Residence</u>	10A NCAC 09 .1304
<u>Indoor Space</u>	10A NCAC 09 .1401
<u>Outdoor Space</u>	10A NCAC 09 .1402
<u>Aquatic Involving Water</u>	10A NCAC 09 .1403
<u>General Provisions Related to Licensure of Homes</u>	10A NCAC 09 .1701
<u>Application for a License for a Family Child Care Home</u>	10A NCAC 09 .1702
<u>On-Going Requirements for Family Child Care Home Operators</u>	10A NCAC 09 .1703
<u>Caregiver Interactions</u>	10A NCAC 09 .1704
<u>Nutrition Standards</u>	10A NCAC 09 .1706
<u>Building Requirements</u>	10A NCAC 09 .1707
<u>Pre-Licensing Requirements</u>	10A NCAC 09 .1708
<u>Inspections</u>	10A NCAC 09 .1709
<u>Access to the Family Child Care Home</u>	10A NCAC 09 .1710
<u>Supervision of Children</u>	10A NCAC 09 .1711
<u>Written Plan of Care</u>	10A NCAC 09 .1712
<u>Emergency Medical Care</u>	10A NCAC 09 .1713
<u>Emergency Preparedness and Response</u>	10A NCAC 09 .1714
<u>Failure to Maintain Requirements</u>	10A NCAC 09 .1716
<u>Requirements for Daily Operations</u>	10A NCAC 09 .1718
<u>Requirements for a Safe Indoor/Outdoor Environment</u>	10A NCAC 09 .1719
<u>Medication Requirements Environment</u>	10A NCAC 09 .1720
<u>Requirements for Records</u>	10A NCAC 09 .1721
<u>Prohibited Discipline</u>	10A NCAC 09 .1722
<u>Transportation Requirements</u>	10A NCAC 09 .1723
<u>Safe Sleep Practices</u>	10A NCAC 09 .1724
<u>Sanitation Requirements for Family Child Care Homes</u>	10A NCAC 09 .1725
<u>Prevention of Shaken Baby Syndrome and Abusive Head Trauma</u>	10A NCAC 09 .1726
<u>Discipline Policy</u>	10A NCAC 09 .1727
<u>Overnight Care</u>	10A NCAC 09 .1728
<u>Additional Caregiver and Substitute Provider Qualifications</u>	10A NCAC 09 .1729
<u>Activities Involving Water</u>	10A NCAC 09 .1730
<u>Supervision</u>	10A NCAC 09 .1801
<u>Staff/Child Interactions</u>	10A NCAC 09 .1802
<u>Prohibited Discipline</u>	10A NCAC 09 .1803
<u>Discipline Policy</u>	10A NCAC 09 .1804
<u>Notification to County Departments of Social Services</u>	10A NCAC 09 .1901

<u>Investigation Procedures</u>	10A NCAC 09 .1903
<u>Centers Operating under G.S. 110-106</u>	10A NCAC 09 .2101
<u>Use of Corporal Punishment</u>	10A NCAC 09 .2102
<u>Schedule of Civil Penalties for Family Child Care Homes</u>	10A NCAC 09 .2214
<u>Denial of License</u>	10A NCAC 09 .2215
<u>Care Center Records Retention</u>	10A NCAC 09 .2318
<u>Scope</u>	10A NCAC 09 .2401
<u>Definitions</u>	10A NCAC 09 .2402
<u>Special Provisions for Licensure</u>	10A NCAC 09 .2403
<u>Inclusion/Exclusion Requirements</u>	10A NCAC 09 .2404
<u>Admission Requirements</u>	10A NCAC 09 .2405
<u>Staff/Child Ratios</u>	10A NCAC 09 .2406
<u>Space Requirements</u>	10A NCAC 09 .2407
<u>Staff Qualifications</u>	10A NCAC 09 .2408
<u>Children's Records</u>	10A NCAC 09 .2409
<u>Children's Activities</u>	10A NCAC 09 .2410
<u>Nutrition Requirements</u>	10A NCAC 09 .2411
<u>Scope</u>	10A NCAC 09 .2501
<u>Special Provisions for Summer Day Camps</u>	10A NCAC 09 .2502
<u>Building Code Requirements</u>	10A NCAC 09 .2503
<u>Space Requirements</u>	10A NCAC 09 .2504
<u>Health Requirements for Children</u>	10A NCAC 09 .2505
<u>General Safety Requirements</u>	10A NCAC 09 .2506
<u>Operating Policies</u>	10A NCAC 09 .2507
<u>Age Appropriate Activities</u>	10A NCAC 09 .2508
<u>Activities: Off Premises</u>	10A NCAC 09 .2509
<u>Staff Qualifications</u>	10A NCAC 09 .2510
<u>Developmental Day Centers</u>	10A NCAC 09 .2512
<u>Scope</u>	10A NCAC 09 .2901
<u>License</u>	10A NCAC 09 .2902
<u>Staff Qualifications</u>	10A NCAC 09 .2903
<u>Program Requirements</u>	10A NCAC 09 .2904
<u>Family Services</u>	10A NCAC 09 .2905
<u>Scope</u>	10A NCAC 09 .3001
<u>Facility Requirements</u>	10A NCAC 09 .3002
<u>Program Attendance Policy</u>	10A NCAC 09 .3003
<u>Child Health Assessments</u>	10A NCAC 09 .3005
<u>Developmental Screening</u>	10A NCAC 09 .3006
<u>Early Learning Standards and Curricula</u>	10A NCAC 09 .3007
<u>Formative Assessments</u>	10A NCAC 09 .3008
<u>Staff-to-Child Ratio and Class Size</u>	10A NCAC 09 .3009
<u>Family Engagement</u>	10A NCAC 09 .3010
<u>NC Pre-K Site-Level Administrator Qualifications</u>	10A NCAC 09 .3011
<u>NC Pre-K Teacher Education, Licensure and Credentials</u>	10A NCAC 09 .3012
<u>NC Pre-K Teacher Assistant Education and Credentials</u>	10A NCAC 09 .3013
<u>NC Pre-K Substitute Staff</u>	10A NCAC 09 .3014
<u>Instructional Staff Standards</u>	10A NCAC 09 .3015

<u>Professional Development Requirements</u>	10A NCAC 09 .3016
<u>Children with Unique Needs and Challenging Behaviors</u>	10A NCAC 09 .3017
<b>RADIATION PROTECTION COMMISSION</b>	
<u>Computed Tomography (CT) X-Ray Systems</u>	10A NCAC 15 .0611
<b>MENTAL HEALTH, COMMISSION FOR</b>	
<u>Definitions</u>	10A NCAC 27H .0202
<u>Eligibility for Training</u>	10A NCAC 27H .0203
<u>Training and Certification</u>	10A NCAC 27H .0204
<b>PUBLIC HEALTH, COMMISSION FOR</b>	
<u>Definitions</u>	10A NCAC 43D .0202
<u>References</u>	10A NCAC 43D .0203
<u>Use of Food Instruments and Cash Value Vouchers</u>	10A NCAC 43D .0703
<u>Vendor Applicants</u>	10A NCAC 43D .0707
<u>Authorized Vendors</u>	10A NCAC 43D .0708
<b>SOCIAL SERVICES COMMISSION</b>	
<u>Licensing Actions</u>	10A NCAC 70I .0101
<u>Definitions</u>	10A NCAC 70I .0201
<u>Responsibility to Licensing Authority</u>	10A NCAC 70I .0202
<u>Responsibilities of the Governing Body</u>	10A NCAC 70I .0302
<u>Recordkeeping and Reporting</u>	10A NCAC 70I .0305
<u>Client Rights</u>	10A NCAC 70I .0306
<u>Normalcy for Foster Children</u>	10A NCAC 70I .0308
<u>Personnel Positions</u>	10A NCAC 70I .0405
<u>Admission Agreement</u>	10A NCAC 70I .0503
<u>Orientation</u>	10A NCAC 70I .0504
<u>Client Records</u>	10A NCAC 70I .0506
<u>Program Policies and Practices</u>	10A NCAC 70I .0601
<u>Health Services</u>	10A NCAC 70I .0604
<u>Recreation and Leisure Activities</u>	10A NCAC 70I .0609
<u>Discipline and Behavior Management</u>	10A NCAC 70I .0613
<u>Critical Incidents and Critical Incident Reports</u>	10A NCAC 70I .0614
<b>CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION</b>	
<u>Summary Suspensions</u>	12 NCAC 09A .0206
<u>Minimum Standards for Criminal Justice Officers</u>	12 NCAC 09B .0101
<u>Medical Examination</u>	12 NCAC 09B .0104
<u>Basic Law Enforcement Training</u>	12 NCAC 09B .0205
<u>Criminal Justice Instructor Training</u>	12 NCAC 09B .0209
<u>Certification of Instructors</u>	12 NCAC 09B .0301
<u>General Instructor Certification</u>	12 NCAC 09B .0302
<u>Evaluation for Training Waiver</u>	12 NCAC 09B .0403
<u>Criminal Justice Instructor Training Course</u>	12 NCAC 09B .0410
<u>Request for Training Course Accreditation</u>	12 NCAC 09C .0210
<u>Lateral Transfer of Law Enforcement Officers</u>	12 NCAC 09C .0306



<u>Minimum Training Specifications: Annual In-Service Training</u>	12 NCAC 09E .0105
<u>Annual In-Service Firearms Qualification Specifications</u>	12 NCAC 09E .0106
<u>Moral Character</u>	12 NCAC 09G .0206
<u>Corrections Instructor Training Course</u>	12 NCAC 09G .0313
<u>Instructor Training</u>	12 NCAC 09G .0414

### **WILDLIFE RESOURCES COMMISSION**

<u>Endangered Species Listed</u>	15A NCAC 10I .0103
<u>Threatened Species Listed</u>	15A NCAC 10I .0104
<u>Special Concern Species Listed</u>	15A NCAC 10I .0105

### **PUBLIC HEALTH, COMMISSION FOR**

<u>Definitions</u>	15A NCAC 18A .1801
<u>Permits</u>	15A NCAC 18A .1802
<u>Public Display of Grade Card</u>	15A NCAC 18A .1803
<u>Inspections</u>	15A NCAC 18A .1804
<u>Inspection Forms</u>	15A NCAC 18A .1805
<u>Grading</u>	15A NCAC 18A .1806
<u>Approved Lodging Establishments</u>	15A NCAC 18A .1807
<u>Lobby: Halls: Stairs: and Vending Areas</u>	15A NCAC 18A .1808
<u>Lavatories and Baths</u>	15A NCAC 18A .1809
<u>Water Supply</u>	15A NCAC 18A .1810
<u>Drinking Water Facilities</u>	15A NCAC 18A .1811
<u>Guestrooms</u>	15A NCAC 18A .1812
<u>Storage and Laundry Facilities</u>	15A NCAC 18A .1813
<u>Disposal of Garbage and Trash: Premises</u>	15A NCAC 18A .1814
<u>Severability</u>	15A NCAC 18A .1815
<u>Appeals Procedure</u>	15A NCAC 18A .1817
<u>Plan Review</u>	15A NCAC 18A .1818
<u>Definitions</u>	15A NCAC 18A .1821
<u>Management and Personnel</u>	15A NCAC 18A .1822
<u>Food</u>	15A NCAC 18A .1823
<u>Equipment and Utensils</u>	15A NCAC 18A .1824
<u>Water, Plumbing, and Waste</u>	15A NCAC 18A .1825
<u>Physical Facilities</u>	15A NCAC 18A .1826
<u>Premises, Storage, Poisonous or Toxic Materials</u>	15A NCAC 18A .1827
<u>Laundry and Linens</u>	15A NCAC 18A .1828
<u>Permits</u>	15A NCAC 18A .1829
<u>Public Display of Grade Card</u>	15A NCAC 18A .1830
<u>Inspections and Reinspections</u>	15A NCAC 18A .1831
<u>Grading</u>	15A NCAC 18A .1832
<u>Application and Plan Review</u>	15A NCAC 18A .1833
<u>Informal Review Process and Appeals Procedure</u>	15A NCAC 18A .1834
<u>Definitions</u>	15A NCAC 18A .2201
<u>Permits</u>	15A NCAC 18A .2202
<u>Inspections: Visits: Posting of Grade Card</u>	15A NCAC 18A .2203
<u>Inspection Forms</u>	15A NCAC 18A .2204
<u>Grading</u>	15A NCAC 18A .2205

<u>Floors</u>	15A NCAC 18A .2206
<u>Walls and Ceilings</u>	15A NCAC 18A .2207
<u>Lighting and Ventilation</u>	15A NCAC 18A .2208
<u>Toilet: Handwashing: Laundry: and Bathing Facilities</u>	15A NCAC 18A .2209
<u>Water Supply</u>	15A NCAC 18A .2210
<u>Drinking Water Facilities: Ice Handling</u>	15A NCAC 18A .2211
<u>Disposal of Wastes</u>	15A NCAC 18A .2212
<u>Vermin Control: Premises</u>	15A NCAC 18A .2213
<u>Storage: Miscellaneous</u>	15A NCAC 18A .2214
<u>Beds: Linen: Furniture</u>	15A NCAC 18A .2215
<u>Food Service Utensils and Equipment</u>	15A NCAC 18A .2216
<u>Food Supplies</u>	15A NCAC 18A .2217
<u>Food Protection</u>	15A NCAC 18A .2218
<u>Food Service Persons</u>	15A NCAC 18A .2219
<u>Severability</u>	15A NCAC 18A .2220
<u>Appeals Procedure</u>	15A NCAC 18A .2221
<u>Definitions</u>	15A NCAC 18A .3001
<u>Permits</u>	15A NCAC 18A .3002
<u>Inspections: Visits: Posting of Grade Cards</u>	15A NCAC 18A .3003
<u>Inspection Forms</u>	15A NCAC 18A .3004
<u>Grading</u>	15A NCAC 18A .3005
<u>Food Source and Protection</u>	15A NCAC 18A .3006
<u>Food Service Persons</u>	15A NCAC 18A .3007
<u>Food Service Utensils and Equipment and Their Cleaning</u>	15A NCAC 18A .3008
<u>Lavatories and Bathrooms</u>	15A NCAC 18A .3009
<u>Water Supply</u>	15A NCAC 18A .3010
<u>Drinking Water Facilities</u>	15A NCAC 18A .3011
<u>Beds: Linen</u>	15A NCAC 18A .3012
<u>Vermin Control: Premises</u>	15A NCAC 18A .3013
<u>Storage: Miscellaneous</u>	15A NCAC 18A .3014
<u>Floors: Walls: Ceilings: Lighting: Ventilation</u>	15A NCAC 18A .3015
<u>Disposal of Garbage and Trash</u>	15A NCAC 18A .3016

#### **LOCAL GOVERNMENT COMMISSION**

<u>Organization and Functions</u>	20 NCAC 03 .0101
<u>General Information</u>	20 NCAC 03 .0701
<u>Petition for Hearing</u>	20 NCAC 03 .1003

#### **CHIROPRACTIC EXAMINERS, BOARD OF**

<u>Publication of Non-Diplomate Credentials</u>	21 NCAC 10 .0306
---	------------------

#### **RECREATIONAL THERAPY LICENSURE, BOARD OF**

<u>Complaints</u>	21 NCAC 65 .1001
<u>Investigations</u>	21 NCAC 65 .1002
<u>Letter of Notification</u>	21 NCAC 65 .1003
<u>Unauthorized Practice</u>	21 NCAC 65 .1004
<u>Sanctions</u>	21 NCAC 65 .1005
<u>Violations</u>	21 NCAC 65 .1006

Hearings

21 NCAC 65 .1007

**VETERINARY MEDICAL BOARD**

Fees

21 NCAC 66 .0108

---

**LIST OF APPROVED TEMPORARY RULES**  
**September 21, 2017 Meeting**

**ENVIRONMENTAL MANAGEMENT COMMISSION**

Required Initial Abatement Actions By Responsible Party

15A NCAC 02L .0404

Requirements for Limited Site Assessment

15A NCAC 02L .0405

Discharge or Release Classifications

15A NCAC 02L .0406

Assessment and Remediation Procedures

15A NCAC 02L .0408

Notification Requirements

15A NCAC 02L .0409

---

**RRC Determination**  
**Periodic Rule Review**  
**September 21, 2017**  
**Necessary with substantive public interest**

**Banking Commission**

04 NCAC 03E .0101	04 NCAC 03J .0305	04 NCAC 03L .0501
04 NCAC 03E .0102	04 NCAC 03J .0306	04 NCAC 03L .0502
04 NCAC 03E .0201	04 NCAC 03J .0401	04 NCAC 03L .0601
04 NCAC 03E .0204	04 NCAC 03J .0402	04 NCAC 03L .0602
04 NCAC 03E .0302	04 NCAC 03K .0101	04 NCAC 03L .0603
04 NCAC 03E .0401	04 NCAC 03K .0201	04 NCAC 03M .0101
04 NCAC 03E .0402	04 NCAC 03K .0202	04 NCAC 03M .0102
04 NCAC 03E .0601	04 NCAC 03K .0203	04 NCAC 03M .0201
04 NCAC 03E .0602	04 NCAC 03K .0204	04 NCAC 03M .0202
04 NCAC 03F .0201	04 NCAC 03K .0205	04 NCAC 03M .0203
04 NCAC 03F .0301	04 NCAC 03K .0206	04 NCAC 03M .0204
04 NCAC 03F .0402	04 NCAC 03K .0301	04 NCAC 03M .0205
04 NCAC 03F .0501	04 NCAC 03K .0302	04 NCAC 03M .0206
04 NCAC 03F .0504	04 NCAC 03K .0401	04 NCAC 03M .0401
04 NCAC 03F .0505	04 NCAC 03K .0402	04 NCAC 03M .0402
04 NCAC 03F .0506	04 NCAC 03K .0403	04 NCAC 03M .0403
04 NCAC 03F .0507	04 NCAC 03K .0404	04 NCAC 03M .0501
04 NCAC 03F .0508	04 NCAC 03K .0405	04 NCAC 03M .0502
04 NCAC 03F .0509	04 NCAC 03K .0501	04 NCAC 03M .0602
04 NCAC 03F .0601	04 NCAC 03K .0502	04 NCAC 03M .0701
04 NCAC 03F .0602	04 NCAC 03K .0601	04 NCAC 03M .0702
04 NCAC 03H .0102	04 NCAC 03K .0701	04 NCAC 03M .0703
04 NCAC 03H .0103	04 NCAC 03K .0702	
04 NCAC 03J .0101	04 NCAC 03K .0703	
04 NCAC 03J .0201	04 NCAC 03L .0101	
04 NCAC 03J .0202	04 NCAC 03L .0102	
04 NCAC 03J .0203	04 NCAC 03L .0201	
04 NCAC 03J .0204	04 NCAC 03L .0202	
04 NCAC 03J .0205	04 NCAC 03L .0301	
04 NCAC 03J .0301	04 NCAC 03L .0302	
04 NCAC 03J .0302	04 NCAC 03L .0303	
04 NCAC 03J .0303	04 NCAC 03L .0401	
04 NCAC 03J .0304	04 NCAC 03L .0402	
	04 NCAC 03L .0403	

**Psychology Board**

21 NCAC 54 .1605
21 NCAC 54 .1607
21 NCAC 54 .1608
21 NCAC 54 .1609
21 NCAC 54 .1610
21 NCAC 54 .1611
21 NCAC 54 .1612
21 NCAC 54 .1701
21 NCAC 54 .1702
21 NCAC 54 .1703

<u>21 NCAC 54 .1705</u>	<u>21 NCAC 54 .2101</u>	<u>21 NCAC 54 .2401</u>
<u>21 NCAC 54 .1706</u>	<u>21 NCAC 54 .2102</u>	<u>21 NCAC 54 .2402</u>
<u>21 NCAC 54 .1707</u>	<u>21 NCAC 54 .2103</u>	<u>21 NCAC 54 .2601</u>
<u>21 NCAC 54 .1802</u>	<u>21 NCAC 54 .2104</u>	<u>21 NCAC 54 .2701</u>
<u>21 NCAC 54 .1803</u>	<u>21 NCAC 54 .2202</u>	<u>21 NCAC 54 .2703</u>
<u>21 NCAC 54 .1901</u>	<u>21 NCAC 54 .2203</u>	<u>21 NCAC 54 .2704</u>
<u>21 NCAC 54 .1903</u>	<u>21 NCAC 54 .2301</u>	<u>21 NCAC 54 .2705</u>
<u>21 NCAC 54 .1904</u>	<u>21 NCAC 54 .2302</u>	<u>21 NCAC 54 .2706</u>
<u>21 NCAC 54 .2001</u>	<u>21 NCAC 54 .2303</u>	<u>21 NCAC 54 .2801</u>
<u>21 NCAC 54 .2002</u>	<u>21 NCAC 54 .2304</u>	<u>21 NCAC 54 .2802</u>
<u>21 NCAC 54 .2005</u>	<u>21 NCAC 54 .2305</u>	<u>21 NCAC 54 .2803</u>
<u>21 NCAC 54 .2006</u>	<u>21 NCAC 54 .2308</u>	<u>21 NCAC 54 .2804</u>
<u>21 NCAC 54 .2007</u>	<u>21 NCAC 54 .2309</u>	<u>21 NCAC 54 .2805</u>
<u>21 NCAC 54 .2008</u>	<u>21 NCAC 54 .2311</u>	<u>21 NCAC 54 .2806</u>
<u>21 NCAC 54 .2009</u>	<u>21 NCAC 54 .2314</u>	

---

**RRC Determination  
Periodic Rule Review  
September 21, 2017  
Necessary without substantive public interest**

**Banking Commission**

04 NCAC 03A .0101  
04 NCAC 03B .0101  
04 NCAC 03B .0102  
04 NCAC 03B .0103  
04 NCAC 03B .0105  
04 NCAC 03B .0219  
04 NCAC 03B .0220  
04 NCAC 03B .0221  
04 NCAC 03B .0222  
04 NCAC 03B .0223  
04 NCAC 03B .0224  
04 NCAC 03B .0225  
04 NCAC 03B .0226  
04 NCAC 03B .0227  
04 NCAC 03B .0228  
04 NCAC 03B .0301  
04 NCAC 03B .0302  
04 NCAC 03B .0303  
04 NCAC 03B .0304  
04 NCAC 03C .0901  
04 NCAC 03C .0902  
04 NCAC 03C .0903  
04 NCAC 03C .0904  
04 NCAC 03C .0905  
04 NCAC 03C .1001  
04 NCAC 03C .1002  
04 NCAC 03C .1401  
04 NCAC 03C .1402  
04 NCAC 03C .1601  
04 NCAC 03C .1702  
04 NCAC 03C .1801  
04 NCAC 03D .0105  
04 NCAC 03D .0201  
04 NCAC 03D .0302  
04 NCAC 03D .0303  
04 NCAC 03D .0304

**Public Health, Commission for**

10A NCAC 43A .0102  
10A NCAC 43A .0103  
10A NCAC 43A .0104  
10A NCAC 43B .0101  
10A NCAC 43B .0103  
10A NCAC 43B .0104  
10A NCAC 43B .0105  
10A NCAC 43B .0109  
10A NCAC 43F .1201  
10A NCAC 43F .1202  
10A NCAC 43F .1203  
10A NCAC 43F .1204

**Social Services Commission**

10A NCAC 70H .0113  
10A NCAC 70H .0114  
10A NCAC 70H .0201  
10A NCAC 70H .0301  
10A NCAC 70H .0302  
10A NCAC 70H .0401  
10A NCAC 70H .0402  
10A NCAC 70H .0403  
10A NCAC 70H .0404  
10A NCAC 70H .0405  
10A NCAC 70H .0406  
10A NCAC 70H .0407  
10A NCAC 70H .0408  
10A NCAC 70H .0409

**Pharmacy, Board of**

21 NCAC 46 .1201  
21 NCAC 46 .1202  
21 NCAC 46 .1203  
21 NCAC 46 .1205  
21 NCAC 46 .1206

21 NCAC 46 .1317  
21 NCAC 46 .1401  
21 NCAC 46 .1410  
21 NCAC 46 .1411  
21 NCAC 46 .1412  
21 NCAC 46 .1413  
21 NCAC 46 .1414  
21 NCAC 46 .1415  
21 NCAC 46 .1416  
21 NCAC 46 .1417  
21 NCAC 46 .1418  
21 NCAC 46 .1501  
21 NCAC 46 .1502  
21 NCAC 46 .1503  
21 NCAC 46 .1504  
21 NCAC 46 .1505  
21 NCAC 46 .1601  
21 NCAC 46 .1602  
21 NCAC 46 .1603  
21 NCAC 46 .1604  
21 NCAC 46 .1606  
21 NCAC 46 .1607  
21 NCAC 46 .1608  
21 NCAC 46 .1609  
21 NCAC 46 .1610  
21 NCAC 46 .1612  
21 NCAC 46 .1613  
21 NCAC 46 .1614  
21 NCAC 46 .1703  
21 NCAC 46 .1706  
21 NCAC 46 .1801  
21 NCAC 46 .1802  
21 NCAC 46 .1803  
21 NCAC 46 .1804  
21 NCAC 46 .1805  
21 NCAC 46 .1806  
21 NCAC 46 .1809

<u>21 NCAC 46 .1811</u>	<u>21 NCAC 46 .2108</u>	<u>21 NCAC 46 .2612</u>
<u>21 NCAC 46 .1812</u>	<u>21 NCAC 46 .2109</u>	<u>21 NCAC 46 .2613</u>
<u>21 NCAC 46 .1813</u>	<u>21 NCAC 46 .2201</u>	<u>21 NCAC 46 .2701</u>
<u>21 NCAC 46 .1814</u>	<u>21 NCAC 46 .2301</u>	<u>21 NCAC 46 .2702</u>
<u>21 NCAC 46 .1815</u>	<u>21 NCAC 46 .2302</u>	<u>21 NCAC 46 .2703</u>
<u>21 NCAC 46 .1816</u>	<u>21 NCAC 46 .2303</u>	<u>21 NCAC 46 .2704</u>
<u>21 NCAC 46 .1817</u>	<u>21 NCAC 46 .2304</u>	<u>21 NCAC 46 .2705</u>
<u>21 NCAC 46 .1818</u>	<u>21 NCAC 46 .2305</u>	<u>21 NCAC 46 .2706</u>
<u>21 NCAC 46 .1901</u>	<u>21 NCAC 46 .2401</u>	<u>21 NCAC 46 .2801</u>
<u>21 NCAC 46 .1904</u>	<u>21 NCAC 46 .2402</u>	<u>21 NCAC 46 .2901</u>
<u>21 NCAC 46 .1905</u>	<u>21 NCAC 46 .2403</u>	<u>21 NCAC 46 .3001</u>
<u>21 NCAC 46 .1906</u>	<u>21 NCAC 46 .2501</u>	<u>21 NCAC 46 .3101</u>
<u>21 NCAC 46 .1907</u>	<u>21 NCAC 46 .2502</u>	<u>21 NCAC 46 .3201</u>
<u>21 NCAC 46 .1908</u>	<u>21 NCAC 46 .2504</u>	<u>21 NCAC 46 .3202</u>
<u>21 NCAC 46 .1909</u>	<u>21 NCAC 46 .2505</u>	<u>21 NCAC 46 .3204</u>
<u>21 NCAC 46 .2001</u>	<u>21 NCAC 46 .2506</u>	<u>21 NCAC 46 .3205</u>
<u>21 NCAC 46 .2004</u>	<u>21 NCAC 46 .2507</u>	<u>21 NCAC 46 .3206</u>
<u>21 NCAC 46 .2005</u>	<u>21 NCAC 46 .2508</u>	<u>21 NCAC 46 .3207</u>
<u>21 NCAC 46 .2006</u>	<u>21 NCAC 46 .2509</u>	<u>21 NCAC 46 .3208</u>
<u>21 NCAC 46 .2007</u>	<u>21 NCAC 46 .2510</u>	<u>21 NCAC 46 .3209</u>
<u>21 NCAC 46 .2008</u>	<u>21 NCAC 46 .2511</u>	<u>21 NCAC 46 .3210</u>
<u>21 NCAC 46 .2009</u>	<u>21 NCAC 46 .2512</u>	<u>21 NCAC 46 .3211</u>
<u>21 NCAC 46 .2010</u>	<u>21 NCAC 46 .2513</u>	<u>21 NCAC 46 .3301</u>
<u>21 NCAC 46 .2011</u>	<u>21 NCAC 46 .2601</u>	<u>21 NCAC 46 .3401</u>
<u>21 NCAC 46 .2013</u>	<u>21 NCAC 46 .2602</u>	<u>21 NCAC 46 .3402</u>
<u>21 NCAC 46 .2014</u>	<u>21 NCAC 46 .2603</u>	<u>21 NCAC 46 .3404</u>
<u>21 NCAC 46 .2015</u>	<u>21 NCAC 46 .2604</u>	<u>21 NCAC 46 .3501</u>
<u>21 NCAC 46 .2016</u>	<u>21 NCAC 46 .2605</u>	
<u>21 NCAC 46 .2102</u>	<u>21 NCAC 46 .2606</u>	<b>Psychology Board</b>
<u>21 NCAC 46 .2103</u>	<u>21 NCAC 46 .2607</u>	<u>21 NCAC 54 .1602</u>
<u>21 NCAC 46 .2104</u>	<u>21 NCAC 46 .2608</u>	<u>21 NCAC 54 .1606</u>
<u>21 NCAC 46 .2105</u>	<u>21 NCAC 46 .2609</u>	
<u>21 NCAC 46 .2106</u>	<u>21 NCAC 46 .2610</u>	
<u>21 NCAC 46 .2107</u>	<u>21 NCAC 46 .2611</u>	

**RRC Determination  
Periodic Rule Review  
September 21, 2017  
Unnecessary**

**Banking Commission**

04 NCAC 03M .0301

**Public Health, Commission for**

10A NCAC 43A .0105  
10A NCAC 43A .0106  
10A NCAC 43A .0107  
10A NCAC 43A .0201  
10A NCAC 43A .0202  
10A NCAC 43A .0203  
10A NCAC 43A .0204  
10A NCAC 43A .0205  
10A NCAC 43A .0206  
10A NCAC 43A .0301  
10A NCAC 43A .0302  
10A NCAC 43A .0303  
10A NCAC 43A .0304  
10A NCAC 43A .0305

10A NCAC 43A .0306  
10A NCAC 43A .0401  
10A NCAC 43A .0402  
10A NCAC 43A .0403  
10A NCAC 43A .0404  
10A NCAC 43A .0501  
10A NCAC 43A .0502  
10A NCAC 43A .0503  
10A NCAC 43A .0504  
10A NCAC 43A .0505  
10A NCAC 43A .0506  
10A NCAC 43A .0801  
10A NCAC 43A .0802  
10A NCAC 43A .0803  
10A NCAC 43A .0804  
10A NCAC 43A .0805  
10A NCAC 43A .0806  
10A NCAC 43A .0807

10A NCAC 43A .0808  
10A NCAC 43B .0106  
10A NCAC 43B .0107  
10A NCAC 43B .0108  
10A NCAC 43B .0201  
10A NCAC 43B .0202  
10A NCAC 43B .0203  
10A NCAC 43B .0204  
10A NCAC 43B .0205  
10A NCAC 43B .0206  
10A NCAC 43B .0301  
10A NCAC 43B .0302  
10A NCAC 43B .0303  
10A NCAC 43B .0304  
10A NCAC 43B .0305  
10A NCAC 43B .0306  
10A NCAC 43F .1101  
10A NCAC 43F .1102

10A NCAC 43F .1103  
10A NCAC 43F .1104  
10A NCAC 43F .1105

**Pharmacy, Board of**

21 NCAC 46 .1506  
21 NCAC 46 .1605  
21 NCAC 46 .1611  
21 NCAC 46 .1808  
21 NCAC 46 .1902

21 NCAC 46 .1903  
21 NCAC 46 .1911  
21 NCAC 46 .1912  
21 NCAC 46 .1913  
21 NCAC 46 .2503  
21 NCAC 46 .3203

**Psychology Board**

21 NCAC 54 .1704  
21 NCAC 54 .1902

21 NCAC 54 .2307  
21 NCAC 54 .2310  
21 NCAC 54 .2501  
21 NCAC 54 .2502  
21 NCAC 54 .2503  
21 NCAC 54 .2504  
21 NCAC 54 .2505  
21 NCAC 54 .2602

*This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: [oah.clerks@oah.nc.gov](mailto:oah.clerks@oah.nc.gov) or phone 919-431-3000.*

**OFFICE OF ADMINISTRATIVE HEARINGS**

**Chief Administrative Law Judge**  
**JULIAN MANN, III**

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

**ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter  
Don Overby  
J. Randall May  
David Sutton

A. B. Elkins II  
Selina Malherbe  
J. Randolph Ward  
Stacey Bawtinheimer

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<b><u>PUBLISHED</u></b>			
16	DHR	09325	8/2/2017	Stephanie Worthington	v.	Division of Child Development and Early Education - Department of Health and Human Services	Lassiter
17	DHR	01107	8/17/2017	Singleton Care Inc Moses Singleton III	v.	DHHS Hearing Office DMA	Sutton
17	DHR	01513	8/21/2017	Marion Lynnette Garner	v.	Division of Child Development and Early Education Department of Health and Human Services	Bawtinheimer
17	DHR	03178	8/31/2017	Dawn Mifflin	v.	North Carolina Medicaid Recovery	Malherbe
17	DHR	04110	8/10/2017	Abby Sherer	v.	NC Department of Health and Human Services, Nutrition Services, Child & Adult Care Food Program	Bawtinheimer
				-			
16	DOJ	09922	8/10/2017	Kurt Anthony Henderson	v.	North Carolina Criminal Justice Education and Training Standards Commission	Overby
				-			
17	DST	03940	8/1/2017	Richard E Britt	v.	Long Term Disability Section NC Department of State Treasurer	Bawtinheimer
				-			
16	EDC	12271	8/24/2017	Norma J McLamb	v.	North Carolina Department of Public Instruction	May
10	EHR	05508	8/23/2017	House of Raeford Farms, Inc.	v.	North Carolina Department of Environment and Natural Resources, Division of Water Quality	Elkins
15	EHR	05784	2/10/2016; 2/11/2016; 8/7/2017	EnvironmentalLee, Chatham Citizens Against Coal Ash Dump, and Blue Ridge	v.	NC Department of Environment Quality, Division of Water Resources	Ward

**CONTESTED CASE DECISIONS**

				Environmental Defense League, Inc.			
				-			
17	INS	000840	8/23/2017	Lynda Dalton	v.	North Carolina State Health Plan for Teachers and State Employees	Overby
17	INS	01822	8/28/2017	Keturah E Hawkins	v.	NC State Health Plan	Bawtinheimer
17	INS	01825	8/28/2017	Jane Herrin Barlow Dickens	v.	NC State Health Plan	Bawtinheimer
17	INS	02497	8/31/2017	Randy E Little	v.	State Health Plan	Lassiter
17	INS	03278	8/31/2017	Cynthia L Oak	v.	North Carolina State Health Plan Subscriber ID: YPYW12464206	Sutton
15	OSP	01091	8/31/2017	Joevelyn Heard-Leak	v.	NC State University Center for Urban Affairs	Overby
16	OSP	09161	8/21/2017	Daniel Smith	v.	NC Department of Public Instruction	Overby
16	OSP	11993	8/1/2017	Selwyn Pitt	v.	Longleaf Neuro-Medical Treatment Center	Overby
17	OSP	01269	8/17/2017	Jeffrey Hunt	v.	NC Department of Public Safety	Lassiter
17	SOS	02392	8/8/2017	Tyree Vonzell Brown	v.	Secretary of State Notary	Ward
17	SOS	03325	8/9/2017	Sandra J OHara-Harmon	v.	Secretary of State NC	Ward
				<b><u>UNPUBLISHED</u></b>			
17	ABC	03167	8/10/2017	NC Alcoholic Beverage Control Commission	v.	Stop Then Go LLC T/A Stop Then Go	Ward
17	CPS	03159	8/15/2017	Jessica Aguilar	v.	NC Crime Victims Compensation Commission- NC Dept of Public Safety	Mann
17	CPS	04254	8/10/2017	Ian Kleinfeld	v.	NC Crime Victims Compensation Commission	Overby
17	CPS	04257	8/15/2017	Timothy Bryan Mozingo	v.	North Carolina Highway Patrole	Malherbe
16	CSE	08053	8/14/2017	Nicole Hope Hassell	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Elkins
16	CSE	10134	8/11/2017	Emmanuel W Julmisse	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
16	CSE	10243	8/14/2017	Pamela Lovelace	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
16	CSE	10330	8/9/2017	Patrick Green	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	10635	8/9/2017	Charlie Guy	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	10758	8/9/2017	Abderrahim Nouaim	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward



**CONTESTED CASE DECISIONS**

16	CSE	10884	8/14/2017	Michael D Hicks	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	10975	8/14/2017	Ronald S Lawson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	11179	8/9/2017	Odishi N Scott	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	11181	8/9/2017	Clay R Dellinger	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	11213	8/14/2017	Willie J Thompson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	11256	8/16/2017	Steven D Billings	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	11307	8/7/2017	Michael D Thomas	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
16	CSE	11438	8/9/2017	Jeffery L McKiver	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	11439	8/14/2017	John C Burdett Jr.	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	11492	8/15/2017	Linda M Sears	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	11494	8/22/2017	Darryl Wilson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	11597	8/22/2017	Zachary J Mayo	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	11879	8/18/2017	Lakee Banks	v.	Guilford County Child Support Enforcement DHS	Ward
16	CSE	12278	8/18/2017	Nathan A Leigh	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
17	CSE	00339	8/14/2017	Willie L Hardy Jr.	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
17	CSE	00639	8/18/2017	Andrew L Gibson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
17	CSE	01466	8/14/2017	David C Cornelius	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Elkins
17	CSE	01569	8/18/2017	Manuel D Gonzalez	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
17	CSE	02334	8/14/2017	Bango Enyinnaya	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins

**CONTESTED CASE DECISIONS**

17	CSE	02466	8/18/2017	Corey R Spence	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
17	CSE	03239	8/18/2017	Xavier Almonte	v.	North Carolina Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
17	CSE	03640	8/14/2017	Hong Zhang	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	DCS	11024	8/9/2017	Harvey C Swift	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	DCS	11723	8/21/2017	Chanese Adams	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	DHR	11994	8/16/2017	Maltese Fuller Agape Family Care Home	v.	DHSR-DHHS	Ward
16	DHR	11995	8/16/2017	Maltese Fuller Agape FCH II	v.	DHSR-DHHS	Ward
17	DHR	02131	8/29/2017	William Vinson, President of East Carolina Vintage Farm Equipment Club	v.	Wayne County Health Department, Environmental Health Division	Elkins
17	DHR	03241	8/15/2017	Ogadinma Akagha J & D Healthcare Services	v.	NC Div. of Medical Ass. Program Integrity Unit	Mann
17	DHR	04151	8/3/2017	Rachel Walters	v.	DHHS	Lassiter
17	DHR	04156	8/7/2017	Michael Holliday	v.	NC Department of Health and Human Services Office of Legal Affairs, Adams Building	Overby
17	DHR	04214	8/11/2017	Crystal C Wages	v.	Division of Child Development and Early Education- DHHS	Malherbe
17	DHR	04476	8/23/2017	Dominique Cupres Marcus	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
17	DOJ	02127	8/10/2017	Angela May Bush	v.	NC Private Protective Services Board	Bawtinhimer
17	DOT	00762	8/24/2017	Susan Sparks McKenzie	v.	North Carolina Department of Transportation	Mann
17	DOT	04215	8/15/2017	William Delmar Covington	v.	State of North Carolina Department of Transportation	Ward
17	INS	01179	8/24/2017	Jennifer B Sandlin	v.	North Carolina State Health Plan	Ward
17	OSP	02785	8/1/2017	Ray Brown	v.	Fayetteville State University	Overby
17	OSP	03402	8/14/2017	Kelvin T Lomax	v.	NC Department of Health and Human Services	Ward
17	OSP	04025	8/8/2017	Fannie K Bishi	v.	NC Department of Health and Human Services	Sutton

---

**CONTESTED CASE DECISIONS**

---

17	UNC	02910	8/15/2017	Jeremy Smith	v.	UNC Hospitals	Mann