

NORTH CAROLINA REGISTER

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June 15, 2018

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2018 – December 2018

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	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
32:13	01/02/18	12/06/17	01/17/18	03/05/18	03/20/18	04/19/18	05/01/18	05/2018	09/29/18
32:14	01/16/18	12/19/17	01/31/18	03/19/18	03/20/18	04/19/18	05/01/18	05/2018	10/13/18
32:15	02/01/18	01/10/18	02/16/18	04/02/18	04/20/18	05/17/18	06/01/18	01/2019	10/29/18
32:16	02/15/18	01/25/18	03/02/18	04/16/18	04/20/18	05/17/18	06/01/18	01/2019	11/12/18
32:17	03/01/18	02/08/18	03/16/18	04/30/18	05/21/18	06/21/18	07/01/18	01/2019	11/26/18
32:18	03/15/18	02/22/18	03/30/18	05/14/18	05/21/18	06/21/18	07/01/18	01/2019	12/10/18
32:19	04/02/18	03/09/18	04/17/18	06/01/18	06/20/18	07/19/18	08/01/18	01/2019	12/28/18
32:20	04/16/18	03/23/18	05/01/18	06/15/18	06/20/18	07/19/18	08/01/18	01/2019	01/11/19
32:21	05/01/18	04/10/18	05/16/18	07/02/18	07/20/18	08/16/18	09/01/18	01/2019	01/26/19
32:22	05/15/18	04/24/18	05/30/18	07/16/18	07/20/18	08/16/18	09/01/18	01/2019	02/09/19
32:23	06/01/18	05/10/18	06/16/18	07/31/18	08/20/18	09/20/18	10/01/18	01/2019	02/26/19
32:24	06/15/18	05/24/18	06/30/18	08/14/18	08/20/18	09/20/18	10/01/18	01/2019	03/12/19
33:01	07/02/18	06/11/18	07/17/18	08/31/18	09/20/18	10/18/18	11/01/18	01/2019	03/29/19
33:02	07/16/18	06/22/18	07/31/18	09/14/18	09/20/18	10/18/18	11/01/18	01/2019	04/12/19
33:03	08/01/18	07/11/18	08/16/18	10/01/18	10/22/18	11/15/18	12/01/18	01/2019	04/28/19
33:04	08/15/18	07/25/18	08/30/18	10/15/18	10/22/18	11/15/18	12/01/18	01/2019	05/12/19
33:05	09/04/18	08/13/18	09/19/18	11/05/18	11/20/18	12/20/18	01/01/19	01/2019	06/01/19
33:06	09/17/18	08/24/18	10/02/18	11/16/18	11/20/18	12/20/18	01/01/19	01/2019	06/14/19
33:07	10/01/18	09/10/18	10/16/18	11/30/18	12/20/18	01/17/19	02/01/19	05/2020	06/28/19
33:08	10/15/18	09/24/18	10/30/18	12/14/18	12/20/18	01/17/19	02/01/19	05/2020	07/12/19
33:09	11/01/18	10/11/18	11/16/18	12/31/18	01/22/19	02/21/19	03/01/19	05/2020	07/29/19
33:10	11/15/18	10/24/18	11/30/18	01/14/19	01/22/19	02/21/19	03/01/19	05/2020	08/12/19
33:11	12/03/18	11/07/18	12/18/18	02/01/19	02/20/19	03/21/19	04/01/19	05/2020	08/30/19
33:12	12/17/18	11/26/18	01/01/19	02/15/19	02/20/19	03/21/19	04/01/19	05/2020	09/13/19

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

April 24, 2018

EXECUTIVE ORDER NO. 42

**DISASTER DECLARATION FOR THE TOWN OF TRYON (POLK COUNTY) AND
THE VILLAGE OF CEDAR ROCK (CALDWELL COUNTY)**

WHEREAS, the North Carolina Emergency Management Act authorizes the issuance of a disaster declaration for an emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7) and categorization of a disaster as a Type I, Type II or Type III disaster as defined in N.C. Gen. Stat. § 166A-19.21(b); and

WHEREAS, on October 8, 2017, the Town of Tryon in Polk County, North Carolina and the Village of Cedar Rock in Caldwell County, North Carolina were impacted by tornadoes spawned by the remnants of Tropical Storm Nate; and

WHEREAS, as a result of the tornadoes both the Town of Tryon and the Village of Cedar Rock proclaimed local states of emergency on October 8, 2017; and

WHEREAS, due the impact of the severe weather, a joint preliminary damage assessment was done by local, state and federal emergency management officials on October 12, 2017; and

WHEREAS, I have determined that a Type I disaster, as defined in N.C. Gen. Stat. § 166A-19.21(b)(1), exists in the State of North Carolina, specifically in the Town of Tryon in Polk County, and the Village of Cedar Rock in Caldwell County, North Carolina; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety ("Secretary of Public Safety") has provided a preliminary damage assessment to the Governor and the General Assembly; (2) the Town of Tryon and the Village of Cedar Rock declared a local state of emergency pursuant to N.C. Gen. Stat. § 166A-19.22; (3) the preliminary damage assessment meets or exceeds the state infrastructure criteria set out in N.C. Gen. Stat. § 166A-19.41(b)(2)a.; and (4) the President of the United States has not issued a major disaster declaration pursuant to the Stafford Act; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.41(b), if a disaster is declared, the Governor may make State funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State.

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

Section 1. Pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Town of Tryon in Polk, County North Carolina and the Village of Cedar Rock in Caldwell County, North Carolina, hereinafter the "Emergency Area."

Section 2. I authorize state disaster assistance in the form of public assistance grants to the eligible government(s) located within the emergency area that meets the terms and conditions under N.C. Gen. Stat. § 166A-19.41(b)(2). The public assistance grants are for the following:

- a. Debris clearance.
- b. Emergency protective measures.

Section 3. I hereby order that this declaration be: (a) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) promptly filed with the Secretary of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) distributed to others as necessary to ensure proper implementation of this declaration.

Section 4. This Type I disaster declaration shall expire sixty (60) days after issuance unless renewed by the Governor or General Assembly. Such renewals may be made in increments of thirty (30) days each, not to exceed a total of 120 days from the date of first issuance.

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 24th day of April in the year of our Lord two thousand eighteen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

May 18, 2018

EXECUTIVE ORDER NO. 43

GOVERNOR'S ADVISORY COMMITTEE ON PERFORMANCE MANAGEMENT

WHEREAS, the State of North Carolina seeks to provide the public with the greatest possible benefit for their tax dollars; and

WHEREAS, performance management is an on-going process of measuring, evaluating, and adjusting state government actions to improve outcomes for North Carolinians; and

WHEREAS, performance management supports and empowers public leaders to effectively invest and allocate public resources; and

WHEREAS, performance management practices foster a culture of continuous improvement and innovation; and

WHEREAS, performance management supports the appropriate use and dissemination of state data for the purposes of informing research-based policy and program management; and

WHEREAS, incorporating evidence on best practices can enhance the quality and efficiency of state government services.

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

Section 1. Establishment

The Governor's Advisory Committee on Performance Management ("the Committee") is hereby established.

Section 2. Membership

- a. The Committee shall consist of a minimum of ten (10) members appointed by the Governor. Members shall be state government employees, legislators, and may include outside experts in the performance management and program evaluation fields.
- b. Committee members shall serve two-year terms and may be reappointed to successive terms. Committee members shall serve at the pleasure of the Governor.
- c. The Governor's State Budget Director shall serve as the Chair of the Committee. The Committee shall select a Vice-Chair from its membership.

Section 3. Duties

Committee members shall have the following responsibilities:

- a. Advise the Governor regarding the progress of the following:
 - 1) Pew-MacArthur Results First Initiative;
 - 2) New performance management initiatives;
 - 3) Proposed or pending state legislation, rules, or policies related to performance management; and
 - 4) Strategies for increasing evidence-based policy efforts.
- b. Serve as Performance Management Ambassadors for the State, which may include the following:
 - 1) Attendance at relevant meetings at the discretion of the Committee Chair;
 - 2) Establishing and maintaining positive communications with peer states, professional organizations, and performance management stakeholders for the purpose of developing best practices in performance management; and
 - 3) Sharing information about opportunities for the Governor to support performance management practices.
- c. Advise the Governor upon request regarding other issues related to performance management.

Section 4. Meetings

- a. The Committee shall meet once a quarter and at other times at the call of the Chair, the Governor, or the Governor's designee. The Committee may conduct meetings using electronic conferencing or other electronic means.
- b. A simple majority of the Committee shall constitute a quorum for the purpose of transacting business.

Section 5. Administration

- a. The Office of State Budget and Management shall provide staff and administrative support services for the Committee.
- b. Members shall serve without compensation, but may receive necessary travel and subsistence expenses in accordance with state law and the rules and policies of the Office of State Budget and Management.

Section 6. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. This Executive Order shall remain in effect until May 31, 2022, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

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 18th of May in the year of our Lord two thousand and eighteen.


 Roy Cooper
 Governor

ATTEST:


 Elaine F. Marshall
 Secretary of State



PUBLIC NOTICE
STATE OF NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION

The Division of Energy, Mineral, and Land Resources (DEMLR) invites public comment on, or objections to, the permitting actions listed below. Persons wishing to comment or object may submit written comments to the address below by the due dates indicated. All comments received prior to the dates will be considered in the final determinations regarding permit issuance. Public comments may result in changes to the proposed permitting actions. All comments should reference the specific permitting actions listed below and the permit number. DEMLR intends to re-issue the following NPDES industrial stormwater General Permits.

NCG010000 for Construction Activities stormwater discharges: to be revised and re-issued with proposed re-issuance date 07/31/2018; public comment period ends 07/16/2018.

NCG210000 for Lumber and Wood Products stormwater discharges: to be revised and re-issued with proposed re-issuance date 07/31/2018; public comment period ends 07/16/2018.

The General Permits and Fact Sheets may be viewed 45 days in advance of the scheduled re-issuance dates noted above at: <https://deq.nc.gov/news/events/public-notice-hearings>

Please direct comments or objections to:
Stormwater Permitting Program
NC Division of Energy, Mineral, and Land Resources
1612 Mail Service Center
Raleigh, NC 27699-1612
Telephone Number: (919) 807-6381
annette.lucas@ncdenr.gov

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Medical Care Commission intends to readopt with substantive changes the rules cited as 10A NCAC 14A .0301-.0303.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www2.ncdhhs.gov/dhsr/ruleactions.html>

Proposed Effective Date: January 1, 2019

Public Hearing:

Date: August 8, 2018

Time: 2:00 p.m.

Location: Dorteia Dix Park, Brown Building, Room 104, 801 Biggs Drive, Raleigh, NC 27603

Reason for Proposed Action: Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of subchapter 10A NCAC 14A, Director, Division of Health Service Regulation, Rulemaking, three rules were determined as "Necessary With Substantive Public Interest," in Section .0300 of these Rules, thus requiring readoption. Substantive revisions have been made to these rules to clarify, update, and delete unnecessary definitions. A definition for the "Hearing Unit" was added and the federal definition for "Notice" was referenced. The rules clarified through incorporation by reference that the appeals process and hearing procedures for a nursing home resident transfer or discharge are held in accordance with the rules in 10A NCAC 22H.

Comments may be submitted to: Nadine Pfeiffer, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, NC 27699-2701; email DHSR.RulesCoordinator@dhhs.nc.gov

Comment period ends: August 14, 2018

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 14 - DIRECTOR, DIVISION OF HEALTH SERVICE REGULATION

SUBCHAPTER 14A – RULEMAKING

SECTION .0300 - HEARINGS: TRANSFERS AND DISCHARGES

10A NCAC 14A .0301 DEFINITIONS

The following definitions will apply throughout this Subchapter:

- (1) "Agency" means the Hearing Officer and his office in the Division of Health Service Regulation, Department of Health and Human Services.
- (2) "Dismissal" means the dismissal of a request for a hearing if:
 - (a) the applicant withdraws the request in writing; or
 - (b) the applicant fails to appear at a scheduled hearing without good cause.
- (3) "Division" means the North Carolina Division of Health Service Regulation of the Department of Health and Human Services.
- (4)(1) "Facility" means a nursing facility which meets the requirements of the Social Security Act as is defined in 42 CFR 483.5, 483.5 which is herein incorporated by reference, including subsequent amendments and editions. The Code of Federal Regulations may be accessed free of charge at http://www.access.gpo.gov/nara/cfr/waisidx_08/42cfr483_08.
- (5)(2) "Hearing Officer" means the person at the Hearing Unit designated to preside over hearings between residents and nursing facility providers regarding transfers and discharges.

- (3) "Hearing Unit" means the Chief Hearing Officer and his or her staff in the Division of Medical Assistance of the Department of Health and Human Services.
- (6)(4) "Notice" means a written notification of transfer or ~~discharge~~ discharge, as required by 42 CFR 483.15 (c), by the facility to the resident and either an immediate family member, if known, or if an immediate family member is not known, the authorized representative. The resident shall be handed the notice on the same day that it is dated. The notice must include: the resident's representative as defined in 42 CFR 483.5.
- (a) ~~the reason for the transfer or discharge;~~
 - (b) ~~the effective date of the transfer or discharge;~~
 - (c) ~~the location to which the resident is transferred or discharged;~~
 - (d) ~~a statement that the resident has the right to appeal to the Hearing Officer;~~
 - (e) ~~the name, address, and telephone number of the state Long Term Care Ombudsman;~~
 - (f) ~~for nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act;~~
 - (g) ~~for nursing facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act;~~
 - (h) ~~a statement that the resident has the right to review his records not later than five days prior to a hearing; and~~
 - (i) ~~a statement that the appeal will be at no cost to the resident.~~
- (7)(5) "Request for a Hearing" means a ~~clear expression, in writing, written expression~~ by the resident ~~or or, either an immediate family member, if known, or if an immediate family member is not known, the authorized or, legal representative, that he or she wants the opportunity to present his or her case to the hearing officer.~~ Hearing Officer. The "Request for Hearing Form" will suffice as a clear, expression, in writing, that a hearing is desired.
- (8) "Request for Hearing Form" means a form which that is to be given to the resident and

either an immediate family member, if known, or if an immediate family member is not known, the authorized representative, simultaneously with the Notice of Transfer or Discharge. The request for hearing form must include at the least:

- (a) ~~the date of Notice of Transfer or Discharge;~~
 - (b) ~~the date to be transferred or discharged;~~
 - (c) ~~the Division of Health Service Regulation's correct mailing address and phone number;~~
 - (d) ~~the resident's name, address, telephone number, and social security number;~~
 - (e) ~~the nursing facility's name and address;~~
 - (f) ~~the name, address, and telephone number of authorized representative; and~~
 - (g) ~~space to elect the option of a hearing by telephone or in person.~~
- (9)(6) "Resident" means any person who is receiving treatment or long-term care in a facility.
- (10)(7) "Serve" or "Service" means personal delivery, delivery by first class or certified United States Postal Service mail mail, or delivery by licensed overnight express mail, postage prepaid and addressed to the party at his or her last known address. ~~Service by mail or licensed overnight express mail is complete upon placing the item to be served, enclosed in a wrapper addressed to the person to be served, in an official depository of the United States Postal Service or upon delivery, postage prepaid and wrapped in a wrapper addressed to the person to be served, to an agent of the overnight express mail service. For purposes of service on the Division, the Hearing Officer of the Division shall be the designated agent.~~

Authority G.S. 143B-165(10); 42 U.S.C.S. 1396r(e)(3) and (f)(3); U.S.C. 1395i-3(c)(2)(B)(iii); 42 U.S.C. 1396r(e)(3); 42 U.S.C. 1396r(f)(3); 42 C.F.R. 483.5; 42 C.F.R. 483.12; 42 CFR 483.15(c); G.S. 143B-165(10).

10A NCAC 14A .0302 GENERAL

- (a) ~~The Division has established an appeal process for nursing facility residents who have been notified of transfer or discharge. All residents who have~~ Any resident who has been advised of the date of a transfer or discharge in ~~writing, writing~~ may request that the ~~Division~~ Hearing Officer set a date for a fair hearing in accordance with ~~and subject to~~ these Rules. Hearing procedures are held in accordance with rules in 10A NCAC 22H .0200, which is herein incorporated by reference, including subsequent amendments and editions. These Rules may be accessed free of charge at <http://reports.oah.state.nc.us/ncac.asp>.
- (b) ~~The Rules of Civil Procedure as contained in G.S. 1A-1 and the General Rules of Practice for the Superior and District Courts~~

as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes shall not apply in any hearings held by the Division Hearing Officer unless another specific statute or rule provides otherwise. Division hearings are not hearings within the meaning of G.S. Chapter 150B and will not be governed by the provision of that Chapter unless otherwise stated in these Rules. Parties may be represented by counsel at the hearing.

Authority G.S. 143B-165(10); 42 U.S.C.S. 1396r(e)(3) and (f)(3); U.S.C. 1395i-3(c)(2)(B)(iii); 42 U.S.C. 1396r(e)(3); 42 U.S.C. 1396r(f)(3); 42 C.F.R. 483.12; CFR 483.15(c); G.S. 143B-165(10).

10A NCAC 14A .0303 INITIATING A HEARING

(a) In order to initiate a hearing with the Hearing Officer, hearing, a resident must first have been served by the facility administrator with a written Notice of Transfer or Discharge notice and must shall file a Request for Hearing in accordance with the Rules in ~~10 NCAC 14A .0300~~ rules in 10A NCAC 22H .0200. The Request for Hearing must be in writing and must be signed by the resident. A Request for Hearing form shall be provided to the resident by the facility for this purpose.

(b) The hearing is a mechanism for listening to appeals by residents concerning disputes over transfers and discharges. The hearing shall be narrowly focused on discharge and transfer issues between the nursing facility and the resident and shall not involve Medicaid matters such as eligibility, which is the responsibility of the Medicaid hearing officer.

(c) Should an appeal of the Notice of Transfer or Discharge be desired, a Request for a Hearing, accompanied by the Notice of Transfer or Discharge, shall be served to the Hearing Officer and must be received by him no later than 11 days from the date of the facility's Notice of Transfer or Discharge. If the request for hearing has not been received within 11 days, the resident shall waive his right to appeal. The resident must be notified of the option for the hearing to be in person (face to face) or by telephone.

(d) The facility administrator must make available to the resident information and records at least five working days prior to the hearing to enable an opportunity for review and preparation. The facility administrator must forward identical information relevant to the transfer or discharge to the agency, to be received at least five working days prior to the hearing. A resident must authorize release of his medical records to the hearing officer.

Authority G.S. 143B-165(10); 42 U.S.C.S. 1396r(e)(3) and (f)(3); U.S.C. 1395i-3(c)(2)(B)(iii); 42 U.S.C. 1396r(e)(3); 42 U.S.C. 1396r(f)(3); 42 C.F.R. 483.12; CFR 483.15(c); G.S. 143B-165(10).

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education Training and Standards Commission intends to adopt the rule cited as 12 NCAC 09B .0313, amend the rules cited as 12 NCAC 09B .0101, .0301; 09C .0103, .0208, .0307, .0310; 09G .0102-.0103, .0302, .0304, .0306, .0505, .0701

and repeal the rules cited as 12 NCAC 09C .0305; 09D .0203; 09G .0603.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://ncdoj.gov/getdoc/82ec95af-b758-4888-b831-8fdd5cc9beb4/Public-Hearing-02-14-17.aspx>

Proposed Effective Date: *October 1, 2018*

Public Hearing:

Date: *August 15, 2018*

Time: *10:30 a.m.*

Location: *Wake Technical Community College-Public Safety Training Center, 321 Chapanoke Rd. Raleigh, NC 27603*

Reason for Proposed Action: *Fix typographical error in legal citation. Allow certified correction officers who move into non-certified positions to move back to certified positions without taking basic training again, unless the move to a non-certified position was for disciplinary reasons. Provide that the Standards Division may release information regarding officers only in accordance with state personnel laws. Eliminate rule redundancy. Clarify what records an agency must keep for officers with probationary certification and for officers with general certification, including officers transferring from another agency. Require agencies to keep a copy of the "drug screen panel" when an officer tests positive. Update definition of "misdemeanor" for correctional officers to conform to current crime names and classifications. Clarify time period required by statute to request a contested case hearing. Conform correctional officers to criminal justice officer regarding notification of arrest. Require DACJJ to keep pm file of each correctional officer's oath of office. Remove outdated definition of good moral character and adds cross-reference to current definition. Provide specifics for School Resource Officer training.*

Comments may be submitted to: *Charminique Williams, PO Drawer 149, Raleigh, NC 27602, phone (919)779-8206, fax (919)779-8210, email cdwilliams@ncdoj.gov.*

Comment period ends: *August 15, 2018*

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 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

12 NCAC 09B .0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE OFFICERS

Every criminal justice officer employed by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be of good moral character pursuant to G.S. 17C-10 and as evidenced by the following:
 - (a) not having been convicted of a felony;
 - (b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;
 - (c) not having been convicted of an offense that, under 18 U.S.C. 922, incorporated by reference with subsequent amendments and editions (found at no cost at (<http://www.gpo.gov/fdsys/pkg/USC-ODE-2011-title18-partI-chap44-sec922.pdf>), would prohibit the possession of a firearm or ammunition;
 - (d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at ([https://www.samhsa.gov/programs-](https://www.samhsa.gov/programs-campaigns/drug-free-)

- (e) workplace/guidelines-resources/drug-testing/certified-lab-list); submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;
- (f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;
- (g) not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to North Carolina General Statute 17C-13; and
- (h) not engage in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: re Willis, 299 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); in re State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); in re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); in re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority.
- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
- (5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements necessary to properly fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications:
 - (a) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other reliable initial and confirmatory tests as may, from time to time, be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;

- (b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
 - (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
 - (d) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions (found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>);
 - (e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment;
 - (f) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples;
- (6) have been administered a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in accordance with the rules and regulations of the United States Armed Forces within one year prior to employment by the employing agency to determine the officer's mental and emotional suitability to properly fulfill the responsibilities of the position;
- (7) have been interviewed personally by the Department head or his representative or representatives to determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate;
- (8) notify the Standards Division of all criminal offenses that the officer is arrested for or charged with, pleads no contest to, pleads guilty to or is found guilty of as well as Domestic Violence Orders (50B) that are issued by a judicial official. This shall include all criminal offenses except minor traffic offenses and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense for which the maximum punishment

allowable by law is 60 days or less. Other offenses under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions which shall be reported to the Standards Division expressly include G.S. 20-139 (persons under influence of drugs), G.S. 20-28(b)(driving while license permanently revoked or permanently suspended), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Subparagraph shall be in writing and shall specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the final disposition, and the date thereof. The notifications required under this Subparagraph shall be received by the Standards Division within 30 days of the date of arrest or charge and of case disposition. The requirements of this Subparagraph shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applicants for certification. Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of all arrests or criminal charges and final dispositions within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification, from either the officer or the executive officer, shall be sufficient notice for compliance with this Subparagraph.

Authority G.S. 17C-6; 17C-10.

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0301 CERTIFICATION OF INSTRUCTORS

(a) A person participating in a Commission-certified criminal justice training course or program as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an instructor.

(b) The Commission shall certify instructors under the following categories: General Instructor Certification, Specialized Instructor Certification, or Professional Lecturer Certification as outlined in Rules .0302, .0304 and 0306 of this Section. Instructor certification shall be granted on the basis of documented qualifications of experience, education, and training in accord with the requirements of this Section and as stated on the applicant's Request for Instructor Certification Form.

(c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a Commission-certified course shall remain competent in his or her specialized areas. Such competence shall include remaining current in the instructor's area of expertise, which shall be demonstrated by attending and successfully completing all updated instructor training courses required by the Commission.

(d) If a person certified as an instructor by the Commission is found to have knowingly and willfully violated any provision or requirement of the rules in this Subchapter, the Commission shall take action to correct the violation and to ensure that the violation does not recur, including:

- (1) issuing an oral warning and request for compliance;
- (2) issuing a written warning and request for compliance;
- (3) issuing an official written reprimand;
- (4) suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual; and
- (5) revoking the individual's certification.

(e) The Commission shall deny, suspend, or revoke an instructor's certification if the Commission finds that the person:

- (1) has failed to meet and maintain any of the requirements for qualification;
- (2) has failed to remain knowledgeable in the person's areas of expertise;
- (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the "Basic Instructor Training Manual" as found in 12 NCAC 09B .0209;
- (4) has failed to follow specific guidelines outlined in the "Basic Law Enforcement Training Course Management Guide" as found in 12 NCAC 09B .0205;
- (5) has demonstrated unprofessional personal conduct in the delivery of commission-mandated training. For the purposes of this Subparagraph, unprofessional personal conduct means an act that is: job-related conduct which constitutes a violation of State or federal law; conviction or commission of a criminal offense, as set out in 12 NCAC 09A .0204; the willful violation of Rules of this Chapter; conduct that is detrimental to instruction in the Commission's mandated courses; the abuse of a client or student whom the instructor is teaching or supervising or falsification of an instructor application or in other employment documentation;
- (6) has demonstrated instructional incompetence;
- (7) has knowingly and willfully obtained or attempted to obtain instructor certification by deceit, fraud, or misrepresentation;
- (8) has failed to meet or maintain good moral character as defined in: *re Willis*, 299 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); *State v. Harris*, 216 N.C. 746, 6 S.E. 2d 854 (1940); in *re Legg*, 325 N.C.

658, 386 S.E. 2d 174(1989); in *re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); in *re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority, and as required to effectively discharge the duties of a criminal justice instructor;

- (9) has failed to deliver training in a manner consistent with the Qualified Retired Law Enforcement Officers Firearms Qualification Certification Program as found in 12 NCAC 09H .0102; or
- (10) has knowingly and willfully aided or attempted to aid any person in obtaining qualification or certification under the Qualified Retired Law Enforcement Officers Firearms Qualification Certification Program by deceit, fraud, or misrepresentation;
- (11) has committed or been convicted of an offense which could result in the denial, suspension, or revocation of an officer's law enforcement certification, pursuant to 12 NCAC 02A .0204 or 12 NCAC 09G .0504; or
- (12) has knowingly made a material misrepresentation of any information required for certification or accreditation.

(f) When a person certified as a law enforcement officer by the North Carolina Criminal Justice Education and Training Standards Commission (Commission), the North Carolina Sheriffs Education and Training Standards Commission (Sheriffs' Commission), or the North Carolina Department of Insurance, Office of State Fire Marshal, Fire Rescue Commission (Fire Commission) and Office of Emergency Medical Services has his or her law enforcement officer or fire and rescue certification suspended or revoked by their respective Commission, that person shall report the suspension or revocation to the Criminal Justice Standards within 30-days. They shall also have their General Instructor certification (if applicable) similarly and automatically suspended or revoked for the same time period as their respective Commission certification.

- (1) This suspension or revocation of the General Instructor certification shall also include suspension or revocation to any Commission recognized Specialized or additional instructor certification, as outlined in 12 NCAC 09B .0304.
- (2) If the term of suspension or revocation exceeds the expiration date of the instructor's initial certification expiration date, they shall forfeit their certifications as a General Instructor and Specialized Instructor and shall be required to obtain certification pursuant to the requirements of 12 NCAC 09B .0302 before any instruction may be delivered in any commission approved or mandated training, including the completion of a subsequent General Instructor's training course in its entirety.

- (3) If the term of suspension or revocation does not exceed the expiration date of the instructor's initial certification expiration date, the instructor shall be reinstated as a General Instructor only upon reinstatement of his or her law enforcement officer certification by the Commission. The terms of renewal for the existing General Instructor and Specialized Instructor certifications shall remain subject to all renewal requirements pursuant to 12 NCAC 09B .0303(c) by the next immediate expiration date.

Authority G.S. 17C-6.

12 NCAC 09B .0313 CERTIFICATION TRAINING FOR SCHOOL RESOURCE OFFICER

(a) The School Resource Officer training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The course shall be for a period of not less than 40 hours.

(b) The "School Resource Officer Training" course as authored by the North Carolina Justice Academy is to be applied as basic curriculum for the school resource officer training course for law enforcement officers certified with the Commission.

(c) Law Enforcement officers assigned by their agency to perform duties as a School Resource Officer shall:

- (1) have been issued general certification by the NC Criminal Justice Education and Training Standards Commission, as a law enforcement officer; and
- (2) have completed, or complete within one year after being assigned as a School Resource Officer, the School Resource Officer the "School Resource Officer Training" course pursuant to Paragraph (b) of this Rule.

Authority G.S. 17C-6; 17C-1.

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0100 - RESPONSIBILITIES OF CRIMINAL JUSTICE STANDARDS DIVISION

12 NCAC 09C .0103 DIVULGING PERSONNEL INFORMATION

(a) A department head may request in writing and with the appropriate authorization for release information in the Division's files regarding the suitability or qualifications of a criminal justice officer for employment or retention.

(b) The Director of the Standards Division shall evaluate the request to determine what, if any, information the Division's files contain which is necessary and essential to the retention or employment of the officer or applicant.

(c) ~~The Director shall divulge such information in the Division's files as he deems necessary and essential to the retention or employment of the officer or applicant. in accordance with state~~

personnel laws. Such information shall be provided to the Department head in writing by personal delivery or personally addressed first class mail.

(d) The Standards Division shall maintain a copy of the letter divulging such information in the personnel file of the subject officer or applicant.

Authority G.S. 17C-9.

SECTION .0200 - FORMS

12 NCAC 09C .0208 REPORT OF SEPARATION

The Affidavit of Separation and Report of Separation is used for reporting the date of and reason for the separation of a criminal justice ~~office~~ officer from the employing agency. An agency separating a person from employment or appointment as a criminal justice officer shall, not later than 10 days after separation, forward to the Commission a properly completed Report of Separation. The date of separation would be the date the criminal justice officer resigned or the date the employing agency terminated the employee.

Authority G.S. 17C-6.

SECTION .0300 - CERTIFICATION OF CRIMINAL JUSTICE OFFICERS

12 NCAC 09C .0305 REPORT OF SEPARATION

~~An agency separating a person from employment or appointment as a criminal justice officer shall, not later than 10 days after separation, forward to the Commission a properly completed Report of Separation.~~

Authority G.S. 17C-6.

12 NCAC 09C .0307 AGENCY RETENTION OF RECORDS OF CERTIFICATION

Each agency shall place in personnel files the official notification from the Commission of either probationary or general certification for each criminal justice officer employed or appointed by the agency. Such files shall be available for examination at any reasonable time by representatives of the Commission for the purpose of verifying compliance with these Rules. The personnel files shall also contain:

- (1) Criminal Justice Officer with probationary certification:
 - ~~(1)(a)~~ the officer's Personal History Statement;
 - ~~(2)(b)~~ the officer's Medical History Statement and Medical Examination Report;
 - ~~(3)(c)~~ documentation of the officer's drug screening results;
 - ~~(4)(d)~~ for the criminal justice officer, the Commission's Mandated Background Investigation Form as completed by the agency's investigator; ~~for criminal justice officers employed by the North Carolina Department of Correction, a~~

- ~~written summary of the Background Investigation conducted on the officer;~~
- ~~(5)(e)~~ a written summary of the officer's Qualifications Appraisal Interview;
 - ~~(6)(f)~~ documentation of the officer's educational achievements;
 - ~~(7)(g)~~ documentation of all criminal justice training completed by the officer;
 - ~~(8)(h)~~ the results of the officer's fingerprint record check;
 - ~~(9)(i)~~ a written summary of the officer's psychological examination results; ~~and~~
 - ~~(10)(j)~~ for the law enforcement officer, documentation on a commission-approved form that the officer has completed the minimum in-service training as ~~required~~ required;
 - ~~(k)~~ certified copy of proof of age, citizenship, and educational requirements required in 12 NCAC 09B .0101;
 - ~~(l)~~ copy of Report of Appointment/Application for Certification Form F-5A;
 - ~~(m)~~ oath of office;
 - ~~(n)~~ copy of firearms qualification; and
 - ~~(o)~~ once separated, a copy of the Affidavit of Separation.
- (2) Criminal Justice Officer with general certification:
- (a) the officer's Medical History Statement and Medical Examination Report;
 - (b) documentation of the officer's drug screening results;
 - (c) documentation of the officer's educational achievements;
 - (d) documentation of all criminal justice training completed by the officer;
 - (e) the results of the officer's fingerprint record check;
 - (f) for the law enforcement officer, documentation on a commission-approved form that the officer has completed the minimum in-service training as required;
 - (g) certified copy of proof of age, citizenship, and educational requirements required in 12 NCAC 09B .0101;
 - (h) copy of Report of Appointment/Application for Certification Form F-5;
 - (i) oath of office;
 - (j) copy of firearms qualification; and
 - (k) once separated, a copy of the Affidavit of Separation.

Authority G.S. 17C-2; 17C-6.

12 NCAC 09C .0310 AGENCY REPORTING OF DRUG SCREENING RESULTS

- (a) Each agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results of required drug screening obtained from applicants and lateral transfers unless the positive result has been explained to the satisfaction of the agency's medical review officer who shall be a licensed physician.
- (b) Each agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result or refusal unless the positive result has been explained to the satisfaction of the agency's medical review officer to the extent the drug screen conducted conforms to the specifications of 12 NCAC 09B .0101(5)(a), (b), (c), (d), and (f).
- (c) For reporting purposes, a result is considered "positive" only in those cases where the drug screen reveals the presence of an illegal drug at a level equal to or greater than the threshold value as established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in 12 NCAC 09B .0101(5)(d).
- (d) All written reports required to be submitted to the Criminal Justice Standards Division by this Rule shall contain the individual's name, date of birth, ~~birth and~~ either the date the test was administered or the date of the ~~refusal~~, refusal, and a copy of the drug screen panel with the results of the medical officer review.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09D .0203 BASIC CRIMINAL JUSTICE CERTIFICATE

~~In addition to the qualifications set forth in Rule .0202(a) of this Subchapter, an applicant for the Basic Criminal Justice Certificate shall have completed the probationary period prescribed by the employing agency, but in no case less than one year and shall have completed an accredited basic training course or the equivalent as determined by the Commission, in the sub program in which the applicant is employed.~~

Authority G.S. 17C-6.

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

SECTION .0100 - SCOPE, APPLICABILITY, AND DEFINITIONS

12 NCAC 09G .0102 DEFINITIONS

The following definitions apply throughout this Subchapter only:

- (1) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and Training Standards Commission or an administrative body that a person performed the acts necessary to satisfy the elements of a specified offense.

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| <p>(2) "Convicted" or "Conviction" means, the entry of:</p> <p>(a) a plea of guilty;</p> <p>(b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established adjudicating body, tribunal, or official, either civilian or military; or</p> <p>(c) a plea of no contest, nolo contendere, or the equivalent.</p> <p>(3) "Correctional Officer" means an employee of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, responsible for the custody of inmates or offenders.</p> <p>(4) "Corrections Officer" means either or both of the two classes of officers employed by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice: correctional officer or probation/parole officer.</p> <p>(5) "Criminal Justice System" means the whole of the State and local criminal justice agencies including the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.</p> | <p>(6) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina Department of Justice.</p> <p>(7) "Educational Points" means points earned toward the State Correction Officers' Professional Certificate Program for studies completed, with passing scores achieved, for semester hour or quarter hour credit at a regionally accredited institution of higher education. Each semester hour of college credit equals one educational point and each quarter hour of college credit equals two-thirds of an educational point.</p> <p>(8) "High School" means a high school that meets the compulsory attendance requirements in the jurisdiction in which the school is located.</p> <p>(9) "In-Service Training Coordinator" means a person designated by a Criminal Justice Agency head to administer the agency's In-Service Training program.</p> <p>(10) "Misdemeanor" for corrections officers means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses for corrections officers are classified by the Commission as the following as set forth in G.S. or other state or federal law:</p> |
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| <p>(a)</p> <p>(b)</p> <p>(c)</p> <p>(d)</p> <p>(e)</p> <p>(f)</p> <p>(g)</p> <p>(h)</p> <p>(i)</p> <p>(j)</p> <p>(k)</p> <p>(l)</p> <p>(m)</p> <p>(n)</p> <p>(o)</p> <p>(p)</p> <p>(q)</p> <p>(r)</p> <p>(s)</p> <p>(t)</p> <p>(u)</p> <p>(v)</p> <p>(w)</p> <p>(x)</p> <p>(y)</p> | <p>14-2.5</p> <p>14-27.7</p> <p>14-32.1(f)</p> <p>14-32.2(b)(4)</p> <p>14-32.3</p> <p>14-33(b)(9)</p> <p>14-33(c)</p> <p>14-34</p> <p>14-34.6(a)</p> <p>14-54</p> <p>14-72</p> <p>14-72.1</p> <p>14-76</p> <p>CH 14 Art. 19A</p> <p>CH 14 Art. 19B</p> <p>14-114(a)</p> <p>14-118</p> <p>14-118.2</p> <p>14-122.1</p> <p>14-127</p> <p>14-160</p> <p>14-190.5</p> <p>14-190.9</p> <p>14-190.14</p> <p>14-190.15</p> <p>14-202.2</p> | <p>Punishment for attempt (offenses that are Class A-1 misdemeanor)</p> <p>Intercourse and sexual offenses with certain victims (If defendant is school personnel other than a teacher, school administrator, student teacher, or coach)</p> <p>Assault on handicapped persons</p> <p>Patient abuse and neglect, punishments</p> <p>Exploitation by caretaker of disabled/elder adult in domestic setting; resulting in loss of less than one thousand dollars (\$1000)(August 1, 2001-December 1, 2005. Repealed December 1, 2005)</p> <p>Assault, battery against sports official</p> <p>Assault, battery with circumstances</p> <p>Assault by pointing a gun</p> <p>Assault on Emergency Personnel</p> <p>Breaking or Entering into buildings generally (14-54(b))</p> <p>Larceny of property; receiving stolen goods etc.; not more than one thousand dollars (\$1000.00)(14-72(a))</p> <p>Concealment of merchandise (14-72.1(e); third or subsequent offense)</p> <p>Larceny, mutilation, or destruction of public records/papers</p> <p>False/fraudulent use of credit device (14-113.6)</p> <p>Financial transaction card crime (14-113.17(a))</p> <p>Fraudulent disposal of personal property on which there is a security interest</p> <p>Blackmailing</p> <p>Obtaining academic credit by fraudulent means (14-118.2(b))</p> <p>Falsifying documents issued by a school (14-122.1(c))</p> <p>Willful and wanton injury to real property</p> <p>Willful and wanton injury to personal property greater than two hundred dollars (\$200.00)(14-160(b))</p> <p>Preparation of obscene photographs</p> <p>Indecent Exposure</p> <p>Displaying material harmful to minors (14-190.14(b))</p> <p>Disseminating harmful material to minors (14-190.15(d))</p> <p>Indecent liberties between children</p> |
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(aa) <u>(z)</u> 14-202.4	Taking indecent liberties with a student
(bb) <u>(aa)</u> 14-204	Prostitution (14-207; 14-208)
(ee) <u>(bb)</u> 14-223	Resisting officers
(dd) <u>(cc)</u> 14-225	False, etc., reports to law enforcement agencies or officers
(ee) <u>(dd)</u> 14-230	Willfully failing to discharge duties
(ff) <u>(ee)</u> 14-231	Failing to make reports and discharge other duties
(gg) <u>(ff)</u> 14-232	Swearing falsely to official records
(hh) <u>(gg)</u> 14-239	Allowing prisoners to escape <u>escape</u> ; punishment
(ii) <u>(hh)</u> 14-255	Escape of working prisoners from custody
(jj) <u>(ii)</u> 14-256	Prison breach and escape
(kk) <u>(jj)</u> 14-258.1(b)	Furnishing certain contraband to inmates
(ll) <u>(kk)</u> 14-259	Harboring or aiding certain persons
(mm) <u>(ll)</u> CH 14 Art. 34	Persuading inmates to escape; harboring fugitives (14-268)
(nn) <u>(mm)</u> 14-269.2	Weapons on campus or other educational property (14-269.2(d), (e) and (f))
(oo) <u>(nn)</u> 14-269.3(a)	Weapons where alcoholic beverages are sold and consumed
(pp) <u>(oo)</u> 14-269.4	Weapons on state property and in courthouses
(qq) <u>(pp)</u> 14-269.6	Possession and sale of spring-loaded projectile knives prohibited (14-269.6(b))
(rr) <u>(qq)</u> 14-277	Impersonation of a law-enforcement or other public officer verbally, by displaying a badge or insignia, or by operating a red light (14-277 (d1) and (e))
(ss) <u>(rr)</u> 14-277.2(a)	Weapons at parades, etc., prohibited
(tt) <u>(ss)</u> 14-277.3A	Stalking (14-277.3(b))
(uu) <u>(tt)</u> 14-288.2(b)	Riot
(vv) <u>(uu)</u> 14-288.2(d)	Inciting to riot
(ww) <u>(vv)</u> 14.288.6 (a)	Looting; trespassing during emergency
(xx) 14-288.7(e)	Transporting weapon or substance during emergency
(yy) 14-288.9(e)	Assault on emergency personnel; punishments
(zz) <u>(ww)</u> 14-315(a)	Selling or giving weapons to minors
(aaa) <u>(xx)</u> 14-315.1	Storage of firearms to protect minors
(bbb) <u>(yy)</u> 14-316.1	Contributing to delinquency
(ccc) <u>(zz)</u> 14-318.2	Child abuse
(ddd) <u>(aaa)</u> 14-360	Cruelty to animals
(eee) <u>(bbb)</u> 14-361	Instigating or promoting cruelty to animals
(fff) <u>(ccc)</u> 14-401.14	Ethnic intimidation; teaching any technique to be used for (14-401.14(a) and (b))
(ggg) <u>(ddd)</u> 14-454(a) or (b)	Accessing computers
(hhh) <u>(eee)</u> 14-458	Computer trespass (Damage less than two thousand five hundred dollars (\$2500.00))
(iii) 15A-266.11	Unauthorized use of DNA databank; willful disclosure (15A-266.11(a) and (b))
(jjj) <u>(fff)</u> 15A-287	Interception and disclosure of wire etc. communications
(kkk) <u>(ggg)</u> 15B-7(b)	Filing false or fraudulent application for compensation award
(lll) <u>(hhh)</u> 18B-902(c)	False statements in application for ABC permit (18B-102(b))
(mmm) <u>(iii)</u> 20-37.8(a) & (c)	Fraudulent use of a fictitious name for a special identification card
(nnn) <u>(jjj)</u> 20-102.1	False report of theft or conversion of a motor vehicle
(ooo) <u>(kkk)</u> 20-111(5)	Fictitious name or address in application for registration
(ppp) <u>(lll)</u> 20-130.1	Use of red or blue lights on vehicles prohibited (20-130.1(e))
(qqq) <u>(mmm)</u> 20-137.2	Operation of vehicles resembling law-enforcement vehicles (20-137.2(b))
(rrr) <u>(nnn)</u> 20-138.1	Driving while impaired (punishment level 1 (20-179(g)) or 2 (20-179(h))
(sss) <u>(ooo)</u> 20-138.2I	Impaired driving in commercial vehicle (20-138.2(e))
(ttt) <u>(ppp)</u> 20-141.5(a)	Speeding to elude arrest
(uuu) <u>(qqq)</u> 20-166(b)	Duty to stop in event of accident or collision
(vvv) <u>(rrr)</u> 20-166(c)	Duty to stop in event of accident or collision
(www) <u>(sss)</u> 20-166(c1)	Duty to stop in event of accident or collision
(xxx) <u>(ttt)</u> 50B-4.1	Knowingly violating valid protective order
(yyy) <u>(uuu)</u> 58-33-105	False statement in applications for insurance
(zzz) <u>(vvv)</u> 58-81-5	Careless or negligent setting of fires
(aaa) <u>(www)</u> 62A-1214.111.4	Misuse of 911 system
(bbb) <u>(xxx)</u> 90-95(d)(2)	Possession of schedule II, III, IV
(eee) <u>(yyy)</u> 90-95(d)(3)	Possession of Schedule V
(ddd) <u>(zzz)</u> 90-95(d)(4)	Possession of Schedule VI (when punishable as Class 1 misdemeanor)
(eee) <u>(aaa)</u> 90-95(e)(4)	Conviction of 2 or more violations of Art. 5

~~(ffff)~~~~(bbbb)~~ 90-95(e)(7) Conviction of 2 or more violations of Art. 5
~~(gggg)~~~~(cccc)~~ 90-113.22 Possession of drug paraphernalia (90-113.22(b))
~~(hhhh)~~~~(dddd)~~ 90-113.23 Manufacture or delivery of drug paraphernalia (90-113.23(c))
~~(iiii)~~~~(eeee)~~ 97-88.2(a) Misrepresentation to get worker's compensation payment
~~(jjjj)~~~~(ffff)~~ 108A-39(a) Fraudulent misrepresentation of public assistance
~~(kkkk)~~~~(gggg)~~ 108A-53 Fraudulent misrepresentation of ~~foster care and adoption assistance payments~~ electronic food and nutrition benefits
~~(llll)~~~~(hhhh)~~ 108A-64(a) Medical assistance recipient fraud; less than four hundred dollars (\$400.00)(108-64(c)(2))
~~(mmmm)~~~~(iiii)~~ 108A-80 Recipient check register/list of all recipients of AFDC and state-county special assistance (108A-80(b))
~~(nnnn)~~~~(jjjj)~~ 108A-80 Recipient check register/ list of all recipients of AFDC and state-county special assistance; political mailing list (108A-80(c))
~~(oooo)~~~~(kkkk)~~ 113-290.1(a)(2)Criminally negligent hunting; no bodily disfigurement
~~(pppp)~~~~(llll)~~ 113-290.1(a)(3)Criminally negligent hunting; bodily disfigurement
~~(qqqq)~~~~(mmmm)~~ 113-290.1(a)(4) Criminally negligent hunting; death results
~~(rrrr)~~~~(nnnn)~~ 113-290.1(d) Criminally negligent hunting; person convicted/suspended license
~~(ssss)~~~~(oooo)~~ 143-58.1(a) Use of public purchase or contract for private benefit (143-58.1(c))
~~(tttt)~~~~(pppp)~~ 148-45(d) Aiding escape or attempted escape from prison
~~(uuuu)~~~~(qqqq)~~ 162-55 Injury to prisoner by jailer
~~(vvvv)~~~~(rrrr)~~ Common-Law misdemeanors:
 (i) Going Armed to the Terror of the People
 (ii) Common-Law Mayhem
 (iii) False Imprisonment
 (iv) Common-Law Robbery
 (v) Common-Law Forgery
 (vi) Common-Law Uttering of Forged paper
 (vii) Forcible Trespass
 (viii) Unlawful Assembly
 (ix) Common-Law Obstruction of Justice
~~(wwww)~~~~(ssss)~~ Those offenses occurring in other jurisdictions that are comparable to the offenses specifically listed in (a) through (vvvv) of this Rule.
~~(xxxx)~~~~(tttt)~~ Any offense proscribed by 18 U.S.C. 922 (1996), (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap44-sec922.pdf>), that would prohibit possessing a firearm or ammunition.

- (11) "Pilot Courses" means those courses approved by the Education and Training Committee, consistent with 12 NCAC 09G .0404, which are used to develop new training course curricula.
- (12) "Probation/Parole Officer" means an employee of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, whose duties include supervising, evaluating, or otherwise instructing offenders placed on probation, parole, post release supervision, or assigned to any other community-based program operated by the Division of Adult Correction and Juvenile Justice.
- (13) "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when a certified institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of a certified course.
- (14) "School" means an institution, college, university, academy, or agency that offers penal

- (15) "School Director" means the person designated by the Secretary of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice to administer the School.
- (16) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (17) "State Corrections Training Points" means points earned toward the State Corrections Officers' Professional Certificate Program by successful completion of Commission-approved corrections training courses. Twenty classroom hours of Commission-approved corrections training equals one State Corrections training point.

Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217.

12 NCAC 09G .0103 RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES

(a) In addition to the procedures set out in G.S. 150B-20, Petitions for Rule-Making shall be submitted to the Commission and shall contain:

- (1) petitioner's name, address and telephone number;
- (2) a draft of the proposed rule or rule change;
- (3) the reason for its proposal;
- (4) the effect of the proposal on existing rules or decisions;
- (5) data supporting the proposal;
- (6) practices likely to be affected by the proposal; and
- (7) a list or description of persons likely to be affected by the proposed rule.

(b) Administrative hearings in contested cases conducted by the Commission or an Administrative Law Judge (as authorized in G.S. 150B-40) shall be governed by:

- (1) procedures set out in G.S. 150B, Article 3;
- (2) insofar as relevant, the Rules of Civil Procedure as contained in G.S. 1A-1;
- (3) insofar as relevant, the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes.

(c) The rules establishing procedures for contested cases incorporated by the Office of Administrative Hearings as contained in 26 NCAC 03 are hereby incorporated by reference for contested cases for which this agency has authority to adopt rules under G.S. 150B-38(h). All such incorporations by reference shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. Provided, however, that if the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the Chief Administrative Law Judge or the presiding Administrative Law Judge in 26 NCAC 03 and that 26 NCAC 03 .0101(2); .0102(a)(1) and .0103(b) shall not apply.

(d) An applicant for certification or a certified officer shall have ~~60~~ 30 days from the date of receipt of a notice of proposed action by the Commission to request a contested case hearing.

Authority G.S. 17C-6; 150B-20; 150B-21.6; 150B-38(h); 150B-40.

SECTION .0300 - CERTIFICATION OF CORRECTIONAL OFFICERS, PROBATION/PAROLE OFFICERS, AND INSTRUCTORS

12 NCAC 09G .0302 NOTIFICATION OF CRIMINAL CHARGES/CONVICTIONS

~~(a) Every person employed and certified as a correctional officer or probation/parole officer shall notify the Standards Division of all criminal offenses for which the officer is charged, arrested, pleads no contest, pleads guilty, or of which the officer is found guilty. Criminal offenses shall include all felony offenses and shall include those misdemeanor offenses delineated in 12 NCAC 09G .0102.~~

~~(b) The notifications required under this Rule shall be in writing, specify the nature of the offense, the court in which the case was handled, the date of arrest or criminal charge, the final disposition, and the date thereof. The notifications required under this Paragraph shall be received by the Standards Division within 30 days of the date the case was disposed of in court.~~

~~(c) The requirements of this Rule shall be applicable at all times during which the officer is certified by the Commission.~~

~~(d) Officers required to notify the Standards Division under this Rule shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he or she has knowledge of the officer's arrest(s), criminal charge(s), or final disposition(s), shall also notify the Standards Division of all arrests or criminal convictions within 30 days of the date of the arrest and within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification, from either the officer or the executive officer, shall be sufficient notice for compliance with this Rule.~~

that the officer is arrested for or charged with, pleads no contest to, pleads guilty to or is found guilty of as well as Domestic Violence Orders (50B) that are issued by a judicial official. This shall include all criminal offenses except minor traffic offenses and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense for which the maximum punishment allowable by law is 60 days or less. Other offenses under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions which shall be reported to the Standards Division expressly include G.S. 20-139 (persons under influence of drugs), G.S. 20-28(b)(driving while license permanently revoked or permanently suspended), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Subparagraph shall be in writing and shall specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the final disposition, and the date thereof. The notifications required under this Subparagraph shall be received by the Standards Division within 30 days of the date of arrest or charge and of case disposition. The requirements of this Subparagraph shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applicants for certification. Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of all arrests or criminal charges and final dispositions within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification, from either the officer or the executive officer, shall be sufficient notice for compliance with this Subparagraph. The requirements of this Rule shall be applicable at all times during which the officer is certified by the Commission.

Authority G.S. 17C-6.

12 NCAC 09G .0304 GENERAL CERTIFICATION

(a) The Commission shall grant an officer General Certification when evidence is received by the Standards Division that an officer has completed the training requirements of 12 NCAC 09G .0410, .0411, .0412, or .0413 within the officer's probationary period and the officer has met all requirements for General Certification as specified in Rules .0202, .0203, .0204, .0205, .0206, .0302, and .0303 of this Subchapter.

(b) General Certification is continuous from the date of issuance, so long as the certified officer remains employed as a correctional officer or probation/parole officer in good standing with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, and the certification has not been suspended or revoked pursuant to Rule .0503 of this Subchapter.

(c) Unless due to disciplinary action, Certified certified officers who, ~~through promotional opportunities,~~ move into non-certified positions within the Department, may have their certification reinstated without re-completion of the basic training requirements of 12 NCAC 09G .0410, .0411, .0412, or .0413, and are exempted from reverification of employment standards of 12 NCAC 09G .0202 through .0206 when returning to a position requiring certification if they have maintained employment within the Department.

(d) Documentation of General Certification shall be maintained with the officer's personnel records with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice and the Commission.

(e) Upon transfer of a certified officer from one type of corrections officer position to another, the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall submit a Notice of Transfer to the Standards Division.

- (1) Upon receipt of the Notice of Transfer, the Standards Division shall cancel the officer's current General Certification and upon receipt of documentary evidence that the officer has met the requisite standards for the specified type of corrections officer certification, the Commission shall issue Probationary Certification reflecting the officer's new corrections position.
- (2) The Commission shall grant an officer General Certification as the new type of corrections officer when evidence is received by the Standards Division that an officer has completed the training requirements of 12 NCAC 09G .0410, .0411, .0412, or .0413 within the officer's probationary period and the officer has met all other requirements for General Certification.

Authority G.S. 17C-2; 17C-6; 17C-10.

12 NCAC 09G .0306 RETENTION OF RECORDS OF CERTIFICATION

(a) The North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall place in the officer's certification file the official notification from the Commission of either Probationary or General Certification for each correctional

officer, probation/parole officer employed or appointed by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice. The certification file shall also contain:

- (1) the officer's Report of Appointment/Application for Certification, including the Department of Public Safety Personnel Action Form;
- (2) the officer's Medical History Statement and Medical Examination Report;
- (3) documentation of the officer's drug screening results;
- (4) documentation of the officer's educational achievements;
- (5) documentation of all corrections training completed by the officer;
- (6) documentation of the officer's psychological examination results;
- (7) documentation and verification of the officer's age;
- (8) documentation and verification of the officer's citizenship;
- (9) documentation of any prior criminal record; ~~and~~
- (10) miscellaneous documents including letters, investigative reports, and subsequent charges and ~~convictions~~ convictions;
- (11) Oath of office; and
- (12) If separated, a copy of the Report of Appointment or Department of Public Safety Personnel Action Form.

(b) All files and documents relating to an officer's certification shall be available for examination and utilization at any reasonable time by representatives of the Commission for the purpose of verifying compliance with the Rules in this Subchapter. These records shall be maintained in compliance with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice's Records Retention Schedule.

Authority G.S. 17C-2; 17C-6.

SECTION .0500 - ENFORCEMENT OF RULES

12 NCAC 09G .0504 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION

(a) The Commission shall revoke the certification of a correctional officer or probation/parole officer when the Commission finds that the officer has committed or been convicted of a felony offense.

(b) The Commission may, based on the evidence for each case, suspend, revoke, or deny the certification of a corrections officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and completed with passing scores the required basic training course in its entirety within prescribed time periods relevant or applicable to a specified position or job title;
- (2) fails to meet or maintain one or more of the employment standards required by 12 NCAC

- 09G .0200 for the category of the officer's certification or fails to meet or maintain one or more of the training standards required by 12 NCAC 09G .0400 for the category of the officer's certification;
- (3) has committed or been convicted of a misdemeanor as defined in 12 NCAC 09G .0102 after certification;
- (4) has been discharged by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice for:
- (A) commission or conviction of a motor vehicle offense requiring the revocation of the officer's drivers license; or
- (B) ~~commission or conviction of any other offense involving moral character, as defined in: re Willis, 299 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); in re State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); in re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); in re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); lack of good moral character as defined in 12 NCAC 09G .0206.~~
- (5) has been discharged by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice because the officer lacks the mental or physical capabilities to fulfill the responsibilities of a corrections officer;
- (6) has knowingly made a material misrepresentation of any information required for certification or accreditation;
- (7) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or cheating whatsoever, obtained or attempted to obtain credit, training, or certification from the Commission;
- (8) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training, or certification from the Commission;
- (9) has failed to notify the Standards Division of all criminal charges or convictions as required by 12 NCAC 09G .0302;
- (10) has been removed from office by decree of the Superior Court in accord with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230;
- (11) has refused to submit to an applicant drug screen as required by 12 NCAC 09G .0206; or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the Department of Public Safety, Division of Adult Correction and Juvenile Justice;
- (12) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC 09G .0206 ~~(3)~~, where the positive result cannot be explained to the Commission's satisfaction; or
- (13) has been denied certification or had such certification suspended or revoked by a previous action of the North Carolina Criminal Justice Education and Training Standards Commission, the North Carolina Company Police Program, the North Carolina Campus Police Program, the North Carolina Sheriffs' Education and Training Standards Commission, or a similar North Carolina, out of state or federal approving, certifying, or licensing agency whose function is the same or similar to the aforementioned agencies if such certification was denied, suspended, or revoked based on grounds that would constitute a violation of this Subchapter.
- (c) Following suspension, revocation, or denial of the person's certification, the person shall not remain employed or appointed as a corrections officer and the person shall not exercise any authority of a corrections officer during a period for which the person's certification is suspended, revoked, or denied.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09G .0505 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL

(a) When the Commission revokes or denies the certification of a corrections officer pursuant to 12 NCAC 09G .0504 of this Section, the period of the sanction shall be 10 years where the cause of sanction is:

- (1) commission or conviction of a felony offense; or
- (2) the second suspension of an officer's certification for any of the causes requiring a three year period of suspension; or
- (3) revocation or denial of certification by the North Carolina Sheriffs' Education and Training Standards Commission based on grounds that would constitute a violation of Section 09G of these Rules.

(b) When the Commission suspends or denies the certification of a corrections officer pursuant to 12 NCAC 09G .0504 of this Section, the period of sanction shall be not less than three years; however, the Commission may either reduce or suspend the period of sanction under Paragraph (c) of this Rule or substitute a period of probation in lieu of suspension of certification following an administrative hearing, where the cause of sanction is:

- (1) commission or conviction of a misdemeanor as defined in 12 NCAC 09G .0102;
- (2) discharge by the North Carolina Department of ~~Correction~~ Public Safety, Division of Adult Correction and Juvenile Justice pursuant to 12 NCAC 09G .0504(b)(4) and (b)(5) of this Section;
- (3) refusal to submit to the applicant drug screen required by the Rules in this Subchapter;
- (4) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09G .0206 ~~(3)~~, where the positive result cannot be explained to the Commission's satisfaction;
- (5) material misrepresentation of any information required for certification or accreditation;
- (6) obtaining, attempting to obtain, aiding another person to obtain, or aiding another person attempt to obtain credit, training or certification by any means of false pretense, deception, defraudation, misrepresentation or cheating;
- (7) failure to make either of the notifications as required by 12 NCAC 09G .0302;
- (8) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or
- (9) certification revoked or denied by the North Carolina Sheriffs' Education and Training Standards Commission, if such certification was revoked or denied based on grounds that would constitute a violation of Section 09G of these Rules.

(c) When the Commission suspends or denies the certification of a corrections officer, the period of sanction shall be for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:

- (1) failure to meet or satisfy relevant basic training requirements; or
- (2) failure to meet or maintain the minimum standards for certification; or
- (3) discharge from the North Carolina Department of Correction for impairment of physical or mental capabilities.

Authority G.S. 17C-6; 17C-10.

SECTION .0600 - PROFESSIONAL CERTIFICATE PROGRAM

12 NCAC 09G .0603 BASIC STATE CORRECTIONS CERTIFICATE

~~In addition to the qualifications set forth in 12 NCAC 09G .0602(a) of this Section, an applicant for the Basic State Corrections Certificate shall have completed the probationary period prescribed by the Commission, but in no case less than one year and shall have completed an accredited basic training course or the equivalent as determined by the Commission, in the category in which the applicant is employed.~~

Authority G.S. 17C-6.

SECTION .0700 - FORMS

12 NCAC 09G .0701 REPORT: APPLICATION: AND CERTIFICATION FORMS

The following are Commission approved forms to be used by the North Carolina Department of ~~Correction~~ Public Safety, Division of Adult Correction and Juvenile Justice in making reports, applications, or requests for certification to the Commission:

- (a) The Medical History Statement. The Medical History Statement is a questionnaire to be completed by an applicant. The form seeks to facilitate the applicant's medical examination by listing information pertinent to the applicant's present and past physical condition, injuries, diseases, or operations.
- (b) The Medical Examination Report. The Medical Examination Report is a form provided to the examining physician to record the results of the applicant's medical examination.
- (c) The Request for School Accreditation Form. The Request for School Accreditation Form provides the means for an agency or institution to become certified to conduct corrections training and to affiliate with the Criminal Justice Education and Training System. It seeks information on the physical, financial, and staff support provided to the school by the agency or institution.
- (d) The Request for Training Course Accreditation Form. The Request for Training Course Accreditation Form is used to obtain accreditation for a school's particular offering of a corrections training course. It requests information regarding the administration of the course, the particular facilities to be used, and the proposed curriculum of the course.
- (e) The Report of Appointment/Application for Certification. The Report of Appointment/Application for Certification is used for reporting the appointment of correctional officers, and probation/parole officers, and probation/parole officers surveillance and indicating the applicant's progress toward completing the requirements for certification. The questions, at a minimum, seek information regarding the applicant's work, residential,

- military history, arrest history, and references.
- (f) Notice of Transfer. The Notice of Transfer form is used to notify the Standards Division of an officer's change in the type of corrections officer certification.
- (g) Report of Separation. The North Carolina Department of ~~Correction~~, Public Safety, Division of Adult Correction and Juvenile Justice, when separating a person from employment as a correctional officer, or probation/parole officer, ~~or probation/parole officer surveillance~~, shall forward to the Commission a properly completed Report of Separation or Department of Public Safety Personnel Action Form within 30 days of separation.
- (h) The Request for Instructional Certification Form. The Request for Instructional Certification Form is used by persons seeking certification as general instructors. It seeks information regarding personal and professional background as well as documentation of the specific criteria for certification.
- (i) The Recommendation for General Instructor Certification Form. The Recommendation for General Instructor Certification Form is completed by a School Director or agency head after an instructor has finished the required probationary period. In the form the official recommends that the instructor receive General Instructor Certification and certifies that the official has observed and evaluated the instructor to be a teaching professional.
- (j) The Application for Award of State Corrections Certificate. The Application For Award of State Corrections Certificate requests information regarding the education, training, and experience qualifying the applicant for various levels of certification under the State Corrections Officers' Professional Certificate Program.

intends to amend the rules cited as 12 NCAC 09B .0203, .0205; 09E .0105.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://ncdoj.gov/getdoc/82ec95af-b758-4888-b831-8fdd5cc9beb4/Public-Hearing-02-14-17.aspx>

Proposed Effective Date: *January 1, 2019*

Public Hearing:

Date: *August 15, 2018*

Time: *10:30 a.m.*

Location: *Wake Technical Community College-Public Safety Training Center, 321 Chapanoke Rd. Raleigh, NC 27603*

Reason for Proposed Action: *Provide an additional option to the Basic Law Enforcement Training admissions standard. Increase block hours for Basic Law Enforcement Training. Remove Sheriff Specific-Unit 6 from the Basic Law Enforcement Training (BLET) for agencies that administer their own BLET. Provide the annual in-service training topics for 2019.*

Comments may be submitted to: *Charminique Williams, PO Drawer 149, Raleigh, NC 27602, phone (919)779-8206, fax (919)779-8210, email cdwilliams@ncdoj.gov.*

Comment period ends: *August 15, 2018*

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 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

Authority 17C-6.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission

**SUBCHAPTER 09B - STANDARDS FOR CRIMINAL
JUSTICE EMPLOYMENT: EDUCATION: AND
TRAINING**

**SECTION .0200 – MINIMUM STANDARDS FOR
CRIMINAL JUSTICE SCHOOLS AND CRIMINAL
JUSTICE TRAINING PROGRAMS OR COURSES OF
INSTRUCTION**

12 NCAC 09B .0203 ADMISSION OF TRAINEES

(a) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who is not a citizen of the United States.

(b) The school shall not admit any individual younger than 20 years of age as a trainee in any non-academic basic criminal justice training course. Individuals under 20 years of age may be granted authorization for early enrollment as trainees in a presentation of the Basic Law Enforcement Training Course with prior written approval from the Director of the Standards Division. The Director shall approve early enrollment if the individual will be 20 years of age prior to the date of the State Comprehensive Examination for the course.

(c) The school shall give priority admission in certified criminal justice training courses to individuals holding full-time employment with criminal justice agencies.

(d) The school shall not admit any individual as a trainee in a presentation of the "Criminal Justice Instructor Training Course" who does not meet the education and experience requirements for instructor certification under Rule .0302 of this Subchapter within 60 days of successful completion of the Instructor Training State Comprehensive Examination.

(e) The school shall not admit an individual, including partial or limited enrollees, as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual, within one year prior to admission to the Basic Law Enforcement Training Course, scores at or above mastery level on the NROC Edready™ Skills Inventory for English or places into course DRE 098 or above at a North Carolina Community College as a result of taking the Reading and English component of the North Carolina Diagnostic Assessment and Placement test as approved by the State Board of Community Colleges on October 17, 2014, (<http://www.nccommunitycolleges.edu/state-board-community-colleges/meetings/october-17-2014>), or has taken the reading component of a nationally standardized test ~~within one year prior to admission to Basic Law Enforcement Training~~ and has scored at or above the tenth grade level or the equivalent. For the purposes of this Rule:

- (1) Partial or limited enrollee does not include enrollees who hold, or have held within 12 months prior to the date of enrollment, general certification pursuant to 12 NCAC 09C .0304.
- (2) A "nationally standardized test" means a test that:
 - (A) reports scores as national percentiles, stanines, or grade equivalents; and
 - (B) compares student test results to a national norm.

(f) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course

unless the individual has provided to the School Director a medical examination report, completed by a physician licensed to practice medicine in North Carolina, a physician's assistant, or a nurse practitioner, to determine the individual's fitness to perform the essential job functions of a criminal justice officer. The Director of the Standards Division shall grant an exception to this standard for a period of time not to exceed the commencement of the physical fitness topical area when failure to receive the medical examination report is not due to neglect on the part of the trainee.

(g) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual is a high school, college, or university graduate or has received a high school equivalency credential recognized by the issuing state. High school diplomas earned through correspondence enrollment in an entity that charges a fee and requires the individual to complete little or no education or coursework to obtain a high diploma shall not be recognized toward the educational requirements.

(h) The school shall not admit any individual trainee in a presentation of the Basic Law Enforcement Training Course unless the individual has provided the School Director a certified criminal record check for local and state records for the time period since the trainee has become an adult and from all locations where the trainee has resided since becoming an adult. An Administrative Office of the Courts criminal record check or a comparable out-of-state criminal record check shall satisfy this requirement.

(i) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who has been convicted of the following:

- (1) a felony;
- (2) a crime for which the punishment could have been imprisonment for more than two years;
- (3) a crime or unlawful act defined as a Class B Misdemeanor within the five year period prior to the date of application for employment, unless the individual intends to seek certification through the North Carolina Sheriffs' Education and Training Standards Commission;
- (4) four or more crimes or unlawful acts defined as Class B Misdemeanors, regardless of the date of conviction;
- (5) four or more crimes or unlawful acts defined as Class A Misdemeanors, except the trainee may be enrolled if the last conviction date occurred more than two years prior to the date of enrollment;
- (6) a combination of four or more Class A Misdemeanors or Class B Misdemeanors regardless of the date of conviction, unless the individual intends to seek certification through the North Carolina Criminal Justice Education and Training Standards Commission.

(j) Individuals charged with crimes specified in Paragraph (i) of this Rule may be admitted into the Basic Law Enforcement Training Course if such offenses were dismissed or the person was found not guilty, but completion of the Basic Law Enforcement

Training Course does not ensure that certification as a law enforcement officer or justice officer through the North Carolina Criminal Justice Education and Training Standards Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course shall notify the School Director of all criminal offenses the trainee is arrested for or charged with, pleads no contest to, pleads guilty to, or is found guilty of, and of all Domestic Violence Orders (G.S. 50B) that are issued by a judicial official after a hearing that provides an opportunity for both parties to be present. This includes all criminal offenses except minor traffic offenses and includes any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A "minor traffic offense" is defined, for the purposes of this Paragraph, as an offense where the maximum punishment allowable by law is 60 days or fewer. Other offenses under G.S. 20 (Motor Vehicles) or similar laws of other jurisdictions that shall be reported to the School Director are G.S. 20-138.1 (driving while under the influence), G.S. 20-28 (driving while license permanently revoked or permanently suspended), G.S. 20-30(5)(fictitious name or address in application for license or learner's permit), G.S. 20-37.8 (fraudulent use of a fictitious name for a special identification card), G.S. 20-102.1 (false report of theft or conversion of a motor vehicle), G.S. 20-111(5)(fictitious name or address in application for registration), G.S. 20-130.1 (unlawful use of red or blue lights), G.S. 20-137.2 (operation of vehicles resembling law enforcement vehicles), G.S. 20-141.3 (unlawful racing on streets and highways), G.S. 20-141.5 (speeding to elude arrest), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Paragraph shall be in writing and specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Order (G.S. 50B), and the final disposition and the date thereof. The notifications required under this Paragraph shall be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph are applicable at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0205 BASIC LAW ENFORCEMENT TRAINING

(a) The basic training course for law enforcement officers shall consist of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function in law enforcement.

(b) Accredited delivery agencies may elect to exclude Subparagraph (c)(6) of this Rule Sheriff-Specific Unit. The course entitled "Basic Law Enforcement Training" shall consist of a minimum of 588 hours of instruction Subparagraph (c)(1)-(5) of this Rule, for accredited delivery agencies approved to facilitate the Commission-accredited Basic Law Enforcement Training course and shall include the following identified topical areas in Subparagraph (c) of this Rule and minimum instructional hours for each.

~~(b)~~(c) The course entitled "Basic Law Enforcement Training" shall consist of a minimum of ~~632~~ 640 hours of instruction and shall include the following identified topical areas and minimum instructional hours for each:

- (1) **LEGAL UNIT**

(A)	Motor Vehicle Laws	20 Hours
(B)	Controlled Substance	12 Hours
(C)	Elements of Criminal Law	24 Hours
(D)	Juvenile Laws and Procedures	8 Hours
(E)	Arrest, Search and Seizure/Constitutional Law	28 Hours
(F)	Alcohol Beverage Control (ABC)Laws and Procedures	4 Hours
	UNIT TOTAL	96 Hours
- (2) **PATROL DUTIES UNIT**

(A)	Techniques of Traffic Law Enforcement	24 Hours
(B)	Explosives and Hazardous Materials Emergencies	12 Hours
(C)	Traffic Crash Investigation	20 <u>24</u> Hours
(D)	In-Custody Transportation	8 Hours
(E)	Crowd Management	12 Hours
(F)	Patrol Techniques	28 Hours
(G)	Law Enforcement Communication and Information Systems	8 Hours
(H)	Anti-Terrorism	4 Hours
(I)	Rapid Deployment	8 Hours
	UNIT TOTAL	124 <u>128</u> Hours
- (3) **LAW ENFORCEMENT COMMUNICATION UNIT**

(A)	Responding to Victims and the Public	10 Hours
(B)	Domestic Violence Response	42 <u>16</u> Hours
(C)	Ethics for Professional Law Enforcement	4 Hours
(D)	Individuals with Mental Illness and Developmental Disabilities	24 Hours
(E)	Crime Prevention Techniques	6 Hours
(F)	Communication Skills for Law Enforcement Officers	8 Hours
(G)	Preparing for Court and Testifying in Court	12 hours
	UNIT TOTAL	76 <u>80</u> Hours
- (4) **INVESTIGATION UNIT**

(A)	Fingerprinting and Photographing Arrestee	6 Hours
(B)	Field Note-taking and Report Writing	12 Hours
(C)	Criminal Investigation	34 Hours
(D)	Interviews	16 Hours
(E)	Human Trafficking	2 Hours
	UNIT TOTAL	70 Hours
- (5) **PRACTICAL APPLICATION UNIT**

(A)	First Responder	32 Hours
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	(B)	Firearms	48 Hours
	(C)	Law Enforcement Driver Training	40 Hours
	(D)	Physical Fitness (classroom instruction)	8 Hours
	(E)	Fitness Assessment and Testing	12 Hours
	(F)	Physical Exercise 1 hour daily, 3 days a week	34 Hours
	(G)	Subject Control Arrest Techniques	40 Hours
		UNIT TOTAL	214 Hours
(6)		SHERIFF-SPECIFIC UNIT	
	(A)	Civil Process	24 Hours
	(B)	Sheriffs' Responsibilities: Detention Duties	4 Hours
	(C)	Sheriffs' Responsibilities: Court Duties	6 Hours
		UNIT TOTAL	34 Hours
(7)		COURSE ORIENTATION	2 Hours
(8)		TESTING	16 Hours
		TOTAL COURSE HOURS	632 640 Hours

~~(e)(d)~~ The "Basic Law Enforcement Training Manual" published by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at the cost of printing and postage from the North Carolina Justice Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

~~(d)(e)~~ The "Basic Law Enforcement Training Course Management Guide" published by the North Carolina Justice Academy shall be used by school directors in planning, implementing, and delivering basic training courses. Copies of this guide may be obtained at the cost of printing and postage from the Justice Academy.

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING

(a) The following topics, specifications, and hours shall be included in each law enforcement officer's annual in-service training courses. For the purposes of this Subchapter, a credit shall be equal to one hour of traditional classroom instruction. All sworn law enforcement officers shall complete a minimum of 24

in-service training credits. The following topics, totaling ~~48~~ 20 credits, shall be specifically required:

- (1) ~~2018~~ 2019 Firearms Training and Qualification (4 credits);
- (2) ~~2018~~ 2019 Legal Update (4 credits);
- (3) ~~2018 Strategies to Improve Law Enforcement Interactions and Relationships With Minority Youth~~ 2019 Juvenile Law Update (2 credits);
- (4) ~~2018 Equality in Policing (4 credits); Individual Wellness: Coping with Stress & PTSD (2 credits);~~
- (5) ~~2018 Communications Skills With Persons in Crisis — De-escalation Techniques (4 credits);~~ 2019 Best Practices for Officers During Community Dissent (2 credits);
- (6) 2019 Law Enforcement Intelligence Update: Gangs and Divisive Groups (2 credits);
- (7) 2019 Domestic Violence: Law and Procedure Update (2 credits);
- (8) 2019 Opioid Awareness and Response (2 credits).

(b) All sworn law enforcement officers shall complete a minimum of 4 in-service credits, in topics identified by their respective agency heads. The Department Head may choose any topic, provided the lesson plan is written in Instructional Systems Design format and is taught by an instructor who is certified by the Commission. Topics delivered pursuant to Rule .0104(1) of this Section and National Certification Programs administered by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) completed during the mandated in-service year, shall satisfy in part or in whole the topic requirements set forth by the agency head. ~~to~~ To satisfy this requirement shall not be required to be written in Instructional Systems Design format or delivered by an instructor certified by the Commission.

(c) The "Specialized Firearms Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

(d) The "In-Service Lesson Plans" published by the North Carolina Justice Academy shall be applied as a minimum curriculum for conducting the annual in-service training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

(e) Lesson plans are designed to be delivered in hourly increments. A student who completes an online in-service training topic shall receive the number of credits that correspond to the number of hours of traditional classroom training, regardless of the amount of time the student spends completing the course.

(f) Completion of training shall be demonstrated by passing a written test for each in-service training topic, as follows:

- (1) A written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length shall include a written test comprising of a minimum of 20 questions. The Firearms Training and Qualifications in-service course and topics delivered pursuant to Rule .0104(1) of this Section shall be exempt from this written test requirement;
- (2) A student shall pass each test by achieving 70 percent correct answers; and
- (3) A student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional classroom setting before taking the exam a third time.

Authority G.S. 17C-6; 17C-10.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0304.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://deq.nc.gov/news/events/public-notice-hearings>

Proposed Effective Date: January 1, 2019

Public Hearing:

Date: Wednesday, August 8, 2018

Time: 11:00 a.m.

Location: Biltmore Lake Clubhouse, 80 Lake Drive, Biltmore Lake, NC 28715

Reason for Proposed Action: *Biltmore Lake Association has requested that Enka Lake, which is a portion of Bill Moore Creek in Buncombe County (French Broad River Basin), be reclassified from Class C to Class B. The purpose of this rule change is to protect the existing waters' primary recreation uses. The waters*

proposed to be reclassified meet Class B standards according to 2017 Division of Water Resources studies.

If these waters are reclassified, new National Pollutant Discharge Elimination System (NPDES) wastewater discharges to these waters that contain fecal coliform will be required to have a coliform limit. There are no permitted or planned NPDES wastewater discharges to these waters that would be impacted by the proposal.

Comments may be submitted to: Elizabeth Kountis, DEQ/DWR Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611; phone (919) 807-6418; email elizabeth.kountis@ncdenr.gov

Comment period ends: August 14, 2018

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 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0304 FRENCH BROAD RIVER BASIN

(a) Effective February 1, 1976, the adopted classifications assigned to the waters within the French Broad River Basin are set forth in the French Broad River Basin Schedule of Classifications and Water Quality Standards, which may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/esu/>; <https://deq.nc.gov/river-basin-classification-schedule/>; and

- (2) the North Carolina Department of ~~Environment and Natural Resources~~ Environmental Quality:
- (A) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina ~~Carolina~~ and
- (B) Division of Water ~~Quality Resources~~ Central Office
512 North Salisbury Street
Raleigh, North Carolina.
- (b) Unnamed Streams. Such streams entering Tennessee are classified "B."
- (c) The French Broad River Basin Schedule of Classifications and Water Quality Standards was amended effective:
- (1) September 22, 1976;
 - (2) March 1, 1977;
 - (3) August 12, 1979;
 - (4) April 1, 1983;
 - (5) August 1, 1984;
 - (6) August 1, 1985;
 - (7) February 1, 1986;
 - (8) May 1, 1987;
 - (9) August 1, 1990.
- (d) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective March 1, 1989 as follows:
- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
 - (2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.
- (e) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens Creek and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.
- (f) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.
- (g) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B 0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification

- after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.
- (h) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1993 as follows: Reasonover Creek [Index No. 6-38-14-(1)] from source to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V and B Trout, and Reasonover Creek [Index No. 6-38-14-(4)] from Reasonover Lake Dam to Lake Julia Dam and all tributaries were reclassified from Class C Trout to Class WS-V Trout.
- (i) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-(9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and WS-IV.
- (j) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-(37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA, and C Trout.
- (k) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1996 as follows: Stokely Hollow [Index Numbers 6-121.5-(1) and 6-121.5-(2)] from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA to Class C.
- (l) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended April 1, 1996 with the reclassification of the French Broad River [Index No. 6-(1)] from a point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-IV; French Broad River [Index No. 6-(51.5)] from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River [Index No. 6-54-(5)] was reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS-III CA (Critical Area).
- (m) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad River [Index No. 6-(38.5)] and the North Toe River 7-2-(10.5) from Class IV to Class C.
- (n) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the reclassification of Clear Creek [Index No. 6-55-(1)] from its source to Lewis Creek from Class C Tr to Class B Tr.
- (o) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2000 with the reclassification of Rough Creek [Index No. 5-8-4-(1)], including all tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.
- (p) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002

with the revision to the primary classification for the French Broad River [Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5)] including its four headwater forks' mainstems, watershed of tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and the Nolichucky River [Index No. 7] including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.

(q) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the reclassification of the North Toe River [Index No. 7-2-(0.5)], including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.

(r) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended September 1, 2004 with the reclassification of a portion of Richland Creek [Index No. 5-16(1)], from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class B to Class B Tr, and all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW, and WS-I HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek [Index No. 5-16-6], Farmer Branch [Index No. 5-16-11], and tributaries already classified as Tr.

(s) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 2007 with the reclassification of McClure's Bog near Gash Creek [Index No. 6-47] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality Resources maintains a Geographic Information Systems data layer of the UWL.

(t) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective September 1, 2009 with the reclassification of the entire watershed of Big Laurel Creek (Index No. 6-112) from source to the French Broad River from Class C Tr to Class C ORW Tr.

(u) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective September 1, 2009 with the reclassification of the entire watershed of Spring Creek [Index No. 6-118-(1) and 6-118-(27)] from source to the French Broad River from Class C Tr and Class C to Class C ORW Tr and Class C ORW.

(v) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin is amended December 1, 2011 with the reclassification of a portion of the French Broad River [Index No. 6-(54.5)] from the confluence of the Mills River to a point 0.2 miles downstream of the confluence of the Mills River from Class B to Class WS-IV&B CA.

(w) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended January 1, 2019 with the reclassification of Enka Lake, which is a portion of the Bill Moore Creek (Index No. 6-76-7), from Class C to Class B.

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

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Environmental Management Commission intends to adopt the rule cited as 15A NCAC 02C .0309, readopt with substantive changes the rules cited as 15A

NCAC 02C .0102, .0105, .0107-.0114, .0116, .0118-.0119, .0204, .0206-.0207, .0211, .0218-.0230, .0240-.0241, .0301-.0308, and readopt without substantive changes the rules cited as 15A NCAC 02C .0101, .0117, .0201-.0203, .0208-.0210, .0217, and .0242.

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/news/events/public-notice-hearings>

Proposed Effective Date: March 1, 2019

Public Hearing:

Date: July 17, 2018

Time: 6:00 p.m.

Location: Cape Fear Community College, 411 N Front Street, Wilmington, NC 28401, 5th Floor of Union Station (502 N Front Street)

Date: July 19, 2018

Time: 6:00 p.m.

Location: Western Piedmont Community College – Higher Education Center, 2128 S Sterling Street, Morganton, NC 28655, Tiered Room

Date: July 24, 2018

Time: 6:00 p.m.

Location: Martin Community College, 1161 Kehukee Park Road, Williamston, NC 27892, Building 2 Auditorium

Date: July 26, 2018

Time: 6:00 p.m.

Location: Archdale Building, 512 North Salisbury Street, Raleigh, NC 27699, Ground Floor Hearing Room

Reason for Proposed Action:

To readopt rules that establish the following:

- 1) requirements for when a permit is required; standards of construction; installation and capacity of pumps and related pumping; well tests for yield; disinfection of water supply wells; and well maintenance, repair, and abandonment
- 2) construction and location requirements for injection wells that include aquifer recharge, storage and recovery, and test wells; experimental technology wells; geothermal wells, groundwater remediation wells; and other less common injection wells
- 3) requirements for permitting and inspection of private drinking water wells

To readopt rules pursuant to G.S. 150B-21.3A

Comments may be submitted to: 2C Rule Comments, Department of Environmental Quality, Division of Water Resources, Water Quality Regional Offices Section, 1636 Mail Service Center, Raleigh, NC 27699-1611; fax (919) 807-6496; email 15ancac2crule_comments@lists.ncmail.net

Comment period ends: August 14, 2018

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** 15A NCAC 02C .0304
- ☐ **Environmental permitting of DOT affected**
- ☐ **Analysis submitted to Board of Transportation**
- ☒ **Local funds affected** 15A NCAC 02C .0304
- ☐ **Substantial economic impact (≥\$1,000,000)**
- ☒ **Approved by OSBM** 15A NCAC 02C .0304
- ☒ **No fiscal note required by G.S. 150B-21.4** 15A NCAC 02C except .0304
- ☒ **No fiscal note required by G.S. 150B-21.3A(d)(2)** 15A NCAC 02C except .0304

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02C - WELL CONSTRUCTION STANDARDS

SECTION .0100 - CRITERIA AND STANDARDS APPLICABLE TO WATER-SUPPLY AND

15A NCAC 02C .0101 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02C .0102 DEFINITIONS

The terms used in this Subchapter shall be as defined in G.S. 87-85 and as follows, unless the context otherwise requires:

- (1) "Abandon" means to discontinue the use of and to seal a well according to the requirements of 15A NCAC 02C .0113 of this Section.
- (2) "Access port" means an opening in ~~the~~ a well casing or well head installed for the ~~primary~~ purpose of determining the position of the water level in the well or to facilitate disinfection.
- (3) "Agent" means any person who by ~~mutual and legal~~ agreement with a well owner has authority to act ~~in~~ on his or her behalf in executing applications for permits. The agent may be either general agent or a limited agent authorized to do one particular act.

- (4) "Annular Space" means the space between the casing and the walls of ~~the~~ a borehole or outer casing ; or the space between a liner pipe and well casing.
- (5) "Artesian flowing well" means ~~any~~ a well in which groundwater flows above the land surface without the use of a ~~pump~~; pump where and, under natural conditions, the static water level or hydraulic head elevation is greater than the land surface ~~under natural conditions~~; elevation.
- (6) "ASTM" means the American Society for Testing and Materials.
- (7) "Casing" means pipe or tubing constructed of materials and having dimensions and weights as specified in the rules of this Subchapter, that is installed in a borehole during or after completion of the borehole ; to support the side of the hole and thereby prevent caving, to allow completion of a well, to prevent formation material from entering the well, to prevent the loss of drilling fluids into permeable formations, and to prevent entry of contamination.
- (8) "Clay" means a substance comprised of natural, inorganic, fine-grained crystalline mineral fragments ~~which, that~~, when mixed with water, forms a pasty, moldable mass that preserves its shape when air dried.
- (9) "Commission" means the North Carolina Environmental Management Commission or its successor, unless otherwise indicated.
- (10) "Consolidated rock" means rock that is firm and coherent, solidified or cemented, such as granite, gneiss, limestone, slate or sandstone, that has not been decomposed by weathering.
- (11) "Contaminate" or "Contamination" means the introduction of foreign materials of such nature, quality, and quantity into the groundwaters as to exceed the groundwater quality standards ~~specified set forth in 15A NCAC 02L .0200. (Classifications and Water Quality Standards Applicable to the Groundwaters of North Carolina).~~ ~~[Note: 15A NCAC 02L .0202(b)(3) addresses where naturally occurring substances exceed the established standard.]~~
- (12) "Department" is as defined in G.S. 87-85(5a).
- (13) "Designed capacity" means that capacity that is equal to the yield that is specified by the well owner or his or her agent prior to construction of the well.
- (14) "Director" means the Director of the Division of Water Quality Resources or the Director's delegate.
- (15) "Division" means the Division of Water Quality Resources.

- (16) "Domestic use" means water used for drinking, ~~bathing, bathing~~ or other household purposes, livestock, or gardens.
- (17) "Formation Material" means naturally occurring material generated during the drilling process that is composed of sands, silts, clays or fragments of rock and which is not in a dissolved state.
- (18) "GPM" and "GPD" mean gallons per minute and gallons per day, respectively.
- (19) "Grout" means a material approved in accordance with Rule .0107(e) of this Section for use in sealing the annular space of a well or liner or for sealing a well during abandonment.
- (20) "Lead Free" means materials containing not more than a weighted average of 0.25 percent lead per the Safe Drinking Water Act amended January 4, 2014.
- ~~(20)~~(21) "Liner pipe" means pipe that is installed inside a completed and cased well for the purpose of preventing the entrance of contamination into the well or for repairing ruptured, corroded or punctured casing or screens.
- ~~(21)~~(22) "Monitoring well" means any well constructed for the primary purpose of obtaining samples information about the physical, chemical, radiological, or biological characteristics of groundwater or other liquids for examination or testing, liquids, or for the observation or measurement of groundwater levels. This definition excludes lysimeters, tensiometers, and other devices used to investigate the characteristics of the unsaturated zone but includes piezometers, a type of monitoring well constructed solely for the purpose of determining groundwater levels. This definition includes all monitoring well types, including temporary wells and wells using Geoprobe® or direct-push technology (DPT).
- ~~(22)~~(23) "Owner" means any person who holds the fee or other property rights in the well being constructed.
[~~Note: Absent a contrary agreement in writing, the Department will presume that the well owner and the land owner are the same person.~~]
- ~~(23)~~(24) "Pitless adapters" or "pitless units" are devices manufactured to the standards specified under 15A NCAC 02C .0107(j)(5) for the purpose of allowing a subsurface lateral connection between a well and plumbing appurtenances.
- ~~(24)~~(25) "Public water system" means a water system as defined in 15A NCAC 18C (Rules Governing Public Water Supplies).
- ~~(25)~~(26) "Recovery well" means any well constructed for the purpose of removing contaminated groundwater or other liquids from the subsurface.
- ~~(26)~~(27) "Saline" means having a chloride concentration of more than 250 milligrams per liter.
- ~~(27)~~(28) "Secretary" means the Secretary of the Department of ~~Environment and Natural Resources~~ Environmental Quality or the Secretary's delegate.
- ~~(28)~~(29) "Settleable solids" means the volume of solid particles in a well-mixed one liter sample ~~which~~ that will settle out of suspension, in the bottom of an Imhoff Cone, after one hour.
- (30) "Sewer Lateral" means the sewer pipe connecting a structure to a wastewater treatment collection system or a municipal or commercial sewer main line.
- ~~(29)~~(31) "Site" means the land or water area where any facility, activity or situation is ~~physically~~ located, including adjacent or other land used in connection with the facility, activity or situation.
- ~~(30)~~(32) "Specific capacity" means the yield of the well expressed in gallons per minute per foot of draw-down of the water level (gpm/ft.-dd).
- ~~(31)~~(33) "Static water level" means the level at which the water stands in the well when the well is not being pumped and is expressed as the distance from a fixed reference point to the water level in the well.
- ~~(32)~~(34) "Suspended solids" means the weight of those solid particles in a sample which are retained by a standard glass microfiber filter, with pore openings of one and one-half microns, when dried at a temperature between 103 and 105 degrees Fahrenheit.
- ~~(33)~~(35) "Temporary well" means a well that is constructed to determine aquifer ~~characteristics, characteristics~~ and ~~which that~~ will be permanently abandoned or converted to a permanent well within ~~seven 21~~ days (168 hours)(504 hours) of the completion of drilling of the borehole.
- ~~(34)~~(36) "Turbidity" means the cloudiness in ~~water,~~ water due to the presence of suspended particles such as clay ~~and and/or silt, silt~~ that may create ~~esthetic problems or laboratory~~ analytical difficulties for determining ~~contamination.~~ contamination above 15A NCAC 02L Groundwater Standards.
- ~~(35)~~(37) "Vent" means a permanent opening in the well casing or well head, installed for the purpose of allowing changes in the water level in a well due to natural atmospheric changes or to pumping. A vent may also serve as an access port.
- (38) "Water-tight" means put or fit together so tightly that water cannot enter or pass through. For example, water-tight pipe may be filled with water and tested under pressure between three and five pounds per square inch (psi) for several minutes to detect leaks.
- ~~(36)~~(39) "Well" is as defined in G.S. 87-85(14).

- ~~(37)~~(40) "Well capacity" means the maximum quantity of water that a well will yield continuously as determined by methods outlined in 15A NCAC 02C .0110.
- ~~(38)~~(41) "Well head" means the upper terminal of the well including adapters, ports, valves, seals, and other attachments.
- ~~(39)~~(42) "Well system" means two or more wells connected to the same distribution or collection system or, if not connected to a distribution or collection system, two or more wells serving the same site.
- ~~(40)~~(43) "Yield" means the volume of water or other fluid per time that can be discharged from a well under a given set of circumstances.

Authority G.S. 87-85; 87-87; 143-214.2; 143-215.3.

15A NCAC 02C .0105 PERMITS

~~(a) It is the finding of the Commission that the entire geographical area of the state is vulnerable to groundwater pollution from improperly located, constructed, operated, altered, or abandoned wells. Therefore, in order to ensure reasonable protection of the groundwater resources, prior permission from the Department shall be obtained for the construction of the types of wells enumerated in Paragraph (b) of this Rule.~~

~~(b)~~(a) No person shall locate or construct any of the following wells until a permit has been issued by the Department:

- (1) any water-well or well system with a designed capacity ~~of to pump~~ 100,000 gallons per day (gpd) or ~~greater; more during one calendar year;~~
- (2) any well added to an existing system ~~where if~~ the total designed capacity of such existing well system and added well will equal or exceed 100,000 gpd;
- (3) any ~~temporary or permanent~~ monitoring well or monitoring well system, ~~including wells installed using direct-push technology (DPT) or Geoprobe® technology,~~ constructed to assess hydrogeologic conditions on property not owned by the well owner;
- (4) any recovery well;
- (5) any well with a design deviation from the standards specified under the rules of this Subchapter, including wells for which a variance is required.

~~(c)~~(b) The Department shall issue permits for wells used for geothermal heating and cooling, recharge aquifer storage and recovery (ASR), or other injection purposes in accordance with 15A NCAC 02C .0200.

~~(d)~~(c) The Department shall issue permits for private drinking water wells in accordance with 15A NCAC 02C .0300, including private drinking water wells with a designed capacity greater than 100,000 gallons per day and private drinking water wells for which a variance is required.

~~(e)~~(d) An application for any well requiring a permit pursuant to Paragraph ~~(b)~~(a) of this Rule shall be submitted by the owner or his or her agent. In the event that the permit applicant is not the owner of the property on which the well or well system is to be

constructed, the permit application shall contain written approval from the property owner and a statement that the applicant assumes total responsibility for ensuring that the well(s) will be located, constructed, maintained and abandoned in accordance with the requirements of this Subchapter.

~~(f)~~(e) The application shall be submitted to the Department on forms furnished by the Department, and shall include the following:

- (1) the owner's name;
- (2) the owner's mailing address and proposed well site address;
- (3) description of the well type and activity requiring a permit;
- (4) site location (map);
- (5) a map of the site, to scale, showing the locations of:
 - (A) all property boundaries, at least one of which is referenced to a minimum of two landmarks such as identified roads, intersections, streams or lakes within 500 feet of proposed well or well system;
 - (B) all existing wells, identified by type of use, within 500 feet of proposed well or well system;
 - (C) the proposed well or well system;
 - (D) any test borings within 500 feet of proposed well or well system; and
 - (E) all sources of known or potential groundwater contamination (such as septic tank systems; pesticide, chemical or fuel storage areas; animal feedlots, as defined by G.S. 143-215.10B(5); landfills or other waste disposal areas) within 500 feet of the proposed well.
- (6) the well contractor's name and state certification number, if known; and
- (7) construction diagram of the proposed well(s) including specifications describing all materials to be used, methods of construction and means for assuring the integrity and quality of the finished well(s).

~~(g)~~(f) For water supply wells or well systems with a designed capacity of 100,000 gpd or greater the application shall include, in addition to the information required in Paragraph ~~(f)~~(e) of this Rule:

- (1) the number, yield and location of existing wells in the system;
- (2) the water system's name and reference number if already a public water supply system;
- ~~(2)~~(3) the designed capacity of the proposed well(s);
- ~~(3)~~(4) for wells to be screened in multiple zones or aquifers, representative data on the static water level and pH, specific conductance, and concentrations of sodium, potassium, calcium, magnesium, sulfate, chloride, and carbonates from each aquifer or zone from which water is proposed to be withdrawn. The data submitted

shall be sufficient to demonstrate that construction of the proposed well will satisfy the requirements of 15A NCAC 02C .0107(h)(2);

- ~~(4)~~(5) a copy of any water use permit required pursuant to G.S. 143-215.15; and
- ~~(5)~~(6) any other well construction information or site specific information ~~deemed necessary by for the Department for the protection of human health and the environment. to ensure compliance with G.S. 87-84.~~

~~(4)~~(g) For those monitoring wells with a design deviation from the specifications of 15A NCAC 02C .0108 of this Section, in addition to the information required in Paragraph ~~(f)~~(e) of this Rule, the application shall include:

- (1) a description of the subsurface conditions sufficient to evaluate the site. Data from test borings, wells, and pumping tests may be necessary;
- (2) a description of the quantity, character and origin of the contamination;
- (3) justification for the necessity of the design deviation; and
- (4) any other well construction information or site specific information ~~deemed necessary by for the Department for the protection of human health and the environment. to ensure compliance with G.S. 87-84.~~

~~(4)~~(h) For those recovery wells with a design deviation from the specifications in 15A NCAC 02C .0108 of this Section, in addition to the information required in Paragraphs ~~(f)~~(e) and ~~(h)~~(g) of this Rule, the application shall describe the disposition of any fluids recovered if the disposal of those fluids will have an impact on any existing wells other than those installed for the express purpose of measuring the effectiveness of the recovery well(s).

~~(4)~~(i) In the event of an emergency, any well listed in Subparagraph ~~(b)(1)(a)(1)~~ through ~~(b)(4)(a)(4)~~ of this Rule may be constructed after verbal approval is provided by the Department. After-the-fact applications shall be submitted by the person responsible for drilling or owner within ten days after construction begins. The application shall include construction details of the well(s) and include the name of the person who gave verbal approval and the time and date that approval was given.

~~(4)~~(j) The well owner or his or her agent, and the North Carolina certified well contractor shall see that a permit is secured prior to the beginning of construction of any well for which a permit is required under the rules of this Subchapter.

Authority G.S. 87-87; 143-215.1.

15A NCAC 02C .0107 STANDARDS OF CONSTRUCTION: WATER SUPPLY WELLS

(a) Location.

- (1) A water supply well shall not be located in any area where surface water or runoff will accumulate around the well due to depressions, drainage ways, and other landscapes that will concentrate water around the well.

(2) The ~~minimum~~ horizontal separation between a water supply well and potential sources of groundwater ~~contamination~~, contamination ~~which that~~ exist at the time the well is ~~constructed~~, constructed is as shall be no less than as follows unless otherwise specified:

- (A) Septic tank and drainfield, including drainfield repair area 100 feet
- (B) Other subsurface ground absorption waste disposal system 100 feet
- (C) Industrial or municipal residuals disposal or wastewater-irrigation sites 100 feet
- (D) Industrial or municipal Sewage sewage or liquid-waste collection or transfer facility sewer main, constructed to water main standards in accordance with 15A NCAC 02T .0305(g)(2) or 15A NCAC 18A .1950(e), as applicable in the American Water Works Association (AWWA) Standards C600 and/or C900 50 feet
- (E) Water-tight sewer lateral line from a residence or other non-public system to a sewer main or other wastewater disposal system 25 feet
- ~~(E)~~(F) Other sewage and liquid-waste collection or transfer facility 100 feet
- ~~(F)~~(G) Cesspools and privies 100 feet
- ~~(G)~~(H) Animal feedlots, as defined by G.S. 143-215.10B(5), ~~or~~ manure or litter piles 100 feet
- ~~(H)~~(I) Fertilizer, pesticide, ~~herbicide~~ herbicide, or other chemical storage areas 100 feet
- ~~(I)~~(J) Non-hazardous waste storage, ~~treatment~~ treatment, or disposal lagoons 100 feet
- ~~(J)~~(K) Sanitary landfills, municipal solid waste landfill facilities, incinerators, construction and demolition (C&D) ~~landfills~~ landfills, and other disposal sites except Land Clearing and Inert Debris landfills 500 feet
- ~~(K)~~(L) Land Clearing and Inert Debris (LCID) landfills 100 feet
- ~~(L)~~(M) Animal barns 100 feet
- ~~(M)~~(N) Building perimeters, including any attached structures that need a building permit such as garages, patios, or decks, regardless of foundation construction type 25 feet
- ~~(N)~~(O) Surface water bodies which act as sources of groundwater recharge, such as ponds, ~~lakes~~ lakes, stormwater retention ponds, and reservoirs 50 feet
- ~~(O)~~(P) All other surface water bodies, such as brooks, creeks, streams, rivers,

- sounds, ~~bays~~ bays, and tidal estuaries
25 feet
- (P)(Q) Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N:
- (i) with secondary containment 50 feet
 - (ii) without secondary containment 100 feet
- (Q)(R) Above ground or underground storage tanks ~~which that~~ contain petroleum fuels used for heating equipment, ~~boilers~~ boilers, or furnaces, with the exception of tanks used solely for storage of propane, natural gas, or liquefied petroleum gas 50 feet
- (R)(S) All other petroleum or chemical storage tank systems 100 feet
- (S)(T) Gravesites 50 feet
- (U) Permitted or unpermitted coal ash landfills or impoundments 200 feet
- (T)(V) All other potential sources of groundwater contamination 50 feet
- (3) For a water supply well ~~as defined in G.S. 87-85(13)~~ as defined in G.S. 87-85(13) on a lot serving a single-family dwelling and intended for domestic use, where lot size or other fixed conditions preclude the separation distances specified in Subparagraph (a)(2) of this Rule, the required horizontal separation distances shall be the maximum possible but shall in no case be less than the following:
- (A) Septic tank and drainfield, including drainfield repair areas, except saprolite systems as defined in 15A NCAC 18A .1956(6) 50 feet
 - (B) Industrial or municipal Sewage sewage or liquid-waste collection or ~~transfer facility~~ sewer main, constructed to water main standards ~~in accordance with 15A NCAC 02T .0305(g)(2) or 15A NCAC 18A .1950(e), as applicable~~ as stated in the AWWA Standards C600 and/or C900 25 feet
 - (C) Animal barns 50 feet
- ~~Minimum separation~~ Separation distances for all other potential sources of groundwater contamination shall be those specified in Subparagraph (a)(2) of this Rule.
- (4) In addition to the ~~minimum~~ separation distances specified in Subparagraph (a)(2) of this Rule, a well or well system with a designed capacity of 100,000 gpd or greater shall be located a sufficient distance from known or anticipated sources of groundwater contamination so as to prevent a violation of applicable groundwater quality ~~standards, standards~~ resulting from the movement of ~~contaminants, contaminants~~ in response to the operation of the well or well system at the proposed rate and schedule of pumping.
- (5) Wells drilled for public water supply systems regulated by the ~~Division of Environmental Health~~ Public Water Supply Section of the Division of Water Resources shall meet the requirements of 15A NCAC 18C.
- (b) Source of water.
- (1) The source of water for any water supply well shall not be from a water bearing zone or aquifer that is contaminated;
 - (2) In designated areas described in 15A NCAC 02C .0117 of this Section, the source shall be greater than 35 feet below land surface;
 - (3) In designated areas described in 15A NCAC 02C .0116 of this Section, the source may be less than 20 feet below land surface, but in no case less than 10 feet below land surface;
 - (4) For wells constructed with separation distances less than those specified in Subparagraph (a)(2) of this Rule based on lot size or other fixed conditions as specified in Subparagraph (a)(3) of this Rule, the source shall be greater than 35 feet below land surface except in areas described in Rule .0116 of this Section; and
 - (5) In all other areas the source shall be at least 20 feet below land surface.
- (c) ~~Drilling Fluids and Additives. Fluids, Drilling Fluids and Additives~~ shall not contain organic or toxic substances or include water obtained from surface water bodies or water from a non-potable supply and ~~may shall~~ be comprised only of:
- (1) the formational material encountered during drilling; or
 - (2) materials manufactured specifically for the purpose of borehole conditioning or water well construction.
- (d) Casing.
- (1) If steel casing is used:
 - (A) The casing shall be new, ~~seamless~~ seamless, or electric-resistance welded galvanized or black steel pipe. Galvanizing shall be done in accordance with requirements of ASTM A53/A53M-07, which is ~~hereby~~ incorporated by ~~reference~~, reference including subsequent amendments and ~~editions, editions~~ and can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C 700, West Conshohocken, PA, 19428-2959 at a cost of fifty-one dollars (\$51.00);
 - (B) The casing, threads and couplings shall meet or exceed the specifications of ASTM A53/A53M-07 or A589/589M-06, which is hereby incorporated by reference, including subsequent amendments and editions,

and can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C 700, West Conshohocken, PA, 19428-2959 at a cost of \$ fifty-one

dollars (\$51.00) and forty-three dollars (\$43.00), respectively;
(C) The wall thickness for a given diameter shall equal or exceed that specified in Table 1;

TABLE 1: MINIMUM WALL THICKNESS FOR STEEL CASING:

Nominal Diameter (inches)	Wall Thickness (inches)
For 3.5 inch or smaller pipe, schedule 40 is required	
4	0.142
5	0.156
5.5	0.164
6	0.185
8	0.250
10	0.279
12	0.330
14 and larger	0.375

(D) Stainless steel casing, threads, and couplings shall conform in specifications to the general requirements in ASTM A530/A530M-04a, which is hereby incorporated by reference, reference including subsequent amendments and editions, editions and can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C 700, West Conshohocken, PA, 19428-2959 at a cost of thirty-seven dollars (\$37.00), and also shall conform to the specific requirements in the ASTM standard that best describes the chemical makeup of the stainless steel casing that is intended for use in the construction of the well;

(E) Stainless steel casing shall have a minimum wall thickness that is equivalent to standard schedule number 10S; ~~and~~

(F) Steel casing shall be equipped with a drive shoe if the casing is driven in a consolidated rock formation. The drive shoe shall be made of forged, high carbon, tempered seamless steel and shall have a beveled, hardened cutting ~~edge~~; edge; and

(G) All material shall be lead free.

(2) If Thermoplastic Casing is used:

(A) The casing shall be ~~new~~; new and manufactured in compliance with standards of ASTM F 480-90;

(B) The casing and joints shall meet or exceed all the specifications of ASTM F480-06b, except that the outside

- diameters shall not be restricted to those listed in ASTM F480-06b, which is ~~hereby~~ reference, reference including subsequent amendments and ~~editions~~, editions and can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C 700, West Conshohocken, PA, 19428-2959 at a cost of fifty-one dollars (\$51.00);
- (C) The depth of installation for a given Standard Dimension Ratio (SDR) ~~SDR~~ or Schedule number thickness shall not exceed that listed in Table 2 ~~unless, upon request of~~ unless the ~~Department,~~ Department is provided written documentation from the manufacturer of the casing stating that the casing may safely be used at the depth at which it is to be installed is provided.

TABLE 2: Maximum allowable depths (in feet) of Installation of Thermoplastic Water Well ~~Casing~~ Casing. Dimensional standards for PVC pipe are specified in ASTM F 480-90.

Nominal Diameter (inches)	Maximum Depth (in feet) for Schedule 40	Maximum Depth (in feet) for Schedule 80
2	485	1460
3	415	1170
3.5	315	920
4	253	755
5	180	550
6	130	495
8	85	340
10	65	290
12	65	270
14	50	265
16	50	255

Maximum Depth (in feet) for SDR 21	Maximum Depth (in feet) for SDR 17	Maximum Depth (in feet) for SDR 13.5
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- All Diameters 185 355 735
- (D) Thermoplastic casing with wall thickness less than that corresponding to SDR 21 or Schedule 40 shall not be used;
- (E) For wells in which the casing will extend into consolidated rock, thermoplastic casing shall be equipped with a ~~coupling~~, coupling or other device approved by the manufacturer of the ~~casing~~, casing that is sufficient to protect the physical integrity of the thermoplastic casing during the processes of seating and grouting the casing and subsequent drilling operations; ~~and~~
- (F) Thermoplastic casing shall not be driven by impact, but may be ~~pushed~~. pushed; and
- (G) PVC well casing joints shall meet the requirements of ASTM F 480-90 (screws or similar mechanical fasteners shall not be used for joining PVC well casing).
- (3) In constructing any well, all water-bearing zones that contain contaminated, saline, or other non-potable water shall be cased and grouted so that contamination of overlying and underlying groundwater zones ~~shall~~ will not occur.
- (4) Every well shall be cased so that the bottom of the casing extends to ~~a minimum depth as follows:~~ the following depths:
- (A) Wells located within the area described in Rule .0117 of this Section shall be cased from land surface to a depth of at least 35 feet.
- (B) Wells located within the area described in Rule .0116 of this Section shall be cased from land surface to a depth of at least 10 feet.
- (C) Wells constructed with separation distances less than those specified in Subparagraph (a)(2) of this Rule based on lot size or other fixed conditions as specified in Subparagraph (a)(3) of this Rule shall be cased from land surface to a depth of at least 35 feet except in areas described in Rule .0116 of this Section.
- (D) Wells located in any other area shall be cased from land surface to a depth of at least 20 feet.
- (5) The top of the casing shall be terminated at least 12 inches above land surface, regardless of the method of well construction and type of pump to be installed.

- (6) The casing in wells constructed to obtain water from a consolidated rock formation shall meet the requirements ~~specified in~~ of Subparagraphs (d)(1) through (d)(5) of this Rule and ~~shall be~~ shall:
 - (A) ~~adequate to~~ prevent any formational material from entering the well in excess of the levels specified in Paragraph (h) of this Rule; and
 - (B) firmly be seated at least five feet into the rock.
- (7) The casing in wells constructed to obtain water from an unconsolidated rock formation (such as gravel, sand or shells) shall extend at least one foot into the top of the water-bearing formation.
- (8) Upon completion of the well, the well shall be sufficiently free of obstacles including formation material as necessary to allow for the installation and proper operation of pumps and associated equipment.
- (9) Prior to removing equipment from the site, the top of the casing shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85(16), to preclude the entrance of contaminants into the well.

(e) Allowable Grouts.

- (1) One of the following grouts shall be used wherever grout is required by a rule of this Section. Where a particular type of grout is specified by a ~~Rule rule~~ of this Section, no other type of grout shall be used.
 - (A) Neat cement grout shall consist of a mixture of not more than six gallons of clear, potable water to one 94 pound bag of Portland cement. Up to five percent, by weight, of untreated 200 mesh Wyoming sodium bentonite, API 90 barrels per ton of bentonite may be used to improve flow and reduce shrinkage. If bentonite is used, additional water may be added at a rate not to exceed 0.6 gallons of water for each pound of bentonite.
 - (B) Sand cement grout shall consist of a mixture of not more than two parts sand and one part cement and not more than six gallons of clear, potable water per 94 pound bag of Portland cement.
 - (C) Concrete grout shall consist of a mixture of not more than two parts gravel or rock cuttings to one part cement and not more than six gallons of clear, potable water per 94 pound bag of Portland cement. One hundred percent of the gravel or rock cuttings must be able to pass through a one-half inch mesh screen.
 - (D) Bentonite slurry grout shall consist of a mixture of not more than 24 gallons

of clear, potable water to one 50 pound bag of commercial granular Wyoming sodium bentonite. Non-organic, non-toxic substances may be added to bentonite slurry grout mixtures to improve particle distribution and pumpability. Bentonite slurry grout may only be used in accordance with the manufacturer's written instructions.

- (E) Bentonite chips or pellets shall consist of pre-screened Wyoming sodium bentonite chips or compressed sodium bentonite pellets with largest dimension of at least one-fourth inch but not greater than one-fifth of the width of the annular space into which they are to be placed. Bentonite chips or pellets shall be hydrated in place. Bentonite chips or pellets ~~may~~ shall only be used in accordance with the manufacturer's written instructions.

- (F) Specialty grout shall consist of a mixture of non-organic, non-toxic materials with characteristics of expansion, chemical-resistance, rate or heat of hydration, viscosity, ~~density~~ density, or temperature-sensitivity applicable to specific grouting requirements. Specialty grouts ~~may~~ shall not be used without prior approval by the ~~Secretary~~ Director. Approval of the use of specialty grouts shall be based on a demonstration that the finished grout has a permeability less than 10^{-6} centimeters per second and will not adversely impact human health or the environment. A request for approval of a specialty grout shall be submitted to the Director and shall include the following information:

- (i) a demonstration of non-toxicity, such as American National Standard Institute (ANSI) or National Sanitation Foundation, Inc. (NSF) Standard 60 certification;
- (ii) an independent laboratory test results that demonstrate the finished product has a permeability of less than 1×10^{-6} centimeters per second and, if the product is used in areas of brackish or saline groundwater, the grout will not degrade over the lifetime of the well;

- (iii) a demonstration that the product does not contain any fly ash, coal combustion by-products, or wastes;
 - (iv) a general procedure for mixing and emplacing the grout;
 - (v) types of wells the request would apply; and
 - (vi) any other information necessary for the Department to ensure compliance with G.S. 87-84.
- (2) With the exception of bentonite chips or pellets, the liquid and solid components of all grout mixtures shall be blended prior to emplacement below land surface.
- (3) No fly ash, other coal combustion byproducts, or other wastes ~~may~~ shall be used in any grout.
- (f) Grout emplacement.
 - (1) Casing shall be grouted to a minimum depth of twenty feet below land surface except that:
 - (A) ~~In those areas designated by the Director to meet the criteria of in Rule .0116 of this Section, grout shall extend to a depth of two feet above the screen or, for open end wells, to the bottom of the casing, but in no case less than 10 feet.~~
 - (B) In those areas designated in Rule .0117 of this Section, grout shall extend to a minimum of 35 feet below land surface.
 - (2) In addition to the grouting required by Subparagraph (f)(1) of this Rule, the casing shall be grouted as necessary to seal off all aquifers or zones that contain contaminated, saline, or other non-potable water so that contamination of overlying and underlying aquifers or zones shall not occur.
 - (3) Bentonite slurry grout may be used in that portion of the borehole that is at least three feet below land surface. That portion of the borehole from land surface to at least three feet below land surface shall be filled with a concrete or cement-type grout or bentonite chips or pellets that are hydrated in place.
 - (4) Grout shall be placed around the casing by one of the following methods:
 - (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the annular space around the casing and overflows at the surface;
 - (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the annular space which can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire application; or
- (C) Other. Grout may be emplaced in the annular space by gravity flow in such a way to ensure complete filling of the space. Gravity flow shall not be used if water or any visible obstruction is present in the annular space within the applicable minimum grout depth specified in Subparagraph (f)(1) of this Rule at the time of grouting, with the exception that bentonite chips or pellets may be used if water is ~~present~~, present and if designed for that purpose.
- (5) If a Rule of this Section requires grouting of the casing to a depth greater than 20 feet below land surface, the pumping or pressure method shall be used to grout that portion of the borehole deeper than 20 feet below land surface, with the exception of bentonite chips and ~~pellets~~, pellets used in accordance with Part (f)(4)(C) of this Rule.
- (6) If an outer casing is installed, it shall be grouted by either the pumping or pressure method.
- (7) Bentonite chips or pellets shall be used in compliance with all manufacturer's instructions including pre-screening the material to eliminate fine-grained particles, installation rates, hydration methods, tamping, and other measures to prevent bridging.
- (8) Bentonite grout shall not be used to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater. For wells installed on the barrier island from the Virginia state line south to Ocracoke Inlet, chloride concentrations shall be documented and reported as required by Rule .0114(1)(e) of this Section.
- (9) The well shall be grouted within seven days after the casing is set. If the well penetrates any water-bearing zone that contains saline water, the well shall be grouted within one day after the casing is set.
- (10) No additives ~~which that~~ will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
- (11) ~~Where~~ If grouting is required by the provisions of this Section, the grout shall extend outward in all directions from the casing wall to a minimum thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater; but in no case shall a well be required to have an annular grout seal thickness greater than four inches.
- (12) For wells constructed in locations where flowing artesian conditions are encountered or expected to occur, the well shall be adequately

grouted to protect the artesian aquifer, prevent erosion of overlying ~~material~~ material, and confine the flow within the casing.

(g) Well Screens.

- (1) The well, if constructed to obtain water from an unconsolidated rock formation, shall be equipped with a screen that will prevent the entrance of formation material into the well after the well has been developed and completed.
- (2) The well screen shall be of a design to permit the optimum development of the aquifer with minimum head loss consistent with the intended use of the well. The openings shall be designed to prevent clogging and shall be free of rough edges, irregularities or other defects that may accelerate or contribute to corrosion or clogging.
- (3) Multi-screen wells shall not connect aquifers or zones ~~which that~~ have differences in water quality or potentiometric surfaces ~~which that~~ would result in contamination of any aquifer or zone.

(h) Gravel-and Sand-Packed Wells.

- (1) In constructing a gravel-or sand-packed well:
 - (A) The packing material shall be composed of quartz, granite, or similar mineral or rock material and shall be clean, of uniform size, ~~water washed~~ water-washed, and free from clay, silt, ~~or and other deleterious material.~~ toxic materials.
 - (B) The size of the packing material shall be determined from a grain size analysis of the formation material and shall be of a size sufficient to prohibit the entrance of formation material into the well in concentrations above those permitted by Paragraph (i) of this Rule.
 - (C) The packing material shall be placed in the annular space around the screens and casing by a fluid circulation method to ensure accurate placement and avoid bridging.
 - (D) The packing material shall be disinfected.
- (2) The packing material shall not connect aquifers or zones which have differences in water quality that would result in contamination of any aquifer or zone.

(i) All water supply wells shall be developed by the well contractor. Development shall include removal of formation materials, mud, drilling ~~fluids~~ fluids, and ~~additives~~ additives, such that the water contains no more than:

- (1) five milliliters per liter of settleable solids; and
- (2) 10 NTUs of turbidity as suspended solids.

Development does not require efforts to reduce or eliminate the presence of dissolved constituents ~~which that~~ are indigenous to the ground water quality in that area.

(j) Well Head Completion.

- (1) Access Port. Every water supply well shall be equipped with a usable access port or air line, except for the following: ~~those with~~ a multi-pipe deep well with jet pump or adapter mounted on the well casing or well ~~head, head;~~ and wells with casing two inches or less in diameter ~~where if~~ a suction pipe is connected to a suction lift pump. The access port shall be at least one half inch inside diameter opening so that the position of the water level can be ~~determined~~ determined, ~~at any time.~~ The port shall be installed and maintained in such manner as to prevent entrance of water or foreign material.
- (2) Well Contractor Identification Plate.
 - (A) An identification plate, showing the well contractor and certification number and the information specified in Part (j)(2)(E) of this Rule, shall be installed on the well within 72 hours after completion of the drilling.
 - (B) The identification plate shall be constructed of a durable weatherproof, rustproof ~~metal,~~ metal or other material approved by the Department as equivalent.
 - (C) The identification plate shall be permanently attached to either the aboveground portion of the well casing, surface grout ~~pad~~ pad, or enclosure floor around the casing where it is readily visible and in a manner that does not obscure the information on the identification plate.
 - (D) The identification plate shall not be ~~removed by any person.~~ removed.
 - (E) The identification plate shall be stamped to show ~~the:~~ the following:
 - (i) the total depth of well;
 - (ii) the casing depth (feet) and inside diameter (inches);
 - (iii) the screened intervals of screened wells;
 - (iv) the packing interval of gravel- packed or sand-packed wells;
 - (v) the yield, in gallons per minute (~~gpm~~), (gpm) or specific capacity in gallons per minute per foot of drawdown (~~gpm/ft. -dd~~); of drawdown;
 - (vi) the static water level and the date it was measured;

- (vii) the date the well was completed; and
 - (viii) the well construction permit number or numbers, if such a permit is required.
- (3) Pump Installation Information Plate.
- (A) An information plate, showing the well contractor and certification number of the person installing the ~~pump~~, pump and the information specified in Part (j)(3)(D) of this Rule, shall be permanently attached to either the aboveground portion of the well casing, the surface grout ~~pad~~ pad, or the enclosure floor, if present, where it is ~~readily~~ visible and in a manner that does not obscure the information on the identification ~~plate~~ plate, within 72 hours after completion of the pump installation;
 - (B) The information plate shall be constructed of a ~~durable~~ durable, waterproof, rustproof ~~metal~~, metal or other material approved by the Department as equivalent;
 - (C) The information plate shall not be ~~removed by any person~~; removed; and
 - (D) The information plate shall be stamped or engraved to show ~~the~~; the following:
 - (i) the date the pump was installed;
 - (ii) the depth of the pump intake; and
 - (iii) the horsepower rating of the pump.
- (4) Controlled flow. Every artesian flowing well shall be constructed, ~~equipped~~ equipped, and operated to prevent the unnecessary discharge of water. Flow shall be completely stopped unless the discharge is for beneficial use and only for the duration of that beneficial use. Flow discharge control shall be provided to conserve the groundwater resource and prevent or reduce the loss of artesian hydraulic head. Flow control may consist of valved pipe connections, watertight pump connections, receiving tank, flowing well pitless adapter, ~~packer~~ packer, or other methods approved by the Department to prevent the loss of artesian hydraulic head and stop the flow of water as referenced in G.S. 87-88(d). Well owners ~~are~~ shall be responsible for the operation and maintenance of the valve.
- (5) Pitless adapters or pitless units ~~are~~ shall be allowed as a method of well head completion under the following conditions:
- (A) Design, ~~installation~~ installation, and performance standards are those

specified in PAS-97(04), which is hereby incorporated by ~~reference~~, reference including subsequent amendments and ~~editions~~, editions and can be obtained from the Water System Council National Programs Office, 1101 30th Street, N.W., Suite 500, Washington, DC 20007 at no cost;

- (B) The pitless device is compatible with the well casing;
 - (C) The top of the pitless unit extends at least 12 inches above land surface;
 - (D) The excavation surrounding the casing and pitless device is filled with grout from the top of the casing grout to the land surface; and
 - (E) The pitless device has an access port.
- (6) All openings for piping, wiring, and vents shall enter into the well at least 12 inches above land surface, except where pitless adapters or pitless units are used, and shall be adequately sealed to preclude the entrance of contaminants into the well. The final land surface grade immediately adjacent to the well shall be such that surface water is diverted away from the well.

Authority G.S. 87-87; 87-88.

15A NCAC 02C .0108 STANDARDS OF CONSTRUCTION: WELLS OTHER THAN WATER SUPPLY

- (a) No well shall be located, constructed, operated, or repaired in any manner that may adversely impact the quality of groundwater.
- (b) Injection wells shall conform to the standards set forth in Section .0200 of this Subchapter.
- (c) Monitoring wells and recovery wells shall be located, designed, constructed, ~~operated~~ operated, and abandoned with materials and by methods ~~which~~ that are compatible with the chemical and physical properties of the contaminants involved, specific site ~~conditions~~ conditions, and specific subsurface conditions.
- (d) Monitoring well and recovery well boreholes shall not penetrate to a depth greater than the depth to be monitored or the depth from which contaminants are to be recovered. Any portion of the borehole that extends to a depth greater than the depth to be monitored or the depth from which contaminants are to be recovered shall be grouted completely to prevent vertical migration of contaminants.
- (e) The well shall not hydraulically connect:
 - (1) separate aquifers; or
 - (2) those portions of a single aquifer where contamination occurs in separate and definable layers within the aquifer.
- (f) The well construction materials used shall be ~~compatible~~ structurally stable, corrosion resistant, and non-reactive based upon ~~with~~ the depth of the well and any contaminants to be monitored or recovered.

(g) The well shall be constructed in such a manner that water or contaminants from the land surface cannot migrate along the borehole annulus into any packing material or well screen area.

(h) In non-water supply wells, packing material placed around the screen shall extend ~~at least~~ one foot or greater above the top of the ~~screen~~ screen. ~~Unless the depth of the screen necessitates a thinner seal, and a one foot or greater thick seal, comprised of chip or pellet bentonite or other material approved by the Department as equivalent, shall be emplaced directly above and in contact with the packing material. If shallow groundwater is observed within five feet or less of land surface during well construction, the packing material and seal shall comply with Paragraph (j) of this Rule.~~

(i) In non-water supply wells, grout shall be placed in the annular space between the outermost casing and the borehole wall from the land surface to the top of the bentonite seal above any well screen or to the bottom of the casing for open end wells. The grout shall comply with Paragraph (e) of Rule .0107 of this ~~Section~~ Section. ~~except that the upper three feet of grout shall be concrete or cement grout.~~

(j) For non-water supply wells in which the stabilized water table is visible within five feet of land surface during well installation or field investigation activities, well construction shall meet each of the following requirements:

- (1) Packing material placed in the annular space around the well screen shall extend six inches or greater above the top of the screen;
- (2) A six-inch or greater thick seal comprised of chip or pellet bentonite shall be placed in the annular space above and in direct contact with the packing material;
- (3) A one-foot or greater seal of concrete or cement grout shall be installed in the annular space from land surface to the top of the bentonite seal (upper one foot of well horizon); and
- (4) Shallow wells of this class shall be equipped with a two-foot or greater concrete pad around the well, flush with the land surface to prevent surface water infiltration.

If a well is installed under Paragraph (j) of this Rule, shallow water table shall be verified by a NC certified well contractor, licensed professional engineer, geologist, or soil scientist and noted on all documents or reporting forms submitted.

~~(j)(k)~~ (k) All wells shall be grouted within seven days after the casing is set. If the well penetrates any water-bearing zone that contains contaminated or saline water, the well shall be grouted within one day after the casing is set.

~~(k)(l)~~ (l) All non-water supply wells, including temporary wells, shall be secured with a locking well cap to ensure against unauthorized access and use.

~~(l)(m)~~ (m) All non-water supply wells shall be equipped with a steel outer well casing or flush-mount cover, set in concrete, and other measures sufficient to protect the well from damage by normal site activities.

~~(m)(n)~~ (n) Any well that would flow under natural artesian conditions shall be valved so that the flow can be regulated.

~~(n)(o)~~ (o) In non-water supply wells, the well casing shall be terminated no less than 12 inches above land surface unless all of the following conditions are met:

- (1) site-specific conditions directly related to business activities, such as vehicle traffic, would endanger the physical integrity of the well; and
- (2) the well head is completed in such a manner so as to preclude surficial contaminants from entering the well.

~~(p)~~ (p) Each non-water supply well shall have permanently affixed an identification plate. The identification plate shall be constructed of a durable, waterproof, rustproof metal or other material approved by the Department as equivalent and shall contain the following information:

- (1) well ~~contractor~~ contractor's name and certification number;
- (2) the date the well was completed;
- (3) the total depth of the well;
- (4) a warning that the well is not for water supply and that the groundwater may contain hazardous materials;
- (5) ~~depth(s) to the top(s) and bottom(s) of the screen(s);~~ the depth to the top and bottom of each screen; and
- (6) the well identification number or name assigned by the well owner.

~~(q)~~ (q) Each non-water supply well shall be developed such that the level of turbidity or settleable solids does not preclude accurate chemical analyses of any fluid samples collected or adversely affect the operation of any pumps or pumping equipment.

~~(r)~~ (r) Wells constructed for the purpose of monitoring or testing for the presence of liquids associated with tanks regulated under 15A NCAC 02N (Criteria and Standards Applicable to Underground Storage Tanks) shall be constructed in accordance with 15A NCAC 02N .0504.

~~(s)~~ (s) Wells constructed for the purpose of monitoring for the presence of vapors associated with tanks regulated under 15A NCAC 02N shall:

- (1) be constructed in such a manner as to prevent the entrance of surficial contaminants or water into or alongside the well casing; and
- (2) be provided with a lockable cap in order to ~~reasonably~~ ensure against unauthorized access and use.

~~(t)~~ (t) Temporary wells and all other non-water supply wells shall be constructed in such a manner as to preclude the vertical migration of contaminants within and along the borehole channel.

(u) Geotechnical borings advanced for building activities such as foundation testing and road bed strength evaluations shall not be considered wells as defined in G.S. 87-85(14) if they are immediately abandoned after use pursuant to Rule .0113(d)(1) of this Section. These borings shall not require submittal of a well construction or abandonment record pursuant to Rule .0114 of this Section.

(v) Soil borings advanced for such activities as collecting soil samples for contamination assessment or characterization soil profiles shall not be considered wells as defined in G.S. 87-85(14) if they are not intended to penetrate the water table and are immediately abandoned after use pursuant to Rule .0113(d)(1) of this Section. These borings shall not require submittal of a well

construction or well abandonment records pursuant to Rule .0114 or this Section.

Authority G.S. 87-87; 87-88.

15A NCAC 02C .0109 PUMPS AND PUMPING EQUIPMENT

- (a) The pumping capacity of the pump shall be consistent with the intended use and yield characteristics of the well.
- (b) The pump and related equipment for the well shall be located to permit easy access and removal for repair and maintenance.
- (c) The base plate of a pump placed directly over the well shall be designed to form a watertight seal with the well casing or pump foundation.
- (d) In installations where the pump is not located directly over the well, the annular space between the casing and pump intake or discharge piping shall be closed with a watertight seal.
- (e) The well head shall be equipped with a screened vent to allow for the pressure changes within the well except if a suction lift pump or single-pipe jet pump is used or artesian, flowing well conditions are encountered.
- (f) The person installing the pump in any water supply well shall install a threadless sampling tap at the wellhead for obtaining water samples except:

- (1) In the case of suction pump or offset jet pump installations the threadless sampling tap shall be installed on the return (pressure) side of the pump piping, and
- (2) In the case of pitless adapter installations, the threadless sampling tap shall be located immediately upstream of the water storage tank.
- (3) ~~If the wellhead is also equipped with a threaded hose bibb in addition to the threadless sampling tap, the hose bibb shall be fitted with a backflow preventer or vacuum breaker.~~

The threadless sampling tap shall be turned downward, located a minimum of 12 inches above land surface, floor, or well pad, and positioned such that a water sample can be obtained without interference from any part of the wellhead. If the wellhead is also equipped with a threaded hose bibb in addition to the threadless sampling tap, the hose bibb shall be fitted with a backflow preventer or vacuum breaker.

- (g) A priming tee shall be installed at the well head in conjunction with offset jet pump installations.
- (h) Joints of any suction line installed underground between the well and pump shall be tight under system pressure.
- (i) The drop piping and electrical wiring used in connection with the pump shall meet all applicable underwriters specifications.
- (j) Only potable water shall be used for priming the pump.
- (k) All materials shall be lead-free.

Authority G.S. 87-87; 87-88.

15A NCAC 02C .0110 WELL TESTS FOR YIELD

- (a) Every domestic well shall be tested for capacity by one of the following methods:

- (1) Pump Method

- (A) select a permanent measuring point, such as the top of the casing;
- (B) measure and record the static water level below or above the measuring point prior to starting the pump;
- (C) measure and record the discharge rate at intervals of 10 minutes or less;
- (D) measure and record water levels using a steel or electric tape at intervals of 10 minutes or less;
- (E) continue the test for a period of at least one hour; and
- (F) make measurements within an accuracy of plus or minus one inch.

(2) Bailer Method

- (A) select a permanent measuring point, such as the top of the casing;
- (B) measure and record the static water level below or above the measuring point prior to starting the bailing procedure;
- (C) bail the water out of the well as rapidly as possible for a period of ~~at least one hour; hour or longer; determine and record the bailing rate in gallons per minute at the end of the bailing period; and~~
- (D) determine and record the bailing rate in gallons per minute at the end of the bailing period; and
- ~~(D)(E)~~ measure and record the water level immediately after stopping bailing process.

(3) Air Rotary Drill Method

- (A) measure and record the amount of water being injected into the well during drilling operations;
- (B) measure and record the discharge rate in gallons per minute at intervals of one hour or less during drilling operations;
- (C) after completion of the drilling, continue to blow the water out of the well for ~~at least~~ 30 minutes or longer and measure and record the discharge rate in gallons per minute at intervals of 10 minutes or less during the period; and
- (D) measure and record the water level immediately after discharge ceases.

(4) Air Lift Method. Measurements shall be made through a pipe placed in the well. The pipe shall have ~~a minimum an~~ inside diameter of at least five-tenths of an inch or greater and shall extend from top of the well head to a point inside the well that is below the bottom of the air line.

- (A) Measure and record the static water level prior to starting the air compressor;

- (B) Measure and record the discharge rate at intervals of 10 minutes or less;
- (C) Measure and record the pumping level using a steel or electric tape at intervals of 10 minutes or less; and
- (D) Continue the test for a period of ~~at least one hour.~~ hour or longer.

(b) Public, ~~Industrial~~ Industrial, and Irrigation Wells. Every industrial or irrigation well and, if required by rule adopted by the Commission for Public Health, every well serving a public water supply system upon ~~completion.~~ completion shall be tested for capacity by the following or equivalent method:

- (1) The water level in the well to be pumped and ~~any in all~~ observation wells shall be measured and recorded prior to starting the test.
- (2) The well shall be tested by a pump of sufficient size and lift capacity to test the yield of the well, consistent with the well diameter and purpose.
- (3) The pump shall be equipped with sufficient throttling devices to reduce the discharge rate to approximately 25 percent of the maximum capacity of the pump.
- (4) The test shall be conducted for a period of ~~at least 24 hours~~ or longer without interruption and, except for wells constructed in Coastal Plain aquifers, shall be continued for a period of ~~at least four hours~~ or longer after the pumping water level ~~stabilizes~~ stabilizes. ~~(ceases to decline)~~ If the total water requirements for wells not serving a public water supply system are less than 100,000 gpd, the well shall be tested for a period and in a manner to show ~~the capacity of the well,~~ or that the capacity of the well is sufficient to meet the intended purpose.
- (5) The pump discharge shall be set at a constant rate or rates that can be maintained throughout the testing period. If the well is tested at two or more pumping rates (a step-drawdown test), pumping at each pumping rate shall continue to the point that the pumping water level declines no more than 0.1 feet per hour for a period of ~~at least four hours~~ or more for each pumping rate, except for wells constructed to Coastal Plain aquifers. In wells constructed in Coastal Plain aquifers, pumping at each pumping rate shall continue for ~~at least four hours.~~ hours or longer.
- (6) The pump discharge rate shall be measured by an orifice meter, flowmeter, weir, or equivalent metering device. The metering device used shall have ~~an a~~ a calibration accuracy within plus or minus five ~~percent.~~ percent of a known standard.
- (7) The discharge rate of the pump and time shall be measured and recorded at intervals of 10 minutes or less during the first two hours of the pumping period for each pumping rate. If the pumping rate is ~~relatively~~ constant after the first two hours of pumping, discharge measurements

and recording may be made at longer time intervals ~~but~~ not to exceed one hour.

- (8) The water level in each well and time shall be measured and recorded at intervals of five minutes or less during the first hour of pumping and at intervals of 10 minutes or less during the second hour of pumping. After the second hour of pumping, the water level in each well shall be measured at such intervals that the lowering of the pumping water level does not exceed three inches between measurements.
- (9) A reference point for water level measurements ~~(preferably the top of the casing)~~ shall be selected and recorded for the pumping well and each observation well to be measured during the test. All water level measurements shall be made from the selected reference ~~points.~~ points, which shall be permanently marked.
- (10) All water level measurements shall be made with a steel or electric tape or equivalent measuring device.
- (11) All water level measurements shall be made within an accuracy of plus or minus one inch.
- (12) After the completion of the pumping period, measurements of the water level recovery rate in the pumped well shall be made ~~for a period of at least two hours~~ in the same manner as the ~~drawdown.~~ drawdown for a period of two hours or greater.

Authority G.S. 87-87; 87-88.

15A NCAC 02C .0111 DISINFECTION OF WATER SUPPLY WELLS

- (a) Any person constructing, repairing, testing, or performing ~~maintenance,~~ maintenance or installing a pump in a water supply well shall disinfect the well upon completion of construction, repairs, testing, maintenance, or pump installation.
- (b) Any person disinfecting a well shall perform disinfection in accordance with the following procedures:

- (1) Chlorination.
 - (A) Hypochlorite shall be placed in the well in sufficient quantities to produce a chlorine residual of at least 100 parts per million (ppm) in the well. Stabilized chlorine tablets or hypochlorite products containing fungicides, algacides, or other disinfectants shall not be used. Chlorine test strips or other quantitative test methods shall be used to confirm the concentration of the chlorine residual.
 - ~~{Note: About three ounces of hypochlorite containing 65 percent to 75 percent available chlorine is needed per 100 gallons of water for at least a 100 ppm chlorine residual. As an example, a well having a diameter of~~

- six inches, has a volume of about 1.5 gallons per foot. If the well has 200 feet of water, the minimum amount of hypochlorite required would be 9 ounces. (1.5 gallons/foot x 200 feet = 300 gallons at 3 ounces per 100 gallons; 3 ounces x 3 = 9 ounces.)}
- (B) The hypochlorite shall be placed in the well by one of the following or equivalent methods:
- (i) Granular hypochlorite may be dropped in the top of the well and allowed to settle to the bottom; or
 - (ii) Hypochlorite solutions shall be placed in the bottom of the well by using a bailer or by pouring the solution through the drill rod, hose, or pipe placed in the bottom of the well. The solution shall be flushed out of the drill rod, hose, or pipe by using water or air.
- (C) The water in the well shall be agitated or circulated to ensure thorough dispersion of the chlorine.
- (D) The well casing, pump ~~column~~ column, and any other equipment above the water level in the well shall be rinsed with the chlorine solution as a part of the disinfecting process.
- (E) The chlorine solution shall stand in the well for a period of ~~at least 24 hours.~~ hours or more.
- (F) The well shall be pumped until there is no detectable total chlorine residual in water pumped from the well before the well is placed in use.
- (2) Other alternate materials and methods of disinfection, at least as effective as those set forth in Subparagraph ~~(4)~~ (b)(1) of this Rule, may be used upon prior approval by the Department. A written request for approval of alternate disinfection methods or materials shall be submitted to the Director and shall include the following information:
- (A) a demonstration that the method of disinfection will be at least as effective as chlorination as described under in Subparagraph (b)(1) of this Rule;
 - (B) a demonstration of non-toxicity, such as ANSI or NSF Standard certification or EPA studies;
 - (C) the general procedures for the disinfection and emplacement, including the amount of product to be used per unit volume of the well;
 - (D) a demonstration that, after disinfection is completed, the water within the well will meet 15A NCAC 02L groundwater standards; and
 - (E) any other information necessary for the Department to ensure compliance with G.S. 87-84.
- Authority G.S. 87-87; 87-88.*
- 15A NCAC 02C .0112 WELL MAINTENANCE: REPAIR: GROUNDWATER RESOURCES**
- (a) ~~Every A well shall be that is not~~ maintained by the owner ~~in a condition whereby it will to~~ conserve and protect the groundwater ~~resources, resources and whereby it will not be or~~ that constitutes a source or channel of contamination ~~or pollution~~ to the water supply or any aquifer, aquifer ~~or the well~~ shall be permanently abandoned in accordance with ~~the requirements of Rule 15A NCAC 02C .0113(b).~~ 0113(b) of this Section.
- (b) ~~Dewatering wells~~ Wells that are used for dewatering shall be permanently abandoned in accordance with ~~the requirements of 15A NCAC 02C Rule .0113(b) of this Section~~ Rule .0113(b) of this Section within 30 days of completion of the dewatering activity.
- (c) All materials used in the maintenance, replacement, or repair of any well shall ~~meet the requirements for new installation.~~ be in accordance with Rules .0107 and .0108 of this Section.
- (d) Broken, ~~punctured~~ punctured, or otherwise defective or unserviceable casing, screens, fixtures, seals, or any part of the well head shall be repaired or replaced, or the well shall be permanently abandoned ~~pursuant to the requirements of in~~ accordance with Rule .0113(b) of this Section.
- (e) NSF International ~~(NSF)~~ approved PVC pipe rated at 160 PSI may be used for liner pipe. The annular space around the liner casing shall be ~~at least~~ five-eighths inches or greater and shall be completely filled with neat-cement grout or sand cement grout. The well liner shall be completely grouted within 10 working days after collection of water samples or completion of other testing to confirm proper placement of the liner or within 10 working days after the liner has been installed if no sampling or testing is performed.
- (f) No well shall be repaired or altered such that the ~~outer casing~~ well head is completed less than 12 inches above land surface. Any grout excavated or removed as a result of the well repair shall be replaced in accordance with Rule .0107(f) of this Section.
- (g) Well rehabilitation by noncontinuous chemical treatment shall be conducted using methods and materials approved by the Department based on a demonstration that the materials and methods used will not create a violation of groundwater standards in 15A NCAC 02L or otherwise render the groundwater unsuitable for its intended best ~~usage~~ use after completion of the rehabilitation. A written request for approval of a noncontinuous chemical treatment shall be submitted to the Director and shall include the following information:
- (1) a demonstration of non-toxicity, such as ANSI or NSF Standard certification or EPA studies;
 - (2) the general procedures for the rehabilitation, including the amount of product to be used per unit volume of the well;

- (3) a demonstration that, after rehabilitation is completed, the water within the well will meet 15A NCAC 02L groundwater standards;
- (4) a description of the dosing frequency; and
- (5) any other information necessary for the Department to ensure compliance with G.S. 87-84.

Authority G.S. 87-87; 87-88.

15A NCAC 02C .0113 ABANDONMENT OF WELLS

(a) ~~Any~~ A well ~~which that~~ is temporarily removed from service shall be temporarily abandoned in accordance with the following procedures:

- (1) The well shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85 (16), compatible with the casing and installed so that it cannot be removed without the use of hand tools or power tools.
- (2) The well shall be maintained whereby it is not a source or channel of contamination during temporary abandonment.

(b) Permanent abandonment of water supply wells other than bored or hand dug wells shall be performed in accordance with the following procedures:

- (1) All casing and screen materials may be removed prior to initiation of abandonment procedures if such removal will not cause or contribute to contamination of the groundwaters. ~~Any casing not grouted in accordance with 15A NCAC 02C .0107(f) shall be removed or grouted in accordance with 15A NCAC 02C .0107(f).~~
- (2) The entire depth of the well shall be sounded before it is sealed to ensure freedom from obstructions that may interfere with sealing operations.
- (3) Except in the case of temporary wells and monitoring wells, the well shall be disinfected in accordance with Rule .0111(b)(1)(A) through .0111(b)(1)(C) of this Section.
- (4) In the case of gravel-packed wells in which the casing and screens have not been removed, ~~neat cement, neat-cement~~ or bentonite slurry grout shall be injected into the ~~well well~~, completely filling it from the bottom of the casing to the top.
- (5) Wells constructed in unconsolidated formations shall be completely filled with grout by introducing it through a pipe extending to the bottom of the well ~~which that~~ can be raised as the well is filled.
- (6) Wells constructed in consolidated rock formations or that penetrate zones of consolidated rock may be filled with grout, sand, gravel or drill cuttings ~~opposite within~~ the zones of consolidated rock. The top of any sand, gravel or cutting fill shall terminate at least 10 feet below the top of the consolidated rock or

five feet below the bottom of casing. Grout shall be placed beginning 10 feet below the top of the consolidated rock or five feet below the bottom of casing in a manner to ensure complete filling of the casing, and extend up to the land surface. For any well in which the depth of casing or the depth of the bedrock is not known or cannot be confirmed, the entire length of the well shall be filled with grout up to the land surface.

(c) For bored wells or hand dug water supply wells, ~~wells, wells~~ constructed into unconsolidated material:

- (1) The well shall be disinfected in accordance with Rule .0111(b)(1)(A) through .0111(b)(1)(C) of this Section.
- (2) All plumbing or piping in the well and any other obstructions inside the well shall be removed from the well.
- (3) The uppermost three feet of well casing shall be removed from the well.
- (4) All soil or other subsurface material present down to the top of the remaining well casing shall be removed, including the material extending ~~to a width of at least 12 inches or~~ greater outside of the well casing;
- (5) The well shall be filled to the top of the remaining casing with grout, dry clay, or material excavated during construction of the well. If dry clay or material excavated during construction of the well is used, it shall be emplaced in lifts no more than five feet thick, each compacted in place prior to emplacement of the next lift.
- (6) A six-inch thick concrete grout plug shall be placed on top of the remaining casing such that it covers the entire excavated area above the top of the casing, including the area extending ~~to a width of at least 12 inches or~~ greater outside the well casing.
- (7) The remainder of the well above the concrete plug shall be filled with grout or soil.

(d) All wells other than water supply wells, including temporary wells, monitoring ~~wells wells~~, or test borings:

- (1) less than 20 feet in depth ~~and which that~~ do not penetrate the water table shall be abandoned by filling the entire well up to land surface with grout, dry clay, or material excavated during drilling of the well and then compacted in place; ~~and~~
- (2) greater than 20 feet in depth or that penetrate the water table shall be abandoned by completely filling with a bentonite or cement - type ~~grout, grout; and~~
- (3) constructed in consolidated rock formations or that penetrate zones of consolidated rock may be filled with grout, sand, gravel, or drill cuttings within the zones of consolidated rock. The top of any sand, gravel or cutting fill shall terminate 10 feet or greater below the top of the

consolidated rock or five feet below the bottom of the casing. Grout shall be placed beginning 10 feet below the top of the consolidated rock or five feet below the bottom of the casing in a manner to ensure complete filling of the casing and shall extend up to the land surface. For any well in which the depth of the casing or the depth of the bedrock is not known or cannot be confirmed, the entire length of the well shall be filled with grout up to the land surface.

(e) Any well which acts as a source or channel of contamination shall be repaired or permanently abandoned within 30 days of receipt of notice from the Department.

(f) All wells shall be permanently abandoned in which the casing has not been installed or from which the casing has been removed, prior to removing drilling equipment from the site.

(g) The well owner is responsible for permanent abandonment of a well except that:

- (1) the well contractor is responsible for well abandonment if abandonment is required because the well contractor improperly locates, constructs, repairs or completes the well;
- (2) the person who installs, repairs or removes the well pump is responsible for well abandonment if that abandonment is required because of improper well pump installation, repair or removal; or
- (3) the well contractor (or individual) who conducts a test boring is responsible for its abandonment at the time the test boring is completed and has fulfilled its useful purpose.

Authority G.S. 87-87; 87-88.

15A NCAC 02C .0114 WELL CONSTRUCTION AND ABANDONMENT DATA AND RECORDS REQUIRED

(a) Well Cuttings.

- (1) ~~The well contractor shall collect and furnish samples of formation cuttings to the Division from a well the well contractor has drilled when such samples are requested by the Division prior to completion of the drilling or boring activities.~~
- (2) ~~The well contractor shall obtain samples or representative cuttings for depth intervals not exceeding 10 feet. The well contractor shall also collect representative cuttings at depths of each change in formation.~~
- (3) ~~The well contractor shall place samples of cuttings in containers furnished by the Division and such containers shall be filled, sealed and labeled with indelible type markers, showing the well owner, well number if applicable, and depth interval the sample represents.~~
- (4) ~~The well contractor shall place each set of samples in a container(s) showing the location, owner, well number if applicable, the well contractor's name, depth interval, and date.~~

(5) ~~The well contractor shall retain samples until delivery instructions are received from the Division or for a period of at least 60 days after the well record form (GW-1), indicating said samples are available, has been received by the Division.~~

(6) ~~If the well contractor furnishes samples to any person or agency other than the Division, this does not constitute compliance with the department's request and shall not relieve the well contractor of his or her obligation to the Division.~~

(b) Reports.

Well construction and abandonment data shall be submitted according to the following:

- (1) ~~Any A~~ person completing or abandoning any a well well, including wells installed using direct push technology (DPT)(e.g., Geoprobe®), shall submit to the Division a record of the construction construction, on form GW-1, or abandonment, on form GW-30. For water supply wells, a copy of each completion or abandonment record shall also be submitted to the health department responsible for the county in which the well is located. The record shall be on forms provided by the Division and shall include include: certification that construction or abandonment was completed as required by this Section, the owner's name and address, latitude and longitude of the well with a position accuracy of 100 feet or less, diameter, depth, yield, and any other information the Division may require as necessary to depict the location and construction details of the well.
 - (a) a certification that construction or abandonment was completed as required by this Section;
 - (b) the owner's name and address;
 - (c) the latitude and longitude of the well with a position accuracy of 100 feet or less;
 - (d) the diameter, depth, and yield of the well;
 - (e) the chloride concentration for wells installed in the area delineated in Rule .0107(f)(8) of this Section; and
 - (f) any other information necessary for the Department to ensure compliance with General Statute 87-84.
- (2) The certified record of completion or abandonment shall be submitted within a period of thirty days after completion or abandonment. For multiple DPT/Geoprobe® wells having the same construction, only one GW-1 or GW-30 is required to be submitted if the total number of wells is indicated on the form.
- (3) ~~The furnishing~~ Furnishing of records to any person or agency other than the Division ~~does~~

shall not constitute compliance with the reporting requirement and shall not relieve the well contractor of his or her ~~obligation~~ reporting requirement to the Division.

Authority G.S. 87-87; 87-88.

15A NCAC 02C .0116 DESIGNATED AREAS: WATER SUPPLY WELLS CASED TO LESS THAN 20 FEET

(a) ~~In some areas~~ If the best or only source of potable water supply exists between ~~ten 10~~ and ~~twenty 20~~ feet below the surface of the ~~land, land~~, In consideration of this, water supply wells may be cased to a depth less than ~~twenty 20~~ feet in the following areas:

- (1) in Currituck County in an area between the sound and a line beginning at the end of SR 1130 near Currituck Sound, thence north to the end of SR 1133, thence north to the end of NC 136 at the intersection with the sound;
- (2) on the ~~Outer Banks~~ barrier island from the ~~northern corporate limit of Nags Head~~ Virginia state line, south to Ocracoke Inlet;
- (3) all areas lying between the Intracoastal Waterway and the ocean from New River Inlet south to New Topsail Inlet; and
- (4) all areas lying between the Intracoastal Waterway and the ocean from the Cape Fear River south to the South Carolina line.

(b) The Director may designate additional areas of the state where water supply wells may be cased to a depth less than 20 ~~feet~~ feet, if: ~~To designate such areas, the Director shall find:~~

- (1) ~~that~~ the only or best source of drinking water in the area exists between a depth of 10 and 20 feet below the surface of the land; and
- (2) ~~at utilization of~~ using this source of water in the area is in the best interest of the public.

(c) In all other areas, the source of water shall be at least 20 feet below land surface, except when adequate quantities of potable water cannot be obtained below a depth of ~~twenty 20~~ feet, the source of water may be obtained from unconsolidated rock formations at depths less than ~~twenty 20~~ feet provided that:

- (1) sufficient water of acceptable quality for the intended use ~~can be shown, to the satisfaction of the Department~~ that it is not available to a minimum depth of ~~fifty 50 feet~~; feet can be shown to exist;
- (2) the proposed source of water is the maximum feasible depth above 20 feet, but in no case less than ~~ten 10~~ feet; and
- (3) the regional office of the Department is notified prior to the construction of a well obtaining water from a depth between 10 and 20 feet below land surface.

Authority G.S. 87-87.

15A NCAC 02C .0117 DESIGNATED AREAS: WATER SUPPLY WELLS CASED TO MINIMUM DEPTH OF 35 FEET (READOPTED WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02C .0118 VARIANCE

(a) The Secretary may grant a variance from any construction standard under the rules of this Section. Any variance request shall be ~~in writing~~, submitted using the official form approved the Division and ~~shall may~~ be granted ~~upon oral or written application to by~~ the Secretary, by to the person responsible for the construction of the well for which the variance is sought, if if: the Secretary finds facts to support the following conclusions:

- (1) ~~that~~ the use of the well will not endanger human health and welfare or the ~~groundwater~~; groundwaters; and
- (2) ~~that~~ construction in accordance with the standards ~~was is~~ not technically feasible in such a manner as to afford a reasonable water supply at a reasonable cost.

(b) The Secretary may require the variance applicant to submit such information ~~as the Secretary deems~~ necessary to make a decision to grant or deny the variance. The Secretary may impose such conditions on a variance or the use of a well for which a variance is granted ~~as he deems~~ and is necessary to ~~protect human health and welfare and the groundwater resources~~. ensure compliance with G.S. 87-84. The ~~findings of fact~~ facts supporting any variance under this Rule shall be in writing and made part of the variance.

(c) The Secretary shall respond in writing to a request for a variance within 30 days ~~from~~ after the receipt of the variance request.

(d) A variance applicant who is dissatisfied with the decision of the Secretary may commence a contested case by filing a petition under G.S. 150B-23 within 60 days after receipt of the decision.

Authority G.S. 87-87; 87-88; 87-84; 150B-23.

15A NCAC 02C .0119 DELEGATION

(a) The Secretary is delegated the authority to grant permission for well construction under G.S. 87-87.

(b) The Secretary is delegated the authority to give notices and sign orders for violations under G.S. 87-91.

(c) The Secretary may grant a variance from any construction standard, or the approval of alternate construction methods or materials, specified under ~~the Rules of this Section~~. Rule .0118 of this Section.

Authority G.S. 143-215.3(a)(1).

SECTION .0200 - CRITERIA AND STANDARDS APPLICABLE TO INJECTION WELLS

15A NCAC 02C .0201 PURPOSE (READOPTED WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02C .0202 SCOPE (READOPTED WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02C .0203 CONFLICT WITH OTHER LAWS, RULES, AND REGULATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02C .0204 DEFINITIONS

In addition to the terms defined in Rule .0102 of this ~~Subchapter~~ Subchapter, the following terms and phrases apply unless the context requires otherwise:

- (1) "Abandonment or Plugging Record" means a systematic listing of permanent or temporary abandonment of a well and may contain a well log or description of amounts and types of abandonment material used, the method employed for abandonment, a description of formation location, formation thickness, and location of abandonment structures.
- (2) ~~"Approved", "require", "necessary", "impose", and similar terms, or other forms of such terms, mean an action of the Director or Division based on the standards or requirements of the rules of this Section unless the context requires otherwise.~~ "Aquifer Storage and Recovery Well (ASR)" means a well that is used to inject potable water for the purposes of subsurface storage and for later recovery of the injected water.
- (3) "Area of Review" means the area around an injection well as specified in each applicable rule.
- (4) "Best intended usage" is as defined in 15A NCAC 02L .0201 for each groundwater classification.
- (5) "Catastrophic Collapse" means the ~~failure~~ collapse of overlying strata caused by removal of underlying materials.
- (6) "Closed-Loop Geothermal Well System" means a system of continuous piping, part of which is installed in the subsurface via vertical or angled borings, through which moves a fluid that does not exit the piping, but is used to transfer heat energy between the subsurface and the fluid in association with a heating and cooling system. A variation of this type of system consists of the continuous piping emplaced into a water supply well such that the standing column of groundwater serves as the heat transfer medium.
- (7) "Closed-Loop Groundwater Remediation System" is as defined in G.S. 143-215.1A.
- (8) "Cluster" means two or more geothermal injection wells connected to the same manifold or header of a geothermal heating and cooling system.
- (9) "Confined or Enclosed Space" means any ~~space, space having that has~~ restricted means of entry and exit and is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere.
- (10) "Confining Zone" means a geological formation, group of formations, or part of a formation that is capable of limiting ~~fluid movement~~ of groundwater.
- (11) "Contaminant" is as defined in 15A NCAC 02L .0102.
- (12) ~~"Facility, Operation, or Activity"~~ "Operation" means any injection well or system.
- (13) "Flow Rate" means the volume per unit time of a fluid moving past a fixed reference point.
- (14) "Fluid" means a material or substance which is capable of flowing whether in a semisolid, liquid, sludge, gas, or other form or state.
- (15) "Formation Fluid" means fluid present in a formation under natural conditions. This ~~does~~ shall not include introduced fluids, such as drilling mud and grout, used to facilitate the construction or development of a well.
- (16) "Generator" means any person, identified by site location, whose act or process produces hazardous waste.
- (17) "Groundwaters" mean those waters occurring in the subsurface under saturated conditions.
- (18) "Hazardous Waste" means any solid, semisolid, liquid, or contained gaseous waste or combination ~~thereof, which thereof that,~~ because of its quantity, concentration, or physical, chemical or infectious ~~characteristic~~ characteristic, may:
 - (a) cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - (b) pose a present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (19) "Hazardous Waste Management Facility" means all contiguous land and structures and other appurtenances and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them).
- (20) "Hose Bibb or Tap" means a fluid sampling port located on or appurtenant to a well.
- (21) "Hydraulic Conductivity" means the volume of water at the existing kinematic viscosity that will move in a porous medium in unit time under a unit hydraulic gradient through a unit area measured at right angles to the direction of flow.
- (22) "Hydraulic or Pneumatic Fracturing" means the intentional act of injecting potable water, ambient air, or other approved fluids, which may carry a proppant, for the purpose of

- forming new fractures or propagating existing fractures in a geologic formation or portion thereof with the intent of increasing the formation's permeability. ~~Hydraulic fracturing shall be used only in association with groundwater remediation injection activities and shall not result in the fracturing of any confining units or otherwise cause or contribute to the migration of contamination into uncontaminated areas.~~
- (23) ~~"Hydrostratigraphic"~~ "Hydrostratigraphic Unit" means a body of rock or unconsolidated sediment distinguished and characterized by observable hydraulic properties that relate to its ability to receive, store, transmit, and yield water.
- (24) "Infiltration gallery" means a subsurface ground absorption system designed for the introduction of treated wastewater into the subsurface environment.
- (24)(25) "Injectant" means ~~any~~ a solid or fluid that is emplaced in the subsurface by means of an injection well.
- (25)(26) "Injection" means emplacement or discharge into the subsurface of a solid or fluid substance or material. This definition ~~excludes~~ shall exclude drilling fluids, grout used in association with well construction or abandonment, and fluids used in connection with well development, disinfection, rehabilitation ~~rehabilitation~~, or stimulation.
- (26)(27) "Injection Well" means any well as defined in ~~G.S. 87-85, G.S. 87-85~~ whose depth is greater than its largest surface dimension and ~~which~~ that is used, or intended to be used, for the injection of fluids or solids into the subsurface or groundwaters.
- (27)(28) "Injection Zone" means a geological formation, group of formations, or part of a formation receiving solids or fluids through an injection well.
- (29) "In-situ Thermal (IST) Well Systems" means a well or wells that are used to apply heat in a targeted subsurface zone to promote remediation (i.e., electrical resistance heating (ERH), thermal conductive heating (TCH), or steam enhanced extraction (SEE)).
- (28)(30) "Lithology" means the description of rocks or sediments on the basis of their physical and chemical characteristics.
- (29)(31) "Lithostratigraphic Unit" means a body of rock or unconsolidated sediment that is distinguished and characterized by observable lithologic features or its position relative to other bodies of rock or unconsolidated sediment.
- (30)(32) "Mechanical Integrity" means:
- (a) an absence of a leak in the casing, tubing, or packer of an injection well; and
 - (b) an absence of fluid movement through vertical channels adjacent to the injection well bore.
- (31)(33) "Oversight agency" means the state or local agency with jurisdiction over a contamination incident.
- (34)(34) "Permit" means an authorization, license, or equivalent control document issued by the Director to implement the requirements of the rules of this Section.
- (32)(35) "Permitted by Rule" means that the injection activity is authorized by the rules of this Section and does not require the issuance of an individual permit when injection wells are constructed and operated in accordance with the rules of this Section.
- (33)(36) "Plug" means the act or process of stopping the flow of fluids into or out of a formation through a borehole or well penetrating that formation.
- (34)(37) "Potable Water" means those waters of the State ~~which~~ that are suitable for drinking, culinary, or food processing purposes.
- (35)(38) "Pressure" means the total load or force per unit area acting on a surface.
- (36)(39) "Proppant" means a granular substance such as quartz sand or other approved material that is used to hold open cracks formed in the subsurface as a result of hydraulic or pneumatic fracturing.
- (37)(40) "Receptor" means any human, plant, animal, or structure ~~which~~ that is, or has the potential to be, affected by the release or migration of contaminants. Any well constructed for the purpose of monitoring groundwater and contaminant concentrations shall not be considered a receptor.
- (38)(41) "Subsidence" means the lowering of the natural land surface in response ~~to:~~ to earth movements; reduction of formation fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.
- (39)(42) "Subsurface Distribution System" means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids or solids below the surface of the ground.
- (40)(43) "Transmissivity" means the rate at which water of the prevailing kinematic viscosity is transmitted through a unit width of an aquifer under a unit hydraulic gradient. It equals the hydraulic conductivity multiplied by the aquifer thickness.

- (44) "Thermally Enhanced Grout" is a grout is used to seal or grout water well annular spaces and geothermal ground source heat loops. It is engineered to provide efficient heat transfer and to create a low permeability seal.
- (41)(45) "Underground Sources of Drinking Water" means all underground waters of the State classified as existing or potential water supplies in Subchapter 02L.
- (42)(46) "Waste" is as defined in G.S. 143-213(18).
- (43)(47) "Waters" or "Waters of the State" is as defined in G.S. 143-212.
- (48) "Water table" is as defined in 15A NCAC 02L .0102.
- (49) "Water-tight" means put or fit together such that water cannot enter or pass through. Generally, water-tight pipe is filled with water and pressure tested at between three to five pounds per square inch (psi) for several minutes to detect leaks.

Authority G.S. 87-85; 87-87; 143-213; 143-215.1A.

15A NCAC 02C .0206 CORRECTIVE ACTION

(a) Injection wells not constructed in compliance with the criteria and standards specified in these Rules shall be brought into compliance with the rules in this Section or abandoned by the ~~person(s)~~ person responsible for the construction of the ~~well(s)~~ wells within 30 calendar days of becoming aware of any ~~instance~~ of noncompliance.

(b) ~~Where~~ If operation of any injection facility is not in compliance with the requirements of the rules in this Section, or ~~where if~~ if continued operation of the injection facility threatens any water quality standard or classification established under the authority of G.S. 143-214.1, the owner of the injection facility ~~shall perform the following:~~ shall:

- (1) ~~stop all injection activities immediately;~~ activities;
- (2) notify the Division orally by the close of the next business day and in writing within five calendar days of becoming aware of any ~~instance of noncompliance;~~
- (3) perform a site assessment and submit the site assessment to the Division within 30 calendar days of notifying the Division. The Director may approve an alternate time period greater than 30 calendar days based on the severity and extent of noncompliance. The site assessment report shall include a description of:
 - (A) the source and cause of contamination;
 - (B) any imminent hazards to public health and safety and actions taken to mitigate them;
 - (C) all receptors and exposure pathways;
 - (D) the horizontal and vertical extent of soil and groundwater contamination and all factors affecting the contaminant transport; and

- (E) any geological and hydrogeological features influencing the movement or chemical or physical character of the contaminants; and
- (4) submit a corrective action plan and a proposed schedule for implementation of the corrective action to the Director for approval. ~~For approving~~ In reviewing the proposed plan and schedule, the Director shall consider the compliance history of the well owner, the severity and extent of noncompliance, and any other criteria necessary for the protection of human health and the environment. The corrective action plan shall include:
 - (A) a description of the proposed corrective action and the reasons for its selection;
 - (B) specific plans, including engineering details where applicable, for restoring the groundwater quality and for restoring the integrity of the injection facility if the injection activity is to continue;
 - (C) a schedule for the implementation and operation of the proposed plan; and
 - (D) a monitoring plan for evaluating the effectiveness of the proposed corrective action.

Authority G.S. 87-87; 87-88; 143-211; 143-215.1A; 143-215.3(a)(1); 143-215.3(c).

15A NCAC 02C .0207 MECHANICAL INTEGRITY

(a) An injection well has internal mechanical ~~integrity~~ integrity, ~~when meaning~~ when meaning there is no leak in the casing, tubing, or ~~packer~~ packer, as demonstrated by one of the following methods:

- (1) monitoring of the tubing-casing annulus pressure, following an initial pressure test, with sufficient frequency to be ~~representative as determined by the Director.~~ representative. This test ~~must~~ shall be performed at the well head while maintaining an annulus pressure different from atmospheric pressure;
- (2) pressure testing with liquid or gas; or
- (3) any other method proposed by the permittee and approved by the Director as equally effective.

(b) An injection well has external mechanical ~~integrity~~ integrity, ~~when meaning~~ when meaning there is no fluid movement into groundwaters through vertical channels adjacent to the injection well ~~bore bore~~, as determined by one of the following methods:

- (1) the results of a temperature or noise log;
- (2) grouting records plus predictive calculations demonstrating that the injection pressures will not exceed the strength of the grout; or
- (3) any other method proposed by the permittee and approved by the Director as equally effective.

(c) In conducting and evaluating the tests enumerated in this Section or other tests allowed by the Director, the owner or operator shall apply methods and standards generally accepted in the industry. When the well owner or operator reports the results of mechanical integrity tests, a description of the ~~test(s) tests~~ and the ~~method(s) methods~~ used shall be included. ~~The Director shall review monitoring and other test data submitted since the previous evaluation.~~

(d) The Director may require additional or alternative tests if the results presented by the owner or operator under Paragraph (c) of this Rule ~~are not satisfactory to~~ do not demonstrate that an injection well has mechanical integrity.

(e) If an injection well fails to demonstrate mechanical integrity, the well owner or operator shall take corrective action as specified in Rule .0206 of this Section.

Authority G.S. 87-87; 143-211; 143-215.1A; 143-215.3(a)(1); 143-215.3(c).

15A NCAC 02C .0208 (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02C .0209 CLASSIFICATION OF INJECTION WELLS (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02C .0210 REQUIREMENTS: WELLS USED TO INJECT WASTE OR CONTAMINANTS (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02C .0211 GENERAL PERMITTING REQUIREMENTS APPLICABLE TO ALL INJECTION WELL TYPES

(a) A permit shall be obtained from the Director prior to constructing, operating, or using any well for injection unless the well is deemed permitted in accordance with the rules of this Section. No permit shall be granted for the injection of wastes or any substance of a composition and concentration such that, if it were discharged to the land or waters of the state, it would adversely affect human health or would otherwise render those waters unsuitable for their best intended usage unless specifically provided for by Statute or by the rules in this Section.

~~(b) In making any determination of well construction, operation, and maintenance, the Director shall make the determination based on the rules of this Section.~~

~~(e)(b) No person shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water if the presence of that contaminant may cause a violation of any applicable groundwater quality standard specified in Subchapter 02L or may otherwise adversely affect human health. The applicant for a permit shall have the burden of showing that the requirements of this Paragraph are met.~~

~~(d)(c)~~ If at any time the Director learns that any injection well may cause a violation of any applicable groundwater quality standard specified in Subchapter 02L not authorized by the rules of this Section, the Director shall do one of the following:

- (1) require an individual permit for injection wells that are otherwise permitted by rule;
- (2) require such actions as may be necessary to prevent the violation, including corrective action as required in Rule .0206 of this Section; or
- (3) take enforcement action as provided for in G.S. 87-91, G.S. 87-94, or G.S. 87-95.

~~(e)(d)~~ All permit applications shall be signed as follows:

- (1) For a corporation: by a responsible corporate officer. For the purposes of this Section, a responsible corporate officer means a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the ~~corporation.~~ corporation. ~~{Note: The Division does not require specific assignments or delegations of authority to responsible corporate officers. The Division will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Division to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions.};~~
- (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
- (3) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official;
- (4) For all other persons: by the well owner; or
- (5) For any other person authorized to act on behalf of the applicant: documentation shall be submitted with the permit application package that identifies the person, grants them specific signature authority, and is signed and dated by the applicant.

~~(f)(e)~~ The person signing the permit application shall certify that the data furnished on the application is accurate and that the injection well will be operated in accordance with the approved specifications and conditions of the permit.

~~(g)(f)~~ All reports shall be signed by a person described in Paragraph ~~(e)(d)~~ of this Rule. All records, reports, and information required to be submitted to the Director and all public comment on these records, reports, or information shall be disclosed to the public unless the person submitting the information can show that such information, if made public, would disclose methods or processes entitled to protection as trade secrets as defined in G.S. 66-152. The Director shall determine which information is entitled to confidential treatment. ~~In the event~~ If the Director determines that such information is entitled to be treated as confidential information as defined in G.S. 132-1.2, the Director shall take steps to protect such information from disclosure.

~~(h)(g)~~ The Director shall consider the cumulative effects of drilling and construction of multiple wells and operation of all proposed wells during evaluation of permit applications.

~~(j)(h)~~ All permits shall be issued for a period not to exceed five years from the date of issuance. Permits ~~are considered~~ shall be deemed active until all permit requirements have been met and documentation has been received indicating that the wells meet one of the following conditions:

- (1) ~~The~~ the wells are temporarily or permanently abandoned in accordance with Rule .0240 of this Section;
- (2) the wells have been converted to some other use; or
- (3) the wells are permitted under another permit issued by the appropriate permitting authority for that activity.

~~(j)(i)~~ All facilities ~~shall, at all times,~~ shall be operated and maintained to achieve compliance with the rules of this Section.

~~(k)(j)~~ The permittee shall allow the ~~Director,~~ Director or an authorized representative, upon their presentation of credentials and other documents as may be required by law, to:

- (1) enter upon the permittee's premises where a regulated facility or activity is located or ~~conducted,~~ conducted or where records ~~must~~ are required to be kept under the conditions of the permit;
- (2) have access to and copy, during normal business hours, any records that ~~must~~ are required to be kept under the conditions of the permit;
- (3) ~~inspect, at reasonable times,~~ inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and
- (4) sample or ~~monitor, at reasonable times, and~~ monitor for the purposes of assuring permit compliances or as otherwise authorized, any substances or parameters.

~~(k)(k)~~ The permit may be modified, revoked and reissued, or terminated by the Director in whole or part for actions which would adversely affect human health or the environment. Such actions may include:

- (1) violation of any terms or conditions of the permit;
- (2) obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or
- (3) refusal of the permittee to allow authorized employees of the Division upon proper presentation of credentials to:
 - (A) enter upon permittee's premises on which a system is located in which any records are required to be kept under terms and conditions of the permit;
 - (B) have access to and copy any records required to be kept under terms and conditions of the permit;
 - (C) inspect any monitoring equipment or method required in the permit; or
 - (D) collect any sample from the injection facility.

~~(m)(l)~~ The filing of an application by the permittee for a permit modification, revocation and reissuance, termination, or a

notification of planned changes or anticipated ~~noncompliance,~~ noncompliance shall not stay any permit condition.

~~(n)~~ The permit shall not convey any property rights of any sort or any exclusive privilege.

~~(o)(m)~~ The permittee shall furnish to the Director any information which the Director may request to determine whether cause exists for modifying, revoking and ~~reissuing~~ reissuing, or terminating the ~~permit,~~ permit or to determine compliance with the permit. The permittee shall also furnish to the Director, upon request, copies of records required by the permit to be kept.

~~(p)(n)~~ The permittee shall retain ~~copies of~~ records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by ~~this the permit,~~ permit for a period of at least three years from the date of the sample, measurement, report, or application. Records of monitoring information shall include the:

- (1) date, place, and time of sampling or measurements;
- (2) ~~individual(s)~~ individuals who performed the sampling or measurements;
- (3) ~~date(s)~~ dates analyses were performed;
- (4) ~~individual(s)~~ individuals who performed the analyses;
- (5) analytical techniques or methods used;
- (6) results of any such sampling, measurements, and analyses; and
- (7) description and date of any maintenance activities ~~performed~~ performed, including the name and contact information of the ~~individual(s)~~ individuals performing such activities.

~~(q)(o)~~ The permit shall not be transferred to any person without the submission of a permit ownership or name change request to the Director. ~~The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be appropriate.~~

~~(r)(p)~~ The permittee shall report any monitoring or other information that indicates noncompliance with a specific permit condition, that a contaminant may cause a violation of applicable groundwater quality standards specified in Subchapter 02L, or that a malfunction of the injection system may cause the injected fluids to migrate outside the approved injection zone or area. The information shall be provided to the Director orally within 24 hours of the ~~permittee becoming aware of the occurrence and as a written submission within five days of the occurrence.~~ The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and any steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance including dates and times, the anticipated time it is expected to continue if the noncompliance has not been corrected, and all steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

~~(s)~~ The Commission may delegate, through a Memorandum of Agreement, to another state agency the authority to permit

~~injection wells that are an integral part of a facility requiring a permit from that agency.~~

~~(t) Failure to comply with the rules of this Section or any permit issued individually or by rules of this Section may result in enforcement action as provided for in G.S. 87-91, G.S. 87-94, or G.S. 87-95.~~

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

**15A NCAC 02C .0217 PERMITTING BY RULE
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

15A NCAC 02C .0218 AQUIFER RECHARGE WELLS

~~Aquifer Recharge Wells are used to recharge depleted aquifers and inject uncontaminated water of equal or better quality than the aquifer being recharged. The requirements for Aquifer Recharge Wells shall be the same as described in Rule .0219 of this Section except that the Director may impose additional requirements for the protection of human health and the environment based on site specific criteria, existing or projected environmental impacts, compliance with the provisions of the rules of this Section, or the compliance history of the facility owner. Aquifer Recharge Wells, which recharge depleted aquifers and inject uncontaminated water of equal or better quality than the aquifer being recharged, shall meet the requirements of Rule .0219 of this Section, except that the Director may impose additional requirements to ensure compliance with G.S. 87-84.~~

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0219 AQUIFER STORAGE AND RECOVERY WELLS

~~(a) Aquifer Storage and Recovery Wells are used to inject potable water for the purposes of subsurface storage and for later recovery of the injected water. All Aquifer Storage and Recovery Wells require permits. A permit shall be obtained from the Director prior to constructing, operating, or using an Aquifer Storage and Recovery Well. "Aquifer Storage and Recovery Well" means a well that is used to inject potable water for the purposes of subsurface storage and for later recovery of the injected water.~~

(b) Permit Applications. In addition to the permit requirements set forth in Rule .0211 of this Section, an application shall be submitted, in duplicate, to the Director on forms furnished by the Director and shall include the following:

- (1) Site Description that includes the following:
 - (A) the name of the well owner or person otherwise legally responsible for the injection well, his or her mailing address and telephone number, and ~~status as~~ whether the owner is a federal, state, private, public, or other entity;

- (B) the name of the property owner, if different from the well owner, and their physical address, mailing address, and telephone number;
- (C) the name, mailing address, telephone number, and geographic coordinates of the facility for which the application is submitted; and
- (D) a list of all other injection permits associated with the ~~injection well system~~ subject facility.

(2) Project Description. A description of what problem the project is intended to solve or what objective the project is intended to achieve and shall include the following:

- (A) the history and scope of the problem or objective;
- (B) what is currently being done to solve the problem or achieve the objective;
- (C) why existing practices are insufficient to solve the problem or achieve the objective;
- (D) what other alternatives were considered to solve the problem or achieve the objective; and
- (E) how this option was determined to be the most effective or desirable to solve the problem or achieve the objective.

(3) Demonstration of Financial Responsibility as required in Rule .0208 of this Section.

(4) Injection Zone Determination. The applicant shall specify the horizontal and vertical portion of the injection zone within which the proposed injection activity ~~shall~~ will occur based on the hydraulic properties of that portion of the injection zone specified. No violation of groundwater quality standards specified in Subchapter 02L resulting from the injection shall occur outside the specified portion of the injection ~~zone~~ zone, as detected by a monitoring plan approved by the Director.

(5) Hydrogeologic Evaluation. If required by G.S. 89E, G.S. 89C, or G.S. 89F, a licensed geologist, professional engineer, or licensed soil scientist shall prepare a hydrogeologic evaluation of the facility to a depth that includes the injection zone determined in accordance with Subparagraph (b)(4) of this Rule. A description of the hydrogeologic evaluation shall include all of the following:

- (A) regional and local geology and hydrogeology;
- (B) changes in lithology underlying the facility;
- (C) depth to the mean seasonal high water table;
- (D) hydraulic conductivity, transmissivity, and storativity of the injection zone based on tests of site-specific material,

- including a description of the ~~test(s)~~ tests used to determine these parameters;
 - (E) rate and direction of groundwater flow as determined by predictive calculations or computer modeling; and
 - (F) lithostratigraphic and hydrostratigraphic logs of test and injection wells.
- (6) Area of Review. The area of review shall be calculated using the procedure for determining the zone of endangering influence specified in 40 CFR 146.6(a). The applicant ~~must~~ shall identify all wells within the area of review that penetrate the injection or confining ~~zone~~, zone and repair or permanently abandon all wells that are improperly constructed or abandoned.
- (7) Analyses of the injection ~~zone(s)~~ zones including:
 - (A) test results of the native groundwater and the proposed recharge water for the parameters listed in Subparagraph (h)(4) of this Rule;
 - (B) geochemical analyses of representative samples of the aquifer matrix to determine the type and quantity of reactive minerals; and
 - (C) evaluation of the chemical compatibility of the native groundwater, injected water, and the aquifer matrix using site specific geochemical data and hydraulic properties of the injection zones, and the results of any geochemical or hydrogeologic modeling, modeling, and any other analytical tool required. The chemical compatibility evaluation shall identify potential changes in groundwater quality resulting from the injection activities within the area of review specified in Subparagraph (b)(6) of this Rule.
- (8) Injection Procedure. The applicant shall submit a description of the proposed injection procedure that includes the following:
 - (A) the proposed average and maximum daily rate and quantity of injectant;
 - (B) the average maximum injection pressure expressed in units of pounds per square inch (psi);
 - (C) calculation of fracture pressures of confining units expressed in units of psi; and
 - (D) the total or estimated volume to be injected.
- (9) Injection well construction details including:
 - (A) the number and depth of injection wells;
 - (B) indication of whether the injection wells are existing or proposed;
 - (C) depth and type of casing;
 - (D) depth and type of screen material;
 - (E) depth and type of grout; and
 - (F) plans and specifications of the surface and subsurface construction of each injection well or well system.
- (10) Monitoring Wells. Monitoring wells shall be located so as to detect any movement of injection fluids, process byproducts, or formation fluids outside the injection zone as determined by the applicant in accordance with Subparagraph (b)(4) of this Rule. The monitoring schedule shall be consistent with the proposed injection schedule, pace of the anticipated reactions, and rate of transport of the injected fluid. The applicant shall submit a monitoring plan that includes the following:
 - (A) a list of monitoring parameters and analytical methods to be used;
 - (B) other parameters that may serve to indicate the progress of the intended reactions;
 - (C) a list of existing and proposed monitoring wells to be used; and
 - (D) a sampling schedule ~~to monitor for~~ monitoring the proposed injection.
- (11) Well Data Tabulation. A tabulation of data on all existing or abandoned wells within the area of review of the injection ~~well(s)~~ wells that penetrate the proposed injection zone, including water supply wells, monitoring wells, and wells proposed for use as injection or monitoring wells. Such data shall include a description of each well's type, depth, and record of abandonment or completion.
- (12) Plan of Action. A proposed plan of action to be taken if the proposed injection operation causes fracturing of confining units, results in adverse geochemical reactions, or otherwise threatens groundwater quality.
- (13) Maps and Cross-Sections. Scaled, site-specific site plans or maps depicting the location, orientation, and relationship of facility components including the following:
 - (A) area map based on the most recent USGS 7.5' topographic map of the area, at a scale of ~~1:24,000~~ 1:24,000, and showing the location of the proposed injection site;
 - (B) topographic contour intervals showing all facility related structures, property boundaries, streams, springs, lakes, ponds, and other surface drainage features;
 - (C) all existing or abandoned wells within the area of review of the injection ~~well(s)~~, wells listed in the tabulation

required in Subparagraph (b)(11) of this ~~Rule~~, Rule that penetrate the proposed injection zone, including water supply wells, monitoring wells, and wells proposed for use as injection wells;

- (D) potentiometric surface ~~map(s)~~ maps of each hydrostratigraphic unit in the injection zone(s) that show the direction of groundwater movement, and all existing and proposed wells;
- (E) ~~cross-section(s)~~ cross-sections that show the horizontal and vertical extent of the injection ~~zone(s)~~, zones, lithostratigraphic units, hydrostratigraphic units, and all existing and proposed wells, complete with casing and screen intervals; and
- (F) ~~any~~ all existing sources of potential or known groundwater contamination, including waste storage, treatment, or disposal systems within the area of review of the injection well or well system.

- (14) ~~Such other information as deemed necessary by the Director for the protection of human health and the environment. Any other information necessary for the Director to ensure compliance with G.S. 87-84.~~

(c) Injection Volumes. The Director may establish maximum injection volumes and pressures necessary to assure that:

- (1) fractures are not initiated in the confining ~~zone(s)~~; zones;
- (2) injected fluids do not migrate outside the injection zone or area;
- (3) injected fluids do not cause or contribute to the migration of contamination into uncontaminated areas; and
- (4) there is compliance with operating requirements.

(d) Injection.

- (1) Injection may not commence until construction is complete, the permittee has submitted notice of completion of construction to the Director, and the Director has inspected or otherwise reviewed the injection well and finds it in compliance with the permit conditions. If the permittee has not received notice from the Director of intent to inspect or otherwise review the injection well within 10 days after the Director receives the notice, the permittee may commence injection.
- (2) Prior to granting approval for the operation, the Director shall consider the following information:
 - (A) all available logging and testing data on the well;

- (B) a demonstration of mechanical integrity pursuant to Rule .0207 of this Section;
- (C) the proposed operating procedures;
- (D) the results of the formation testing program; and
- (E) the status of corrective action on defective wells in the area of review.

(e) Well Construction.

- (1) Wells shall not be ~~located where~~; located:
 - (A) where surface water or runoff will accumulate around the well due to depressions, drainage ways, or other landscapes that will concentrate water around the well;
 - (B) if a person would be required to enter confined spaces to perform sampling and inspection activities; or
 - (C) if injectants or formation fluids would migrate outside the approved injection zone as determined by the applicant in accordance with Subparagraph (b)(4) of this Rule.
- (2) The methods and materials used in construction shall not threaten the physical or mechanical integrity of the well during its lifetime and shall be compatible with the proposed injection activities.
- (3) The well shall be constructed in such a manner that surface water or contaminants from the land surface cannot migrate along the borehole annulus either during or after construction.
- (4) The borehole shall not penetrate to a depth greater than the depth at which injection will occur unless the purpose of the borehole is the investigation of the geophysical and geochemical characteristics of an aquifer. Following completion of the investigation, the borehole beneath the zone of injection shall be completely grouted to prevent the migration of any contaminants.
- (5) Drilling fluids and additives shall contain only potable water and may be comprised of one or more of the following:
 - (A) the formation material encountered during drilling;
 - (B) materials manufactured specifically for the purpose of borehole conditioning or well construction; or
 - (C) materials approved by the Director, based on a demonstration of not adversely affecting human health or groundwater quality.
- (6) Only grouts listed under Rule .0107 of this Subchapter shall be used with the exception that bentonite grout shall not be used:
 - (A) to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater as determined by tests

- conducted at the time of construction;
or
- (B) in areas of the State subject to saltwater intrusion that may expose the grout to water with a chloride concentration of 1,500 milligrams per liter or greater at any time during the life of the well.
- (7) The annular space between the borehole and casing shall be grouted:
- (A) with a grout that is non-reactive with the casing or screen materials, the formation, or the injectant;
- (B) from land surface to the top of the gravel pack and in such a way that there is no interconnection of aquifers or zones having differences in water quality that would result in degradation of groundwater quality in any aquifer or zone; and
- (C) so that the grout extends outward from the casing wall to a ~~minimum~~ thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater; but in no case shall a well be required to have an annular grout seal thickness greater than four inches.
- (8) Grout shall be emplaced around the casing by one of the following methods:
- (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the annular space around the casing and overflows at the surface;
- (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the annular space ~~which that~~ can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire application; or
- (C) Other. Grout may be emplaced in the annular space by gravity flow in such a way as to ensure complete filling of the space. Gravity flow shall not be used if water or any visible obstruction is present in the annular space at the time of grouting.
- (9) All grout mixtures shall be prepared prior to emplacement per the manufacturer's directions with the exception that bentonite chips or pellets may be emplaced by gravity flow if water is present or the chips or pellets are otherwise hydrated in place.
- (10) If an outer casing is installed, it shall be grouted by either the pumping or pressure method.
- (11) The well shall be grouted within seven days after the casing is set or before the drilling equipment leaves the site, whichever occurs first. If the well penetrates any water-bearing zone that contains saline water, the well shall be grouted within one day after the casing is set.
- (12) No additives that will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
- (13) A casing shall be installed that extends from at least 12 inches above land surface to the top of the injection zone.
- (14) Wells with casing extending less than 12 inches above land surface may be approved by the Director only when one of the following conditions is met:
- (A) site specific conditions directly related to business activities, such as vehicle traffic, would endanger the physical integrity of the well; or
- (B) it is not operationally feasible for the well head to be completed 12 inches above land surface due to the engineering design requirements of the system.
- (15) Multi-screened wells shall not connect aquifers or zones having differences in water quality ~~which that~~ would result in a degradation of groundwater quality in any aquifer or zone.
- (16) Prior to removing the equipment from the site, the top of the casing shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85, to preclude contaminants from entering the well.
- (17) Packing materials for gravel and sand packed wells shall be:
- (A) composed of quartz, granite, or other hard, non-reactive rock material;
- (B) clean, of uniform size, water-washed and free from clay, silt, ~~or other deleterious material; and toxic materials;~~
- (C) disinfected prior to subsurface emplacement;
- (D) emplaced such that it ~~shall~~ will not connect aquifers or zones having differences in water quality that would result in the deterioration of ~~the water qualities~~ groundwater quality in any aquifer or zone;
- (E) evenly distributed around the screen and shall extend to a depth at least one foot above the top of the screen. A ~~minimum~~ one-foot or greater thick seal, comprised of bentonite ~~clay~~ clay, ~~or other sealing material approved by the Director,~~ shall be emplaced directly above and in contact with the packing material.

- (18) Each injection well shall have a well identification plate that meets the criteria specified in Rule .0107 of this Subchapter.
- (19) A hose bibb, sampling tap, or other collection equipment ~~approved by the Director~~ shall be installed on the line entering the injection well such that a sample of the injectant can be obtained immediately prior to its entering the injection well.
- (20) If applicable, all piping, wiring, and vents shall enter the well through the top of the casing unless ~~otherwise approved by the Director~~ it is based on a design demonstrated to preclude surficial contaminants from entering the well.
- (21) The well head shall be completed in such a manner ~~so~~ as to preclude surficial contaminants from entering the ~~well~~ well, and well head protection shall include:
- (A) an accessible external sanitary seal installed around the casing and grouting; and
 - (B) a water-tight cap or seal compatible with the casing and installed so that it cannot be removed without the use of hand or power tools.
- (f) Testing.
- (1) Appropriate logs and other tests conducted during the drilling and construction of the wells shall be submitted to the Director after completion of well construction. A descriptive report interpreting the results of such logs and tests shall be prepared by a log analyst and submitted to the Director after completion of the tests. The appropriateness of the logs and tests shall be determined by the Director based on the intended function, depth, construction, and other characteristics of the well; and availability of similar data in the area of the drilling site; site, and the need for additional information that may arise from time to time as the construction of the well progresses. At a minimum, such Such logs and tests shall include:
- (A) lithostratigraphic logs of the entire borehole;
 - (B) hydrostratigraphic logs of the entire borehole; and
 - (C) deviation checks conducted on all holes where pilot holes and reaming are ~~used, and used~~ at sufficiently frequent intervals to assure that vertical avenues for fluid migration ~~in the form of~~ through diverging holes are not created during drilling.
- (2) When the injection zone is a water-bearing formation, the following information concerning the injection zone as determined by the applicant in accordance with Subparagraph (b)(4) of this Rule shall be submitted to the Director after completion of the determinations ~~in an integrated form which includes the following:~~ Director:
- (A) fluid pressure;
 - (B) fluid temperature;
 - (C) fracture pressure;
 - (D) other physical and chemical characteristics of the injection zone;
 - (E) physical and chemical characteristics of the formation fluids; and
 - (F) compatibility of injected fluids with formation fluids.
- (3) When the injection formation is not a water bearing formation, only the fracture pressure and other physical and chemical characteristics of the injection zone shall be determined or calculated and submitted to the Director after completion of the determinations.
- (4) Tests for mechanical integrity shall be conducted prior to operation and every 10 years thereafter in accordance with Rule .0207 of this Section. The Director may require more frequent mechanical integrity testing as set out in Rule .0207 of this Section.
- (g) Operation and Maintenance.
- (1) Pressure at the well head shall be limited to a maximum which will ensure that the pressure in the injection zone does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of injected or formation fluids outside the injection zone or area.
- (2) ~~Injection~~ There shall be no injection between the outermost casing and the well ~~borehole is prohibited.~~ borehole.
- (3) Monitoring of the operating processes at the well head ~~shall be provided for by the well owner, as well as~~ and protection against damage of the well head during construction and ~~use.~~ use shall be provided for by the well owner.
- (h) Monitoring.
- (1) Monitoring of the groundwater quality by the permittee shall be required by the Director to demonstrate protection of the groundwaters of the State.
- (2) In determining the type, density, frequency, and scope of monitoring, the Director shall consider the following:
- (A) physical and chemical characteristics of the injection zone;
 - (B) physical and chemical characteristics of the injected ~~fluid(s); fluids;~~ fluids;
 - (C) volume and rate of discharge of the injected ~~fluid(s); fluids;~~ fluids;
 - (D) compatibility of the injected ~~fluid(s); fluids;~~ fluids with the formation ~~fluid(s); fluids;~~ fluids;

- (E) the number, ~~type~~ type, and location of all wells, mines, surface bodies of water, and structures within the area of review;
 - (F) proposed injection procedures;
 - (G) expected changes in pressure, formation fluid displacement, and direction of movement of injected fluid;
 - (H) proposals of corrective action to be taken in the event ~~that~~ of a failure in any phase of injection operations that renders the groundwaters unsuitable for their best intended usage as defined in 15A NCAC 02L .0202; and
 - (I) the life expectancy of the injection operations.
- (3) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (4) The following analytical parameters shall be included:
- (A) disinfectants and disinfection byproducts;
 - (B) radium, radionuclides, and gross alpha radiation;
 - (C) Reduction Potential (Eh), pH, Total Dissolved Solids (TDS), Biological Oxygen Demand (BOD), Total Oxygen Demand (TOD), Chemical Oxygen Demand (COD), temperature, conductivity, and dissolved oxygen;
 - (D) coliform, Escherichia coli (E. Coli), Giardia, and Cryptosporidium;
 - (E) parameters ~~deemed appropriate by the Director~~ based on the source water, injection zone formation materials, native groundwater, ~~or any other reason deemed necessary to protect groundwater, human health, or the environment;~~ and any other parameters necessary for the Department to ensure compliance with G.S. 87-84; and
 - (F) other parameters for which National Primary and Secondary Drinking Water Standards have been established.
- (5) Analysis of the physical, chemical, biological, or radiological characteristics of the injected fluid shall be made monthly or more frequently, as ~~necessary~~, necessary in order to provide representative data for characterization of the injectant.
- (6) Continuous recording devices to monitor the injection pressure, flow, rate, and volume of injected fluid shall be installed.
- (7) Monitoring wells associated with the injection site shall be monitored quarterly or on a schedule determined by the Director to detect any migration of injected fluids from the injection ~~zone~~, zone to ensure compliance with G.S. 87-84.
- (8) Monitoring wells completed in the injection zone and any of those zones adjacent to the injection zone may be affected by the injection operations. If affected, the Director may require additional monitor wells located to detect any movement of injection fluids, process byproducts, or formation fluids outside the injection zone as determined by the applicant in accordance with Subparagraph (b)(4) of this Rule. If the operation is affected by subsidence or catastrophic collapse, ~~the~~ additional monitoring wells shall be located so that they will not be physically affected and shall be of an adequate number to detect movement of injected fluids, process byproducts, or formation fluids outside the injection zone or area. In determining the number, location and spacing of monitoring wells, the following criteria shall be considered by the Director:
- (A) the population relying on the groundwater resource affected, or potentially affected, by the injection operation;
 - (B) the proximity of the injection operation to points of withdrawal of groundwater;
 - (C) the local geology and hydrology;
 - (D) the operating pressures;
 - (E) the chemical characteristics and volume of the injected fluid, formation water, and process by products; and
 - (F) the ~~density~~ number of existing injection wells.
- (i) Reporting.
- (1) A record of the construction, abandonment, or repairs of the injection well shall be submitted to the Director within 30 days of completion of the specified activities.
- (2) All sampling results shall be reported to the Division ~~quarterly~~, quarterly or ~~on a~~ at another frequency determined by the ~~Director, and~~ Director based on the reaction rates, injection rates, likelihood of secondary impacts, and site-specific hydrogeologic information.
- (3) The results of ~~tests~~ each test required in Paragraph (f) of this Rule shall be submitted to the Director within 30 days of the completion of the test. ~~Results may be submitted within an alternate timeframe approved by the Director.~~
- (j) Public Notice. Public notice of intent to issue permits for applications submitted pursuant to this rule shall be given prior to permit issuance.
- (1) Such notice shall:
 - (A) be posted on the Division website and given in press releases via media

- outlets having coverage within the area of review;
- (B) provide 30 days for public comments to be submitted to the Director; and
- (C) include a description of details of the project, such as the permit applicant; the location, number, and depth of injection wells; and the injectant type, source, and volume.
- (2) After the public comment period has ended the Director shall:
 - (A) consider the comments submitted and determine if a public hearing is warranted;
 - (B) determine if the draft permit shall be issued, modified, or denied; and
 - (C) post notice on the Division website as of the final permitting action, which shall include the issued permit or the reason for denial if the permit was denied.
- (3) In determining if a public hearing is warranted, the Director's consideration shall include the following:
 - (A) requests by property owners within the area of review;
 - (B) potential harm to the public by not having a public hearing;
 - (C) potential harm to the applicant due to the delay in having a public hearing; and
 - (D) the likelihood of obtaining new information regarding the proposed injection.

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0220 AQUIFER TEST WELLS

- (a) ~~Aquifer Test Wells are~~ "Aquifer Test Wells" means wells used to inject uncontaminated fluid into an aquifer to determine the aquifer characteristics.
- (b) Injection wells of this type ~~are~~ shall be permitted by rule when constructed and operated in accordance with this Rule.
- (c) Only potable water ~~may~~ shall be injected through this type of injection well.
- (d) Tests for mechanical integrity shall be conducted in accordance with Rule .0207 of this Section.
- (e) Injection wells of this type shall be constructed in accordance with the well construction standards applicable to monitoring wells specified in Rule .0108 of this Subchapter;
- (f) The operation of the aquifer test well shall not cause contaminated groundwater to migrate into an area not contaminated prior to initiation of injection activities or cause a violation of applicable groundwater quality standards as specified in Subchapter 02L.

- (g) Within 30 days of a change of status of the well, the owner/operator shall provide the following information:
 - (1) facility name, address, and location indicated by either:
 - (A) latitude and longitude with reference datum, position accuracy, and method of collection; or
 - (B) a facility site map with property boundaries;
 - (2) name, telephone number, and mailing address of legal contact;
 - (3) ownership of facility as a private individual or ~~organization~~, organization or a federal, state, county, or other public entity;
 - (4) number of injection wells and their construction details; and
 - (5) well status ~~as proposed, active, inactive, temporarily abandoned, or permanently abandoned.~~ (either proposed, active, inactive, temporarily abandoned, or permanently abandoned).
- (h) A record of the construction, abandonment, or repairs of the injection well shall be submitted to the Director within 30 days of completion of the specified activities.

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0221 EXPERIMENTAL TECHNOLOGY WELLS

~~Experimental Technology Wells are~~ "Experimental Technology Wells" means wells used in experimental or unproven technologies ~~where whose operation is in compliance~~ complies with all ~~appropriate~~ applicable rules and statutes. ~~Rule requirements for Experimental Technology Wells shall be evaluated and treated as one of the injection well types~~ comply with the rules governing the injection well types in Rule .0209(5)(b) of this Section that ~~the Director determines~~ most closely resembles the Experimental Technology Well's equivalent hydrogeologic complexity and potential to adversely affect groundwater quality. ~~The Director may impose additional requirements for the protection of human health and the environment based on site specific criteria, existing or projected environmental impacts, compliance with the provisions of the rules of this Section, or the compliance history of the facility owner.~~

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0222 GEOTHERMAL AQUEOUS CLOSED-LOOP WELLS

- (a) ~~Geothermal Aqueous Closed-Loop Wells are used to~~ "Geothermal Aqueous Closed-Loop Wells" means wells that house a subsurface system of closed-loop pipe that circulates

potable water only or a mixture of potable water and performance-enhancing additives such as antifreeze, corrosion inhibitors, or scale inhibitors for heating and cooling purposes. Only additives that the Department of Health and Human Services' Division of Public Health determines not to adversely affect human health in compliance with G.S. 130A-5 shall be used.

(b) Permitted by Rule. ~~All~~ Aqueous Closed-Loop Geothermal Wells are permitted by rule when constructed and operated in accordance with the rules of this Section.

(c) Individual Permits. If an individual permit is required pursuant to Rule .0217 of this Section, then an application for permit renewal shall be made at least 120 days prior to the expiration date of the permit.

(d) Notification. In addition to the requirements set forth in Rule .0211 of this Section, notification for systems designed to serve a single family residence shall be submitted ~~at least two or more~~ business days prior to construction and at least 30 days for all other installations. The notification shall be submitted to the Director and to the county health department. The notification shall be on forms supplied by the Director and shall include:

- (1) the well owner's name, address, telephone number, email address (if available), and ~~status as whether the owner is~~ a federal, state, private, public, or other ~~activity~~ entity. If the well operator is different from the owner then the same information shall be provided for the well ~~operator~~ operator;
- (2) the physical location of the well facility;
- (3) a description of the proposed injection activities;
- (4) a scaled, site-specific map showing the following:
 - (A) any water supply well and surface water body; septic system including drainfield, waste application area, and repair area; and any other potential sources of contamination listed in Subparagraph (e)(5) of this Rule within 250 feet of the proposed injection ~~well(s); wells~~;
 - (B) property boundaries within 250 feet of the parcel on which the proposed wells are located; and
 - (C) an arrow orienting the site to one of the cardinal directions;
- (5) the types and concentrations of additives, if any, to be used in the closed-loop geothermal well system. ~~All proposed additives not already approved for use at the time of application submittal shall be subject to a health risk evaluation.~~ Only approved additives shall be used in any closed loop geothermal well system;
- (6) plans and specifications of the surface and subsurface construction details of the system;
- (7) the ~~heating/cooling~~ heating and cooling system installation contractor's name and certification number, address, email address (if available), and telephone number;

(8) description of how the items identified in Part (d)(4)(A) of this Rule will be protected during well construction; and

(9) ~~such other information as deemed necessary by the Director for the protection of human health and the environment.~~ any other information necessary for the Department to ensure compliance with G.S. 87-84.

(e) Well Construction.

- (1) Only tubing that meets the specifications in Chapter 12 of the North Carolina Mechanical Code shall be used.
- (2) Drilling fluids and water produced during well construction shall be managed in such a way as to prevent direct discharges to surface waters as well as violations of groundwater and surface water quality standards. Plans for such preventive measures shall be retained onsite ~~for use~~ throughout the construction process.
- (3) The well shall be constructed in such a manner that surface water or contaminants from the land surface cannot migrate along the borehole annulus at any time during or after construction.
- (4) The well shall be located such that:
 - (A) the injection well is not in an area where surface water or runoff will accumulate around the well due to depressions, drainage ways, or other landscape features that will concentrate water around the well; and
 - (B) the injection well is not in an area that requires a person to enter confined spaces to perform sampling and inspection activities.
- (5) The ~~minimum~~ horizontal separation ~~from potential~~ between the geothermal aqueous closed-loop well and potential sources of groundwater contamination that exist at the time the ~~well(s)~~ wells are constructed shall be as follows, unless it can be demonstrated to the Director's satisfaction that a lesser separation distance will not adversely affect human health or cause a violation of a groundwater quality standard as specified in Subchapter 02L: no less than as follows unless otherwise specified:
 - (A) Building perimeters, including any attached structures for which a building permit is required, such as garages, patios, or decks, regardless of foundation construction type 15 feet
 - (B) ~~Septic systems~~ systems, including drainfield, waste application area, and repair area 50 feet
 - (C) ~~Sewage or liquid waste collection or transfer facilities constructed to water main standards in accordance with 15A NCAC 02T .0305(g)(2) or Rule .1950(e) of Subchapter 18A, as~~

- ~~applicable~~ Industrial or municipal sewage or liquid waste collection or transmission sewer mains constructed to water main standards as stated in the American Water Works Association (AWWA) Standards C600 and/or C900 15 feet
- (D) Water-tight sewer lateral lines from a residence or other non-public system to a sewer main or other wastewater disposal system 15 feet
- ~~(D)(E)~~ Sewage or liquid waste collection or transfer facilities not constructed to water main standards in accordance with 15A NCAC 02T .0305(g)(2) or 15A NCAC 18A .1950(e), as applicable Other industrial or municipal sewage or liquid waste collection or transmission sewer mains 25 feet
- ~~(E)(F)~~ Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N with secondary containment 50 feet
- ~~(F)(G)~~ Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N without secondary containment 100 feet
- ~~(G)(H)~~ Above ground or underground storage tanks which that contain petroleum fuels used for heating equipment, boilers, or furnaces, with the exception of except for tanks used solely for storage of propane, natural gas, or liquefied petroleum gas 50 feet
- ~~(H)(I)~~ Land-based or subsurface waste storage or disposal systems 50 feet
- ~~(I)(J)~~ Gravesites 50 feet
- ~~(J)(K)~~ Any other potential sources of contamination 50 feet
- (6) The methods and materials used in construction shall not threaten the physical and mechanical integrity of the well and any tubing during its lifetime and shall be compatible with the proposed injection activities.
- (7) Drilling fluids ~~and additives~~ shall contain only potable water and may be comprised of one or more of the following:
- (A) the formation material encountered during drilling; and
- (B) materials manufactured specifically for the purpose of borehole conditioning or well ~~construction; or construction.~~
- ~~(C)~~ materials approved by the Director, based on a demonstration of not
- ~~adversely affecting human health or the environment.~~
- (8) Allowable grouts listed under Rule .0107 of this Subchapter shall be used with the exception that bentonite chips or pellets shall not be used. Thermally enhanced bentonite slurry grout shall be used. This grout shall consist of a mixture of not more than 22 gallons of potable water, one 50 pound bag of thermally enhanced commercial Wyoming sodium bentonite, and up to 400 pounds of clean dry 50-70 mesh silica sand. The amount of silica sand may be varied to achieve the thermal conductivity desired of the grout. The thermally enhanced grout slurry shall only be used in accordance with the manufacturers written instructions and shall meet permeability standards in accordance with Rule .0107 of this Subchapter.
- (9) Bentonite grout shall not be used:
- (A) to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater as determined by tests conducted at the time of construction, or
- (B) in areas of the State subject to saltwater intrusion that may expose the grout to water with a chloride concentration of 1,500 milligrams per liter or greater at any time during the life of the well.
- (10) No additives that will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
- (11) Grout shall be placed the entire length of the well boring from the bottom of the boring to land surface or, if completed below land surface, to the well header or manifold connection.
- (12) The grout shall be emplaced by one of the following methods:
- (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the borehole or annular space around the casing and overflows at the surface; or
- (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the borehole or annular space which can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire ~~application; or application.~~
- ~~(C)~~ Other. Grout may be emplaced in the borehole or annular space by gravity flow in such a way to ensure complete filling of the space. Gravity flow shall not be used if water or any visible obstruction is present in the borehole

- ~~or annular space at the time of grouting.~~
- (13) If temporary outer casing is installed, it shall be removed during grouting of the borehole in such a way that maintains the integrity of the borehole and uniform grout coverage around the geothermal tubing.
 - (14) If a permanent outer casing is installed:
 - (A) The space between the interior wall of the casing and the geothermal tubing shall be grouted the entire length of the well boring from the bottom of the boring to land surface or, if completed below land surface, to the well header or manifold connection;
 - (B) The annular space between the casing and the borehole shall be grouted with a grout that is non-reactive with the casing or the formation;
 - (C) Grout shall extend outward in all directions from the casing wall to borehole wall and have a ~~minimum~~ thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater; and
 - (D) In no case shall a well be required to have an annular grout seal thickness greater than four inches.
 - (15) Grout emplacement shall not threaten the physical or mechanical integrity of the well.
 - (16) The well shall be grouted within seven days after drilling is complete or before the drilling equipment leaves the site, whichever occurs first. If the well penetrates any water-bearing zone that contains contaminated or saline water, the well shall be grouted within one day after the casing is set.
 - (17) Prior to removing the equipment from the site, the top of the casing shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85, to preclude contaminants from entering the well.
 - (18) Well head completion shall be conducted in such a manner so as to preclude surficial contaminants from entering the well.
- (f) Well Location. The location of each well boring and appurtenant underground piping leading to ~~the heat exchanger(s)~~ all heat exchangers shall be identifiable such that they may be located, repaired, and abandoned as necessary after construction.
- (1) The as-built locations of each well boring, header pit, and appurtenant underground piping shall be recorded on a scaled site-specific facility map, which shall be retained onsite and distributed as specified in Subparagraph (i)(1) of this Rule.
 - (2) Each well boring and header pit shall be located by a North Carolina registered land surveyor, a GPS receiver, or by triangulation from at least
- (3) Well boring and appurtenant underground piping locations shall be identifiable in the field by tracer wire and warning tape, concrete monuments, or any other method approved by the Director upon a demonstration that such a method provides a reliable and accurate method of detection.
 - (4) If tracer wire and warning tape are used, then tracer wire consisting of copper wire of at least 14 gauge shall be placed adjacent to all horizontal piping during pipe installation, and warning tape shall be installed directly above the horizontal piping approximately 12 inches below final grade.
 - (5) If concrete monuments are used, then each monument shall be located directly above each individual well, at the perimeter corners of each well field, or in the center of each well cluster. Each concrete monument shall be permanently affixed with an identification plate constructed of durable, weatherproof, rustproof metal or other material approved by the Director as equivalent, which shall be stamped with the following information:
 - (A) well contractor name and certification number;
 - (B) number and depth of the ~~boring(s);~~ borings;
 - (C) grout depth interval;
 - (D) well construction completion date; and
 - (E) identification as a geothermal ~~well/well~~ well or well field.
- (g) Testing.
- (1) Closed loop tubing shall pass a pressure test on-site prior to installation into the borehole. Any closed loop tubing that fails the pressure test shall either not be used or ~~have the leaks located and repaired plus~~ shall pass a subsequent pressure test prior to installation and after all leaks have been located and repaired.
 - (2) The closed loop well system shall pass a pressure test after installation and prior to operation. Any pressure fluctuation other than that due to thermal expansion and contraction of the testing medium shall be considered a failed test. Any leaks shall be located and repaired prior to operating the system.
- (h) Operation.
- (1) The well shall be ~~afforded protection~~ protected against damage during construction and use.
 - (2) The well shall be operated and maintained in accordance with the manufacturer's specifications throughout its operating life.
- (i) Monitoring and Reporting.

- (1) The well owner shall submit the as-built well locations as documented in accordance with Paragraph (f) of this Rule to the Director and ~~applicable the appropriate~~ county health department. The well owner shall also record these documents with the register of deeds of the county in which the facility is located.
- (2) Upon sale or transfer of the property, the owner shall give a copy of these records to the new property ~~owner(s); owner or owners.~~
- (3) The Director may require any monitoring necessary to ~~demonstrate protection of waters of the state to the level of the applicable groundwater standards.~~ ensure compliance with G.S. 87-84.
- (4) The permittee shall report any leaks to the Division during the lifetime of the well.
- (5) A record of the construction, abandonment, or repairs of the injection well shall be submitted to the Director within 30 days of completion of the specified activities.

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0223 GEOTHERMAL DIRECT EXPANSION CLOSED-LOOP WELLS

(a) ~~Geothermal Direct Expansion Closed Loop Wells~~ "Geothermal Direct Expansion Closed-Loop Wells" means wells ~~are~~ used to house a subsurface system of closed-loop pipe that circulates refrigerant gas for heating and cooling purposes. Only gasses that the Department of Health and Human Services' Division of Public Health determines not to adversely affect human health in compliance with G.S. 130A-5 shall be used.

(b) Permitted by Rule. ~~All~~ Direct Expansion Closed-Loop Geothermal Wells are permitted by rule when constructed and operated in accordance with the rules of this Section.

(c) Individual Permits. If an individual permit is required pursuant to Rule .0217 of this Section, then an application for permit renewal shall be made at least 120 days prior to the expiration date of the permit.

(d) Notification. In addition to the requirements set forth in Rule .0211 of this Section, notification for systems designed to serve a single family residence shall be submitted at least two or more business days prior to construction and at least 30 days or more for all other installations. The notification shall be submitted to the Director and to the county health department. The notification shall be on forms supplied by the Director and shall include:

- (1) the well owner's name, address, telephone number, email address (if available), and ~~status as whether the owner is~~ a federal, state, private, public, or other ~~activity.~~ entity. If the well operator is different from the owner then the same information shall be provided for the well ~~operator.~~ operator;
- (2) the physical location of the well;

- (3) a description of the proposed injection activities;
- (4) a scaled, site specific map showing the following:
 - (A) any water supply well and surface water body; septic system including drainfield, waste application area, and repair area; and any other potential sources of contamination listed in Subparagraph (e)(6) of this Rule within 250 feet of the proposed injection ~~well(s); wells;~~
 - (B) property boundaries within 250 feet of the parcel on which the proposed wells are located; and
 - (C) an arrow orienting the site to one of the cardinal directions;
- (5) the type of gas to be used in the closed-loop geothermal well system. ~~All proposed gases not already approved for use at the time of application submittal shall be subject to a health risk evaluation.~~ Only approved gases shall be used in any closed loop geothermal well system;
- (6) plans and specifications of the surface and subsurface construction details of the system;
- (7) ~~the heating/cooling~~ heating and cooling system installation contractor's name and certification number, address, email address (if available), and telephone number;
- (8) description of how the items identified in Part (d)(4)(A) of this Rule will be protected during well construction; and
- (9) such other information as deemed necessary by the Director for the protection of human health and the environment.

(e) Well Construction.

- (1) Only tubing that meets the specifications in Chapter 12 of the North Carolina Mechanical Code shall be used.
- (2) All systems shall be constructed with cathodic protection unless testing conducted in accordance with Paragraph (g) of this Rule indicates that all pH test results are within the range of 5.5 to 11.0 standard units.
- (3) Drilling fluids and water produced during well construction shall be managed in such a way as to prevent direct discharges to surface waters ~~as well as~~ and violations of groundwater and surface water quality standards. Plans for such preventive measures shall be retained onsite for use throughout the construction process.
- (4) The well shall be constructed in such a manner that surface water or contaminants from the land surface cannot migrate along the borehole annulus at any time during or after construction.
- (5) The well shall be located such that:
 - (A) the injection well is not in an area where surface water or runoff will

- accumulate around the well due to depressions, drainage ways, or other landscape features that will concentrate water around the well; and
- (B) the injection well is not in an area that requires a person to enter confined spaces to perform sampling and inspection activities.
- (6) The ~~minimum horizontal separation distance of the entire length of the borehole from between the geothermal direct expansion closed-loop well and~~ potential sources of groundwater contamination that exist at the time the ~~well(s)~~ wells are constructed shall be no less than as follows, follows unless it can be demonstrated to the Director's satisfaction that a lesser separation distance will not adversely affect human health or cause a violation of a groundwater quality standard as specified in Subchapter 02L; otherwise specified:
- (A) Building perimeters, including any attached structures for which a building permit is required, such as garages, patios, or decks, regardless of foundation construction type 15 feet
- (B) Septic ~~systems~~ systems, including drainfield, waste application area, and repair area 50 feet
- (C) ~~Sewage or liquid waste collection or transfer facilities constructed to water main standards in accordance with 15A NCAC 02T .0305(g)(2) or 15A NCAC 18A .1950(e), as applicable~~ Industrial or municipal sewage or liquid waste collection or transmission sewer mains constructed to water main standards as stated in the American Water Works Association (AWWA) Standards C600 and/or C900 15 feet
- (D) Water-tight sewer lateral lines from a residence or other non-public system to a sewer main or other wastewater disposal system 15 feet
- (~~D~~)(E) ~~Sewage or liquid waste collection or transfer facilities not constructed to water main standards in accordance with 15A NCAC 02T .0305(g)(2) or 15A NCAC 18A .1950(e), as applicable~~ Other industrial or municipal sewage or liquid waste collection or transmission sewer mains 25 feet
- (~~E~~)(F) Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N with secondary containment 50 feet
- (~~F~~)(G) Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N without secondary containment 100 feet
- (~~G~~)(H) Above ground or underground storage tanks ~~which that~~ contain petroleum fuels used for heating equipment, ~~boilers boilers~~, or furnaces, ~~with the exception of~~ except for tanks used solely for storage of propane, natural gas, or liquefied petroleum gas 50 feet
- (~~H~~)(I) Land-based or subsurface waste storage or disposal systems 50 feet
- (~~I~~)(J) Gravesites 50 feet
- (~~J~~)(K) Any other potential sources of contamination 50 feet
- (7) Angled boreholes shall not be drilled in the direction of underground petroleum or chemical storage tanks unless it can be demonstrated to the satisfaction of the Director that doing so will not adversely affect human health or cause a violation of a groundwater quality standard as specified in Subchapter 02L.
- (8) The methods and materials used in construction shall not threaten the physical and mechanical integrity of the well during its lifetime and shall be compatible with the proposed injection activities.
- (9) Drilling fluids ~~and additives~~ shall contain only potable water and may be comprised of one or more of the following:
- (A) the formation material encountered during drilling; and
- (B) materials manufactured specifically for the purpose of borehole conditioning or well ~~construction; or construction.~~
- (~~C~~) ~~materials approved by the Director, based on a demonstration of not adversely affecting human health or the environment.~~
- (10) Allowable grouts listed under Rule .0107 of this Subchapter shall be used with the exception that bentonite chips or pellets shall not be used. Thermally enhanced bentonite slurry grout shall be used. This grout shall consist of a mixture of not more than 22 gallons of potable water, one 50 pound bag of thermally enhanced commercial Wyoming sodium bentonite, and up to 400 pounds of clean dry 50-70 mesh silica sand. The amount of silica sand maybe varied to achieve the thermal conductivity desired of the grout. The thermally enhanced grout slurry shall only be used in accordance with the manufacturers written instructions.
- (11) Bentonite grout shall not be used:
- (A) to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater as determined by tests conducted at the time of construction, or

- (B) in areas of the State subject to saltwater intrusion that may expose the grout to water with a chloride concentration of 1,500 milligrams per liter or greater at any time during the life of the well.
- (12) No additives that will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
- (13) Grout shall be placed the entire length of the well boring from the bottom of the boring to land surface or, if completed below land surface, to the well header or manifold connection.
- (14) The grout shall be emplaced by one of the following methods:
- (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the borehole or annular area space the casing and overflows at the surface; or
- (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the borehole or annular space which can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire application; ~~or application.~~
- ~~(C) Other. Grout may be emplaced in the borehole or annular space by gravity flow in such a way to ensure complete filling of the space. Gravity flow shall not be used if water or any visible obstruction is present in the borehole or annular space at the time of grouting.~~
- (15) If temporary outer casing is installed, it shall be removed during grouting of the borehole in such a way that maintains the integrity of the borehole and uniform grout coverage around the geothermal tubing.
- (16) If a permanent outer casing is installed:
- (A) The space between the interior wall of the casing and the geothermal tubing shall be grouted the entire length of the well boring from the bottom of the boring to land surface or, if completed below land surface, to the well header or manifold connection.
- (B) The annular space between the casing and the borehole shall be grouted with a grout that is non-reactive with the casing or the formation.
- (C) Grout shall extend outward in all directions from the casing wall to borehole wall and have a ~~minimum~~ thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater; and
- (D) In no case shall a well be required to have an annular grout seal thickness greater than four inches.
- (17) Grout emplacement shall not threaten the physical or mechanical integrity of the well.
- (18) The well shall be grouted within seven days after drilling is complete or before the drilling equipment leaves the site, whichever occurs first. If the well penetrates any water-bearing zone that contains contaminated or saline water, the well shall be grouted within one day after the casing is set.
- (19) Prior to removing the equipment from the site, the top of the casing shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85, to preclude contaminants from entering the well.
- (20) Well head completion shall be conducted in such a manner so as to preclude surficial contaminants from entering the well.
- (f) Well Location. The location of each well boring and appurtenant underground piping leading to ~~the heat exchanger(s)~~ all heat exchangers shall be identifiable such that they may be located, repaired, and abandoned as necessary after construction.
- (1) The as-built locations of each well boring, header pit, and appurtenant underground piping shall be recorded on a scaled site-specific facility map, which shall be retained onsite and distributed as specified in Subparagraph (i)(1) of this Rule.
- (2) Each well boring and header pit shall be located by a North Carolina registered land surveyor, a GPS receiver, or by triangulation from at least two permanent features on the site, such as building foundation corners or property boundary iron pins.
- (3) Well boring and appurtenant underground piping locations shall be identifiable in the field by tracer wire and warning tape, concrete monuments, or any other method approved by the Director upon a demonstration that such a method provides a reliable and accurate method of detection.
- (4) If tracer wire and warning tape are used, then tracer wire consisting of copper wire of at least 14 gauge shall be placed adjacent to all horizontal piping during pipe installation, and warning tape shall be installed directly above the horizontal piping approximately 12 inches below final grade.
- (5) If concrete monuments are used, then each monument shall be located directly above each individual well, at the perimeter corners of each well field, or in the center of each well cluster. Each concrete monument shall be permanently affixed with an identification plate constructed of durable, weatherproof, rustproof metal or

other material approved by the Director as equivalent, which shall be stamped with the following information:

- (A) well contractor name and certification number;
- (B) number and depth of the ~~boring(s);~~ borings;
- (C) grout depth interval;
- (D) well construction completion date; and
- (E) identification as a geothermal ~~well/well~~ well or well field.

(g) Testing.

- (1) Closed loop tubing shall pass a pressure test on-site prior to installation into the borehole. Any closed loop tubing that fails the pressure test shall either not be used or ~~have the leaks located and repaired plus shall~~ pass a subsequent pressure test prior to installation, installation and after all leaks have been located and repaired.
- (2) The closed loop well system shall pass a pressure test after installation and prior to operation. Any pressure fluctuation other than that due to thermal expansion and contraction of the testing medium shall be considered a failed test. Any leaks shall be located and repaired prior to operating the system.
- (3) When not providing cathodic protection as specified in Subparagraph (e)(2) of this Rule drilling cuttings shall be tested for pH at a frequency of at least every 10 feet of boring length using a pH meter that has been calibrated prior to use according to the manufacturer's instructions.

(h) Operation.

- (1) The well shall be ~~afforded protection~~ protected against damage during construction and use.
- (2) The well shall be operated and maintained in accordance with the manufacturer's specifications throughout its operating life. Cathodic protection, if required, shall be maintained at all times in accordance with the manufacturer's specifications throughout the operating life of the ~~well(s); wells.~~

(i) Monitoring and Reporting.

- (1) The well owner shall submit the as-built well locations as documented in accordance with Paragraph (f) of this Rule to the Director and ~~applicable~~ the appropriate county health department. The well owner shall also record these documents with the register of deeds of the county in which the facility is located.
- (2) Upon sale or transfer of the property, the owner shall give a copy of these records to the new property ~~owner(s); owner or owners.~~
- (3) The Director may require any monitoring necessary to ~~demonstrate protection of waters of the state to the level of the applicable~~

~~groundwater standards.~~ ensure compliance with G.S. 87-84.

- (4) The permittee shall report any leaks to the Division during the lifetime of the well.
- (5) A record of the construction, abandonment, or repairs of the injection well shall be submitted to the Director within 30 days of completion of the specified activities.

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0224 GEOTHERMAL HEATING/COOLING HEATING AND COOLING WATER RETURN WELLS

(a) ~~Geothermal Heating/Cooling Water Return Wells~~ "Geothermal Heating and Cooling Water Return Wells" means wells that reinject groundwater used to provide heating or cooling for structures. These wells ~~may~~ shall not be approved by the Director ~~only if unless~~ the temperature of the injection fluid is ~~does not in excess of exceed~~ 30 degrees Fahrenheit above or below the naturally occurring temperature of the receiving ~~groundwater. This includes groundwater, including wells using a geothermal fluid source. All Geothermal Heating/Cooling No Geothermal Heating and Cooling Water Return Wells require a permit.~~ Well shall be constructed, repaired, or operated without a permit.

(b) Permit Applications. In addition to the permit requirements set forth in Rule .0211 of this Section, an application shall be submitted, in duplicate, to the Director on forms furnished by the Director and shall include the following:

- (1) the well owner's name, address, telephone number, email address (if available), and ~~status as whether the owner is~~ a federal, state, private, public, or other ~~activity.~~ entity. If the well operator is different from the owner then the same information shall be provided for the well ~~operator; operator;~~
- (2) the physical address of the location of the well site if different than the well owner's mailing address;
- (3) a description of the injection activities proposed by the applicant;
- (4) a scaled, site-specific map showing at a minimum, the following:
 - (A) any water supply well and surface water body; septic system including drainfield, waste application area, and repair area; and any other potential sources of contamination listed under Rule .0107 of this Subchapter within 250 feet of the proposed injection ~~well(s); wells;~~
 - (B) property boundaries within 250 feet of the parcel on which the proposed wells are located; and

- (C) an arrow orienting the site to one of the cardinal directions;
- (5) the proposed average and maximum daily injection rate, volume, pressure, temperature, and quantity of fluid to be injected;
- (6) plans and specifications of the surface and subsurface construction details of the system including a schematic of the injection and source ~~well(s)~~ wells construction;
- (7) the ~~heating/cooling~~ heating and cooling system installation contractor's name, address, email address (if available), and telephone number; and
- (8) ~~such other information as deemed necessary by the Director for the protection of human health and the environment. any other information necessary for the Department to ensure compliance with G.S. 87-84.~~

(c) Permit Renewals. Application for permit renewal shall be made at least 120 days prior to the expiration date of the permit.

(d) Well Construction.

- (1) ~~The A~~ water supply well providing water for a separate geothermal heating and cooling injection well shall be constructed in accordance with the requirements of Rule .0107 of this Subchapter.
- (2) ~~If a separate injection well A geothermal heating and cooling water return injection well constructed with a well screen is used then it~~ shall also be constructed in accordance with the requirements of Rule .0107 of this Subchapter except that the entire length of the casing shall be grouted from the top of the sand and/or gravel pack to the land surface in such a way that there is no interconnection of aquifers or zones having differences in water quality that would result in the degradation of groundwater quality of any aquifer or zone.
- (3) For open-end geothermal heating and cooling water return wells, wells (also referred to as open-hole wells), the casing shall be grouted from the bottom of the casing to the land surface in such a way that there is no interconnection of aquifers or zones having differences in water quality that would result in degradation groundwater quality of any aquifer or zone.
- (4) The injection well system shall be constructed such that a sampling ~~tap~~ taps or other collection equipment approved by the Director provides a functional source of water when the system is operational. Such equipment shall provide the means to collect a water sample immediately after emerging from the water supply well (influent sample), and immediately prior to injection into the return ~~well~~ well (effluent sample).

(e) Operation and Maintenance.

- (1) Pressure at the well head shall be limited ~~to a maximum which will ensure~~ to ensure that the pressure in the injection zone does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of injected or formation fluids outside the injection zone or area.
- (2) Injection between the outermost casing and the well borehole ~~is~~ shall be prohibited.
- (3) Monitoring of the operating processes shall be provided for by the well owner, ~~as well as~~ and protection against damage during construction and use.

(f) Monitoring and Reporting.

- (1) Monitoring of any well may be required by the Director as necessary to ~~demonstrate adequate protection of waters of the state to the level of applicable groundwater standards.~~ ensure compliance with G.S. 87-84.
- (2) The well owner shall retain copies of records of ~~any~~ site maps showing the location of the injection ~~wells~~, wells and any testing, calibration, or monitoring information done on-site. Upon sale or transfer of the property, the owner shall give a copy of these records to the new property ~~owner(s)~~ owner or owners.
- (3) The permittee shall record the number and location of the wells with the register of deeds in the county in which the facility is located.
- (4) A record of the construction, abandonment, or repairs of the injection well shall be submitted to the Director within 30 days of completion of the specified activities.

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0225 GROUNDWATER REMEDIATION WELLS AND SYSTEMS

(a) ~~Groundwater Remediation Wells~~ "Groundwater Remediation Wells" means wells that are used to inject additives, treated groundwater, or ambient air for the treatment of contaminated soil or groundwater. Only additives that the Department of Health and Human Services' Division of Public Health determines not to adversely affect human health in compliance with G.S. 130A-5 shall be approved for injection.

(b) "Groundwater Remediation Systems" include infiltration galleries and injection wells. When on-site contaminated groundwater is used, the groundwater remediation injection wells shall be permitted in accordance with G.S. 143-215.1A.

~~(b)(c)~~ Permitted by Rule. The following are permitted by rule pursuant to Rule .0217 of this Section ~~when~~ if constructed and operated in accordance with the rules of this Section, all criteria for the specific injection system are met, hydraulic or pneumatic fracturing are not conducted, and the injection wells or injection

activities do not result in the violation of any groundwater or surface water standard outside the injection zone:

- (1) ~~Passive Injection Systems. Injection wells Systems~~ that use in-well delivery systems to diffuse injectants into the subsurface;
- (2) ~~Small-scale Injection Operations. Injection wells Operations~~ used to inject tracers or other additives to remediate contaminant plumes located within a land surface area not to exceed 10,000 square feet;
- (3) ~~Pilot Tests. Preliminary studies Tests~~ conducted ~~for the purpose of evaluating to evaluate~~ the technical feasibility of a remediation strategy in order to develop a full scale remediation plan for future implementation, ~~and where if~~ the surface area of the injection zone wells are located within an area that does not exceed five percent of the land surface above the known extent of groundwater contamination. ~~Pilot tests~~ A pilot test may involve multiple injection wells, injection events, and injectants within the specified area. An individual permit shall be required to conduct more than one pilot test on any separate groundwater contaminant plume;
- (4) ~~Air Injection Wells. Injection wells Wells~~ used to inject ambient air to enhance in-situ treatment of ~~groundwater. groundwater and that~~ meet the following requirements:
 - (A) The air to be injected shall not exceed the ambient air quality standards set forth in 15A NCAC 02D .0400 and shall not contain petroleum or any other constituent that would cause a violation of groundwater standards specified in Subchapter 02L; and
 - (B) Injection wells of this type shall be constructed in accordance with the well construction standards applicable to monitoring wells specified in Rule .0108 of this Subchapter.
- (5) In-situ thermal (IST) well systems that apply heat in targeted subsurface zones to promote remediation (i.e., electrical resistance heating (ERH), thermal conductive heating (TCH), or steam enhanced extraction (SEE)) and that meet the following requirements:
 - (A) Any IST systems used shall not contain petroleum or any other constituent that would cause a violation of groundwater standards specified in Subchapter 02L; and
 - (B) Injection wells of this type shall be constructed in accordance with the well construction standards applicable to monitoring wells specified in Rule .0108 of this Subchapter.

~~(e)(d)~~ Notification for Groundwater Remediation Wells described in Subparagraphs ~~(b)(1)(c)(1)~~ through ~~(b)(3)(c)(3)~~, and

~~(c)(5)~~ of this ~~Rule. Notification Rule~~ shall be submitted to the Director two weeks prior to injection on forms supplied by the Director. Such notification shall include the following:

- (1) the name and contact information of the well owner;
 - (2) the name and contact information of the person who can answer technical questions about the proposed injection ~~system~~ system, if different from the well owner;
 - (3) geographic coordinates of the injection well or well field;
 - (4) maps of the injection zone ~~relative to~~ indicating the known extent of contamination such as:
 - (A) ~~contaminant plume map(s)~~ maps with isoconcentration lines that show the horizontal extent of the contaminant plume in soil and groundwater, existing and proposed monitoring wells, and existing and proposed injection wells; and
 - (B) ~~cross-section(s)~~ cross-sections to the known or projected depth of contamination that show the horizontal and vertical extent of the contaminant plume in soil and groundwater, changes in lithology, existing and proposed monitoring wells, and existing and proposed injection wells;
 - (5) the purpose, scope, and goals of the proposed injection activity;
 - (6) the name, volume, concentration, and Material Safety Data Sheet of each injectant;
 - (7) a schedule of injection well construction and injection activities;
 - (8) the plans and specifications of each injection well or well system, which include:
 - (A) the number and depth of injection wells;
 - (B) an indication whether the injection wells are existing or proposed;
 - (C) the well contractor name and certification number; and
 - (D) an indication of whether the injection wells are permanent wells, "direct push" temporary injection wells, or are subsurface distribution systems; and
 - (9) a description of a monitoring plan capable of determining if violations of groundwater quality standards specified in Subchapter 02L result from the injection activity.
- ~~(d)(e)~~ Notification for Air Injection Wells described in Subparagraph ~~(b)(4)(c)(4)~~ of this Rule shall be submitted to the Director two weeks prior to injection on forms supplied by the Director. Such notification shall include the following:
- (1) the facility name, address, and location indicated by either:

- (A) the latitude and longitude with reference datum, position accuracy, and method of collection; or
- (B) a facility site map with property boundaries;
- (2) the name, telephone number, and mailing address of legal contact;
- (3) the ownership of facility as a private individual or ~~organization~~, organization or a federal, state, county, or other public entity;
- (4) the number of injection wells and their construction details; and
- (5) the operating status as proposed, active, inactive, temporarily abandoned, or permanently abandoned.

~~(e)~~(f) Permit Applications for all Groundwater Remediation Wells not Permitted by Rule. In addition to the permit requirements set forth in Rule .0211 of this Section, an application for all groundwater remediation wells not permitted by rule shall be submitted, in duplicate, to the Director on forms furnished by the Director and shall include the following:

- (1) Site Description and Incident Information. The site description and incident information ~~that~~ shall include the following:
 - (A) the name of the well owner or person otherwise legally responsible for the injection wells, mailing address, telephone number, and ~~status~~ as whether the owner is a federal, state, private, public, or other entity;
 - (B) the name of the property owner, if different from the well owner, physical address, mailing address, and telephone number;
 - (C) the name, mailing address, telephone number, ~~and~~ geographic coordinates of the facility for which the application is ~~submitted and~~ submitted, a brief description of the nature of the ~~business;~~ business, and the status of the facility (e.g., closed, still operating);
 - (D) a description of the contamination incident including the source, type, cause, and release ~~date(s)~~ dates of the contamination; a list of all contaminants in the affected soil or groundwater; the presence and thickness of free product; and the maximum contaminant concentrations detected in the affected soil and groundwater;
 - (E) the state agency responsible for management of the contamination incident, including the incident tracking number, and the incident manager's name and telephone number; and

- (F) a list of all permits issued for the facility or contamination incident, ~~including:~~ including Hazardous Waste Management program permits or approval under the Resource Conservation and Recovery Act (RCRA), waste disposal permits issued in accordance with G.S. 143-215.1, Sewage Treatment and Disposal Permits issued in accordance with G.S. 130A, and any other environmental permits required by state or federal law.

(2) Soils Evaluation (For Systems Treating On-Site Contaminated Groundwater Only). For systems with proposed discharge within seven feet of land surface and above the seasonal high water table, a soil evaluation of the disposal site shall be provided to the Division by the applicant. If required by G.S. 89F, a soil scientist shall submit this evaluation. If this evaluation is submitted, it shall include the following information:

[Note: The North Carolina Board for Licensing of Soil Scientists has determined, via letter dated December 1, 2005, that preparation of soils reports pursuant to this Paragraph constitutes practicing soil science under G.S. 89F.]

- (A) Field description of soil profile. Based on examinations of excavation pits or auger borings, the following parameters shall be described by individual horizons to a depth of seven feet below land surface or to bedrock: thickness of the horizon; texture; color and other diagnostic features; structure; internal drainage; depth, thickness, and type of restrictive horizons; pH; cation exchange capacity; and presence or absence of evidence of any seasonal high water table. Applicants shall dig pits when necessary for evaluation of the soils at the site.
- (B) Recommendations concerning annual and instantaneous loading rates of liquids, solids, other wastewater constituents, and amendments. Annual hydraulic loading rates shall be based on in-situ measurement of saturated hydraulic conductivity in the most restrictive horizon.

~~(2)~~(3) Injection Zone Determination. The applicant shall specify the horizontal and vertical portion of the injection zone within which the proposed injection activity shall occur based on the hydraulic properties of that portion of the injection zone specified. No violation of

groundwater quality standards specified in Subchapter 02L resulting from the injection shall occur outside the specified portion of the injection zone as detected by a monitoring plan approved by the Division. For systems treating on-site contaminated groundwater, computer modeling or predictive calculations based on site-specific conditions shall be provided to demonstrate that operation of the system shall not cause or contribute to the migration of contaminants into previously uncontaminated areas. This prescribed injection zone shall replace the compliance boundary as defined in 15A NCAC 02L .0107.

(3)(4) Hydrogeologic Evaluation. If required by G.S. 89E, G.S. 89C, or G.S. 89F, a licensed geologist, professional engineer, or licensed soil scientist shall prepare a hydrogeologic evaluation of the facility to a depth that includes the injection zone determined in accordance with Subparagraph (e)(2) of this Rule. The hydrogeologic description shall include all of the following: A hydrogeologic evaluation of the disposal site to a depth that includes the injection zone determined in accordance with Subparagraph (f)(3) of this Rule. If required by G.S. 89E, G.S. 89C, or G.S. 89F, a licensed geologist, professional engineer, or licensed soil scientist shall prepare a hydrogeologic evaluation of the facility. The hydrogeologic evaluation shall include all of the following:

- (A) the regional and local geology and hydrogeology;
- (B) the changes in lithology underlying the facility;
- (C) the depth to bedrock;
- (D) the depth to the mean seasonal high water table;
- (E) the hydraulic conductivity, transmissivity, and ~~storativity~~, storativity of the injection zone based on tests of site-specific material, including a description of the ~~test(s)~~ tests used to determine these parameters;
- (F) the rate and direction of groundwater flow as determined by predictive calculations or computer modeling; and
- (G) the lithostratigraphic and hydrostratigraphic logs of test and injection wells.

(4)(5) Area of Review. The area of review shall be calculated using the procedure for determining the zone of endangering influence specified in 40 CFR 146.6(a). The applicant ~~must~~ shall identify all wells within the area of review that penetrate the injection or confining ~~zone~~, zone

and repair or permanently abandon all wells that are improperly constructed or abandoned. Injectant Information. The applicant shall submit the following information for each proposed injectant:

- (A) the injectant name and manufacturer, concentration at the point of injection, and percentage if present in a mixture with other injectants;
- (B) the chemical, physical, biological, or radiological characteristics necessary to evaluate the potential to adversely affect human health or groundwater quality;
- (C) the source of fluids used to dilute, carry, or otherwise distribute the injectant throughout the injection zone as determined in accordance with Subparagraph ~~(e)(2)~~(f)(3) of this Rule. If any well within the area of review of the injection facility is to be used as the fluid source, then the following information shall be submitted: ~~location/ID number~~, location or ID number, depth of source, formation, ~~rock/sediment~~ rock or sediment type, and a chemical analysis of the water from the source well, including analyses for all contaminants suspected or historically recognized in soil or groundwater on the site;
- (D) a description of the rationale for selecting the injectants and concentrations proposed for injection, including an explanation or calculations of how the proposed injectant volumes and concentrations were determined;
- (E) a description of the reactions between the injectants and the contaminants ~~present~~ present, including specific breakdown products or intermediate compounds that may be formed by the injection;
- (F) a summary of results if modeling or testing was performed to investigate the injectant's potential or susceptibility for biological, chemical, or physical change in the subsurface; and
- (G) an evaluation concerning the development of byproducts of the injection process, including increases in the concentrations of naturally occurring substances. Such an evaluation shall include the identification of the specific byproducts of the injection process, projected concentrations of

- byproducts, and areas of migration as determined through modeling or other predictive calculations.
- (6)(7) Injection Procedure. The applicant shall submit a detailed description of the proposed injection procedure that includes the following:
- (A) the proposed average and maximum daily rate and quantity of injectant;
 - (B) the average maximum injection pressure expressed in units of pounds per square inch (psi); and
 - (C) the total or estimated total volume to be injected.
- (8) Engineering Planning Documents (For Systems Treating On-Site Contaminated Groundwater Only). If required by G.S. 89C, a professional engineer shall prepare these documents. The following documents shall be provided to the Division by the applicant:
- [Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C.]
- (A) engineering plans for the entire system, including treatment, storage, application, and disposal facilities and equipment, except those previously permitted unless they are directly tied into the new units or are critical to the understanding of the complete process;
 - (B) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the entire groundwater remediation system;
 - (C) plans that include construction details of recovery, injection, and monitoring wells and infiltration galleries;
 - (D) operating plans that include:
 - (i) the operating schedule including any periodic shut-down times;
 - (ii) required maintenance activities for all structural and mechanical elements;
 - (iii) a list of all consumable and waste materials with their intended source and disposal locations;
 - (iv) restrictions on access to the site and equipment, and
 - (v) provisions to ensure the quality of the treated effluent and hydraulic control of the system at all times when any portion of the system ceases
- to function (e.g. standby power capability, complete system-off status, or duplicity of system components).
- (7)(9) Fracturing Plan. If hydraulic or pneumatic fracturing is proposed, then the applicant shall submit a detailed description of the fracturing plan that includes the following:
- (A) Material Safety Data Sheets of fracturing media including information on any proppants used;
 - (B) a map of fracturing well locations relative to indicating the known extent of groundwater contamination plus and all buildings, wells, septic systems, underground storage tanks, and underground utilities located within the Area of Review as described in Subparagraph ~~(e)(4)~~(f)(5) of this Rule;
 - (C) a demonstration that the fracturing process shall not result in the fracturing of any confining units or otherwise cause or contribute to the migration of contamination into uncontaminated areas, or otherwise cause damage to buildings, wells, septic systems, underground storage tanks, and underground ~~utilities will not be adversely affected by the fracturing process;~~ utilities;
 - (D) the injection rate and volume;
 - (E) the orientation of bedding planes, joints, and fracture sets of the fracture zone;
 - (F) a performance monitoring plan for determining the fracture well radius of influence; and
 - (G) if conducted, the results of geophysical testing or a pilot demonstration of fracture behavior conducted in an uncontaminated area of the site.
- (8)(10) Injection well construction details including:
- (A) the number and depth of injection wells;
 - (B) the number and depth of borings if using multi-level or "nested" well systems;
 - (C) an indication whether the injection wells are existing or proposed;
 - (D) the depth and type of casing;
 - (E) the depth and type of screen material;
 - (F) the depth and type of grout;
 - (G) an indication whether the injection wells are permanent or temporary "direct push" points; and

- (H) the plans and specifications of the surface and subsurface construction details of each injection well or well system.
- ~~(9)~~(11) Monitoring Wells. Monitoring wells shall be of sufficient quantity and location ~~as determined by the Director so as~~ to detect any movement of injection fluids, injection process ~~byproducts~~ byproducts, or formation fluids outside the injection zone as determined by the applicant in accordance with Subparagraph ~~(e)(2)(f)(3)~~ of this Rule. The monitoring schedule shall be consistent with the proposed injection schedule, the pace of the anticipated reactions, and the rate of transport of the injectants and contaminants. The applicant shall submit a monitoring plan that includes the following:
- (A) the target contaminants ~~plus~~ and the secondary or intermediate contaminants that may result from the injection;
- (B) the other parameters that may serve to indicate the progress of the intended reactions;
- (C) a list of existing and proposed monitoring wells to be used; and
- (D) a sampling schedule ~~to monitor for~~ monitoring the proposed injection.
- ~~(10)~~(12) Well Data Tabulation. A tabulation of data on all existing or abandoned wells within the area of review of the injection ~~well(s)~~ wells that penetrate the proposed injection zone, including monitoring wells and wells proposed for use as injection wells. Such data shall include a description of each well's type, depth, record of abandonment or completion, and any additional information the Director may ~~require~~ require to ensure compliance with G.S. 87-84.
- ~~(11)~~(13) Maps and Cross-Sections. Scaled, site-specific site plans or maps depicting the location, orientation, and relationship of facility components including the following:
- (A) an area map based on the most recent USGS 7.5' topographic map of the area, at a scale of 1:24,000 and showing the location of the proposed injection site;
- (B) topographic contour intervals showing all facility related structures, property boundaries, streams, springs, lakes, ponds, and other surface drainage features;
- (C) all existing or abandoned wells within the area of review of the injection ~~well(s)~~ wells listed in the tabulation required in Subparagraph ~~(e)(10)(f)(12)~~ of this ~~Rule~~ Rule that penetrate the proposed injection zone, ~~including~~ including water supply wells, monitoring wells, and wells proposed for use as injection wells;
- (D) potentiometric surface ~~map(s)~~ maps that show the direction of groundwater ~~movement~~ movement and existing and proposed wells;
- (E) contaminant plume ~~map(s)~~ maps with isoconcentration lines that show the horizontal extent of the contaminant plume in soil and ~~groundwater~~ groundwater and existing and proposed wells;
- (F) ~~cross-section(s)~~ cross-sections to the known or projected depth of contamination that show the horizontal and vertical extent of the contaminant plume in soil and groundwater, major changes in lithology, and existing and proposed wells; and
- (G) any existing sources of potential or known groundwater contamination, including waste storage, treatment, or disposal ~~systems~~ systems, within the area of review of the injection well or well system.
- ~~(12)~~(14) ~~Such other information as deemed necessary by the director for the protection of human health and the environment. Any other information necessary for the Department to ensure compliance with G.S. 87-84.~~
- ~~(g)~~(g) Injection Volumes. The Director may establish maximum injection volumes and pressures necessary to ensure compliance with G.S. 87-84 and assure that:
- (1) fractures are not initiated in the confining zone of the injection zone determined in accordance with Subparagraph ~~(e)(2)(f)(3)~~ of this Rule;
- (2) injected fluids do not migrate outside the injection zone or area; and
- (3) injected fluids and fractures do not cause or contribute to the migration of contamination into uncontaminated ~~areas~~ and areas.
- ~~(4) there is compliance with operating requirements.~~
- ~~(g)~~(h) Well Construction.
- (1) Wells shall not be located where:
- (A) surface water or runoff will accumulate around the well due to depressions, drainage ways, or other landscapes that will ~~concentrate~~ divert water ~~around~~ to the well;
- (B) a person would be required to enter confined spaces to perform sampling and inspection activities; and
- (C) injectants or formation fluids would migrate outside the approved injection zone as determined by the applicant in

- accordance with Subparagraph ~~(e)(2)(f)(3)~~ of this Rule.
- (2) Wells used for hydraulic or pneumatic fracturing shall be located within the ~~extent~~ boundary of known groundwater contamination but no closer than 75 feet to this boundary unless it can be demonstrated ~~to the satisfaction of the Director~~ that a lesser separation distance will not adversely affect human health or cause a violation of a groundwater quality standard as specified in Subchapter 02L, such as through the use of directional fracturing.
- (3) The methods and materials used in construction shall not threaten the physical and mechanical integrity of the well during its ~~lifetime and shall be compatible with the proposed injection activities.~~ lifetime.
- (4) The well shall be constructed in such a manner that surface water or contaminants from the land surface cannot migrate along the borehole annulus either during or after construction.
- (5) The borehole shall not penetrate to a depth greater than the depth at which injection will occur unless the purpose of the borehole is the investigation of the geophysical and geochemical characteristics of an aquifer. Following completion of the investigation the borehole beneath the zone of injection shall be grouted completely to prevent the migration of any contaminants.
- (6) For "direct-push" temporary injection wells constructed without permanent or temporary casing, injection and well abandonment activities shall be conducted within the same working day as when the borehole is constructed.
- (7) Drilling fluids ~~and additives~~ shall contain only potable water and may be comprised of one or more of the following:
- (A) the formation material encountered during drilling; and
- (B) materials manufactured specifically for the purpose of borehole conditioning or well ~~construction; and~~ construction.
- ~~(C) materials approved by the Director, based on a demonstration of not adversely affecting human health or groundwater quality.~~
- (8) Only allowable grout listed under Rule .0107 of this Subchapter shall be ~~used with the exception that~~ used; however, bentonite grout shall not be used:
- (A) to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater as determined by tests conducted at the time of construction, or
- (B) in areas of the State subject to saltwater intrusion that may expose the grout to water with a chloride concentration of 1,500 milligrams per liter or greater at any time during the life of the well.
- (9) The annular space between the borehole and casing shall be grouted:
- (A) with a grout that is non-reactive with the casing or screen materials, the formation, or the injectant;
- (B) from the top of the gravel pack to land surface and in such a way that there is no interconnection of aquifers or zones having differences in water quality that would result in the degradation of the groundwater quality of any aquifer or zone; and
- (C) so that the grout extends outward from the casing wall to a ~~minimum~~ thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater; but in no case shall a well be required to have an annular grout seal thickness greater than four inches.
- (10) Grout shall be emplaced around the casing by one of the following methods:
- (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the annular space around the casing and overflows at the surface;
- (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the annular space which can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire application; or
- (C) Other. Grout may be emplaced in the annular space by gravity flow in such a way to ensure complete filling of the space. Gravity flow shall not be used if water or any visible obstruction is present in the annular space at the time of grouting.
- (11) All grout mixtures shall be prepared prior to emplacement per the manufacturer's directions with the exception that bentonite chips or pellets may be emplaced by gravity flow if water is present or otherwise hydrated in place.
- (12) If an outer casing is installed, it shall be grouted by either the pumping or pressure method.
- (13) The well shall be grouted within seven days after the casing is set or before the drilling equipment leaves the site, whichever occurs first. If the well penetrates any water-bearing zone that contains contaminated or saline water,

- the well shall be grouted within one day after the casing is set.
- (14) No additives that will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
- (15) A casing shall be installed that extends from at least 12 inches above land surface to the top of the injection zone.
- (16) Wells with casing extending less than 12 inches above land surface and wells without casing may be approved by the Director only when one of the following conditions is met:
- (A) site specific conditions directly related to business activities, such as vehicle traffic, would endanger the physical integrity of the well; or
 - (B) it is not operationally feasible for the well head to be completed 12 inches above land surface due to the engineering design requirements of the system.
- (17) Multi-screened wells shall not connect aquifers or zones having differences in water quality which would result in a degradation of the groundwater quality of any aquifer or zone.
- (18) Prior to removing the equipment from the site, the top of the casing shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85, to preclude contaminants from entering the well.
- (19) Packing materials for gravel and sand packed wells shall be:
- (A) composed of quartz, granite, or other hard, non-reactive rock material;
 - (B) clean, of uniform size, water-washed and free from clay, silt, ~~or other deleterious material;~~ and toxic materials;
 - (C) disinfected prior to subsurface emplacement;
 - (D) emplaced such that it ~~shall will~~ not connect aquifers or zones having differences in water quality that would result in the deterioration of the water ~~qualities~~ quality in any aquifer or zone; and
 - (E) evenly distributed around the screen and shall extend to a depth at least one foot above the top of the screen. A ~~minimum~~ one foot thick or greater seal comprised of bentonite ~~clay~~ clay, ~~or other sealing material approved by the Director~~ shall be emplaced directly above and in contact with the packing material.
- (20) All permanent injection wells shall have a well identification plate that meets the criteria specified in Rule .0107 of this Subchapter.
- (21) A hose bibb, sampling tap, or other collection equipment ~~approved by the Director~~ shall be installed on the line entering the injection well such that a sample of the injectant can be obtained immediately prior to its entering the injection well.
- (22) If applicable, all piping, wiring, and vents shall enter the well through the top of the casing unless ~~otherwise approved by the Director~~ it is based on a design demonstrated to preclude surficial contaminants from entering the well.
- (23) The well head shall be completed in such a manner ~~so~~ as to preclude surficial contaminants from entering the ~~well well~~, and well head protection shall include:
- (A) an accessible external sanitary seal installed around the casing and grouting; and
 - (B) a water-tight cap or seal compatible with the casing and installed so that it cannot be removed without the use of hand or power tools.
- ~~(24) For subsurface distribution systems the following shall apply:~~
- ~~(A) for systems designed to be constructed within seven feet of the land surface and above the seasonal high water table, the distribution system design volume, injection volume, and injection rate shall be based on the hydraulic conductivity of the geologic material having the lowest permeability as determined by appropriate in situ or laboratory test methods; and~~
 - ~~(B) the land surface directly above all systems shall be covered with pavement or compacted soil or other suitable material to prevent stormwater or other fluids on the land surface from infiltrating into the subsurface distribution system.~~
- ~~(h)(i) Mechanical Integrity.~~ All permanent injection wells ~~require tests~~ shall be tested for mechanical integrity, which shall be conducted in accordance with Rule .0207 of this Section.
- ~~(i)(i) Operation and Maintenance.~~
- (1) Unless permitted by this rule, pressure at the well head shall be limited to a maximum ~~which~~ that will ensure that the pressure in the injection zone does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of injected or formation fluids outside the injection zone or area.
 - (2) Injection between the outermost casing and the well borehole is prohibited.
 - (3) ~~Monitoring of the operating processes at the well head shall be provided for by the well owner, as well as protection~~ The well owner

shall monitor the operating processes at the well head and shall protect the well head against damage during construction and use.

~~(j)~~(k) Monitoring.

- (1) Monitoring of the injection well may be required by the Director to protect groundwaters of the State.
 - (A) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 - (B) Analysis of the physical, chemical, biological, or radiological characteristics of the injectant shall be made monthly or more frequently, as approved by the Director, in order to provide representative data for characterization of the injectant.
 - (C) Monitoring of injection pressure, flow rate, and cumulative volume shall occur according to a schedule determined necessary by the Director.
 - (D) Monitoring wells associated with the injection site shall be monitored quarterly or on a schedule determined by the Director to detect any migration of injected fluids from the injection zone.
- (2) In determining the type, density, frequency, and scope of monitoring, the Director shall consider the following:
 - (A) physical and chemical characteristics of the injection zone;
 - (B) physical and chemical characteristics of the injected ~~fluid(s); fluids;~~
 - (C) volume and rate of discharge of the injected ~~fluid(s); fluids;~~
 - (D) compatibility of the injected ~~fluid(s); fluids;~~ with the formation ~~fluid(s); fluids;~~
 - (E) the number, ~~type type,~~ and location of all wells, mines, surface bodies of water, and structures within the area of review;
 - (F) proposed injection procedures;
 - (G) expected changes in pressure, formation fluid displacement, and direction of movement of injected fluid;
 - (H) proposals of corrective action to be taken in the event that a failure in any phase of injection operations ~~that~~ renders the groundwaters unsuitable for their best intended usage as defined in Rule .0202 of Subchapter 02L; and
 - (I) the life expectancy of the injection operations.
- (3) Monitoring wells completed in the injection zone and any of those zones adjacent to the

injection zone may be affected by the injection operations. If affected, the Director may require additional monitor wells located to detect any movement of injection fluids, injection process byproducts, or formation fluids outside the injection zone as determined by the applicant in accordance with Subparagraph ~~(e)(2)~~(f)(3) of this Rule. If the operation is affected by subsidence or catastrophic collapse, ~~the~~ any other required monitoring wells shall be located so that they will not be physically affected and shall be of an adequate number to detect movement of injected fluids, process byproducts, or formation fluids outside the injection zone or area. In determining the number, location and spacing of monitoring wells, the following criteria shall be considered by the Director:

- (A) the population relying on the groundwater resource affected, or potentially affected, by the injection operation;
- (B) the proximity of the injection operation to points of withdrawal of groundwater;
- (C) the local geology and hydrology;
- (D) the operating pressures;
- (E) the chemical characteristics and volume of the injected fluid, formation water, and process byproducts; and
- (F) the ~~density~~ number of existing injection wells.

~~(k)~~(l) Reporting.

- (1) For all injection wells, the well owner shall be responsible for submitting to the Director on forms furnished by the Director, or on an alternate approved form that provides the same information:
 - (A) a record of the construction, abandonment, or repairs of the injection well within 30 days of completion of the specified activities; and
 - (B) the Injection Event Record within 30 days of completing each ~~injection; and~~ injection.
- (2) For injection wells requiring an individual permit, the following shall apply:
 - (A) The well owner shall be responsible for submitting to the Director on forms furnished by the Director or on an alternate approved form, hydraulic or pneumatic fracturing performance monitoring results;
 - (B) All sampling results shall be reported ~~by the well owner to the Division quarterly annually or on a~~ at another frequency determined by the Director based on the reaction rates, injection

rates, likelihood of secondary impacts, and site-specific hydrogeologic information; ~~and~~

- (C) A Final Project Evaluation report shall be submitted within nine months after completing all injection-related activities associated with the permit or ~~produce~~ submit a project interim evaluation before submitting a renewal application for the permit. This document shall assess the injection projects findings in a written summary. The final project evaluation shall also contain monitoring well sampling data, contaminant plume ~~maps~~ maps, and potentiometric surface ~~maps~~ maps; and

- (D) For groundwater remediation injection permits, each monitoring report shall include a summary identifying any detectable contaminant degradation breakdown products, and a table with historical laboratory analytical results. The table shall indicate any exceedances of groundwater standards per 15A NCAC 02L .0202, and shall distinguish data collected prior to injection from data collected after injection.

(m) Application and Annual Fees (For Systems Treating On-Site Contaminated Groundwater Only)

- (1) Application Fee. For every application for a new or major modification of a permit under this Rule, a nonrefundable application processing fee in the amount provided in G.S. 143-215.3D shall be submitted to the Division by the applicant at the time of application. Modification fees shall be based on the annual fee for the facility.
- (2) Annual Fees. An annual fee for administering and compliance monitoring shall be charged in each year of the term of every renewable permit per the schedule in G.S. 143-215.3D(a). Annual fees shall be paid for any facility operating on an expired permit that has not been rescinded or revoked by the Division. Permittees shall be billed annually by the Division. A change in the facility, which changes the annual fee, shall result in the revised annual fee being billed effective with the next anniversary date.
- (3) Failure to pay an annual fee within 30 days after being billed may be cause for the Division to revoke the permit upon 60 days notice.

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0226 SALINITY BARRIER WELLS

Salinity Barrier ~~Wells~~ Wells, which inject uncontaminated water into an aquifer to prevent the intrusion of salt water into the fresh ~~water. The water, shall meet the~~ requirements for ~~Salinity Barrier Wells shall be the same as in of~~ Rule .0219 of this ~~Section~~ Section, except that the Director may impose additional requirements to ensure compliance with G.S. 87-84, for the protection of human health and the environment based on site specific criteria, existing or projected environmental impacts, compliance with the provisions of the rules of this Section, or the compliance history of the facility owner.

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0227 STORMWATER DRAINAGE WELLS SYSTEMS

(a) Stormwater Drainage Wells Systems means well systems that receive the flow of water that results from precipitation occurring immediately following rainfall or a snowmelt event.

(b) The following Stormwater Drainage Wells Systems ~~are~~ shall be permitted by rule pursuant to Rule .0217 of this Section:

- (1) systems designed in accordance with stormwater controls required by federal laws and regulations, state statutes and rules, or local ~~controls~~ controls; adopted consistent with these federal or state requirements; and
- (2) ~~roof-top runoff infiltration systems.~~ systems, which receive stormwater from roof-tops.

(c) Nothing in this Rule shall be construed as to allow untreated stormwater to be ~~emplaced~~ injected directly into any aquifer or to otherwise result in the violation of any groundwater quality standard as specified in Subchapter 02L.

(d) Reporting. Within 30 days of a change of status of the ~~well,~~ well drainage system, the ~~owner/operator~~ owner or operator shall ~~provide~~ submit the following ~~information:~~ information to the Division:

- (1) facility name, address, and location indicated by either:
 - (A) latitude and longitude with reference datum, position accuracy, and method of collection; or
 - (B) a facility site map ~~with~~ indicating property boundaries;
- (2) name, telephone number, and mailing address of ~~legal contact;~~ owner or operator;
- (3) ownership of facility as a private individual or organization, or a federal, state, county, or other public entity;
- (4) number of injection ~~wells;~~ wells drainage and collection systems; and
- (5) well injection system status as proposed, active, inactive, temporarily abandoned, or permanently abandoned.

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1);

143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0228 SUBSIDENCE CONTROL WELLS

~~Subsidence Control Wells are used to inject uncontaminated fluids [to reduce or eliminate subsidence associated with overdraft of fresh water or other activities not related to oil or natural gas production. The requirements for Subsidence Control Wells shall be the same as described in Rule .0219 of this Section except that the Director may impose additional requirements for the protection of human health and the environment based on site specific criteria, existing or projected environmental impacts, compliance with the provisions of the rules of this Section, or the compliance history of the facility owner. Subsidence Control Wells, which are used to inject uncontaminated fluids to reduce or eliminate subsidence associated with overdraft of fresh water or other activities not related to oil or natural gas production, shall meet the requirements of Rule .0219 of this Section, except that the Director may impose additional requirements to ensure compliance with G.S. 87-84.~~

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0229 TRACER WELLS

~~Tracer Wells are used to inject substances for the purpose of determining hydrogeologic properties of aquifers. The requirements for Tracer Wells shall be the same as described in Rule .0225 of this Section except that the Director may impose additional requirements for the protection of human health and the environment based on site specific criteria, existing or projected environmental impacts, compliance with the provisions of the rules of this Section, or the compliance history of the facility owner. Tracer Wells, which are used to inject substances for determining hydrogeologic properties of aquifers, shall meet the requirements of Rule .0225 of this Section except, that the Director may impose additional requirements to ensure compliance with G.S. 87-84.~~

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0230 OTHER WELLS

~~Rule requirements for Other Wells shall be evaluated and treated as one of the injection well types meet the requirements of that injection well type described in Rule .0209(5)(b) of this Section that the Director determines most closely resembles the equivalent proposed Other Well's hydrogeologic complexity and potential to adversely affect groundwater quality. The Director may impose additional requirements to ensure compliance with G.S. 87-84, for the protection of human health and the environment based on site specific criteria, existing or projected environmental impacts, compliance with the provisions of the rules of this Section, or the compliance history of the facility~~

~~owner. The Director may permit by rule the emplacement or discharge of a fluid or solid into the subsurface for any activity that meets the definition of an "injection well" that the Director determines not to have the potential to adversely affect groundwater quality and does not fall under other rules in this Section.~~

Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 89E-13; 89E-18; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 150B-19(4); 40 CFR Part 144.52(a)(7); 40 CFR Part 145.11(a)(20).

15A NCAC 02C .0240 ABANDONMENT AND CHANGE-OF-STATUS OF INJECTION WELLS AND SYSTEMS

(a) ~~The well(s)~~ Injection wells and injection well systems shall be abandoned by the well owner in accordance with one of the following procedures or other alternatives approved by the Director that ensures compliance with G.S. 87-84: ~~based on a demonstration of not adversely affecting human health or the environment:~~

- (1) ~~Procedures for temporarily or permanently abandoning wells~~ Wells other than closed-loop geothermal wells shall be temporarily or permanently abandoned as required by the same as described in Rule .0113 of this Subchapter.
- (2) ~~For temporarily abandoning a closed-loop Closed-loop geothermal well, the well wells that are temporarily abandoned shall be maintained whereby it is so that they are not a source or channel of contamination during the period of abandonment.~~
- (3) ~~Procedures for permanently abandoning closed-loop Closed-loop geothermal wells shall be permanently abandoned as follows:~~
 - (A) ~~all casing, tubing tubing, or piping, piping and associated materials shall be removed prior to initiation of abandonment procedures if such removal will not cause or contribute to contamination of groundwater;~~
 - (B) ~~the boring shall be filled from bottom to top with grout through a hose or pipe which that extends to the bottom of the well and is raised as the well is filled;~~
 - (C) ~~for tubing with an inner diameter of one-half inch or greater, the entire vertical length of the inner tubing shall be grouted;~~
 - (D) ~~for tubing with an inner diameter less than one-half inch, inch the tubing shall be refilled with potable water and capped or sealed at a depth not less than two feet below land surface in the event that the inner tubing that cannot feasibly be grouted; grouted, the tubing shall be refilled with potable water and capped or sealed at a depth~~

- not less than two feet below land surface; and
- (E) any protective or surface casing not grouted in accordance with the requirements set forth in this Section shall be removed and the well shall be grouted in accordance with the requirements set forth in this Section.
- (4) ~~In those cases when, as a result of the injection operations, If~~ a subsurface cavity has been created, created as a result of the injection operations, the well shall be abandoned in such a manner that will prevent the movement of fluids into or between aquifers and in accordance with the terms and conditions of the permit.
- (b) ~~Any well which~~ An injection well that acts as a source or channel of contamination shall be brought into compliance with the standards and criteria of these rules, repaired, or permanently abandoned. Repair or permanent abandonment shall be completed within 15 days of the discovery of the ~~violation, noncompliance.~~
- (c) Exploratory or test wells, constructed for the purposes of obtaining information regarding an injection well site, shall be permanently abandoned in accordance with Rule .0113 of this Subchapter within two days after drilling or two days after testing is complete, whichever is ~~less restrictive. later.~~ An exception would be when However, if a test well is being converted to a permanent injection well, ~~in which case this~~ conversion shall be completed within 30 ~~days.~~ days after drilling.
- (d) An injection well shall be permanently abandoned by the drilling contractor before removing his equipment from the site if the well casing has not been installed or has been removed from the well bore.
- (e) The well owner is responsible for permanent abandonment of a well except ~~that: when the well contractor is responsible due to improper location, construction, repair, or completion of the well.~~
- (1) the well contractor is responsible for well abandonment if abandonment is required because the well contractor improperly locates, constructs, repairs or completes the well;
 - (2) the person who installs, repairs or removes the well pump is responsible for well abandonment if that abandonment is required because of improper well pump installation, repair or removal; or
 - (3) the well contractor (or individual) who conducts a test boring is responsible for its abandonment at the time the test boring is completed and has fulfilled its useful purpose.
- (f) Groundwater remediation systems that include infiltration galleries shall be abandoned as follows:
- (1) 30 days prior to initiation of closure of a groundwater remediation system, the permittee shall submit the following documentation to the Division:
 - (A) the reasons for closure,
 - (B) a letter from the oversight agency authorizing closure of the system, and

- (C) a description of the proposed closure procedure.
- (2) The infiltration gallery shall be closed such that it:
- (A) will be rendered permanently unusable for the disposal of fluids, and
 - (B) will not serve as a source or channel of contamination.
- (3) Within 30 days following upon completion of the closure, the permittee shall submit the following documentation to the Division:
- (A) a description of the completed closure procedure;
 - (B) the dates of all actions taken relative to the procedure; and
 - (C) a written certification a by North Carolina licensed engineer or geologist that the closure has been accomplished, and that the information submitted is complete, factual and accurate.

Authority G.S. 87-87; 87-88; 143-211; 143-215.1A; 143-215.3(a)(1); 143-215.3(c).

15A NCAC 02C .0241 VARIANCE

(a) The Director may grant a variance from any construction or operation standards under the rules of this Section. Any variance shall be in writing by the person responsible for construction of the well for which the variance is sought. The Director shall grant the variance ~~if the Director finds facts to support the following conclusions: if:~~

- (1) that the use of the well will not endanger human health and welfare or the groundwater; and
- (2) that construction or operation in accordance with the standards ~~was~~ is not technically feasible or the proposed construction provides equal or better protection of the groundwater.

(b) The Director may require the variance applicant to submit such information ~~as the Director deems~~ necessary to make a decision to grant or deny the variance. The Director may impose such conditions on a variance or the use of a well for which a variance is granted ~~as the Director deems~~ and is necessary to ensure compliance with G.S. 87-84, ~~protect human health and welfare and the groundwater resources.~~ The ~~findings of fact~~ facts supporting any variance under this rule shall be in writing and made part of the variance.

(c) The Director shall respond in writing to a request for a variance within 30 days ~~from the~~ after receipt of the variance request.

(d) For variances requested as a part of a permit application, the Director may include approval as a permit condition.

(e) A variance applicant who is dissatisfied with the decision of the Director may commence a contested case by filing a petition under G.S. 150B-23 within 60 days after receipt of the decision.

Authority G.S. 87-87(4); 87-88; 143-215.1A; 143-215.3(a)(4); 150B-23.

15A NCAC 02C .0242 DELEGATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0300 - PERMITTING AND INSPECTION OF PRIVATE DRINKING WATER WELLS

15A NCAC 02C .0301 SCOPE AND PURPOSE

(a) The purpose of the rules of this Section is to set out standards for permitting and inspection of private drinking water wells as defined in G.S. 87-85 by local health departments pursuant to G.S. 87-97.

(b) The rules of 15A NCAC 02C .0100 are applicable to private drinking water wells. In addition to the provisions in 15A NCAC 02C .0100, the following shall apply:

- (1) ~~The well owner shall not place potential~~ Potential sources of groundwater contamination shall not be located closer to the well than the separation distances specified in 15A NCAC 02C .0107(a)(2) or .0107(a)(3), as applicable;
- (2) In addition to the provisions in 15A NCAC 02C .0109 PUMPS AND PUMPING EQUIPMENT, the builder, well contractor, pump installer, or homeowner, as applicable, shall provide assistance when necessary to gain access for inspection of the well, pumps, and pumping equipment; and
- (3) In addition to the requirements of 15A NCAC 02C .0113 ABANDONMENT OF WELLS, any well which acts as a source or channel of contamination shall be repaired or permanently abandoned within 30 days of receipt of notice from the local health department. ~~The person abandoning the well shall provide a minimum 24 hour notice to the local health department prior to commencement of permanent abandonment procedures.~~

Authority G.S. 87-87; 87-97.

15A NCAC 02C .0302 DEFINITIONS

The definitions in G.S. 87-85 and 15A NCAC 02C .0102 apply throughout this Section. In addition, the following definitions apply throughout this Section:

- (1) "Abandonment Permit" means a well abandonment permit issued by the local health department authorizing or allowing the permanent abandonment of any private drinking water well as defined in the rules of this Section.
- (1+) ~~"Addition" means any structure that is constructed, altered or placed on property that contains one or more wells. This would not include replacement of existing equipment within the existing footprint of a structure and addresses only those situations for which a building permit is required.~~
- (2) "Board of Health" means the County Board of Health or successor entity.

- (3) "Certificate of Completion" means a certification by the ~~Department~~ local health department that a private drinking water well has been constructed or repaired in compliance with the construction permit or repair permit.
- (4) "Construction of wells" means all acts necessary to construct wells for any intended purpose or use, including the location and excavation of the well, placement of casings, screens and fittings, development and testing.
- (5) "Construction permit" means a well construction permit issued by the ~~Department~~ local health department authorizing or allowing the construction of any private drinking water well as defined in the rules of this Section.
- (6) ~~"Department of Environment and Natural Resources" or "Department" means the North Carolina Department of Environment and Natural Resources. The term also means the authorized representative of the Department. For the purposes of any notices required pursuant to the rules of this Section, notice shall be mailed to "Division of Environmental Health, On Site Water Protection Section, North Carolina Department of Environment and Natural Resources," 1642 Mail Service Center, Raleigh, NC 27699 1642.~~
- (6) "Known source of release of contamination" means a location where any of the following activities, facilities, or conditions have been documented by the Department of Environmental Quality or a local health department:
 - (a) Groundwater contamination incidents arising from agricultural operations, including application of agricultural chemicals pursuant to 15A NCAC 02L;
 - (b) Groundwater contamination associated with the construction or operation of injection, monitoring, and other wells subject to permitting under the Well Construction Act (G.S. 87-88) and this Subchapter;
 - (c) Groundwater contamination associated with the operation of non-discharge, discharge (NPDES) facilities, land application of animal waste, and other activities subject to permitting under G.S. 143-215.1;
 - (d) Releases of hazardous waste or constituents that currently exceed the Groundwater Quality Standards listed in 15A NCAC 02L at facilities governed under G.S. 130A-294;
 - (e) Dry-Cleaning Solvent Cleanup sites regulated under G.S. 143-215.104;
 - (f) Pre-regulatory landfills and Inactive hazardous substance or waste disposal

- sites governed under the Inactive Hazardous Sites Act of 1987 (G.S. 130A-310 et seq);
- (g) Solid waste facilities subject to 15A NCAC 13B that have monitoring wells with exceedances of the Groundwater Protection Standards as defined in 15A NCAC 13A .1634(g) and (h);
- (h) Releases of petroleum and hazardous substances subject to G.S. 143-215.75 through 215.98;
- (i) Sites that fall within the authority of the Brownfields Program as defined by G.S. 130A, Article 9 Part 5;
- (j) Contamination associated with pollution sources in soils or other sites known or suspected to have exceeded the Groundwater Quality Standards listed in 15A NCAC 02L; or
- (k) Contamination known to the local health department through experience with the property, surrounding properties or information provided by the applicant.
- (7) "Local Health Department" means the authorized agent of the county or district health department or its successor.
- (8) "Person" means all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized or existing under the laws of this State or any other state or country.
- (9) "Plat" means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of all structures and proposed structures and appurtenances, including but not limited to decks, porches, pools, driveways, out buildings, existing and proposed wastewater systems, existing and proposed wells, springs, water lines, surface waters or designated wetlands, easements, including utility easements, and existing or proposed chemical or petroleum storage tanks above or below ground. "Plat" also means, for subdivision lots approved by the local planning authority and recorded with the county register of deeds, a copy of the recorded subdivisions plat that is accompanied by a site plan that is drawn to scale.
- (10) "Pumps" and "pumping equipment" means any equipment or materials utilized or intended for use in withdrawing or obtaining ground-water including well seals.
- (11) "Repair" means work involved in deepening, reaming, sealing, installing or changing casing depths, perforating, screening, or cleaning, acidizing or redevelopment of a well excavation, or any other work which results in breaking or opening the well seal.
- (12) "Repair permit" means a well repair permit issued by the ~~Department~~ local health department authorizing or allowing the repair of any private drinking water well as defined in the rules of this Section.
- (13) "Site plan" means a drawing not necessarily drawn to scale that shows the existing and proposed property lines with dimensions, and the specific location of all structures and proposed structures and appurtenances, including decks, porches, pools, driveways, out buildings, existing and proposed wastewater systems, existing and proposed wells, springs, water lines, surface waters or designated wetlands, easements, including utility easements, and existing or proposed chemical or petroleum storage tanks above or below ground.
- (14) "Water supply system" means pump and pipe used in connection with or pertaining to the operation of a private drinking water well including pumps, distribution service piping, pressure tanks and fittings.
- (15) "Well contractor activity" has the same meaning as in G.S. 87-98.2(6). ~~means the construction, installation, repair, alteration or abandonment of any well.~~
- (16) "Well Contractor" means any person in trade or business who undertakes to perform a well contractor activity or who undertakes to personally supervise or personally manage the performance of a well contractor activity on the person's own behalf or for any person, firm, or corporation in accordance with the well contractor certification requirements of 15A NCAC 27.
- (17) "Well seal" means an approved arrangement or device used to cap a well or to establish and maintain a junction between the casing or curbing of a well and the piping or equipment installed therein, the purpose or function of which is to prevent pollutants from entering the well at the upper terminal.

Authority G.S. 87-87; 87-97.

15A NCAC 02C .0303 APPLICATION FOR CONSTRUCTION PERMIT

An application for a permit to construct, repair, or abandon a private drinking water well shall be submitted to the local health department for the county where the well is to be located by a property owner or the property owner's agent. The application shall include:

- (1) Name, address and phone number of the proposed well property owner or owner's agent;

- (2) Signature of owner or agent;
- (3) Address and parcel identification number of the property where the proposed well is to be located;
- (4) A plat or site plan as defined in the rules of this Section;
- (5) Intended use(s) of the property;
- (6) Other information deemed necessary by the ~~Department~~ local health department to determine the location of the property and any site characteristics such as existing or permitted sewage disposal systems, easements or rights of way, existing wells or springs, surface water or designated wetlands, chemical or petroleum storage tanks, landfills, waste storage, known source of contamination release and any other characteristics or activities on the property or adjacent properties that could impact groundwater quality or suitability of the site for well construction;
- (7) Any current or pending restrictions regarding groundwater use as specified in G.S. 87-88(a); and
- (8) Any variances regarding well construction or location issued under 15A NCAC 02C .0118.

Authority G.S. 87-87; 87-97.

15A NCAC 02C .0304 PERMITTING

(a) No person shall construct a private drinking water well without first obtaining a well construction permit from the ~~Department~~ local health department. No person shall repair a private drinking water well without first obtaining a well repair permit except a well repair permit is not required for maintenance or pump repair or replacement. Disinfection in accordance with 15A NCAC 02C .0113 is a maintenance activity that does not require a repair permit. No person shall permanently abandon a private drinking water well without first obtaining a well abandonment permit from the ~~Department~~ local health department.

(b) Before issuing a well construction permit, the ~~Department~~ local health department shall conduct a field investigation to evaluate the topography, landscape position, available space and potential sources of groundwater contamination on or around the site on which a private drinking water well is to be located. Furthermore, the Department shall conduct a search of DEQ's published inventories to determine whether the proposed well site is located within 1,000 feet of a known source of release of contamination. The ~~Department~~ local health department shall issue a private water well construction permit after determining the site can be permitted for a well meeting the rules of this Section. Notwithstanding the above, the ~~Department~~ local health department shall not issue a construction permit for a well in violation of restrictions regarding groundwater use established pursuant to G.S. 87-88(a). The construction permit shall include a site plan showing the location of potential sources of contamination and area(s) suitable for well construction. The construction permit shall reference documentation from DEQ's published inventories of known releases of contamination within

1,000 feet of the proposed well site, and any known risk of constructing the well related to those findings. The ~~Department~~ local health department shall issue a written notice of denial of a construction permit if it determines a private drinking water well cannot be constructed in compliance with the rules of this Section. The notice of denial shall include reference to specific laws or rules that cannot be met and shall be provided to the applicant.

(c) A well ~~construction~~ permit is valid for a period of five years except that the ~~Department~~ local health department may revoke a permit at any time if it determines that there has been a material change in any fact or circumstance upon which the permit is issued. The validity of a well construction permit or a well repair permit is not affected by a change in ownership of the site on which a private drinking water well is proposed to be ~~located~~. located if the proposed well can still be constructed or repaired in the permitted area and in accordance with this Section and 15A NCAC 02C .0100.

Well construction permits issued under local well ordinances prior to the effective date of these Rules remain valid for the term of those permits unless those permits are suspended or revoked. The ~~Department~~ local health department may suspend or revoke any permits issued upon a determination that the rules of this Section have been violated.

(d) If there is an improperly abandoned well(s) on the site, the construction permit shall be conditioned upon repair or abandonment of any improperly abandoned well(s) in accordance with the rules of 15A NCAC 02C .0100.

Authority G.S. 87-87; 87-97.

15A NCAC 02C .0305 GROUT INSPECTION AND CERTIFICATION INSPECTIONS: CERTIFICATION

(a) The well contractor shall contact the local health department to schedule a grout inspection before grouting a private drinking water well. Contact shall include the location, permit number and anticipated time for grouting each private drinking water well and the appointment shall be scheduled by the end of the business day before the grouting is to occur except where the local health department has made provisions for scheduling inspections at night or on the same day of the inspection.

(b) Upon completion of a grout inspection, the ~~Department~~ local health department shall provide a written certification on the well permit that a grout inspection was completed and that the grouting is in compliance with the rules of 15A NCAC 02C .0100. When a local health department is unable to conduct a grout inspection within one hour of the scheduled time, the well contractor may grout a well without a grout inspection by the ~~Department~~ local health department. The well contractor shall provide a written certification to the local health department that the well has been grouted in compliance with the rules of 15A NCAC 02C .0100. A completed Well Construction Record form GW-1 indicating the well was grouted in compliance with the rules of this Section shall serve as the well contractor's grout certification. For purposes of issuing a certificate of completion, the well contractor's grout certification shall be accepted by the ~~Department~~ local health department as evidence the grout complies with the rules of this Section if the local health department:

- (1) was contacted by the well contractor to schedule a grout inspection;

- (2) was unable to inspect the grouting of the well within one hour following the scheduled time; and
- (3) upon final inspection, finds no evidence to indicate the well grout does not comply with the rules of this Section.

Authority G.S. 87-87; 87-97.

15A NCAC 02C .0306 WELL COMPLETION AND CERTIFICATION

(a) After receiving a permit to construct a private drinking water well, the property owner or his agent shall notify the health department prior to well construction if any of the following occur:

- (1) The separation criteria specified in 15A NCAC 02C .0107 cannot be met;
- (2) The residence or other structure is located other than indicated on the permit;
- (3) The use of the structure is changed from the use specified on the permit;
- (4) The septic system needs to be changed from the location indicated on the permit;
- (5) Landscaping changes have been made that may affect the integrity of the well;
- (6) There are current or pending restrictions regarding groundwater use as specified in G.S. 87-88(a);
- (7) The water source for any well intended for domestic use is adjacent to any water-bearing zone suspected or known to be contaminated; or
- (8) Any other changes occur in the information provided in the application for the well permit.

(b) The well contractor shall maintain a copy of the well construction ~~permit permit, or repair permit permit, or abandonment permit~~ on the job site at all times during the construction, repair or abandonment of the well. The well contractor shall meet all the conditions of the permit.

(c) ~~Upon completion of construction of a private drinking water well, the Department shall complete an "as built" drawing of the well location.~~ The well contractor shall submit a copy of ~~Residential~~ Well Construction Record (GW-1) to the local health department. Upon completion of construction or repair of a private drinking water well for which a permit is required, the ~~Department~~ local health department shall inspect the well and issue a Certificate of Completion that includes an "as built" drawing. Prior to the issuance of a Certificate of Completion, the ~~Department~~ local health department shall: verify that the well was constructed in the designated area and according to the well construction permit and the rules of this Subchapter. The ~~Department~~ local health department shall inspect the grout around the casing for any settling, inspect the well head after the well seal is in place and ~~obtain~~ verify that a well construction record Well Construction Record has been received from the Certified Well Contractor. No person shall place a private drinking water well into service without first having obtained a Certificate of Completion.

Authority G.S. 87-87; 87-97.

15A NCAC 02C .0307 WELL DATA AND RECORDS

(a) Any person completing, abandoning or repairing any well shall submit a record of the construction, abandonment or repair to the local health department and the Division of Water ~~Quality Resources~~ within 30 days of completion of construction, abandonment or repair. The record shall be on a form provided by the ~~Department~~ Department of Environmental Quality.

(b) The local health department shall maintain a registry of all permitted private drinking water wells, specifying the well location and the water quality test results until the well is permanently abandoned in accordance with this Subchapter.

Authority G.S. 87-87; 87-97.

15A NCAC 02C .0308 APPEAL PROCEDURE

Appeals concerning permit decisions or actions by the ~~Department~~ local health department to enforce the rules of this Section shall be conducted according to the procedures established in G.S. 150B, the Administrative ~~Procedures~~ Procedure Act.

Authority G.S. 87-87.

15A NCAC 02C .0309 WELL ABANDONMENT AND CERTIFICATION

(a) The applicant or well contractor shall contact the local health department to provide notification of intent to permanently abandon a private drinking water well. Contact shall include the location, permit number, and anticipated time for abandonment of each private drinking water well and the appointment shall be scheduled by the end of the business day before the abandonment is to occur except where the local health department has made provisions for scheduling inspections at night or on the same day as the inspection.

(b) Upon notification from the well contractor, the local health department may opt to inspect the well abandonment process. The local health department shall inform the well contractor of their availability and intention to inspect the well abandonment after notification as described in Rule .0305(c) of this Section. When a local health department is unable to conduct the abandonment inspection within one hour of the scheduled time, the well contractor may abandon the well without an inspection by the local health department.

(c) Upon completion of a permanent well abandonment, the local health department shall provide a written certification on the well abandonment permit, or other local health department form, that a well abandonment inspection was completed and that the abandonment is in compliance with the rules of 15A NCAC 02C .0100. When the local health department opts to not inspect the permanent abandonment process, the well contractor shall provide written certification to the local health department that the well has been abandoned in compliance with the rules of 15A NCAC 02C .0100. A completed Well Abandonment Record form GW-30 indicating the well was abandoned in compliance with the rules of this Section shall serve as the well contractor's abandonment certification.

Authority G.S. 87-8.

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 readopt with substantive changes the rules cited as 15A NCAC 13B .1101-.1110.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://deq.nc.gov/permits-regulations/rules-regulation/proposed-main>

Proposed Effective Date: November 1, 2018

Public Hearing:

Date: July 11, 2018

Time: 4:30 p.m.

Location: NCDEQ Green Square, 217 West Jones Street, Raleigh, NC 27603 Room 1210 (Training Room)

Reason for Proposed Action: *The rules 15A NCAC 13B .1101-.1110 are proposed for readoption or repeal to comply with the Periodic Rule Review requirements pursuant to G.S. 150B-21.3A. Proposed amendments to the rules include technical corrections, clarification of unclear language, and consolidating requirements and repealing rules to remove redundant or unnecessary language.*

Comments may be submitted to: Jessica Montie, 1646 Mail Service Center, Raleigh, NC 27699-1646; phone (919) 707-8247; fax (919) 707-8247; email Jessica.montie@ncdenr.gov

Comment period ends: August 14, 2018

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 13B - SOLID WASTE MANAGEMENT

SECTION .1100 - SCRAP TIRE MANAGEMENT

15A NCAC 13B .1101 DEFINITIONS

The definitions in G.S. 130A-309.53 and the following definitions shall apply throughout this Section:

- (1) "Disposal site" means any place at which scrap tires are disposed of by sanitary landfill or incineration. ~~landfill, incineration, or other method as may be approved by the Division.~~
- (2) "Processing" means chopping, chipping, shredding, slicing, cutting, stamping, dyeing, ~~pyrolyzing~~ pyrolyzing, or other physicochemical processing of scrap tires either for disposal or production of useable materials.
- (3) ~~"Scrap tire monofill" means a sanitary landfill, or portion thereof, permitted exclusively for scrap tire disposal.~~

Authority G.S. 130A-309.57.

15A NCAC 13B .1102 APPLICATION FEE AND ANNUAL PERMIT FEE

Authority G.S. 130A-309.57.

15A NCAC 13B .1103 GENERATOR OF SCRAP TIRES

No person shall discard, ~~deposit~~ deposit, or dispose of a scrap tire except at a site or facility permitted to receive scrap tires under these Rules, or at a ~~legitimate~~ business exempt from a permit under G.S. 130A-309.57(d).

Authority G.S. 130A-309.57.

15A NCAC 13B .1104 GENERAL CONDITIONS

- (a) Landfilling of whole scrap tires is prohibited. Shreds or portions of scrap tires less than half of a whole scrap pneumatic tire shall be suitable for landfilling.
- (b) The owner or operator of a scrap tire disposal site or processing facility may submit a request to the Division to use a scrap tire disposal or processing method. Demonstrated methods of scrap tire disposal, in addition to other than the disposal methods in G.S. 130A-309.58, G.S. 130A-309.58, may be approved by the Division. The request shall be included with a permit application or renewal submitted to the Division in accordance with Rule .1106 of this Section, and may be approved by the Division if the owner or operator demonstrates that the

proposed method is protective of human health and the environment; does not create a nuisance or safety hazard; and complies with the requirements of this Subchapter.

~~(e) The tire collector shall notify the Division by submitting a form giving complete information regarding the location, size, period of operation, ownership and operation of the site, and the number of scrap tires accumulated at the site.~~

~~(c)(d) Scrap Tire Certification Forms~~ tire certification forms, in accordance with G.S. 130A-309.58(f) shall be obtained from ~~units of local government.~~ the Division website at <https://deq.nc.gov/about/divisions/waste-management>.

Authority G.S. 130A-309.57, 130A-309.58.

15A NCAC 13B .1105 PERMIT REQUIRED

(a) No person, other than a person exempted by G.S. 130A-309.57(d), shall establish, operate or maintain, or allow to be established, operated or maintained upon land owned, leased, or otherwise controlled by that person, his land, a scrap tire collection site or scrap tire disposal site unless a permit for the site has been obtained from the Division.

~~(b) Application for permits~~ Applications for permits submitted in accordance with Rule .1106 of this Section required by this Rule shall be forwarded to the Division of Waste Management, Solid Waste Section, 1646 Mail Service Center, Solid Waste Management Division, P.O. Box 27687, Raleigh, North Carolina 27699-1646, 27611.

(c) A permit is issued to the permit applicant for a particular site and shall not be transferable. ~~is non-transferrable.~~

~~(d) Scrap tire collection sites exempt from permitting under G.S. 130A-309.57(d) and Rule .1105(i) of this Section are not subject to the storage requirements of Rule .1107 of this Section with the exception of Rule .1107(1) and (2)(e).~~

~~(d)(e)~~ Trailers and covered roll-off containers used as scrap tire collection facilities are exempt from the requirements of Rule .1106(c) of this Section with the exception of Subparagraphs (c)(3) and (c)(5) of this Rule. 3, 4, 8 and 10.

~~(f) A permitted sanitary landfill, other than a demolition landfill is deemed permitted as a scrap tire disposal site. Records shall be maintained in accordance with Rule .1108(e) of this Section.~~

~~(g) A permitted sanitary landfill operated by a unit of local government is deemed permitted as a scrap tire collection site and may store up to 25,000 scrap tires for the purpose of comprising a marketable commodity.~~

~~(e)(h)~~ Scrap tire collection sites operated by units of local government are exempt from the financial responsibility requirements established in Rule .1111 of this Section. Units of local government are not required to provide proof of financial responsibility.

Authority G.S. 130A-309.57.

15A NCAC 13B .1106 SCRAP TIRE COLLECTION SITE PERMIT REQUIREMENTS

(a) A scrap tire collection site permit shall be issued for a period of ~~not longer than three~~ five years. Permit renewal applications shall be submitted to the Division ~~Department~~ not less than 60 days prior to the expiration date of the permit.

~~(b) A permit shall specify the storage limit for a limit the number of tires stored at a scrap tire collection site. site to the stated number of tires shipped off site and/or disposed of on site per month, unless otherwise specified by the Division. At no time shall more than 60,000 scrap tires be stored at a scrap tire collection site. Storage limits for collection sites permitted in association with processing facilities shall be determined as in Rule .1110(a).~~

(c) Scrap tire collection sites shall meet the following siting and design requirements ~~in order~~ for a permit to be issued:

- (1) ~~A~~ a site shall not be located within either the 100-year floodplain or 100 feet of any surface ~~water; water.~~ A site shall not be located within any wetland as defined in the Federal Clean Water Act, section 404(b)(1); 404(b)(1), which is hereby incorporated by reference, including any subsequent amendments or additions.
- (2) A site shall maintain a ~~minimum of a~~ 50-foot buffer between all property lines and scrap tire storage ~~areas; areas;~~
- (3) ~~The site and proposed plan shall comply with all requirements of the local zoning ordinance.~~
- ~~(3)(4)~~ The ~~the~~ site shall be served by an access road ~~which that~~ shall be kept passable at all times for any motor vehicle, including fire ~~trucks; trucks;~~ at all times.
- ~~(4)(5)~~ Drainage shall be effective to the site shall be designed to prevent standing water on-site and shall not cause prevent off-site drainage problems. problems;
- (6) ~~A site shall meet the requirements of the Sedimentation Pollution Control Law (15A NCAC 4).~~
- (7) ~~A site shall meet the screening requirements of N.C.G.S. 136-144, if applicable.~~
- ~~(5)(8)~~ Access ~~access~~ to the site shall be controlled to prevent unauthorized entry through the use of barriers such as fences, gates, or berms; and berms, natural barriers or other means.
- ~~(6)(9)~~ The ~~the~~ site shall be bermed or given other protection, if necessary designed to prevent keep liquid runoff from a potential tire fire from entering any surface water.
- (10) ~~The provider of fire protection services for the site shall be identified in the permit application.~~

~~(d) In addition to the form prescribed and provided by the Division, three copies of the~~ The following information shall be submitted to the Division in an application for a scrap tire collection site permit:

- (1) ~~Name~~ name and location of proposed facility, including street address or state road number, city, county, and zip ~~code; code.~~
- (2) ~~Name,~~ name, address, telephone ~~number~~ number, and signature of site ~~operator;~~ operator.
- (3) ~~Name,~~ name, address, telephone ~~number~~ number, and signature of property ~~owner,~~ owner, and a copy of the deed or other legal description of the site that would be sufficient

- as a description in an instrument of conveyance, showing property owner's name:
- (4) A a map or aerial photograph ~~accurately~~ showing the area within one-fourth mile of the site, and identifying the following:
- (A) ~~Entire~~ the property owned or leased for use as a scrap tire collection site by the applicant; and
- (B) ~~Location~~ the location of all homes, buildings, public or private utilities, roads, wells, water courses, ~~floodplains~~ floodplains, and other ~~applicable~~ details regarding the ~~topography; topography.~~
- (5) A a description of the ~~general~~ operation of the facility; facility.
- (6) ~~Sources~~ sources and quantity of tires expected, expressed in tons (~~assume 100 tires per ton or ten tires per cubic yard~~) to be received per month; quantity of tires to be stored on-site and quantity of tires to be shipped off-site per ~~month; month.~~
- (7) ~~Plans~~ plans for disposition of all tires collected at the site, including the names, addresses, ~~addresses~~ and permit information, if applicable, of all facilities where the tires will be recycled, processed, or disposed; ~~processed or disposed.~~
- (8) ~~Projected~~ the projected date of commencing operation; operation.
- (9) A a description of how any waste resulting from the operation of the tire site will be disposed; ~~disposed.~~
- (10) A a description of how the scrap tire collection site will meet the siting and design requirements of Paragraph (c) of this Rule; ~~Rule .1106(c).~~
- (11) A a letter stating that this use complies with local zoning from the unit of local government having zoning authority over the site. If no zoning is applicable, the unit of local government shall provide documentation to that effect; effect.
- (12) A a letter from the local fire protection authority accepting the responsibility for fire protection services and an annual fire safety survey for the site; site.
- (13) A a description of how the scrap tire collection site will meet the operational requirements of Rule .1107 of this Section; ~~Section.~~
- (14) ~~Documentation~~ documentation of the operator's ability to meet the financial responsibility requirements of Rule .1111 of this Section; ~~Section.~~
- (15) documentation that all processors or recyclers have access to a disposal site that is permitted to receive scrap tires; and
- (16) documentation from the Division of Energy, Land, and Mineral Resources within the Department stating that the planned site use and

operations comply with the requirements of the Sedimentation Pollution Control Law (15A NCAC 04).

Authority G.S. 130A-309.57.

15A NCAC 13B .1107 SCRAP TIRE COLLECTION SITE OPERATIONAL REQUIREMENTS

Scrap tire collection sites shall meet the following operational requirements:

- (1) Owners and operators of collection sites that process scrap tires shall submit to the Division an annual report by August 1 of each year, for the previous calendar year. The report shall be submitted on a form prescribed by the Division. The following information shall be included in the report:
- (a) the facility name, address, and permit number;
- (b) the year covered by the report;
- (c) the total quantity and type of scrap tires or processed tires received at the facility during the year covered by the report;
- (d) the total quantity and type of scrap tires or processed tires shipped from the facility during the year covered by the report;
- (e) the quantity of scrap tires or processed tires shipped to each receiving facility identified by name and address; and
- (f) the total quantity and type of scrap tires or processed tires located at the facility on January 1 of the year covered by the report.
- Scrap tires stored indoors shall be stored under conditions that meet those in "The Standard for Storage of Rubber Tires", NFPA 231D 1986 edition, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts, which has been adopted in accordance with G.S. 150B 14(c). Copies of this document are available for inspection at the Department.
- (2) All scrap tire collection, ~~processing~~ processing, or disposal sites ~~which that~~ store scrap tires or processed tires outdoors ~~must~~ shall comply with the following technical and operational standards:
- (a) Whole scrap tires shall be placed in an outdoor scrap tire pile(s) having dimensions no greater than 200 feet in length, 50 feet in ~~width~~ width, and 15 feet in height.
- (b) A 50-foot wide fire lane shall be placed around the perimeter of each scrap tire pile. Access to the fire lane for emergency vehicles shall be unobstructed and passable at all times.

- (c) The owner or operator of any scrap tire collection site shall control mosquitoes and rodents ~~so as~~ to protect the public health and welfare. Whole and ~~sliced~~ partial scrap tires, and ~~other~~ scrap tires capable of holding water shall be covered upon receipt with a water shedding material or disposed of, ~~processed~~ processed, or removed from the site within ten days of receipt. Sliced scrap tires stacked concave-side down shall not be ~~are not~~ required to be covered. The Division may approve other methods of rodent and mosquito control, if the owner or operator submits a request for the proposed method in writing to the Division, and demonstrates the effectiveness of this method to be protective of public health and the environment, and to comply with the requirements of this Subchapter.
- (d) If the scrap tire collection site receives tires from persons other than the operator of the site, a sign shall be posted at the entrance of the site and the sign shall state the operating hours. An attendant shall be present when the site is open for receipt of tires.
- (e) No operations involving the use of open flames, blow torches, ~~torches~~ or highly flammable substances shall be conducted within 50 feet of a scrap tire or processed materials pile.
- (f) A fire safety survey shall be conducted annually by local fire protection authorities that accepted responsibility for fire protection services in the letter submitted in accordance with Rule.1106(d)(12) of this Section. ~~authorities or other persons as approved by the Division.~~
- (g) Communication equipment shall be maintained at the scrap tire collection site to assure that the site operator ~~can~~ is able to contact local fire protection authorities in case of a fire.
- (h) ~~The scrap tire storage area(s) within the scrap tire collection site shall be kept free of~~ Debris, grass, underbrush, and other potentially flammable vegetation shall not be within 10 feet of scrap tires or processed materials. at all times.
- (i) The operator of the scrap tire collection site shall prepare and keep an emergency preparedness manual at the site. The manual shall be updated at least once a year, or upon changes in operations at the ~~site, site, or as required by the Department.~~ The manual shall contain the following elements:
 - (i) ~~A~~ a list of names and numbers of persons to be contacted in the event of a fire, ~~flood~~ flood, or other emergency;
 - (ii) ~~A~~ a list of the emergency response equipment at the scrap tire collection site, its location, and how it should be used in the event of a fire or other emergency;
 - (iii) ~~A~~ a description of the procedures that should be followed in the event of a fire, including procedures to contain and dispose of the oily material generated by the combustion of large numbers of tires; and
 - (iv) ~~A~~ a listing of all hazardous materials stored on-site, their location, ~~locations~~ and information regarding precautions, ~~precautions which should be taken with these materials.~~
- (j) The operator of the scrap tire collection site shall within 24 hours ~~immediately~~ notify the Division in the event of a fire or other emergency if that emergency has potential off-site effects. Within two weeks of any emergency involving potential off-site impact, the operator of the site shall submit to the Division a written report describing the cause(s) of the emergency, actions taken to deal with the emergency, results of the actions taken, and an analysis of the success or failure of these actions.
- (k) The operator of the scrap tire collection site shall maintain the following records and make them available for inspection by the Division at the Division's request; at his in-state place of principal business a copy of the permit with required attachments,
 - (i) a copy of the permit;
 - (ii) records of the quantity of scrap tires and processed tires received at the site, stored at the site and shipped from the site, including destination

- (iii) (name and address of facility); facility) and all certification forms applicable to any tires received, ~~stored~~ stored, or shipped from the site.
- (l) Unless otherwise specified by the Division in the facility permit, the The number of scrap tires stored at a scrap tire collection site shall not exceed 60,000 tires on site at any time and shall not exceed the stated number of scrap tires shipped off-site per month plus the stated number of scrap tires disposed of on-site per month, except that the storage limit for collection sites associated with scrap tire processing facilities shall be determined by multiplying the daily through put of the processing equipment used by 30, unless otherwise specified by the Division. At no time shall more than 60,000 scrap tires be stored at a scrap tire collection site. Storage limits for collection sites permitted in association with processing facilities shall be determined as in Rule .1110(a) of this Section.
- (m) A scrap tire processing facility shall not accept any scrap tires for processing above the number that may be processed daily if it has reached its storage limit. At least 75 percent of both the scrap tires and processed tires that are delivered to or maintained on the site of the scrap tire processing facility site shall be processed and removed for recycling or disposal at a solid waste management facility permitted by the Division to receive such waste within one year of their receipt.
- (n) The temperature of any above ground piles of compacted, processed tires over 1,000 cubic yards in size shall be monitored and shall not exceed 300 degrees Fahrenheit. Temperature control measures shall be instituted so that pile temperatures do not exceed 300 degrees Fahrenheit. Temperature monitoring and controls shall not be required for processed tires disposed of in sanitary landfills permitted by the Division to receive such waste.
- (o) The operator of the scrap tire collection site shall prepare and keep a contingency plan stating disposal methods or other means to handle tires
- during adverse weather, equipment failure, or other conditions that cause the site to be unavailable.
- (3) ~~Processed tires shall be stored in accordance with the requirements of indoor or outdoor storage in this Rule, and in accordance with the following:~~
- (a) ~~The temperature of any above ground piles of compacted, processed tires over 1,000 cubic yards in size shall be monitored and may not exceed 300 degrees Fahrenheit. Temperature control measures shall be instituted so that pile temperatures do not exceed 300 degrees Fahrenheit. Temperature monitoring and controls are not required for processed tires disposed of in permitted landfills.~~
- (b) ~~Any residuals from a scrap tire collection site shall be managed so as to be contained on site, and shall be controlled and disposed of in a permitted solid waste management facility or properly recycled.~~
- (4) ~~The Division may approve exceptions to the preceding technical and operational standards for a person collecting scrap tires if:~~
- (a) ~~At least once during each 30 day period all scrap tires, including processed tires, are removed from the site for processing or disposal; and~~
- (b) ~~The Division and the local fire authority are satisfied that the site owner or operator has sufficient fire suppression equipment or materials on-site to extinguish any potential tire fire within an acceptable length of time.~~

Authority G.S. 130A-309.57.

15A NCAC 13B .1108 SCRAP TIRE DISPOSAL SITE PERMIT AND OPERATIONAL REQUIREMENTS

Authority G.S. 130A-309.57.

15A NCAC 13B .1109 CLOSURE OF NON-CONFORMING SITES

- (a) Any scrap tire collection or disposal site ~~which~~ that does not meet the requirements of this Section shall be closed.
- (b) In closing any non-conforming scrap tire ~~site~~ site, the owner or operator shall:
- (1) ~~Prevent~~ prevent public access to the site;
- (2) ~~Post~~ post a notice indicating the site is closed and the nearest permitted site where scrap tires ~~may~~ can be deposited;
- (3) ~~Notify~~ notify the Division of the closing ~~and obtain Departmental approval of the plan to remove tires prior to tire removal;~~

- (4) ~~Remove remove~~ all scrap tires, processed ~~tires~~ tires and residuals to a ~~waste scrap~~ scrap tire collection site processing facility, ~~that is permitted in accordance with this Section, or that is exempt from permitting pursuant to G.S. 130A 309.57(d); or to a solid waste management facility permitted by the Division to accept scrap tires or processed tires, a legitimate user of processed tires, or other facility approved by the Division; and provide receipts to the Division by a deadline that shall be specified by the Division; and~~
- (5) ~~Remove remove~~ any solid waste to a ~~permitted~~ solid waste management facility permitted by the Division to receive such waste. facility;
- (6) ~~Provide documentation that tires were received by approved facility; and~~
- (7) ~~Notify the Department when closure is complete.~~

(c) Once all requirements set forth in Paragraph (b) of this Rule are complete, the owner or operator shall notify the Division in writing.

Authority G.S. 130A-309.57.

15A NCAC 13B .1110 SCRAP TIRE PROCESSING FACILITIES

Authority G.S. 130A-309.57.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to amend the rule cited as 21 NCAC 16H .0203.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncdentalboard.org

Proposed Effective Date: *October 1, 2018*

Public Hearing:

Date: *July 12, 2018*

Time: *6:30 p.m.*

Location: *2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560*

Reason for Proposed Action: *The Dental Board seeks to amend 21 NCAC 16H .0203 to clarify that taking digital images for purposes of the construction of temporary or permanent dental appliances, adjustable orthodontic appliances, nightguards and the repair of dentures or partials, is a function that is delegable to Dental Assistant IIs that must be done under the direct control and supervision of a dentist.*

Comments may be submitted to: *Bobby D. White, Esq., 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560*

Comment period ends: *August 14, 2018*

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 16H - DENTAL ASSISTANTS

SECTION .0200 – PERMITTED FUNCTIONS OF DENTAL ASSISTANT

21 NCAC 16H .0203 PERMITTED FUNCTIONS OF DENTAL ASSISTANT II

(a) A Dental Assistant II may perform all acts or procedures that may be performed by a Dental Assistant I as set forth in 21 NCAC 16H .0201. In addition, a Dental Assistant II may be delegated the following functions to be performed under the direct control and supervision of a dentist who shall be responsible for any and all consequences or results arising from the performance of such acts and functions, provided that the dentist first examined the patient and prescribed the procedure:

- (1) ~~taking making~~ taking making impressions ~~or digital images for study models and opposing casts~~ that may be used for the construction of temporary or permanent dental appliances, adjustable orthodontic appliances, nightguards and the repair of dentures or partials;
- (2) applying sealants to teeth that do not require mechanical alteration prior to the application of such sealants;
- (3) inserting matrix bands and wedges;
- (4) placing cavity bases and liners;
- (5) placing and removing rubber dams;

- (6) cementing temporary restorations using temporary cement;
- (7) applying acid etch materials and rinses;
- (8) applying bonding agents;
- (9) removing periodontal and surgical dressings;
- (10) removing sutures;
- (11) placing and removing gingival retraction cord;
- (12) removing excess cement with hand scaler supragingivally;
- (13) flushing, drying, and temporarily closing root canals or pulpotomies;
- (14) placing and removing temporary restorations;
- (15) placing and tying in or untying and removing orthodontic arch wires, ligature wires, or lock pins;
- (16) inserting interdental spacers;
- (17) fitting (sizing) orthodontic bands or brackets;
- (18) applying dentin desensitizing solutions;
- (19) performing extra-oral adjustments that affect function, fit, or occlusion of any restoration or appliance;
- (20) initially forming and sizing orthodontic arch wires and placing arch wires after final adjustment and approval by the dentist;
- (21) polishing the clinical crown, pursuant to Paragraph (b) of this Rule using only:
 - (A) a hand-held brush and polishing agents; or
 - (B) a combination of a slow speed handpiece (not to exceed 10,000 rpm) with attached rubber cup or bristle brush, and polishing agents;
- (22) exposing radiographs and cone beam images;
- (23) polishing removable appliances extra-orally;
- (24) preparing and loading amalgam in carrier;
- (25) measuring pulse, blood pressure, and temperature;
- (26) using micro-etcher extra-orally;
- (27) placing a throat shield in oropharynx during administration of general anesthesia;
- (28) delivering dentures to patient for insertion, provided the dentist approves the denture placement; or
- (29) removing or replacing healing abutments or cover screws for implants that may be accessed supragingivally.

(b) A Dental Assistant II shall complete a course in coronal polishing identical to that taught in an ADA accredited dental assisting program, or by a licensed North Carolina hygienist or dentist lasting at least seven clock hours before using a slow speed handpiece with rubber cup or bristle brush attachment. The course shall include instruction on dental morphology, the periodontal complex, operation of handpieces, polish aids, and patient safety. A list of ADA accredited programs offering courses in coronal polishing, which is incorporated by reference along with its subsequent amendments and editions, is available at no cost on the American Dental Association's website at <http://www.ada.org/en/coda/find-a-program>. A coronal polishing procedure shall not be represented to the patient as a prophylaxis.

No coronal polishing procedure may be billed as a prophylaxis unless the dentist has performed an evaluation for calculus, deposits, or accretions and a dentist or dental hygienist has removed any substances detected.

Authority G.S. 90-29(c)(9); 90-41; 90-48.

CHAPTER 32 – MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to amend the rule cited as 21 NCAC 32Y .0101.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncmedboard.org/about_the_board/rule_changes

Proposed Effective Date: December 1, 2018

Public Hearing:

Date: August 17, 2018

Time: 10:00 a.m.

Location: North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609

Reason for Proposed Action: *This proposed amendment will provide for an additional method to identify prescribers of concern.*

Comments may be submitted to: Wanda Long, Rules Coordinator, NC Medical Board; PO Box 20007, Raleigh, NC 27619; email rules@ncmedboard.org

Comment period ends: August 17, 2018

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 32Y – CONTROLLED SUBSTANCE
REPORTING SYSTEM**

21 NCAC 32Y .0101 REPORTING CRITERIA

(a) The Department of Health and Human Services ("Department") may report to the North Carolina Medical Board ("Board") information regarding the prescribing practices of those physicians and physician assistants ("prescribers") whose prescribing:

- (1) falls within the top two percent of those prescribing 100 morphine milligrams equivalents ("MME") per patient per day; or
- (2) falls within the top two percent of those prescribing 100 MME's per patient per day in combination with any benzodiazepine and who are within the top one percent of all controlled substance prescribers by volume.

(b) In addition, the Department may report to the Board information regarding prescribers who have had two or more patient deaths in the preceding twelve months due to opioid poisoning where the prescribers authorized more than 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

(c) In addition, the Department may report to the Board information regarding prescribers who meet three or more of the following criteria, if there are a minimum of five patients for each criterion:

- (1) At least 25 percent of the prescriber's patients receiving opioids reside at least 100 miles from the prescriber's practice location;
- (2) The prescriber had more than 25 percent of patients receiving the same opioids and benzodiazepine combination;
- (3) The prescriber had 75 percent of patients receiving opioids self-pay for the prescriptions;
- (4) The prescriber had 90 percent or more of patients in a three-month period that received an opioid prescription that overlapped with another opioid prescription for at least one week;
- (5) More than 50 percent of the prescriber's patients received opioid doses of 100 MME or greater per day excluding office based treatment medications; and
- (6) The prescriber had at least 25 percent of patients who used three or more pharmacies within a three-month period to obtain opioids regardless of the prescriber.

~~(e)~~(d) The Department may submit these reports to the Board upon request and may include the information described in G.S. 90-113.73(b).

~~(d)~~(e) The reports and communications between the Department and the Board shall remain confidential pursuant to G.S. 90-16 and G.S. 90-113.74.

Authority G.S. 90-5.1; 90-113.74.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission May 17, 2018 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 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jeffrey A. Poley

Appointed by House

Garth Dunklin (Chair)
Andrew P. Atkins
Anna Baird Choi
Paul Powell
Jeanette Doran (2nd Vice Chair)

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

June 14, 2018 July 19, 2018
August 16, 2018 September 20, 2018

RULES REVIEW COMMISSION MEETING MINUTES

May 17, 2018

The Rules Review Commission met on Thursday, May 17, 2018, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew 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 Amber Cronk May, Amanda Reeder, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana McGhee.

Chairman Dunklin introduced OAH extern Michael Hutcherson.

The meeting was called to order at 10:02 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.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the April 19, 2018 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Commission of Navigation and Pilotage for the Cape Fear River and Bar

The agency is addressing the technical change requests from the April meeting. No action was required by the Commission.

Department of Transportation/Division of Motor Vehicles

Pursuant to G.S. 150B-21.12(d), the rule was returned to the agency. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Pre-Reviewed Rules

Department of Agriculture and Consumer Services

All rules were unanimously approved with the following exceptions:

The Commission extended the period of review for 02 NCAC 52B .0213 and 02 NCAC 52C .0701 in accordance with G.S. 150B-21.10. They did so in response to a request from the Department to extend the period to allow the agency to address the requests for technical changes and submit the rewritten rules at a later meeting.

Child Care Commission

10A NCAC 09 .0304 was unanimously approved.

The Commission extended the period of review for 10A NCAC 09 .0401, .1904, and .2208 in accordance with G.S. 150B-21.10 at the request of the agency.

In addition, the Commission objected to 10A NCAC 09 .2201, .2202, .2203, .2204, .2205, .2206, .2207, .2209, .2213, .2216, and .2217 in accordance with G.S. 150B-21.12 as follows:

- the Commission objected to Rule .2201, finding that Paragraph (b) was ambiguous as written;
- the Commission objected to Rule .2202, finding that it was not within the statutory authority of the agency to issue an administrative action against an "owner" of a child care facility and also found that this Rule was ambiguous as written; and
- the Commission objected to Rules .2203-.2207, .2209, .2213, .2216, and .2217, finding that it was not within the statutory authority of the agency to issue an administrative action against an "owner."

Linda Piper of the North Carolina Licensed Child Care Association addressed the Commission.

Alexi Gruber, with the Attorney General's office and representing the agency, addressed the Commission.

DHHS/Division of Health Service Regulation

All rules were unanimously approved.

Prior to the review of the rules from DHHS/Division of Health Service Regulation, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because of a law firm conflict.

Non Pre-Reviewed Rules

Alarm Systems Licensing Board

All rules were unanimously approved with the following exceptions:

The Commission objected to 14B NCAC 17 .0402 and .0403 in accordance with G.S. 150B-21.10. The Commission objected to the rules based upon lack of statutory authority because G.S. 74D-31, the statute authorizing these Rules, was repealed.

Commissioner Hyde was not present during the vote or discussion concerning these Rules.

Building Code Council

403.1.1 was unanimously approved.

Commissioner Choi was not present during the vote or discussion concerning the rule.

The chair called the meeting into a brief recess at 11:18 a.m.

The meeting resumed at 11:25 a.m.

EXISTING RULES REVIEW

Department of Administration

01 NCAC 06 – The Commission unanimously approved the report as submitted by the agency.

01 NCAC 30 – The Commission unanimously approved the report as submitted by the agency.

Commissioner Hyde was not present during the vote or discussion concerning these reports.

Department of Labor

13 NCAC 01 – The Commission unanimously approved the report as submitted by the agency.

13 NCAC 04 – The Commission unanimously approved the report as submitted by the agency.
13 NCAC 05 – The Commission unanimously approved the report as submitted by the agency.
13 NCAC 06 – The Commission unanimously approved the report as submitted by the agency.
13 NCAC 13 – The Commission unanimously approved the report as submitted by the agency.
13 NCAC 16 – The Commission unanimously approved the report as submitted by the agency.
13 NCAC 17 – The Commission unanimously approved the report as submitted by the agency.
13 NCAC 18 – The Commission unanimously approved the report as submitted by the agency.
13 NCAC 19 – The Commission unanimously approved the report as submitted by the agency.

Commissioner Hyde was not present during the vote or discussion concerning these reports.

Substance Abuse Professional Practice Board

21 NCAC 68 – The Commission unanimously approved the report as submitted by the agency.

Department of Administration

01 NCAC 38, 43A - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than November 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Wildlife Resources Commission/Marine Fisheries Commission

15A NCAC 03Q, Section .0100 and 15A NCAC 10C, Section .0100 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than June 30, 2022 pursuant to G.S. 150B-21.3A(d)(2).

Wildlife Resources Commission

15A NCAC 10B, 10C - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than December 30, 2022 pursuant to G.S. 150B-21.3A(d)(2).

Real Estate Commission

21 NCAC 58 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than June 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

The Chair reminded the Commission of the Periodic Review and Expiration of Existing Rules Readoption Schedule.

The Commission unanimously approved amendments to the Commission Bylaws, which shall become effective June 1, 2018.

The meeting adjourned at 11:33 a.m.

The next regularly scheduled meeting of the Commission is Thursday, June 14th at 10:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Garth Dunklin, Chair

May 17, 2018

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Hannah Jeunigan	NCDOT
Nadine Pfeiffer	NC DHHS - DHSE
Clarence Ennis	NC DHHS - DHSP
JOHN F. MADDEY	DEPT. OF ADMINISTRATION
Shanon Gerger	NC Dept of Admin
Linda Piper	NCLicensed Child Care Assn
Alexi Gruber	NCDOT
Melissa Stevenson	DHHS - DCDEE
Andrea Lewis	DHHS - DZD SE
Dick Alm	DHHS - DCDEE
Tien Cheng	NC DA & CS
Carlos Menzies	Law Student
Mike Mayes	NCDATCS
Melissa Viotto	NCREC
Nagorie Craven	ASLB
Benton Whitaker	NCOA
Carla Rose	NCDOL
Jill Cramer	NCDOL
Mike Hutchinson	OAH
Jennifer Everett	DEQ
John Thompson	DMA



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

May 17, 2018

John F. Maddrey, Rulemaking Coordinator
North Carolina Department of Administration
116 W. Jones Street
Raleigh, North Carolina 27603-8003

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 01 NCAC 38, 43A

Dear Mr. Maddrey:

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 May 17, 2018 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 November 30, 2019.

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

Sincerely,

Amber May
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
February 15, 2018
APO Review: March 06, 2018
Administration, Department of
Total: 21**

RRC Determination: Necessary with substantive public interest

Rule	Determination
01 <u>NCAC 38 .0103</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0201</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0205</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0302</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0305</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0308</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0407</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0307</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0308</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0309</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0310</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0311</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0312</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0313</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0314</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0315</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0316</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0317</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0318</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0319</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0320</u>	Necessary with substantive public interest



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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May 17, 2018

Carrie Ruhlman, Rulemaking Coordinator
Wildlife Resources Commission
1701 Mail Service Center
Raleigh, NC 27699-1701

Jennifer Everett, Rulemaking Coordinator
Marine Fisheries Commission
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 03Q, Section .0100**
and **15A NCAC 10C, Section .0100**

Dear Mrs. Ruhlman and Ms. Everett:

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 May 17, 2018 Rules Review Commission meeting regarding 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, 2022.

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

Sincerely,

Amber May
Commission Counsel

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

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Assistants
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
December 14, 2017
APO Review: January 09, 2018**

Marine Fisheries Commission/Wildlife Resources Commission
Total: 20

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 03Q .0101</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0102</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0103</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0104</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0105</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0106</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0107</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0108</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0109</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0101</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0102</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0103</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0104</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0105</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0106</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0107</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0108</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0109</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0110</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0111</u>	Necessary with substantive public interest



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
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Street address:
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Raleigh, NC 27609-6285

May 17, 2018

Carrie Ruhlman, Rulemaking Coordinator
Wildlife Resources Commission
1701 Mail Service Center
Raleigh, NC 27699-1701

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 15A NCAC 10B, 10C

Dear Mrs. Ruhlman:

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 May 17, 2018 Rules Review Commission meeting regarding 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 December 30, 2022.

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

Sincerely,

Amber May
Commission Counsel

Administration
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Rules Division
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
December 14, 2017
APO Review: January 09, 2018
Wildlife Resources Commission
Total: 101**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 10B .0101</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0102</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0105</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0106</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0107</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0109</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0110</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0111</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0113</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0114</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0115</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0116</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0117</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0118</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0119</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0120</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0121</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0122</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0123</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0124</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0125</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0126</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0127</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0201</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0202</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0203</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0205</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0206</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0207</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0208</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0209</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0210</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0211</u>	Necessary with substantive public interest

<u>15A NCAC 10B .0212</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0213</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0214</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0215</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0216</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0217</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0219</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0220</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0221</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0222</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0223</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0225</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0301</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0302</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0303</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0304</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0305</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0401</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0402</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0403</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0404</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0405</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0406</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0409</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0201</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0208</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0205</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0206</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0208</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0209</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0211</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0212</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0213</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0214</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0215</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0216</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0217</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0301</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0302</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0304</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0305</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0306</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0307</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0308</u>	Necessary with substantive public interest

<u>15A NCAC 10C .0309</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0310</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0311</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0312</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0313</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0314</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0315</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0316</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0317</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0318</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0319</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0320</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0401</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0402</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0404</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0405</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0406</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0407</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0501</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0502</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0503</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0601</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0602</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0603</u>	Necessary with substantive public interest



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
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May 17, 2018

Melissa Vuotto, Rulemaking Coordinator
Real Estate Commission
Post Office Box 17100
Raleigh, North Carolina 27699-2420

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 58

Dear Mrs. Vuotto:

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 May 17, 2018 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, 2019.

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

Sincerely,

Amber May
Commission Counsel

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
March 15, 2018
APO Review: May 19, 2018
Real Estate Commission
Total: 4**

RRC Determination: Necessary with substantive public interest

Rule	Determination
21 <u>NCAC 58A .0108</u>	Necessary with substantive public interest
21 <u>NCAC 58A .0506</u>	Necessary with substantive public interest
21 <u>NCAC 58A .0612</u>	Necessary with substantive public interest
21 <u>NCAC 58A .2002</u>	Necessary with substantive public interest

LIST OF APPROVED PERMANENT RULES
May 17, 2018 Meeting

AGRICULTURE AND CONSUMER SERVICES, DEPARTMENT OF

<u>Incorporation by Reference</u>	02 NCAC	52L	.0101
<u>Definitions</u>	02 NCAC	52L	.0102
<u>Farmed Cervid License or Temporary Exhibit</u>	02 NCAC	52L	.0103
<u>Farm Cervid License</u>	02 NCAC	52L	.0104
<u>Denial of Farmed Cervid License</u>	02 NCAC	52L	.0105
<u>Temporary Exhibit Permit</u>	02 NCAC	52L	.0106
<u>Transfer of Farmed Cervid License or Temporary Exhibit Pe...</u>	02 NCAC	52L	.0107
<u>Voluntary Surrender of Farmed Cervid License or Temporary...</u>	02 NCAC	52L	.0108
<u>Records and Inspection</u>	02 NCAC	52L	.0109
<u>Escape, Disappearance, or Breach of Facility</u>	02 NCAC	52L	.0110
<u>Reporting CWD Symptoms and Farmed Cervid Death</u>	02 NCAC	52L	.0111
<u>Animal Identification</u>	02 NCAC	52L	.0112
<u>Transportation Permit</u>	02 NCAC	52L	.0113
<u>Enclosure Requirements</u>	02 NCAC	52L	.0201
<u>License or Permit Revocation, Forfeiture, and Depopulation</u>	02 NCAC	52L	.0301
<u>North Carolina Farmed Cervid Herd Certification Program</u>	02 NCAC	52L	.0401
<u>North Carolina Monitored Herd Certification Program</u>	02 NCAC	52L	.0402

CHILD CARE COMMISSION

<u>On-Going Requirements for a License</u>	10A NCAC	09	.0304
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HHS - HEALTH SERVICE REGULATION, DIVISION OF

<u>Certificate Renewal</u>	10A NCAC	14F	.1203
<u>Staff Requirements and Responsibilities</u>	10A NCAC	14F	.1301
<u>Patient Rights</u>	10A NCAC	14F	.1401
<u>Exercise Therapy</u>	10A NCAC	14F	.1802
<u>Emergency Plan</u>	10A NCAC	14F	.1901
<u>Emergency Drills</u>	10A NCAC	14F	.1903
<u>Physical Environment and Equipment</u>	10A NCAC	14F	.2101

ALARM SYSTEMS LICENSING BOARD

<u>Purpose</u>	14B NCAC	17	.0101
<u>Location</u>	14B NCAC	17	.0102
<u>Definitions</u>	14B NCAC	17	.0103
<u>Disciplinary Actions</u>	14B NCAC	17	.0104
<u>Prohibited Acts</u>	14B NCAC	17	.0105
<u>Determination of Experience</u>	14B NCAC	17	.0106
<u>Rulemaking and Administrative Hearing Procedures</u>	14B NCAC	17	.0107
<u>Consumer Contract and Disclosure Requirements for Alarm S...</u>	14B NCAC	17	.0108
<u>Application for License</u>	14B NCAC	17	.0201
<u>Experience Requirements for a License</u>	14B NCAC	17	.0202
<u>Fees for Licenses</u>	14B NCAC	17	.0203

<u>Renewal or Re-Issue of License</u>	14B NCAC	17	.0204
<u>Identification Cards of Licensees</u>	14B NCAC	17	.0205
<u>Records Inspection</u>	14B NCAC	17	.0206
<u>License Requirements</u>	14B NCAC	17	.0207
<u>Training Requirements for Alarm Licensees</u>	14B NCAC	17	.0208
<u>Company Business License</u>	14B NCAC	17	.0209
<u>Electrical Contracting License Requirements</u>	14B NCAC	17	.0210
<u>Application for Registration</u>	14B NCAC	17	.0301
<u>Fees for Registration</u>	14B NCAC	17	.0302
<u>Minimum Standards for Registration</u>	14B NCAC	17	.0303
<u>Investigation for Registration</u>	14B NCAC	17	.0304
<u>Registration Identification Cards</u>	14B NCAC	17	.0305
<u>Renewal or ReRegistration of Registration</u>	14B NCAC	17	.0306
<u>Suspension of Authority to Expend Funds</u>	14B NCAC	17	.0307
<u>Definitions</u>	14B NCAC	17	.0401
<u>Definitions</u>	14B NCAC	17	.0501
<u>Required Continuing Education Hours</u>	14B NCAC	17	.0502
<u>Accreditation Standards</u>	14B NCAC	17	.0503
<u>Non-Resident Licensee or Registrant Continuing Education ...</u>	14B NCAC	17	.0504
<u>Recording and Reporting Continuing Education Credits</u>	14B NCAC	17	.0505
<u>Non-Compliance</u>	14B NCAC	17	.0506

BUILDING CODE COUNCIL

2018 NC Plumbing Code/Fixture Calculations

403.1.1

**RRC Determination
Periodic Rule Review
Necessary with substantive public interest**

Substance Abuse Professional	21 NCAC 68 .0223	21 NCAC 68 .0505
Practice Board	21 NCAC 68 .0224	21 NCAC 68 .0506
21 NCAC 68 .0101	21 NCAC 68 .0225	21 NCAC 68 .0507
21 NCAC 68 .0102	21 NCAC 68 .0226	21 NCAC 68 .0508
21 NCAC 68 .0201	21 NCAC 68 .0227	21 NCAC 68 .0509
21 NCAC 68 .0202	21 NCAC 68 .0228	21 NCAC 68 .0510
21 NCAC 68 .0203	21 NCAC 68 .0301	21 NCAC 68 .0511
21 NCAC 68 .0204	21 NCAC 68 .0303	21 NCAC 68 .0512
21 NCAC 68 .0205	21 NCAC 68 .0304	21 NCAC 68 .0601
21 NCAC 68 .0206	21 NCAC 68 .0305	21 NCAC 68 .0602
21 NCAC 68 .0207	21 NCAC 68 .0306	21 NCAC 68 .0603
21 NCAC 68 .0208	21 NCAC 68 .0307	21 NCAC 68 .0604
21 NCAC 68 .0209	21 NCAC 68 .0401	21 NCAC 68 .0605
21 NCAC 68 .0211	21 NCAC 68 .0402	21 NCAC 68 .0606
21 NCAC 68 .0212	21 NCAC 68 .0403	21 NCAC 68 .0607
21 NCAC 68 .0213	21 NCAC 68 .0404	21 NCAC 68 .0608
21 NCAC 68 .0214	21 NCAC 68 .0405	21 NCAC 68 .0609
21 NCAC 68 .0215	21 NCAC 68 .0406	21 NCAC 68 .0610
21 NCAC 68 .0216	21 NCAC 68 .0407	21 NCAC 68 .0611
21 NCAC 68 .0217	21 NCAC 68 .0501	21 NCAC 68 .0615
21 NCAC 68 .0220	21 NCAC 68 .0502	21 NCAC 68 .0620
21 NCAC 68 .0221	21 NCAC 68 .0503	21 NCAC 68 .0701
21 NCAC 68 .0222	21 NCAC 68 .0504	21 NCAC 68 .0702

RULES REVIEW COMMISSION

21 NCAC 68 .0703
21 NCAC 68 .0704
21 NCAC 68 .0705

21 NCAC 68 .0706
21 NCAC 68 .0707
21 NCAC 68 .0708

21 NCAC 68 .0709

RRC Determination
Periodic Rule Review
Necessary without substantive public interest

Administration, Department of

01 NCAC 06B .0101
01 NCAC 06B .0203
01 NCAC 06B .0207
01 NCAC 06B .0208
01 NCAC 06B .0210
01 NCAC 06B .0212
01 NCAC 06B .0303
01 NCAC 06B .0304
01 NCAC 06B .0305
01 NCAC 06B .0306
01 NCAC 06B .0502
01 NCAC 06B .0503
01 NCAC 06B .0504
01 NCAC 06B .0507
01 NCAC 06B .0509
01 NCAC 06B .0610
01 NCAC 06B .0702
01 NCAC 30A .0101
01 NCAC 30A .0104
01 NCAC 30A .0201
01 NCAC 30A .0205
01 NCAC 30A .0206
01 NCAC 30A .0207
01 NCAC 30A .0210
01 NCAC 30A .0301
01 NCAC 30A .0305
01 NCAC 30A .0306
01 NCAC 30A .0307
01 NCAC 30A .0401
01 NCAC 30A .0403
01 NCAC 30A .0406
01 NCAC 30D .0101
01 NCAC 30D .0102
01 NCAC 30D .0103
01 NCAC 30D .0201
01 NCAC 30D .0202
01 NCAC 30D .0301
01 NCAC 30D .0302
01 NCAC 30D .0303
01 NCAC 30D .0304
01 NCAC 30D .0305
01 NCAC 30D .0306
01 NCAC 30E .0101
01 NCAC 30E .0102
01 NCAC 30E .0103
01 NCAC 30E .0201
01 NCAC 30E .0202
01 NCAC 30E .0301
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01 NCAC 30E .0303
01 NCAC 30E .0304
01 NCAC 30E .0305
01 NCAC 30E .0306
01 NCAC 30E .0401
01 NCAC 30E .0402
01 NCAC 30F .0101
01 NCAC 30F .0102
01 NCAC 30F .0103
01 NCAC 30F .0201
01 NCAC 30F .0202
01 NCAC 30F .0301
01 NCAC 30F .0302
01 NCAC 30F .0303
01 NCAC 30F .0304
01 NCAC 30F .0305
01 NCAC 30F .0401
01 NCAC 30F .0402
01 NCAC 30F .0403
01 NCAC 30G .0101
01 NCAC 30G .0102
01 NCAC 30G .0103
01 NCAC 30G .0104
01 NCAC 30G .0105
01 NCAC 30H .0101
01 NCAC 30H .0102
01 NCAC 30H .0201
01 NCAC 30H .0202
01 NCAC 30H .0301
01 NCAC 30H .0302
01 NCAC 30H .0401
01 NCAC 30H .0402
01 NCAC 30H .0403
01 NCAC 30H .0404
01 NCAC 30H .0501
01 NCAC 30H .0502
01 NCAC 30I .0101
01 NCAC 30I .0102
01 NCAC 30I .0301
01 NCAC 30I .0302
01 NCAC 30I .0303
01 NCAC 30I .0304
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01 NCAC 30I .0307
01 NCAC 30I .0308
01 NCAC 30I .0309
01 NCAC 30I .0310
01 NCAC 30J .0102
01 NCAC 30J .0103

01 NCAC 30J .0201
01 NCAC 30J .0202
01 NCAC 30J .0301
01 NCAC 30J .0302
01 NCAC 30J .0303
01 NCAC 30J .0304
01 NCAC 30J .0305
01 NCAC 30J .0306

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13 NCAC 01B .0101
13 NCAC 01B .0102
13 NCAC 01B .0103
13 NCAC 04A .0101
13 NCAC 04A .0102
13 NCAC 04A .0103
13 NCAC 04A .0201
13 NCAC 04A .0202
13 NCAC 04B .0101
13 NCAC 04B .0102
13 NCAC 04B .0103
13 NCAC 04B .0201
13 NCAC 04B .0202
13 NCAC 04B .0203
13 NCAC 04B .0204
13 NCAC 04B .0301
13 NCAC 04B .0302
13 NCAC 04B .0303
13 NCAC 04C .0101
13 NCAC 04C .0102
13 NCAC 04D .0101
13 NCAC 04D .0102
13 NCAC 04D .0201
13 NCAC 04D .0202
13 NCAC 06 .0101
13 NCAC 06 .0102
13 NCAC 06 .0103
13 NCAC 06 .0105
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<u>13 NCAC 06 .0311</u>	<u>13 NCAC 13 .0401</u>	<u>13 NCAC 17 .0103</u>
<u>13 NCAC 06 .0401</u>	<u>13 NCAC 13 .0402</u>	<u>13 NCAC 17 .0104</u>
<u>13 NCAC 06 .0402</u>	<u>13 NCAC 13 .0403</u>	<u>13 NCAC 17 .0105</u>
<u>13 NCAC 06 .0501</u>	<u>13 NCAC 13 .0404</u>	<u>13 NCAC 17 .0106</u>
<u>13 NCAC 06 .0503</u>	<u>13 NCAC 13 .0405</u>	<u>13 NCAC 17 .0107</u>
<u>13 NCAC 06 .0507</u>	<u>13 NCAC 13 .0406</u>	<u>13 NCAC 17 .0108</u>
<u>13 NCAC 06 .0510</u>	<u>13 NCAC 13 .0407</u>	<u>13 NCAC 17 .0109</u>
<u>13 NCAC 06 .0513</u>	<u>13 NCAC 13 .0408</u>	<u>13 NCAC 17 .0110</u>
<u>13 NCAC 06 .0515</u>	<u>13 NCAC 13 .0409</u>	<u>13 NCAC 17 .0111</u>
<u>13 NCAC 06 .0516</u>	<u>13 NCAC 13 .0410</u>	<u>13 NCAC 17 .0201</u>
<u>13 NCAC 06 .0517</u>	<u>13 NCAC 13 .0411</u>	<u>13 NCAC 17 .0202</u>
<u>13 NCAC 06 .0518</u>	<u>13 NCAC 13 .0412</u>	<u>13 NCAC 17 .0204</u>
<u>13 NCAC 06 .0519</u>	<u>13 NCAC 13 .0413</u>	<u>13 NCAC 17 .0205</u>
<u>13 NCAC 06 .0521</u>	<u>13 NCAC 13 .0414</u>	<u>13 NCAC 18 .0101</u>
<u>13 NCAC 06 .0522</u>	<u>13 NCAC 13 .0415</u>	<u>13 NCAC 18 .0102</u>
<u>13 NCAC 06 .0525</u>	<u>13 NCAC 13 .0416</u>	<u>13 NCAC 18 .0103</u>
<u>13 NCAC 06 .0526</u>	<u>13 NCAC 13 .0417</u>	<u>13 NCAC 18 .0104</u>
<u>13 NCAC 13 .0101</u>	<u>13 NCAC 13 .0418</u>	<u>13 NCAC 18 .0105</u>
<u>13 NCAC 13 .0103</u>	<u>13 NCAC 13 .0419</u>	<u>13 NCAC 18 .0106</u>
<u>13 NCAC 13 .0201</u>	<u>13 NCAC 13 .0420</u>	<u>13 NCAC 18 .0107</u>
<u>13 NCAC 13 .0202</u>	<u>13 NCAC 13 .0421</u>	<u>13 NCAC 18 .0108</u>
<u>13 NCAC 13 .0203</u>	<u>13 NCAC 13 .0422</u>	<u>13 NCAC 18 .0109</u>
<u>13 NCAC 13 .0204</u>	<u>13 NCAC 13 .0423</u>	<u>13 NCAC 18 .0110</u>
<u>13 NCAC 13 .0205</u>	<u>13 NCAC 13 .0501</u>	<u>13 NCAC 19 .0101</u>
<u>13 NCAC 13 .0206</u>	<u>13 NCAC 13 .0504</u>	<u>13 NCAC 19 .0102</u>
<u>13 NCAC 13 .0207</u>	<u>13 NCAC 13 .0701</u>	<u>13 NCAC 19 .0201</u>
<u>13 NCAC 13 .0208</u>	<u>13 NCAC 13 .0702</u>	<u>13 NCAC 19 .0301</u>
<u>13 NCAC 13 .0209</u>	<u>13 NCAC 13 .0703</u>	<u>13 NCAC 19 .0302</u>
<u>13 NCAC 13 .0210</u>	<u>13 NCAC 13 .0705</u>	<u>13 NCAC 19 .0401</u>
<u>13 NCAC 13 .0211</u>	<u>13 NCAC 16 .0101</u>	<u>13 NCAC 19 .0402</u>
<u>13 NCAC 13 .0212</u>	<u>13 NCAC 16 .0103</u>	<u>13 NCAC 19 .0501</u>
<u>13 NCAC 13 .0213</u>	<u>13 NCAC 16 .0201</u>	<u>13 NCAC 19 .0601</u>
<u>13 NCAC 13 .0214</u>	<u>13 NCAC 16 .0202</u>	<u>13 NCAC 19 .0602</u>
<u>13 NCAC 13 .0301</u>	<u>13 NCAC 16 .0401</u>	<u>13 NCAC 19 .0603</u>
<u>13 NCAC 13 .0302</u>	<u>13 NCAC 16 .0402</u>	<u>13 NCAC 19 .0604</u>
<u>13 NCAC 13 .0303</u>	<u>13 NCAC 16 .0501</u>	<u>13 NCAC 19 .0605</u>
<u>13 NCAC 13 .0304</u>	<u>13 NCAC 16 .0502</u>	<u>13 NCAC 19 .0701</u>
<u>13 NCAC 13 .0305</u>	<u>13 NCAC 17 .0101</u>	<u>13 NCAC 19 .0702</u>
<u>13 NCAC 13 .0306</u>	<u>13 NCAC 17 .0102</u>	

**RRC Determination
Periodic Rule Review
Unnecessary**

Administration, Department of

01 NCAC 06A .0105
01 NCAC 06A .0106
01 NCAC 06B .0202
01 NCAC 06B .0204
01 NCAC 06B .0205
01 NCAC 06B .0206
01 NCAC 06B .0211
01 NCAC 06B .0307
01 NCAC 06B .0308
01 NCAC 06B .0309
01 NCAC 06B .0501

01 NCAC 06B .0505
01 NCAC 06B .0508
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01 NCAC 06B .0609
01 NCAC 06B .0701

01 NCAC 06B .0703
01 NCAC 06B .0704
01 NCAC 06B .0801
01 NCAC 06B .0802
01 NCAC 30A .0208
01 NCAC 30A .0404
01 NCAC 30A .0405

Labor, Department of

13 NCAC 05 .0213
13 NCAC 19 .0502

CONTESTED CASE DECISIONS

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 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
				<u>PUBLISHED</u>			
18	CPS	00562	4/25/2018	Sonja Hall	v.	State of North Carolina Crime Victims Compensation Commission	Sutton
17	DHR	06738	4/4/2018	John E Sloan Jr ROJ Mental Health & Substance Abuse Services	v.	Sandhills Center	Overby
17	DOJ	03199	4/24/2018	Jason George Andrews	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
17	DOJ	06743	4/19/2018	Joshua Orion David	v.	NC Criminal Justice Education and Training Standards Commission	Bawtinheimer
17	DOJ	07217	4/24/2018	James Casey Locklear	v.	NC Sheriffs Education and Training Standards Commission	Overby
17	DOJ	07406	4/13/2018	Lashonda Owens	v.	NC Sheriffs Education and Training Standards Commission	Elkins
17	DOJ	07633	4/13/2018	Nicholas Chase Worsley	v.	NC Sheriffs Education and Training Standards Commission	Elkins
15	EDC	07248	4/24/2018	Kimarlo Ragland	v.	N C Department Of Public Instruction (licensure section) c/o June Atkinson (Supt of Public Instruction)	Ward
17	EHR	08455	4/12/2018	DAQ 2017-037 Dallas Norman	v.	Divison of Air Quality, NCDEQ	Malherbe

CONTESTED CASE DECISIONS

				UNPUBLISHED			
17	ABC	08562	4/26/2018	NC Alcoholic Beverage Control Commission	v.	Good Food Market and Grill Inc T/A Good Food Market and Grill	May
18	ABC	00506	4/16/2018	NC Alcoholic Beverage Control Commission	v.	K V E C, LLC T/A Press Box Bar and Grille	Sutton
18	ABC	00752	4/27/2018	Troy D Billups	v.	Fayetteville Police Dept. Gina Hawkins	May
18	ABC	01439	4/20/2018	ALE Gloria Johnson	v.	ALE	Lassiter
16	CSE	11560	4/25/2018	Michael C Uhlhorn	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	05592	4/26/2018	Jeffery McKiver	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
17	CSE	06010	4/3/2018	Magdalen Ramos	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	06849	4/3/2018	Timothy Beckman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
17	CSE	06916	4/20/2018	William R Hinnant	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	07064	4/10/2018	Katherine Hawks Davidson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
17	CSE	07152	4/27/2018	Criss W Wyenandt	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
17	CSE	07234	4/3/2018	Luke D Beach	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinheimer
17	CSE	07451	4/24/2018	Alvin Clark	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
17	CSE	07565	4/9/2018	Michael A Schwartz	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
17	CSE	07572	4/25/2018	Andrew Egan Newton	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
17	CSE	07605	4/26/2018	Michael J Swann	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Sutton
17	CSE	07733	4/9/2018	Kenneth J Welch	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
17	CSE	07743	4/9/2018	Dominick Perez Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	07787	4/18/2018	Don W Oliveira	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Sutton

CONTESTED CASE DECISIONS

17	CSE	07957	4/9/2018	Abisai S Flores	v.	North Carolina Department of Health and Human Service Division of Social Services Child Support Enforcement Section	Lassiter
17	CSE	07959	4/27/2018	Solomon Oppong-Agyare	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
17	CSE	08050	4/10/2018	Marcus A Pyle	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Lassiter
17	CSE	08106	4/24/2018	Michael R Dail	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Lassiter
17	CSE	08215	4/3/2018	Vicente J Hill	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
17	CSE	08281	4/19/2018	Danita Manning	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
18	CSE	00059	4/30/2018	Joseph R Inman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	CSE	01161	4/27/2018	Antonio D Adams	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Sutton
18	CSE	01475	4/20/2018	Warren R Pettiford	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
18	CSE	01611	4/27/2018	Junior L Powell	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Sutton
17	DHR	01779	4/27/2018	Raintree Healthcare of Forsyth LLC DBA Integrity Assisted Living	v.	Division of Health Service Regulation NC Department of Health and Human Services	May
17	DHR	06947	4/17/2018	Angela Aytche	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Elkins
17	DHR	08125	4/17/2018	Rock Pillar, LLC	v.	Pamlico County Health Department North Carolina Department of Health and Human Services	Ward
17	DHR	08291	4/11/2018	Envisions of Life, LLC Genta Hughes	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
18	DHR	00470	4/11/2018	Bennett's Family Care Home FCL-041-002	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
18	DHR	00623	4/13/2018	Erica Fennell	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Mann
18	DHR	00838	4/17/2018; 4/18/2018	Brenda Myree	v.	Division of Child Development and Early Education- Department of Health and Human Services	Sutton
18	DHR	01395	4/25/2018	Sara Mumpower	v.	Caldwell County DSS	Sutton

CONTESTED CASE DECISIONS

18	DHR	01473	4/24/2018	Patrick Herron	v.	Department of Health and Human Services, Division of Health Service Regulation	Malherbe
18	DHR	01550	4/25/2018	Holly Eades	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Sutton
17	DOJ	08219	4/17/2018; 4/18/2018	Albert Lee Davis	v.	NC Sheriffs Education and Training Standards Commission	Overby
18	DOL	00677	4/12/2018	Brian Peele Space Walk of the Piedmont Triad	v.	NCDOL Mike Hopper	Mann
18	DST	01699	4/30/2018	Tracy Eugene Perry	v.	North Carolina Dept of State Treasurer Retirement Systems Division	Ward
18	EHR	01183	4/10/2018	Francis X Deluca	v.	Dept of Environmental Quality	Bawtinheimer
18	OSP	00749	4/9/2018	Francis Antonio Adkins	v.	Eastern North Carolina School for Deaf	Lassiter