

NORTH CAROLINA REGISTER

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February 15, 2021

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

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

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NORTH CAROLINA REGISTER
 Publication Schedule for January 2021 – December 2021

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	270 th day from publication in the Register
35:13	01/04/21	12/08/20	01/19/21	03/05/21	03/22/21	04/15/21	05/01/21	10/01/21
35:14	01/15/21	12/21/20	01/30/21	03/16/21	03/22/21	04/15/21	05/01/21	10/12/21
35:15	02/01/21	01/08/21	02/16/21	04/05/21	04/20/21	05/20/21	06/01/21	10/29/21
35:16	02/15/21	01/25/21	03/02/21	04/16/21	04/20/21	05/20/21	06/01/21	11/12/21
35:17	03/01/21	02/08/21	03/16/21	04/30/21	05/20/21	06/17/21	07/01/21	11/26/21
35:18	03/15/21	02/22/21	03/30/21	05/14/21	05/20/21	06/17/21	07/01/21	12/10/21
35:19	04/01/21	03/11/21	04/16/21	06/01/21	06/21/21	07/15/21	08/01/21	12/27/21
35:20	04/15/21	03/24/21	04/30/21	06/14/21	06/21/21	07/15/21	08/01/21	01/10/22
35:21	05/03/21	04/12/21	05/18/21	07/02/21	07/20/21	08/19/21	09/01/21	01/28/22
35:22	05/17/21	04/26/21	06/01/21	07/16/21	07/20/21	08/19/21	09/01/21	02/11/22
35:23	06/01/21	05/10/21	06/16/21	08/02/21	08/20/21	09/16/21	10/01/21	02/26/22
35:24	06/15/21	05/24/21	06/30/21	08/16/21	08/20/21	09/16/21	10/01/21	03/12/22
36:01	07/01/21	06/10/21	07/16/21	08/30/21	09/20/21	10/21/21	11/01/21	03/28/22
36:02	07/15/21	06/23/21	07/30/21	09/13/21	09/20/21	10/21/21	11/01/21	04/11/22
36:03	08/02/21	07/12/21	08/17/21	10/01/21	10/20/21	11/18/21	12/01/21	04/29/22
36:04	08/16/21	07/26/21	08/31/21	10/15/21	10/20/21	11/18/21	12/01/21	05/13/22
36:05	09/01/21	08/11/21	09/16/21	11/01/21	11/22/21	12/16/21	01/01/22	05/29/22
36:06	09/15/21	08/24/21	09/30/21	11/15/21	11/22/21	12/16/21	01/01/22	06/12/22
36:07	10/01/21	09/10/21	10/16/21	11/30/21	12/20/21	01/20/22	02/01/22	06/28/22
36:08	10/15/21	09/24/21	10/30/21	12/14/21	12/20/21	01/20/22	02/01/22	07/12/22
36:09	11/01/21	10/11/21	11/16/21	01/03/22	01/20/22	02/17/22	03/01/22	07/29/22
36:10	11/15/21	10/22/21	11/30/21	01/14/22	01/20/22	02/17/22	03/01/22	08/12/22
36:11	12/01/21	11/05/21	12/16/21	01/31/22	02/21/22	03/17/22	04/01/22	08/28/22
36:12	12/15/21	11/22/21	12/30/21	02/14/22	02/21/22	03/17/22	04/01/22	09/11/22

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

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.

1 NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING

2
3 NORTH CAROLINA BUILDING CODE COUNCIL

4
5 **Notice of Rule-making Proceedings** is hereby given by NC Building Code Council in accordance with
6 G.S. 150B-21.5(d).

7
8 **Citation to Existing Rule Affected by this Rule-Making:** *North Carolina, Fire, Building, Mechanical,*
9 *Existing Building, Residential, and Energy Codes amendments.*

10
11 **Authority for Rule-making:** *G.S. 143-136; 143-138.*

12
13 **Reason for Proposed Action:** *To incorporate changes in the NC State Building Codes as a result of*
14 *rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the*
15 *Council.*

16
17 **Public Hearing:** *Tuesday, March 9, 2021, 9:00AM, Albemarle Building, 325 North Salisbury Street,*
18 *Raleigh, NC 27603, 2nd Floor Training Room 240. Comments on both the proposed rule and any fiscal*
19 *impact will be accepted.*

20
21 **Comment Procedures:** *Written comments may be sent to Carl Martin, Acting Secretary, NC Building*
22 *Code Council, NC Department of Insurance, 1202 Mail Service Center, Raleigh, NC 27699-1202.*
23 *Comments on both the proposed rule and any fiscal impact will be accepted. Comment period expires on*
24 *April 16, 2021.*

25
26 **Link to Agency Notice:**
27 <https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notices>

28
29 **Statement of Subject Matter:**

30
31 **1. Request from Wayne Hamilton representing the NC Building Code Council to amend the 2018 NC**
32 **Fire Code, Section 304.4.4.**

33
34 304.4.4 Revocation. The use of doorstep refuse and recycling collection containers in apartment
35 occupancies is revocable by the fire code official for violations of this section.

1 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is June 1,
2 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2022).

3 **Reason Given** – The purpose of this amendment is to remove a redundant enforcement requirement from
4 the code as enforcement already exists in Section 109.

5 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
6 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
7 funds. A fiscal note has not been prepared.

8
9
10 **2. Request by Tim Henshaw representing the NC Fire Code Revision Committee to amend the 2018**
11 **NC Fire Code, Section 510 and Chapter 80.**

12
13 **SECTION 510**

14 **EMERGENCY RESPONDER ~~RADIO~~ COMMUNICATION COVERAGE**

15
16 **510.1 Emergency responder ~~radio~~ communication coverage in new buildings.** All new buildings shall
17 have approved radio coverage for emergency responders within the building based upon the existing
18 coverage level of the public safety communications system of the jurisdiction at the exterior of the building.
19 Approved in-building 2- way emergency responder communication coverage shall be provided in all new
20 buildings. In-building 2- way emergency responder communication coverage shall be based on the existing
21 coverage levels of the public safety communication systems utilized by the jurisdiction, measured at the
22 exterior of the building. This section shall not require improvement of the existing public safety
23 communication systems.

24 **Exceptions:**

25 1. Where approved by the building official and the fire code official, a wired communication system in
26 accordance with Section 907.2.13.2 shall be permitted to be installed or maintained instead of an approved
27 ~~radio~~ communications coverage system.

28 2. Where it is determined by the fire code official that the ~~radio~~ communications coverage system is not
29 needed.

30 3. In facilities where emergency responder ~~radio~~ communication coverage is required and such systems,
31 components or equipment required could have a negative impact on the normal operations of that facility,
32 the fire code official shall have the authority to accept an automatically activated emergency responder
33 ~~radio~~ communication coverage system.

34 4. New buildings 7,500square feet or less and not more than 1 story above grade plane.

35 4.1. This exception does not apply to windowless buildings, underground buildings or buildings with a
36 basement.

37

1 **510.2 Emergency Responder ~~Radio-Communications~~ Coverage in Existing Buildings. ~~Deleted~~**

2

3 **510.3 Permit required.** A construction permit for the installation of or modification to ~~emergency~~
4 ~~responder radio coverage systems and related equipment is required as specified in Section 105.7.5. in-~~
5 ~~building 2- way emergency responder communication coverage systems and related equipment is required~~
6 ~~as specified in Section 105.7.6.~~ Maintenance performed in accordance with this code is not considered a
7 modification and does not require a permit.

8

9 **510.4 Technical requirements.** ~~Equipment required to provide emergency responder radio communication~~
10 ~~coverage shall be listed in accordance with UL 2524. Systems, components and equipment required to~~
11 ~~provide the emergency responder radio coverage in-building 2- way emergency responder communication~~
12 ~~coverage system shall comply with Sections 510.4.1 through 510.4.2.5 510.4.2.8.~~

13

14 **510.4.1 ~~Radio Signal Strength~~ Emergency communication coverage system signal strength.** The
15 building shall be considered to have acceptable ~~emergency responder radio coverage in-building 2- way~~
16 ~~emergency responder communication system coverage~~ when signal strength measurements in 95 percent of
17 all areas on each floor of the building ~~and critical areas shall be provided with 99 percent floor area radio~~
18 ~~coverage. Critical areas are fire command centers, fire pump rooms, exit stairs, exit passageways, elevator~~
19 ~~lobbies, sprinkler rooms, riser rooms, standpipe cabinets, sprinkler sectional valve locations, and other~~
20 ~~areas deemed critical by the AHJ. The signal strength shall meet requirements in Sections 510.4.1.1 and~~
21 ~~510.4.1.2 through 510.4.1.3.~~

22

23 **510.4.1.1 Minimum signal strength into the building.** A minimum signal strength of ~~95 dBm shall be~~
24 ~~received within the building. The minimum inbound signal strength shall be sufficient to provide usable~~
25 ~~voice communications throughout the coverage area as specified by the fire code official. The inbound~~
26 ~~signal level shall be a minimum of -95dBm throughout the coverage area and sufficient to provide not less~~
27 ~~than a Delivered Audio Quality (DAQ) of 3.0 or an equivalent Signal-to-Interference-Plus-Noise Ratio~~
28 ~~(SINR) applicable to the technology for either analog or digital signals.~~

29

30 **510.4.1.2 Minimum signal strength out of the building.** A minimum signal strength of ~~95 dBm shall be~~
31 ~~received by the agency's radio when transmitted within the building. The minimum outbound signal~~
32 ~~strength shall be sufficient to provide usable voice communications throughout the coverage area as~~
33 ~~specified by the fire code official. The outbound signal level shall be sufficient to provide not less than a~~
34 ~~DAQ of 3.0 or an equivalent SINR applicable to the technology for either analog or digital signals.~~

35

1 **510.4.1.3 System performance.** Signal strength shall be sufficient to meet the requirements of the
2 applications being utilized by public safety for emergency operations through the coverage area as
3 specified by the fire code official in Section 510.4.2.2.

4
5 **510.4.2 System design.** The ~~emergency responder radio coverage in-building 2-~~ way emergency responder
6 communication coverage system shall be designed in accordance with Sections 510.4.2.1 through ~~510.4.2.5~~
7 510.4.2.8 and NFPA 1221.

8
9 **510.4.2.1 Amplification systems ~~allowed and components.~~** Buildings and structures that cannot support
10 the required level of radio coverage shall be equipped with a radiating cable system, a distributed antenna
11 system with Federal Communications Commission (FCC) certified signal boosters, or other system
12 approved by the fire code official in order to achieve the required adequate radio coverage. ~~in-building 2-~~
13 way emergency responder communication coverage shall be equipped with systems and components to
14 enhance the radio signals and achieve the required level of emergency communication coverage specified
15 in Sections 510.4.1 through 510.4.1.3. Emergency communication systems utilizing radio-frequency-
16 emitting devices and cabling shall be approved by the fire code official. Prior to installation, all RF-
17 emitting devices shall have the certification of the radio licensing authority and be suitable for public safety
18 use.

19
20 **510.4.2.2 Technical criteria.** The fire code official shall maintain a document providing the specific
21 technical information and requirements for the ~~emergency responder radio coverage system in-building 2-~~
22 way emergency responder communication coverage system. This document shall contain, but not be
23 limited to, the various frequencies required, the location of radio sites, the effective radiated power of radio
24 sites, ~~and other supporting technical information the maximum propagation delay in microseconds, the~~
25 applications being used and other supporting technical information necessary for system design.

26
27 **510.4.2.3 Standby power.** ~~Emergency responder radio in-building 2-~~ way emergency responder
28 communication coverage systems shall be provided with ~~standby power in accordance with section 604-~~
29 dedicated standby batteries or provided with 2-hour standby batteries and connected to the facility
30 generator power system in accordance with Section ~~4203~~ 604. The standby power supply shall be capable
31 of operating the ~~emergency responder radio in-building 2-~~ way emergency responder communication
32 coverage system ~~for a duration of not less than 24 hours at 100-percent system capacity for a duration of~~
33 not less than 12 hours.

34
35 **510.4.2.4 Signal booster requirements.** If used, signal boosters shall meet the following requirements:
36 1. All signal booster components shall be contained in a National Electrical Manufacturer's Association
37 (NEMA) 4-type waterproof cabinet.

1 2. Battery systems used for the emergency power source shall be contained in a NEMA 4-type water-proof
2 cabinet, 3R or higher-rated cabinet.

3 3. ~~The signal booster system and battery system shall be electrically supervised and monitored by a~~
4 ~~supervisor service, or when approved by the fire code official, shall sound an audible signal at a constantly~~
5 ~~attended location. Equipment shall have FCC or other radio licensing authority certification and be suitable~~
6 ~~for public safety use prior to installation.~~

7 4. ~~Equipment shall have FCC certification prior to installation. Where a donor antenna exists, isolation~~
8 ~~shall be maintained between the donor antenna and all inside antennas to not less than 20dB greater than~~
9 ~~the system gain under all operating conditions.~~

10 5. Active RF emitting devices used in in-building 2- way emergency responder communication coverage
11 systems shall have built-in oscillation detection and control circuitry.

12 6. The installation of amplification systems or systems that operate on or provide the means to cause
13 interference on any in-building 2- way emergency responder communication coverage network shall be
14 coordinated and approved by the fire code official.

15
16 ~~**510.4.2.5 Additional frequencies and change of frequencies. System monitoring. The emergency**~~
17 ~~**responder radio coverage system shall be capable of modification or expansion in the event frequency**~~
18 ~~**changes are required by the FCC or additional frequencies are made available by the FCC. The in-building**~~
19 ~~**2-way emergency responder communication coverage system shall be monitored by a listed fire alarm**~~
20 ~~**control unit, or where approved by the fire code official, shall sound an audible signal at a constantly**~~
21 ~~**attended on-site location. Automatic supervisory signal shall include the following:**~~

22 1. Loss of normal AC power supply.

23 2. System battery charger(s) failure.

24 3. Malfunction of the donor antenna(s).

25 4. Failure of active RF-emitting device(s).

26 5. Low-battery capacity at 70-percent reduction of operating capacity.

27 6. Failure of critical system components.

28 7. The communications link between the fire alarm system and the in-building 2- way emergency responder
29 communication coverage system.

30 8. Oscillation of active RF-emitting device(s)

31
32 ~~**510.4.2.6 Additional frequencies and change of frequencies. The in-building 2- way emergency**~~
33 ~~**responder communication coverage system shall be capable of modification or expansion in the event**~~
34 ~~**frequency changes are required by the FCC or other radio licensing authority, or additional frequencies are**~~
35 ~~**made available by the FCC or other radio licensing authority.**~~

36

1 **510.4.2.7 Design documents.** The fire code official shall have the authority to require “as-built” design
2 documents and specifications for in-building 2- way emergency responder communication coverage
3 systems. The documents shall be in a format acceptable to the fire code official.

4
5 **510.4.2.8 Radio communication antenna density.** Systems shall be engineered to minimize the near-far
6 effect. In-building 2- way emergency responder communication coverage system designs shall include
7 sufficient antenna density to address reduced gain conditions.

8 **Exception:**

9 1. Systems where all portable devices within the same band use active power control features.

10
11 **510.5 Installation requirements.** The installation of the public safety radio-in-building 2- way emergency
12 responder communication coverage system shall be in accordance with NFPA 1221 and Sections 510.5.1
13 through 510.5.4-510.5.5.

14 **510.5.1 Approval prior to installation. Mounting of the donor antenna(s).** Amplification systems
15 capable of operating on frequencies licensed to any public safety agency by the FCC shall not be installed
16 without prior coordination and approval of the fire code official. To maintain proper alignment with the
17 system designed donor site, donor antennas shall be permanently affixed on the building or where
18 approved, mounted on a movable sled with a clearly visible sign stating "Movement or repositioning of this
19 antenna is prohibited without approval from the fire code official". The antenna installation shall be in
20 accordance with the applicable requirements in the International Building Code for weather protection of
21 the building envelope.

22 **510.5.2 Minimum qualifications of personnel. Approval prior to installation.** The minimum
23 qualifications of the system designer and lead installation personnel shall include both of the following:

- 24 1. A valid FCC issued general radio operator's license.
25 2. Certification of in-building system training issued by a national recognized organization, school, or a
26 certificate issued by the manufacturer of the equipment being installed.

27 These qualifications shall not be required where demonstration of adequate skills and experience
28 satisfactory to the fire code official is provided.

29 Amplification systems capable of operating on frequencies licensed to any public safety agency by the FCC
30 or other radio licensing authority shall not be installed without prior coordination and approval of the fire
31 code official and the frequency license holder(s).

32 **510.5.3 Acceptance test procedure. Minimum qualifications of personnel.** Where an emergency
33 responder radio coverage system is required, and upon completion of installation, the building owner shall
34 have the radio system tested to verify that two way coverage on each floor of the building is not less than
35 90 percent. The test procedure shall be conducted as follows: The minimum qualifications of the system
36 designer and lead installation personnel shall include both of the following:

- 37 1. Each floor of the building shall be divided into a grid of 20 approximately equal test areas.

- 1 1. A valid FCC-issued general radio operator's license.
- 2 ~~2. The test shall be conducted using a calibrated portable radio of the latest brand and model used by the~~
- 3 ~~agency talking through the agency's radio communications system.~~
- 4 2. Certification of in-building system training issued by an approved organization or approved school, or a
- 5 certificate issued by the manufacturer of the equipment being installed.
- 6 ~~3. Failure of not more than two nonadjacent test areas shall not result in failure of the test.~~
- 7 ~~4. In the event that three of the test areas fail the test, in order to be more statistically accurate, the floor~~
- 8 ~~shall be permitted to be divided into 40 equal areas. Failure of not more than four nonadjacent test areas~~
- 9 ~~shall not result in failure of the test. If the system fails the 40 area test, the system shall be altered to meet~~
- 10 ~~the 90 percent coverage requirement.~~
- 11 ~~5. A test location approximately in the center of each test area shall be selected for the test, with the radio~~
- 12 ~~enabled to verify two way communications to and from the outside of the building through the public~~
- 13 ~~agency's radio communications system. Once the test location has been selected, that location shall~~
- 14 ~~represent the entire test area. Failure in the selected test location shall be considered failure of that test area.~~
- 15 ~~Additional test locations shall not be permitted.~~
- 16 ~~6. The gain values of all amplifiers shall be measured and the test measurement results shall be kept on file~~
- 17 ~~with the building owner so that the measurements can be verified during annual tests. In the event that the~~
- 18 ~~measurement results become lost, the building owner shall be required to rerun the acceptance test to~~
- 19 ~~reestablish the gain values.~~
- 20 ~~7. As part of the installation, a spectrum analyzer or other suitable test equipment shall be utilized to~~
- 21 ~~ensure spurious oscillations are not being generated by the subject signal booster. This test shall be~~
- 22 ~~conducted at the time of installation and at subsequent annual inspections.~~
- 23 These qualifications shall not be required where demonstration of adequate skills and experience
- 24 satisfactory to the fire code official is provided.

25

26 **510.5.4 FCC compliance—Acceptance test procedure.** ~~The emergency responder radio coverage system~~

27 ~~installation and components shall comply with all applicable federal regulations including, but not limited~~

28 ~~to, FCC 47 CFR Part 90.219. Where an in-building 2- way emergency responder communication coverage~~

29 ~~system is required, and upon completion of installation, the building owner shall have the radio system~~

30 ~~tested to verify that two-way coverage on each floor of the building is not less than 95 percent. The test~~

31 ~~procedure shall be conducted as follows:~~

- 32 1. Each floor of the building shall be divided into a grid of 20 approximately equal test areas. Where a floor
- 33 exceeds 128,000 ft² (11,900 m²), which is the floor area that can be covered by the maximum grid
- 34 dimension of 80 ft. (24.4m), the floor shall be subdivided into sectors each having an area less than or equal
- 35 to 128,000 ft² (11,900 m²), and each sector be tested individually with 20 grid cells in each sector. Signal
- 36 strength measurements should be taken at the center of each grid and should be performed using
- 37 standardized parameters as specified by NFPA 1221.

1 2. The test shall be conducted using a calibrated portable radio of the latest brand and model used by the
2 agency talking through the agency's radio communications system or equipment approved by the fire code
3 official.

4 3. Failure of more than one test area shall result in failure of the test.

5 4. In the event that two of the test areas fail the test, in order to be more statistically accurate, the floor shall
6 be permitted to be divided into 40 equal test areas. Failure of not more than two nonadjacent test areas shall
7 not result in failure of the test. If the system fails the 40-area test, the system shall be altered to meet the 95-
8 percent coverage requirement.

9 5. A test location approximately in the center of each test area shall be selected for the test, with the radio
10 enabled to verify two-way communications to and from the outside of the building through the public
11 agency's radio communications system. Once the test location has been selected, that location shall
12 represent the entire test area. Failure in the selected test location shall be considered to be a failure of that
13 test area. Additional test locations shall not be permitted.

14 6. The gain values of all amplifiers shall be measured and the test measurement results shall be kept on file
15 with the building owner so that the measurements can be verified during annual tests. In the event that the
16 measurement results become lost, the building owner shall be required to rerun the acceptance test to
17 reestablish the gain values.

18 7. As part of the installation, a spectrum analyzer or other suitable test equipment shall be utilized to ensure
19 spurious oscillations are not being generated by the subject signal booster. This test shall be conducted at
20 the time of installation and at subsequent annual inspections.

21 8. Systems shall be tested using two portable radios simultaneously conducting subjective voice quality
22 checks. One portable radio shall be positioned not greater than 10 feet (3048 mm) from the indoor antenna.
23 The second portable radio shall be positioned at a distance that represents the farthest distance from any
24 indoor antenna. With both portable radios simultaneously keyed up on different frequencies within the
25 same band, subjective audio testing shall be conducted and comply with DAQ levels as specified in
26 Sections 510.4.1.1 and 510.4.1.2.

27
28 **510.5.5 FCC compliance.** The in-building 2- way emergency responder communication coverage system
29 installation and components shall comply with all applicable federal regulations including, but not limited
30 to, FCC 47 CFR Part 90.219.

31
32 **510.6 Maintenance.** The emergency responder radio in-building 2- way emergency responder
33 communication coverage system shall be maintained operational at all times in accordance with Sections
34 510.6.1 through ~~510.6.3~~ 510.6.4.

35
36 **510.6.1 Testing and proof of compliance.** The emergency responder radio coverage ~~The owner of the~~
37 building or owner's authorized agent shall have the in-building 2- way emergency responder

1 communication coverage system shall be inspected and tested annually or where structural changes occur
2 including additions or remodels that could materially change the original field performance tests. Testing
3 shall consist of the following:

- 4 1. In-building coverage test as described in Section 510.5.3.
- 5 2. Signal boosters shall be tested to verify that the gain is the same as it was upon initial installation and
6 acceptance- or set to optimize the performance of the system.
- 7 3. Backup batteries and power supplies shall be tested under load of a period of 1 hour to verify that they
8 will properly operate during an actual power outage. If within the 1-hour test period the battery exhibits
9 symptoms of failure, the test shall be extended for additional 1-hour periods until the integrity of the battery
10 can be determined.
- 11 4. ~~Other~~ All active components shall be checked to verify operation within the manufacturer’s
12 specifications.
- 13 5. At the conclusion of the testing, a report, which shall verify compliance with Section 510.5.3, shall be
14 submitted to the *fire code official*.

15
16 **510.6.2 Additional frequencies.** The building *owner* shall modify or expand ~~the emergency responder~~
17 ~~radio~~ the in-building 2- way emergency responder communication coverage system at his or her expense in
18 the event frequency changes are required by the FCC or other radio licensing authority, or additional
19 frequencies are made available by the FCC ~~or other radio licensing authority~~. Prior approval of a ~~public~~
20 ~~safety radio~~ an in-building 2- way emergency responder communication coverage system on previous
21 frequencies does not exempt this section.

22
23 **510.6.3 Field Testing-Nonpublic safety system.** ~~Agency personnel shall have the right to enter onto the~~
24 ~~property at any reasonable time to conduct field testing to verify the required level of radio coverage.~~
25 Where other nonpublic safety amplification systems installed in buildings reduce the performance or cause
26 interference with the in-building 2- way emergency responder communication coverage system, the
27 nonpublic safety amplification system shall be corrected or removed.

28
29 **510.6.4 Field testing.** Agency personnel shall have the right to enter onto the property at any reasonable
30 time to conduct field testing to verify the required level of radio coverage.

31
32 **Chapter 80**

33
34 **NFPA**

35 NFPA 1221-19 Standard for the Installation, Maintenance, and Use of Emergency Services

36 Communications Systems.....510.4.2, 510.5, 510.5.4.

37

1 UL
 2 UL2524 -19 Standard for In-building 2- Way Emergency Radio Communication Enhancement Systems
 3 510.4.
 4

5 FCC
 6 47 CFR Part 90.219-2007 510.5.4, 510.5.5
 7
 8

9 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is June 1,
 10 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2022).

11 **Reason Given** – The purpose of this amendment is to address new technology and to eliminate the
 12 requirement for one story buildings 7500sf or less where responder emergency radio coverage can be
 13 accomplished without a building emergency radio system.

14 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
 15 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
 16 funds. A fiscal note has not been prepared.
 17
 18

19 **3. Request from Tim Henshaw representing NC Fire Code Revision Committee to amend the 2018**
 20 **NC Building Code, Sections 403.4.5, 916, and 916.1.**
 21

22 **403.4.5 Emergency Responder ~~Radio~~ Communication Coverage.** Emergency responder ~~radio~~
 23 communication coverage shall be provided in accordance with Section 510 of the *International Fire Code*.
 24

25 **916 Emergency Responder ~~Radio~~ Communication Coverage**
 26

27 **916.1 General.** Emergency responder ~~radio~~ communication coverage shall be provided in all new buildings
 28 in accordance with Section 510 of the *International Fire Code*.
 29

30 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is June 1,
 31 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2022).

32 **Reason Given** – The purpose of this amendment is to make the Building Code language consistent with the
 33 Fire Code.

34 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
 35 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
 36 funds. A fiscal note has not been prepared.
 37

1
2 **4. Request by the NC Building Code Council, Electrical Ad-Hoc Committee, to adopt the 2020 North**
3 **Carolina Electrical Code.**

4
5 **The Base Documents for the 2020 NC Electrical Code is the 2020 National Electrical Code (NEC)**
6 **and can be viewed by going to the following website:**
7 **[https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-](https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=70)**
8 **[standards/detail?code=70.](https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=70)**

9
10 **The 2020 NC Building Code Council, Electrical Ad-Hoc Committee proposed amendments are**
11 **posted at the following website and are replacements to the Sections printed in the Base Document:**
12 **<https://www.ncosfm.gov/bcc-agenda-20201208-proposed-2020-state-electrical-code-amendments>**

13
14
15 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is June 1,
16 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2022).

17 **Reason Given** – The purpose of this amendment is to adopt the latest available edition of the National
18 Electrical Code (NFPA 70) with North Carolina specific amendments that address specific NC needs.

19 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
20 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
21 funds. A fiscal note has been prepared and has been posted at the following website:

22 **[https://www.ncosfm.gov/bcc-agenda-20201208-2020-nec-fiscal-note-item-b7.](https://www.ncosfm.gov/bcc-agenda-20201208-2020-nec-fiscal-note-item-b7)**

23
24
25 **NOTICE:**

26 **Appeals and Interpretations** of the North Carolina State Building Codes are published online at the
27 following link.

28 **<https://www.ncosfm.gov/codes/codes-current-and-past>**

29
30
31 **NOTICE:**

32 **Objections and Legislative Review** requests may be made to the NC Office of Administrative Hearings in
33 accordance with G.S. 150B-21.3(b2) after Rules are adopted by the Building Code Council.

34 **<http://www.ncoah.com/rules/>**

35

36

DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) INTENT TO ISSUE NPDES WASTEWATER DISCHARGE PERMIT #NC0000272 WITH PROPOSED REMOVAL OF COLOR VARIANCE**PERMIT APPLICATION**

Notice is hereby given in accordance with NC General Statutes (G.S.) 150B-21.2 and G.S. 150B-21.3A, G.S. 143-214.1 and federal regulations at 40 Code of Federal Regulations (CFR) 131.20 (b), 40 CFR 131.14 and 40 CFR 25.5 that the DEQ, Division of Water Resources (DWR) intends to amend effluent permit requirements applicable to Blue Ridge Paper Products, LLC. Public comment or objection to the draft permit renewal is invited. All comments received by April 30, 2021 will be considered in the final determination regarding permit issuance and permit provisions.

Blue Ridge Paper Products LLC, (d/b/a Evergreen Packaging), Permit Number NC0000272. Blue Ridge Paper Products, LLC is authorized to discharge wastewater from a facility located at the Blue Ridge Paper Products Wastewater Treatment Plant, off Highway 215 (175 Main Street), Canton, Haywood County, NC to receiving waters designated as the Pigeon River, French Broad River Basin, in accordance with effluent limitations. Some of the parameters are water quality limited. This discharge may affect future allocations in this portion of the French Broad River Basin. The location of the Outfall is: Latitude: 35°32'08"; Longitude: 82°50'42".

The thermal component of the discharge is subject to effluent limitations under Title 15A North Carolina Administrative Code (NCAC) Subchapter 02B .0211 (18), which proposes thermal effluent limitations disallowing an exceedance of 2.8 degrees C (5.04 degrees F) above the natural water temperature, and in no case to exceed 29 degrees C (84.2 degrees F). The permit holder has requested a continuance of a Clean Water Act Section 316(a) variance. On the basis of 15A NCAC 02B .0208 (b), and other lawful standards and regulations, DWR proposes to continue the 316(a) variance in conjunction with the renewal of the permit.

The draft wastewater permit and all related documents are available online at: <https://deq.nc.gov/news/events/public-notice-hearings>. Printed copies of the draft permit and related documents may be reviewed at the department's Asheville Regional Office. To make an appointment to review the documents, please call 828-296-4500. Public comment on the draft permit renewal and on the proposed removal of the existing color variance should be mailed to: Wastewater Permitting, Attn: Blue Ridge Paper Products Permit, 1617 Mail Service Center, Raleigh, N.C., 27699-1617. Public comments may also be submitted by email to: publiccomments@ncdenr.gov. Please be sure to include "Blue Ridge Paper Products" in the email's subject line.

COLOR VARIANCE INFORMATION

Notice is also hereby given in accordance with NC G.S. 150B-21.2 and G.S. 150B-21.3A, G.S. 143-214.1 and federal regulations at 40 CFR 131.20 (b), 40 CFR 131.14 and 40 CFR 25.5 that the NC Environmental Management Commission (EMC) is requesting comment on removing the color variance from the effluent permit requirements applicable to Blue Ridge Paper Products, LLC. All comments received by April 30, 2021 will be considered. Comments should be mailed to: Wastewater Permitting, Attn: Blue Ridge Paper Products Permit, 1617 Mail Service Center, Raleigh, N.C., 27699-1617. Public comments may also be submitted by email to: publiccomments@ncdenr.gov. Please be sure to include "Blue Ridge Paper Products" in the email's subject line. Public records related to the EMC consideration of the variance are located at: <https://deq.nc.gov/about/divisions/water-resources/water-resources-commissions/environmental-management-commission-71>

BACKGROUND

The effluent permit limit requirements applicable to Blue Ridge Paper Products, LLC established in compliance with NC G.S. 143-215.1, other lawful standards and regulations promulgated and adopted by the EMC, and the Clean Water Act (Act), as amended, previously contained a variance provision to the state's narrative, aesthetic, water quality standard for color. The variance was granted July 13, 1988, by the EMC, under provisions in G.S. 143-215.3(e). Further, the variance has been continued under regulations contained in 15A NCAC 02B .0226, Exemptions From Surface Water Quality Standards: "Variances from applicable standards, revisions to water quality standards or site-specific water quality standards may be granted by the Commission on a case-by-case basis pursuant to G.S. 143-215.3(e), 143-214.3 or 143-214.1. A listing of existing variances shall be maintained and made available to the public by the Division. Exemptions established pursuant to this Rule shall be reviewed as part of the Triennial Review of Water Quality Standards conducted pursuant to 40 CFR 131.10(g)."

NC DEQ DWR has concluded that a variance from the narrative provision at 15A NCAC 02B .0211 (12), historically interpreted as an instream true color value of 50 platinum cobalt units (PCU), is no longer necessary. As outlined in the accompanying supporting materials, significant improvements to the instream concentrations of color in the Pigeon River, combined with specific limits on color and an updated reevaluation regarding the narrative provision and protection of the designated uses, support removal of the variance. While 40 CFR Part 131 requires that "a State may not adopt Water Quality Standard (WQS) variances if the designated use and criterion addressed by the WQS variance can be achieved..." by implementing certain effluent measures, the permit contains technology-based effluent limits (see page 4 of the draft permit) that result in achieving the same goal and are in accordance with the most recent US EPA Technology Review Workgroup recommendations. In addition to the removal of the variance, the 2020 draft permit includes monitoring requirements that the facility meet a monthly average delta (Δ) Color of 50 PCU at the Fiberville Bridge, when the Pigeon River flow

at Canton is equal or above the Monthly 30Q2 flow of 129 cubic feet per second. Previously, a Settlement Agreement between NC, Tennessee (TN), and the US Environmental Protection Agency (EPA) required that the facility meet an instream color of 50 PCU at the TN/NC state line, located approximately 40 river miles below the discharge. A summary of the history of the variance, review of applicable regulations, and a reevaluation of the stream conditions is located at: <https://deq.nc.gov/news/events/public-notices-hearings>

RECOMMENDATION

In accordance with state and federal regulations, the proposed variance modification to the permit is effectively a change to water quality standards and subject to public hearing. Under 40 CFR Part 131.14 (b)(1)(v) the state has reevaluated the Color Variance, examined the highest attainable condition using all existing and readily available information and, now, provides notification to obtain public input on this reevaluation, to confirm the finding that the present condition for color corresponds to meeting the applicable criterion at 15A NCAC 02B .0211(12) and that a variance is no longer required for this facility per the intent of 40 CFR Part 131. Upon completion of the review process, and certification under 40 CFR Part 132.5(b)(2) from the State’s Attorney General’s office that proper notification has been given, the results of the EMC decisions will be submitted to the EPA for action.

ONLINE PUBLIC HEARING

In the abundance of caution, and to address protective measures to help prevent the spread of COVID-19, the hearing will be held online.

Date: April 14, 2021

Time: 6 pm

WebEx link: <https://ncdenrits.webex.com/ncdenrits/onstage/g.php?MTID=e6dd914ab0c9b2593dbb23321a36af245>

WebEx password: Nk2BCEzm7P2

WebEx phone number: 1-415-655-0003

WebEx access code: 171 787 6586 (Please see information below regarding registering for, joining, and commenting at the public hearing.)

Comment Period Ends: April 30, 2021

REGISTRATION

To register for the hearing and provide your preference regarding speaking at the hearing, please visit:

https://forms.office.com/Pages/ResponsePage.aspx?id=31F2etC5mkSFw-zCbNftGRcM2xmuszROiks3JDQp2_RURjJSWUpMRThRSURXVzA5WFU5MkdNUzk1UC4u



Or scan the following QR code with your phone:

Registration must be completed by 12:00 pm on April 14, 2021. If you have any problems registering online, please call 919-707-9011 or email peter.johnston@ncdenr.gov by the registration deadline of 12:00 pm on April 14, 2021.

The Division of Water Resources highly recommends testing your computer's WebEx capabilities prior to the hearing at <https://www.webex.com/test-meeting.html>. For instructions about digital ways to join the public hearing, please refer to the WebEx Help Center online at <https://help.webex.com/en-us/>

To comment during the hearing after your name is called as a registered speaker and/or after the hearing officer asks if any people wish to comment following the registered speakers:

- If you join the hearing by phone, press *3 to “raise your hand,” speak, and press *3 to “lower your hand.”
- If you join the hearing online, press the “raise your hand” icon, speak, and press the “lower your hand” icon.
- The Hearing Officer may limit the length of time that you may speak, so that all those who wish to speak may do so.

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 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 rules cited as 15A NCAC 02D .1701-.1710.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>

Proposed Effective Date: September 1, 2021

Public Hearing:

Date: March 24, 2021

Time: 6:00 p.m.

Location: A virtual public hearing will be held by webinar as follows:

WebEx Events meeting link: <https://bit.ly/360UcyX> , Event password: NCDAQ

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. US TOLL +1-415-655-0003, Access code: 1781985004

*If you wish to speak at the digital public hearing, you must register, provide the required information, and follow instructions on ways to join the public hearing. Registration must be completed by 4:00 PM on March 24, 2020. To register, please click the following link: <https://bit.ly/3iEcNWF>

*For instructions on ways to join the public hearing, please refer to the following link:

<https://files.nc.gov/ncdeq/Air%20Quality/rules/hearing/instructions-on-ways-to-join-webex.pdf>

<https://www.webex.com/test-meeting.html>

Reason for Proposed Action: To receive comments on the proposed amendment of the 15A NCAC 02 .1700 Municipal Solid Waste Landfill Rules. Also, to receive comment on the accompanying fiscal note for the proposed amendment."

On August 29, 2016, the Environmental Protection Agency (EPA) finalized changes to the Standards of Performance for Municipal Solid Waste (MSW) Landfills. The EPA's review identified advances in technology and operating practices for reducing emissions of LFG. The EPA promulgated a new subpart, 40 CFR Part 60, Subpart XXX, Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014, which was automatically adopted through 15A NCAC 02D .0524.

In the same action, the EPA promulgated a new subpart under 40 CFR Part 60, Subpart Cf, Emission Guidelines and Compliance

Times for Municipal Solid Waste Landfills, to revise the emission guidelines (EGs) that apply to existing MSW landfills. Previously, the EGs under 40 CFR Part 60, Subpart Cc applied to existing MSW landfills. The revised EGs apply to landfills that have accepted waste at any time since November 8, 1987 and commenced construction, reconstruction, or modification on or before July 17, 2014. The EPA revised the EG to account for significant changes that have occurred in the landfill industry over time, including changes to the size and number of existing landfills, industry practices, and gas control methods and technologies.

40 CFR Part 60, Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills, will continue to apply to MSW landfills that commenced construction, reconstruction, or modification after May 30, 1991 and on or before July 17, 2014, until there is an approved state or federal plan that implements 40 CFR Part 60, Subpart Cf.

In conjunction with promulgation of the Affordable Clean Energy rule on July 8, 2019, the EPA updated the CAA 111(d) implementing regulations under a new subpart, 40 CFR Subpart 60, Subpart Ba, Adoption and Submittal of State Plans for Designated Facilities. Specifically, this action amended the timing requirements in 40 CFR 60.23 and 60.27 for submission of state plans, and the issuance of federal plans. On August 26, 2019, the EPA adopted the 40 CFR Part 60, Subpart Ba implementation requirements into the EG under 40 CFR 60, Subpart Cf. The EPA also set a compliance date of August 29, 2019 for states to submit state plans. The EPA is required to determine completeness with 6 months of a state plan submittal, and approve or disapprove the state plan within 12 months of the completeness determination.

On March 26, 2020, the EPA adopted changes to 40 CFR Part 60, Subpart Cf, allowing impacted sources to demonstrate compliance with LFG requirements for control and allow landfills to comply with operational standards, compliance provisions, monitoring requirements, and the associated recordkeeping and reporting requirements by following the corresponding requirements in the National Emission Standards for Hazardous Pollutants (NESHAP) for MSW Landfills.

The proposed rulemaking amends the existing 15A NCAC 02D.1700 rules to make them consistent with 40 CFR Part 60 Subpart Cf, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, as part of North Carolina's implementation of this federal EG. Existing MSW landfills that commenced construction, reconstruction, or modification, or accepted waste before July 17, 2014 are subject to this rule. The amended rule incorporates all requirements associated with the EG. Note this rule is based on the federal EG for landfills, not the NSPS, which applies to new landfills. The landfills that were

considered a "new source" under the current 15A NCAC 02D.1700 rules are now considered "existing sources" under the proposed amendments to these rules, and are subject to the revised EG under 40 CFR 60 Subpart Cf. The primary change to the current rule, apart from incorporating some minor recordkeeping, monitoring and reporting requirements, is the lowering of the NMOC emissions threshold from 50 Mg/year to 34 Mg/year but closed landfills still retain the 50 Mg/year threshold and therefore they are not impacted.

A fiscal note was submitted to and approved by the Office of State Budget of Management (OSBM) to reflect economic impacts to the regulated community and local and state agencies. DEQ estimates the total impact to both the facilities and the DAQ to modify these six permits in year 2021 is estimated to be \$61,368. The estimated impacts of this proposed rule are not substantial as defined in North Carolina's Administrative Procedures Act in NC General Statute 150B-21.4, Fiscal Note on Rules. The term "substantial economic impact" means an aggregate financial impact on all persons affected of at least one million dollars (\$1,000,000) in a 12-month period. A copy of this fiscal note can be obtained at OSBM's website by following https://files.nc.gov/ncosbm/documents/files/DEQ_2020-10-27.pdf.

There are a total of 10 rules in 15A NCAC 02D .1700 that are proposed for amendment to make them consistent with 40 CFR Part 60 Subpart Cf, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, as part of North Carolina's implementation of this federal EG. Existing MSW landfills that commenced construction, reconstruction, or modification, or accepted waste before July 17, 2014 are subject to this rule.

Comments may be submitted to: Patrick Knowlson, 217 West Jones St., 1641 Mail Service Center, Raleigh, NC 27699-1641; phone (919) 707-8711; fax (919) 715-0717; email daq.publiccomments@ncdenr.gov (Please type "Landfills" in the subject line)

*If you have technical difficulties, the following automated voicemail has been set up to receive your verbal comments: 919-707-8430"

Si necesita esta información en español, comuníquese con Carolina llamando al 919-609-2189 o enviando un correo electrónico Guadalupe.jimenez@ncdenr.gov

Comment period ends: April 16, 2021

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .1700 - MUNICIPAL SOLID WASTE LANDFILLS

15A NCAC 02D .1701 DEFINITIONS

The definitions in 40 CFR ~~60.754~~ 60.41f apply to this Section.

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

15A NCAC 02D .1702 APPLICABILITY

(a) This Section applies to each existing MSW landfill that accepted waste since November 8, 1987 and that commenced construction, reconstruction, or modification on or before July 17, 2014.

All existing MSW landfills that meet the following conditions are subject to this Section:

- (1) ~~The landfill has accepted waste at any time since November 8, 1987, or has additional permitted capacity available for future waste deposition and has not been documented by the Division as being permanently closed; and~~
- (2) ~~The landfill was in operation, or construction, reconstruction, or modification was commenced before July 17, 2014.~~

(b) Physical or operational changes made to an existing MSW landfill solely to comply with an emission standard under this Section are not considered a modification or reconstruction, and do not subject an existing MSW landfill to the requirements of 40 CFR 60, Subpart XXX or 15A NCAC 02D .0524.

(c) For purposes of obtaining an operating permit pursuant to Title V of the Clean Air Act, the owner or operator of an MSW landfill subject to 40 CFR Part 60, Subpart Cf with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters shall not subject to the requirement to obtain an operating permit for the landfill pursuant to 40 CFR Part 70 or 71 unless the landfill is otherwise subject to either 40 CFR Part 70 or 71. For purposes of submitting a timely application for an operating permit pursuant to 40 CFR Part 70 or 71, the owner or operator of an MSW landfill subject to 40 CFR Part 60, Subpart Cf with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters on the effective date of EPA approval

of the state's program pursuant to Section 111(d) of the Clean Air Act, and not otherwise subject to either 40 CFR Part 70 or 71, becomes subject to the requirements of 40 CFR 70.5(a)(1)(i) or 40 CFR 71.5(a)(1)(i) within 90 days after the effective date of such Section 111(d) program approval, even if the design capacity report is submitted earlier.

(d) When an MSW landfill subject to 40 CFR 60, Subpart Cf is closed as defined in this Section, the owner or operator shall no longer be subject to the requirement to maintain an operating permit pursuant to 40 CFR Part 70 or 71 for the landfill if the landfill is not otherwise subject to the requirements of either 40 CFR Part 70 or 71 and if either of the following conditions are met:

- (1) The landfill was never subject to the requirement to install and operate a gas collection and control system pursuant to 40 CFR 60.33f(f); or
- (2) The landfill meets the conditions for control system removal specified in 40 CFR 60.33f(f).

(e) When an MSW landfill subject to 40 CFR Part 60, Subpart Cf is in the closed landfill subcategory, the owner or operator shall not subject to the reports of 40 CFR Part 60, Subpart Cf, provided the owner or operator submitted these reports pursuant to the provisions of 40 CFR Part 60, Subpart WWW, 40 CFR Part 62, Subpart GGG, or this Section on or before July 17, 2014, as follows:

- (1) Initial design capacity report specified in 40 CFR 60.38f(a);
- (2) Initial or subsequent NMOC emission rate report specified in 40 CFR 60.38f(c), provided that the most recent NMOC emission rate report indicated the NMOC emissions were below 50 megagrams per year;
- (3) Collection and control system design plan specified in 40 CFR 60.38f(d);
- (4) Closure report specified in 40 CFR 60.38f(f);
- (5) Equipment removal report specified in 40 CFR 60.38f(g);
- (6) Initial annual report specified in 40 CFR 60.38f(h); and
- (7) Initial performance test report in 40 CFR 60.38f(i).

Authority 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(10).

15A NCAC 02D .1703 EMISSION STANDARDS

(a) Any MSW landfill subject to this Section and meeting the following two conditions shall meet the gas collection and control requirements of Paragraph (b) of this Rule: Any MSW landfill subject to this Section and having a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume shall be required to collect and control MSW landfill emissions if the following conditions apply:

- (1) The landfill has a design capacity greater than or equal to 2.75 million tons and 2.5 million cubic meters. The owner or operator of the landfill may calculate the design capacity in either tons or cubic meters for comparison with

the exemption values. Any density conversion shall be documented and submitted along with the initial reporting requirements of 15A NCAC 02D .1708(a); and The landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition;

- (2) The landfill has a non methane organic compound (NMOC) emission rate of 55 tons per year or more. The NMOC emission rate shall be calculated by following the procedures outlined in 40 CFR 60.754. The landfill commenced construction, reconstruction, or modification on or before July 17, 2014;
- (3) The landfill has an NMOC emission rate greater than or equal to 34 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater, and
- (4) The landfill is in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(b) Each owner or operator of a MSW landfill meeting the conditions of Paragraph (a) of this Rule shall: shall install and start up a collection and control system that captures the gas within the landfill within 30 months after:

- (1) submit to the Director a site specific design plan for the gas collection and control system that meets the requirements of 40 CFR 60.752(b)(2)(i);
- (2) install a gas collection system that meets the requirements of 40 CFR 60.752(b)(2)(ii); and
- (3) control the collected emissions of MSW landfill gas through the use of one or more of the following control options:
 - (A) An open flare designed and operated in accordance with the parameters established in 40 CFR 60.18;
 - (B) A control system designed and operated to reduce NMOC by 98 weight percent;
 - (C) An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 parts per million as hexane by volume, on a dry basis at three percent oxygen, or less; or
 - (D) A treatment system that processes the collected gas for subsequent sale or use in accordance with 40 CFR 60.752(b)(2)(iii)(C).
- (1) the first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in 40 CFR 60.38f(d)(4); or

- (2) the first annual NMOC emission rate report for a landfill in the closed landfill subcategory in which the NMOC emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 50 megagrams per year, as specified in 40 CFR 60.38f(d)(4); or
- (3) the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater as specified in 40 CFR 60.38f(d)(4)(iii).

~~(e) The gas collection and control system required by this Rule may be capped or removed provided that all the conditions of 40 CFR 60.752(b)(2)(v)(A), (B), and (C) are met.~~

(c) Each owner or operator of a MSW landfill meeting the conditions of Paragraph (a) of this Rule shall control the gas collected from within the landfill through the use of control devices meeting the following requirements, except as provided in 40 CFR 60.24:

- (1) A non-enclosed flare designed and operated in accordance with the parameters established in 40 CFR 60.18 except as noted in 40 CFR 60.37f(d); or
- (2) A control system designed and operated to reduce NMOC by 98 weight percent; or when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at three percent oxygen or less. The reduction efficiency or concentration in parts per million by volume shall be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in 40 CFR 60.35f(d). The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this Rule.

- (A) If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone;
- (B) The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored shall be specified in 40 CFR 60.37f;
- (C) For the closed landfill subcategory, the initial or most recent performance test conducted to comply with 40 CFR Part

60, Subpart WWW; 40 CFR Part 62, Subpart GGG; or 40 CFR Part 60, Subpart Cc on or before July 17, 2014; shall be sufficient for compliance with this 40 CFR Part, Subpart Cf;

- (3) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air is not allowed. If the treated landfill gas cannot be routed for subsequent sale or beneficial use, then the treated landfill gas shall be controlled pursuant to either Subparagraph (c)(1) or (2) of this Rule;
- (4) All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of Paragraph (b) or (c) of this Rule. For purposes of this Subparagraph, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of Paragraph (b) or (c) of this Rule.

(d) Each owner or operator of a MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall submit an initial design capacity report to the Division as provided in 40 CFR 60.38f(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the report. Submittal of the initial design capacity report fulfills the requirements of this Rule, except as provided in Subparagraphs (d)(1) and (2) of this Rule, as follows:

- (1) The owner or operator shall submit an amended design capacity report as provided in 40 CFR 60.38f(b). If the design capacity increase is the result of a modification, as defined in 15A NCAC 02D .1701, that was commenced after July 17, 2014, then the landfill becomes subject to 40 CFR Part 60 Subpart XXX instead of 40 CFR Part 60 Subpart Cf. If the design capacity increase is the result of a change in operating practices, density, or some other change that is not a modification as defined in this subpart, then the landfill remains subject to Subpart Cf; and
- (2) When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator shall comply with Paragraph (e) of this Rule.

(e) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall either install a collection and control

system as provided in Paragraphs (b) and (c) of this Rule or calculate an initial NMOC emission rate for the landfill using the procedures specified in 40 CFR 60.35f(a). The NMOC emission rate shall be recalculated annually, except as provided in 40 CFR 60.38f(c)(3), as follows:

(1) If the calculated NMOC emission rate is less than 34 megagrams per year, the owner or operator shall submit an annual NMOC emission rate report according to 40 CFR 60.38f(c), and recalculate the NMOC emission rate annually using the procedures specified in 40 CFR 60.35f(a) until such time as the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed. This annual NMOC emission rate reporting requirement shall not apply to the facilities that elected to submit their reports as provided in 40 CFR 60.38f(c)(3):

(A) if the calculated NMOC emission rate, upon initial calculation or annual recalculation required in Subparagraph (e)(1) of this Rule, is equal to or greater than 34 megagrams per year, the owner or operator shall either: Comply with Paragraphs (b) and (c) of this Rule; calculate NMOC emissions using the next higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6);

(B) if the landfill is permanently closed, a closure report shall be submitted to the Division as provided in 40 CFR 60.38f(f), except for exemption allowed pursuant to 40 CFR 60.31f(e)(4); and

(C) for the closed landfill subcategory, if the most recently calculated NMOC emission rate is equal to or greater than 50 megagrams per year, the owner or operator shall either: submit a gas collection and control system design plan as specified in 40 CFR 60.38f(d), except for exemptions allowed pursuant to 40 CFR 60.31f(e)(3), and install a collection and control system as provided in Paragraphs (b) and (c) of this Rule; calculate NMOC emissions using the next higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6);

(2) If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator shall either: submit a collection and control system design plan prepared by a professional

engineer to the Division within one year as specified in 40 CFR 60.38f(d), except for exemptions allowed in 40 CFR 60.31f(e)(3); calculate NMOC emissions using a higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6); and

(3) For the closed landfill subcategory, if the calculated NMOC emission rate is equal to or greater than 50 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator shall either: submit a collection and control system design plan as specified in 40 CFR 60.38f(d), except for exemptions allowed pursuant to 40 CFR 60.31f(e)(3); calculate NMOC emissions using a higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6).

(f) The collection and control system may be capped, removed, or decommissioned if the following criteria are met:

(1) The landfill is a closed landfill as defined in 40 CFR 60.41f. A closure report shall be submitted to the Division as provided in 15A NCAC 02D .1708(f);

(2) The collection and control system has been in operation a minimum of 15 years or the landfill owner or operator demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flow;

(3) Following the procedures specified in 40 CFR 60.35f(b), the calculated NMOC emission rate at the landfill is less than 34 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart; and

(4) For the closed landfill subcategory as defined in 40 CFR 60.41f, following the procedures specified in 40 CFR 60.35f(b), the calculated NMOC emission rate at the landfill is less than 50 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(10).

15A NCAC 02D .1704 TEST METHODS AND PROCEDURES

The MSW landfill NMOC emission rate shall be ~~calculated~~ calculated, or a surface emission monitoring demonstration be conducted, by following the procedures in 40 CFR ~~60.754, 60.35f,~~ as applicable, ~~in order~~ to determine whether the landfill meets the conditions of 15A NCAC 02D ~~1703(a)(2), 1703(a)(3) or (4).~~

Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10).

15A NCAC 02D .1705 OPERATIONAL STANDARDS

The owner and operator of a MSW landfill required to install a landfill gas collection and control system to comply with 15A NCAC 02D .1703(b) and (c) shall:

- (1) operate the collection system ~~in accordance with 40 CFR 60.753(a)~~; such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:
 - (a) five years or more if active; or
 - (b) two years or more if closed or at final grade;
- (2) operate the collection system with negative pressure at each wellhead ~~in accordance with 40 CFR 60.753(b)~~; except under the following conditions:
 - (a) for a fire or increased well temperature, the owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the annual reports as provided in 40 CFR 60.38f(h)(1);
 - (b) for the use of a geomembrane or synthetic cover, the owner or operator shall develop acceptable pressure limits in the design plan; and
 - (c) for a decommissioned well, a well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes shall be approved by the Division as specified in 40 CFR 60.38f(d);
- (3) operate each interior wellhead in the collection system ~~in accordance with 40 CFR 60.753(e)~~; with a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator may establish a higher operating temperature value at a particular well. A higher operating value demonstration shall be submitted to the Division for approval and shall include supporting data demonstrating that the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens. The demonstration shall satisfy both criteria listed above in order to be approved;
- (4) operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner and operator ~~shall follow the procedures given in 40 CFR 60.753(d)~~; shall conduct surface testing using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in 40 CFR 60.36f(d). The owner or operator shall conduct surface testing around

the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. The owner or operator shall monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan shall be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30-meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing;

- (5) operate the collection system such that all collected gases are vented to a control system designed and operated in compliance with ~~15A NCAC 02D .1703(b)(3)~~; 40 CFR 60.33f(c). In the event that the gas collection and control system is inoperable, measures shall be taken as outlined in 40 CFR 60.753(e); not operating, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within one hour of the collection or control system not operating;
- (6) operate the control system at all times when the collected gas is routed to the ~~control~~ system;
- (7) ~~take corrective action as specified in 40 CFR 60.755(e) if monitoring demonstrates that the operation standards and requirements of Items (2), (3), and (4) of this Rule are not met. If the required corrective actions are taken, the emissions monitored shall not be considered a violation of the operational standards of this Rule. If monitoring demonstrates that the operational requirements in Item (2), (3), or (4) of this Rule are not met, corrective action shall be taken as specified in 40 CFR 60.36f(a)(3) and (a)(5) or (c). If corrective actions are taken as specified in 40 CFR 60.36f, the monitored exceedance shall not be a violation of the operational requirements in this Rule; and~~
- (8) The owner or operator may choose to comply with the provisions of 40 CFR 63.1958 in lieu of Items (1) through (7) of this Rule. Once the owner or operator begins to comply with the provisions of 40 CFR 63.1958, the owner or operator shall continue to operate the collection and control device according to those provisions and cannot return to the provisions of this Rule.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(10).

15A NCAC 02D .1706 COMPLIANCE PROVISIONS

- (a) Compliance with 15A NCAC 02D .1703(b) shall be determined using the gas collection system compliance provisions of 40 CFR ~~60.755(a)-~~ 60.36f(a).
- (b) Compliance with 15A NCAC 02D .1705(1) shall be determined using the controlled landfill gas well and design component provisions of 40 CFR ~~60.755(a)-~~ 60.36f(b).
- (c) Compliance with the surface methane operational standards of 15A NCAC 02D .1705(4) shall be achieved determined using the procedures of 40 CFR ~~60.755(e) and (d)-~~ 60.36f(c).
- (d) To comply with the provisions in Paragraph (c) of this Rule or 40 CFR 60.35f(a)(6), the owner or operator shall comply with the instrumentation specifications and procedures for surface emission monitoring devices provisions of 40 CFR 60.36f(d).
- ~~(e)(d)~~ The provisions of this Rule apply at all times; apply, except during periods of start-up, shutdown, or malfunction, provided that the duration of start up, shutdown, or malfunction shall not exceed five days for collection systems and shall not exceed one hour for treatment or control devices. During periods of startup, shutdown, and malfunction, the owner or operator shall comply with the work practice specified in 40 CFR 60.34f(e) in lieu of the compliance provisions in 40 CFR 60.36f.
- (f) The owner or operator may choose to comply with the provisions of 40 CFR 63.1960 in lieu of Paragraphs (a) through (e) of this Rule. Once the owner or operator begins to comply with the provisions of 40 CFR 63.1960, the owner or operator shall continue to operate the collection and control device according to those provisions and cannot return to the provisions of this Rule.
- (g) Compliance with the specifications for active collection systems in 15A NCAC 02D .1703(b) shall be determined using the provisions of 40 CFR 60.40f(a) and (b).
- (h) Compliance with the specifications for active collection systems in 15A NCAC 02D .1703(c) shall be determined using the provisions of 40 CFR 60.40f(c).

Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10).

15A NCAC 02D .1707 MONITORING PROVISIONS

- (a) The owner or operator of a MSW landfill who is required to comply with 15A NCAC 02D ~~.1703(b)(2),~~ 1703(b) for an active gas collection system shall perform the monitoring requirements as outlined in 40 CFR ~~60.756(a)-~~ 60.37f(a).
- (b) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D ~~.1703(b)(3)(C),~~ 1703(c) using an enclosed combustor shall perform the monitoring requirements as outlined in 40 CFR ~~60.756(a)-~~ 60.37f(b).
- (c) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D ~~.1703(b)(3)(A),~~ 1703(c) using ~~an open~~ a non-enclosed flare shall perform the monitoring requirements as outlined in 40 CFR ~~60.756(e)-~~ 60.37f(d).
- (d) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D ~~.1703(b)(3),~~ 1703(c) using a device other than an open ~~flare or flare,~~ an enclosed combustor or treatment system shall comply with the provisions of 40 CFR ~~60.756(d)-~~ 60.37f(d).

- (e) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D ~~.1703(b)(3)(B),~~ 1703(b) ~~using an active~~ by installing a collection system that does not meet the specifications of 40 CFR 60.40f, or seeking to monitor alternative parameters to those required by 15A NCAC 02D .1704 through .1707 shall comply with the provisions of 40 CFR ~~60.756(e)-~~ 60.37f(e).
- (f) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D ~~.1706(e)~~ .1705(4) for demonstrating compliance with the 500 parts per million surface methane operational standard shall do so in accordance with 40 CFR ~~60.756(f)-~~ 60.37f(f).
- (g) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(c) shall do so in accordance with the provisions of 40 CFR 60.37f(g).
- (h) The monitoring requirements of Paragraphs (b), (c), (d), and (g) of this Rule apply at all times the affected source is operating, except for periods of monitoring system malfunctions, repairs associated with the monitoring system malfunctions, and required monitoring system quality assurance or quality control activities. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. Monitoring system repairs to return the monitoring system to operation in response to malfunctions shall be completed as expeditiously as practicable.
- (i) The owner or operator may choose to comply with the provisions of 40 CFR 63.19561 in lieu of Paragraphs (a) through (h) of this Rule. Once the owner or operator begins to comply with the provisions of 40 CFR 63.1961, the owner or operator shall continue to operate the collection and control device according to those provisions and cannot return to the provisions of this Rule.

Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10).

15A NCAC 02D .1708 REPORTING REQUIREMENTS

- (a) The owner or operator of ~~a~~ an existing MSW landfill subject to this Rule according to 15A NCAC 02D .1702 shall submit a design capacity report to the Director ~~in accordance with the following:~~ as follows:
 - (1) The initial design capacity report shall fulfill the requirements of the notification of the date construction is commenced as required under 40 CFR 60.7(a)(1) and shall be submitted no later than the earliest of the day from the dates given in 40 CFR 60.757(a)(1)(i) and 40 CFR 60.757(a)(1)(ii); be submitted no later than 90 days after the effective date of the EPA approval of the State Plan pursuant to Section 111(d) of the Clean Air Act;
 - (2) The initial design capacity report shall contain the information given in 40 CFR 60.757(a)(2)(i) 60.38f(a)(1) and 40 CFR 60.757(a)(2)(ii); and 60.38f(a)(2) as follows:
 - (A) a map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where solid

waste may be landfilled according to the permit issued by the state, local, or tribal agency responsible for regulating the landfill; and

(B) the maximum design capacity of the landfill as given in 40 CFR 60.38f(a)(2).

(3) An amended design capacity report shall be submitted to the Director in accordance with 40 CFR 60.757(a)(3) whenever an increase in the design capacity of the landfill results in the design capacity of the landfill to exceed 2.5 million cubic meters and 2.75 million tons.

(b) The owner or operator of an existing MSW landfill subject to this Section shall submit an amended design capacity report providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to meet or exceed 2.5 million megagrams and 2.5 million cubic meters. An increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in 15A NCAC 02D .1709(j).

(c)(b) The owner or operator of a an existing MSW landfill subject to this Rule shall submit a NMOC emission report to the Director ~~initially~~ no later than 90 days after the effective date of EPA approval of the state plan pursuant to Section 111(d) of the Clean Air Act and annually thereafter, except as provided for in 40 CFR 60.757(b)(1)(ii) 60.38f(c), or (b)(3). The initial NMOC emission rate report shall be submitted within 90 days of the day waste acceptance commences and may be combined with the initial design capacity report required in Paragraph (a) of this Rule. The NMOC emission rate report shall:

- (1) contain an annual or five-year estimate of the NMOC emission rate calculated using the formula and procedures provided in 40 CFR 60.754(a) 60.35f(a) or (b), as applicable; and
- (2) include all the data, calculations, sample reports, and measurements used to estimate the annual or five-year ~~emissions~~ emissions; and
- (3) if the estimated NMOC emission rate as reported in the annual report is less than 34 megagrams per year in each of the next five consecutive years, the owner or operator may elect to submit an estimate of the NMOC emission rate for the next five-year period in lieu of the annual report. This estimate shall include the current amount of solid waste-in-place and the estimate waste acceptance rate for each year of the five years for which an NMOC emission rate is estimated. All data and calculations shall be provided. This estimate shall be revised at least once every five years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the five-year estimate, a revised five-year estimate shall be submitted. The revised estimate shall cover the five-year period beginning with the year in which the actual

waste acceptance rate exceeded the estimated waste acceptance rate.

(4) each owner and operator subject to the requirements of this Rule shall be exempted from the requirements to submit an NMOC emission rate report, after installing a compliant collection and control system, during such time as the collection and control system is in operation and in compliance with 15A NCAC 02D .1705 and .1706.

(d)(e) The owner or operator of a an existing MSW landfill subject to 15A NCAC 02D .1703 .1703(b) shall submit a collection and control system design plan to the Director within one year of the first NMOC emission rate report, required under Paragraph (b)(c) of this Rule, in which the emission rate equals or exceeds 55 tons 34 megagrams per year, except as provided for in 40 CFR 60.757(e)(1) and (e)(2). 60.38f(d)(4). The collection and control system design plan shall include:

- (1) a description of the collection and control system;
- (2) a description of any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions provided in this Rule; and
- (3) a description indicating how the plan conforms to specifications for active collection systems or provide a demonstration of sufficient alternative provisions as given in 40 CFR 60.40f.

(e) The owner or operator of an existing MSW landfill who has already submitted a design plan pursuant to Paragraph (d) of this Rule, pursuant to 40 CFR Part 60, Subpart WWW, or a state plan implementing 40 CFR Part 60, Subpart Cc, shall submit a revised design plan to the Director for approval as follows:

- (1) at least 90 days before expanding operations to an area no covered by the previously approved design plan; and
- (2) prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Director in Paragraph (d) of this Rule.

(f)(d) The owner or operator of a controlled landfill shall submit a closure report to the Director within 30 days of cessation of waste acceptance. If a closure report has been submitted to the Director, no additional waste shall be placed into the landfill without first filing a notification of modification as described under pursuant to 40 CFR 60.7(a)(4). The Director may request such additional information as may be necessary to verify that permanent closure of the MSW landfill has taken place ~~in accordance with~~ pursuant to the requirements of 40 CFR 258.60.

(g)(e) The owner or operator of a controlled MSW landfill shall submit an equipment removal report 30 days prior to removal or cessation of operation of the control equipment according to 15A NCAC 02D .1703(e). .1703(f). The report shall contain the items listed in 40 CFR 60.757(e)(1). 60.38f(g). The Director may request such additional information as may be necessary to verify that all the conditions for removal in 40 CFR 60.752(b)(2)(v) 60.33f(f) have been met.

~~(h)(f)~~ The owner or operator of a MSW landfill seeking to comply with 15A NCAC 02D ~~.1703(b)(2)~~, 1703(b) using an active collection system designed in accordance with 40 CFR ~~60.752(b)(2)(ii)~~ 60.333f(b) shall submit annual reports of the recorded information in 40 CFR ~~60.757(f)(4)~~ 60.38f(h)(1) through ~~(f)(6)~~, (h)(7). The initial annual report shall be submitted within 180 days of installation and start-up of the collection and control system, and shall include the initial performance test report required under 40 CFR 60.8. Each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706 and .1707, the owner or operator must follow the semi-annual reporting requirements in 40 CFR 63.1981(h) in lieu of this Paragraph.

~~(g)~~ The owner or operator of a MSW landfill seeking to comply with 15A NCAC 02D .1703(b)(3) using an enclosed combustion device or flare shall report the excess as defined in 40 CFR 60.758(e)(1).

~~(i)(h)~~ The owner or operator of a an existing MSW landfill required to comply with 15A NCAC 02D ~~.1703(b)(1)~~, 1703(b) shall include the information given in 40 CFR ~~60.757(g)(4)~~ 60.38f(i)(1) through ~~(g)(6)(i)(6)~~ with the initial performance test report required ~~under pursuant to~~ 40 CFR 60.8.

(j) The owner or operator of an existing MSW landfill shall submit a report within 60 days after the date of completing each performance test. This report may be submitted as a hard copy or electronically as applicable.

(k) The owner or operator of an existing MSW landfill required to implement corrective active, shall submit reports to the Director pursuant to 40 CFR 60.38f(k)(1) and (k)(2). Each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706 and .1707, the owner or operator shall follow the corrective action and the corresponding timeline reporting requirements in 40 CFR 63.1981(j) in lieu of this Paragraph.

(l) The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that has employed leachate recirculation or added liquids based on a Research, Development, and Demonstration permit within the last 10 years shall submit an annual report to the Director that includes the information pursuant to 40 CFR 60.38f(l)(1) through (l)(10).

(m) The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that intends to demonstrate site-specific surface methane emissions are below 500 parts per million methane, based on Tier 4 provisions of 40 CFR 60.35f(a)(6), shall provide notifications to the Director in accordance with 40 CFR 60.38f(m)(1) and (m)(2).

(n) Each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706 and .1707, shall submit the 24-hour high temperature report according to 40 CFR 63.1981(k).

Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10).

15A NCAC 02D .1709 RECORDKEEPING REQUIREMENTS

(a) The owner or operator of a MSW landfill subject to this Section ~~and shall keep on-site~~ on-site, accessible, for at least five years ~~records of the information listed in 40 CFR 60.758(a), a copy of the design capacity report that triggered 40 CFR 60.333f(e), the current amount of solid waste in-place, and the year-by-year waste acceptance rate.~~ Off-site records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats of the records shall be acceptable.

(b) The owner or operator of a controlled landfill shall keep up-to-date records pursuant to 40 CFR 60.768(b) for the life of the control equipment of the data listed in 40 CFR ~~60.758(b)(4)~~ 60.39f(b)(1) through ~~(b)(4)(b)(5)~~ as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of five years. Records of the control device vendor specifications shall be maintained until removal.

(c) Each owner or operator of a controlled MSW landfill subject to this Section shall keep for five years up-to-date records pursuant to 40 CFR 60.768(c) of the equipment operating parameters specified to be monitored in 15A NCAC 02D .1707 and records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The parameter boundaries considered in excess of those established during the performance test are defined in 40 CFR ~~60.758(e)(1)(i)~~ 60.39f(c)(1)(i) and (ii) and are also required to be reported pursuant to 15A NCAC 02D ~~.1708(g)~~, .1708(j).

(d) The owner or operator of a MSW landfill subject to this Section shall keep up-to-date, readily accessible continuous records of the indication of flow to the control system and the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configuration used to seal bypass lines as specified in 40 CFR 60.37f.

(e) The owner or operator of a MSW landfill subject to this Section who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with 40 CFR 60.33f(c) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater.

(f) The owner or operator of a MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(c) by use of a non-enclosed flare shall keep up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

(g) The owner or operator of a MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(b) using an active collection system designed pursuant to 40 CFR 60.333f(b) shall keep records of periods of when the collection system or control device is not operating.

~~(h)(d)~~ The owner or operator of a MSW landfill subject to 15A NCAC 02D .1703(b) shall keep for the life of the collection system an up-to-date plot map pursuant to 40 CFR 60.768(d) showing existing and planned collectors in the system and provide unique identification location labels for each collector. Records of newly installed collectors shall be maintained ~~in accordance with~~ pursuant to 40 CFR ~~60.758(d)(4)~~ 60.36f(b) and documentation of asbestos-containing or nondegradable waste excluded from collection shall be kept ~~in accordance with~~ pursuant to 40 CFR ~~60.758(d)(2)~~, 60.40(a)(3)(i) and records of any nonproductive

areas excluded from collection shall be kept pursuant to 40 CFR 60.40f(a)(3)(ii).

(i)(e) The owner or operator of a MSW landfill subject to 15A NCAC 02D .1703(b) shall keep for at least five years records of emissions from the collection and control system exceeding the emission standards in accordance with 40 CFR 60.758(e), accessible records of the following:

- (1) each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706 and .1707, shall keep records of the date upon which the owner or operator started complying with the provisions in 40 CFR 63.1958, 63.1960, and 63.1961, and shall keep records according to 40 CFR 63.1983(e)(1) through (e)(5) in lieu of Subparagraphs (2) through (4) of this Paragraph;
- (2) records of emissions from the collection and control system exceeding the operational standards pursuant to 40 CFR 60.34f, including the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance;
- (3) records of each wellhead temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above, each well head nitrogen level at or above 20 percent, and each wellhead oxygen level at or above five percent; and
- (4) records for any root cause analysis as provided in 40 CFR 60.39f(e)(3) through (e)(5).

(f) The owner or operator of MSW landfill subject to 15A NCAC 02D .1703(b) shall keep up to date records pursuant to 40 CFR 60.758(c)(2) of the indication of flow to the control device or the indication of bypass flow or records of monthly inspections of ear seals or lock and key configurations used to seal bypass lines, specified pursuant to 40 CFR 60.756.

(g) The owner or operator of MSW landfill subject to 15A NCAC 02D .1703(b) who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with 40 CFR 60.752(b)(2)(iii) shall keep an up to date record pursuant to 40 CFR 60.758(c)(3) of all periods of operation of the boiler or process heater.

(h) The owner or operator of MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(b) by use of an open flare shall keep up to date records of the flame or flare pilot flame monitoring specified pursuant to 40 CFR 60.756(e), and up to date records of all periods of operation in which the flame or flare pilot flame is absent.

(j) The owner or operator of a MSW landfill who converts design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of "design capacity", shall keep readily accessible, on-site records of the annual recalculation of site specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats are acceptable.

(k) The owner or operator of a MSW landfill seeking to demonstrate that site-specific surface methane emissions are below 500 parts per million by conducting surface emissions monitoring under the Tier 4 procedures shall follow the recordkeeping provisions provided in 40 CFR 39f(g).

(l) The owner or operator of a MSW landfill subject to the provisions of this Section shall keep for at least five years up-to-date, readily accessible records of all collection and control system monitoring data for the parameters measured in 40 CFR 60.37f(a)(1) through (a)(3).

(m) The owner or operator of a MSW landfill reporting leachate or other liquids addition pursuant to 15A NCAC 02D .1708(k) shall keep records of any engineering calculations or company records used to estimate the quantities or leachate or liquids added, the surface areas for which the leachate or liquids were applied, and the estimates of annual waste acceptance or total waste in place in the areas where leachate or liquids were applied.

Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4), 143-215.107(a)(5), 143-215.107(a)(10).

15A NCAC 02D .1710 COMPLIANCE SCHEDULES

For each existing MSW landfill subject to this Section as specified in 15A NCAC 02D .1702 and meeting the design capacity condition of 15A NCAC 02D .1703(a)(1), .1703(a) whose NMOC emission rate is less than ~~55 tons~~ 34 megagrams per year on or after July 1, 1998, the most recent effective date of this Rule, shall:

- (1) submit a site-specific design plan for the gas collection and control system to the Director within 12 months of first exceeding the NMOC emission rate of ~~55 tons~~ 34 megagrams per year; year and 50 megagrams per year for the closed landfill subcategory; and
- (2) plan, award contracts, and install MSW landfill air emission collection and control system capable of meeting the emission standards established pursuant to 15A NCAC 02D .1703 within 30 months of the date when the conditions in 15A NCAC 02D .1703 (a)(2)(a)(3) are met.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.107(a)(5).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 10 – BOARD OF CHIROPRACTIC EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Chiropractic Examiners intends to amend the rule cited as 21 NCAC 10 .0207.

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

Proposed Effective Date: July 1, 2021

Public Hearing:

Date: March 2, 2021

Time: 10:00 a.m.

Location:

Join Zoom Meeting:

https://us02web.zoom.us/j/81944336223?pwd=U1VFb1VUOTkvbWpTUENISlJ3b21Wdz09

Meeting ID: 819 4433 6223; Passcode: 812544

Reason for Proposed Action: To streamline the approval process for continuing education seminars.

Comments may be submitted to: Dr. Joe Siragusa, NC State Board of Chiropractic Examiners, 9121 Anson Way, Suite 200, Raleigh, NC 27615

Comment period ends: April 16, 2021

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SECTION .0200 - PRACTICE OF CHIROPRACTIC

21 NCAC 10 .0207 CONTINUING EDUCATION SEMINARS

(a) Approval of Seminars. Only continuing education seminars approved by the Board shall count towards satisfying the requirements for license renewal. The sponsor and co-sponsors of any proposed seminar shall be responsible for submitting all the information outlined on the Board's Course Application ("Application") to enable the Board to evaluate the seminar in accordance with this Rule. The Board's Course Application can be found on, and must be submitted via, pursuant to instructions on the Board's website at https://ncchiroboard.com, containing the following information: https://ncchiroboard.com.

All applications must reflect that the seminar for which approval is being sought has been previously approved no more than 12 months prior to the date of the seminar by one of the following organizations:

- (1) Any chiropractic college recognized by the Council on Chiropractic Education (CCE);
(2) Federation of Chiropractic Licensing Boards, PACE program; or
(3) Any other chiropractic association that can demonstrate an active membership base of at least 200 members.

(b) In addition to the information set forth in Paragraph (a) of this Rule, all Applications must also contain the following information:

- (1) Whether the course's target audience is doctors of chiropractic, certified chiropractic assistants, or x-ray technicians;
(2) The course title;
(3) The beginning and end dates on which the course will be offered;
(4) Whether the course will be offered online or in a physical location;
(5) If the course is offered in a physical location, the cities and states in which the course will be offered;
(6) The manner in which the sponsor or co-sponsor will verify the attendance of licentiates;
(7) The name and contact information of the sponsor and co-sponsor;
(8) The website at which information on the course offering will be available;
(9) The number of continuing education credits that the licentiates can obtain by attending the course; and
(10) Whether the course will provide doctors of chiropractic, certified chiropractic assistants, or x-ray technicians with continuing education credit toward eligibility for licensure renewal, certification, or recertification; and
(11) Whether the course has been approved by the Providers of Approved Continuing Education (PACE) program administered by the Federation of Chiropractic Licensing Boards (FCLB).

The Board's Course Application shall be submitted at least 30 days prior to the date of the proposed seminar. Incomplete applications will not be processed.

(c) Duration of Approval. A seminar approval issued by the Board shall expire at the end of the calendar year for which approved. If the sponsor or co-sponsors of an approved seminar wish to repeat the seminar on a date beyond the approval period, a new application shall be submitted to the Board.

(d) Criteria for Approval. The Board's criteria for approving continuing education seminars is as follows:

- (1) No practice-building or motivational seminars shall be approved;
(2) No seminar shall be approved that requires attendees, in order to be able to utilize the

information presented at the seminar, to purchase equipment or clinical supplies available only through the seminar's instructors, sponsors or co-sponsors;

- (3) Each seminar subject shall fall within the extent and limitation of chiropractic licensure in this State; and
(4) Each instructor shall submit a curriculum vitae demonstrating demonstrate that he or she has an educational background in, or professional experience with, the subject or subjects he or she is scheduled to teach.

(e) Duties of Seminar Sponsor. Sponsors and co-sponsors of any approved continuing education seminar shall:

- (1) Disclose on all brochures and advertising materials the name and address of each sponsor and co-sponsor and whether each sponsor and co-sponsor is a for-profit or not-for-profit entity;
(2) Be liable for all expenses incurred in holding the seminar;
(3) Give notice to the Board of any material changes in the seminar, including date, location, subject matter or instructors; and
(4) Provide an agent at the seminar site who shall:
(A) Monitor and report the attendance of each person attending the seminar, in accordance with the method identified in the Course Application submitted for the course;
(B) Supervise the agenda and prohibit the presentation of any subject matter not approved by the Board; and
(C) Complete and submit to the Board a post-seminar review summarizing any problems experienced and any variance between the application for approval and the seminar as presented.

(f) Sanction for Non-Compliance. By applying for seminar approval, each sponsor and co-sponsor agrees to admit to the seminar at no charge a representative of the Board for the purpose of observing compliance with this Rule. If the Board determines that a sponsor or co-sponsor has falsified the application for approval, has failed to keep attendance, has allowed the seminar as presented to vary from the agenda as set forth in the application, or has failed to adhere to any other provision of this Rule, the Board shall refuse to approve future seminar applications from the offending sponsor or co-sponsor or from any principal who is a partner or shareholder in the offending sponsor or co-sponsor.

(f) PACE Approved State. All doctor of chiropractic courses that have been approved by the Providers of Approved Continuing Education (PACE) program administered by the Federation of Chiropractic Licensing Boards (FCLB) shall be deemed to have complied with this Rule.

Authority G.S. 90-142; 90-155; 90-143.2; 90-143.4.

CHAPTER 12 – LICENSING BOARD FOR GENERAL CONTRACTORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Licensing Board for General Contractors intends to adopt the rule cited as 21 NCAC 12A .0212.

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

Proposed Effective Date: July 1, 2021

Public Hearing:

Date: March 31, 2021

Time: 9:00 a.m.

Location: https://global.gotomeeting.com/join/375769485

You can also dial in using your phone: +1 (872) 240-3212, access code: 375-769-485

Reason for Proposed Action: To provide guidance to licensees regarding obtaining building permits and inspections.

Comments may be submitted to: C. Frank Wiesner, NC Licensing Board for General Contractors, 5400 Creedmoor Road, Raleigh, NC 27612

Comment period ends: April 16, 2021

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SUBCHAPTER 12A – GENERAL PROVISIONS

SECTION .0200 - LICENSING REQUIREMENTS

21 NCAC 12A .0212 PERMITS AND INSPECTIONS

(a) A licensee shall obtain all necessary building permits from the local Code Enforcement Agency before commencing any work for which a building permit is required. After obtaining the necessary building permits, a licensee shall obtain all required inspections and for assuring that all required inspections are passed by the local Code Enforcement Official or a designee. Absent a written acknowledgement by a local Code Enforcement Official, a licensee shall not be relieved of his, her, or its responsibility to complete all required inspections until a certificate of compliance or the equivalent is obtained from the local Code Enforcement Agency.

(b) A licensee shall not allow a building permit to be obtained or allow his, her, or its license number to appear on a building permit application unless:

- (1) the licensee is the owner of the property; or
(2) the licensee has an agreement with the property owner or his/her designee to perform work described in the building permit.

(c) Failure to comply with this Rule shall constitute misconduct as described in G.S. 87-11.

Authority G.S. 87-1; 87-11; 87-14; 160A-417; 160D-1110.

CHAPTER 25 - INTERPRETER AND TRANSLITERATOR LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Interpreter and Transliterator Licensing Board intends to amend the rule cited as 21 NCAC 25 .0501.

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

Proposed Effective Date: July 1, 2021

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Send an email requesting a public hearing to the NCITLB's Board Counsel at jgreen@ncdoj.gov

Reason for Proposed Action: On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. Since that time, the Governor has issued additional Executive Orders prohibiting or limiting, and also discouraging, in-person gatherings to prevent the spread of COVID-19. COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. In fact, many counties in North Carolina are now in the "Critical" category for community spread, with many others in the "Substantial" category

for community spread. In compliance with the Governor's Executive Orders, the NCITLB seeks to lift the in-person continuing education requirements solely for the 2020-21, 2021-22, 2022-23, and 2023-24 licensure years and allow licensees to take all of their continuing education requirements virtually or otherwise online.

Comments may be submitted to: Caitlin Schwab-Falzone, Board Administrator, North Carolina Interpreters and Transliterator Licensing Board, PO Box 98328, Raleigh, NC 27624; phone 919-779-5709; email NCITLB@caphill.com

Comment period ends: April 16, 2021

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SECTION .0500 – CONTINUING EDUCATION

21 NCAC 25 .0501 CONTINUING EDUCATION REQUIREMENTS

(a) A licensee shall earn at least two continuing education units ("CEUs") each licensure year. At least 1.0 of those CEUs shall be earned in professional studies and at least 1.0 of those CEUs shall be earned in a setting in which three or more persons come together at the same location at the same time as a group to listen to a lecture, to view a demonstration, to participate in group discussions, or to learn through any combination of these or similar activities.

(b) A licensee may carry over up to two surplus CEUs earned in one licensure year to the next licensure year to meet the requirements of Paragraph (a) of this Rule. The licensee shall demonstrate that he or she earned the CEU credits sought to be carried over in the licensee's license renewal application packet submitted for the carry over year in order to receive credit therefore. Except as specifically provided hereby, surplus CEUs

shall only be carried forward from the licensure year in which they were earned to the next subsequent licensure year and not beyond. (c) A licensee may not earn CEUs while interpreting, whether or not the licensee is compensated for his or her services.

(d) The Board shall waive the continuing education requirements in this Section for any individual who is currently licensed by and in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The waiver shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

(e) For the 2020-21, 2021-22, 2022-23, and 2023-24 licensure years only, the Board waives the in-person course requirements of Paragraph (a) and licensees may take all of their CEUs for those licensure years electronically. However, this waiver shall not apply to any surplus CEUs earned during the 2023-24 licensure year and sought by the licensee to be carried over to the 2024-25 licensure year.

Authority G.S. 90D-6; 90D-8; 90D-11; 93B-15.

CHAPTER 61 - RESPIRATORY CARE BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Respiratory Care Board intends to adopt the rule cited as 21 NCAC 61 .0901.

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

Proposed Effective Date: June 1, 2021

Public Hearing:

Date: March 4, 2021

Time: 9:00 a.m.-11:00 a.m.

Location: 125 Edinburgh South Drive, Suite 100, Cary, NC 27511

Reason for Proposed Action: A serious and unforeseen threat to the public health, safety or welfare. On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Humans Services have declared COVID-19 a public health threat and emergency. This National Emergency Response is to ensure respiratory care practitioners can be licensed without any delay as the pandemic continues. In addition, this adoption will allow the Board to address future threats with greater speed by having the ability to waive these rules.

Comments may be submitted to: William Croft, Ed.D., Ph.D., RRT, RCP, 125 Edinburgh South Drive, Suite 100, Cary, NC 27511; phone (919) 878-5595; fax (919) 878-5565; email bcroft@ncrcb.org

Comment period ends: April 16, 2021

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SECTION .0900 – NATIONAL EMERGENCY RESPONSE WAIVERS FOR CERTAIN RULES

21 NCAC 61 .0901 RULE WAIVERS

In light of the State of National Emergency declared by President Trump as a result of the COVID-19 Virus, (a) If the Governor declares a state of emergency issued under G.S. 166A-19.3(19), the Board has determined to may waive at its discretion certain the following provisions in its rules, as set forth in this Rule: rules:

- (1) The Board shall waive the The requirement for licensure set forth in 21 NCAC 61 .0201(a)(4) that requires each applicant for an initial license to provide a copy of current certification in Basic Life Support (BLS);
(2) The Board shall waive the The requirement for licensure set forth in 21 NCAC 61 .0201(b)(1) that states that for applicants who have not practiced respiratory care for a period of time greater than one year, but less than five years, the applicant must provide evidence of twelve hours of continuing education, that meet the requirements of 21 NCAC 61 .0401, for each full year of inactivity;
(3) The Board shall waive the The requirement for licensure set forth in 21 NCAC 61 .0204(a)(4) that requires following the late renewal of any

PROPOSED RULES

- license, an additional late fee of seventy-five dollars (\$75.00);
- (4) ~~The Board shall waive the~~ The requirement for licensure set forth in 21 NCAC 61 .0302(c) that requires each applicant for renewal to provide proof of completion of continuing education requirements as established in this Chapter;
- (5) ~~The Board shall waive the~~ The requirement for licensure set forth in 21 NCAC 61 .0302(e) that requires each applicant for renewal to provide a copy of current certification in Basic Life Support (BLS);
- (6) ~~The Board shall waive the~~ The requirement for licensure set forth in 21 NCAC 61.0302(f) that requires licenses lapsed in excess of 24 months shall not be renewable;
- (7) ~~The Board shall waive the~~ The requirement for licensure set forth in 21 NCAC 61 .0305(b) that requires an individual licensed on inactive status to convert his or her license to active status by payment of the renewal fee and late fee and provide evidence of the completion of a minimum of 12 hours of continuing education
- that meets the requirements of 21 NCAC 61 .0401 for each full year of inactivity;
- (8) ~~The Board shall waive the~~ The requirement for licensure set forth in 21 NCAC 61 .0401(a) for continuing education requirements, and shall renew licenses without compliance with this provision;
- (9) ~~The Board shall waive the~~ The requirement for licensure set forth in 21 NCAC 61 .0401(e) that requires a licensee to be subjected to a random audit for proof of compliance with the Board's requirements for continuing education; and
- (10) ~~The Board shall waive the~~ The requirement for licensure set forth in 21 NCAC 61 .0401(f) that requires continuing education audits be submitted to the Board no later than 30 days of receipt of the audit notice.
- (b) The exceptions in this Rule shall only apply during the effective period of the state of emergency.
- Authority G.S. 90-652(1); 90-652(2); 90-652(9); 90-652(11); 90-652(13).*

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

TITLE 11 – DEPARTMENT OF INSURANCE

Rule-making Agency: *Industrial Commission*

Rule Citation: *11 NCAC 23E .0302*

Effective Date: *January 29, 2021*

Date Approved by the Rules Review Commission: *January 21, 2021*

Reason for Action: *Adhering to the notice and hearing requirements of G.S. 150B-21.2 would result in a long period of time where the regulated parties would be required by the Commission's rules, and by other rules that apply to cases within the Commission's jurisdiction, to engage in activities involving in-person contacts that put them at risk for contracting or spreading the COVID-19 virus, even when the rule requirements are not in conformity with an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court that is in effect. Adhering to the notice and hearing requirements of G.S. 150B-21.2 also would result in a long period of time where the Commission's rule requirements regarding affidavits and other sworn statements are not in conformity with the December 14, 2020 Order of the Chief Justice of the North Carolina Supreme Court Extending Emergency Directives, specifically Emergency Directive 5, and/or are not in conformity with future Orders of the Chief Justice of the North Carolina Supreme Court regarding affidavits and other sworn statements.*

CHAPTER 23 - INDUSTRIAL COMMISSION

SUBCHAPTER 23E – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION

SECTION .0300 – RULES OF THE COMMISSION

11 NCAC 23E .0302 EMERGENCY ORDERS AND DIRECTIVES OF THE CHIEF JUSTICE OF THE NORTH CAROLINA SUPREME COURT

(a) This Rule applies to all matters within the authority and jurisdiction of the Commission and to all Subchapters of the Commission's rules.

(b) In the interests of justice or to protect the public health or safety, the Commission may waive or modify any portion of its rules in order to bring them in conformity with an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court that is in effect. The Commission shall consider the following factors in determining whether to grant the waiver or modification:

- (1) the necessity of waiving or modifying the rule; and
- (2) the impact of waiving or modifying the rule on the regulated parties and on the Commission.

If the Commission waives or modifies a rule to bring the rule in conformity with any emergency Order or directive of the Chief Justice of the North Carolina Supreme Court, the Commission shall post a notice of the waiver or modification of the rule on its website unless the waiver or modification is case-specific and not generally applicable to the regulated public.

(c) During any period that an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court authorizes the taking of oaths and verifications outside the presence of a notary public, the Commission shall accept any pleading, motion, petition, supporting affidavit, or other document with an affirmation or representation not attested to before a notary public so long as the subscriber affirms the truth of the matter to be verified by an affirmation or representation in substantially the same language as that allowed by the emergency Order or directive of the Chief Justice of the North Carolina Supreme Court.

Authority G.S. 97-80; 130A-425(d); 143-166.4; 143-296; 143-300; Emergency Adoption Eff. November 6, 2020; Temporary Adoption Eff. January 29, 2021.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission January 21, 2021 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 984-236-1850. 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

Jeanette Doran (Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jeff Hyde
Vacant

Appointed by House

Anna Baird Choi (1st Vice Chair)
Andrew P. Atkins (2nd Vice Chair)
Paul Powell
Randy Overton
Vacant

COMMISSION COUNSEL

Amber Cronk May	984-236-1936
Amanda Reeder	984-236-1939
Ashley Snyder	984-236-1941

RULES REVIEW COMMISSION MEETING DATES

February 18, 2021	March 18, 2021
April 15, 2021	May 20, 2021

RULES REVIEW COMMISSION MEETING

MINUTES

January 21, 2021

The Rules Review Commission met on Thursday, January 21, 2021 in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The Commissioners held a WebEx meeting to ensure compliance with Executive Orders limiting mass gatherings, and to encourage social distancing. The meeting was conducted in accordance with the provisions of G.S. 166A-19.24.

Commissioners present via WebEx were Bobby Bryan, Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell.

Staff member Alex Burgos was present in the Commission room. Commission Counsel Amber May, Amanda Reeder, and Ashley Snyder were present via WebEx.

The meeting was called to order at 9:01 a.m. with Chair Doran presiding.

The Chair 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 appearance of conflicts of interest.

Chair Doran recognized Amy Mull and welcomed her to the meeting. Amy Mull is a 3L at UNC School of Law and is an Extern with the Office of Administrative Hearings.

Chair Doran memorialized Commissioner Dunklin's recent passing. She informed the Commission staff was working with the Speaker's Office to send Commissioner Dunklin's family a tribute to honor his service to the State. Following the meeting, the Speaker's Office confirmed they will send a North Carolina flag and certificate in recognition of Commissioner Dunklin's service to the State.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the December 17, 2020 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The Chair notified the Commissioners that the following item on the agenda would be taken up out of order at the end of the agenda: Follow-up matter for the State Board of Education Tab C.

FOLLOW UP MATTERS

Board of Agriculture

02 NCAC 61 .0112 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Environmental Management Commission

15A NCAC 02I .0101, .0102, .0103, .0104, .0105, .0106, .0203, .0301, .0302, .0402, .0501, .0502, .0503, .0504, .0601, .0602, and .0603 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

State Board of Education

16 NCAC 06B .0114 - Upon the call of the Chair, the Commission objected to the rewritten rule in accordance with G.S. 150B-21.9 for lack of statutory authority by roll-call vote, ayes 5, noes 3 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Choi, Jeanette Doran, and Jeff Hyde – 5. Voting in the negative: Margaret Currin, Randy Overton, and Paul Powell - 3.

The Commission found that the rewritten rule exceeds the agency's statutory authority to regulate a "school transportation system" by requiring individuals inspecting school buses to obtain a "North Carolina School Bus Inspection Certification." The governing standards set in the statutes listed in the rule's history note relate to school bus safety as it pertains to equipment and mechanical maintenance of school buses, not to the individuals conducting the inspections. G.S. 115C-240(c) discusses the following: "construction, equipment, color, and maintenance of school buses"; fuel requirements; and "adequate heating facilities, a standard signaling device..., an alternating flashing stoplight... and such other warning devices, fire protective equipment and first aid supplies as may be prescribed..." The rewritten rule governs the inspectors and does not address the specific safety criteria that will be used in the inspection.

G.S. 115C-248(a) states "the superintendent of each local school administrative unit, shall cause each school bus owned or operated by such local school administrative unit to be inspected at least once each 30 days during the school year..." In other words, the statute gives control of the act of conducting the inspection to the local superintendent.

The history note lists no authority allowing State Board of Education to govern individual inspectors. The rewritten rule establishes a new Certificate created and issued by the agency. To obtain a Certificate, the rule requires individuals to take a course and pass a test, both administered by the agency. The rule further provides how DPI can revoke this Certificate. The Commission is not aware of any other similar certificate created by an agency in rule instead of through statute absent express statutory authority. Therefore, the Commission objected for lack of statutory authority.

Tom Ziko, General Counsel with the agency, addressed the Commission.

State Board of Education

16 NCAC 06D .0307, .0308, .0311; 06E .0204, .0206; and 06G .0508 - The agency is in the process of repealing companion rules for 16 NCAC 06D .0307, .0308, .0311; 06E .0204, and .0206. In November, the Commission determined the rewritten version of 16 NCAC 06G .0508 met the Commission's objections but the changes were substantial, and the agency would need to re-publish the rule. No action was required by the Commission.

State Board of Education

16 NCAC 06D .0309 - The Rule received over 10 letters of objection and will be subject to legislative review and a delayed effective date upon approval in accordance with G.S. 150B-21.3. The agency is in the process of repealing a companion rule for 16 NCAC 06D .0309. No action was required by the Commission.

Department of Transportation

19A NCAC 02E .0204, .0206, and .0225 - The agency is addressing the objections from the December meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)**Child Care Commission**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

DHHS - Division of Health Service Regulation

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Alcoholic Beverage Control Commission

14B NCAC 15A - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Prior to the review of Rules 14B NCAC 15C .0602 and .0607 from the Alcoholic Beverage Control Commission, Commissioner Powell recused himself and did not participate in any discussion or vote concerning these rules because of a conflict with existing business relationship.

14B NCAC 15C .0602 and .0607- Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, and Randy Overton – 6. Voting in the negative: None.

The Commission received over 10 letters of objection to 14B NCAC 15C .0602 and .0607. Pursuant to G.S. 150B-21.3, the rules are subject to legislative review and a delayed effective date.

Department of Public Safety

Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Marine Fisheries Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Department of The Secretary of State

18 NCAC 06A .2120 – Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Board of Barber Examiners

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

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 6. Voting in the negative: None.

Medical Board

Prior to the review of the rule from the Medical Board, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rule because of a conflict.

21 NCAC 32S .0212 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 6. Voting in the negative: None.

Board of Pharmacy

21 NCAC 46 .1819 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)

Industrial Commission

11 NCAC 23E .0302 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

2021 STATE MEDICAL FACILITIES PLAN

The Commission found that the Department of Health and Human Services and the State Health Coordinating Council complied with G.S. 131E-176(25) in the adoption of the 2021 Plan.

Upon the call of the Chair, the Commission approved compliance with G.S. 131E-176(25) by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

COMMISSION BUSINESS

The Commission conducted a review of comments submitted for the Style Guide. The Commission agreed to share the comments with Judge Mann and Gerry Cohen, a primary drafter of the current Style Guide, for their review.

The meeting adjourned at 9:44 a.m.

The next regularly scheduled meeting of the Commission is Thursday, February 18, 2021 at 9:00 a.m.

Alexander Burgos, Paralegal

**Rules Review Commission Meeting January 21, 2021
Held Via WebEx**

Name	Agency
Catherine Blum	DENR
Erin Bryan-Millush	DENR
Amy Mull	OAH Extern
Ann Wall	SOS
Sherrell Forbes	SOS
Lou Martin	SBOE
Thomas Ziko	SBOE
Carrie Ruhlman	WRC
Nadine Pfeiffer	DSHR
Gina Cammarano	IC
Dedra Alston	DHHS
John Green	DOJ
Tammy Sylvester	DHHS
Amber Davis	DOJ
Kiger, Korey	NCRMA
Walker Reagan	ABC
Kiger, Korey	NCRMA
Alison Keisler	DHHS
Amy Craddock	DHHS
Shannon Jenkins	DENR
Nadine Pfeiffer	DSHR
Ashley Pekrul	WRC
Jennifer Everett	DEQ
Daron Barnes	WRC
Clint Pinyan	Pharmacy
Kevin Harrison	SBOE
Betsy Haywood	WRC
Martha Frisone	DHHS
Korey Kiger	NCRMA
Dennis Seavers	Barbers Examiners
Ashley Baquero	SBOE
Bill Lane	DENR
Elizabeth Yelverton	NCASA
Grant Simpkins	Barbers Examiners
TJ Bugbee	NCOAA

**LIST OF APPROVED TEMPORARY RULES
January 21, 2021 Meeting**

INDUSTRIAL COMMISSION

Emergency Orders and Directives of the Chief Justice of t...

11 NCAC 23E .0302

**LIST OF APPROVED PERMANENT RULES
January 21, 2021 Meeting**

AGRICULTURE, BOARD OF

Severability 02 NCAC 61 .0112

CHILD CARE COMMISSION

Definitions 10A NCAC 09 .0102
Application for a License for a Child Care Facility 10A NCAC 09 .0302
Temporary Licenses for Centers 10A NCAC 09 .0403
Safe Environment 10A NCAC 09 .0601
Safe Sleep Practices 10A NCAC 09 .0606
Emergency Preparedness and Response in Child Care Centers 10A NCAC 09 .0607
Health Standards for Child Care Providers, Substitute Pro... 10A NCAC 09 .0701
Staff/Child Ratios for Centers 10A NCAC 09 .0713
Application for Enrollment 10A NCAC 09 .0801
Emergency Medical Care 10A NCAC 09 .0802
On-Going Training and Professional Development 10A NCAC 09 .1103
Documentation of On-Going Training and Professional Devel... 10A NCAC 09 .1106
Outdoor Space 10A NCAC 09 .1402
Activities Involving Water in Child Care Centers 10A NCAC 09 .1403
Application for a License for a Family Child Care Home 10A NCAC 09 .1702
On-Going Requirements for Family Child Care Home Operators 10A NCAC 09 .1703
Nutrition Standards 10A NCAC 09 .1706
Building Requirements 10A NCAC 09 .1707
Emergency Preparedness and Response 10A NCAC 09 .1714
Requirements for Daily Operations 10A NCAC 09 .1718
Requirements for Records 10A NCAC 09 .1721
Safe Sleep Practices 10A NCAC 09 .1724
Additional Caregiver and Substitute Provider Qualifications 10A NCAC 09 .1729
Activities Involving Water 10A NCAC 09 .1730
Provisional Child Care Facility License or Provisional No... 10A NCAC 09 .2204
Suspension 10A NCAC 09 .2206
Revocation of a Child Care Facility License or an Order t... 10A NCAC 09 .2209
Child Care Center Records Retention 10A NCAC 09 .2318
Staff Qualifications 10A NCAC 09 .2408
Children's Activities 10A NCAC 09 .2410
Activities: Off-Premises 10A NCAC 09 .2509
Criminal History Record Check Requirements for Child Care... 10A NCAC 09 .2703
Enhanced Space Requirements 10A NCAC 09 .2809
Enhanced Program Standards for Child Care Centers 10A NCAC 09 .2817
Staff Qualifications 10A NCAC 09 .2903
NC Pre-K Teacher Education, Licensure and Credentials 10A NCAC 09 .3012

HHS - HEALTH SERVICE REGULATION, DIVISION OF

Approval 10A NCAC 14E .0105

<u>Medications and Anesthesia</u>	10A NCAC 14E .0312
<u>Food Service</u>	10A NCAC 14E .0316
ALCOHOLIC BEVERAGE CONTROL COMMISSION	
<u>Direct Shipments</u>	14B NCAC 15A .1304
<u>Transportation Between ABC Boards</u>	14B NCAC 15A .1305
<u>Special Orders</u>	14B NCAC 15A .1403
<u>Antique Spirituous Liquor Special Orders</u>	14B NCAC 15A .1407
<u>Purchase-Transportation Permits</u>	14B NCAC 15A .1706
<u>Purchase-Transportation Permits for Wine and Liquor</u>	14B NCAC 15A .1801
<u>Distillery Record-Keeping</u>	14B NCAC 15A .2103
<u>Distillery Issued Purchase-Transportation Permits</u>	14B NCAC 15A .2104
<u>Sales and Purchase Restrictions: Records</u>	14B NCAC 15C .0602
<u>Malt Beverage and Wine Shipments to Military Bases</u>	14B NCAC 15C .0607
ENVIRONMENTAL MANAGEMENT COMMISSION	
<u>Purpose of this Subchapter</u>	15A NCAC 02I .0101
<u>Definitions</u>	15A NCAC 02I .0102
<u>Delegations</u>	15A NCAC 02I .0103
<u>Authorized Hearing Officers</u>	15A NCAC 02I .0104
<u>Requirements of Hearing Officer or Panel</u>	15A NCAC 02I .0105
<u>Department Hearing Rules</u>	15A NCAC 02I .0106
<u>Procedures</u>	15A NCAC 02I .0203
<u>Opportunity for Hearing</u>	15A NCAC 02I .0301
<u>Request for Hearing</u>	15A NCAC 02I .0302
<u>Water Quality Discharge Permits: Notice: Procedures</u>	15A NCAC 02I .0402
<u>Form and Contents of Petition</u>	15A NCAC 02I .0501
<u>Review by a Committee of the Commission</u>	15A NCAC 02I .0502
<u>Presentation of the Commission</u>	15A NCAC 02I .0503
<u>Recourse to Denial of Petition</u>	15A NCAC 02I .0504
<u>Issuance of Declaratory Ruling</u>	15A NCAC 02I .0601
<u>Procedure for Submission of Petition</u>	15A NCAC 02I .0602
<u>Disposition of Request</u>	15A NCAC 02I .0603
WILDLIFE RESOURCES COMMISSION	
<u>Sale of Live Foxes and Coyotes to Controlled Fox Hunting ...</u>	15A NCAC 10B .0409
<u>Clay County</u>	15A NCAC 10F .0308
<u>Stanly County</u>	15A NCAC 10F .0317
<u>Burke County</u>	15A NCAC 10F .0323
<u>Definitions and General Requirements</u>	15A NCAC 10H .1201
<u>Establishment and Operation</u>	15A NCAC 10H .1202
<u>Quality of Foxes and Coyotes Released</u>	15A NCAC 10H .1203
<u>Records Required</u>	15A NCAC 10H .1204
<u>Hunting License Required</u>	15A NCAC 10H .1205
<u>Minimum Standards for Care of Foxes and Coyotes</u>	15A NCAC 10H .1206
<u>License Revocation and Enforcement</u>	15A NCAC 10H .1207

MARINE FISHERIES COMMISSION

<u>Definitions</u>	15A NCAC 18A .3401
<u>Bacteriological Limits for Swimming Areas</u>	15A NCAC 18A .3402
<u>Public Notice of Increased Health Risks in Swimming Areas</u>	15A NCAC 18A .3403
<u>Swimming Advisories for Point Source Discharges into Swim...</u>	15A NCAC 18A .3404
<u>Rescinding a Pending Swimming Advisory or Swimming Advisory</u>	15A NCAC 18A .3405
<u>Destruction of Signs</u>	15A NCAC 18A .3406
<u>Applicability of Rules</u>	15A NCAC 18A .3407

SECRETARY OF STATE, DEPARTMENT OF THE

<u>Sunset Provision</u>	18 NCAC 06A .2120
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BARBER EXAMINERS, BOARD OF

<u>Waiver of Requirements During Disaster or Emergency</u>	21 NCAC 06F .0128
<u>Form Bar-1</u>	21 NCAC 06N .0102
<u>Form Bar-10</u>	21 NCAC 06N .0111

MEDICAL BOARD

<u>Prescriptive Authority</u>	21 NCAC 32S .0212
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PHARMACY, BOARD OF

<u>COVID-19 Drug Preservation Rule</u>	21 NCAC 46 .1819
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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 984-236-1850.

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
J. Randall May
David Sutton
Selina Malherbe

J. Randolph Ward
Stacey Bawtinheimer
Tenisha Jacobs
Michael Byrne
Karlene Turrentine

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				Published			
20	CPS	03686	12/15/2020	Travis E Downing	v.	NC Department of Public Safety Victim Services	Malherbe
20	DAG	01477	12/21/2020	Valley Proteins Inc.	v.	NC Department of Agriculture & Consumer Services	May
20	DHR	01132	12/29/2020	LaToya Thurston-Griggs	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Mann
19	DOJ	05333	12/8/2020	Lake Royale Company Police Department Gabriel Anthony Fanara	v.	North Carolina Department of Justice, Company Police Program	Lassiter
19	DOJ	06899	12/1/2020	Gene C Norris II	v.	North Carolina Department of Justice Criminal Standards Division	Lassiter
20	DOJ	00152	12/11/2020	Benjamin Louis Zucker	v.	NC Criminal Justice Education and Training Standards Commission	Ward
20	DOJ	00153	12/3/2020; 12/10/2020	Za'Mi Ya'Quawn Mcduffie	v.	North Carolina Criminal Justice Education and Training Standards Commission	Ward
20	DST	01914	12/2/2020	Kimberly Willis Beneficiary of Thomas Clayton Willis II	v.	NC Department of State Treasurer, Retirement Systems Division	Lassiter
20	DST	03395	12/10/2020	Arthur Edwards	v.	NC Retirement Systems Division	Lassiter

CONTESTED CASE DECISIONS

20	ELS	00859	12/23/2020	NC Board of Examiners for Engineers and Surveyors	v.	William J Payer	Bawtinhimer
20	OSP	02154	12/23/2020	Cecil John Russell	v.	North Carolina Department of Public Safety	Lassiter
19	SOS	06543	12/4/2020	Tonya Maggio	v.	North Carolina Department of the Secretary of State	Jacobs
				<u>Unpublished</u>			
20	CSE	01495	12/10/2020	Cody Matthew Brawner	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
20	CSE	03221	12/16/2020	Michael Timmons	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	CSE	04076	12/22/2020	Eric Jackson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	CSE	04078	12/22/2020	Eric Jackson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	DHR	04046	12/10/2020	Multicultural Resources Center NC James W McGrady Jr.	v.	Office of Administrative Hearings	Byrne
20	DHR	04228	12/3/2020	Mahmoud Atieh	v.	Nutrition Service WIC vender	Bawtinhimer
20	DOJ	03803	12/16/2020	April Latoya Bowden	v.	NC Criminal Justice Education and Training Standards Commission	May
20	EHR	02793	12/4/2020	Regent Manor Apartments LLC John Nathan Tabor manager	v.	North Carolina Department of Environmental Quality Michael S Regan Secretary	May
20	OSP	02923	12/4/2020	Jonathan Randall Kuhn	v.	Beaufort Community College	Lassiter
20	OSP	03118	12/11/2020	Mary Cunningham	v.	DHHS	Byrne
20	OSP	03596	12/16/2020	Dr Melody S Isaak	v.	North Carolina Department of Environmental Quality	Bawtinhimer