TEMPORARY RULE

rrc staff OPINION

*Please Note: This communication is either 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting, or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.*

AGENCY: DEPARTMENT OF CULTURAL RESOURCES

RULE CITATION: 07 NCAC 04N .0202

RECOMMENDED ACTION:

 Approve, but note staff’s comment

X Decline to approve, based on:

 Lack of statutory authority

 Unclear or ambiguous

 Unnecessary

 X Failure to comply with the APA

 Extend the period of review

COMMENT:

The findings of need for this rule state that this temporary rule was required by the effective date of a recent act of the General Assembly. There is nothing in the cited Session Law, S.L. 2012-142, that requires an increase in fees. If anything, the inclusion of an additional appropriation would have been justification for reduced fees rather than increased fees.

Robert A. Bryan, Jr.

Commission Counsel