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The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

PROPOSED RULES

**Environment, Health, and
Natural Resources**

Human Resources

Justice

**Medical Examiners,
Board of**

FINAL RULES

List of Rules Codified

Revenue

Transportation

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INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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ISSUE CONTENTS

I. PROPOSED RULES

Environment, Health, and Natural Resources

Environmental Management.....	193
Health Services	190
Wildlife Resources	
Commission	206

Human Resources

Health Services	152
Medical Assistance	191

Justice

Office of the Attorney	
General.....	192

Licensing Board

Board of Medical	
Examiners.....	207

II. FINAL RULES

List of Rules Codified.....	226
-----------------------------	-----

Revenue

Sales and Use Tax.....	213
------------------------	-----

Transportation

Division of Motor	
Vehicles	222

III. CUMULATIVE INDEX.....234

NORTH CAROLINA REGISTER
Publication Schedule
 (January 1990 - December 1991)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
01 02 90	12 07 89	12 14 89	02 01 90	05 01 90
01 16 90	12 20 89	12 29 89	02 15 90	05 01 90
02 01 90	01 10 90	01 18 90	03 03 90	06 01 90
02 15 90	01 25 90	02 01 90	03 17 90	06 01 90
03 01 90	02 08 90	02 15 90	03 31 90	07 01 90
03 15 90	02 22 90	03 01 90	04 14 90	07 01 90
04 02 90	03 12 90	03 19 90	05 02 90	08 01 90
04 16 90	03 23 90	03 30 90	05 16 90	08 01 90
05 01 90	04 09 90	04 17 90	05 31 90	09 01 90
05 15 90	04 24 90	05 01 90	06 14 90	09 01 90
06 01 90	05 10 90	05 17 90	07 01 90	10 01 90
06 15 90	05 24 90	06 01 90	07 15 90	10 01 90
07 02 90	06 11 90	06 18 90	08 01 90	11 01 90
07 16 90	06 22 90	06 29 90	08 15 90	11 01 90
08 01 90	07 11 90	07 18 90	08 31 90	12 01 90
08 15 90	07 25 90	08 01 90	09 14 90	12 01 90
09 04 90	08 13 90	08 20 90	10 04 90	01 01 91
09 14 90	08 24 90	08 31 90	10 14 90	01 01 91
10 01 90	09 10 90	09 17 90	10 31 90	02 01 91
10 15 90	09 25 90	10 02 90	11 14 90	02 01 91
11 01 90	10 11 90	10 18 90	11 30 90	03 01 91
11 15 90	10 24 90	10 31 90	12 14 90	03 01 91
12 03 90	11 08 90	11 15 90	01 02 91	04 01 91
12 14 90	11 21 90	11 30 90	01 13 91	04 01 91
01 02 91	12 07 90	12 14 90	02 01 91	05 01 91
02 01 91	01 10 91	01 18 91	03 03 91	06 01 91
03 01 91	02 08 91	02 15 91	03 31 91	07 01 91
04 01 91	03 11 91	03 18 91	05 01 91	08 01 91
05 01 91	04 10 91	04 17 91	05 31 91	09 01 91
06 03 91	05 10 91	05 17 91	07 03 91	10 01 91
07 01 91	06 10 91	06 17 91	07 31 91	11 01 91
08 01 91	07 11 91	07 18 91	08 31 91	12 01 91
09 03 91	08 12 91	08 19 91	10 03 91	01 01 92
10 01 91	09 10 91	09 17 91	10 31 91	02 01 92
11 01 91	10 11 91	10 18 91	12 01 91	03 01 92
12 02 91	11 07 91	11 14 91	01 01 92	04 01 92

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Health Services intends to amend rule(s) cited as 10 NCAC 4C .0202; 7A .0209, .0401; 7B .0102, .0333, .0354, .0503; 8A .0115, .0117 - .0119, .0205 - .0207, .0213; 8C .0802, .0806, .0901, .0903, .1106; 811 .0204 - .0205, .0207; 10A .0451, .1961; 10D .1642; 10F .0001 - .0002, .0028 - .0035, .0039, .0041 - .0042; 10G .0101 - .0103, .0201 - .0203, .0301, .0401, .0503 - .0504, .0506, .0508; repeal rule(s) cited as 10 NCAC 811 .0801 - .0805; and adopt rule(s) cited as 10 NCAC 7A .0701; 10A .2133 - .2134; 10G .1101 - .1112, .1201 - .1207; 15A NCAC 191 .0101 - .0105.

The proposed effective date of this action is September 1, 1990.

The public hearing will be conducted at 9:00 a.m. on May 21, 1990 at Archdale Building, Hearing Room (Ground Floor), 512 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Any person may request information or copies of the proposed rules by writing or calling John P. Barkley, Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, NC 27611-7687, (919) 733-7247. Written comments on these rule changes may be sent to Mr. Barkley at the above address. Written and oral comments on these rule changes may be presented at the public hearing. Notice should be given to Mr. Barkley at least three days prior to the public hearing if you desire to speak. The public will also be allowed to speak at the Commission meeting at the Chairman's discretion.

CHAPTER 4 - HEALTH SERVICES: OFFICE OF THE DIRECTOR

SUBCHAPTER 4C - PAYMENT PROGRAMS

SECTION .0200 - ELIGIBILITY DETERMINATIONS

.0202 DETERMINATION OF FINANCIAL ELIGIBILITY

(a) A patient must meet the financial eligibility requirements of this Subchapter to be eligible for benefits provided by any of the payment programs, except as provided in Paragraph (b) of this Rule. Financial eligibility for all payment programs with state funds shall be determined through application of the General Assembly's

financial eligibility scale for non-medicaid medical programs. The definition of annual net income in Rule .0203 of this Subchapter and the definitions of family in Rule .0204 of this Subchapter shall be used in applying the General Assembly's financial eligibility scale and the federal poverty level for payment program eligibility purposes.

(b) A person shall be financially eligible for the federal AIDS Drug Reimbursement Program if the person's net income is at or below the federal poverty level.

Statutory Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-177; 130A-205; 143B-193.

CHAPTER 7 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 7A - ACUTE COMMUNICABLE DISEASE CONTROL

SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

.0209 CONTROL MEASURES

(i) The following are the control measures for hepatitis B infection:

(2) The following are the control measures for persons reasonably suspected of being exposed:

(C) when a health care worker or other person has a needlestick, non-intact skin, or mucous membrane exposure to blood or body fluids that poses a significant risk of hepatitis B transmission, the following shall apply:

(i) when the source is known, the source person shall be tested for hepatitis B infection, unless already known to be infected;

(ii) when the source is infected with hepatitis B and the exposed person is:

(1) vaccinated, the exposed person shall be tested for anti-HBs. If anti-HBs is less than ten SRU by RIA or negative by EIA, the exposed person shall be given hepatitis B immune globulin, 0.06 ml kg, IM immediately and a single dose of hepatitis B vaccine within seven days;

(11) not vaccinated, the exposed person shall be given hepatitis B immune globulin, 0.06 ml kg, IM immediately and, if at high risk for future exposure, begin vaccination with hepatitis B vaccine within seven days.

(iii) When the source is unknown and the exposed person is:

- (I) vaccinated, no intervention is necessary;
- (II) not vaccinated, unvaccinated, the exposed person shall be given hepatitis B immune globulin or immune globulin, 0.06 ml/kg, IM immediately and, if at high risk for future exposure, begin vaccination with hepatitis B vaccine within seven days if at high risk for future exposure.

Statutory Authority G.S. 130A-135; 130A-144.

SECTION .0400 - IMMUNIZATION

.0401 DOSAGE AND AGE REQUIREMENTS FOR IMMUNIZATION

(a) Every individual in North Carolina required to be immunized pursuant to G.S. 130A-152 through 130A-157 shall be immunized against the following diseases by receiving the specified minimum doses of vaccines by the specified ages:

- (1) diphtheria, tetanus, and whooping cough -- five doses: three doses by age one year and two booster doses, one in the second year of life and the second on or after the fourth birthday and before enrolling in school (K-1) for the first time;
- (2) oral poliomyelitis vaccine -- three doses of trivalent type by age two years and a booster dose of trivalent type on or after the fourth birthday and before enrolling in school (K-1) for the first time; or one dose of each of the three monovalent types by age two years and a dose of trivalent type after the fourth birthday and before enrolling in school (K-1) for the first time; enhanced-potency inactivated poliomyelitis vaccine may be substituted for two doses of oral poliomyelitis vaccine;
- (3) measles (rubeola) vaccine -- one dose of live, attenuated vaccine by age two years;
- (4) rubella vaccine -- one dose of live, attenuated vaccine by age two years;
- (5) mumps vaccine -- one dose of live attenuated vaccine by age two years.

Statutory Authority G.S. 130A-152(c), -155.1.

SECTION .0700 - FEDERAL AIDS DRUG REIMBURSEMENT PROGRAM

.0701 MEDICAL ELIGIBILITY

Persons with HIV infection who qualify financially shall be eligible to receive reimbursement for AZT through the Federal AIDS Drug Re-

imbursement Program if they have documentation that they have or have had one of the following:

- (1) CD4+ count less than 500 cells per cubic millimeter.
- (2) a diagnosis of AIDS meeting the Centers for Disease Control surveillance definition as published in the Morbidity and Mortality Weekly Report which is adopted by reference in accordance with G.S. 150B-14(c).
- (3) HIV-related thrombocytopenia and less than 20,000 platelets per cubic millimeter.

Statutory Authority G.S. 130A-5(3).

SUBCHAPTER 7B - INJURY CONTROL

SECTION .0100 - GENERAL POLICIES

.0102 DEFINITIONS

The following definitions shall apply throughout 10 NCAC 7B:

- (4) "Advisory Committee" shall mean the advisory committee on certifying blood analysts;
- (1) ~~(2)~~ "Alcohol" shall mean ethyl alcohol;
- (2) ~~(3)~~ "Alcohol Concentration" shall mean the concentration of alcohol in a person, expressed as:
 - (a) grams of alcohol per 100 milliliters of blood;
 - (b) grams of alcohol per 210 liters of breath; ~~or~~
 - (c) ~~a blood-alcohol concentration based on an alveolar air-blood ratio of 1:2,100;~~
- (3) ~~(4)~~ "Alcoholic Beverage" shall mean any beverage containing at least one-half of one percent of alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor and mixed beverages;
- (4) ~~(5)~~ "Alcoholic Breath Simulator" shall mean a specially designed constant temperature water-alcohol solution bath instrument devised for the purpose of providing a standard alcohol-air mixture;
- (5) ~~(6)~~ "Ampul" means a small bulbous glass vessel hermetically sealed containing an alcohol-sensitive reagent consisting of at least 3 ml. of a solution containing, within plus or minus 10 percent, 0.025 percent weight per volume (w/v) potassium dichromate plus 0.025 percent w/v silver nitrate in 50 percent volume per volume (v/v) sulfuric acid and distilled water;
- (6) ~~(7)~~ "Blood Analyst" shall mean an individual holding a valid and current permit from the Director to perform chemical analyses of blood under the authority of G.S.

- 20-139.1 and the provisions of these rules and regulations;
- (7) ~~(8)~~ "Breath-testing Instrument" shall mean an instrument for making a chemical analysis of breath and giving the resultant alcohol concentration in grams of alcohol per 210 liters of breath or an instrument that reports an alcohol concentration as a blood alcohol concentration based on an alveolar air blood ratio of 1:2.100; percent blood alcohol, which shall mean grams of alcohol per 210 liters of breath;
- (8) ~~(9)~~ "Chemical Analysis" means a test of the breath or blood of a person to determine his alcohol concentration, performed in accordance with G.S. 20-139.1. The term "chemical analysis" includes duplicate or sequential analyses when necessary or desirable to insure the integrity of test results;
- (9) ~~(10)~~ "Chemical Analyst" shall mean a person granted a permit by the Department of Human Resources under G.S. 20-139.1 to perform chemical analyses of the blood or breath;
- (10) ~~(11)~~ "Commission" shall mean the Commission for Health Services of the North Carolina Department of Human Resources;
- (11) ~~(12)~~ "Controlled Drinking Program" shall mean a bona fide scientific, experimental, educational, or demonstration program in which tests of a person's breath or blood are made for the purpose of determining his alcohol concentration when such person has consumed controlled amounts of alcohol;
- (12) ~~(13)~~ "Department" shall mean the North Carolina Department of Human Resources;
- (13) ~~(14)~~ "Director" shall mean the State Health Director, Division of Health Services, Epidemiology, North Carolina Department of Human Resources, Environment, Health, and Natural Resources;
- (14) ~~(15)~~ "Fortified Wine" shall mean any wine made by fermentation from grapes, fruits, berries, rice, or honey, to which nothing has been added other than pure brandy made from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine, and which has an alcoholic content of not more than twenty-four percent of alcohol by volume;
- (15) ~~(16)~~ "Handling Alcoholic Beverages" shall mean the acquisition, transportation, keeping in possession or custody, storage, administration, and disposition of alcoholic beverages done in connection with a controlled-drinking program;
- (16) ~~(17)~~ "Malt Beverage" shall mean beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one-half of one percent, and not more than six percent, of alcohol by volume;
- (17) ~~(18)~~ "Observation Period" means a period during which a chemical analyst observes the person to be tested to determine that he has not ingested alcohol or other fluids, regurgitated, vomited, eaten, or smoked in the 15 minutes immediately prior to the collection of a breath specimen; the chemical analyst may observe while conducting the operational procedures in using a breath-testing instrument, and if a chemical analyst other than the one conducting the analysis is the observer, both chemical analysts must sign the operational checklist;
- (18) ~~(19)~~ "Permittee" shall mean a chemical analyst currently possessing a valid permit from the Department to perform chemical analyses, of the type set forth within the permit;
- (19) ~~(20)~~ "Simulator Solution" shall mean a water-alcohol solution made by preparing a stock solution of 60.5 grams of alcohol per liter of solution (77.0 ml. of absolute alcohol diluted to one liter with distilled water, or equivalent ratio) and then preparing the solution for simulator use as a control sample by using 10 ml. of stock solution and further diluting the solution to 500 ml. with distilled water, which then corresponds to the equivalent alcohol concentration of 0.10;
- (20) ~~(21)~~ "Spirituos Liquor" means distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liqueur, and premixed cocktails, in closed containers for beverage use regardless of their dilution;
- (21) ~~(22)~~ "Unfortified Wine" shall mean wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar, and that has an alcoholic content of not less than six percent and not more than seventeen percent alcohol by volume;
- (22) ~~(23)~~ "Verification of Instrumental Calibration" shall mean verification of instrumental accuracy by employment of a control sample from an alcoholic breath simulator using solution as specified in Paragraph ~~(20)~~ (19) of this Rule and obtaining ~~the expected results level on the instrument. The expected results level shall be an instrumental reading a result~~ of 0.10 alcohol concentration, with an allowable instrumental deviation not to exceed 10 percent under the expected ~~reading~~ result. Deviations on the

high side are not permitted. When the procedures set forth for instruments in Section .0300 of these Rules are followed and the expected ~~results level~~ result is obtained, the instrument shall be deemed properly calibrated.

Statutory Authority G.S. 20-139.1(b); 20-139.1(g).

SECTION .0300 - BREATH ALCOHOL TEST REGULATIONS

.0333 LOG

Each permittee shall keep a log identifying each individual who refuses to submit to a chemical analysis, and recording the name, results, and other identifying information for each individual submitting to a chemical analysis. Logs shall be kept on forms provided by the ~~Division of Health Services Department~~ and a copy shall be forwarded monthly to the Director. ~~by the 10th of the month following the month for which the report is submitted.~~ Any log identifying a blood analysis should not be submitted until the result is recorded.

Statutory Authority G.S. 20-139.1(b).

.0354 REPORTING OF ALCOHOL CONCENTRATIONS

(a) When performing chemical analyses of breath under the authority of G.S. 20-139.1 and the provisions of these rules, chemical analysts shall report alcohol concentrations on the basis of grams of alcohol per 210 liters of breath. All results shall be reported to hundredths. Any result between hundredths shall be reported to the next lower hundredth.

(b) When performing chemical analyses of breath under the authority of G.S. 20-139.1 and the provisions of these rules, a report by a chemical analyst of a breath test reading of 0.10 percent by weight of alcohol in a person's blood shall be deemed as reporting 0.10 alcohol concentration.

Statutory Authority G.S. 20-139.1(b).

SECTION .0500 - ALCOHOL SCREENING TEST DEVICES

.0503 APPROVED ALCOHOL SCREENING TEST DEVICES: CALIBRATION

(b) Calibration of alcohol screening test devices shall be verified at least once during each seven day period of use by employment of a control sample from an alcoholic breath simulator, as defined in 10 NCAC 7B 0102(5), or by use of a

NALCO standard, ~~with a 0.10 alcohol concentration value, and insuring that the expected result is obtained.~~ The device shall be deemed properly calibrated when the result of 0.09 or 0.10 is obtained.

Statutory Authority G.S. 20-16.3.

CHAPTER 8 - HEALTH: PERSONAL HEALTH

SUBCHAPTER 8A - CHRONIC DISEASE

SECTION .0100 - MIGRANT HEALTH

.0115 ELIGIBLE MIGRANTS

All migrants are eligible for participation in the fee-for-service reimbursement aspect of the program. Migrant status shall be determined by the provider of medical care services and certified by a Certification of Migrant Status form signed by the patient, a person responsible for the patient, or the provider. Certification forms are available from the Office of Purchase of Medical Care Services, NC Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, NC 27611-7687. There are no financial eligibility requirements.

Statutory Authority G.S. 130A-223.

.0117 AUTHORIZATION

(a) A service must be authorized before the Migrant Health program will provide reimbursement. Requests for authorization may be made to the Migrant Health program's nursing liaison at local health departments or designated federal Primary Care or Migrant Health Centers or any other person designated by the program manager. Requests for authorization must be submitted on an Authorization Request Form, DHHS 3056, and include a signed Certification of Migrant Status form. Forms may be obtained from the Office of Purchase of Medical Care Services, NC Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, NC 27611-7687. Time frames and procedures for authorization and claims processing are found in 10 NCAC 4C. Once authorized, the Migrant Health program is committed to reimburse the provider at a rate established in 10 NCAC 4C 0400. Reimbursement rates are found in rules in 10 NCAC 4C.

(b) Only those services listed in Paragraph (a) of Rule .0118 of this Section shall be authorized for reimbursement.

(c) When a request for authorization is received, the agency receiving the request shall determine if the services can be provided through other public programs or by using other funds

or resources. If the services can be provided through another source, the agency shall take appropriate steps to refer the migrant for the service.

(d) When an outpatient service is authorized, the agency making the authorization shall identify and refer the migrant to an appropriate provider.

(e) The agency approving an authorization shall forward the original and a copy of DHS 1684 to the provider upon approval. A copy shall be submitted to the Migrant Health Program Office upon approval.

(f) Claims for payment must have the original authorization approval attached. Copies of the authorization form will not be honored for payment. Each provider must have a separate authorization and authorization number for each service provided.

(g) Inpatient authorization shall be limited as follows:

- (1) Hospital service and admitting physician service may be authorized for the first three days of each admission;
- (2) Consulting physician service may be authorized for one day per admission; if consulting physician service in more than one specialty is required, service for each specialty may be authorized for one day per admission;
- (3) Surgeon service may be authorized for the day before surgery, the day of surgery and the day after surgery;
- (4) Anesthesiologist service may be authorized for the day of surgery; and
- (5) Radiologist service may be authorized for a maximum of three days per admission.

Statutory Authority G.S. 130A-223.

.0118 COVERED SERVICES

(a) The Migrant Health program shall provide reimbursement for the following services provided to migrants which are necessary and essential for their immediate health needs:

- (1) ambulatory care services in the form of physician and dentist services;
- (2) other services including psychologist's and psychiatrist's professional fees, laboratory tests, diagnostic x-rays, drugs and medications;
- (3) hospital outpatient and emergency room services; and
- (4) hospital inpatient services.

(b) Reimbursement for inpatient authorization services shall be limited as follows:

- (1) Hospital service and admitting physician service may be authorized for the first three days of each admission;
 - (2) Consulting physician service may be authorized for one day per admission; if consulting physician service in more than one specialty is required, service for each specialty may be authorized for one day per admission;
 - (3) Surgeon service may be authorized for the day before surgery, the day of surgery and the day after surgery;
 - (4) Anesthesiologist service may be authorized for the day of surgery; and
 - (5) Radiologist service may be authorized for a maximum of three days per admission.
- (c) ~~(b)~~ The Migrant Health Program shall not provide reimbursement for the following services:
- (1) hospital inpatient services provided for injuries; and
 - (2) services provided for custodial care.

Statutory Authority G.S. 130A-223.

.0119 CLAIMS FOR PAYMENT

The provider shall send a claim for payment for authorized services and a copy of the authorization form to the Migrant Health program. Time frames for the submission and processing of claims for payment are found in 40 NCAC 4C. Claims for reimbursement shall be submitted in accordance with rules found in 10 NCAC 4C.

Statutory Authority G.S. 130A-223.

SECTION .0200 - HOME HEALTH SERVICES

.0205 GENERAL

(b) The Home Health Services program is administered by the Health Care Branch, Division of Health Services, North Carolina Department of Human Resources, P.O. Box 2004, Raleigh, NC 27602. Section, Division of Adult Health, North Carolina Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, NC 27611-7687.

Statutory Authority G.S. 130A-223.

.0206 DEFINITIONS

The following definitions shall apply throughout this Section:

- (3) "Program" means the Home Health Services ~~program.~~ Program.
- (4) "Skilled Nursing Services" means skilled nursing services as defined in Home Health Medicaid Manual (HHMM) Section 5202.1. Copies of the HHMM may be inspected at

or obtained from the Home Health Services Program Office. ~~306 N. Wilmington Street, P.O. Box 2001, Raleigh, North Carolina 27602.~~

- (7) "Medical Social Services" means medical social services as defined in 42 C.F.R. 405.4226. HCF A - Pub.11 Section 206.1. Copies of the rule may be inspected at or obtained from the Home Health Services Program Office. ~~306 N. Wilmington Street, P.O. Box 2001, Raleigh, North Carolina 27602.~~
- (8) "Durable Medical Equipment (DME)" means durable medical equipment as defined in Health Care Financing Administration (HCFA) publication 15-1. IIHMM Section 5202.5. Copies of HCFA publication 15-1 may be inspected at or obtained from the Home Health Services Program Office. ~~306 N. Wilmington Street, P.O. Box 2001, Raleigh, North Carolina 27602.~~
- (9) "Medical Supplies" means medical supplies as defined in HCFA publication 15-1. IIHMM Section 5202.4.
- (10) "Program Reimbursement Rate" means the:
 - (a) ~~Interim Medicaid rate~~ Medicaid maximum for nursing services, home health aide services, ~~and~~ therapy services, durable medical equipment, and ancillary medical supplies; and
 - (b) Interim Medicare rate for medical social services. ~~durable medical equipment, and ancillary medical supplies.~~
- (11) "Third party payor" means any person or entity that is or may be indirectly liable for the cost of service furnished to a patient. Third party payors include, without limitation, Medicaid, Medicare, and private insurance, Veterans Administration, Children's Special Health Services and Workers Compensation.

Statutory Authority G.S. 130A-223.

.0207 REIMBURSEMENT FUNDS

(a) The Home Health Services ~~program~~ Program may provide reimbursement funds to home health agencies to pay for home health services they provide to eligible patients.

(b) Application for reimbursement funds shall be made to the program and shall include the following information in a format specified by the HHSP:

- (1) a written plan which includes agency background, counties agency serves, services provided, and referral sources;
- (2) ~~a proposed budget;~~

- (2) ~~(4)~~ a list of the agency's charges, a copy of the most recently filed Medicare cost report; ~~and the current interim Medicare and Medicaid rates for services; and~~
- (3) ~~(4)~~ a statement concerning the agency's efforts to serve patients who are unable to pay for services.

Statutory Authority G.S. 130A-223.

.0213 MONITORING

Each home health agency receiving reimbursement funds shall submit the following information in a form as prescribed by the program:

- (4) ~~The agency's total operating cost, or total home health operating cost if the agency is a local health department or other multi-function agency, as well as specific sections of the agency's Medicare cost report;~~
- (1) ~~(2)~~ Home Health Services Program Quarterly Report;
- (3) ~~Home Health Services program annual report;~~
- (2) ~~(4)~~ Quarterly Expenditure Report; and
- (3) ~~(5)~~ Other information necessary for the effective administration of the program.

Statutory Authority G.S. 130A-223.

SUBCHAPTER 8C - NUTRITION AND DIETARY SERVICES

SECTION .0800 - ELIGIBILITY FOR WIC PROGRAM PARTICIPATION

.0802 APPLICATION

(a) An individual shall be considered an applicant for the WIC program when the individual visits the local WIC agency and specifically requests to participate in the program. At this time the local WIC agency shall fill out DHS DEHNR Form 3367, WIC Certification Form, or complete application procedures as outlined in the WIC Local Data Entry Manual. This form is available from the Nutrition and Dietary Services Branch, Division of Health Services, P.O. Box 2001, Raleigh, North Carolina 27602, WIC Section, Division of Maternal and Child Health, Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, NC 27611-7687.

Statutory Authority G.S. 130A-361.

.0806 DOCUMENTATION OF CERTIFICATION

(a) 7 C.F.R. 246.7 which is adopted by reference in accordance with G.S. 150B-14(c), requires that specific information be recorded on the same or separate forms, that the forms be

signed by the individual making the determination and that certain statements be read and signed by the participant. ~~DHS DEINR~~ Form 3367, WIC Certification Form, or ~~DEINR~~ Form 3717, Informed Consent Signature Form, shall be completed in order to meet these requirements.

Statutory Authority G.S. 130A-361.

SECTION .0900 - WIC PROGRAM FOOD PACKAGE

.0901 ALLOWABLE FOODS

(b) The following exclusions from the food package have been adopted by the North Carolina WIC program and approved by the United States Department of Agriculture, Food and Nutrition service:

- ~~(1) low calorie infant formulas, i.e., containing less than 62 kilocalories per 100 milliliters or 20 kilocalories per fluid ounce at standard dilution;~~
- (1) ~~(2)~~ shredded cheese;
- (2) ~~(3)~~ eggs other than grade A large or extra-large fresh eggs;
- (3) ~~(4)~~ infant cereal-fruit and cereal-formula combinations;
- (4) ~~(5)~~ cheese in excess of four pounds per month, unless a physician documents the presence of lactose intolerance;
- ~~(6) incomplete formulas, i.e., those requiring the addition of any ingredient other than water prior to being served in a liquid state;~~
- (5) ~~(7)~~ all formulas other than standard milk-based iron fortified infant formulas, unless a physician prescribes a formula and documents the presence of a medical condition, the reason for the specific formula prescribed, and the duration of its use;
- (6) ~~(8)~~ if the WIC program executes a sole source contract for an infant formula, that formula shall be specified in the vendor contract and on the food instrument, and all other formulas shall be excluded from the food package, unless a physician prescribes a different formula and documents the presence of a medical condition, the reason for the specific formula prescribed, and the duration of its use;
- (7) ~~(9)~~ other foods determined by the state agency to be inappropriate for provision as supplemental foods through the WIC program as a result of their composition, packaging or promotion in a manner which is contrary to the purpose of the

program as contained in .0601(a) of this Subchapter; and
(8) infant juice.

Statutory Authority G.S. 130A-361.

.0903 USE OF WIC SUPPLEMENTAL FOODS

WIC foods shall be provided for consumption ~~in the home~~ by the participant and not be distributed for use by institutions such as child and day care centers.

Statutory Authority G.S. 130A-361.

SECTION .1100 - WIC PROGRAM FOOD DISTRIBUTION SYSTEM

.1106 AUTHORIZED WIC VENDORS

(b) In order to participate in the WIC program, the vendor shall:

- (16) Maintain a minimum inventory of eligible food items in the store for purchase by WIC Program participants. All such foods shall be within the manufacturer's expiration date. The following items and sizes constitute the minimum inventory of eligible food items for stores classified 1 - 4:

Food Item	Type of Inventory
Milk	Whole fluid: gallon and half gallon -and- Skim/lowfat fluid: gallon or half gallon Nonfat dry: quart package -or- Evaporated: 12 oz. can
Cheese	2 types
Cereals	4 types (minimum box size 7 12 oz.)
Eggs	Grade A, large or extra-large: white or brown
Juices	Orange juice must be available in 2 types. A second flavor must be available in 1 type. The types are: 12 oz. frozen, 46 oz. can, 64 oz. container
Dried Peas and Beans	2 types
or Peanut Butter	18 oz. jars
Infant	

Fruit Juice	2 juices; 4-2 oz. jars
Infant Cereal	2 cereal grains; 8-oz. boxes (one must be rice)
Infant Formula	2 types; or 1 type contracted for by the WIC program and designated on the food instrument; 13 oz. concentrate

Quantities Required

Total of 6 gallons fluid milk

Total of 5 quarts when reconstituted

Total of 6 pounds
Total of 12 boxes

6 dozen

6 of each type in stock
10-12 oz. frozen
10-46 oz. canned
6-64 oz. containers

3 one-pound bags
3 jars

30 jars

6 boxes

62 cans

For store classification 5, the following applies: Supply within 48 hours of verbal request by local WIC agency staff any of the following products: Nutramigen, Portagen, Pregestimil, Similac Special Care 24, Similac 60/40, ~~Similac (Low Iron)~~,

~~Enfamil (Low Iron), SMA Low Iron, Ensure, Ensure Plus, Osmolite, Sustacal HC, Sustacal, Isocal, Enrich, Enfamil Premature, PediaSure, Polycose and MCT Oil.~~ All vendors (classifications 1 through 5) shall supply milk or soy based, 32 oz. ready-to-feed or powdered infant formula upon request.

Statutory Authority G.S. 130A-361.

SUBCHAPTER 8H - FAMILY PLANNING

SECTION .0200 - LOCAL PROVIDER FUNDING

.0204 FUNDING STIPULATIONS

(b) Local providers shall offer family planning services to persons eligible under ~~Titles XIX and XX~~ Title XIX of the Social Security Act. The local provider shall make every effort to:

- (1) Recover third party revenue;
- (2) Have a procedure for identifying all persons served who are eligible for third party reimbursement;
- (3) Bill third party payors for reimbursement of costs incurred in providing services to eligible individuals.

(d) Local providers will not be required to expend program income in the same budget year in which it was earned, but must maintain a strict accounting of receipts and expenditures to assure that such income is accounted for properly and is budgeted in the program in which it was earned. ~~Income earned during the grant period may be retained by the family planning branch for local providers and used for any purposes in accordance with Rule .0104 of this Subchapter.~~

Statutory Authority G.S. 130A-124.

.0205 THIRD PARTY REIMBURSEMENT PROCEDURES FOR LOCAL PROVIDERS

(b) Local providers whose Title XIX and XX earnings exceed the amount programmed into their budgets can use the additional earnings to meet already existing program needs or they can have the family planning branch hold the additional funds in reserve for program expansion during the next budget period. Amounts held in reserve shall not exceed reasonable levels established by the family planning branch.

~~(b) (c)~~ Budgeted amounts for Title XIX and Title XX shall be based upon actual earnings during the previous year, carryover funds, as well as allocations and projected earnings during the current year. ~~Local providers will be reimbursed based only on available receipts. A failure to earn the budgeted amount of third party reimbursement will result in a reduction of total program funds.~~

(c) ~~(4)~~ Each local provider participating in any form of third party reimbursement shall budget all such funds into the program which earned the funds. The Title XIX ~~and XX~~ earnings shall be utilized to support the overall program. Local providers shall have an accounts receivable system which complies with generally accepted accounting procedures. Earned revenue that is budgeted and available to be disbursed shall be considered the first dollar spent.

Statutory Authority G.S. 130A-124.

.0207 DIRECT PATIENT CHARGES

(e) No patient charges shall be assessed when income falls below ~~125~~ 100 percent of Federal Poverty Guidelines. ~~In counties that receive Title X but do not participate in Title XX, no~~ No patient charges shall be assessed to patients certified eligible for Medicaid, or in a Medicaid applicant status, ~~or those eligible to receive services reimbursed by Social Services Block Grant Funds.~~

(j) In the absence of any changes in federal regulations affecting the delivery of services to minors and the assessment of patient charges for services provided to minors, family planning project directors (Local Health Directors) may treat unemancipated minors as "a family of one" and consider them on the basis of their own resources. In such cases, the minor's income must be reported through the patient data system. Third-party sources (e.g., Title XIX ~~Title XX~~, and private insurance) shall be billed if eligibility criteria are met.

Statutory Authority G.S. 130A-124.

SECTION .0800 - SOCIAL SERVICES BLOCK GRANT FUNDS (REPEALED)

- .0801 GENERAL**
- .0802 ALLOCATION**
- .0803 TARGET POPULATION**
- .0804 FINANCIAL ELIGIBILITY**
- .0805 COVERED SERVICES**

Statutory Authority G.S. 130A-124.

**CHAPTER 10 - HEALTH SERVICES:
ENVIRONMENTAL HEALTH**

SUBCHAPTER 10A - SANITATION

**SECTION .0400 - SANITATION OF
RESTAURANTS AND OTHER FOODHANDLING
ESTABLISHMENTS**

- .0451 REFRIGERATION; THAWING; AND
PREPARATION OF FOOD**

(c) Food shall be prepared with the least possible manual contact, with suitable utensils and on preparation surfaces that have been cleaned and rinsed prior to use. For the purposes of this Rule, the effective use of plastic disposable gloves or, anti-bacterial soaps, lotions, or dips shall be considered as complying with this Rule. Preparation surfaces which come in contact with potentially hazardous foods shall be sanitized as provided in Rule .0460(c) of this Section. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

Statutory Authority G.S. 130A-248.

**SECTION .1900 - SEWAGE TREATMENT AND
DISPOSAL SYSTEMS**

.1961 MAINTENANCE OF SEWAGE SYSTEMS

(b) System management in accordance with Tables V(a) and V(b) shall be required for all systems installed or repaired after January 1, ~~1991~~ 1992. After January 1, ~~1991~~ 1992, system management in accordance with Tables V(a) and V(b) shall be required for all existing Type V and VI systems. After July 1, ~~1990~~ 1991, no improvement permit shall be issued for Type IV, Type V, or Type VI systems, unless a management entity of the type specified in Table V(b) is specifically authorized, funded, and operational to carry out this management program in the county or service district in which the proposed system is to be located. A contract shall be executed between the system owner and a management entity prior to the issuance of the Operation Permit. A condition of the Operation Permit shall be that a properly executed contract between the system owner and a management entity shall be in effect for as long as the system is in use. Inspections of the system shall be performed by a management entity at the frequency specified in Table V(b). The management entity shall report the results of their inspections to the local health department at the specified reporting frequency. However, where inspections indicate the need for system repairs, the management entity shall notify the local health department within 48 hours. The management entity shall be responsible for assuring routine maintenance procedures in accordance with the conditions of the Operation Permit.

Statutory Authority G.S. 130A-294; 130A-335(e) and (f).

**SECTION .2100 - RULES GOVERNING THE
SANITATION AND SAFETY OF MIGRANT
HOUSING**

.2133 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Migrant housing facility" means "migrant housing" as defined in G.S. 95-223.
- (2) "Department of Environment, Health, and Natural Resources" or "Department" means the North Carolina Department of Environment, Health, and Natural Resources. The term also means the authorized representative of the Department.
- (3) "Environmental Health Specialist" means a person authorized to represent the Department of Environment, Health, and Natural Resources on the local or state level in making evaluations of migrant housing water quality or water sanitization pursuant to state laws and rules.

Statutory Authority G.S. 95-225.

.2134 WATER SANITATION AND QUALITY

(a) A water supply of a safe, sanitary quality shall be provided. Wells shall be located, constructed, maintained, and operated in accordance with 10 NCAC 10D .0600 through .2600, "Rules Governing Public Water Supplies", 15 NCAC 2C .0100, "Well Construction Standards". Any well constructed prior to September 1, 1990 and not regulated under 10 NCAC 10D .0600 through .2600, "Rules Governing Public Water Supplies" shall comply with all the requirements provided in 15 NCAC 2C .0100, "Well Construction Standards" with the following applying in place of the requirements in Rule .0107 (a)(1)(B), (a)(1)(C), and (a) (2):

"A well shall be accepted as meeting this Rule if it is located at least 25 feet from any water-tight sewage collection facility (such as cast iron pipe) and at least 50 feet from any other sewage facility or any other source of pollution or contamination."

A spring shall be located, constructed, maintained, and operated in accordance with 10 NCAC 10A .1700, "Rules Governing the Protection of Private Water Supplies". Copies of 15 NCAC 2C .0100, "Well Construction Standards", may be obtained from the Division of Environmental Management. Copies of 10 NCAC 10D .0600 through .2600, "Rules Governing Public Water Supplies", and 10 NCAC 10A .1700, "Rules Governing the Protection of Private Water Supplies", may be obtained from the Division of Environmental Health. Both Divisions are addressed at P.O. Box 27687, Raleigh, NC 27611-7687.

(b) Prior to occupancy of a migrant housing facility, water samples for bacteriological analysis shall be collected by an environmental health specialist and submitted to the Division of Laboratory Services of the Department of Environment, Health, and Natural Resources or another certified laboratory for analysis. A sample negative for coliform organisms shall be obtained prior to the issuance of health department approval. Samples for bacteriological analysis may be collected after occupancy to determine continued safety for drinking, bathing, and other domestic usage.

(c) At any time prior to, or during, occupancy of the migrant housing facility, other tests or water quality may be collected.

(d) The water supply shall be deemed immediately unsafe for domestic usage under the following circumstances:

- (1) Upon confirmation of the presence of fecal coliform bacteria.
- (2) Upon determination of the Department's toxicologists as to the immediate threat to life posed by the presence of chemical constituents.

In these cases, the environmental health specialist shall immediately contact both the migrant housing operator and the Migrant Housing Division, North Carolina Department of Labor. All verbal contact made by the environmental health specialist shall be confirmed in writing.

(e) The water supply shall be deemed unsafe for domestic usage under the following circumstances:

- (1) Upon confirmation of the presence of a total coliform count.
- (2) Upon the determination of the Department's toxicologists as to the threat to health posed by the presence of chemical constituents.

In these cases, the environmental health specialist shall, within three days, notify the migrant housing operator and the Migrant Housing Division, North Carolina Department of Labor. All verbal contacts made by the environmental health specialist shall be confirmed in writing.

Statutory Authority G.S. 95-225.

SUBCHAPTER 10D - WATER SUPPLIES

SECTION .1600 - WATER QUALITY STANDARDS

.1642 PUBLIC NOTICE

(a) The supplier of water shall provide notice to consumers served by a public water system when the system fails to comply with a maximum contaminant level or treatment technique

established by this Subchapter or which fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption granted under this Subchapter as follows:

(1) For a community water system:

(A) Notice shall be given by publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure. If the area is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area; and

(B) In addition, notice shall be given by mail delivery (by direct mail or with the water bill) or by hand delivery, no later than 45 days after the violation or failure. Notices shall be repeated at least once every three months for as long as the violation or failure exists. Mail or hand delivery shall not be required if the Department determines that the supplier of water has corrected the violation or failure within the 45-day period. The Department shall acknowledge the correction of the violation or failure in writing within the 45-day period.

(C) When the area of the community water system is not served by a daily or weekly newspaper of general circulation, notice shall be given within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Notice by hand delivery or posting must begin as soon as possible but no later than 72 hours after the violation or failure for acute violations (as defined in Paragraph (a)(1)(D) of this Rule), or 14 days after the violation or failure for any other violation. Posting shall continue for as long as the violation or failure exists. Notice by hand delivery shall be repeated at least once every three months for as long as the violation or failure exists.

(D) For violations of the maximum contaminant levels of contaminants specified by the Department as posing an acute risk to human health and for violation of the maximum contaminant level for nitrate as defined in 40 C.F.R. §141.11(b) and determined according to 40 C.F.R. §141.23(d) which are hereby adopted by reference pursuant to G.S. 150B-14(c), notice shall be given by furnishing a copy of the notice to the radio and television

stations serving the area of the community water system as soon as possible but in no case later than 72 hours after the violation.

(2) For a non-community water system notice shall be given within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Notice by hand delivery or posting must begin as soon as possible but no later than 72 hours after the violation or failure for acute violations (as defined in Paragraph (a)(1)(D) of this Rule), or 14 days after the violation or failure for any other violation. Posting shall continue for as long as the violation or failure exists. Notice by hand delivery shall be repeated at least once every three months for as long as the violation or failure exists.

(b) The supplier of water shall provide notice to consumers served by a public water system when the supplier fails to perform monitoring required by this Section, fails to comply with a testing procedure established by this Subchapter or is subject to a variance or an exemption granted under this Subchapter, as follows:

(1) For a community water system:

(A) Notice shall be given within three months of the violation by publication in a daily newspaper of general circulation in the area served by the system. If the area is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area; and

(B) In addition, after publication notice shall be given by mail delivery (by direct mail or with the water bill) or by hand delivery at least once every three months for as long as the violation exists or a variance or exemption remains in effect.

(C) When the area of the community water system is not served by a daily or weekly newspaper of general circulation notice shall be given within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting shall continue for as long as the violation exists or a variance or exemption remains in effect. Notice by hand delivery shall be repeated at least once every three months for as long as the violation exists or the variance or exemption remains in effect.

- (2) For a non-community water system notice shall be given within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting shall continue for as long as the violation exists, or a variance or exemption remains in effect. Notice by hand delivery shall be repeated at least once every three months for as long as the violation exists or a variance or exemption remains in effect.

- (3) ~~In lieu of the requirements of Paragraphs (b)(1) and (2) of this Rule the supplier of water, at the discretion of the Department, may provide less frequent notice for minor monitoring violations as defined by the Department, if EPA has approved the Department's application for a program revision under 40 C.F.R. §142.16. Notice of such violations shall be given no less frequently than annually.~~

(c) The supplier of water for a community water system shall give a copy of the most recent public notice for any outstanding violation of any maximum contaminant level, or any treatment technique requirement, or any variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

(d) Each notice required by this Rule shall provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct such violation, the necessity for seeking alternative water supplies, if any, and any preventive measure the consumer should take until the violation is corrected. Each notice shall be conspicuous, easily readable, and shall not contain unnecessary technical language or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water system as a source of additional information concerning the notice. ~~If non-English speaking residents are served by the system, the notice shall be multi-lingual. Multi-lingual notice shall be given if 30 percent or more of the consumers served by the system are non-English speaking.~~

(e) When providing information on potential adverse health effects required by Paragraph (d) of this Rule in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of variances or exemptions,

or notices of failure to comply with a variance or exemption schedule, the supplier of water shall include the language specified in 40 C.F.R. §141.32(e) and (f) which is hereby adopted by reference pursuant to G.S. 150B-14(c). Copies of the required notice language may be obtained from the Public Water Supply Section, Division of Environmental Health, Post Office Box 27687, Raleigh, North Carolina 27611-7687.

(f) If the supplier of water does not provide notice as required by this Rule, the Department may give public notice if the Department meets all requirements of this Rule. However, the supplier of water shall remain responsible for providing the required notice and may be subject to action by the Department for violation of the notice requirements.

(g) The provisions of this Rule do not apply to 10 NCAC 10D .1619, .1620 and .1621(a).

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

SUBCHAPTER 10F - HAZARDOUS WASTE MANAGEMENT

.0001 GENERAL

~~(a) The purpose of this Subchapter is to establish minimum State standards for hazardous waste management applicable to generators, transporters, owners, and operators of facilities which treat, store, incinerate or dispose hazardous waste.~~

~~(a) (b) The Hazardous Waste Branch, Section of the Division of Health Services Solid Waste Management Division shall administer the hazardous waste management program for the State of North Carolina.~~

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

- (1) "Department of Environment, Health, and Natural Resources" shall be substituted for "Environmental Protection Agency";
- (2) "Secretary of the Department of Environment, Health, and Natural Resources" shall be substituted for "Administrator", "Regional Administrator" and "Director"; and
- (3) An "annual report" shall be required for all hazardous waste generators, treaters, storers, and disposers rather than a "biennial report".

(c) 40 CFR 260.1 ~~to~~ through 260.3 (Subpart A), "General," ~~has~~ have been adopted by reference in accordance with G.S. 150B-14(c).

(d) 40 CFR 260.11, "References", has been adopted by reference in accordance with G.S. 150B-14(c).

(e) ~~(4)~~ Copies of all material adopted by reference in this Subchapter may be inspected in the Branch Section Office, 401 Oberlin Road, P.O. Box 2091, 27687 Raleigh, N.C. 27602-27601. Copies may be obtained from the Branch Section at the actual cost to the Branch Section.

(e) The "References" contained in 40 CFR 260.11 have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 130A-294(c).

.0002 DEFINITIONS

(a) The definitions contained in 40 CFR 260.10 (Subpart B), 40 CFR 270.2) and 40 CFR 124.2 have been adopted by reference in accordance with G.S. 150B-14(c).

(b) This Rule shall apply throughout this Subchapter except that:

(1) "Department of Human Resources" shall be substituted for "Environmental Protection Agency" and "Secretary of the Department of Human Resources" shall be substituted for "Administrator", "Regional Administrator" and "Director", except in those situations where authority has not been delegated to the State of North Carolina (e.g. international shipments) or unless the context requires a different meaning.

(2) 40 CFR 124.2(c) shall not be adopted by reference.

(3) "Landfill" means a disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.

(4) "Branch" shall be the Hazardous Waste Branch in the Solid Waste Management Section.

(e) The following definitions shall apply throughout this Subchapter:

(1) "Comprehensive hazardous waste treatment facility" means a facility designated as such by the Governor's Waste Management Board, meeting the following criteria: it is a commercial facility that accepts hazardous waste from the general public for treatment; it has the capacity and capability to treat and dispose of hazardous waste on at least an intrastate, regional basis; and its location will sub-

stantially facilitate treatment of hazardous waste for the State of North Carolina.

(2) "Hazardous waste long-term storage facility" means any facility or any portion of a facility constructed or utilized for storage of the residuals of the treatment of hazardous waste, on or in land.

(3) "Long-term retrievable storage" means storage in closed containers in facilities (either above or below ground) with:

(A) adequate lights;

(B) impervious cement floors;

(C) strong visible shelves or platforms;

(D) passageways to allow inspection at any time;

(E) adequate ventilation if underground or in closed buildings;

(F) protection from the weather;

(G) accessible to monitoring with signs on both individual containers and sections of storage facilities; and

(H) adequate safety and security precautions for facility personnel, inspectors and invited or permitted members of the community.

(4) "Re-use" means a process by which resources are reused or rendered usable.

(a) The definitions contained in G.S. 130A-290 apply to this Subchapter.

(b) 40 CFR 260.10 (Subpart B), Definitions, has been adopted by reference in accordance with G.S. 150B-14(c), except that the Definitions for "Disposal", "Landfill", "Management or hazardous waste management", "Person", "Sludge", "Storage", and "Treatment" are defined by G.S. 130A-290 and are not adopted by reference.

(c) The following additional definitions shall apply throughout this Subchapter:

(1) "Section" means the Hazardous Waste Section, in the Division of Solid Waste Management, Department of Environment, Health, and Natural Resources.

(2) The "Department" means the N.C. Department of Environment, Health, and Natural Resources (DEHNR).

(3) "Division" means the Solid Waste Management Division (SWMD).

(4) "Long Term Storage" means the containment of hazardous waste for an indefinite period of time in a facility designed to be closed with the hazardous waste in place.

Statutory Authority G.S. 130A-294(c).

.0028 PETITIONS - PART 260

(a) All rulemaking petitions for changes in this Subchapter shall be made in accordance with 10 NCAC 4B .0101. Any person may submit a

petition requesting the adoption, amendment, or repeal of the rules in this Subchapter. The processing of such petitions shall follow the rules contained in 40 NCAC 4B.

(b) The provisions for "Petitions for Equivalent Testing or Analytical Methods" in 40 CFR 260.21 through 260.41 (Subpart C), "Rulemaking Petitions", have been adopted by reference in accordance with G.S. 150B-14(c).

(c) The provisions for "Petitions to Amend Part 261 to Exclude a Waste Produced at a Particular Facility" in 40 CFR 260.22 have been adopted by reference in accordance with G.S. 150B-14(c).

(d) The provisions for "variances from classification as a solid waste, standards and criteria for variance from classification as a solid waste, variance to be classified as a boiler, procedures for variances from classification as a solid waste or to be classified as a boiler" contained in 40 CFR 260.30 to 260.33 (Subpart C) have been adopted by reference in accordance with G.S. 150B-14(c).

(e) The provisions for "additional regulation of certain hazardous waste recycling activities on a case-by-case basis, procedures for case-by-case regulation of hazardous waste recycling activities" contained in 40 CFR 260.40 to 260.41 have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 130A-294(c).

.0029 IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PART 261

(a) The general provisions contained in 40 CFR 261.1 to 261.6 (Subpart A) have been adopted by reference in accordance with G.S. 150B-14(c).

(a) (b) The provisions for "Residues of Hazardous Waste in Empty Containers" contained in 40 CFR 261.1 through 261.7 (Subpart A), "General", have been adopted by reference in accordance with G.S. 150B-14(c).

(b) (c) The "Criteria for Identifying the Characteristics of Hazardous Wastes and for Listing Hazardous Wastes" contained in 40 CFR 261.10 and through 261.11 (Subpart B), "Criteria for Identifying the Characteristics of Hazardous Waste and for Listing Hazardous Waste", have been adopted by reference in accordance with G.S. 150B-14(c).

(c) (d) The "Characteristics of Hazardous Wastes" contained in 40 CFR 261.20 to through 261.24 (Subpart C), "Characteristics of Hazardous Waste" have been adopted by reference in accordance with G.S. 150B-14(c).

(d) (e) The "List of Hazardous Wastes" and the accompanying appendices (I through X)

contained in 40 CFR 261.30 to through 261.33 (Subpart D), "List of Hazardous Wastes" have been adopted by reference in accordance with G.S. 150B-14(c). Supplemental material contained in 40 CFR 261 has also been adopted by reference in accordance with G.S. 150B-14(c).

(e) The Appendices to 40 CFR Part 261 have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 130A-294(c).

.0030 STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE - PART 262

(a) The general provisions contained in 40 CFR 262.10 to through 262.12 (Subpart A), "General", have been adopted by reference in accordance with G.S. 150B-14(c).

(b) The provisions for "Manifests" contained in 40 CFR 262.20 to through 262.23 (Subpart B), "The Manifest", have been adopted by reference in accordance with G.S. 150B-14(c).

(c) "Pre-Transport Requirements" contained in 40 CFR 262.30 to through 262.34 (Subpart C), "Pre-Transport Requirements", have been adopted by reference in accordance with G.S. 150B-14(c).

(d) The provisions for "Recordkeeping and Reporting" contained in 40 CFR 262.40 to through 262.44 (Subpart D), "Recordkeeping and Reporting", have been adopted by reference in accordance with G.S. 150B-14(c). In addition, a generator shall keep records of inspections and results of inspections required by Section 262.34 for at least three years from the date of the inspection, except that 40 CFR 262.40 is not adopted by reference.

(4) The following shall be substituted for the provisions of 40 CFR 262.40 which were not adopted by reference:

"262.40 Recordkeeping.

(a) A generator must keep a copy of each manifest signed in accordance with Section 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

(b) A generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report.

(c) A generator must keep records of any test results, waste analyses, or other determinations made in accordance with

Section 262.14 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(d) The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrator.

(e) A generator must keep records and results of inspections as required by Section 262.34 for at least three years from the date of the inspection."

(e) The provisions for "Special Conditions" contained in 40 CFR 262.50 and through 262.58 (Subpart I), "Exports of Hazardous Waste", have been adopted by reference in accordance with G.S. 150B-14(c).

(f) "Imports of Hazardous Waste" provisions contained in 40 CFR 262.60 to 262.69 (Subpart F), "Imports of Hazardous Waste", has have been adopted by reference in accordance with G.S. 150B-14(c).

(g) "Farmers" provisions contained in 40 CFR 262.70 to 262.79 (Subpart G), "Farmers" has have been adopted by reference in accordance with G.S. 150B-14(c).

(h) The appendix contained in to 40 CFR Part 262 has been adopted by reference in accordance with G.S. 150B-14(c); however, Items D, F, H, and I on the form in the appendices contained in appendix to 40 CFR Part 262 are required to be completed on the North Carolina Hazardous Waste Manifest form.

Statutory Authority G.S. 130A-294(c).

.0031 STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE - PART 263

(a) The general provisions contained in 40 CFR 263.10 and 263.11 (Subpart A) have been adopted by reference in accordance with G.S. 150B-14(c).

(a) (b) The provisions for transfer facility requirements contained in 40 CFR 263.10 through 263.12 (Subpart A), "General", have been adopted by reference in accordance with G.S. 150B-14(c).

(b) (c) The provisions for "Compliance With the Manifest System and Recordkeeping" contained in 40 CFR 263.20 to through 263.22 (Subpart B), "Compliance With the Manifest System and Recordkeeping", have been adopted by reference in accordance with G.S. 150B-14(c).

(c) (d) The provisions for "Hazardous Waste Discharges" contained in 40 CFR 263.30 and

through 263.31 (Subpart C), "Hazardous Waste Discharges", have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 130A-294(c).

.0032 STANDARDS FOR OWNERS AND OPERATORS - PART 264

(a) Any person who treats, stores or disposes of hazardous waste shall do so in compliance with the standards set forth in this Rule, and only after having received a permit from the Department as required by 10 NCAC 10F .0031(b)(1), or having received interim status according to 10 NCAC 10F .0031(g)(1), comply with the requirements set forth in this Section. The treatment, storage or disposal of hazardous waste is prohibited except as provided in this Section.

(b) The general provisions contained in 40 CFR 264.1 to through 264.4 (Subpart A), "General", have been adopted by reference in accordance with G.S. 150B-14(c).

(c) "General Facility Standards" contained in 40 CFR 264.10 to through 264.18 (Subpart B), "General Facility Standards", have been adopted by reference in accordance with G.S. 150B-14(c).

(d) The provisions for "Preparedness and Prevention" contained in 40 CFR 264.30 to through 264.37 (Subpart C), "Preparedness and Prevention", have been adopted by reference in accordance with G.S. 150B-14(c).

(e) "Contingency Plan and Emergency Procedures" contained in 40 CFR 264.50 to through 264.56 (Subpart D), "Contingency Plan and Emergency Procedures", have been adopted by reference in accordance with G.S. 150B-14(c).

(f) The provisions for "Manifest System, Recordkeeping, and Reporting" and accompanying appendices contained in 40 CFR 264.70 to 264.78 through 264.77 (Subpart E), "Manifest System, Recordkeeping, and Reporting", have been adopted by reference in accordance with G.S. 150B-14(c).

(g) The provisions for "Ground-water Protection" contained in 40 CFR 264.90 to through 264.101 (Subpart F), "Releases From Solid Waste Management Units", have been adopted by reference in accordance with G.S. 150B-14(c). For the purpose of this adoption by reference, the words "the effective date" "January 26, 1983" shall be substituted for "July 26, 1982" contained in 40 CFR 264.90(a) (2). shall be deleted and replaced with the phrase "January 26, 1983".

(h) The provisions for "Closure and Post-Closure" contained in 40 CFR 264.110 to through 264.120 (Subpart G), "Closure and Post-Closure", have been adopted by reference

in accordance with G.S. 150B-14(c). ~~except that 40 CFR 264.129 (b) is rewritten as follows: "If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may add a notation on the deed to the facility property or other instrument normally examined during title search, indicating the removal of the waste."~~

(i) ~~"Financial Requirements"~~ contained in 40 CFR 264.140 ~~to through~~ 264.151 (Subpart II), ~~"Financial Requirements"~~, have been adopted by reference in accordance with G.S. 150B-14(c), except that 40 CFR 264.143(a)(3), (a)(4), (a)(5), (a)(6), 40 CFR 264.145(a)(3), (a)(4), (a)(5), (a)(6), and 40 CFR 264.151(a)(1), Section 15 and 40 CFR 264.151(h), are not adopted by reference.

(1) The following shall be substituted for the provisions of 40 CFR 264.143(a)(3) which were not adopted by reference:

~~"The~~ The owner or operator ~~must~~ shall deposit the full amount of the closure cost estimate at the time the fund is established. Within 1 year of the effective date of these regulations, an owner or operator using a closure trust fund established prior to the effective date of these regulations shall deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or shall obtain other financial assurance as specified in this ~~section.~~ Section.

(2) ~~The following shall be substituted for the provisions of 40 CFR 264.143(a)(4) which were not adopted by reference:~~
~~"Deleted"~~

(3) ~~The following shall be substituted for the provisions of 40 CFR 264.143(a)(5) which were not adopted by reference:~~
~~"Deleted"~~

(2) ~~(4)~~ The following shall be substituted for the provisions of 40 CFR 264.143(a)(6) which were not adopted by reference:

~~"After~~ After the trust fund is established, whenever the current closure cost estimate changes, the owner or operator ~~must~~ shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator within 60 days after the change in the cost estimate, ~~must~~ shall either deposit an amount into the fund so that its value after this deposit at least

equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the ~~difference.~~ difference.

(3) ~~(5)~~ The following shall be substituted for the provisions of 40 CFR 264.145(a)(3) which were not adopted by reference:

~~"The~~ The owner or operator ~~must~~ shall deposit the full amount of the post-closure cost estimate at the time the fund is established. Within 1 year of the effective date of these regulations, an owner or operator using a post-closure trust fund established prior to the effective date of these regulations shall deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or shall obtain other financial assurance as specified in this ~~section.~~ Section.

(6) ~~The following shall be substituted for the provisions of 40 CFR 264.145(a)(4) which were not adopted by reference:~~
~~"Deleted"~~

(7) ~~The following shall be substituted for the provisions of 40 CFR 264.145(a)(5) which were not adopted by reference:~~
~~"Deleted"~~

(4) ~~(8)~~ The following shall be substituted for the provisions of 40 CFR 264.145(a)(6) which were not adopted by reference:

~~"After~~ After the trust fund is established, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator ~~must~~ shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, ~~must~~ shall either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in this section to cover the ~~difference.~~ difference.

(5) ~~(9)~~ The following additional requirement shall apply: ~~shall be substituted for the provisions of 40 CFR 264.151(a)(1), Section 15, which were not adopted by reference:~~

~~"Section 15. Notice of Payment.~~ The trustee shall notify the ~~EPA Regional Administrator~~ Department of payment to the trust fund, by certified mail within ten days following said payment to the trust fund. The notice shall contain the name

of the Grantor, the date of payment, the amount of payment, and the current value of the trust fund." fund.

(j) ~~The provisions for "Use and Management of Containers" contained in 40 CFR 264.170 to through 264.178 (Subpart I), "Use and Management of Containers"~~ have been adopted by reference in accordance with G.S. 150B-14(c).

(k) ~~The provisions for "Tanks" contained in 40 CFR 264.190 to 264.200 through 264.199 (Subpart J), "Tank Systems"~~ have been adopted by reference in accordance with G.S. 150B-14(c).

(l) The following are requirements for Surface Impoundments:

(1) The provisions for "Surface Impoundments" contained in 40 CFR 264.220 ~~to through~~ 264.231 (Subpart K), "Surface Impoundments", have been adopted by reference in accordance with G.S. 150B-14(c).

(2) The following are additional permitting standards ~~related to~~ for surface impoundments:

(A) ~~A new surface impoundment shall meet the following minimum requirements for a liner system:~~

(A) ~~(i)~~ The liner system shall consist of at least two liners;

(B) ~~(ii)~~ Artificial liners shall be equal to or greater than 30 mils in thickness;

(C) ~~(iii)~~ Clayey liners shall be equal to or greater than five feet in thickness and have a maximum permeability of 1.0×10^{-7} cm/sec;

(D) ~~(iv)~~ Clayey liner soils shall have the same characteristics as described in ~~(q)~~ (r) (4)(B)(ii), (iii), (iv), (vi) and (vii) of this Rule;

(E) ~~(v)~~ A leachate collection system shall be constructed between the upper liner and the bottom liner;

(F) ~~(vi)~~ A leachate detection system shall be constructed below the bottom liner; and

(G) ~~(B)~~ A hazardous waste surface impoundment Surface impoundments shall be constructed in such a manner to prevent landsliding, slippage or slumping.

(m) ~~The provisions for "Waste Piles" contained in 40 CFR 264.250 to through 264.259 (Subpart L), "Waste Piles"~~ have been adopted by reference in accordance with G.S. 150B-14(c).

(n) ~~The provisions for "Land Treatment" contained in 40 CFR 264.270 to through 264.283 (Subpart M), "Land Treatment"~~ have been adopted by reference in accordance with G.S. 150B-14(c).

(o) The following are requirements for Landfills and Long-Term Storage Facilities:

(1) ~~The provisions for "Landfills" contained in 40 CFR 264.300 to 264.339 through 264.317 (Subpart N), "Landfills"~~ have been adopted by reference in accordance with G.S. 150B-14(c). These requirements apply to landfills and long-term storage facilities (See also 40 NCAC 10F .0032(q) and 40 NCAC 10F .0038 for Additional Landfill Requirements.)

(2) The following are additional requirements for hazardous waste landfills and long-term storage facilities:

(A) No hazardous waste landfill or long-term storage facility shall be established until at least one comprehensive hazardous waste treatment facility is fully operational in North Carolina.

(B) Hazardous waste shall be treated prior to placement in a North Carolina hazardous waste landfill or long-term storage facility. The extent of waste treatment required shall be based on the degree of hazard associated with each waste. Waste shall be classified as low, moderately, or extremely hazardous; classification being based on the following factors:

(i) The toxicity, quantity, and concentration of constituents within the waste;

(ii) The reported and potential toxic effects of the waste constituents;

(iii) The persistence, mobility, and potential for bioaccumulation of the waste constituents; and

(iv) Any other relevant factors.

(C) Hazardous waste that cannot be reduced, stabilized or destroyed to the extent which renders it sufficiently low in toxicity to present no significant health or safety hazard in the event of leakage, shall be stored in long-term, retrievable storage until such methods are found. Hazardous waste in long-term retrievable storage shall be detoxified as soon as the commission determines, based on the preponderance of the evidence, that the technology is available at a reasonable cost.

(D) Residue or ashes of hazardous waste which has been treated so that the toxicity is low enough to present no significant health or safety hazard in the event of leakage from the facility shall be placed in long-term storage or a hazardous waste landfill.

(E) No hazardous waste or polychlorinated biphenyl landfill facility shall be permitted within 25 miles of any other hazardous waste or polychlorinated biphenyl landfill

facility, long-term storage facility or comprehensive hazardous waste treatment facility.

(F) The following shall not be placed in a hazardous waste landfill, long-term storage, or long-term retrievable storage facility: ignitables as defined in the Federal Act, polyhalogenated biphenyls of 50 ppm or greater concentration and free liquids whether or not containerized.

(G) A hazardous waste landfill or long-term storage facility shall meet the following minimum liner requirements:

(i) Leachate collection and removal systems above an artificial liner;

(ii) An artificial liner of not less than 30 mil in thickness;

(iii) A five-foot clayey liner below the artificial liner which has a maximum permeability of 1.0×10^{-7} cm-sec; and

(iv) A leachate detection system immediately below a clay liner.

(H) A long-term storage facility shall meet groundwater protection, closure and post-closure, and financial requirements as specified in 40 CFR 264.90 to 264.101, Subpart (F), 40 CFR 264.110 to 264.120, Subpart (G) and 40 CFR 264.140 to 264.151, Subpart (H) as adopted in 40 NCAC 10F .0032.

(3) If technically and commercially feasible alternatives to landfilling, such as recycling, reduction, and detoxification, are available for a hazardous waste, that waste shall not be disposed of in a landfill cell. However, this requirement shall apply only if utilization of such alternatives will provide equal or greater protection of the public health than disposing of the same hazardous waste without utilization of such alternatives.

(p) A long-term storage facility shall meet groundwater protection, closure and post-closure, and financial requirements for disposal facilities as specified in Paragraphs (g), (h), and (i) of this Rule.

(q) ~~(p)~~ The provisions for "Incinerators" contained in 40 CFR 264.340 ~~to~~ through 264.351 (Subpart O), "Incinerators", have been adopted by reference in accordance with G.S. 150B-14(c).

(r) ~~(q)~~ The following are additional location standards for facilities:

(1) In addition to any other location standards set forth elsewhere in these Rules, the Department, ~~of Human Resources~~, in determining whether to issue a permit for a hazardous waste management facility, shall consider the risks posed by the

proximity of the facility to water table levels, flood plains, water supplies, public water supply watersheds, mines, natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites, and population centers and shall consider whether provision has been made for adequate buffer zones. The Department shall also consider ground water travel time, soil pH, soil cation exchange capacity, soil composition and permeability, slope, climate, local land use, transportation factors such as proximity to waste generators, route, route safety, and method of transportation, aesthetic factors such as the visibility, appearance, and noise level of the facility; potential impact on air quality, existence of seismic activity and cavernous bedrock.

(2) The following minimum separation distances shall be required of all hazardous waste management facilities except that existing facilities shall be required to meet these minimum separation distances to the maximum extent feasible:

(A) All hazardous waste management facilities shall be located at least 0.25 miles from institutions including but not limited to schools, health care facilities and prisons, unless the owner or operator can demonstrate that no unreasonable risks shall be posed by the proximity of the facility.

(B) All hazardous waste treatment and storage facilities shall comply with the following separation distances: all hazardous waste shall be treated and stored a minimum of 50 feet from the property line of the facility; except that all hazardous waste with ignitable, incompatible or reactive characteristics shall be treated and stored a minimum of 200 feet from the property line of the facility if the area adjacent to the facility is zoned for any use other than industrial or is not zoned.

(C) All hazardous waste landfills, long-term storage facilities, land treatment facilities and ~~new~~ surface impoundments, shall comply with the following separation distances:

(i) All hazardous waste shall be located a minimum of 200 feet from the property line of the facility;

(ii) ~~No~~ Each hazardous waste landfill, ~~below ground~~ long-term storage or surface impoundment facility shall be constructed ~~in such a manner so that the bottom of the facility is closer than~~ so that the bottom of the facility is closer than 10 feet ~~from or more above~~ the histor-

ical high ground water level. The historical high ground water level shall be determined by measuring the seasonal high ground water levels and predicting the long-term maximum high ground water level from published data on similar North Carolina topographic positions, elevations, geology, and climate; and

- (iii) All hazardous waste shall be located a minimum of 1,000 feet from the zone of influence of any existing off-site ground water well used for drinking water, and outside the zone of influence of any existing or planned on-site drinking water well.
- (1D) Hazardous waste storage and treatment facilities for liquid waste that is classified as EP toxic, toxic, or acutely toxic and is stored or treated in tanks or containers shall not be located:
 - (i) in the recharge area of an aquifer which is designated as an existing sole drinking water source as defined in the Safe Drinking Water Act, Section 1424(e) [42 U.S.C. 300h-3(e)] unless an adequate secondary containment system is constructed, and after consideration of applicable factors in ~~(4)~~ (r) (3) of this Rule, the owner or operator can demonstrate no unreasonable risk to public health;
 - (ii) within 200 feet of surface water impoundments or surface water stream with continuous flow as defined by the United States Geological Survey;
 - (iii) ~~"in in"~~ in an area that will allow direct surface or subsurface discharge to ~~WSI, WAI, WS-I, WS-II~~ or SA waters or a Class III Reservoir as defined in 15 NCAC 2B .0200 and 10 NCAC 10D .0702(6); ~~which are adopted by reference;~~
 - (iv) in an area that will allow direct surface or subsurface discharge to the watershed for a Class I or II Reservoir as defined in 10 NCAC 10D .0702 (4) and (5); ~~which are adopted by reference;~~
 - (v) within 200 feet horizontally of a 100-year floodplain elevation;
 - (vi) within 200 feet of a seismically active area as defined in (c) of this Rule; and
 - (vii) within 200 feet of a mine, cave, or cavernous bedrock.
- (3) The Department may require any hazardous waste management facility to comply with greater separation distances or other protective measures necessary to avoid

unreasonable risks posed by the proximity of the facility to water table levels, flood plains, water supplies, public water supply watersheds, mines, natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites, and population centers or to provide an adequate buffer zone. The Department may also require protective measures necessary to avoid unreasonable risks posed by the soil pH, soil cation exchange capacity, soil composition and permeability, climate, transportation factors such as proximity to waste generators, route, route safety, and method of transportation, aesthetic factors such as the visibility, appearance, and noise level of the facility, potential impact on air quality, and the existence of seismic activity and cavernous bedrock. In determining whether to require greater separation distances or other protective measures, the Department shall consider the following factors:

- (A) All proposed hazardous waste activities and procedures to be associated with the transfer, storage, treatment or disposal of hazardous waste at the facility;
- (B) The type of hazardous waste to be treated, stored, or disposed of at the facility;
- (C) The volume of waste to be treated, stored, or disposed of at the facility;
- (D) Land use issues including the number of permanent residents in proximity to the facility and their distance from the facility;
- (E) The adequacy of facility design and plans for containment and control of sudden and non-sudden accidental events in combination with adequate off-site evacuation of potentially adversely impacted populations;
- (F) Other land use issues including the number of institutional and commercial structures such as airports and schools in proximity to the facility, their distance from the facility, and the particular nature of the activities that take place in those structures;
- (G) The lateral distance and slope from the facility to surface water supplies or to watersheds draining directly into surface water supplies;
- (H) The vertical distance, and type of soils and geologic conditions separating the facility from the water table;
- (I) The direction and rate of flow of ground water from the sites and the extent and

- reliability of on-site and nearby data concerning seasonal and long-term ground-water level fluctuations;
- (J) Potential air emissions including rate, direction of movement, dispersion and exposure whether from planned or accidental, uncontrolled releases; and
- (K) Any other relevant factors.
- (4) The following are additional location standards for landfills, long-term storage facilities ~~or new~~ and hazardous waste surface impoundments:
- (A) A hazardous waste landfill, long-term storage, or a ~~new~~ surface impoundment facility shall not be located:
- in the recharge area of an aquifer which is an existing sole drinking water source;
 - within 200 feet of a surface water stream with continuous flow as defined by the United States Geological Survey;
 - in an area that will allow direct surface or subsurface discharge to ~~WSI, WAI, WS-I, WS-II~~ or SA waters or a Class III Reservoir as defined in 15 NCAC 2B .0200 and 10 NCAC 10D .0702(6); ~~which are adopted by reference;~~
 - in an area that will allow direct surface or subsurface discharge to a watershed for a Class I or II Reservoir as defined in 10 NCAC 10D .0702(4) and (5); ~~which are adopted by reference;~~
 - within 200 feet horizontally of a 100-year flood hazard elevation;
 - within 200 feet of a seismically active area as defined in (c) of this Rule; and
 - within 200 feet of a mine, cave or cavernous bedrock.
- (B) A hazardous waste landfill or long-term storage facility shall be located in highly weathered, relatively impermeable clayey formations with the following soil characteristics:
- The depth of the unconsolidated soil materials shall be equal to or greater than 20 feet;
 - The percentage of fine grained soil material shall be equal to or greater than 30 percent passing through a number 200 sieve;
 - Soil liquid limit shall be equal to or greater than 30;
 - Soil plasticity index shall be equal to or greater than 15;
 - Soil compacted hydraulic conductivity shall be a maximum of 1.0×10^{-7} cm sec;
 - Soil Cation Exchange Capacity shall be equal to or greater than 5 milli equivalents per 100 grams;
 - Soil Potential Volume Change Index shall be equal to or less than 4; and
 - Soils shall be underlain by a competent geologic formation having a rock quality designation equal to or greater than 75 percent unless other geological conditions afford adequate protection of public health and the environment.
- (C) A hazardous waste landfill or long-term storage facility shall be located in areas of low to moderate relief to the extent necessary to prevent landsliding or slippage and slumping. The site may be graded to comply with this standard.
- (5) All new hazardous waste impoundments that close with hazardous waste residues left in place shall comply with the standards for hazardous waste landfills in ~~(4)~~ (r) (4) of this Rule unless the applicant can demonstrate that equivalent protection of public health and environment is afforded by some other standard.
- (6) The owners and operators of all new hazardous waste management facilities will shall construct and maintain a minimum of two observation wells, one upgradient and one downgradient of the proposed facility; ~~The purpose of these wells will be to and shall~~ establish background groundwater concentrations and monitor annually for all hazardous wastes that the owner or operator proposes to store, treat, or dispose at the facility. ~~and to obtain the relevant information required under 10 NCAC 10D .0034(b)(13)(B).~~
- (7) The owners and operators of all new hazardous waste facilities ~~must~~ shall demonstrate that the community has had an opportunity to participate in the siting process by complying with the following:
- (A) The owners and operators shall hold at least one public meeting in the county in which the facility is to be located to inform the community of all hazardous waste management activities including but not limited to: the hazardous properties of the waste to be managed; the type of management proposed for the wastes; the mass and volume of the wastes; and the source of the wastes; and to allow the community to identify specific health, safety and environmental concerns or problems expressed by the community related to the hazardous waste activities associated with the facility. The owners

and operators ~~must~~ shall provide a public notice of this meeting at least 30 days prior to the meeting. Public notice ~~must~~ shall be documented in the facility permit application. The owners and operators shall submit as part of the permit application a complete written transcript of the meeting, all written material submitted that represents community concerns, and all other relevant written material distributed or used at the meeting. The written transcript and other written material submitted or used at the meeting ~~must be made available at~~ shall be submitted to the local public library closest to and in the county of the proposed site with a request that the information be made available to the public.

(B) For the purposes of this Rule, public notice shall include: notification of the boards of county commissioners of the county where the proposed site is to be located and all contiguous counties in North Carolina; a legal advertisement placed in a newspaper or newspapers serving those counties; and provision of a news release to at least one newspaper, one radio station and one TV station serving these counties. Public notice shall include the time, place, and purpose of the meetings required by this Rule.

(C) No less than 30 days after the first public meeting transcript is available at the local public library, the owners and operators shall hold at least one additional public meeting in order to attempt to resolve community concerns. The owners and operators ~~must~~ shall provide public notice of this meeting at least 30 days prior to the meeting. Public notice ~~must~~ shall be documented in the facility permit application. The owners and operators shall submit as part of the permit application a complete written transcript of the meeting, all written material submitted that represents community concerns, and all other relevant written material distributed or used at the meeting.

(D) The application, written transcripts of all public meetings and any additional material submitted or used at the meetings, and any additions or corrections to the application, including any responses to notices of deficiencies shall be submitted to the local library closest to and in the county of the proposed site, with a request that the information be made

available to the public until the permit decision is made.

(E) ~~(D)~~ The Department of Human Resources shall consider unresolved community concerns in the permit review process and impose final permit conditions based on sound scientific, health, safety, and environmental principles ~~and as authorized by applicable laws or rules.~~ The written transcript and other written material submitted or used at the meeting must be made available at the local public library closest to and in the county of the proposed site.

(s) ~~(r)~~ The provisions for "Miscellaneous Units" contained in 40 CFR 264.600 to through 264.603 (Subpart X), "Miscellaneous Units", have been adopted by reference in accordance with G.S. 150B-14(c).

Note: Pursuant to G.S. 143B-216.13(5)(10), the Governor's Waste Management Board has established a program to promote public education and public involvement in the decision-making process for the siting and permitting of proposed waste management facilities. The board will assist localities in which facilities are proposed in collecting and receiving information relating to the suitability of the proposed site. At the request of a local government in which facilities are proposed, the board can direct appropriate agencies of state government to develop such relevant data as that locality may reasonably request.

(t) ~~(s)~~ Appendices I through IX contained in to 40 CFR Part 264 have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 130A-294(c).

.0033 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS - PART 265

(a) ~~The general provisions contained in 40 CFR 265.1 to through 265.4 (Subpart A), "General", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(b) ~~"General Facility Standards" contained in 40 CFR 265.10 to through 265.18 (Subpart B), "General Facility Standards", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(c) ~~The provisions for "Preparedness and Prevention" contained in 40 CFR 265.30 to through 265.37 (Subpart C), "Preparedness and Prevention", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(d) ~~"Contingency Plan and Emergency Procedures" contained in 40 CFR 265.50 to through 265.56 (Subpart D), "Contingency Plan and Emergency Procedures", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(e) The provisions for "Manifest System, Recordkeeping, and Reporting" contained in 40 CFR 265.70 ~~to through~~ 265.77 (Subpart E), "Manifest System, Recordkeeping, and Reporting", have been adopted by reference in accordance with G.S. 150B-14(c).

(f) The provisions for "Ground Water Monitoring" contained in 40 CFR 265.90 ~~to through~~ 265.94 (Subpart F), "Ground-Water Monitoring", have been adopted by reference in accordance with G.S. 150B-14(c).

(g) The provisions for "Closure and Post-Closure" contained in 40 CFR 265.110 ~~to through~~ 265.120 (Subpart G), "Closure and Post-Closure", have been adopted by reference in accordance with G.S. 150B-14(c). ~~except that 40 CFR 265.120 (b) is rewritten as follows: "If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may add a notation on the deed to the facility property or other instrument normally examined during title search, indicating the removal of the waste."~~

(h) "Financial Requirements" contained in 40 CFR 265.140 ~~to through~~ 265.151 (Subpart II), "Financial Requirements", have been adopted by reference in accordance with G.S. 150B-14(c), except that 40 CFR 265.143(a)(3), (a)(4), (a)(5), (a)(6), and 40 CFR 265.145(a)(3), (a)(4), (a)(5), (a)(6), are not adopted by reference.

(1) The following shall be substituted for the provisions of 40 CFR 265.143(a)(3) which were not adopted by reference:

"The ~~The~~ owner or operator must shall deposit the full amount of the closure cost estimate at the time the fund is established. Within 1 year of the effective date of these regulations, an owner or operator using a closure trust fund established prior to the effective date of these regulations shall deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or shall obtain other financial assurance as specified in this section."

(2) The following shall be substituted for the provisions of 40 CFR 265.143(a)(4) which were not adopted by reference:
"Deleted"

(3) The following shall be substituted for the provisions of 40 CFR 265.143(a)(5) which were not adopted by reference:
"Deleted"

(4) ~~(4)~~ The following shall be substituted for the provisions of 40 CFR 265.143(a)(6) which were not adopted by reference:

~~"After~~ After the trust fund is established, whenever the current closure cost estimate changes, the owner or operator ~~must shall~~ compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator within 60 days after the change in the cost estimate, ~~must shall~~ either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the ~~difference.~~ difference."

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

~~"The~~ The owner or operator ~~must shall~~ deposit the full amount of the post-closure cost estimate at the time the fund is established. Within 1 year of the effective date of these regulations, an owner or operator using a post-closure trust fund established prior to the effective date of these regulations shall deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or shall obtain other financial assurance as specified in this Section."

(6) The following shall be substituted for the provisions of 40 CFR 265.145(a)(4) which were not adopted by reference:
"Deleted"

(7) The following shall be substituted for the provisions of 40 CFR 265.145(a)(5) which were not adopted by reference:
"Deleted"

(4) ~~(8)~~ The following shall be substituted for the provisions of 40 CFR 265.145(a)(6) which were not adopted by reference:

~~"After~~ After the trust fund is established, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator ~~must shall~~ compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, ~~must shall~~ either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current

post-closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference." difference.

(i) ~~The provisions for "Use and Management of Containers" contained in 40 CFR 265.170 to through 265.177 (Subpart I), "Use and Management of Containers", have been adopted by reference in accordance with G.S. 150B-14(c), except that 40 CFR 265.174 is not adopted by reference. Additionally, the owner or operator shall keep records and results of required inspections for at least three years from the date of the inspection.~~

(1) The following shall be substituted for the provisions of 40 CFR 265.174 which were not adopted by reference:

"265.174 Inspections.

The owner or operator must inspect areas where containers are stored at least weekly for leaks and for deterioration caused by corrosion or other factors. A log of inspections must be kept for at least three years from the date of the inspection. [Comment: See Section 265.174 for remedial action required if deterioration or leaks are detected.]"

(j) ~~The provisions for "Tanks" contained in 40 CFR 265.190 to through 265.201 (Subpart J), "Tank Systems", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(k) ~~The provisions for "Surface Impoundments" contained in 40 CFR 265.220 to through 265.230 (Subpart K), "Surface Impoundments", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(l) ~~The provisions for "Waste Piles" contained in 40 CFR 265.250 to through 265.258 (Subpart L), "Waste Piles", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(m) ~~The provisions for "Land Treatment" contained in 40 CFR 265.270 to through 265.282 (Subpart M), "Land Treatment", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(n) ~~The provisions for "Landfills" contained in 40 CFR 265.300 to through 265.316 (Subpart N), "Landfills", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(o) ~~The provisions for "Incinerators" contained in 40 CFR 265.340 to through 265.352 (Subpart O), "Incinerators", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(p) ~~The provisions for "Thermal Treatment" contained in 40 CFR 265.370 to through 265.383 (Subpart P), "Thermal Treatment", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(q) ~~The provisions for "Chemical, Physical, and Biological Treatment" contained in 40 CFR 265.400 to through 265.406 (Subpart Q), "Chemical, Physical, and Biological Treatment", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(r) ~~The provisions for "Underground Injection" contained in 40 CFR 265.430 (Subpart R) have been adopted by reference in accordance with G.S. 150B-14(c).~~

(s) ~~The provisions for "Appendices I through V contained in 40 CFR Part 265 have been adopted by reference in accordance with G.S. 150B-14(c).~~

Statutory Authority G.S. 130A-294(c).

.0034 THE HAZARDOUS WASTE PERMIT PROGRAM - PART 270

(a) ~~The following provisions for permitting requirements contained in 40 CFR 270 (Subpart A, General Information) 40 CFR 270.1 through 270.6 (Subpart A), "General Information", have been adopted by reference in accordance with G.S. 150B-14(c). For the purpose of this adoption by reference, "January 26, 1983" shall be substituted for "July 26, 1982" contained in 40 CFR 264.90(a).~~

(1) ~~40 CFR 270.1, Purpose and Scope of these Regulations;~~

(2) ~~40 CFR 270.2, Definitions;~~

(3) ~~40 CFR 270.3, Consideration Under Federal Law;~~

(4) ~~40 CFR 270.4, Effect of a Permit;~~

(5) ~~40 CFR 270.5, Non-compliance and Program Reporting by the Director;~~

(6) ~~40 CFR 270.6, References.~~

(b) ~~The following provisions for additional permitting requirements contained in 40 CFR 270 (Subpart B, Permit Application) 40 CFR 270.10 through 270.29 (Subpart B), "Permit Application", have been adopted by reference in accordance with G.S. 150B-14(c).~~

(1) ~~40 CFR 270.10, General Application Requirements;~~

(2) ~~40 CFR 270.11, Signatories to Permit Applications and Reports;~~

(3) ~~40 CFR 270.12, Confidentiality of Information;~~

(4) ~~40 CFR 270.13, Contents of Part A of the Permit Applications;~~

(5) ~~40 CFR 270.14, Contents of Part B General Requirements;~~

(6) ~~40 CFR 270.15, Specific Part B Information Requirements for Containers;~~

(7) ~~40 CFR 270.16, Specific Part B Information Requirements for Tanks;~~

- (8) 40 CFR 270.17, Specific Part B Information Requirements for Surface Impoundments;
- (9) 40 CFR 270.18, Specific Part B Information Requirements for Waste Piles;
- (10) 40 CFR 270.19, Specific Part B Information Requirements for Incinerators;
- (11) 40 CFR 270.20, Specific Part B Information Requirements for Landfill Land Treatment Facilities;
- (12) 40 CFR 270.21, Specific Part B Information Requirements for Land Treatment Facilities Landfill;
- (13) 40 CFR 270.23 Specific Part B information requirements for miscellaneous units;
- (14) 40 CFR 270.20 Permit Denial;
- (c) ~~(15)~~ The following are additional specific Part B information requirements for all treatment, storage or disposal facilities:
 - (1) ~~(A)~~ A description ~~Description~~ and documentation of the public meetings as required in 10 NCAC 10F .0032 ~~(a)~~ (r) (7);
 - (2) ~~(B)~~ A description of the hydrological and geological properties of the site including, as at a minimum, flood plains, depth to water table, ground water travel time, seasonal and longterm groundwater level fluctuations, proximity to public water supply watersheds, consolidated rock, soil pH, soil cation exchange capacity, soil characteristics and composition and permeability, existence of cavernous bedrock and seismic activity, slope, mines, climate, location and withdrawal rates of surface water users within the immediate drainage basin and well water users within a one mile radius of the facility; water quality information of both surface and groundwater within 1000 ft. of the facility, and a description of the local air quality;
 - (3) ~~(C)~~ A description of the facility's proximity to and potential impact on wetlands, endangered species habitats, parks, forests, wilderness areas, historical sites, mines, and air quality;
 - (4) ~~(D)~~ A description of local land use including residential, industrial, commercial, recreational, agricultural and the proximity to schools and airports;
 - (5) ~~(E)~~ A description of the proximity of the facility to waste generators and population centers; a description of the method of waste transportation; the comments of the local community and state transportation authority on the proposed route, and route safety. Comments should include proposed alternative routes and re-

strictions necessary to protect the public health;

- (6) ~~(F)~~ A description of facility aesthetic factors including visibility, appearance, and noise level; and
- (7) ~~(G)~~ A description of any other objective factors that the Department of Human Resources determines are reasonably related and relevant to the proper siting and operation of the facility.
- (16) The following are additional specific Part B information requirements for comprehensive hazardous waste treatment facilities:
 - (A) A description of the local zoning surrounding the facility;
 - (B) A description of the buffer zones surrounding the facility;
 - (C) A description of the availability of utilities to the facility;
 - (D) A description of the availability of civil defense services to the facility;
 - (E) A description of the fire safety of the facility;
 - (F) A description of access into the facility, and the existing and proposed road network around the facility;
 - (G) The distance from the facility to the nearest polychlorinated biphenyl landfill facility and hazardous waste landfill facility;
 - (H) A description of the procedures that will be employed to ensure that hazardous waste shall not be stored for over 90 days prior to treatment or disposal;
 - (I) A description of any other objective factors that the Department of Human Resources determines are reasonably related and relevant to the proper siting and operation of the facility;
- (d) ~~(17)~~ The following are additional In addition to the Specific Part B Information Requirements for Long-Term Retrievable Storage, Long-Term Storage Facilities or Hazardous Waste Landfills: hazardous waste disposal facilities, owners and operators of hazardous waste landfills or longterm storage facilities shall provide the following information:
 - (A) The owners and operators must provide the following information about the waste and underground storage of either a hazardous waste landfill or long-term storage facility:
 - (1) ~~(i)~~ Design drawings and specifications of the leachate collection and removal system;
 - (2) ~~(ii)~~ Design drawings and specifications of the artificial impervious liner;

- (3) (iii) Design drawings and specifications of the clay or clay-like liner below the artificial liner, and a description of the permeability of the clay or clay-like liner; and

- (4) (iv) A description of how hazardous wastes will be treated prior to placement in the facility. as required in 40 NCAC 10F .0032(c)(2)(B).

(c) (18) The following are additional In addition to the specific Part B Information requirements for Surface Impoundments, owners and operators of surface impoundments shall provide the following information:

- (1) (A) Design drawings and specifications of the leachate collection and removal system;
- (2) (B) Design drawings and specifications of all artificial impervious liners;
- (3) (C) Design drawings and specifications of all clay or clay-like liners and a description of the clay or clay-like liner; and
- (4) (D) Design drawings and specifications that show that the facility has been constructed in a manner that will prevent landsliding, slippage, or slumping.

(f) (e) The following provisions for additional permitting requirements contained in 40 CFR 270 (Subpart C, Permit Conditions) 40 CFR 270.30 through 270.33 (Subpart C), "Permit Conditions", have been adopted by reference in accordance with G.S. 150B-14(c).

- (1) 40 CFR 270.30, Conditions Applicable to all Permits;
- (2) 40 CFR 270.31, Requirements for Recording and Reporting of Monitoring Results;
- (3) 40 CFR 270.32, Establishing Permit Conditions; and
- (4) 40 CFR 270.33, Schedules of Compliance.

(g) (d) The following provisions for additional permitting requirements contained in 40 CFR 270 (Subpart D, Changes to Permit) 40 CFR 270.40 through 270.43 (Subpart D), "Changes to Permit", have been adopted by reference in accordance with G.S. 150B-14(c).

- (1) 40 CFR 270.40, Transfer of Permits;
- (2) 40 CFR 270.41, Major Modification or Revocation and Reissuance of Permits;
- (3) 40 CFR 270.42, Permit modification at the request of the permittee;
- (4) 40 CFR 270.43, Termination of Permits.

(h) (e) The following provisions for additional permitting requirements contained in 40 CFR 270 (Subpart F) 40 CFR 270.50 through 270.51 (Subpart F), "Expiration and Continuation of Permits", have been adopted by reference in accordance with G.S. 150B-14(c).

- (1) 40 CFR 270.50, Duration of Permits; and
- (2) 40 CFR 270.51, Continuation of Expiring Permits.

(i) (f) The following provisions for additional permitting requirements contained in 40 CFR 270 (Subpart F, Special Forms of Permits) 40 CFR 270.60 through 270.65 (Subpart F), "Special Forms of Permits", have been adopted by reference in accordance with G.S. 150B-14(c).

- (1) 40 CFR 270.60, Permit by Rule;
- (2) 40 CFR 270.61, Emergency Permits;
- (3) 40 CFR 270.62, Hazardous Waste Incinerator Permits;
- (4) 40 CFR 270.63, Permits for Land Treatment Demonstrations using Field Test or Laboratory Analysis;
- (5) 40 CFR 270.65 Research and Development and Demonstration Permits.

(j) (g) The following provisions for additional permitting requirements contained in 40 CFR 270 (Subpart G, Interim Status) 40 CFR 270.70 through 270.73 (Subpart G), "Interim Status", have been adopted by reference in accordance with G.S. 150B-14(c). However, the date "November 8, 1985" contained in 40 CFR 270.73(c) shall be deleted and replaced with the date "January 1, 1986". For the purpose of this adoption by reference, "January 1, 1986" shall be substituted for "November 8, 1985" contained in 40 CFR 270.73(c).

- (1) 40 CFR 270.70, Qualifying for Interim Status;
- (2) 40 CFR 270.71, Operation during Interim Status;
- (3) 40 CFR 270.72, Changes during Interim Status; and
- (4) 40 CFR 270.73, Termination of Interim Status.

(k) (h) Permitting The following are additional permitting requirements concerning operating record of other facilities.

- (1) Disclosure Statement Requirements. An applicant applying for a permit for a new hazardous waste facility shall submit a disclosure statement to the Department as a part of the application for a permit or any time thereafter specified by the Department. The disclosure statement shall be supported by an affidavit attesting to the truth and completeness of the facts asserted in the statement and shall include:
 - (A) A brief description of the form of the business (e.g. partnership, sole proprietorship, corporation, association, or other);
 - (B) The name and address of any hazardous waste facility constructed or operated after October 21, 1976 by the applicant or any

parent or subsidiary corporation if the applicant is a corporation; and

- (C) A list identifying any legal action taken against any facility identified in ~~(h)~~ (k) (1)(B) of this Rule involving:

- (i) any administrative ruling or order issued by any state, federal or local authority relating to revocation of any environmental or waste management permit or license, or to a violation of any state or federal statute or local ordinance relating to waste management or environmental protection;
- (ii) any judicial determination of liability or conviction under any state or federal law or local ordinance relating to waste management or environmental protection; and
- (iii) any pending administrative or judicial proceeding of the type described in this Part.

- (D) The identification of each action described in ~~(h)~~ (k) (1)(C) of this Rule shall include the name and location of the facility that the action concerns, the agency or court that heard or is hearing the matter, the title, docket or case number, and the status of the proceeding.

- (2) In addition to the information set forth in Subparagraph ~~(h)~~ (k) (1) of this Rule, the Department may require from any applicant such additional information as it deems necessary to satisfy the requirements of G.S. 130A-294 and 130A-295. G.S. 130A-295. Such information may include, but shall not be limited to:

- (A) The names, addresses, and titles of all officers, directors, or partners of the applicant and of any parent or subsidiary corporation if the applicant is a corporation;

- (B) The name and address of any company in the field of hazardous waste management in which the applicant business or any of its officers, directors, or partners, hold an equity interest and the name of the officer, director, or partner holding such interest; and

- (C) A copy of any administrative ruling or order and of any judicial determination of liability or conviction described in ~~(h)~~ (k) (1)(C) of this Rule, and a description of any pending administrative or judicial proceeding in that item.

- (3) The Department may waive the requirement to submit any part or parts of the disclosure statement if it finds that submission of such information is not neces-

sary to satisfy the requirements of G.S. 130A-294 and 130A-295. If the Department finds that any part or parts of the disclosure statement is not necessary to satisfy the requirements of G.S. 130A-295, such information shall not be required.

- (l) An applicant for a new, or modification to an existing, commercial facility permit, shall provide a description and justification of the need for the facility.

Statutory Authority G.S. 130A-294(c); 130A-295(a)(1) and (2).

.0035 GENERAL PROGRAM REQUIREMENTS - PART 124

The following decision making requirements for permits contained in 40 CFR 124 (Subpart A) 40 CFR 124.1 through 124.21 (Subpart A), "General Program Requirements", have been adopted by reference in accordance with G.S. 150B-14(c), except that 40 CFR 124.2(c) is not adopted by reference.

- (1) 40 CFR 124.1, Purpose and Scope;
- (2) 40 CFR 124.2, Definitions (as modified in Rule .0002 of this Subchapter);
- (3) 40 CFR 124.3, Application for a Permit;
- (4) 40 CFR 124.5, Modification, Revocation and Re-issuance, or Termination of Permits;
- (5) 40 CFR 124.6, Draft Permits;
- (6) 40 CFR 124.7, Statement of Basis;
- (7) 40 CFR 124.8, Fact Sheet;
- (8) 40 CFR 124.9, Administrative Record for Draft Permits When EPA is the Permitting Authority;
- (9) 40 CFR 124.10, Public Notice Of Permit Actions and Public Comment Period;
- (10) 40 CFR 124.11, Public Comments And Requests For Public Hearings;
- (11) 40 CFR 124.12, Public Hearings;
- (12) 40 CFR 124.13, Obligation to raise issues and provide information during the public comment period;
- (13) 40 CFR 124.14, Reopening of the public comment period;
- (14) 40 CFR 124.15, Issuance and effective date of permit;
- (15) 40 CFR 124.16, Stays of contested permit conditions;
- (16) 40 CFR 124.17, Response to comments;
- (17) 40 CFR 124.18, Administrative Record for Final Permit When EPA is the Permitting Authority;
- (18) 40 CFR 124.19, Appeal of RCRA, UIC and PSD Permits; and
- (19) 40 CFR 124.20, Computation of Time.

Statutory Authority G.S. 130A-294(c).

.0039 STDS: MGMT/SPECIFIC HAZARDOUS WASTE: FACILITIES - PART 266

(a) ~~The following provisions for recyclable materials used in a manner constituting disposal contained in 40 CFR 266.20 to through 266.23~~ (Subpart C), "Recyclable Materials Used in a Manner Constituting Disposal", have been adopted by reference in accordance with G.S. 150B-14(c).

(b) ~~The following provisions for "Hazardous Waste Burned for Energy Recovery" contained in 40 CFR 266.30 to 266.36 through 266.35~~ (Subpart D), "Hazardous Waste Burned for Energy Recovery", have been adopted by reference in accordance with G.S. 150B-14(c).

(c) ~~The following provision for "Used Oil Burned for Energy Recovery" contained in 40 CFR 266.40 to through 266.44~~ (Subpart E), "Used Oil Burned for Energy Recovery", have been adopted by reference in accordance with G.S. 150B-14(c).

(d) ~~The following provision for Recyclable Materials Utilized for Precious Metal Recovery contained in 40 CFR 266.70~~ (Subpart F), "Recyclable Materials Utilized for Precious Metal Recovery", ~~has have~~ been adopted by reference in accordance with G.S. 150B-14(c).

(e) ~~The following provisions for Spent Lead-Acid Batteries being reclaimed contained in 40 CFR 266.80~~ (Subpart G), "Spent Lead-Acid Batteries Being Reclaimed", ~~has have~~ been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 130A-294(c).

.0041 REQS: AUTHORIZATION: STATE HAZARDOUS WASTE PRGS - PART 271

~~The following provisions for the "Sharing of Information" in 40 CFR 271.17, "Sharing of Information", has have~~ been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 130A-294(c).

.0042 LAND DISPOSAL RESTRICTIONS - PART 268

(a) ~~The "General" provisions contained in 40 CFR 268.1 to through 268.13~~ (Subpart A), "General", have been adopted by reference in accordance with G.S. 150B-14(c).

(b) ~~The "Prohibitions on Land Disposal" provisions contained in 40 CFR 268.30 to through 268.33~~ (Subpart C), "Prohibitions on Land Disposal", have been adopted by reference in accordance with G.S. 150B-14(c).

(c) ~~The "Treatment Standards" provisions contained in 40 CFR 268.40 to through 268.44~~

(Subpart D), "Treatment Standards", have been adopted by reference in accordance with G.S. 150B-14(c).

(d) ~~The "Prohibitions on Storage" provisions contained in 40 CFR 268.50~~ (Subpart E), "Prohibitions on Storage", ~~has have~~ been adopted by reference in accordance with G.S. 150B-14(c).

(e) ~~Appendices I and III contained in to 40 CFR Part 268~~ have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 130A-294(c).

SUBCHAPTER 10G - SOLID WASTE MANAGEMENT

SECTION .0100 - GENERAL PROVISIONS

.0101 DEFINITIONS

The definitions in G.S. 130A-290 and the following definitions shall apply throughout this Subchapter:

Statutory Authority G.S. 130A-294.

.0102 APPLICABILITY

These solid waste disposal management rules are for general application throughout the State of North Carolina unless otherwise specifically indicated by their context. Rules found in Section .0700 of this Subchapter apply to the Division's program for solid waste management and also to the Division's program for hazardous waste management. All other rules of this Subchapter apply to the Division's program for solid waste management but not to the Division's program for hazardous waste management. Other hazardous waste management program rules are found in 10 NCAC 10F. The official policy and purpose of the State of North Carolina in regard to solid waste control is set forth in Article 9 of Chapter 130A of the North Carolina General Statutes.

Statutory Authority G.S. 130A-294.

.0103 GENERAL CONDITIONS

(d) Solid waste shall be disposed of at a solid waste disposal site in accordance with the Solid Waste Management Act and the Federal Act. Hazardous waste, lead acid batteries, liquid waste, including used oil, infectious waste, and any other wastes that may pose a threat to the environment or the public health, as determined by the Division, are prohibited from disposal at a solid waste disposal site.

(g) White goods shall not be disposed at a solid waste disposal site after January 1, 1991.

(h) By July 1, 1991, all solid waste management facilities owned and operated by or on behalf of a local government, except facilities which will receive no waste after July 1, 1992 shall install scales and weigh all solid wastes when it is received at the facility.

(i) By July 1, 1991, each local government operating a permitted solid waste management facility shall initiate a solid waste recycling program which shall be designed to achieve the goal of recycling at least 25 percent of the municipal solid waste stream by January 1, 1993, prior to final disposal or incineration at a solid waste disposal facility.

(j) After January 1, 1994, all active sanitary landfills (except demolition landfills) shall be equipped with liners, leachate collection systems and final cover systems.

Statutory Authority G.S. 130A-294.

SECTION .0200 - PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES

.0201 PERMIT REQUIRED

(b) The permit shall have two parts, as follows:

(1) A permit to operate construct a solid waste management facility shall be issued by the Division after site and construction plans have been approved and it has been determined that the facility can be operated in accordance with the applicable rules set forth in this Subchapter and so as to provide reasonable protection to the environment and the public health. An applicant shall not clear or grade land or commence construction for a solid waste management facility until a construction permit has been issued.

(2) A permit to operate a solid waste management facility may not be issued unless it has been determined that the facility has been constructed in accordance with the construction permit, that any pre-operative conditions of the construction permit have been met, and that the construction permit has been recorded, if applicable, in accordance with Rule .0204 of this Section.

Statutory Authority G.S. 130A-294.

.0202 PERMIT APPLICATION

(a) Application for permits required by Rule .0201 of this Subchapter should be forwarded to the Solid Waste Branch, Division of Health Services, P.O. Box 2091, Raleigh, N.C. 27602.

Permit applications shall contain the following information:

- (1) Site and construction plans;
- (2) ~~An approval~~ A letter from the unit of local government having zoning authority over the area where the facility is to be located stating that the proposed facility meets all of the requirements of the local zoning ordinance, or that the site is not zoned;
- (3) Detailed plans and specifications for solid waste management facilities (except demolition landfills) shall be prepared by a professional engineer. The plans shall bear an imprint of the registration seal of the engineer; and the geological study shall bear the seal of a licensed professional geologist, in accordance with N.C.G.S. Chapter 89E; ~~and~~
- (4) A permit for a solid waste disposal facility issued on or after July 1, 1990, shall be issued only upon receipt of plans for the establishment by July 1, 1991 of a recycling program within the county where the facility is to be located; and
- (5) ~~(4)~~ Any other information pertinent to the proposed facility.

Statutory Authority G.S. 130A-294.

.0203 PERMIT APPROVAL OR DENIAL

(e) When the Division denies a permit for a solid waste management facility, it shall state in writing the reason for such denial and shall also state its estimate of the changes in the applicant's proposed activities or plans which will be required in order that the applicant may obtain a permit. A denial shall be without prejudice to the person's right to a hearing or for filing a future request after revisions are made to meet objections specified as reasons for denial. Reasons for denial are:

- (1) Submission of incomplete information;
- (2) Failure to meet the requirements set forth in Sections .0300, .0400 and .0500 of this Subchapter applicable to the type of facility applied for; or
- (3) The past conduct by the applicant, as defined in G.S. 130A-309.06(b), which has resulted in repeated violations of solid waste management statutes, these Rules, or orders issued thereunder, or violations of permit conditions of a solid waste management facility located in this State; or
- (4) ~~(3)~~ Any other reasons which would prevent the solid waste facility or site from being operated in accordance with Article 9, Chapter 130A of the General Statutes.

these Rules, the Federal Act, or acceptable engineering or public health and environmental standards.

Statutory Authority G.S. 130A-294.

SECTION .0300 - TREATMENT AND PROCESSING FACILITIES

.0301 APPLICATION REQUIREMENTS

This Rule contains the information required for a permit application for each treatment and processing facility. A minimum of three sets of the following information shall be required in each application:

- (1) Site and operation plans;
- (2) ~~An approval~~ A letter from the unit of local government having zoning authority over the area where the facility is to be located, ~~and stating that the proposed facility meets all of the requirements of the local zoning ordinance, or that the site is not zoned; and~~
- (3) Any other information pertinent to the proposed facility.

Statutory Authority G.S. 130A-294.

SECTION .0400 - TRANSFER FACILITIES

.0401 APPLICATION REQUIREMENTS

This Rule contains the information required for a permit application for each transfer facility. A minimum of three sets of the following information shall be required in each application:

- (1) Site and operation plans;
- (2) ~~An approval~~ A letter from the unit of local government having zoning authority over the area where the facility is to be located, ~~and stating that the proposed facility meets all of the requirements of the local zoning ordinance, or that the site is not zoned; and~~
- (3) Any other information pertinent to the proposed facility.

Statutory Authority G.S. 130A-294.

SECTION .0500 - DISPOSAL SITES

.0503 SITING AND DESIGN REQUIREMENTS FOR DISPOSAL SITES

Disposal sites shall comply with the following requirements in order for a permit to be issued:

- (1) A site shall meet the following siting requirements:
- (b) A site shall be located in consideration of the following:
- (iii) A site shall not damage or destroy an archaeological or historical site;

Note: Rule .0503(1)(b)(iii) is readopted pursuant to G.S. 130A-294, as amended effective October 1, 1989.

- (2) A site shall meet the following design requirements:

- (d) A site shall meet the following ground water requirements:

- (i) ~~A site shall not contravene groundwater standards as established under 15 NCAC 2L.~~ 15 NCAC 2L is adopted by reference in accordance with Subsection "c" of N.C.G.S. 150B-14. Copies of 15 NCAC 2L may be obtained from and inspected at the Solid Waste Branch, Division of Health Services, P.O. Box 2091, Raleigh, N.C. 27602. New sanitary landfills and lateral expansions of existing landfills must be designed with liners, leachate collection systems, and final cover systems as necessary to comply with ground water standards as established under 15 NCAC 2L. 15 NCAC 2L is adopted by reference in accordance with G.S. 150B-14(c);

Statutory Authority G.S. 130A-294.

.0504 APPLICATION REQUIREMENTS FOR SANITARY LANDFILLS

This Rule contains the information required for a permit application for each sanitary landfill. It is recommended that the site application be submitted and acted upon prior to submitting the application for the construction plan. A minimum of four sets of plans will be required in each application.

Note that a permit for a sanitary landfill is based upon a particular stream of identified waste, as set forth in .0504 (g)(i) and (ii) of this Rule. Any substantial change in the population or area to be served, or in the type, quantity or source of waste will require a new permit and operation plan, including waste determination procedures where appropriate.

- (1) The following information is required for reviewing a site plan application for a proposed sanitary landfill:

- (e) Local government approvals:

- (ii) A letter from the unit of government having zoning jurisdiction over the site which states that the proposal meets all of the requirements of the local zoning ordinance, or that the site is not zoned.

- (2) The following information is required for reviewing a construction plan application for a proposed sanitary landfill:

- (c) A construction plan that provides:

- (i) engineering design for liners, leachate collection systems;

- (ii) ~~(i)~~ proposed final contours showing removal of surface water runoff; and
- (iii) ~~(ii)~~ locations of slope drains or other drop structures.

Statutory Authority G.S. 130A-294.

.0506 APPLICATION REQUIREMENTS FOR DEMOLITION LANDFILLS

This Rule contains the information required for a permit application for each demolition landfill. It is recommended that the site application be submitted and acted upon prior to submitting the application for the operational plan. A minimum of four sets of plans will be required in each application.

- (1) The following is required for reviewing a site plan application for a proposed demolition landfill:
- (b) ~~An approval~~ A letter from the unit of local government having zoning authority over the area where the site is to be located stating that the site meets all of the requirements of the local zoning ordinance, or that the site is not zoned;

Statutory Authority G.S. 130A-294.

.0508 APPLICATION REQUIREMENTS FOR INCINERATORS

This Rule contains the information required for a permit application for each incinerator. A minimum of two sets of plans will be required for each application.

- (3) ~~An approval~~ A letter from the unit of local government having zoning authority over the area where the facility is to be located and stating that the site meets all of the requirements of the local zoning ordinance, or that the site is not zoned; and

Statutory Authority G.S. 130A-294.

SECTION .1100 - SCRAP TIRE MANAGEMENT

.1101 DEFINITIONS

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

- (1) "Disposal site" means any place at which scrap tires are disposed of by sanitary landfill, incineration, or other method as may be approved by the Division.
- (2) "Processing" means chopping, chipping, shredding, slicing, cutting, stamping, dyeing, pyrolyzing or other physico-chemical processing, of scrap tires either for disposal or production of useable materials.

- (3) "Scrap tire monofill" means a sanitary landfill, or portion thereof, permitted exclusively for scrap tire disposal.

Statutory Authority G.S. 130A-309.57.

.1102 APPLICATION FEE AND ANNUAL PERMIT FEE

(a) A permit application for a scrap tire collection site or scrap tire disposal site shall be accompanied by a non-refundable twenty-five dollars (\$25.00) application fee. The application fee shall be credited toward the permit fee which shall be paid before a permit is issued.

(b) An annual permit fee shall be paid to the Division on July 1, as follows:

- (1) A scrap tire collection site: two hundred and fifty dollars (\$250.00); and
- (2) A scrap tire disposal site: two hundred and fifty dollars (\$250.00).

Statutory Authority G.S. 130A-309.57.

.1103 GENERATOR OF SCRAP TIRES

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

Statutory Authority G.S. 130A-309.57.

.1104 GENERAL CONDITIONS

(a) Landfilling of whole scrap tires is prohibited.

(b) Co-disposal of scrap tires is prohibited as of July 1, 1991.

(c) Demonstrated methods of scrap tire disposal, in addition to the disposal methods in G.S. 130A-309.58, may be approved by the Division.

(d) The owner or operator of any scrap tire disposal or collection site, defined as a site on which more than 50 scrap tires are located, shall notify the Division by submitting a form giving complete information regarding the location, size, period of operation, ownership and operation of the site, and the number of scrap tires accumulated at the site.

(e) Scrap tire certification forms, in accordance with G.S. 130A-309.58(f) shall be obtained from units of local government.

Statutory Authority G.S. 130A-309.58.

.1105 PERMIT REQUIRED

(a) No person, other than a person exempted by G.S. 130A-309.57(d), shall establish, operate or maintain, or allow to be established, operated

or maintained upon his land, a scrap tire collection site or scrap tire disposal site unless a permit for the site has been obtained from the Division.

(b) Application for permits required by this Rule shall be forwarded to the Solid Waste Section, Solid Waste Management Division, P.O. Box 27687, Raleigh, North Carolina 27611.

(c) A permit is issued to the permit applicant for a particular site and is non-transferrable.

(d) Sites at which scrap tires are used for agriculture-related purposes are not subject to the scrap tire collection site permit requirement, provided the number of tires stored on-site does not exceed the number of tires which reasonably may be used for on-site agriculture-related purposes during a one-year period. Scrap tires shall be stored so as not to create a public health nuisance or fire hazard and in compliance with storage requirements of Rule .1107(1) and (2)(a) through (c) of this Section. In an enforcement action, the burden of proof shall be upon the person claiming the agriculture-related use.

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

(f) A permitted sanitary landfill, other than a demolition landfill, operated by a unit of local government is deemed permitted as a scrap tire collection and disposal site until July 1, 1991. Records shall be maintained in accordance with Rule .1108(c) of this Section.

Statutory Authority G.S. 130A-309.57.

.1106 SCRAP TIRE COLLECTION SITE PERMIT REQUIREMENTS

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

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

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

(1) A site shall not be located within either the 100-year floodplain or 200 feet of any

surface water. A site shall not be located within any wetland as defined in the Clean Water Act, section 404(b)(1).

(2) A site shall maintain a minimum of a 100-foot buffer between all property lines and scrap tire storage areas.

(3) The site and proposed plan shall comply with all requirements of the local zoning ordinance.

(4) The site shall be served by an access road which shall be kept passable for any motor vehicle, including fire trucks, at all times.

(5) Drainage shall be effective to prevent standing water on-site and shall not cause off-site drainage problems.

(6) A site shall meet the requirements of the Sedimentation Pollution Control Law (15 NCAC 4).

(7) A site shall meet the screening requirements of N.C.G.S. 136-144, if applicable.

(8) Access to the site shall be controlled through the use of fences, gates, natural barriers or other means.

(9) The site shall be bermed or given other protection, if necessary to keep liquid runoff from a potential tire fire from entering any surface water.

(10) Fire protection services for the site shall be provided by the local fire protection authority.

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

(1) Name and location of proposed facility, including street address or state road number, city, county, and zip code.

(2) Name, address, telephone number and signature of site operator.

(3) Name, address, telephone number and signature of property owner.

(4) A map or aerial photograph accurately showing the area within one-fourth mile of the site, and identifying the following:

(A) Entire property owned or leased for use as a scrap tire collection site by the applicant;

(B) Location of all homes, buildings, public or private utilities, roads, wells, water courses, floodplains and other applicable details regarding the topography.

(5) A description of the general operation of the facility.

(6) Sources and quantity of tires expected, expressed in tons (assume 100 tires per ton or ten tires per cubic yard) to be received per month; quantity of tires to be

stored on-site and quantity of tires to be shipped off-site per month.

- (7) Plans for disposition of all tires collected at the site, including the names, addresses and permit information, if applicable, of all facilities where the tires will be recycled, processed or disposed.
- (8) Projected date of commencing operation.
- (9) A description of how any waste resulting from the operation of the tire site will be disposed.
- (10) A description of how the scrap tire collection site will meet the siting and design requirements of Rule .1106(c).
- (11) A letter stating that this use complies with local zoning from the unit of local government having zoning authority over the site. If no zoning is applicable, the unit of local government shall provide documentation to that effect.
- (12) A letter from the local fire protection authority accepting the responsibility for fire protection services for the site.
- (13) A description of how the scrap tire collection site will meet the operational requirements of Rule .1107 of this Section.
- (14) Documentation of how operator intends to meet the financial responsibility requirements of Rule .1111 of this Section.

Statutory Authority G.S. 130A-309.57.

**.1107 SCRAP TIRE COLLECTION SITE
OPERATIONAL REQUIREMENTS**

Scrap tire collection sites shall meet the following operational requirements:

- (1) Scrap tires stored indoors shall be stored under conditions that meet those in "The Standard for Storage of Rubber Tire", NFPA 231D-1986 edition, published by the National Fire Protection Association, Battery March Park, Quincy, Massachusetts, which has been adopted in accordance with G.S. 150B-14(c). Copies of this document are available for inspection at the Department.
- (2) All scrap tire collection, processing or disposal sites which store scrap tires or processed tires outdoors must comply with the following technical and operational standards:
 - (a) Whole scrap tires shall be placed in an outdoor scrap tire pile(s) having dimensions no greater than 200 feet in length, 50 feet in width and 15 feet in height.
 - (b) A 50-foot wide fire lane shall be placed around the perimeter of each scrap tire pile. Access to the fire lane for emergency

vehicles shall be unobstructed and passable at all times.

- (c) The owner or operator of any scrap tire collection site shall control mosquitoes and rodents so as to protect the public health and welfare. Whole and sliced scrap tires shall be covered upon receipt with a water shedding material or disposed of, processed or removed from the site within ten days of receipt. Sliced scrap tires stacked concave-side down are not required to be covered.
- (d) If the scrap tire collection site receives tires from persons other than the operator of the site, a sign shall be posted at the entrance of the site and the sign shall state the operating hours. An attendant shall be present when the site is open for receipt of tires.
- (e) No operations involving the use of open flames, blow torches or highly flammable substances shall be conducted within 50 feet of a scrap tire pile.
- (f) A fire safety survey shall be conducted annually by local fire protection authorities.
- (g) Communication equipment shall be maintained at the scrap tire collection site to assure that the site operator can contact local fire protection authorities in case of a fire.
- (h) The scrap tire storage area(s) within the scrap tire collection site shall be kept free of grass, underbrush, and other potentially flammable vegetation at all times.
- (i) The operator of the scrap tire collection site shall prepare and keep an emergency preparedness manual at the site. The manual shall be updated at least once a year, upon changes in operations at the site, or as required by the Department. The manual shall contain the following elements:
 - (i) A list of names and numbers of persons to be contacted in the event of a fire, flood or other emergency;
 - (ii) A list of the emergency response equipment at the scrap tire collection site, its location, and how it should be used in the event of a fire or other emergency;
 - (iii) A description of the procedures that should be followed in the event of a fire, including procedures to contain and dispose of the oily material generated by the combustion of large numbers of tires; and
 - (iv) A listing of all hazardous materials stored on-site, their locations and information regarding precautions which should be taken with these materials.

- (j) The operator of the scrap tire collection site shall immediately notify the Division in the event of a fire or other emergency if that emergency has potential off-site effects. Within two weeks of any emergency involving potential off-site impact, the operator of the site shall submit to the Division a written report describing the cause(s) of the emergency, actions taken to deal with the emergency, results of the actions taken, and an analysis of the success or failure of these actions.
- (k) The operator of the scrap tire collection site shall maintain at his in-state place of principal business a copy of the permit with required attachments, records of the quantity of scrap tires and processed tires received at the site, stored at the site and shipped from the site, including destination (name and address of facility) and all certification forms applicable to any tires received, stored or shipped from the site.
- (l) The number of scrap tires stored at a scrap tire collection site shall not exceed the stated number of scrap tires shipped off-site per month plus the stated number of scrap tires disposed of on-site per month, unless otherwise specified by the Division. At no time shall more than 60,000 scrap tires be stored at a scrap tire collection site. Storage limits for collection sites permitted in association with processing facilities shall be determined as in Rule .1110(a) of this Section.
- (3) Processed tires shall be stored in accordance with the requirements of indoor or outdoor storage in this Rule, and in accordance with the following:
 - (a) The temperature of any above-ground piles of compacted, processed tires over 1,000 cubic yards in size shall be monitored and may not exceed 300 degrees Fahrenheit. Temperature control measures shall be instituted so that pile temperatures do not exceed 300 degrees Fahrenheit. Temperature monitoring and controls are not required for processed tires disposed of in permitted landfills.
 - (b) Any residuals from a scrap tire collection site shall be managed so as to be contained on-site, and shall be controlled and disposed of in a permitted solid waste management facility or properly recycled.
 - (4) The Division may approve exceptions to the preceding technical and operational standards for a person collecting scrap tires if:

- (a) No scrap tires or processed tires are stored on that site for longer than one month; and
- (b) The Division and the local fire authority are satisfied that the site owner or operator has sufficient fire suppression equipment or materials on-site to extinguish any potential tire fire within an acceptable length of time.

Statutory Authority G.S. 130A-309.57.

**.1108 SCRAP TIRE DISPOSAL SITE
PERMIT AND OPERATIONAL
REQUIREMENTS**

(a) Scrap tire monofill shall be permitted and operated in accordance with the provisions of Rules .0503, .0504, and .0505 of this Subchapter. Permits shall be recorded in accordance with Rule .0204 of this Subchapter. A proposal to establish a scrap tire monofill at a permitted sanitary landfill may be submitted as an application for modification of the construction plan. A scrap tire monofill may not be located in any required buffer zone.

(b) Scrap tires may not be burned in a permitted solid waste incinerator without a permit modification from the Division.

(c) The operator of a permitted scrap tire disposal site shall maintain at his in-state place of principal business, a copy of the permit with required attachments. Records of the quantity of scrap tires and processed tires received and disposed of at the site, and all certification forms applicable to any tires received and disposed at the site shall be maintained for a period of three years.

Statutory Authority G.S. 130A-309.57.

**.1109 CLOSURE OF NON-CONFORMING
SITES**

(a) Any scrap tire collection or disposal site which does not meet the requirements of this Section shall be closed.

(b) In closing any scrap tire site the owner or operator shall:

- (1) Prevent public access to the site;
- (2) Post a notice indicating the site is closed and the nearest permitted site where scrap tires can be deposited;
- (3) Notify the Division of the closing and obtain Departmental approval of the plan to remove tires prior to tire removal;
- (4) Remove all scrap tires, processed tires and residuals to a waste tire processing facility, solid waste management facility permitted to accept scrap tires or processed tires, a

- legitimate user of processed tires, or other facility approved by the Division;
- (5) Remove any solid waste to a permitted solid waste management facility;
 - (6) Provide documentation that tires were received by approved facility; and
 - (7) Notify the Department when closure is complete.

Statutory Authority G.S. 130A-309.57.

.1110 SCRAP TIRE PROCESSING FACILITIES

(a) Scrap tire collection sites to be permitted in association with scrap tire processing facilities shall be permitted and operated in accordance with the provisions of Rules .1106 and .1107 of this Section, except that the storage limit shall be determined by multiplying the daily throughput of the processing equipment used by 30. A scrap tire processing facility shall not accept any scrap tires for processing above the number which can be processed daily if it has reached its storage limit. At least 75 percent of both the scrap tires and processed tires that are delivered to or maintained on the site of the scrap tire processing facility site shall be processed and removed for recycling or disposal at a permitted solid waste management facility within one year of their receipt. Processed tires stored for recycling or disposal are subject to the storage requirements specified in Rule .1107 of this Section unless otherwise authorized by the Division.

(b) Wastes resulting from the operation of the scrap tire processing facility shall be evaluated in accordance with 10 NCAC 10G .0103(e) prior to disposal.

(c) The owner or operator of a scrap tire processing facility shall record and maintain for three years the following information, and these records shall be available for inspection by Division personnel during normal business hours:

- (1) For all scrap tires and processed tires shipped from the facility: the name of the hauler, the hauler or merchant identification number of the tire hauler who accepted the scrap or processed tires for transport, the quantity of scrap or processed tires shipped with that hauler, designation of scrap or processed tires (name and address of facility), and documentation of receipt of tires by the receiving facility;
- (2) For all scrap tires and processed tires received at the facility: the name of the hauler, the hauler or merchant identification number of the scrap tire hauler who delivered the scrap or processed tires to the facility, the quantity of scrap or proc-

essed tires received from that hauler and where the tires originated (name and address of facility);

- (3) For tires received, stored, shipped or processed, completed certification forms as required by G.S. 130A-309.58(f) except for quantities of five tires or less brought for processing by someone other than a tire collector, tire processor or tire hauler.
- (d) Owners and operators of scrap tire processing facilities shall submit to the Division an annual report, by March 1 of each year, that summarizes the information collected under Paragraph (c) of this Rule for the previous calendar year. The report shall be submitted on a form prescribed and provided by the Division. The following information shall be included, at a minimum:

- (1) The facility name, address, and permit number, if any;
- (2) The year covered by the report;
- (3) The total quantity and type of scrap tires or processed tires received at the facility during the year covered by the report;
- (4) The total quantity and type of scrap tires or processed tires shipped from the facility during the year covered by the report;
- (5) The quantity of scrap tires or processed tires shipped to each receiving facility identified by name and address;
- (6) The total quantity and type of scrap tires or processed tires located at the facility on the first day of the calendar year.

Statutory Authority G.S. 130A-309.57.

.1111 FINANCIAL RESPONSIBILITY REQUIREMENTS

(a) Owners and operators of scrap tire disposal sites shall provide proof of financial responsibility in accordance with the financial responsibility rules for landfills adopted pursuant to G.S. 130A-294(b) and 130A-309.27.

(b) Owners and operators of scrap tire collection sites permitted under these Rules shall provide proof of financial responsibility to ensure closure of the site in accordance with these Rules and to cover property damage or bodily injury to third parties which may result from fire or other public health hazard occurring at the site. Financial responsibility may be demonstrated through surety bonds, insurance, letters of credit, a funded trust, or other documents which show that the owner or operator has sufficient resources to meet the requirements of this Rule, including the guarantee of a corporate parent with sufficient resources to meet the requirements of this Rule. Documentation of financial re-

sponsibility shall be kept current, and updated as required by changes in these Rules, changes in operation of the site, and inflation.

(c) Owners and operators of scrap tire collection sites shall demonstrate the following minimum amounts of financial responsibility:

- (1) For site closure: one dollar and fifty cents (\$1.50) per tire for the maximum number of tires permitted to be stored on the site at any one time.
- (2) For property damage and bodily injury to third parties and public property: two thousand five hundred dollars (\$2,500) worth of coverage per occurrence for each 1,000 tires permitted to be stored on-site, with an annual aggregate of five thousand dollars (\$5,000) worth of coverage for each 1,000 tires permitted to be stored on-site.

Maintenance of financial responsibility in the required amounts in Paragraphs (c)(1) and (2) does not in any way limit the responsibility of owners and operators for the full costs of site closure and clean-up, the expenses of any on-site or off-site environmental restoration necessitated by activities at the site, and liability for all damages to third parties or private or public properties caused by the establishment and operation of the site.

Statutory Authority G.S. 130A-294(b); 130A-309.27.

.1112 SCRAP TIRE HAULER REQUIREMENTS

The requirements of G.S. 130A-309.59 and the requirements of this Section apply to persons engaged in transporting scrap and/or processed tires for the purpose of storage, processing or disposal of scrap tires and processed tires.

- (1) All persons hauling tires shall carry a copy of the document assigning the scrap tire registration number or merchant identification number at all times while engaged in hauling scrap tires.
- (2) To obtain or renew a scrap tire hauling registration number and approval to transport scrap tires, a tire hauler shall submit an application on a form prescribed and provided by the Division. A tire hauler must renew its identification number annually. For a scrap tire hauler, the application shall be submitted at least 30 days before the hauler intends to begin transporting scrap tires. Renewal applications shall be submitted at least 30 days before the expiration date of the existing hauling identification number. The application shall contain at least the following information:

- (a) A description, license number, Division of Motor Vehicles registration number and name of the registered vehicle owner for each vehicle used for transporting scrap tires, and if the vehicle is owned by a business entity, the names and addresses of the officers or owners of that entity;
 - (b) The geographical area that will be served;
 - (c) Where the scrap tires will be collected and where they will be delivered or deposited.
- (3) A corporation, partnership or local government may submit one application for registration for its entire fleet of vehicles.

Statutory Authority G.S. 130A-309.59.

SECTION .1200 - MEDICAL WASTE MANAGEMENT

.1201 DEFINITIONS

For the purpose of the Section, the following definitions apply:

- (1) "Blood and body fluids" means liquid blood, serum, plasma, other blood products, emulsified human tissue, spinal fluids, and pleural and peritoneal fluids.
- (2) "Generating facility" means any facility where medical waste first becomes a waste, including but not limited to any medical or dental facility, funeral home, laboratory, veterinary hospital and blood bank.
- (3) "Medical waste" as defined in G.S. 130A-290.18.
- (4) "Microbiological waste" means cultures and stocks of infectious agents, including but not limited to specimens from medical, pathological, pharmaceutical, research, commercial, and industrial laboratories.
- (5) "Off-site" (RCRA) means any site which is not "on-site".
- (6) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.
- (7) "Pathological waste" means human tissues, organs and body parts; and the carcasses and body parts of all animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in vivo testing

of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.

- (8) "Regulated Medical Waste" means blood and body fluids in individual containers in volumes greater than 20 ml, microbiological waste, and pathological waste that have not been treated pursuant to Rule .1207 of this Section.
- (9) "Sharps" means and includes needles, syringes with attached needles, capillary tubes, slides and cover slips, and scalpel blades.
- (10) "Treatment" as defined in G.S. 130A-309.26(a)(2).

Statutory Authority G.S. 130A-309.26.

.1202 GENERAL REQUIREMENTS FOR MEDICAL WASTE

(a) Medical waste is subject to all applicable rules in 10 NCAC 10G.

(b) At the generating facility, sharps shall be placed in a container which is rigid, leak-proof when in an upright position and puncture-resistant. Removal of sharps from containers after the container leaves the generating facility is prohibited. Contained sharps shall not be compacted prior to off-site transportation.

(c) Blood and body fluids in individual containers of 20 ml or less shall be packaged in a minimum of one 200 lb. burst strength polyethylene or equivalent bag and placed in a rigid fiberboard box or drum in a manner that prevents leakage of the contents, or alternatively, may be packaged in a container suitable for sharps. The integrity of the packaging shall be maintained prior to off-site transportation.

(d) Regulated medical waste shall not be compacted.

(e) All medical waste transported from the generating facility for off-site treatment is subject to the packaging, labeling, transportation and treatment requirements of Rule .1204, .1205, .1206 and .1207 of this Section with the exception of sharps which are not subject to the packaging requirement of Rule .1204(1) of this Section.

(f) Crematoriums are not subject to the requirements of Rule .1207(3) of this Section.

(g) A person who treats Regulated medical waste at the generating facility is not subject to the storage and record keeping requirements in Rule .1207(1) of this Section.

(h) Generating facilities in operation on September 1, 1990 that incinerate Regulated medical waste are not subject to the requirements of Rule .1207(3)(a-1) until January 1, 1995.

Statutory Authority G.S. 130A-309.26.

.1203 GENERAL REQUIREMENTS FOR REGULATED MEDICAL WASTE

(a) Regulated medical waste shall be treated prior to disposal. Acceptable methods of treatment are as follows:

- (1) blood and body fluids in individual containers in volumes greater than 20 ml - Incineration or sanitary sewage systems, provided the sewage treatment authority is notified;
- (2) microbiological waste - Incineration, steam sterilization, or chemical treatment;
- (3) pathological wastes - Incineration.

(b) Other methods of treatment shall require approval by the Division.

(c) Regulated medical waste treated in accordance with Paragraph (a) of this Rule may be managed as a non-Regulated medical waste.

Statutory Authority G.S. 130A-309.26.

.1204 REQUIREMENTS FOR GENERATORS OF REGULATED MEDICAL WASTE

(a) A person who ships Regulated medical waste from the generating facility for off-site treatment shall meet the following requirements:

- (1) Regulated medical waste shall be packaged in a minimum of one 200 lb. burst strength polyethylene or equivalent bag, and placed in a rigid fiberboard box or drum in a manner that prevents leakage of the contents.
- (2) Regulated medical waste shall be stored in a manner that maintains the integrity of the packaging at all times.
- (3) Each package of Regulated medical waste shall be labeled with a water-resistant universal biohazard symbol.
- (4) Each package of Regulated medical waste shall be marked on the outer surface with the following information:
 - (A) the generator's name, address, and telephone number;
 - (B) the transporter's name, address, and telephone number;
 - (C) storage facility name, address, and telephone number, when applicable;
 - (D) treatment facility name, address and telephone number;
 - (E) date of shipment; and
 - (F) "INFECTIOUS WASTE" or "MEDICAL WASTE".

(b) Records of Regulated medical waste shall be maintained for each shipment and shall include the information listed in this Paragraph. This information shall be maintained at the gen-

erating facility for no less than three years. This requirement shall not apply to persons who generate less than 50 pounds of Regulated medical waste per month.

- (1) amount of waste by number of packages (piece count);
 - (2) date shipped off-site;
 - (3) name of transporter;
 - (4) name of storage and/or treatment facility.
- (c) A plan to ensure proper management of Regulated medical waste shall be prepared and maintained at the generating facility.

Statutory Authority G.S. 130A-309.26.

.1205 REQUIREMENTS FOR TRANSPORTERS OF REGULATED MEDICAL WASTE

A person who transports Regulated medical waste that has not been treated at the generating facility shall meet the following requirements:

- (1) Transporters shall not accept waste which is improperly packaged.
- (2) Regulated medical waste shall be transported in a manner that prevents leakage of the contents of the package.
- (3) The integrity of the package shall be maintained at all times.
- (4) The labeling and marking of the package shall be maintained at all times.
- (5) All loads containing Regulated medical waste shall be covered during transportation.
- (6) The universal biohazard symbol shall be displayed on all transportation vehicles, in accordance with Department of Transportation Standards and 49 CFR 172 Subpart F.
- (7) Regulated medical waste shall be delivered to a permitted storage or treatment facility within seven calendar days of the date of shipment from the generator.
- (8) Refrigeration at an ambient temperature between 35 and 45 degrees Fahrenheit shall be maintained for Regulated medical waste that will not be delivered for treatment within seven calendar days.
- (9) A contingency plan shall be prepared and maintained in each vehicle used in the transporting of Regulated medical waste. The operator of each vehicle shall be knowledgeable of the plan.
- (10) Vehicles used for the transportation of Regulated medical waste shall be thoroughly cleaned and disinfected with a mycobacteriocidal disinfectant before being used for any other purpose and in the event of leakage from packages.
- (11) While transporting Regulated medical waste, vehicles are prohibited from transporting any material other than solid waste

and supplies related to the handling of medical waste.

Statutory Authority G.S. 130A-309.26.

.1206 REQUIREMENTS FOR STORAGE OF REGULATED MEDICAL WASTE

A person who stores Regulated medical waste that has not been treated at the generating facility shall meet the following requirements:

- (1) Regulated medical waste shall be stored in a manner that prevents leakage of the contents of the package.
- (2) Regulated medical waste shall be stored in a manner that maintains the integrity of the packaging at all times.
- (3) The labeling and marking of the package required in Rule .1204 of this Section shall be maintained at all times.
- (4) Regulated medical waste shall not be stored longer than seven calendar days from the date of shipment from the generator unless the Regulated Medical Waste is refrigerated at an ambient temperature between 35 and 45 degrees Fahrenheit.
- (5) Only authorized personnel shall have access to areas used to store Regulated medical waste.
- (6) All areas used to store Regulated medical waste shall be kept clean. Vermin and insects shall be controlled.
- (7) All floor drains shall discharge directly to an approved sanitary sewage system. Ventilation shall be provided and shall discharge so as not to create nuisance odors.
- (8) A plan shall be prepared, maintained and updated as necessary to ensure continued proper management of Regulated medical waste at the facility.

Statutory Authority G.S. 130A-309.26.

.1207 OPERATIONAL REQMTS/REGULATED MEDICAL WASTE TREATMENT FACILITIES

A person who treats Regulated medical waste shall meet the following requirements for each type of treatment in addition to the requirements in Rule .1203 of this Section.

- (1) General requirements:
 - (a) Refrigeration at an ambient temperature between 35 and 45 degrees Fahrenheit shall be maintained for Regulated medical waste not treated within seven calendar days after shipment.
 - (b) Regulated medical waste shall be stored prior to treatment for no more than seven calendar days after receipt.

- (c) Regulated medical waste shall be stored no longer than seven calendar days after treatment.
 - (d) Only authorized personnel shall have access to areas used to store Regulated medical waste.
 - (e) All areas used to store Regulated medical waste shall be kept clean. Neither carpets nor floor coverings with seams shall be used in storage areas. Vermin and insects shall be controlled.
 - (f) Prior to treatment, all Regulated medical waste shall be confined to the storage area.
 - (g) All floor drains shall discharge directly to an approved sanitary sewage system. Ventilation shall be provided and shall discharge so as not to create nuisance odors.
 - (h) A plan shall be prepared, maintained and updated as necessary to ensure continued proper management of Regulated medical waste at the facility.
 - (i) Records of Regulated medical waste shall be maintained for each shipment and shall include the information listed in this Paragraph. This information shall be maintained at the treatment facility for no less than three years.
 - (i) name and address of generator;
 - (ii) date received;
 - (iii) amount of waste received by number of packages (piece count) from each generator;
 - (iv) date treated;
 - (v) name and address of ultimate disposal facility.
 - (j) Regulated medical waste treatment facilities that treat waste generated off-site shall submit to the Division an annual report, by March 1 of each year that summarizes the information collected under Subparagraph (i) of this Rule for the previous calendar year. The report shall be submitted on a form prescribed and approved by the Division.
- (2) Steam sterilization requirements:
- (a) Steam under pressure shall be provided to maintain a minimum temperature of 250 degrees Fahrenheit for 45 minutes at 15 pounds per square inch of gauge pressure during each cycle; or other combinations of parameters that are shown to effectively treat the waste.
 - (b) The steam sterilization unit shall be provided with a chart recorder which accurately records time and temperature of each cycle.
 - (c) The steam sterilization unit shall be provided with a gauge which indicates the pressure of each cycle.
 - (d) Monitoring under conditions of full loading for effectiveness of treatment shall be performed no less than once per week through the use of biological indicators or other methods approved by the Division.
 - (e) Regulated medical waste may be disposed of until or unless monitoring as required in Subparagraph(2)(d) of this Rule does not confirm effectiveness.
 - (f) A log of each test of effectiveness of treatment performed shall be maintained and shall include the type of indicator used, date, time, and result of test.
- (3) Incineration requirements:
- (a) Regulated medical waste shall be subjected to a burn temperature in the primary chamber of not less than 1200 degrees Fahrenheit.
 - (b) Automatic auxiliary burners which are capable, excluding the heat content of the wastes, of independently maintaining the secondary chamber temperature at the minimum of 1800 degrees Fahrenheit shall be provided. Interlocks or other process control devices shall be provided to prevent the introduction of waste material to the primary chamber until the secondary chamber achieves operating temperature.
 - (c) Gases generated by the combustion shall be subjected to a minimum temperature of 1800 degrees Fahrenheit for a period of not less than one second.
 - (d) Continuous monitoring and recording of primary and secondary chamber temperatures shall be performed. Monitoring data shall be maintained for a period of three years.
 - (e) An Air Quality Permit shall be obtained from the Division of Environmental Management prior to construction and operation.
 - (f) Procedures and methods necessary to obtain ash samples which are representative of both the variability of the ash over time and the horizontal and vertical extent of the ash in the storage area shall be developed.
 - (g) Upon initial start-up, after any significant change in facility design or operation, or after a change in waste source, combustion ash samples shall be sampled weekly. Weekly representative samples shall be composited into a monthly sam-

ple and analyzed at the end of each month for three consecutive months.

- (h) For the remainder of the first year of operation, representative monthly samples shall be composited into a quarterly sample and analyzed at the end of each quarter.
- (i) After the first year, representative samples shall be analyzed at least twice a year.
- (j) Ash samples shall be tested in accordance with provisions of 10 NCAC 10G .0103(e) and submitted to the N.C. Solid Waste Section.
- (k) A log shall be kept documenting ash sampling, which shall include the date and time of each sample collected; the date, time, and identification number of each composite sample; and the results of the analyses, including laboratory identification.
- (l) Records of stack testing as prescribed in the Air Quality Permit shall be maintained at the facility.
- (m) Existing generating facilities shall conduct ash sampling and testing in accordance with Subparagraphs (3)(f) and (j) of this Rule annually during the second quarter of each calendar year.
- (4) Chemical treatment requirements:
 - (a) Cultures of *N. gonorrhea*, *E. coli*, *staphylococcus*, *proteus*, *Candida albicans*, and *B. cereus* in individual plates or tubes containing 5-20 ml media shall be covered, for a minimum of one hour, with a 1:5 dilution of household bleach (5.25 percent sodium hypochlorite) in water. The solution shall remain on the treated plates which are to be stacked in a plastic bag prior to disposal. The bag is to be sealed to prevent leakage.
 - (b) Approval for treatment must be obtained from the Division.
 - (c) Request for approval must be substantiated by results of demonstrated effectiveness of the chemical to treat the specific microbiological agent(s) of concern for the waste disposed. Consideration must be given to such factors as temperature, time of contact, pH, concentration and the presence and state of dispersion, penetrability and reactivity of organic material at the site of application.
 - (d) A written plan must be maintained at the facility and units of the facility as necessary to ensure consistent procedures are used to treat the waste.

**TITLE 15A - DEPARTMENT OF
ENVIRONMENT, HEALTH, AND
NATURAL RESOURCES**

CHAPTER 19 - EPIDEMIOLOGY

**SUBCHAPTER 19I - LEAD POISONING
PREVENTION**

**SECTION .0100 - LEAD POISONING
PREVENTION IN CHILDREN PROGRAM**

.0101 DEFINITIONS

As used in this article, unless the context requires otherwise:

- (1) "Abatement" means the elimination or control of a lead hazard by methods approved by the Department.
- (2) "Day care facility" means a structure used as a school, nursery, child care center, clinic, treatment center or other facility serving the needs of children under six years of age including any outbuilding or other structure or surrounding land accessible to children under six years of age.
- (3) "Department" means the Department of Environment, Health, and Natural Resources or its authorized agent.
- (4) "Dwelling" means a structure, all or part of which is designed for human habitation, including any outbuildings or other structures or surrounding land accessible to children under six years of age.
- (5) "Elevated blood lead level" means a blood lead of 25 ug/dl or greater, or that level as determined in the most recent standards as established by the U.S. Department of Health and Human Services, Public Health Services, Centers for Disease Control.
- (6) "Frequently visited" means presence at a dwelling, school or day care facility for eight hours or more a week or for 80 hours within a period of ten consecutive days.
- (7) "Lead hazard" means the presence of readily accessible, lead-bearing substances measuring 1.0 milligram per square centimeter or greater by X-ray fluorescence analyzer or 0.5 percent or greater by chemical analyses (AAS); or 500 ppm or greater in soil; or 50 parts per billion or greater in drinking water.
- (8) "Managing agent" means any person who has charge, care, or control of a building or part thereof in which dwelling units or rooming units are leased.
- (9) "Readily accessible" means capable of being chewed, ingested, or inhaled by a child under six years of age.

Statutory Authority G.S. 130A-309.26.

Statutory Authority G.S. 130A-131.

.0102 REPORTS OF ELEVATED BLOOD LEVELS IN CHILDREN

All laboratories that perform blood lead tests shall report to the Department blood lead results of 25 ug/dl or greater on children less than six years of age and on individuals where the age is unknown at the time of testing. Reports shall be made within five working days after test completion on forms provided by the Department.

Statutory Authority G.S. 130A-131.

.0103 EXAMINATION AND TESTING

When the Department has a reasonable suspicion that a child less than six years of age has an elevated blood lead level, the Department shall require that child to be examined and tested within 30 days.

Statutory Authority G.S. 130A-131.

.0104 INVESTIGATION TO IDENTIFY LEAD HAZARDS

(a) When the Department learns of an elevated blood lead level the Department shall conduct an investigation to identify lead hazards to children. The Department shall also conduct an investigation when it reasonably suspects that a lead hazard to children exists in a dwelling, school, or day care facility occupied or frequently visited by a child less than six years of age.

(b) In conducting an investigation, the Department may take samples of surface materials or other materials suspected of containing lead for analysis and testing. If samples are taken, chemical determination of the lead content of the samples shall be by atomic absorption spectroscopy (AAS) or equivalent methods approved by the Department.

Statutory Authority G.S. 130A-131.

.0105 ABATEMENT

(a) Upon determination that a lead hazard exists, the Department shall give written notice of the lead hazard to the owner or managing agent of the dwelling, dwelling unit, school or day care facility and to all persons residing in or attending the unit or facility. The written notice to the owner or managing agent shall include recommended methods of abatement of the lead hazard.

(b) The owner or managing agent shall submit a written lead hazard abatement plan to the Department within 14 days of lead hazard notification and shall obtain written approval of the plan prior to initiating abatement. If the owner or

managing agent does not submit an abatement plan within 14 days, the Department shall issue an abatement order. The lead hazard abatement plan shall comply with Paragraphs (c), (d) and (e) of this Rule. Abatement shall be completed within 60 days of the Department's approval of the abatement plan. The owner or managing agent shall notify the Department and occupants of the dates of abatement activities.

(c) The following methods of abatement of lead hazards in paint are prohibited:

- (1) stripping paint on-site with methylene chloride based solutions;
- (2) torch or flame burning;
- (3) heating paint with a heat gun above 800 degrees Fahrenheit;
- (4) covering with new paint, contact paper, or non-vinyl wallpaper unless all readily accessible lead-based paint has been removed;
- (5) sandblasting; or
- (6) waterblasting when average wind speed exceeds 15 miles per hour unless vertical tarpaulins extend from the ground to four feet above the surface to be abated.

(d) All lead-containing waste and residue of the abatement of lead shall be removed and disposed of by the person performing the abatement in accordance with applicable federal, state, and local laws and rules.

(e) All abatement plans shall require that the lead hazard be reduced to at least the following levels:

- (1) Floor lead dust levels are less than 200 micrograms per square foot;
- (2) Window sill lead dust levels are less than 500 micrograms per square foot;
- (3) Window well lead dust levels are less than 800 micrograms per square foot;
- (4) Soil lead levels are less than 500 parts per million; and
- (5) Drinking water lead levels less than 50 parts per billion.

(f) The Department shall verify by visual inspection that the approved abatement plan has been completed. The Department may also verify plan completion by residual lead dust monitoring and soil or drinking water lead level measurement.

Statutory Authority G.S. 130A-131.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human

Resources/Division of Medical Assistance intends to amend rule(s) cited as 10 NCAC 50B .0402.

The proposed effective date of this action is October 1, 1990.

The public hearing will be conducted at 1:30 p.m. on July 16, 1990 at North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 201, Raleigh, N. C. 27603.

Comment Procedures: Written comments concerning this proposed amendment must be submitted by July 16, 1990, to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, N. C. 27603, ATTN.: Bill Hottel, APA Coordinator. Oral comments may be presented at the hearing. In addition, a fiscal impact statement is available upon written request from the same address.

CHAPTER 50 - MEDICAL ASSISTANCE

SUBCHAPTER 50B - ELIGIBILITY DETERMINATION

SECTION .0400 - BUDGETING PRINCIPALS

.0402 FINANCIAL RESPONSIBILITY AND DEEMING

The income and resources of financially responsible persons are deemed available to the applicant or recipient in the following situations:

- (1) For aged, blind and disabled cases in a private living arrangement financial responsibility exists for:
 - (a) spouses when living together or temporarily absent;
 - (b) parents for disabled or blind children under age 19 who are living in the household with them or temporarily absent.
- (2) For aged, blind and disabled cases in long term care, financial responsibility exist for:
 - (a) spouse to spouse only for the month of entry into a long term care facility;
 - (b) parents for dependent children under age 19 in skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, or hospitals whose care and treatment is not expected to exceed 12 months as certified by the patient's physician.
- (3) For AFDC related cases, except pregnant women described at 42 U.S.C. 1396a(1), financial responsibility exists for:
 - (a) spouses when living together or one spouse is temporarily absent in long term care;

- (b) parents for dependent children under age 19 living in the home with them or temporarily absent;
- (c) parents for dependent children under age 19 in skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, or hospitals whose care and treatment is not expected to exceed 12 months as certified by the patient's physician.
- (4) For pregnant women described at 42 U.S.C. 1396a(1) financial responsibility exists for:
 - (a) The pregnant woman's spouse if living in the home or temporarily absent from the home;
 - (b) The father of the unborn child if not married to the pregnant woman but living in the home and acknowledging paternity of the unborn child.
- (5) ~~(4)~~ Parental financial responsibility for children in private living arrangements or long term care facilities for whom the county has legal custody or placement responsibility is based on court ordered support and voluntary contributions from the parents.

Authority G.S. 108A-54; S.L. 1983, c. 761, s. 60(6); S.L. 1983, c. 1034; S.L. 1983, c. 1116; 42 C.F.R. 435.602; 42 C.F.R. 435.712; 42 C.F.R. 435.734; 42 C.F.R. 435.821; 42 C.F.R. 435.823.

TITLE 12 - DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Justice - Office of the Attorney General intends to amend rule(s) cited as 12 NCAC 21 .0202.

The proposed effective date of this action is September 1, 1990.

The public hearing will be conducted at 10:00 a.m. on June 14, 1990 at Alcoholic Beverage Control Commission Hearing Room, 3322 Old Garner Road, Raleigh, North Carolina 27610-5631.

Comment Procedures: Any interested person may present written comments for consideration by the Attorney General. The hearing record will remain open for receipt of comments from May 14, 1990 through June 13, 1990. Written comments should be received by the Company Police Administrator by midnight on June 13, 1990, to be considered as part of the hearing. Comments should be addressed to: Mr. Wayne Coates, Company Police Administrator, Post Office

Drawer 149, Raleigh, North Carolina 27602. Any person may present oral comments at the hearings. Requests to speak should be presented to Mr. Wayne Coates at the above address no later than five (5) days before the date of the hearing. Additional comments may be allowed by the Attorney General by sign-up at the public hearing as time allows. All presentations will be limited to five (5) minutes. According to the procedures set out in G.S. 150B-13, these rules were adopted as temporary rules, effective March 23, 1990, with a proposed effective date as permanent rules on September 20, 1990.

CHAPTER 2 - OFFICE OF THE ATTORNEY GENERAL

SUBCHAPTER 2I - COMPANY AND RAILROAD POLICE

SECTION .0200 - COMMISSIONING

.0202 MINIMUM STANDARDS FOR COMMISSIONING

Persons eligible for commission on the basis of their employment as prescribed in G.S. 74A-1, must meet the following requirements before a Commission will be granted:

- (4) meet the minimum standards for state law enforcement officers established ~~G.S. Chapter 17C~~ and by the North Carolina Criminal Justice Education and Training Standards Commission, appearing in Title 12, Chapter 9 of the North Carolina Administrative Code; which Standards are hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G. S. 150B-14(c).

Statutory Authority G.S. 74A-1; 143A-54.

TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the EHN - Div. of Environmental Mgmt. intends to amend rule(s) cited as 15A NCAC 211 .0105, .0205, .0211; 2L .0109; adopt rule(s) cited as 15A NCAC 2H .1201 - .1205.

The proposed effective date of this action is October 1, 1990.

The public hearing will be conducted at 3:00 P.M. on May 17, 1990 at Ground Floor Hearing

Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27611.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within thirty (30) days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged. For more information contact Boyd DeVane, Div. of Environmental Management, P.O. Box 27687, Raleigh, NC 27611, (919) 733-5083.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2H - PROCEDURES FOR PERMITS: APPROVALS

SECTION .0100 - WASTEWATER DISCHARGES TO THE SURFACE WATERS

.0105 APPLICATION: PERMIT FEES: ASSESSMENT FOR NEW SOURCES

- (a) Except as provided in Subdivisions Paragraphs (d) and (e) of this Rule, any person who discharges or who proposes to discharge pollutants to the surface waters of the state or to a POTW when pretreatment of the wastewater is required shall complete, sign, and submit, in triplicate, an application accompanied by the processing fee described herein for each application in the form of a check or money order made payable to N.C. Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources.

The NPDES application forms to be used for the various types of discharges are as follows:

- Std. Form A: all municipal systems greater than or equal to 1.0 MGD as well as any municipal system receiving industrial waste from a primary industry.
- Short Form A: any municipal system not covered by Std. Form A.
- Short Form B: All agriculture related discharges.
- Std. Form C: All primary industries as listed in 40 CFR 122.21,
- or
- EPA Form 2-C: Appendix A and all other industrial process and commercial discharges except cooling waters, cooling tower blowdown, and boiler blow-down.

- Short Form C: Cooling waters, cooling tower blowdown, and boiler blowdown.
- Short Form D: All domestic waste discharges not covered by Std. Form A and Short Form A.
- Short Form E: Notice of Intent to be covered by general permit for once - through non - contact cooling waters, statewide.
- Short Form F: Notice of Intent for mine dewatering facilities, statewide.
- Short Form G: Notice of Intent for water filtration facilities, statewide.
- Short Form H: Notice of Intent for seafood packing facilities, statewide.
- Short Form I: Notice of Intent for oil terminal storage facilities discharging to water supply (WS-III) waters.
- Short Form J: Notice of Intent for oil terminal storage facilities discharging to waters, other than water supply (WS-III) waters.
- Short Form K: Notice of Intent for sand dredges, statewide.
- Short Form L: Notice of Intent for trout farms, statewide.
- Short Form M: Notice of Intent for aquifer restoration.

The pretreatment application forms to be used will be supplied by the Division.

(b) Permit Fees.

- (1) Permit Application Processing Fees. For every application for new or renewed NPDES permits or Notice of Intent to be covered by a general permit, a nonrefundable application processing fee in the amount stated in Subparagraph (b) (5) of this ~~Paragraph~~ Rule shall be submitted at the time of application.
- (A) This fee schedule does not apply to renewal of general permits.
- (B) Each permit or renewal application is incomplete until the processing fee is received.
- (C) For a facility with multiple discharges under a single permit, the application processing fee shall be set by the single discharge to the waters of the state with the highest fee in the fee schedule.
- (D) No application processing fee will be charged for modification of unexpired permits when the modifications are initiated by the Director.
- (E) An application processing fee of ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00) will be charged for the minor

modifications ~~such as name changes~~ listed in Rule .0114(b) of this Section.

- (F) A full processing fee will be charged for ~~major~~ modifications other than those listed in Rule .0114(b) of this Section; specifically including any which increase the design flow or otherwise require new modeling; this fee will be in the same amount as shown in Subparagraph (5) of this Paragraph (c) of this Rule for ~~stand-~~ and new applications /modifications.
- (G) Permittees requesting special orders by consent, judicial orders, or flow increases under G.S. 143-215.67(b), will pay a ~~reduced~~ fee of ~~one~~ four hundred dollars ~~(\$100.00).~~ (\$400.00).
- (2) Annual Administering and Compliance Monitoring Fees. An annual fee for administering and compliance monitoring shall be charged in each year of the term of every NPDES permit, including general permits, according to the schedule in Subparagraph (b) (5) of this ~~Paragraph~~ Rule.
- (A) Collection of annual fees shall begin upon approval of this Rule. ~~for new, re-~~ issued, or modified permits.
- (B) Annual fees must be paid for any facility operating on an expired permit after the effective date of this Rule. The Director shall establish an anniversary date for such a facility and notify the responsible party of the requirement to pay annual administering and compliance monitoring fees. ~~If the Director determines that the permittee was not responsible for the delay in permit reissuance, no annual fee shall be assessed until the permit is reissued.~~
- (C) ~~For any permit which undergoes a modification which requires a public notice in accordance with Rule .0114(b) of this Section, the annual fee shown in Subparagraph (5) of this Paragraph must be paid for each whole permit years left in the duration of its permit.~~
- (D) ~~(C)~~ For a facility with multiple discharges under a single permit, the annual administering and compliance monitoring fee shall be set by the single discharge to the waters of the state with the highest fee in the fee schedule.
- (E) ~~(D)~~ A person with only one permit will be billed annually on an anniversary date to be determined by the Division. This will normally be the first day of the month of permit issuance.

(F) (E) A person with multiple permits may have annual fees consolidated into one annual bill.

(G) (F) Any permittee which has maintained full compliance with all permit conditions during the previous calendar year will have its administering and monitoring annual fee reduced by 25 percent. Permittees operating under interim limits, judicial orders, or special orders by consent will not be eligible for any discount. Full compliance will be established if it can be certified by the Director that no Notice of Noncompliance or a Notice of Violation was sent to the permittee during the compliance period being considered. If a Notice of Noncompliance or a Notice of Violation was based on erroneous information, the Director can send a letter of correction to the permittee clearing the record for compliance purposes.

(H) (G) Cooling water and totally domestic waste discharges shall be provided a lower annual administering and compliance monitoring fee as provided in Subparagraph (5) of this Paragraph.

(I) (H) In addition to those wastes specified in (H) of this Rule, a discharge which has recognized low potential for environmental impact may be charged the same fee schedule as cooling water and domestic waste. A low potential for environmental impact exists if it can be shown that the effluent flow originates as storm-water runoff or groundwater seepage and can be expected to meet all water quality standards including a BOD₅ concentration of less than 2 mg/l at the outlet of the treatment works. Also, intermittent discharges meeting these quality criteria with average flows less than 100,000 GPD but which are permitted at a higher flow may upon request be allowed to meet the fee schedule of the cooling water rate of the less than 100,000 GPD category. Request for this special consideration should be made as part of the permit application and must be accompanied by documentation of eligibility under this Rule.

(J) (I) A facility not yet in operation or which has ceased all operations at a site will not be required to pay the next annual administering and compliance monitoring fee provided operations are not started or resumed during that permit year. Any operations will necessitate the payment of the entire annual fee for that year.

(K) (II) Permit Application Processing Fees and Annual Administering and Compliance Monitoring Fees for pretreatment facilities permitted by the Division shall be at the same rate as provided in Subparagraph (b) (5) of this Paragraph. Rule.

(3) No fees are required to be paid under this Regulation Rule by a farmer who submits an application or receives a permit that pertains to his farming operations.

(4) Failure to pay an annual fee within 30 days after being billed may cause the division to initiate action to revoke the permit.

(5) Schedule of Fees:

PERMIT APPLICATION
PROCESSING FEE

NEW APPLICATIONS

SIMPLE

Category Standard RENEWALS
MODIFICATIONS WITHOUT
MODIFICATIONS

> 10,000,000 GPD		
Industrial	\$ 400	\$ 200/100
Domestic/Cooling Water	400	200/100

1,000,001 - 10,000,000 GPD		
Industrial	300/400	450/300
Domestic/Cooling Water	300/400	450/300

100,001 - 1,000,000 GPD		
Industrial	250/400	425/250
Domestic Cooling Water	250/400	425/250

> = 100,000 GPD		
Industrial	200/400	400/200
Domestic/Cooling Water	200/400	400/200

Single family dwelling	420/240	60/120
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General permit for cooling	200/400	0
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PROPOSED RULES

water, water filtration, and aquifer restoration		
General permit for mine dewatering, sand dredges	200 <u>400</u>	0
General permit for swimming pools	0	0
Other general permits	400 <u>200</u>	0

dewatering, sand dredges		
General permit for swimming pools	0	-
Other general permits	400 <u>200</u>	-

ANNUAL ADMINISTERING AND COMPLIANCE MONITORING FEE

STANDARD	IN COMPLIANCE	
Industrial	4200 <u>1500</u>	900 <u>1125</u>
Domestic/Cooling Water	900 <u>1500</u>	675 <u>1125</u>
Industrial	800 <u>1500</u>	600 <u>1125</u>
Domestic/Cooling Water	600 <u>1200</u>	450 <u>900</u>
Industrial	400 <u>800</u>	300 <u>600</u>
Domestic/Cooling Water	300 <u>600</u>	225 <u>450</u>
Industrial	300 <u>600</u>	225 <u>450</u>
Domestic/Cooling Water	225 <u>450</u>	150 <u>300</u>
Single family dwelling	-	0
General permit for cooling water, water filtration, and aquifer restoration	200 <u>400</u>	-
General permit for mine	200 <u>400</u>	-

- (6) If the total payment for fees required for all permits under G.S. 143-215.3(a)(1b) for any single facility will exceed seventy-five hundred dollars (\$7500.00) per year, then the total for all these fees will be reduced for this facility so that the total payment is seventy-five hundred dollars (\$7500.00) per year.
- (7) A portion of the permit application processing fees shown in the fee schedule in Subparagraph (b) (5) of this ~~Paragraph~~ Rule will be transferred into the Wastewater Treatment Works Emergency Maintenance, Operation and Repair Fund according to the following schedule:
- (A) All nonmunicipal facilities treating wastewater which is predominantly domestic waste with design flows of 100,000 gallons per day or less, except single family dwellings, seventy-five dollars (\$75.00);
- (B) Single family dwellings, forty dollars (\$40.00);
- (C) All other facilities, zero.
- (8) When the total value of the Wastewater Treatment Works Emergency Maintenance, Operation and Repair Fund, as certified by the State Treasurer, is at least seven hundred fifty thousand dollars (\$750,000.00) at the end of a quarter, the permit application processing fees for facilities with discharges of one hundred thousand gallons per day (100,000 GPD) or less shall be reduced by the amounts being transferred under Subparagraph (7) of this Paragraph. This reduction shall continue until, at the end of some subsequent quarter, the State Treasurer certifies that the fund's balance is less than seven hundred fifty thousand dollars (\$750,000.00), in which case the full amount of the permit application processing fees as listed in Subparagraph (b) (5) of ~~the this Paragraph~~ this Rule shall be charged.
- (9) In order to avoid violation of the statutory limit that total permit fees collected in any year not exceed 30 percent of the total budgets from all sources of environ-

mental permitting and compliance programs, the Division shall in the first half of each state fiscal year project revenues from all sources including fees for the next fiscal year. If this projection shows that the statutory limit will be exceeded, rule-making shall be commenced in order to have an appropriately adjusted fee schedule which will avoid excessive revenue collection from permit fees.

- (10) Any applicant whose facility qualifies for a general permit under Rules .0127 and .0128 through .0137 of this Section may pay the lower fees set in Subparagraph (b) (5) of this Rule for the appropriate general permit

(c) Applicants for projects requiring construction of control facilities shall in addition to applications required in ~~Subsection~~ Paragraph (a) of this Rule, file, in triplicate, an engineering proposal setting forth the following information:

- (1) a description of the origin, type, and flow of waste which is proposed to be discharged. Flow shall be determined in accordance with Rule 211 .0219(l) of this Chapter;
- (2) a summary of waste treatment and disposal options that were considered and why the proposed system and point of discharge were selected; the summary should have sufficient detail to assure that the most environmentally sound alternative was selected from the reasonably cost effective options;
- (3) a narrative description of the proposed treatment works including type and arrangement of major components, in sufficient detail to assure that the proposed facility has the capability to comply with the permit limits; for commonly used treatment system or components with well established treatment capabilities, detailed plans and specifications need not be submitted until the application for the authorization to construct; however, detailed plans and specifications shall be required with the permit application for any system or component without well established treatment capabilities for the nature of waste or degree of treatment needed to meet the permit limits;
- (4) a general location map, showing orientation of the facility with reference to at least two geographic references (numbered roads, named streams rivers, etc.);
- (5) a scale location plan of the site showing location of the proposed treatment works and the proposed point of discharge;

- (6) special studies or modelling may be required in cases where the impacts of the discharge cannot be readily determined by the Division;
- (7) a statement to demonstrate financial qualification and substantial previous compliance with federal and state laws, regulations and rules for the protection of the environment as required by G.S. 143-215.1(b)(1a).

(d) Applications for permit renewals shall be accomplished by filing the appropriate application form as listed in Paragraph (a) of this Rule, above, with the processing fee described herein in the form of a check or money order made payable to N.C. Department of ~~Natural Resources and Community Development, Environmental, Health, and Natural Resources~~, at least 180 days prior to expiration of a permit. The notice and public participation procedures set in Rules .0109 and .0111 of this Section shall be followed for each request for reissuance of the permit. All applications are incomplete until required processing fees are received, and may be returned to the applicant.

(e) Applications for permits for pretreatment facilities shall be made in triplicate upon forms approved by the Director and submitted along with applicable supporting information to the Division of Environmental Management.

(f) Applicants for permits for new discharges which propose to discharge industrial process wastewater in excess of 100,000 gallons per day or 10 MGD of cooling water or any other proposed discharge of 1 MGD or greater to the surface waters shall file, in addition to the applications and supporting documents required in ~~Subsections~~ Paragraphs (a) and (b) of this Rule, an assessment sufficient to describe the impact of the proposed action upon the waters of the area. As a minimum, the assessment shall contain the following:

- (1) Cover Sheet. The cover sheet shall indicate the nature of the proposed action, the name of the permit applicant, the date of the assessment, and the signature of the responsible company official.
- (2) The assessment shall identify, develop, and analyze the pertinent issues concerning the impact on the aquatic environment as follows:
 - (A) Background and description of the proposed discharge: The assessment shall describe the proposed discharge, its product or purpose, its location, and its construction and operation time schedule in as broad a context as is reasonable. The relationship of the project to other pro-

jects and proposals directly affected by or stemming from the construction and operation of the discharge should be discussed. Maps, photos, or artist sketches should be incorporated if available to help depict the environmental setting and, if not available, supporting documents should be referenced.

- (B) Alternatives available for treatment or other control methods should be described, developed and objectively weighed against the proposed discharge. The analysis should be sufficiently detailed to allow for comparative evaluation of impacts on the aquatic environment. The analysis of alternatives shall be compared to the existing aquatic environment.
- (C) The assessment should discuss the primary and secondary environmental impacts both beneficial and adverse. The scope of the description should include both short term and long term impacts.
- (D) Adverse impacts which cannot be avoided should the permit be issued should be described in detail and proposed remedial or protective measures which will be taken to minimize such impacts should be described. This shall be a description of the extent to which the proposed activity involves trade-offs between short term environmental gains at the expense of long term losses or vice-versa and the extent to which proposed actions may foreclose future options. The assessment must adequately address irreversible and irretrievable commitments of aquatic resources which will result if the permit is issued.
- (3) Any assessment which is required by any other state agency or any federal agency shall be deemed to comply with requirements of this subsection provided aquatic impacts are adequately addressed.
- (g) Permits which result in construction of facilities which will be funded by public monies may require environmental documentation pursuant to the North Carolina Environmental Policy Act, NCGS 113A. NPDES permit applications for which such documentation is required will be considered incomplete until supported by the required documentation.
- (h) For NPDES permits, a full disclosure of all known toxic components that can be reasonably expected to be in the discharge, including but not limited to those contained in a priority pollutant analysis, must be submitted for all primary industrial direct discharges in accordance with 40 CFR 122.21 Appendix D which are

adopted by reference as amended through January 1, 1986 and for other direct discharges as required by the Director.

Statutory Authority G.S. 143-215.1(c); 143-215.3(a); 143-215.3(B).

SECTION .0200 - WASTE NOT DISCHARGED TO SURFACE WATERS

.0205 APPLICATION: PERMIT FEES: SUPPORTING INFORMATION: REQRMITS

(a) Jurisdiction. Applications for sewer system extensions under the jurisdiction of a local sewer system program shall be made in accordance with applicable local laws and ordinances. Applications for permits from the Division shall be made in accordance with this Rule as follows.

(b) Applications. Application for a permit must be made in triplicate on official form completely filled out, where applicable, and fully executed in the manner set forth in Rule .0206 of this Section. A processing fee as described herein must be submitted with each application in the form of a check or money order made payable to N.C. Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources. Applications may be returned if not accompanied by the processing fee. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization.

(c) Permit Fees.

(1) Permit Application Processing Fee. For every application for a new or revised permit under this Section, a nonrefundable application processing fee in the amount stated in Subparagraph (5) of this Paragraph shall be submitted at the time of application.

(A) Each permit or renewal application is incomplete until the application processing fee is received;

(B) For a facility with multiple treatment units under a single permit, the processing fee shall be set by the total design treatment capacity;

(C) No processing fee will be charged for modification of unexpired permits when the modifications are initiated by the Director;

(D) A processing fee of ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00) will be charged for ~~minor modifications such as~~ name changes;

(E) A full application processing fee will be charged for ~~major~~ all modifications except

for name changes; specifically including any which increase the design capacity; this fee will be in the same amount as shown in Subparagraph (5) of this Paragraph (c) of this Rule for standard for new applications /modifications.

(F) Permittees requesting special orders by consent, judicial orders or flow increases under G.S. 143-215.67(b), will pay a reduced fee of ~~one~~ four hundred dollars ~~(\$100.00)~~ (\$400.00)

(2) Annual Administering and Compliance Monitoring Fees. An annual fee for administering and compliance monitoring shall be charged in each year of the term of every renewable permit according to the schedule in Subparagraph (5) of this Paragraph. Annual fees will not be charged for permits which do not require renewal.

(A) Collection of annual fees shall begin upon approval of this Rule; ~~for new or modified permits;~~

(B) Annual administering and compliance monitoring fees must be paid for any facility operating on an expired permit after the effective date of this Rule. The Director shall establish an anniversary date for such a facility and notify the responsible party of the requirement to pay annual fees. If the Director determines that the permittee was not responsible for the delay in permit reissuance, no annual fee shall be assessed until the permit is reissued;

(C) For any permit which undergoes a major modification which requires an application processing fee in accordance with Subparagraph (4) of this Paragraph, the annual administering and compliance monitoring fee shown in Subparagraph (5) of this Paragraph must be paid for each whole permit year left in the duration of its permit;

(D) (C) For a facility with multiple treatment units under a single permit, the annual administering and compliance monitoring fee shall be set by the single treatment system with the highest fee in the fee schedule;

(E) (D) A person with only one permit will be billed annually on an anniversary date to be determined by the Division. This will normally be the first day of the month of permit issuance;

(F) (E) A person with multiple permits may have annual administering and compli-

ance monitoring fees consolidated into one annual bill;

(G) (F) Any permittee which has maintained full compliance with all permit conditions during the previous calendar year will have its administering and compliance monitoring annual fee reduced by 25 percent. Permittees operating under interim limits, judicial orders, or special orders by consent will not be eligible for any discount. Full compliance will be established if it can be certified by the Director that no Notice of Noncompliance or a Notice of Violation was sent to the permittee during the compliance period being considered. If a Notice of Noncompliance or a Notice of Violation was based on erroneous information, the Director can send a letter of correction to the permittee clearing the record for compliance purposes;

(H) (G) A change in the facility which changes the annual fee set by Subparagraph (5) of this Paragraph (c) of this Rule will result in the revised annual fee being filled in all remaining whole permit years;

(I) A facility not yet in operation or which has ceased all operations at a site will not be required to pay the next annual administering and compliance monitoring fee provided operations are not started or resumed during that permit year. Any operations will necessitate the payment of the entire annual fee for that year;

(J) (I) Closed-loop recycle or evaporative systems, which store or recycle industrial waste and do not discharge to the surface water, groundwater or land surface, shall be charged a constant annual administering and compliance monitoring fee for all sizes of facilities at the fee amount shown by Subparagraph (5) of this Paragraph (c) of this Rule.

(3) No fees are required to be paid under this Regulation Rule by a farmer who submits an application or receives a permit that pertains to farming operations.

(4) Failure to pay an annual administering and compliance monitoring fee within 30 days after being billed may cause the Division to initiate action to revoke the permit.

(5) Schedule of Nondischarge Fees:

PERMIT APPLICATION PROCESSING FEE

PROPOSED RULES

NEW APPLICATIONS CATEGORY ~~Standard~~ ^{Simple} RENEWALS MODIFICATIONS WITHOUT MODIFICATIONS

> 1,000,000 GPD		
Industrial	300 <u>100</u>	150 <u>300</u>
Domestic/Cooling Water	300 <u>100</u>	150 <u>300</u>
10,001 - 1,000,000 GPD		
Industrial	250 <u>100</u>	125 <u>250</u>
Domestic/Cooling Water	250 <u>100</u>	125 <u>250</u>
1,001 - 10,000 GPD		
Industrial	200 <u>100</u>	100 <u>200</u>
Domestic/Cooling Water	200 <u>100</u>	100 <u>200</u>
< = 1000 GPD and Single family dwelling	120 <u>240</u>	60 <u>120</u>
Sludge < = 300 acres	250 <u>100</u>	125 <u>250</u>
Sludge > 300 acres	250 <u>100</u>	125 <u>250</u>
Sewer extensions (nondelegated)	200 <u>100</u>	-
Sewer extensions (delegate to municipalities)	100 <u>200</u>	-
Closed-loop recycle or evaporative system	250 <u>100</u>	100 <u>200</u>

ANNUAL ADMINISTERING AND COMPLIANCE MONITORING FEE

STANDARD

IN COMPLIANCE

Industrial	800 <u>1500</u>	600 <u>1125</u>
Domestic/Cooling Water	600 <u>1200</u>	450 <u>900</u>
Industrial	400 <u>800</u>	300 <u>600</u>
Domestic/Cooling Water	300 <u>600</u>	225 <u>450</u>
Industrial	100 <u>600</u>	225 <u>450</u>
Domestic/Cooling Water	225 <u>450</u>	150 <u>300</u>
< = 1000 GPD and Single family dwelling	0	0
Sludge < = 300 acres	300 <u>600</u>	225 <u>450</u>
Sludge > 300 acres	500 <u>1000</u>	375 <u>750</u>
Sewer extensions (nondelegated)	-	-
Sewer extensions (delegate to municipalities)	-	-
Closed-loop recycle or evaporative system	150 <u>300</u>	225

- (6) If the total payment for fees required for all permits under G.S. 143-215.3(a)(1b) for any single facility will exceed seventy-five hundred dollars (\$7,500.00) per year, then the total for all these fees will be reduced for this facility so that the total payment is seventy-five hundred dollars (\$7,500.00) per year.
- (7) A portion of the permit application processing fees shown in the fee schedule in Subparagraph (5) of ~~this~~ Paragraph (c) of this Rule will be transferred into the Wastewater Treatment Works Emergency

Maintenance, Operation and Repair Fund according to the following schedule:

- (A) All nonmunicipal facilities treating domestic wastewater with design flows of 100,000 gallons per day or less, except single family dwellings and facilities with design flows of less than 1,000 GPD, seventy-five dollars (\$75.00);
 - (B) Single family dwellings and facilities with design flows of less than 1,000 GPD, forty dollars (\$40.00); and
 - (C) All other facilities, zero.
- (8) When the total value of the Wastewater Treatment Works Emergency Maintenance, Operation and Repair Fund, as certified by the State Treasurer, is at least seven hundred fifty thousand dollars (\$750,000.00) at the end of a quarter, the application processing fees for facilities with capacities of one hundred thousand gallons per day (100,000 GPD) or less shall be reduced by the amounts being transferred under Subparagraph (7) of this Paragraph. This reduction shall continue until, at the end of some subsequent quarter, the State Treasurer certifies that the fund's balance is less than seven hundred fifty thousand dollars (\$750,000.00), in which case the full amount of the application processing fees as listed in Subparagraph (5) of this Paragraph shall be charged.
- (9) In order to avoid violation of the statutory limit that total permit fees collected in any year not exceed 30 percent of the total budgets from all sources of environmental permitting and compliance programs, the Division shall in the first half of each state fiscal year project revenues from all sources including fees for the next fiscal year. If this projection shows that the statutory limit will be exceeded, rule-making shall be commenced in order to have an appropriately adjusted fee schedule which will avoid excessive revenue collection from permit fees.
- (d) Supporting Documents and Information. This Paragraph outlines those supporting documents and information which must be submitted for sewers, sewer extensions, and disposal systems and wastewater treatment works which do not discharge to the surface waters of the state.
- (1) For all facilities:
 - (A) Required sets of plans and specifications:
 - (i) regular projects -- three sets of detailed plans and specifications signed and sealed by a professional engineer;
 - (ii) federal and state grants projects -- four sets of detailed plans and specifications plus federal assurances required by appropriate federal agency;
 - (B) Specifications describing all materials to be used, methods of construction and means for assuring the quality and integrity of the finished project;
 - (C) A general location map, showing orientation of the facility with reference to at least two geographic references (numbered roads, named streams/rivers, etc.);
 - (D) A description of the origin, type and flow of waste to be treated. Waste analysis must be extensive enough to allow a complete evaluation of the system to treat the waste and any potential impacts on the waters of the state;
 - (E) When required, a statement submitted that the wastewater treatment facility involved will be properly disconnected and the wastewater discharged into an adequate district or municipal system when it becomes available;
 - (F) Permits which result in construction of facilities which will be funded by public monies may require environmental documentation pursuant to the North Carolina Environmental Policy Act. Permit applications for which such documentation is required will not be considered complete until supported by the required documentation;
 - (G) If more than one contiguous acre of land is to be uncovered by a project, documentation should be supplied verifying that the applicant has completed or is working with the appropriate regional engineer of the Land Quality Section on the completion of an erosion control plan.
 - (2) For wastewater facilities specified in G.S. 143-215.1 (d1) that are or will be jointly or commonly owned, either a copy of a properly executed operational agreement or evidence to show that the applicant has been designated as a public utility by the State Utilities Commission.
 - (3) For sewers and sewer extensions:
 - (A) design flow;
 - (B) rate of infiltration in gallons per day per inch of pipe diameter per mile of pipe;
 - (C) letter of agreement from owner or proper official of treatment works accepting the wastewater, if application is not submitted by owner or proper official having charge of treatment works;
 - (D) plan and profile of sewers, showing their proximity to other utilities and na-

- tural features, such as water supply lines, water lines, storm drains, surface waters, roads and other trafficked areas.
- (E) Construction of sewers and sewer extensions are prohibited in the following areas unless the specified determinations are made:
- (i) in a natural area designated on the State Registry of Natural Heritage Areas by a protection agreement between the owner and the Secretary of the N.C. Department of Natural Resources and Community Development, Environment, Health, and Natural Resources, unless the EMC agrees that no prudent, feasible or technologically possible alternative exists;
 - (ii) in a natural area dedicated as a North Carolina Nature Preserve by mutual agreement between the owner and State of North Carolina (Governor and Council of State), unless the EMC recommends and the Governor and Council of State agree that no prudent, feasible or technologically possible alternative exists.
- (4) For pumping stations:
- (A) design calculations for pump and force main sizing;
 - (B) plan and profile of sewers, showing their proximity to other utilities and natural features, such as water supply lines, water lines, storm drains, surface waters, roads and other trafficked areas;
 - (C) pump station site location map;
 - (D) name and classification of adjacent surface waters which could be affected by a failure.
- (5) For subsurface ground absorption systems:
- (A) soil evaluation of the disposal site conducted by a soils scientist to adequately evaluate the soils to be utilized for treatment and disposal down to a depth of seven feet to include, but is not limited to, field descriptions of texture; color; structure, the depth thickness and type of restrictive horizons; the presence or absence and depth of evidence of any seasonal high water table; recommendations concerning application rates of liquids, solids, and other wastewater constituents; field estimates of saturated hydraulic conductivity in the most restrictive horizon; and cation exchange capacity. Applicants may be required to dig pits when necessary for proper evaluation of the soils at the site;
 - (B) design data;
 - (C) plans of complete system including plan and profile and cross section views for all relevant system components;
 - (D) a map of the site, with topographic contour intervals not exceeding two feet and showing all facility-related structures within the property boundary and the location of all wells, springs, lakes, ponds, or other surface drainage features within 500 feet of the principal waste treatment/disposal site(s);
 - (E) For systems treating industrial waste and any system with a design flow of over 25,000 gpd, a hydrogeologic and soils description of the subsurface to a depth of 20 feet or bedrock, whichever is less. The number of borings shall be sufficient to define the following for the area underlying each major soil type at the disposal site:
 - (i) significant changes in lithology underlying the site;
 - (ii) the vertical permeability of the unsaturated zone and the hydraulic conductivity of the saturated zone, and
 - (iii) depth to the mean seasonal high water table (if definable from soil morphology or from evaluation of other applicable available data).
 - (F) For all projects with a design flow of greater than 25,000 gpd, a determination of transmissivity and specific yield of the unconfined aquifer based on withdrawal or recharge test;
 - (G) Information on the location, construction details, and primary usage (drinking water, process water, monitoring, etc.) of all wells within 500 feet of the waste treatment/disposal area;
 - (H) Degree of treatment (primary, secondary, tertiary);
 - (I) For industrial waste a complete chemical analysis of the typical wastewater or sludge to be discharged, may include but not limited to Total Organic Carbon, BOD, COD, Chlorides, Phosphorus, Ammonia, Nitrates, Phenol, Total Trihalomethanes, Toxicity test parameters, Total Halogenated Compounds, Total Coliforms and Total Dissolved Solids;
 - (J) proposed location and construction details of a monitoring well network.
- (6) For land application of sludge on other than dedicated sites:
- (A) a map of the site with topographic contour intervals not exceeding ten feet or 25 percent of total site relief, whichever

- is less, and showing all facility related structures within the property boundary and the location of all wells, pits and quarries, springs, lakes, ponds, or other surface drainage features within 500 feet of the disposal site;
- (B) a soil scientist's recommendations concerning application rates of liquids, solids, minerals and other wastewater constituents;
 - (C) a project evaluation conducted by an agronomist including recommendations concerning cover crops and their ability to accept the proposed application rates of liquids, solids, minerals, and other wastewater constituents;
 - (D) project description for the land application system, including treatment, storage, land application method, equipment, and a receiver management plan;
 - (E) for industrial wastes, a complete chemical analysis of the typical wastewater or sludge to be applied may include, but is not limited to percent Total Solids, pH, NH₃-N, NO₃-N, TKN, Total Phosphorus, Potassium, Toxicity test parameters, Cadmium, Chromium, Copper, Lead, Nickel, Zinc, Mercury, Arsenic, Selenium;
 - (F) information on the location, construction details, and primary usage (drinking water, process water, monitoring, etc.) of all wells within 500 feet of the disposal site;
 - (G) For sites previously permitted: Soil evaluation of the application sites by a soils scientist to confirm or establish the soil map through field evaluation of soil texture; color; structure; the depth, thickness, and type of restrictive horizons; the presence or absence of seasonal high water table within three vertical feet of the surface or subsurface application depth; and cation exchange capacity;
 - (H) For sites not previously permitted:
 - (i) A USDA-SCS soils map of the application site. In addition, a soil evaluation of the application site by a Soils Scientist, to verify the accuracy of the SCS soils map regarding the presence or absence of a seasonally high water table or bedrock within three vertical feet of the deepest point of sludge application; and cation exchange capacity;
 - (ii) If a USDA-SCS soils map of the application site is not available, soil evaluation of the disposal site by a soils scientist down to a depth of seven feet or the "C" horizon, whichever is less, to develop a soil map through field evaluation of soil texture; color; the depth, thickness, and type of restrictive horizons; the presence or absence of a seasonal high water table, or bedrock within three vertical feet of the deepest point of sludge application; and cation exchange capacity.
 - (7) For spray irrigation, land application on dedicated sites, or sludge disposal systems and treatment works, except for rapid infiltration disposal systems and systems for composting sludge for land application:
 - (A) a map of the site, with topographic contour intervals not exceeding ten feet or 25 percent of total site relief, whichever is less, and showing all facility-related structures within the property boundary and the location of all wells, pits and quarries, springs, lakes, ponds, or other surface drainage features within 500 feet of the waste treatment disposal site(s);
 - (B) the information specified in Subsections (d) (5) (E), (F), (H) and (I) of this Rule;
 - (C) soil evaluation of the disposal site conducted by a soils scientist to adequately evaluate the soils to be utilized for treatment and disposal down to a depth of seven feet to include, but is not limited to field descriptions of texture; color; structure; the depth; thickness and type of restrictive horizons; the presence or absence and depth of evidence of any seasonal high water table; recommendations concerning application rates of liquids, solids, and other wastewater constituents; field estimates or measurements of saturated hydraulic conductivity in the most restrictive horizon; and cation exchange capacity. Applicants may be required to dig pits when necessary for proper evaluation of the soils at the site.
 - (D) a project evaluation and a receiver site management plan (if applicable) prepared by an agronomist and his recommendations concerning cover crops and their ability to accept the proposed application rates of liquid, solids, minerals and other constituents of the wastewater;
 - (E) complete plans and specifications for the entire system, including treatment, storage, application, and disposal facilities and equipment. Treatment works previously permitted will not need to be shown, unless they are directly tied into the new units or are critical to the understanding of the complete process;

- (F) a complete chemical analysis of the typical wastewater or sludge to be treated, may include but not limited to Percent Total Solids, pH, Total Organic Carbon, BOD, COD, Chlorides, Sodium, Phosphorus, Sulfides, Bicarbonate, Magnesium, Nitrates, Phenol, Total Trihalomethanes, EP Toxicity test parameters, Total Halogenated Compounds, Total Coliforms and Total Dissolved Solids;
- (G) proposed location and construction details of a monitoring well network;
- (H) information on the location, construction details, and primary usage (drinking water, process water, monitoring, etc.) of all wells within the 500 feet of the disposal site.
- (8) For systems for composting sludge for land application:
 - (A) a map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief, whichever is less, and showing all facility-related structures within the property boundary and the location of all wells, springs, lakes, ponds, or other surface drainage features within 500 feet of the principal waste treatment/disposal site(s);
 - (B) complete plans and specifications for the entire system, including facilities and equipment for treatment, storage and preparation for disposal;
 - (C) for industrial waste, a hydrogeologic description of the subsurface, to a depth of 20 feet or bedrock, whichever is less. The number of borings shall be sufficient to define the following for the area underlying each major soil type at the disposal site:
 - (i) significant changes in lithology underlying the site;
 - (ii) the vertical permeability of the unsaturated zone and the hydraulic conductivity of the saturated zone; and
 - (iii) depth to the mean seasonal high water table (if definable from soil morphology or from evaluation of other applicable available data).
 - (D) proposed location and construction details of a monitoring well network.
- (9) For closed system or recycle disposal systems and treatment works:
 - (A) for industrial waste, a complete chemical analysis of the typical wastewater or sludge to be discharged, may include but not limited to Total Organic Carbon, BOD, COD, Chlorides, Phosphorus, Nitrates, Phenol, Total Trihalomethanes, EP Toxicity test parameters, Total Halogenated Compounds, Total Coliforms and Total Dissolved Solids;
 - (B) plans and specifications of the entire system. When necessary for an understanding of a treatment process, the applicant should also submit process flow diagrams;
 - (C) For industrial waste, a hydrogeologic description of the subsurface to a depth of 20 feet or bedrock, whichever is less. The number of borings shall be sufficient to define the following for the area underlying each major soil type at the disposal site:
 - (i) significant changes in lithology underlying the site;
 - (ii) the vertical permeability of the unsaturated zone and the hydraulic conductivity of the saturated zone; and
 - (iii) depth to the mean seasonal high water table (if definable from soil morphology or from evaluation of other applicable available data).
- (10) For RAPID INFILTRATION SYSTEMS:
 - (A) a map of the site, with a horizontal scale of one inch equal 1,000 feet or less and topographic contour intervals not exceeding two feet or 25 percent of the total site relief, whichever is less, and showing all facility-related structures within the property boundary and the location of all wells, springs, lakes, ponds or other surface drainage features within 500 feet of the principal waste treatment/disposal site(s);
 - (B) hydrogeological information describing the vertical and horizontal extent and lithologic character of the unconfined aquifer and its hydraulic relationship to the first confined aquifer beneath the site and the vertical permeability and thickness of the confining bed. The information must also include a determination of the transmissivity and specific yield of the unconfined aquifer, determined by either a withdrawal or recharge test;
 - (C) a determination of the quality and movement of groundwater and surface water in the area and an evaluation of the impact that the proposed system will have on water levels, movement and quality of waters;
 - (D) complete plans and specifications for the entire system, including treatment

- storage and rotary distributor facilities and equipment;
- (E) the information specified in .0205 (d) (5) (II) of this Section;
- (F) proposed location and construction details of monitoring well network;
- (G) proposed monitoring plan including the method of determining groundwater levels and quality of water parameters and frequency of sampling.

Statutory Authority G.S. 143-215.1; 143-215.3(a); 143-215.3B(b).

.0211 PERMIT RENEWALS

Requests for permit renewals are to be submitted to the Director ~~six months at least~~ 180 days prior to expiration unless revoked in accordance with Rule .0213 of this Section. Such requests must be submitted with a processing fee ~~of one hundred dollars (\$100.00)~~ as shown in Rule .0205(c)(5) of this Section, in the form of a check or money order made payable to the N. C. Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources. All applications are incomplete until required processing fees are received, and may be returned to the applicant. The processing fee shall not apply to any farmer who submits an application which pertains to his farming operation.

Statutory Authority G.S. 143-215.3(e)(1).

SECTION .1200 - SPECIAL ORDERS

.1201 PURPOSE

The purpose of this Section is to implement the provisions of G.S. 143-215.2 and G.S. 143-215.110 pertaining to the issuance of surface water, ground water and air quality Special Orders by the Environmental Management Commission.

Statutory Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.110.

.1202 DEFINITIONS

The terms used herein shall be as defined in G.S. 143-212 and G.S. 143-213. Other terms used in this Section are defined as follows:

- (1) "Special Order" means a directive of the Commission to any person whom it finds responsible for causing or contributing to any pollution of the air or waters of the State. The term includes all orders or instruments issued by the Commission pursuant to G.S. 143-215.2 or G.S. 143-215.110.

- (2) "Consent Order" or "Special Order by Consent" means a type of Special Order where the Commission enters into an agreement with the person responsible for water or air pollution to achieve some stipulated actions designed to reduce, eliminate, or prevent air or water quality degradation.
- (3) "Director" means the Director of the Division of Environmental Management.

Statutory Authority G.S. 143-212; 143-213; 143-215.2; 143-215.3(a)(1); 143-215.110.

.1203 PUBLIC NOTICE

- (a) Notice of proposed Consent Order:
 - (1) Public notice of all proposed Consent Orders shall be provided in the geographical area where the specified activity will occur at least 45 days prior to any final action by the Commission or the Director. Where appropriate, interstate and federal agencies should also be noticed.
 - (2) The Director shall prepare the notice of the proposed Consent Order and shall advertise it at least one time in a newspaper having general circulation in the geographical area affected.
 - (3) The Notice shall include at least the following:
 - (A) name, address, and phone number of the agency issuing the public notice;
 - (B) name and address of the person to whom the order is directed;
 - (C) a brief summary of the proposed conditions of the agreement;
 - (D) a brief description of the procedures to be followed by the Commission or Director in reaching a final determination on the proposed agreement. This shall include explanations of the comment period and how interested persons may influence or comment on the proposal along with procedures to request a public meeting. The description shall specify that requests for a public meeting and comments are to be received by the Division within 30 days following the newspaper publication of the public notice;
 - (E) a description of the information available for public review, where it can be found, and procedures for obtaining copies of pertinent documents.
- (b) Notice of public meetings for proposed Consent Order:
 - (1) The Director shall consider all requests for a public meeting and if he determines that there is significant public interest, then he will cause such a meeting to be held.

- (2) Public meetings shall be noticed by the Director at least 30 days prior to the meeting.
- (3) The Notice shall be advertised in a local newspaper and provided to those persons specified in G.S. 143-215.2(a1)(2) for water quality special orders and G.S. 143-215.110(a1)(2) for air quality special orders.
- (4) The Notice shall include the information specified in (a)(3)(A), (B), (C) and (D) of this Rule relative to the identification of the parties involved, the conditions of the proposal, how to obtain additional information and the procedures to be followed by the Commission in reaching a final determination. It should also provide full information regarding the time and location for the meeting along with procedures for the various methods of providing comment.

(c) Any person may request to receive copies of all notices required by this Rule, and the Director shall mail copies of notices to those who have submitted a request.

(d) The Director may combine the requirements in Paragraphs (a) and (b) of this Rule with a combination comment period and public meeting notice.

(e) Any Special Order by Consent may provide that the Director may agree to minor modifications, such as interim date extensions, in a consent order without going back to public notice provided that the said modifications may not extend final compliance date by more than four months.

(f) The requirements of this Rule for public notice and public meeting were developed to apply to Special Orders by Consent. The Commission may specify other conditions for Special Orders issued without consent.

Statutory Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.110.

.1204 FINAL ACTION ON SPECIAL ORDERS BY CONSENT

The Director is authorized to take final action for the Commission on Special Orders by Consent except in those cases where a public meeting is held as provided in 15A NCAC 211 .1203. The final action on the proposed order shall be taken no later than 60 days following publication of the notice or, if a public meeting is held, within 90 days following the meeting.

Statutory Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(4); 143-215.110.

.1205 ACTION ON SPECIAL ORDERS ISSUED WITHOUT CONSENT

The Commission may issue a proposed Special Order without the consent of the person affected. The Commission shall notify the affected person of the procedure set out in G.S. 150B-23 to contest the proposed special order.

Statutory Authority G.S. 143-215.2(b); 143-215.3(a)(1); 143-215.110(b).

SUBCHAPTER 2L - GROUNDWATER CLASSIFICATION AND STANDARDS

SECTION .0100 - GENERAL CONSIDERATIONS

.0109 DELEGATION

(a) The Director is delegated the authority to enter into consent special orders under G.S. 143-215.2 for violations of the water quality standards except when a public meeting is required as provided in 15A NCAC 211 .1203.

(b) The Director is delegated the authority to issue prepare a proposed special order to be issued by the Commission without the consent of the person affected and to notify the affected person of that proposed order and of the procedure set out in G.S. 150B-23 to contest the proposed special order.

(c) The Director shall give public notice of proposed special orders and consent special orders as specified in 15A NCAC 211 .1203.

Statutory Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(4).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10C .0305.

The proposed effective date of this action is August 1, 1990.

The public hearing will be conducted at 10:00 a.m. on May 16, 1990 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27611.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will

be open for receipt of written comments from May 1, 1990 to May 30, 1990. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27611.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0300 - GAME FISH

.0305 OPEN SEASONS: CREEL AND SIZE LIMITS

(b) Exceptions

- (1) In accordance with the Virginia-North Carolina reciprocal agreement, ~~the creel limit is eight for chain pickerel (jack) and eight for white bass in the Staunton River east of the mouth of Difficult Creek; the Dan River east of the Brantly Steam Plant Dam at Danville; Kerr and Gaston Reservoirs including all tributary waters lying in either Virginia or North Carolina which are accessible by boat from the main bodies of the reservoirs; and the Island Creek subimpoundment. In in the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.~~

Statutory Authority G.S. 113-134; 113-292; 113-304; 113-305.

TITLE 21 - OCCUPATIONAL LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-12 that the Board of Medical Examiners of the State of North Carolina intends to adopt rule(s) cited as 21 NCAC 32M .0001 - .0012; and repeal rule(s) cited as 21 NCAC 32E .0001 - .0008.

The proposed effective date of this action is September 1, 1990.

The public hearing will be conducted at 1:30 p.m. on June 4, 1990 at NC Board of Medical Examiners, 1313 Navaho Drive, Raleigh, NC 27609.

Comment Procedures: Persons interested may present written or oral statements relevant to the actions proposed at a hearing to be held as indicated above. Written statements not presented at the hearing should be directed before May 21, 1990, to the following address: NC Board of Medical Examiners, Administrative Procedures, PO Box 26808, Raleigh, N.C. 27611-6808.

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

SUBCHAPTER 32E - APPROVAL OF REGISTERED NURSE PERFORMING MEDICAL ACTS (REPEALED)

- .0001 DEFINITIONS
- .0002 APPLICATION FOR APPROVAL
- .0003 REQUIREMENTS FOR APPROVAL
- .0004 MORAL CHARACTER
- .0005 TERMINATION OF APPROVAL
- .0006 ANNUAL APPROVAL
- .0007 FEES
- .0008 FORMS

Statutory Authority G.S. 90-6; 90-18(14); 150A-11.

SUBCHAPTER 32M - APPROVAL OF NURSE PRACTITIONERS

.0001 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Board" means the Board of Medical Examiners of the State of North Carolina to whom responsibility is given by G.S. 90-6 to secure compliance with these Rules.
- (2) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and members of the Board of Medical Examiners to whom responsibility is given by G.S. 90-6 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.
- (3) "Nurse Practitioner or NP" means a registered nurse with additional education to perform medical acts who functions at the direction of or under the supervision of a physician licensed by the Board and who performs tasks traditionally performed by the physician, such as physical examination, diagnosis, and treatment.
- (4) "Nurse Practitioner Applicant" means the individual upon whose behalf an application for approval is submitted who may function before approval in accordance with this Subchapter in the same manner as a student

under strict supervision as outlined in Rule .0002 of this Subchapter.

- (5) "Supervision" means the physician's function of overseeing patient case management relevant to medical acts performed by the NP as outlined in Rule .0009 of this Subchapter.
- (6) "Primary Supervising Physician" means the physician who, by signing the application for approval, accepts full medical administrative responsibility for the NP's medical activities at all times whether he personally is providing supervision or supervision is being provided by a Back-up Supervising Physician. The Primary Supervising Physician shall assume total responsibility for the NP's performance in the particular field or fields in which the NP is expected to perform medical acts.
- (7) "Back-up Supervising Physician" means the physician who, by signing the application for approval, accepts responsibility to be available to supervise the NP's medical activities in the absence of the Primary Supervising Physician only in the practice sites listed in the approved application. The Back-up Supervising Physician is responsible for the medical activities of the NP only when he is providing supervision.
- (8) "Formulary" means the document which lists generic categories of drugs to be prescribed, ordered, or dispensed by physician extenders under written standing orders from the supervising physician for patient care in approved practice sites.

Statutory Authority G.S. 90-6; 90-18(14); 90-18.2.

.0002 NURSE PRACTITIONER APPLICANT STATUS

The Nurse Practitioner Applicant status may be used only by an individual whose application for approval as a Nurse Practitioner has been received in the Nursing Board's office. The Nurse Practitioner Applicant status may not be used to "try out" a job or work temporarily in a job in which the individual does not intend to obtain approval. In the event the individual leaves the job in which he has worked as a Nurse Practitioner Applicant before approval is granted, the individual must submit a written explanation to the Board before he may work in the Nurse Practitioner Applicant status in another job.

- (I) The Nurse Practitioner Applicant status applies to:
 - (a) an individual newly graduated from an approved NP educational program; or

- (b) an individual coming to North Carolina for the first time who has worked previously as an NP in another state.
- (2) A Nurse Practitioner Applicant described in Subparagraph (1) of this Rule, may function before approval in accordance with this Subchapter under supervision with the following limitations:
 - (a) wear identification as a "Nurse Practitioner Applicant";
 - (b) have no prescribing privileges;
 - (c) have immediate physician countersigning of all medical notations in all patient charts in all practice locations;
 - (d) have no remote practice sites. (The supervising physician must always be physically present in the practice site in which the applicant is working.)
 - (3) The Nurse Practitioner Applicant status does not apply to an individual previously approved as an NP in North Carolina in another practice situation which has terminated who is seeking approval in a new job. The previously approved NP may function prior to approval of the new job as follows:
 - (a) wear identification as a "Nurse Practitioner";
 - (b) use prescribing number previously issued by the Board for prescribing privileges;
 - (c) have physician countersigning of all medical notations in all patient charts in all practice locations within 24 hours of NP patient contact.

Statutory Authority G.S. 90-18(14).

.0003 REQUIREMENTS FOR NP APPROVAL

- (a) In order to be considered for approval as a Nurse Practitioner, an applicant must:
 - (1) Be currently licensed as a Registered Nurse by the North Carolina Board of Nursing.
 - (2) Be of good moral character.
 - (3) Provide evidence of successful completion of a course of formal education and instruction in the procedures and practices the NP will be expected to perform, as set forth in Rule .0005 of this Subchapter.
- (b) Initial approval may be denied for any of the reasons set forth in Rule .0007 of this Subchapter, as well as failure to satisfy the Board of Nursing and the Board of Medical Examiners of the qualifications of the NP educational program from which the applicant graduated as set forth in Rule .0005 of this Subchapter.

Statutory Authority G.S. 90-18(14).

.0004 APPLICATION FOR NP APPROVAL

(a) Application for approval of an NP must be made upon the appropriate forms and must be submitted jointly by the NP and supervising physicians with whom the NP will work.

(b) Applications, complete in every detail and every supporting document required, must be submitted to the office of either the Board of Nursing or the Board of Medical Examiners (mailing instructions with application form) by the deadline stated on the application form in order that the application may be considered appropriately.

(c) Applications for approval of new NP jobs are considered by the Joint Subcommittee which makes its recommendations to the Board of Medical Examiners for final disposition of the application.

(d) If for any reason an NP discontinues working under the supervision of the Primary Supervising Physician under which the NP is approved, the Board shall be notified and the NP's approval shall automatically terminate until such time as a new application is approved in accordance with this Subchapter.

(e) The following applications for approval of changes in an NP's practice may be administratively approved by the Board's staff and reported to the Board at each meeting:

- (1) routine job changes of an NP previously approved in N.C.;
- (2) additional job under a new primary supervising physician;
- (3) change of primary supervising physician when that is the only change taking place in a currently approved NP practice site;
- (4) addition of back-up supervising physicians to a currently approved NP practice site;
- (5) addition of practice sites under the supervision of the currently approved primary supervising physician;
- (6) temporary approval for second site on relief basis not to exceed four months.

(f) Administrative approval is not automatic for the applications listed in this Rule. The changes may be administratively approved at the discretion of the Board's staff. Changes cannot be processed administratively but must be considered by the Board as follows: if any of the background questions are answered "yes" by the NP or primary supervising physician; or if the NP or any of the supervising physicians listed have an investigative, complaint, or public file.

An NP applicant must provide evidence of successful completion of a course of formal education and instruction which contains a core curriculum including four months of didactic education and four months of preceptorship or supervised clinical experience.

(1) The core curriculum shall contain as a minimum the following components:

- (a) data collection:
 - (i) historical data;
 - (ii) physical examination data;
 - (iii) organization of data base.
- (b) pharmacology;
- (c) common illnesses:
 - (i) pathophysiology;
 - (ii) differential diagnosis for the purpose of consultation, referral, or management of:
 - (A) common diseases of the head and neck;
 - (B) common respiratory and pulmonary diseases;
 - (C) common cardiovascular problems;
 - (D) common GI problems;
 - (E) common GU and GYN problems;
 - (F) common infectious diseases;
 - (G) common emergencies;
- (II) common neurologic/psychiatric problems;
 - (I) common skin problems;
 - (J) common hematological problems;
 - (K) common endocrine problems;
 - (L) common musculoskeletal problems.
- (d) health promotion and prevention of disease;
- (e) teaching and counseling;
- (f) role realignment and trends.

(2) Nurse Practitioner Applicants who may be exempt from the core curriculum requirements are:

- (a) Any nurse practitioner approved in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.
- (b) Any nurse practitioner certified by a national organization approved by the Joint Subcommittee shall be exempt from the core curriculum requirement.
- (c) An applicant, whose formal education does not meet all of the stipulations in this Rule, may request consideration by the Joint Subcommittee of other education and experience.

Statutory Authority G.S. 90-18(14); 90-18.2.

Statutory Authority G.S. 90-18(14); 90-18.2.

.0005 REQUIREMENTS FOR RECOGNITION OF NP EDUCATIONAL PROGRAMS

.0006 PRESCRIBING PRIVILEGES

(a) The NP Applicant and supervising physicians shall acknowledge in the application that

they are familiar with laws and rules regarding prescribing; and shall agree to comply with these laws and rules by incorporating the laws and rules, including the Formulary, into their written standing orders.

(b) The generic categories listed in the Formulary are based on the "American Hospital Formulary Service" published by the American Society of Hospital Pharmacists. The Formulary is adopted by reference as a part of this Rule. Changes in the Formulary are approved by both the Board of Nursing and the Board of Medical Examiners.

(c) The prescribing stipulations contained in these Rules and in the Formulary apply to writing prescriptions, ordering the administration of medications in out-patient and in-patient settings, and dispensing medications. Approval to dispense must be obtained from the Board of Pharmacy.

(d) Prescribing stipulations are as follows:

(1) Controlled Substances:

(A) No controlled substances (Schedules 2, 2N, 3, 3N, 4, 5) defined by the State and Federal Controlled Substances Acts may be prescribed, ordered, or dispensed.

(B) Verbal orders given to the NP from the supervising physician for administration of a controlled substance to a specific patient may be entered into the patient chart by the NP just as an RN may transcribe a physician's verbal order into a patient chart.

(2) Parenteral Medications - No parenteral preparations may be prescribed, ordered, or dispensed unless under the order of the supervising physician as set forth in Subparagraph (3)(B) of this Rule with the following exceptions:

(A) Insulin;

(B) Immunizations (DPT, MMR, Hib);

(C) Tetanus toxoid, DT, or hyperimmune serum;

(D) Epinephrine;

(E) Benadryl.

(3) Excluded Drugs:

(A) Any pure form or combination of the generic classes of drugs listed in the Formulary may be prescribed, ordered, or dispensed, unless the drug or class of drug is excluded by the Formulary.

(B) Drugs excluded by the Formulary, except controlled substances, may be prescribed by the NP only upon specific written or verbal orders from the supervising physician for a specific patient given before the prescription or order is issued by the NP. Such a prescription or order

must be signed by the NP with a notation that it is issued on the specific order of the supervising physician. For example: Mary Smith, NP, on order of John Doe, M.D.

(4) Refills - A prescription may not indicate a refill, unless authorized by the supervising physician, with the exception of birth control medication which may be issued for a period not to exceed one year.

(5) Dosage Units - Amount of drug prescribed, ordered, or dispensed can be no more than 100 dosage units or a one month supply with the exception of birth control medications which may be issued for a period not to exceed one year.

(6) Prescription Notations - Every prescription must be noted on the patient's chart. A second prescription for the same medication may be authorized by the NP by telephone and must be entered on the patient's chart and co-signed by the supervising physician within the specified co-signing time contained in the approved application.

(7) Prescribing Number - A prescribing number is assigned by the Board to an NP upon approval. This number must appear on all prescriptions issued by the NP. The prescribing number is used as the NP's Approval Number.

(8) Prescription Blank Format - All prescriptions issued by an NP should contain the name and telephone number of the supervising physician; the name, practice address, telephone number, and prescribing number of the NP, as well as all information required by law. A suggested prescription format is included in the application packet.

(9) Pre-signed Prescription Blanks - The supervising physician shall not leave pre-signed prescription forms for use by the NP.

Statutory Authority G.S. 90-18(14); 90-18.2.

.0007 TERMINATION OF NP APPROVAL

The approval of an NP shall be terminated by the Board when, after due notice and hearing in accordance with provisions of Article 3A of G.S. 150B, the Board shall find:

(1) that the NP has held himself out or permitted another to represent him as a licensed physician;

(2) that the NP has engaged in the performance of medical acts other than at the direction of, or under the supervision of, a physician

- licensed by the Board who is approved by the Board to be a supervising physician;
- (3) that the NP has performed medical acts for which the NP is not approved or for which the NP is not qualified by education and training to perform, including prescribing, ordering, or dispensing drugs not allowed by the Formulary;
 - (4) that the NP is impaired physically, mentally, or professionally as a result of using mind-altering chemicals;
 - (5) that the NP has been convicted in any court of a felony;
 - (6) that the NP is adjudicated mentally incompetent or that the NP's mental or physical condition renders the NP unable to safely function as an NP;
 - (7) that the NP has failed to comply with any of the provisions of this Subchapter.

Statutory Authority G.S. 90-18(14).

.0008 METHOD OF IDENTIFICATION

The NP shall wear an appropriate name tag spelling out the words "Nurse Practitioner".

Statutory Authority G.S. 90-18(14).

.0009 SUPERVISION OF NP

Supervision shall be provided by the responsible physician as follows:

- (1) Availability:
 - (a) The supervising physician shall be available for direct communications by radio, telephone, or telecommunications.
 - (b) The supervising physician shall be available on a regularly scheduled basis for referrals of patients from the NP.
 - (c) An NP shall refer a patient to another health provider other than an approved supervising physician only after consultation with the approved supervising physician.
- (2) Written Standing Orders:
 - (a) The supervising physician shall provide in each practice location written standing orders and drug protocols to cover most commonly encountered problems in the practice setting for use by the NP and for referral by other personnel in the setting;
 - (b) The written standing orders shall include a pre-determined plan for emergency services.
- (3) Countersigning of Medical Acts:
 - (a) The maximum time interval between the NP's contact with the patient and chart review and countersigning of medical acts by the supervising physician is five days.

- (b) A longer countersigning time interval may be considered by the Joint Subcommittee upon specific request. The request should explain the practice circumstances which necessitate the longer countersigning interval.
 - (c) All medical entries into the patient chart by an NP in all approved practice locations must be countersigned by the supervising physician, including progress notes; treatment rendered; tests or procedures ordered; and notations of prescriptions, orders, or drugs dispensed.
- (4) Supervision Distance:
 - (a) If the NP is to perform duties away from the supervising physician, the application must clearly specify the circumstances which would justify this action and the supervisory arrangements established to protect the patient.
 - (b) Details must be submitted describing distance, time, topography, physical characteristics, and communication ability between the NP and the supervising physician.
- (5) Supervising Physicians:
 - (a) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, cannot be named as a supervising physician.
 - (b) A physician in a graduate medical education program who is also practicing in a non-training situation may supervise an NP in the non-training situation if fully licensed.
 - (c) All physicians who may supervise the NP in any manner must be approved in accordance with this Subchapter before NP supervision occurs.
 - (6) The NP must be prepared to demonstrate upon request to a member of either the Board of Nursing or the Board of Medical Examiners, or one of its delegates, the ability to perform the medical acts assigned by the supervising physician.

Statutory Authority G.S. 90-18(14).

.0010 ANNUAL RENEWAL OF NP APPROVAL

- (a) Nurse Practitioners approved in accordance with this Subchapter shall renew their approval annually with the Board on forms supplied by the Board on or before July 1 of each year.
- (b) In the event failure to renew approval continues for a period of 30 days, the approval of the NP may be suspended by the Board after notice and hearing in accordance with G.S. 150B-38.

Statutory Authority G.S. 90-6; 90-18(14).

.0011 FEES

(a) An application fee of seventy-five dollars (\$75.00) must be paid at the time of initial application for approval and each subsequent application for employment changes. The seventy-five dollar (\$75.00) application fee shall be disbursed on a prorata basis to the N.C. Board of Nursing and the N.C. Board of Medical Examiners.

(b) An application fee of fifty dollars (\$50.00) must be paid at the time of application for a change of primary supervising physician.

(c) The fee for annual renewal of approval, due July 1, is twenty dollars (\$20.00).

(d) No portion of the fees in this Rule is refundable.

Statutory Authority G.S. 90-6.

.0012 NP FORMS

(a) The following documents regarding nurse practitioners may be obtained from the office of either the Board of Nursing or the Board of Medical Examiners:

(1) Rules for Approval of Nurse Practitioners, Subchapter 32N;

(2) Formulary;

(3) North Carolina Laws Regarding Nurse Practitioners, G.S. 90-6, 90-18(14) and 90-18.2;

(4) Application for NP Approval.

(b) The following documents are issued by the Board of Medical Examiners:

(1) Statement of Approval, upon being approved;

(2) Application for Annual Renewal of Approval, mailed during June to all Nurse Practitioners approved by May 1;

(3) Certificate of Renewal, upon renewing approval.

Statutory Authority G.S. 150B-11.

The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.

Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Please contact this office if you have any questions.

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.

Upon request from the adopting agency, the text of rules will be published in this section.

*Punctuation, typographical and technical changes to rules are incorporated into the List of Rules Codified and are noted as * Correction. These changes do not change the effective date of the rule.*

TITLE 17 - DEPARTMENT OF REVENUE

CHAPTER 7 - SALES AND USE TAX

SUBCHAPTER 7B - STATE SALES AND USE TAX

SECTION .0100 - GENERAL PROVISIONS

.0101 IMPOSITION OF/LIABILITY FOR COLLECTING/REMITTING TAX

(a) All retail sales of tangible personal property are subject to the three percent, two percent or the one percent sales or use tax unless specifically exempt by statute. Effective January 1, 1985, the gross receipts derived by a utility from sales of electricity, piped natural gas or local telecommunications services are subject to the three percent state rate of sales tax, other than receipts from the sale of electricity by a municipality whose only wholesale supplier of electric power is a federal agency and who is required by contract with that federal agency to make payments in lieu of taxes. Effective January 1, 1989, the gross receipts derived from providing toll or private telecommunications services, as defined by G.S. 105-120(a), that both originate from and terminate in the state are subject to a tax at the rate of six and

one-half percent of such gross receipts. This provision does not apply to telephone membership corporations as described in Chapter 117 of the General Statutes. The gross receipts derived by a utility from sales of electricity, piped natural gas and telecommunications services are not subject to the local sales or use tax. Wholesale sales are not subject to the tax if made pursuant to the conditions set forth in the statutory definition of wholesale sale. Every person making retail sales of taxable tangible personal property is required to register with the department and collect and remit all tax due on such sales.

(b) A use tax at the applicable rate is levied on taxable tangible personal property purchased or received from within or without this state for storage, use or consumption in this state. The liability for the tax is not extinguished until it is fully paid, except that payment of the tax to a vendor who charges such tax shall relieve the purchaser of further liability with respect to the tax so paid. Where retail sales or use tax is due and has already been paid in another state by the purchaser with respect to such tangible personal property, such tax may be credited against the North Carolina use tax due thereon. If the tax paid in another state is less than the North Carolina use tax due, the difference must be paid in this State. Effective July 1, 1981, no credit shall be allowed for sales or use taxes paid in another state if that taxing jurisdiction does not grant similar credit for sales taxes paid in North Carolina. Every person outside this state who is engaged in business in this state, as hereinafter defined, is required to register with the department and collect and remit the tax due on all taxable tangible personal property sold or delivered for storage, use or consumption in this state. Every person who purchases from out-of-state vendors any taxable tangible personal property for storage, use or consumption in this state upon which the tax has not been fully paid must register with the department and remit the tax due on such purchases. A fee is not required for registration by a consumer and a license is not issued in connection with such registration; however, all registrants will be furnished report forms to be used in reporting and remitting all tax due.

History Note: Statutory Authority G.S.

105-164.4; 105-164.5; 105-164.6; 105-262;

Eff. February 1, 1976;

Amended Eff. May 1, 1990; August 1, 1986;

February 1, 1986; February 8, 1981.

SECTION .1400 - SALES OF MEDICINES; DRUGS AND MEDICAL SUPPLIES

.1401 PRESCRIPTION MEDICINES AND DRUGS

Sales of drugs or medicines on written prescription of a physician or dentist and, effective August 1, 1988, insulin whether or not sold on prescription, are exempt from sales or use tax. For the purpose of this Rule, the term physician does not include a doctor of chiropractic. Sales of drugs or medicines pursuant to a physician's or dentist's telephone (oral) prescription are exempt from sales or use tax provided the prescription is reduced to writing, signed by the pharmacist and filed in the same manner as an original written prescription. The terms medicines and drugs shall mean all medicines in the generally accepted sense of the term and also include tonics for internal use, vitamins, ointments, liniments, antiseptics, anaesthetics, serums, and other remedies having preventive and curative properties in medical treatment. Medicines or drugs sold pursuant to the refilling of a physician's or dentist's prescription are likewise exempt from the tax. Vendors making sales of medicines or drugs pursuant to physicians' or dentists' prescriptions or in refilling the same must keep sales records which will clearly segregate such prescription sales. All original prescriptions must be filed and kept available for inspection by the secretary or his authorized agent. When a sale is made to refill a prescription, the seller's records must carry the number of the original prescription so refilled in order that reference to the original can easily be made.

*History Note: Statutory Authority G.S. 105-164.13; 105-262;
Eff. February 1, 1976;
Amended Eff. May 1, 1990; August 1, 1988.*

SECTION .1600 - SALES TO OR BY HOSPITALS; EDUCATIONAL; CHARITABLE OR RELIGIOUS INSTITUTIONS; ETC.; AND REFUNDS THERE TO

.1602 REFUNDS TO INSTITUTIONS; ETC.

(a) Subject to the terms and conditions herein set forth, hospitals not operated for profit, educational institutions not operated for profit, churches, orphanages, and other charitable or religious institutions or organizations not operated for profit are entitled to semiannual refunds of sales and/or use taxes paid by them in North Carolina on their direct purchases of tangible personal property used in carrying on their non-profit work. For refund purposes, purchases by contractors of building materials, supplies, fixtures and equipment which become a part of or are annexed to any building or structure being erected, altered or repaired under contract with

any such institution or organization and which are used in carrying on the nonprofit activities of such institution or organization are deemed to be direct purchases. Prior to January 1, 1984, the provisions of this Rule apply to out-of-state institutions and organizations only to the extent of sales or use tax paid by them in this state on tangible personal property purchased for use in this state in carrying on charitable, religious or educational activities which are not for profit. On and after January 1, 1984, the provisions of this Rule apply to out-of-state institutions and organizations to the extent of sales or use taxes paid by them in this state on purchases of tangible personal property for use in carrying on charitable, religious or educational activities within or without this state which are not for profit.

(b) In addition to the provisions in (a) of this Rule for refunds of sales and/or use taxes paid by hospitals not operated for profit, all other hospitals not specifically excluded herein are entitled to semiannual refunds of sales and/or use taxes paid on and after July 1, 1977, by them on medicines and drugs purchased for use in carrying out the work of such hospitals.

(c) Refund claims of the organizations and institutions named in Paragraph (a) of this Rule must be filed with the North Carolina Department of Revenue covering the first six months of the calendar year on or before the 15th day of October following the close of the first six months period. Refund claims covering the second six months of the calendar year must be filed on or before the 15th day of April following the close of the second six months period. Refund claims filed after the due date shall be subject to the following penalties for late filing:

- (1) refund claims filed within 30 days after the due date, 25 percent;
- (2) refund claims filed more than 30 days after the due date but within six months of the due date, 50 percent.

The amount of the penalties in this Rule shall be deducted from the face amount of the refund due the claimant. The statute prohibits the payment of any refund claim not filed within the stipulated time.

(d) All refund claims must be substantiated by proper documentary proof and only the taxes actually paid by the claimant during the period for which the claim for refund is filed may be included in the claim. Any local one percent, one and one-half percent or two percent sales or use taxes included in the claim must be separately stated in the claim for refund. In cases where more than one county's tax has been paid, a breakdown must be attached to the claim showing the amount of each county's one percent,

one and one-half percent and two percent local tax separately.

(c) As to taxes paid on the claimant's purchases for use, other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase and the amount of state and local sales or use tax paid during the refund period will constitute proper documentary proof.

(f) To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures and equipment by its contractor, the claimant must secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of state and local sales or use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices and the sales and use taxes paid thereon. Such statement must also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of state and local sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors must be obtained by the general contractor and furnished to the claimant. Any local one percent, one and one-half percent or two percent sales or use taxes included in the contractor's statements must be shown separately from the state sales or use taxes. The contractor's statements must not contain sales or use taxes paid on purchases of tangible personal property by such contractors for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure being erected, altered or repaired for the institutions and organizations named in Paragraph (a) of this Rule. Examples of property on which sales or use tax has been paid by the contractor and which should not be included in the contractor's statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment repair parts, equipment rentals and blueprints.

(g) The refund provisions set forth in this Regulation apply only to institutions and organizations described in Paragraphs (a) and (b) of this Rule, but do not apply to nonprofit fraternal, civic or patriotic organizations, notwithstanding that such organization may perform certain charitable functions. The refund provisions set forth in this Regulation do not apply to organizations, corporations and institutions which are owned and controlled by the United States, the state or a unit of local government except hospi-

tal facilities created under Article 12 of Chapter 131 of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under G.S. 105-154.14(b) instead of annual refunds under G.S. 105-164.14(c). Any nonprofit hospital owned and controlled by a unit of local government may submit a written request to receive semiannual refunds under G.S. 105-164.14(b) instead of annual refunds under G.S. 105-164.14(c). The request is effective beginning with the six-months refund period following the date of the request and applies to sales or use taxes paid on or after the first day of the refund period for which the request is effective.

(h) The refund provisions of this Regulation are not applicable to sales taxes incurred by employees on purchases of food, lodging or other taxable travel expenses paid by employees and reimbursed by the type institutions and organizations named in Paragraph (a) of this Rule. Such expenses are personal to the employee since the contract for food, shelter and travel is between the employee and the provider and payment of the tax is by the employee individually and personally. Such institutions and organizations have not incurred and have not paid any sales tax liability. In such cases, it has chosen to reimburse a personal expense of the employee. The refund provisions of this Regulation do not apply to sales tax paid by the organizations and institutions named in (a) of this Regulation on charges by a utility for electricity, piped natural gas and local, toll or private telecommunications services; to the occupancy taxes levied and administered by certain counties and cities in this state; to the highway use taxes paid on the purchase, lease or rental of motor vehicles; or to the scrap tire disposal fee levied on new motor vehicle tires. Such taxes should not be included in any claim for refund filed by such institutions and organizations.

History Note: Statutory Authority G.S.

105-164.14; 105-262; 105-264;

Eff. February 1, 1976;

Amended Eff. May 1, 1990; February 1, 1988;

February 1, 1987; May 1, 1985.

SECTION 1700 - SALES TO OR BY THE STATE; COUNTIES; CITIES; AND OTHER POLITICAL SUBDIVISIONS

1701 GOVERNMENTAL SALES AND PURCHASES

(a) Sales of tangible personal property not specifically exempt by statute to the State of North Carolina, counties, cities, towns, and political subdivisions or any agencies thereof for the purpose of use or consumption are subject to the

sales or use tax, except, effective August 1, 1986, sales of tangible personal property, local telecommunications services, electricity and piped natural gas and the sales tax levied, effective January 1, 1989, on gross receipts derived from toll and private telecommunications services directly to the Department of Transportation are exempt from sales and use taxes. However, the exemption does not extend to sales of tangible personal property to contractors for use in the performance of contracts with the Department of Transportation nor to sales of tangible personal property to other state agencies, local governments or employees of the Department of Transportation. Sales of building materials, supplies, fixtures and equipment to contractors for use in the performance of contracts with the federal government or any above referred to governmental units or agencies are also subject to the sales or use tax.

(b) When the State of North Carolina, counties, cities, towns, and political subdivisions or any agencies thereof make taxable purchases of tangible personal property from a North Carolina supplier or registered out-of-state supplier who charges the North Carolina and any applicable local sales or use tax thereon, such governmental unit or agency must remit the tax on such purchases to the supplier. Any such governmental unit or agency making taxable purchases of tangible personal property from an out-of-state supplier who does not collect the North Carolina and any applicable local sales or use tax thereon is required to register with the department and remit monthly the tax due on such purchases. Any governmental unit or agency so required to register which does not owe any tax for a given month should file a report reflecting no tax due.

(c) If any governmental unit or agency referred to in Paragraph (b) of this Rule makes taxable retail sales of tangible personal property, it must register with the department and collect and remit the tax due on such sales. The refund provisions contained in G.S. 105-164.14(c) do not apply to the tax on such sales and no part thereof shall be refunded or claimed as a refund. Governmental units and agencies properly registered for sales and use tax purposes may purchase the tangible personal property which they resell without paying tax thereon to their suppliers provided they have furnished such suppliers with properly executed certificates of resale, Form E-590. Certificates of resale may not be used by any governmental unit or agency herein referred to, or by any other vendee, in making purchases of tangible personal property to be used or consumed by such purchaser.

History Note: Statutory Authority G.S.

105-164.4; 105-164.6; 105-262;

Eff. February 1, 1976;

*Amended Eff. May 1, 1990; February 1, 1987;
January 1, 1982.*

**.1702 REFUNDS TO COUNTIES; CITIES;
ETC.**

(a) Governmental entities, as defined by G.S. 105-164.14(c), are entitled to an annual refund of sales and/or use taxes paid by them on their direct purchases of tangible personal property, subject to the terms and conditions hereafter set forth. The refund provisions of this Rule are not applicable to sales taxes incurred by employees on purchases of food, lodgings or other taxable travel expenses paid by employees and reimbursed by governmental entities. Such expenses are personal to the employee since the contract for food, shelter and travel is between the employee and the provider and payment of the tax is by the employee individually and personally. The governmental entity has not paid any sales tax liability. In such cases, it has chosen to reimburse a personal expense to the employee. The refund provisions of this Rule do not apply to sales taxes paid by the organizations and institutions named herein on charges by a utility for electricity, piped natural gas and local, toll or private telecommunications services; to the occupancy taxes levied and administered by certain counties and cities in this state; to the highway use taxes paid on the purchase, lease or rental of motor vehicles; or to the scrap tire disposal fee levied on new motor vehicle tires. Governmental entities and the Federal Government are entitled to annual refunds of sales and/or use taxes paid in North Carolina by their contractors on purchases of building materials, supplies, fixtures and equipment which become a part of or are annexed to any building or structure being erected, altered or repaired under contract with such governmental entities which is owned or leased by such governmental entities.

(b) All refund claims must be substantiated by proper documentary proof and only those taxes actually paid by the claimant during the fiscal year covered by the refund claim may be included in the claim. Any local one percent, one and one-half percent or two percent sales or use taxes included in the claim must be separately stated in the claim for refund. In cases where more than one county's sales and use tax has been paid, a breakdown must be attached to the claim for refund showing the amount of each county's one percent, one and one-half percent and two percent local tax separately.

(c) As to taxes paid by governmental entities on purchases for use, other than those made by contractors performing work for the claimant,

invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase, the amount of state and local sales or use tax paid thereon and a record reflecting the date of payment will constitute proper documentary proof.

(d) To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, and equipment by its contractor, the claimant must secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of state and local sales or use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the state and local sales and use taxes paid thereon. Such statement must also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of state and local sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors must be obtained by the general contractor and furnished to the claimant. Any local one percent and one and one-half percent or two percent sales or use taxes included in the contractors' statements must be shown separately from the state sales or use taxes. The contractor's statements must not contain sales or use taxes paid on purchases of tangible personal property purchased by such contractors for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure being erected, altered or repaired for the governmental entities as defined by G.S. 105-164.14(c). Examples of property on which sales or use tax has been paid by the contractor and which should not be included in the contractor's statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment repair parts and equipment rentals, blueprints, etc.

History Note: Statutory Authority G.S. 105-164.14; 105-262; Eff. February 1, 1976; Amended Eff. May 1, 1990; February 1, 1987; August 1, 1986; May 1, 1985.

.1704 ORGANIZATIONS NOT REFUNDABLE

(a) Community colleges, technical institutes and industrial education centers organized under Chapter 115 A-3 of the General Statutes are not entitled to a refund under the provisions of G.S. 105-164.14 since they are state supported educational institutions.

(b) Alcoholic beverage control boards, boards of education, drainage districts, and housing authorities are not entitled to a refund of sales and use tax under the provisions of G.S. 105-164.14.

(c) The North Carolina Civil Air Patrol is created as a state agency by G.S. 143B-490 and its purchases for use in conducting its operations are subject to the applicable sales and use tax. No refund of such tax is provided by statute.

History Note: Statutory Authority G.S. 105-164.6; 105-164.14; 105-262; Eff. February 1, 1976; Amended Eff. May 1, 1990; July 5, 1980.

SECTION .1800 - HOSPITALS AND SANITARIUMS

.1802 REFUNDS TO HOSPITALS; ETC.

(a) Hospitals and sanitariums not operated for profit are entitled to semiannual refunds of sales and or use taxes paid by them on their direct purchases of tangible personal property, including medicines and drugs, for use in carrying on their work. For the purpose of the refund, sales or use taxes paid by contractors on their purchases of building materials, supplies, fixtures and equipment which become a part of or are annexed to a building or structure being erected, altered or repaired under contract with such hospitals or sanitariums for use in carrying on their nonprofit activities are deemed to be taxes paid on direct purchases. In addition to the above provisions for refunds of sales and or use taxes paid by hospitals and sanitariums not operated for profit, all other hospitals not specifically excluded herein are entitled to semiannual refunds of sales and or use taxes paid on and after July 1, 1977, by them on medicines and drugs purchased for use in carrying out the work of such hospitals.

(b) As to taxes paid on purchases for use other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase and the amount of sales or use tax paid thereon during the refund period will constitute proper documentary proof. To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures and equipment by its contractor, the claimant must secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of sales and use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, the certified statements may indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the in-

voices and the sales or use taxes paid thereon in lieu of an itemized listing of each separate invoice. The statements must also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors must be obtained by the general contractor and furnished to the claimant.

(c) Sales and/or use taxes paid by hospitals and sanitariums which are agencies of counties and incorporated cities and towns on their direct purchases of tangible personal property, including medicines and drugs, and by their contractors on purchases of building materials, supplies, fixtures and equipment becoming a part of or annexing to a building or structure being erected, altered or repaired under contract with such hospitals are also refundable; however, such refund must be included in the claim filed by the county or incorporated city or town which is to be filed within six months after the close of the claimant's fiscal year. In such cases, the documentary proof as explained in Paragraph (b) of this Rule should be submitted to the county or incorporated city or town filing the claim. The refund provisions are not applicable to hospitals and sanitariums which are agencies of the state or any political subdivisions thereof other than counties and incorporated cities and towns. Nonprofit hospitals owned and controlled by a unit of local government may file for a refund on a semiannual basis under G.S. 105-164.14(b) rather than file annually as a part of the local government unit. In order to file semiannually, the hospital must submit a written request to do so to the Secretary of Revenue and the request is effective beginning with the six-months refund period following the date of the request and applies to sales and use tax paid on or after the first day of the refund period for which the request is effective.

(d) The refund provisions set forth in Paragraphs (a), (b) and (c) of this Rule are not applicable to taxes paid by hospitals and sanitariums on their taxable sales and no part thereof shall be refunded or claimed as a refund. Furthermore, the refund provisions are not applicable to sales tax incurred by employees on purchases of food, lodgings or other taxable travel expenses paid by employees and reimbursed by the hospital or sanitarium. Such expenses are personal to the employee since the contract for food, shelter and travel is between the employee and the provider and payment of the tax is by the employee individually and personally and such tax shall not be refunded under the provisions of this Rule. The hospital or sanitarium has incurred and paid no sales tax li-

ability. In such cases, it has chosen to reimburse a personal expense of the employee.

(e) The refund provisions set forth in Paragraphs (a), (b) and (c) of this Rule are not applicable to sales taxes paid by hospitals and sanitariums on charges by a utility for electricity, piped natural gas and local, toll or private telecommunications services; to the occupancy taxes levied and administered by certain counties and cities in this state; to the highway use taxes paid on the purchase, lease or rental of motor vehicles; or to the scrap tire disposal fee levied on new motor vehicle tires. Such taxes should not be included in any claim for refund filed by such institutions and organizations.

History Note: Statutory Authority G.S.

105-164.14; 105-262; 105-264;

Eff. February 1, 1976;

Amended Eff. May 1, 1990; May 1, 1985;

January 3, 1984; January 1, 1982.

**SECTION .2100 - COAL; COKE; FUEL OIL;
OXYGEN; ACETYLENE; HYDROGEN;
LIQUEFIED PETROLEUM GAS AND OTHER
COMBUSTIBLES**

.2101 IN GENERAL

(a) Sales of electricity, piped natural gas, bottled gas, coal, coke, fuel oil, oxygen, acetylene, hydrogen, liquefied petroleum gas or other combustibles to users or consumers are subject to the three percent rate of sales or use tax except those sales exempt from tax under the provisions of G.S. 105-164.13 and those sales which are subject to the one percent rate of tax or are exempt from tax under the provisions of G.S. 105-164.4. The gross receipts derived by a utility from sales of electricity and piped natural gas are not subject to the local sales or use tax.

(b) The gross receipts derived by a utility from sales of piped natural gas are subject to the three percent state rate of tax on and after January 1, 1985. The term "utility," as used in this Rule, means piped natural gas companies that are subject to a privilege tax based on gross receipts under G.S. 105-116. The sales tax is to be added as a separate item to the charges for piped natural gas. Gross receipts upon which the tax is due is the total amount for which the piped natural gas is sold, including any charges for services that go into the production or delivery of the gas and that are a part of the sale valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller without any deduction on account of the cost of gas sold, the cost of materials used, labor or service costs, interest charged, losses or any other expense whatsoever. Therefore, all charges for tangible personal prop-

erty and services provided in the production and delivery of gas to the purchaser are a part of the sale of piped natural gas upon which the tax is due notwithstanding that some charges may be billed separately to the customer for the metered service. Set forth below are the departmental determinations as to the application of tax to certain specific transactions by natural gas utility companies.

- (1) A utility must report receipts from sales of piped natural gas on an accrual basis. The sales tax should be separately stated on the bill to each customer. A sale by a utility of piped natural gas is considered to accrue when the utility bills the customer for the sale. The sales tax will be due on gross receipts derived from the sale of such gas without any deduction therefrom for any franchise tax which is due. Such receipts must be reflected on the Franchise and Sales Tax Report, Form CD-310, which is to be filed quarterly on or before the 30th day following the end of the calendar quarter in which the tax accrues.
- (2) Service charges to customers when the company first supplies gas under any applicable rate schedule are a part of gross receipts from sales of gas subject to sales tax.
- (3) The amounts actually charged to customers for piped natural gas consumed for the billing period are the amounts on which the sales tax is due and is to be charged notwithstanding that the customers may be under equal pay agreements.
- (4) Charges for reconnecting service to customers after service has been terminated for nonpayment are a part of gross receipts from sales of piped natural gas subject to sales tax.
- (5) Sales of piped natural gas to manufacturing industries and plants, commercial laundries, farmers and other users for use as a fuel are subject to the three percent sales tax. Sales of piped natural gas to a manufacturer which enters into or becomes an ingredient or component part of the manufactured product are exempt from sales tax.
- (6) Sales of piped natural gas directly to the United States Government or any agency thereof are not subject to sales tax. In order to be a sale to the United States Government, the Government or agency involved must make the purchase of piped natural gas and pay directly to the vendor the purchase price of such piped natural gas. While a utility's sales directly to the

United States Government or an agency thereof are exempt from sales tax, a utility should obtain a purchase requisition one time from each agency for its records.

- (7) Sales of piped natural gas to registered utility companies for resale are exempt from sales tax when such sales are supported by properly completed Certificates of Resale, Form E-590.
- (8) Energy audit amounts charged to customers for a comprehensive energy audit provided by a utility are not a part of gross receipts from sales of piped natural gas subject to sales tax.
- (9) Late payment charges billed on a balance that was not paid on the previous month's bill are not a part of gross receipts of sales of piped natural gas subject to sales tax.
- (10) Return check charges for checks received by a utility in payment of an account and returned by the bank because of insufficient funds are not a part of gross receipts from the sale of piped natural gas subject to sales tax.
- (11) Accounts of purchasers representing taxable sales on which the sales tax has been paid that are found to be worthless and actually charged off for incomes tax purposes may be corresponding periods be deducted from gross sales provided, however, they must be added to gross sales if afterwards collected.
- (12) Local sales taxes are not applicable to those receipts from services subject to the state sales tax of three percent, but the local taxes are applicable to receipts from sales and leases of tangible personal property subject to the three percent state rate of tax.

History Note: Statutory Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; Eff. February 1, 1976; Amended Eff. May 1, 1990; August 1, 1986; February 1, 1986; May 1, 1985.

SECTION .2600 - LIABILITY OF CONTRACTORS: USE TAX ON EQUIPMENT BROUGHT INTO STATE: BUILDING MATERIALS

.2601 USE TAX ON EQUIPMENT BROUGHT INTO STATE

- (a) A use tax is levied at the applicable rates upon the storage or use of all motor vehicles, machines, machinery, tools or other equipment brought, imported or caused to be brought into this state for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage

or dredging system, railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any part thereof. The state rate of tax is three percent and the local rate of tax is two percent on all tangible personal property unless it is exempt from tax or subject to a lesser rate of tax by statute. Prior to October 1, 1989, the state rate of tax is two percent on motor vehicles with a maximum tax of three hundred dollars (\$300.00) applicable to each vehicle. Effective October 1, 1989, the state rate of tax of three percent and the local rate of tax of two percent are applicable to motor vehicles brought, imported or caused to be imported into this state for the use or purposes described in this Paragraph and the maximum tax is not applicable thereto.

The use in this state of any motor vehicle, machine or machinery previously purchased at retail for use in another state and actually placed into substantial use in another state before being brought, imported or caused to be brought into this state by the owner thereof for use in constructing or repairing its own buildings, structures or other property, shall not be subject to the tax.

(b) The tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this state bears to the total useful life thereof. For the purposes of this Rule, the word use shall mean and include use, storage, consumption and stand-by time occasioned by weather conditions, controversies or other causes, it being the intention of this Rule that the tax shall be computed upon the basis of the relative time each item of equipment is in this state rather than upon the basis of actual use.

(c) Before any property subject to the use tax is brought into this state for use as provided above, the owner, or, if the property is leased, the lessee shall register with the sales and use tax division of the North Carolina Department of Revenue. After registering, the taxpayer shall file monthly reports on forms furnished by the Secretary of Revenue reporting such property brought, imported or caused to be brought into this state during the preceding calendar month, together with remittance of the amount of tax due. Such reports are to be filed on or before the 15th of the month following the month in which such property was brought into this state.

Monthly reports filed pursuant to this Rule shall be accompanied by a schedule listing the property included in the report and showing the original cost price, duration of time of use in this state, total useful life, and the taxable amount for each item.

The taxable amount on each item of property shall be computed by multiplying the original purchase price by the duration of time of use in this state and dividing the result by the total useful life, expressed in the same units of time as the duration of time of use in this state, as follows:

$$\frac{\text{Original purchase price} \times \text{Duration of time of use in this state}}{\text{Total useful life}} = \text{Taxable amount}$$

In the absence of satisfactory evidence as to the period of use intended in this state, it will be presumed that such property will remain in this state for the remainder of its useful life, which shall be determined in accordance with the experiences and practices of the building and construction trades. Any taxpayer who claims a greater estimated useful life for a given piece of equipment than that suggested by the Bureau of Internal Revenue in the then current bulletin F for depreciation purposes, or any then current bulletin replacing said bulletin F, shall set forth his reasons therefor.

Effective October 1, 1989, a credit is allowed against the tax imposed on the use of property in this state for any retail sales or use tax due and properly paid on the property to another state. A similar credit is also allowed against the local use taxes imposed in this state for any local retail sales or use tax paid on the property to a locality in another state. The amount of the credit allowed is computed by dividing the total useful life of the property into the duration of time of use in this state, expressed in the same units of time as the useful life of the property, and multiplying the result by the state or local sales or use tax paid on the property as follows:

Duration of time of use in state	x	Sales or Use Tax	=	State or Local Credit
Total Useful Life		Paid		

No credit is allowed, however, if the state, or the locality in another state, to which a retail sales or use tax was paid does not allow a similar credit or grant an exemption for property brought into that state or locality from this state. No credit is allowed against the tax imposed on the use of property brought, imported or caused to be imported into this state prior to October 1, 1989, for any retail sales or use tax paid on the property to another state or to a locality in another state.

(d) When a taxpayer determines that he will have no further liability for use tax, he shall so advise the department at the time his final monthly report is filed.

(e) Nothing in this Rule shall be so construed as to relieve any taxpayer of liability for sales or use tax levied on sales or purchases of tangible personal property for use, storage or consumption in this state under other provisions of the Sales and Use Tax Article of the Revenue Act. In addition to the use tax as provided in this Rule, taxpayers are liable for sales or use tax on all other tangible personal property purchased for use, storage or consumption in this state.

History Note: Statutory Authority G.S. 105-164.6; 105-262; Eff. February 1, 1976; Amended Eff. May 1, 1990; December 1, 1984; January 1, 1982.

SECTION .3000 - ARTICLES TAKEN IN TRADE: TRADE-INS; REPOSSESSIONS; RETURNED MERCHANDISE; USED OR SECONDHAND MERCHANDISE

.3001 TRADE-INS

When an item of tangible personal property is taken in trade as a credit or part payment on the sale of a new article, the sales or use tax must be computed and paid on the full gross sales price of the new article without any deduction whatever on account of any trade-in credit or allowance. The sale of the used article by the vendor who accepted same in trade will then be exempt from sales or use tax. The term "new article" shall be taken to mean the original stock in trade of the merchant and shall not be limited to newly manufactured articles. See Regulation 17 NCAC 7B .4601 for information in regard to the application of sales or use taxes to retail sales of motor vehicles taken in trade or repossessed by the vendor.

History Note: Statutory Authority G.S. 105-164.4; 105-164.13; 105-262; Eff. February 1, 1976; Amended Eff. May 1, 1990; January 3, 1984.

.3002 REPOSSESSIONS

Retailers shall not deduct from their gross taxable sales the unpaid amounts on repossessed merchandise. However, where a retailer repossesses an article of tangible personal property pursuant to either a limited or full recourse endorsement by such retailer to a financing institution and he resells such tangible personal property to recover the unpaid sales price, such resale is not subject to sales tax provided the sales tax was paid on the gross sales price of the initial

sale. Otherwise, the sale of any repossessed article is subject to sales or use tax. The full gross sales price of any used article taken in trade by the vendor as a credit or part payment of the sales price of such nontaxable repossessed article is subject to sales or use tax when sold at retail.

History Note: Statutory Authority G.S. 105-164.13; 105-262; Eff. February 1, 1976; Amended Eff. May 1, 1990; January 3, 1984.

.3007 REPAIR PARTS FOR EXEMPT PROPERTY

History Note: Statutory Authority G.S. 105-164.4; 105-164.6; 105-262; Eff. February 1, 1976; Repealed Eff. May 1, 1990.

SECTION .4000 - FERTILIZER; SEEDS; FEED AND INSECTICIDES

.4003 FEED

Sales of remedies, vaccines, medications, litter materials and feed for livestock and poultry, including cattle, horses, mules, sheep, chickens, turkeys, and other domestic animals usually found on a farm and sales of remedies, vaccines, medications or feed for animals, bees, or poultry held or produced for commercial purposes are exempt from sales or use tax. The terms "remedies" and "medications" shall mean all medicines in the generally accepted sense of the term and also includes tonics for internal use, vitamins, ointments, liniments, antiseptics, anaesthetics and other medicinal substances having preventive and curative properties in the prevention, treatment or cure of disease in animals. The term "feed" includes dietary supplements, such as minerals, oyster shells, salt, bone meal, and other similar preparations or compounds to be fed directly or to be mixed with feed for livestock or poultry for normal growth, maintenance, lactation, or reproduction, but does not include sand or grit. Retail sales of sand or grit for use in the production of livestock or poultry are subject to the three percent state rate of tax. Retail sales of remedies, vaccines, medications, litter materials and feed for pets, such as birds, cats and dogs, are subject to the three percent state rate of tax.

History Note: Statutory Authority G.S. 105-164.4; 105-164.13; 105-262; Eff. February 1, 1976; Amended Eff. May 1, 1990; May 11, 1979.

SUBCHAPTER 7C - LOCAL GOVERNMENT: MECKLENBURG COUNTY; SUPPLEMENTAL LOCAL GOVERNMENT AND ADDITIONAL

**SUPPLEMENTAL LOCAL GOVERNMENT
SALES AND USE TAX ACTS**

**SECTION .0100 - LOCAL GOVERNMENT
SALES AND USE TAXES**

.0103 SALES TAX IMPOSED

(a) Every retailer whose place of business is located in a county which has levied the Mecklenburg County or the local government sales and use tax and the supplemental local government and the additional supplemental local government sales and use tax is required to collect and remit to the North Carolina Secretary of Revenue the county sales tax at the rate of two percent on:

- (1) the sales price of those articles of tangible personal property now subject to the three percent sales tax imposed by the state under G.S. 105-164.4(a)(1) and (4b) but not on sales of electricity, piped natural gas or local telecommunications services taxed under G.S. 105-164.4(a)(4a), and toll or private telecommunications services taxed under G.S. 105-164.4(a)(4c);
- (2) the gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the three percent sales tax imposed by the state under G.S. 105-164.4(a)(2);
- (3) the gross receipts derived from the rental of any room or lodging furnished by any hotel, motel, inn, tourist camp or other similar accommodations now subject to the three percent sales tax imposed by the state under G.S. 105-164.4(a)(3); and
- (4) the gross receipts derived from services rendered by laundries, dry cleaners, cleaning plants and similar type businesses now subject to the three percent sales tax imposed by the state under G.S. 105-164.4(a)(4).

(b) All retailers making taxable sales from a place of business located within a taxing county must collect and remit the two percent local sales tax of the county in which the retailer's place of business is located. Effective March 1, 1988, for local sales tax purposes, the situs of a sale is the retailer's place of business located within a taxing county where the retailer becomes contractually obligated to make the sale. The term "place of business located within a taxing county" shall mean stores, warehouses, sales offices, sales outlets, inventories, and other places within a taxing county where tangible personal property is maintained for sale, lease, or rental at retail, and it shall include inventories of goods carried on foot or in vehicles for sale to customers in a taxing county. It shall also include laundries, dry

cleaning plants, or similar businesses and hotels, motels, or similar facilities in a taxing county. Taxable tangible personal property sold at a business location in a taxing county and delivered by retailers, their agents, the U.S. Mail, or by common carrier to the purchaser in that county or in any county in this state is subject to the sales tax of the county in which the retailer's place of business is located at which such retailer becomes contractually obligated to make the sale.

History Note: Statutory Authority G.S.

105-262; 105-467;

Eff. February 1, 1976;

Amended Eff. May 1, 1990; July 1, 1989;

December 1, 1988; August 1, 1988.

**TITLE 19A - DEPARTMENT OF
TRANSPORTATION**

**CHAPTER 3 - DIVISION OF MOTOR
VEHICLES**

**SUBCHAPTER 3J - RULES AND REGULATIONS
GOVERNING THE LICENSING OF
COMMERCIAL TRUCK DRIVER TRAINING
SCHOOLS AND INSTRUCTIONS**

**SECTION .0300 - SCHOOL LOCATION:
PHYSICAL FACILITIES: AND COURSES OF
INSTRUCTION**

.0306 COURSE OF INSTRUCTION

For licensed persons above the age of 18 for purposes of driving commercial trucks, a course consisting of the following is required:

- | | |
|-----------------------------------|----------|
| (1) Minimum hours of instruction: | |
| (a) classroom instruction, | 50 hours |
| including testing | |
| (b) field instruction | 50 hours |
| (c) highway behind-the- | |
| wheel training | 20 hours |
| (d) observation (highway | |
| behind-the-wheel) | 40 hours |
| Total - 160 hours | |

The hours of instruction may be expressed in credit hours provided the school is accredited by an accrediting agency recognized by the United States Department of Education and the conversion ratio of that accrediting agency is properly used.

- (2) Content of classroom and behind-the-wheel instruction:
 - (a) laws relating to interstate and intrastate operations;
 - (b) pre-trip inspection;
 - (c) coupling and uncoupling of combination units, if the equipment to be driven includes such units;
 - (d) placing the vehicle in operation;

- (e) use of the vehicle's controls and emergency equipment;
 - (f) operation in inner-city and interstate highway traffic and passing;
 - (g) turning the vehicle;
 - (h) braking and slowing the vehicle by means other than applying the brakes;
 - (i) backing and parking the vehicle;
 - (j) experience operating vehicles with a minimum gross vehicle weight of 49,000 pounds; and
 - (k) completing Driver's Daily Log books.
- (3) Other requirements:
- (a) the 160 hours of instructions required by these rules shall be completed in no less than four calendar weeks;
 - (b) three hours of the 20 hours of behind-the-wheel highway training must be completed by each student between dusk and dawn;
 - (c) one vehicle must be provided for each three students during highway training; provided, four students per vehicle are permitted if the vehicle has been inspected and approved for such use by the Division. No more than four students per vehicle and no more than four vehicles per instructor will be allowed for field training; and
 - (d) a Driver's Daily Log must be kept for each student to reflect the 160 hours of instruction.
- (4) Credit for prior instruction or training given by another agency or school may be granted. Such credit may be granted by the school to which the candidate is applying if the prior instruction or training is substantially equivalent to the corresponding part or parts of the course required by North Carolina law and these rules and Regulations and if such credit is confirmed and authorized as equivalent by the Driver's License Section of the Division.

*History Note: Statutory Authority G.S. 20-320 through 20-328;
Eff. May 1, 1987;
Amended Eff. May 1, 1990.*

.0307 STUDENT REQUIREMENTS

(a) Students above 18 years of age but less than 21 years of age must be informed by the owner(s) or officers of the school of the age restrictions and limitations established by the United States Department of Transportation and the Motor Carrier Safety Unit of the Division of Motor Vehicles.

(b) Students must have passed the United States Department of Transportation physical examination.

(c) No student shall operate a truck or tractor-trailer combination upon any public street or highway unless such student shall have in his immediate possession a valid license or learner's permit of the class or type required by Chapter 20 and his U.S.D.O.T. physical pocket card.

*History Note: Statutory Authority G.S. 20-320 through 20-328;
Eff. May 1, 1987;
Amended Eff. May 1, 1990.*

SECTION .0400 - MOTOR VEHICLES USED IN INSTRUCTION

.0401 VEHICLE EQUIPMENT

Behind-the-wheel instruction of students in commercial truck driver training schools shall be conducted in motor vehicles owned or leased by the school. All vehicles used for the purpose of demonstration and practice shall:

- (1) Vehicles used for field instruction must be equipped with:
 - (a) seatbelts as required by Federal and State law;
 - (b) an outside rearview mirror mounted on the right side of the vehicle;
 - (c) a heater, defroster, turn signals and brake-lights; and
 - (d) all other equipment required by Chapter 20 of the North Carolina General Statutes except that a working speedometer is not required, and the tire tread depth requirement may be met by using recapped tires so long as no cord or fabric is showing.
- (2) Bear conspicuously displayed signs with the words "Student Driver" in letters not less than six inches in height on both the front and rear of the vehicle and also bear conspicuously displayed signs with the name and location of the school in letters not less than one and one-half inches in height on both sides of the power unit and on the back of the trailer.
- (3) No school equipment shall be used to transport property or persons for compensation, other than a properly enrolled student.
- (4) No school equipment shall be operated in another state unless the instructor, student, and equipment are properly licensed to operate in that state.

*History Note: Statutory Authority G.S. 20-320 through 20-328;
Eff. May 1, 1987;*

Amended Eff. May 1, 1990.

SECTION .0500 - REQUIREMENTS AND APPLICATIONS FOR DRIVER TRAINING INSTRUCTOR

.0501 REQUIREMENTS

(a) A Class I instructor is one entitled to conduct truck driver training in the classroom, on the field and on the road. Each Class I instructor shall:

- (1) Be of good moral character.
- (2) Be at least 21 years of age, have at least two years experience operating a Class A vehicle and hold a valid Class A license; provided, on and after April 1, 1992 each instructor must hold a valid Class A commercial license from his state of residence.
- (3) Not have been convicted of a felony or convicted of a misdemeanor involving moral turpitude in the ten years immediately preceding the date of application.
- (4) Not have had a revocation or suspension of his driver's license in the two years immediately preceding the date of application.
- (5) Have graduated from high school or hold a high school equivalency certificate.
- (6) Not have had convictions for moving violations totaling seven or more points in the year preceding the date of application.
- (7) Have evidence of United States Department of Transportation certification and qualify by experience or training, or both, to instruct students in the safe operation of truck-tractor-trailer combination units.

(b) A Class II instructor is one entitled to conduct truck driver training in the classroom and on the field only. Each Class II instructor shall:

- (1) Be of good moral character.
- (2) Not have been convicted of a felony or convicted of a misdemeanor involving moral turpitude in the ten years immediately preceding the date of application.
- (3) Not have had a revocation or suspension of his driver's license in the two years immediately preceding the date of application.
- (4) Have graduated from high school or hold a high school equivalency certificate.
- (5) Qualify by experience or training, or both, to instruct students in the safe operation of truck-tractor-trailer combination units.

(c) A Class I or II instructor-trainee is one entitled to assist a licensed Class I or II instructor while his instructor's license application is pending at the Division. The Division must be noti-

fied in writing within five days of the date the trainee is hired. An instructor-trainee of either class:

- (1) may work in that capacity for only 30 days from the date he is hired;
- (2) may instruct in the classroom and on the field only with a licensed instructor present at all times;
- (3) may not instruct or accompany students on the road until licensed; and
- (4) must wear an identification badge which clearly identifies the individual as an instructor-trainee.

History Note: Statutory Authority G.S.

20-320 through 20-328;

Eff. May 1, 1987;

Amended Eff. May 1, 1990.

.0508 LICENSE REQUIRED

No person shall act as an instructor without the proper license as set forth in these Regulations; provided, up to 24 hours of classroom instruction in a minimum 320 hour course and up to 12 hours of classroom instruction in a minimum 160 hour course may be provided by an unlicensed instructor if the subject matter and lesson plan have been given prior approval by the Division.

History Note: Statutory Authority G.S. 20-323;

Eff. May 1, 1987;

Amended Eff. May 1, 1990.

SECTION .0600 - CONTRACTS

.0601 REQUIREMENTS

Commercial truck driver training school contracts shall contain, but are not limited to, the following information:

- (1) The agreed total contract charges and full terms of payment thereof.
- (2) The number, nature, time, and extent of lessons contracted for, including:
 - (a) minimum hours of instruction:

(i) classroom instruction,	
including testing	50 hours
(ii) field instruction	50 hours
(iii) highway behind-the-wheel training	20 hours
(iv) observation (highway behind-the-wheel)	40 hours
	total 160 hours

The hours of instruction may be expressed in credit hours provided by the school is accredited by an accrediting agency recognized by the United States Department of Education and the conversion ratio of that accrediting agency is properly used.

- (b) rate for use of school vehicle for a driver's license road test, if an extra charge is made.
- (3) A statement which reads substantially as follows: "This agreement constitutes the entire contract between the school and the student, and any verbal assurances or promises not contained herein shall bind neither the school nor the student."
- (4) A statement which reads as follows: "This school is licensed by the State of North Carolina, Division of Motor Vehicles."
- (5) A statement which reads as follows: "If you, as a student, are unable to settle a dispute with the school, please direct your grievances to the North Carolina Division of Motor Vehicles, Enforcement Section, 1100 New Bern Avenue, Raleigh, North Carolina 27697-0001."

*History Note: Statutory Authority G.S.
20-320 through 20-328;
Eff. May 1, 1987;
Amended Eff. May 1, 1990.*

The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.

Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Please contact this office if you have any questions.

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.

Upon request from the adopting agency, the text of rules will be published in this section.

*Punctuation, typographical and technical changes to rules are incorporated into the List of Rules Codified and are noted as * Correction. These changes do not change the effective date of the rule.*

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES CODIFIED

APRIL 1990

AGENCY		ACTION TAKEN
<u>DEPARTMENT OF COMMERCE</u>		
4	NCAC 7 .0501	Amended
	.0507	Amended
	12C .0007	Temp. Amended
		Expires 08-27-90
	16A .0100 - .0400	* Correction
	16D .0100	* Correction
	16I .0700	* Correction
	.0900 - .1000	* Correction
	18 .0203	Adopted
	.0303	Amended
	.0303	Temp. Amended
		Expires 07-24-90
	19L .0103	Amended
	.0401	Amended
	.0403 - .0404	Amended
	.0407	Amended
	.0907	Amended
	.1302 - .1303	Amended
<u>DEPARTMENT OF CORRECTION</u>		
5	NCAC 2II .0106	Adopted
<u>OFFICES OF THE GOVERNOR AND LIEUTENANT GOVERNOR</u>		
9	NCAC 2B Executive Order Number 106	
	Eff. February 22, 1990	

DEPARTMENT OF HUMAN RESOURCES

10	NCAC	10A	.0444	* Correction
		14A	.0101 - .0103	Repealed
			.0201 - .0202	Repealed
			.0301 - .0304	Repealed
			.0401 - .0403	Repealed
			.0501 - .0504	Repealed
			.0601 - .0604	Repealed
			.0701 - .0704	Repealed
			.0801 - .0804	Repealed
			.0901 - .0910	Repealed
			.1001 - .1002	Repealed
			.1101 - .1102	Repealed
		14B	.0101 - .0102	Amended
			.0104	Amended
			.0106	Amended
			.0301 - .0304	Amended
			.0305	Repealed
			.0401 - .0402	Amended
			.0405	Amended
			.0503 - .0506	Amended
			.0508	Amended
		14C	.0102 - .0106	Amended
			.0109	Amended
			.0322	Amended
			.0324	Amended
			.0325 - .0326	Repealed
			.0704	Repealed
			.0705 - .0706	Amended
			.0709	Amended
			.0711 - .0713	Amended
			.0715 - .0716	Amended
			.0801	Repealed
			.0807	Repealed
			.0901 - .0902	Repealed
			.1005 - .1006	Amended
			.1012 - .1014	Amended
			.1101	Amended
			.1103 - .1105	Amended
			.1107	Amended
			.1110 - .1111	Amended
			.1115 - .1121	Amended
			.1123	Amended
			.1126 - .1131	Amended
			.1134 - .1136	Amended
			.1138	Amended
			.1140 - .1141	Amended
			.1144 - .1146	Amended
			.1402 - .1404	Amended
		14D	.0006	Amended
		14F	.0603	Amended
		14G	.0101 - .0102	Amended
			.0202	Amended
			.0204	Amended
			.0208	Amended
			.0210	Amended
			.0301	Amended

	.0303	Amended
	.0305	Amended
14II	.0203 - .0205	Amended
	.0208	Amended
	.0402	Amended
14I	.0105	Amended
	.0201 - .0203	Amended
	.0301	Amended
	.0307 - .0310	Amended
14J	.0101 - .0103	Amended
	.0105	Amended
	.0107	Amended
	.0204	Amended
	.0206	Amended
	.0301 - .0302	Amended
	.0402 - .0404	Amended
14K	.0101	Amended
	.0103	Amended
	.0203	Amended
	.0209	Amended
	.0216 - .0217	Amended
	.0303	Amended
	.0306	Amended
	.0311 - .0320	Amended
	.0324 - .0325	Amended
	.0334	Amended
	.0342	Amended
	.0344	Amended
	.0348	Amended
	.0351	Amended
	.0353 - .0355	Amended
	.0362	Amended
	.0403 - .0404	Amended
	.0407	Amended
14L	.0105	Amended
	.0201	Amended
	.0301	Amended
	.0304	Amended
	.0309	Amended
	.0407	Amended
	.0503 - .0505	Amended
	.0601 - .0608	Amended
	.0610 - .0611	Amended
	.0613	Amended
	.0701	Amended
	.0704 - .0705	Amended
	.0708	Amended
	.0710	Amended
14M	.0101	Amended
	.0103	Amended
	.0107	Amended
	.0110	Amended
	.0112 - .0113	Amended
	.0204	Amended
	.0303	Amended
	.0403 - .0405	Amended
	.0410	Amended
	.0508	Amended
	.0701	Amended

FINAL RULES

	.0704 - .0706	Amended
	.0709 - .0712	Amended
	.0714	Amended
	.0716	Amended
14N	.0101	Amended
	.0103	Amended
	.0107	Amended
	.0201	Amended
	.0307	Amended
	.0406	Amended
	.0501	Amended
	.0506	Amended
	.0701	Amended
	.0809	Amended
14O	.0103 - .0104	Amended
	.0106 - .0108	Amended
	.0203 - .0205	Amended
	.0209 - .0210	Amended
	.0303 - .0305	Amended
	.0307 - .0310	Amended
	.0313	Amended
	.0404	Amended
	.0407 - .0411	Amended
	.0414 - .0415	Amended
	.0504	Amended
	.0601	Amended
	.0606 - .0607	Amended
	.0609	Amended
	.0613	Amended
	.0619	Amended
18K	.0262 - .0263	Amended
18O	.0520	Amended
		Eff. 03-01-90
	.0523 - .0524	Amended
		Eff. 03-01-90
18Q	.0711	Amended
		Eff. 03-01-90
19A	.0101 - .0102	Repealed
	.0201 - .0202	Repealed
	.0301 - .0305	Repealed
	.0401	Repealed
	.0501 - .0505	Repealed
19B	.0104	Amended
	.0106	Amended
	.0108	Amended
19C	.0305	Amended
	.0309	Amended
	.0506	Amended
	.0601	Amended
	.0608	Amended
	.0701	Amended
	.0703	Amended
19D	.0102 - .0103	Amended
	.0201	Amended
19E	.0101	Amended
	.0105	Amended
	.0404	Amended
	.0406 - .0407	Amended
	.0410	Amended

FINAL RULES

	.0412	Amended
	.0503	Amended
	.0505	Amended
	.0603	Amended
	.0703 - .0705	Amended
	.0801	Amended
	.0803	Amended
	.0805	Amended
	.0807 - .0816	Repealed
19F	.0402	Amended
	.0601	Amended
19G	.0113	Amended
	.0402	Amended
	.0501 - .0503	Amended
	.0605	Amended
19H	.0102 - .0103	Amended
	.0203	Amended
	.0206	Amended
	.0301	Amended
	.0308	Amended
	.0403	Amended
20A	.0101	Amended
20B	.0104 - .0106	Amended
	.0108	Amended
20F	.0101	Repealed
	.0102	Amended
	.0105	Amended
	.0201	Repealed
	.0202	Amended
	.0302 - .0305	Amended
	.0401	Repealed
	.0402 - .0406	Amended
	.0409 - .0410	Amended
	.0413 - .0417	Amended
	.0418	Repealed
22E	.0303 - .0304	Amended
22G	.0208	Amended
	.0304 - .0305	Amended
	.0310	Amended
	.0313	Amended
	.0316	Amended
	.0504 - .0505	Amended
22H	.0202	Amended
	.0303	Amended
	.0402	Amended
	.0502	Amended
23A	.0101	Repealed
	.0104	Repealed
	.0201 - .0203	Repealed
	.0301 - .0302	Amended
	.0403	Repealed
	.0504	Amended
23B	.0102	Amended
	.0103 - .0105	Repealed
	.0201 - .0203	Repealed
	.0301 - .0303	Repealed
	.0404	Amended
	.0405	Repealed
	.0406 - .0408	Amended

FINAL RULES

23C .0001 - .0009
26B .0120

Amended
Adopted
Eff. 03-01-90

DEPARTMENT OF INSURANCE

11	NCAC	8	.0905	Amended
		14	.0201 - .0202	Amended
			.0204 - .0209	Repealed
			.0409	Amended
			.0411 - .0412	Repealed
			.0413 - .0414	Amended
			.0415 - .0431	Adopted
			.0501 - .0506	Adopted
			.0601 - .0605	Adopted
			.0701 - .0705	Adopted

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A	NCAC	3B	.0105	Amended
		5A	.0101	Amended
			.0202	Amended
		5B	.0003 - .0004	Amended
		5C	.0001	Amended
			.0003 - .0004	Amended
		10C	.0106	Amended
			.0109	Amended
		10F	.0304	Amended
			.0309	Amended
			.0350	Amended
		15	.0104	Amended
			.0203 - .0204	Amended
			.0402	Amended
			.0501	Amended
			.0601 - .0603	Amended
			.0701	Amended
			.0801	Amended
			.0803	Amended
			.0903	Amended
			.1002 - .1003	Amended

DEPARTMENT OF PUBLIC EDUCATION

16	NCAC	6D	.0105	Temp. Amended Expires 08-18-90
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DEPARTMENT OF REVENUE

17	NCAC	91	.0102 - .0103	* Correction
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BOARD OF COSMETIC ART EXAMINERS

21	NCAC	14M	.0001	Amended
			.0024	Adopted

BOARD FOR GEOLOGISTS

21	NCAC	21	.0107	Amended
			.0301 - .0302	Amended

BOARD OF LANDSCAPE ARCHITECTS

21	NCAC	26	.0105	Amended
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BOARD OF MEDICAL EXAMINERS

21	NCAC	32B	.0205	Temp. Repealed Expires 07-01-90
			.0214	Temp. Amended Expires 07-01-90
			.0303	Temp. Repealed Expires 07-01-90
			.0309	Temp. Amended Expires 07-01-90

BOARD OF NURSING

21	NCAC	36	.0404	Amended
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OFFICE OF ADMINISTRATIVE HEARINGS

26	NCAC	1	.0001	Amended
		3	.0008	Amended
			.0019	Amended
			.0022	Amended
			.0026	Amended
			.0030	Amended

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Architecture	2
2	Agriculture	Auctioneers	4
3	Auditor	Barber Examiners	6
4	Economic and Community Development	Certified Public Accountant Examiners	8
5	Correction	Chiropractic Examiners	10
6	Council of State	General Contractors	12
7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Electrical Contractors	18
10	Human Resources	Foresters	20
11	Insurance	Geologists	21
12	Justice	Hearing Aid Dealers and Fitters	22
13	Labor	Landscape Architects	26
14A	Crime Control and Public Safety	Landscape Contractors	28
15A	Environment, Health, and Natural Resources	Marital & Family Therapy	31
16	Public Education	Medical Examiners	32
17	Revenue	Midwifery Joint Committee	33
18	Secretary of State	Mortuary Science	34
19A	Transportation	Nursing	36
20	Treasurer	Nursing Home Administrators	37
*21	Occupational Licensing Boards	Occupational Therapists	38
22	Administrative Procedures	Opticians	40
23	Community Colleges	Optometry	42
24	Independent Agencies	Osteopathic Examination and Registration	44
25	State Personnel	Pharmacy	46
26	Administrative Hearings	Physical Therapy Examiners	48
		Plumbing and Heating Contractors	50
		Podiatry Examiners	52
		Practicing Counselors	53
		Practicing Psychologists	54
		Professional Engineers and Land Surveyors	56
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work	63
		Speech and Language Pathologists and Audiologists	64
		Veterinary Medical Board	66

Note: Title 21 contains the chapters of the various occupational licensing boards.

CUMULATIVE INDEX

CUMULATIVE INDEX *(April 1990 - March 1991)*

1990 - 1991

Pages	Issue
1 - 151.....	1 - April
152- 235.....	2 - April

- AO - Administrative Order
- AG - Attorney General's Opinions
- C - Correction
- FR - Final Rule
- GS - General Statute
- JO - Judicial Orders or Decision
- M - Miscellaneous
- NP - Notice of Petitions
- PR - Proposed Rule
- SO - Statements of Organization
- TR - Temporary Rule

AGRICULTURE

- Plant Conservation Board, 1 PR
- Structural Pest Control Committee, 7 PR

CRIME CONTROL AND PUBLIC SAFETY

- State Highway Patrol, 53 PR

ECONOMIC AND COMMUNITY DEVELOPMENT

- Banking Commission, 16 PR
- Community Assistance, 25 PR
- Milk Commission, 24 PR

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

- Coastal Management, 136 PR
- Environmental Management, 54 PR, 193 PR
- Health Services, 190 PR
- Marine Fisheries, 63 PR
- Wildlife Resources and Water Safety, 137 PR, 206 PR

FINAL RULES

- List of Rules Codified, 143 FR, 226 FR

HUMAN RESOURCES

- Health Services, 152 PR
- Medical Assistance, 191 PR
- Mental Health, Mental Retardation and Substance Abuse Services, 29 PR,
- Water Treatment Facility Operators Board of Certification, 27 PR

JUSTICE

Attorney General, Office of the, 192 PR

LICENSING BOARDS

Medical Examiners, Board of, 207 PR

PUBLIC EDUCATION

Elementary and Secondary, 141 PR

REVENUE

Sales and Use Tax, 213 FR

TRANSPORTATION

Motor Vehicles, Division of, 222 FR

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