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Contact List for Rulemaking Questions or Concerns

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

**Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.**
Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, North Carolina 27609
(919) 431-3000
(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules
molly.masich@oah.nc.gov
(919) 431-3071
Dana McGhee, Publications Coordinator
dana.mcghee@oah.nc.gov
(919) 431-3075
Lindsay Woy, Editorial Assistant
lindsay.woy@oah.nc.gov
(919) 431-3078

**Rule Review and Legal Issues**
Rules Review Commission
1711 New Hope Church Road
Raleigh, North Carolina 27609
(919) 431-3000
(919) 431-3104 FAX

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

**Fiscal Notes & Economic Analysis and Governor's Review**
Office of State Budget and Management
116 West Jones Street
Raleigh, North Carolina 27603-8005
(919) 807-3700
(919) 733-0640 FAX

Contact: Anca Grozav, Economic Analyst
osbmruleanalysis@osbm.nc.gov
(919) 807-4700
Carrie Hollis, Economic Analyst
osbmruleanalysis@osbm.nc.gov
(919) 807-4757

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

contact: Amy Bason
amy.bason@ncacc.org

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

contact: Sarah Collins
scollins@nclm.org

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

Karen Cochrane-Brown, Director/Legislative Analysis Division
karen.cochrane-brown@ncleg.net

Jeff Hudson, Staff Attorney
Jeffrey.hudson@ncleg.net
# North Carolina Register
Publication Schedule for January 2017 – December 2017

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<th>Volume &amp; issue number</th>
<th>Issue date</th>
<th>Last day for filing</th>
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This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.
EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

1. temporary rules;
2. text of proposed rules;
3. text of permanent rules approved by the Rules Review Commission;
4. emergency rules
5. Executive Orders of the Governor;
6. final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
7. other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date.
State of North Carolina

ROY COOPER
GOVERNOR

September 18, 2017

EXECUTIVE ORDER NO. 22

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

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

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

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

Section 1.

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

Section 2.

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

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

Replacing it with the following clause:

WHEREAS; although I have terminated Executive Order No. 20, issued on September 6, 2017, there continues to be a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(19) for the purposes of responding to the ongoing impacts from Hurricane Irma in Florida, Georgia, South Carolina, and the U.S. Virgin Islands. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) is the state of North Carolina for the purpose of allowing vehicles used for emergency response and relief to pass through the State without undue delay.
Section 3.
Section 10 of Executive Order No. 21 is rewritten to read as follows:

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

Section 4.
The remaining provisions in Executive Order No. 21 remain in effect until 11:59 p.m. October 6, 2017, and maybe extended if necessary to provide relief to the impacted states and territories.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 18th day of September in the year of our Lord two thousand and seventeen.

[Signature]
Roy Cooper
Governor

ATTEST:

[Signature]
Elaine F. Marshall
Secretary of State
TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

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

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

Proposed Effective Date: February 1, 2018

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

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

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

Comment period ends: December 15, 2017

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

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

CHAPTER 09 - FOOD AND DRUG PROTECTION

SUBCHAPTER 09B - RULES AND STANDARDS ADOPTED BY REFERENCE

02 NCAC 09B .0116 ADOPTIONS BY REFERENCE

(a) The Board incorporates by reference, including subsequent amendments and editions, "Official Methods of Analysis of AOAC," published by the Association of Official Analytical Chemists. Copies of this document may be obtained from the Association of Official Analytical Chemists International, Department 0742, 1970 Chain Bridge Road, McLean, VA 22109-0742, at a cost of six hundred thirty dollars ($630.00).

(b) The Board incorporates by reference, including subsequent amendments and editions, "U.S. Pharmacopeia National Formulary USP XXXIII-NFXXVIII" and supplements, published by the U.S. Pharmacopeial Convention, Inc. Copies of this document may be obtained from The United States Pharmacopeial Convention, Inc., Attention: Customer Service,
PROPOSED RULES

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

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

(d) The Board incorporates by reference, including subsequent amendments and editions, "EPA Manual of Chemical Methods for Pesticides and Devices" and supplements, published by AOAC. Copies of this document may be obtained by visiting the AOAC website at http://www.astm.org. Copies of this document may also be obtained from AOAC International, 130 West 17th Street, Suite 500, Washington, DC 20036, at a cost of four hundred ninety-five dollars ($495.00).


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

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


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

(j) The Board incorporates by reference, including subsequent amendments and editions, "Standard Methods for the Examination of Dairy Products," published by the American Public Health Association. Copies of this document may be obtained from the American Public Health Association Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of eighty-five dollars ($85.00).

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


(m) The Board incorporates by reference, including subsequent amendments and editions, "Manual of Clinical Microbiology," published by the American Society for Microbiology. Copies of this document may be obtained from the American Society for Microbiology, 1221 16th Street NW, Suite 700, Washington, DC 20036, at a cost of two hundred sixty-nine dollars and ninety-five cents ($269.95).

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

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

Part or
Section | Description of Part or Section
---|---
1.1 | General
1.3 | Labeling - Definitions
1.20 | Presence of Mandatory Label Information
1.21 | Failure to Reveal Material Facts
1.24 | Exemptions from Required Label Statements
1.326 | Who is Subject to this Subpart?
1.327 | Who is Excluded from All or Part of the Regulations in this Subpart?
1.328 | What Definitions Apply to this Subpart?
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(q) The Board incorporates by reference, including subsequent amendments and editions, "Definitions and Standards of Identity or Composition for Meats, Meat By-products, and Meat Food

32:08 NORTH CAROLINA REGISTER OCTOBER 16, 2017 725
02 NCAC 09B .0134 DEFINING ESTABLISHMENT
The term "establishment" under the North Carolina Food, Drugs and Cosmetics Act, N.C. Gen. Stat. § 106-120 et seq. shall include farms as defined under 21 CFR 112.3, which is hereby incorporated by reference including later amendments or editions and can be accessed free of cost at http://www.gpoaccess.gov/cfr/index.html.

Authority G.S. 106-139.

02 NCAC 09B .0135 ADULTERATION AND MISBRANDING
(a) Failure to comply with 21 C.F.R. Part 112 as adopted under 02 NCAC 09B .0116(w)(1) may render food adulterated or misbranded, or both, under G.S. 106-129 and G.S. 106-130 for purposes of G.S. 106-122(1)-(3).

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

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

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

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

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

Proposed Effective Date: February 1, 2018

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

Reason for Proposed Action: The proposed rules were classified as "necessary with substantive public interest" during the periodic review and expiration of existing rules process and are now being readopted. Some are being readopted without any changes being made to what is currently in the code. Other changes include deleting unnecessary language and updating references to correct people and agencies. There are other small technical corrections to grammar and spelling.
Comments may be submitted to: Tina Hlabse, Secretary, 1001 Mail Service Center, Raleigh, NC 27699-1001; email tina.hlabse@ncagr.gov

Comment period ends: December 15, 2017

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1).

The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

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

CHAPTER 60 - DIVISION OF FOREST RESOURCES
SUBCHAPTER 60B - DIVISION PROGRAMS

SECTION .0100 - ADMINISTRATION

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

SECTION .0200 - FOREST FIRE CONTROL

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

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

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

SECTION .0300 - PEST CONTROL

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

SECTION .0400 - FOREST MANAGEMENT

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

02 NCAC 60B .0402 TECHNICAL SERVICES
(a) Technical forestry services shall be provided to forest landowners, forest products operators and processors upon request. These services consist of the following:

1. Services provided without charge:
   (A) examination of a forest tract (accompanied by the owner or agent) where general information is provided;
   (B) recommendation of forest management systems that best meet the desires and objectives of the owner, that are compatible with good forestry practices and that protect the environment; practice plan preparation that includes specific recommendations to promote active forest management;
   (C) assistance in locating markets for timber and other forest products (pine straw, chips);
   (D) assistance to operators and processors in locating raw material supplies and markets for their products; and
   (E) assistance to processors to help increase their conversion efficiency from logs to manufactured products; quality control checks and inspections of forestry operations.

2. Services provided for a fee:
   (A) marking and estimating timber for partial harvest or for other silvicultural purposes; and
   (B) custom forestry services such as site preparation, prescribed burning, tree planting, etc. (see 15A NCAC 09C .0600); and
   (C) forest management and stewardship plan preparation and recommendation of forest management systems that best meet the desires and objectives of the owner, that are compatible with good forestry practices and that protect the environment.

(b) Services not furnished by the Division. Requests for these services usually shall be referred to consulting foresters. These are:
timber cruises and estimation of timber volume or value made for timber sale or inventory purposes;
(2) damage appraisals, except by court order;
(3) trespass investigations, except by court order;
(4) quotation or establishment of prices on stumps or cut timber; and
(5) property line location and marking.

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

SECTION .0600 - CUSTOM FORESTRY SERVICES

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

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

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

SECTION .0700 – FOREST DEVELOPMENT PROGRAM

02 NCAC 60B .0701 ADMINISTRATION OF PROGRAM

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

(1) Any eligible landowner may apply for program cost sharing payment funds.
(2) Application may be made by completing an application form furnished by the Department of Agriculture and Consumer Services or his or her designee shall approve completed applications. Funds shall be allocated from the Division of Forest Resources’ office in Raleigh, and until all available funds are encumbered. An exception shall be made at the beginning of each fiscal year. At that time, 10% of all approved applications shall be held for a 10-day period to allow for inequities in the mail system. Should the applications received during the 10-day period exceed the funds available, allocation shall be by proration and lottery. A prorata share of monies shall be made to the Division’s three regions in accordance with the percent of total funds requested from each respective region. Applications from each region to receive these funds shall be chosen through a public drawing. The drawing shall be held the second working day after the 10th of July at 10:00 a.m. in Raleigh in the conference room of the Division of Forest Resources. Should funds be exhausted during a fiscal year, applications shall be held in priority as received until the next fiscal year at which time they will be given priority above new applications. Applicants who start or complete their project without prior approval shall not be eligible to receive funding.

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

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

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

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

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

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

(i) Cost-Sharing Cost-Sharing Payment to Landowner. Cost sharing Cost-sharing payments shall be made upon certification by the Division of satisfactory completion of the practice(s) as prescribed in the management plan. Determination of satisfactory completion shall include: an assessment of the proper use of approved practices in relation to the silvicultural need of land, installation of appropriate best management practices to ensure soil protection and water quality, and assurance that the installed practice is in compliance with all known environmental rules and regulations. Payments may be made following satisfactory completion of all approved practices or practices. A partial payment may be made at the discretion of the landowner following satisfactory completion of a sub-practice (s).
However, no more than two payments shall be made for sub-practices covered by any one application.

Withdrawal of Allotted Funds

(1) Funds allocated to an eligible landowner may be withdrawn at the end of the first full fiscal year following the year in which the funds were allotted if no work has been started, unless an extension is granted by the Division. The landowner must provide sufficient documentation to the Division for funds availability to extend into a second year.

(2) Funds allocated may be withdrawn at the end of the second full fiscal year following the year of allocation if the practice has not been completed unless an extension is granted.

(3) Funds paid as “partial payment” must be repaid to the Forest Development Fund if the project is started but not completed within the allotted time.

(4) Extensions. A 12-month extension may be granted by the Division when a project cannot be completed on schedule, through no fault of the applicant.

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

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

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

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

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

(1) Site Preparation. Preparation of a site for planting, seeding or natural regeneration of a commercial forest tree species; this may be accomplished by the following sub-practices used singularly or in combinations:

(a) Burning. The use of prescribed fire for the purpose of site preparation;
(b) Chopping. The use of a machine-pulled chopper to crush and chop non-merchantable trees, brush and other debris for the purpose of site preparation;
(c) Discing. The use of a machine-pulled disc to crush and destroy non-merchantable trees, brush and other debris for the purpose of site preparation;
(d)(c) KG/V-Blade Shear. The use of a sharp-edged, angled blade (KG or V-Blade) mounted on a tractor to shear non-merchantable trees and brush for the purpose of site preparation;
(e)(d) KG and Pile. The use of a sharp-edged, angled blade (called KG-Blade) mounted on a tractor to shear non-merchantable trees and brush for the purpose of site preparation; this sheared material and other debris are pushed into piles or windrows;
(f)(e) Rake & Pile. The use of a toothed, rake-type blade mounted on a tractor to push logging debris, but not roots or soil, into piles or windrows;
(g)(f) Bedding (Single or Double). The use of a bedding plow pulled by a tractor to prepare a bed or ridge for the purpose of site preparation;
(h)(g) V-Blade Bedding. The use of a sharp angled blade (not a KG-Blade) mounted on a tractor to shear non-merchantable trees and brush and a bedding plow pulled by a tractor to prepare a bed or ridge for the purpose of site preparation in a single pass operation;
(i) Furrowing. The use of a plow pulled by a tractor to prepare a shallow trench or furrow to reduce competing vegetation for the purpose of site preparation;
(j) Bulldozing and Piling. The use of a bulldozer to push over non-merchantable trees and brush for the purpose of site preparation; the material is pushed into piles or windrows;
(k) Other. The use of hand tools or other machines to destroy or reduce competing vegetation for the purpose of site preparation;
(l) Chemical Control. Aerial. The use of herbicides, applied from the air, to reduce competing vegetation for the purpose of site preparation;
(m)(i) Chemical Control-Site Preparation. The use of aerial or ground chemical applications to reduce competing vegetation for the purpose of site preparation;
(n)(j) Other. The use of hand tools or other machines to destroy or reduce competing vegetation for the purpose of site preparation.
Preharvest Treatment. Use of chemical or mechanical means, including hand methods, to control vegetation to develop a stand of trees from advanced hardwood regeneration, natural pine regeneration, or artificial regeneration. When using this practice the following criteria apply:

1. The landowner must agree to harvest overstory stand once regeneration of at least 300 seedlings of a commercial timber species is established;
2. This practice cannot be used to prepare an area for pine straw production; and
3. The only other site preparation technique that may be cost shared at a later date is prescribed burning, if needed.

Silvicultural Clearcut. The felling of trees in unmerchantable stands for the purpose of removing all stems in the overstory to allow regeneration of desirable species by exposing the site to direct sunlight:

1. Fell and Leave. Felling all trees on an area with no removal of merchantable material, for the purpose of accomplishing a silvicultural clearcut;
2. Fell and Remove. Felling all trees on an area, both merchantable and unmerchantable, for the purpose of accomplishing a silvicultural clearcut; the stumpage value of all merchantable trees removed from the area, as determined by the Director, shall be deducted from the allowable cost of completing the practice.

Tree Planting or Seeding. Planting seedlings or applying seed to establish a commercial forest stand. This includes:

1. Hand Planting. The use of planting bars or other hand tools to plant forest tree seedlings;
2. Machine Planting. The use of a planting machine to plant forest tree seedlings;
3. Machine Planting Chemical. The combined use of a planting machine to plant forest tree seedlings and application equipment to apply herbicides to reduce competing vegetation in a single pass operation.
4. V-Blade Planting. The use of a tractor with attached V-shaped blade and planting machine to plant forest tree seedlings;
5. Direct Seeding. The use of any type applicator to apply desirable forest tree seed directly to the soil.

Tree Planting Followed by Site Preparation. Tree planting followed by the use of a herbicide treatment; within one year after planting.

Mixed Stand Plantings. Tree planting to establish a mixed pine hardwood stand, or a mixed stand of hardwood species.

Release of Seedlings. Reducing or eliminating unwanted vegetation that is competing with the established reproduction of desired tree species to ensure adequate regeneration (at least 300 seedlings) of a commercial timber species. This may be accomplished by one of the following treatments:

1. Chemical Control: Aerial. The use of herbicides, applied from the air, to reduce competing vegetation for the purpose of releasing desirable reproduction; Chemical Control: Release. The use of herbicides, applied from the air or ground, to reduce competing vegetation for the purpose of releasing desirable reproduction.
2. Chemical Control: Ground. The use of hand tools or ground chemical applicators to reduce competing vegetation for the purpose of releasing desirable reproduction.
3. Mechanical Control. The use of hand tools or machines to reduce competing vegetation for the purpose of releasing desirable reproduction.

Uneven Aged Management. A planned sequence of silvicultural treatments designed to maintain and regenerate a stand with three or more age classes.

Forest Stand Improvement. Practices that improve tree growth and overall forest health to insure maximum growth potential of forest stands to commercial production levels. The practices listed below and approved for reimbursement will improve immature forest stands for silvicultural purposes:

1. Understory Release. Complete removal or deadening of older trees or saplings that have no merchantable value, to improve growing conditions for desirable tree species;
2. Release of Seedling Seedlings. A mechanical or chemical treatment designed to free young trees from undesirable, usually over-topping, competing vegetation;
3. Cull-tree Removal. Complete removal or deadening of
trees having no merchantable value because of defects or inferior species. Differs from understory release in that removal is to favor growth on remaining established poles and small sawtimber of better quality and species. This treatment is used only in stands beyond the sapling size class;

(d) Crop Tree Crown Release. Removal or deadening of cull trees and other undesirable trees to release the crowns of crop trees with commercial value. Crop trees are high value species, which are dominant or co-dominant in position and are well-formed and free of major forest insects and diseases. Cull trees are trees that have little or no economic value due to poor form or presence of insects or disease. Less desirable trees have poorer growth characteristics or are in poorer condition than the crop trees;

(e) Non-Commercial Thinning. A felling, deadening or removal of immature trees in a stand (predominately seedlings and saplings) which significantly reduces the stem density to accelerate growth and improve the health and form of the remaining trees;

(f) Prescribed Burning. The use of fire in a planned and controlled manner to provide benefits or forest health benefits, from forest fuel reduction or a reduced understory competition. Prescribed burning must be conducted under the supervision of a “certified prescriber” (as defined by G.S. 143-60.41 of the North Carolina Prescribed Burning Act), using a burning plan; benefits; and

(g) Forest Fertilization. The addition of nutrient elements to the soil at establishment or mid-rotation to overcome nutrient deficiencies or to increase tree growth rates; rates on appropriate sites.

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

SECTION .0800 - URBAN AND COMMUNITY FORESTRY

02 NCAC 60B .0804 LIMITATION OF SERVICES

(a) Services to all categories of recipients will can be limited to a designated number of person days per year, depending on the type of request. Specific limits will be determined after the program has been operational for a period of one to two years. During that period of time the Commissioner will have the discretionary authority to limit the number of days services to all categories of recipients in order to develop and improve the program and services. The Secretary Commissioner may delegate totally or in part the discretionary authority.

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

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

02 NCAC 60B .0901 BURNER CERTIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1000 - DUPONT STATE FOREST

02 NCAC 60B .1003 PERMITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

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

02 NCAC 60B .1005 BATHING OR SWIMMING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 60B .1006 HUNTING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 60B .1007 FISHING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 60B .1008 ANIMALS AT LARGE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 60B .1009 BOATING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 60B .1010 CAMPING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 60B .1011 SPORTS AND GAMES (READOPTION WITHOUT SUBSTANTIVE CHANGES)
PROPOSED RULES

02 NCAC 60B .1012 Horses (Readoption Without Substantive Changes)

02 NCAC 60B .1013 Bicycles (Readoption Without Substantive Changes)

02 NCAC 60B .1014 Skates, Blades and Boards (Readoption Without Substantive Changes)

02 NCAC 60B .1015 Explosives (Readoption Without Substantive Changes)

02 NCAC 60B .1016 Firearms (Readoption Without Substantive Changes)

02 NCAC 60B .1017 Fires (Readoption Without Substantive Changes)

02 NCAC 60B .1018 Disorderly Conduct (Readoption Without Substantive Changes)

02 NCAC 60B .1019 Intoxicating Beverages and Drugs (Readoption Without Substantive Changes)

02 NCAC 60B .1020 Damage to Buildings, Structures and Signs (Readoption Without Substantive Changes)

02 NCAC 60B .1021 Commercial Enterprises (Readoption Without Substantive Changes)

02 NCAC 60B .1022 Noise Regulations (Readoption Without Substantive Changes)

02 NCAC 60B .1023 Meetings and Exhibitions (Readoption Without Substantive Changes)

02 NCAC 60B .1024 Alms and Contributions (Readoption Without Substantive Changes)

02 NCAC 60B .1025 Aviation (Readoption Without Substantive Changes)

02 NCAC 60B .1026 Expulsion (Readoption Without Substantive Changes)

02 NCAC 60B .1027 Motorized Vehicles (Readoption Without Substantive Changes)

02 NCAC 60B .1028 Flowers, Plants, Minerals, Etc. (Readoption Without Substantive Changes)

02 NCAC 60B .1029 Trash and Debris (Readoption Without Substantive Changes)

02 NCAC 60B .1030 Fees and Charges (Readoption Without Substantive Changes)

02 NCAC 60B .1031 Hours of Operation (Readoption Without Substantive Changes)

02 NCAC 60B .1032 Enforcement (Readoption Without Substantive Changes)

SUBCHAPTER 60C - FOREST PRACTICES
GUIDELINES RELATED TO WATER QUALITY

SECTION .0100 - GENERAL PROVISIONS

02 NCAC 60C .0101 Introduction and Purpose

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

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

(c) Implementation of the standards in this Subchapter shall recognize that extreme and unusual weather can cause reasonable and otherwise adequate application of protective measures to fail. Where such measures fail and the resulting effect is not in compliance with a standard of this Subchapter, the responsible party(ies) shall implement additional and/or more effective measures. The Forestry Best Management Practices Manual, developed and published by the North Carolina Forest Service Division of Forest Resources in September, 1989, and as amended from time to time, contains specifications for a variety of practices which may be used to meet the performance standards set forth in this Subchapter. Best Management Practices (BMPs) shall be developed and selected to allow for the variation in weather, topography, soil, and vegetation expected for the site and season. Implementation of these rules shall recognize that extreme and unusual weather can cause reasonable and otherwise adequate application of BMPs to fail to control sedimentation. Where installed BMPs fail, additional and more effective BMPs may be required. This manual and the rules in this Subchapter may be obtained by contacting the Director, Assistant Commissioner, North Carolina Forest Service Division, Division of Forest Resources, Raleigh, North Carolina.
"Land-Disturbing Activity" means the same as defined in G.S. 113A-52.

(11) "Log Deck" means a place where logs are gathered in or near the forest for further transport, sometimes called a "landing," harvested trees or logs are gathered or staged in or near the forest for handling, sorting, merchandizing, temporary storage, and/or further transport.

(12) "Mill Site" means any place where forest products are stored, altered, or processed.

(13) "Permanently Stabilized" means the site is protected to the state at which no further accelerated erosion is expected to occur from the forestry, forestry-related, land-disturbing activities.

(14) "Pesticides" means a chemical used to kill pests. The term includes insecticides, fungicides, herbicides, and rodenticides.

(15) "Site Preparation" means a forest activity to prepare the site for reforestation.

(16) "Skid Trail" means a temporary pathway principally used to drag or transport felled trees or logs or other woody material to a landing, log deck or portable mill site.

(17) "Stream" means a body of concentrated flowing water in a natural low area of the land surface.

(a) "Ephemeral stream" means a stream that flows only during and for short periods following precipitation and flows in low areas that may or may not have a well-defined channel.

(b) "Intermittent stream" means a stream that flows only during wet periods of the year (30-90 percent of the time) and flows in a continuous well-defined channel.

(c) "Perennial stream" means a stream that flows throughout a majority of the year (greater than 90 percent of the time) and flows in a well-defined channel.

(18) "Streamside Management Zone (SMZ)" means an area along both sides of intermittent streams and perennial streams and along the margins of perennial waterbodies where extra precaution is used in carrying out forest practices forestry-related, land-disturbing activities in order to protect water quality.

(19) "Visible Sediment" means solid particulate matter, both mineral and organic, which can be seen with the unaided eye that has been or is being transported by water, air, gravity, or ice from its site of origin. This does not normally include colloidal sized particles.

(20) "Waterbody" means a natural or man-made basin that stores water, not including jurisdictional wetlands or beaver ponds.
"Working Days" means days exclusive of Saturdays and Sundays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

**SECTION .0200 - PERFORMANCE STANDARDS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Notice* is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g, that the Department of Natural and Cultural Resources intends to amend the rules cited as 07 NCAC 02H .0103,.0106.0302,.0305; 02I .0202,.0302, repeal the rules cited as 07 NCAC 02G .0104,.0105,.0304; 02H .0104,.0105,.0304; 02I .0104,.0105,.0304; 02H .0104,.0105,.0304; 02I .0104,.0105,.0304.
PROPOSED RULES

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

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

Proposed Effective Date: February 1, 2018

Public Hearing:
Date: November 2, 2017
Time: 10:00 a.m.
Location: Department of Natural and Cultural Resources, 109 E. Jones Street, Suite 310E (3rd Floor), Raleigh, NC 27601

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

Rule 07 NCAC 02H .0103 is amended to include clarifying language regarding access to library materials, the use of circulating and non-circulating library materials, and a borrower’s responsibility for lost or damaged materials. Rule 07 NCAC 02H .0106 is amended with clarifying language regarding library services offered to State agencies. Rules 07 NCAC 02H .0302 and .0305 implement enactments of federal law related to the National Library Service. Rule 07 NCAC 02I .0202 is amended with clarifying language regarding State Aid Grants to public libraries. Rule 07 NCAC 02I .0302 is amended by adding language regarding the establishment of regional libraries. Rule 07 NCAC 02H .0303 is proposed for re-adoption in response to the Periodic review and expiration of existing rules process (G.S. 150B-21.3A). Rule .0303 is rewritten with clarifying language regarding the application process for North Carolina’s Library for the Blind and Physically Handicapped.

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

Comment period ends: December 15, 2017

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

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

CHAPTER 02 - STATE LIBRARY

SUBCHAPTER 02G - STATE LIBRARY OF NORTH CAROLINA

SECTION .0100 – DIVISIONAL RULES

07 NCAC 02G .0101 SCOPE OF RULES
The rules in this Subchapter apply to the State Library of North Carolina, a division of the North Carolina Department of Cultural Resources, which serves as the principal library of State government.

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

07 NCAC 02G .0102 ELIGIBILITY FOR STATE LIBRARY SERVICES
A public library must be legally established as specified in 07 NCAC 02I .0202 to be eligible for State and Federally funded programs administered by the State Library of North Carolina.

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

SUBCHAPTER 02H - LIBRARY SERVICES

SECTION .0100 – GOVERNMENT AND HERITAGE LIBRARY

07 NCAC 02H .0103 ACCESS AND CIRCULATION
(a) Access and use of the Library’s resource collections varies according to user profile, resource format, and circulation status of materials, as determined by the State Librarian.
(b) The Library shall provide State employees and the general public online access to digital resources in its collections using search and retrieval technologies that are accessible and usable by all.
(c) Certain printed materials in the Library’s collections are designated non-circulating and shall not be used outside the Library. Non-circulating items include general reference materials, permanent depository copies of State documents, rare books, vertical file materials, periodicals, print newspapers, and the genealogy reference collection.
(d) State employees may borrow materials from the Library’s circulating print, microform, and audiovisual collections for use outside the Library. Non-State employees may borrow print, microform, and audiovisual materials from the Library through interlibrary loan at their local libraries, or they can use the material within the State Library.
(e) If any borrower loses or damages Library material charged in the borrower’s name, the borrower is responsible for the cost of

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proposed rules

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

(a) Use of Library resource collections shall vary in accordance with resource format and circulation status, as set forth in the rules in this Subchapter.
(b) Printed collection materials shall be designated as circulating or non-circulating. Circulated materials may be used outside of the Library in accordance with the rules set forth in this Subchapter. Select printed materials designated as non-circulating shall not be used outside the Library. Non-circulating items include general reference materials, permanent depository copies of State documents, rare books, vertical file materials, periodicals, print newspapers, and the genealogy reference collection.
(c) If a borrower loses or damages Library materials charged in the borrower's name, the borrower shall be responsible for the cost of replacing the material. Library borrowing privileges shall be withheld in accordance with Rule .0109 of this Subchapter.

Authority G.S. 125-2.

07 NCAC 02H .0104 REPRODUCTION SERVICES
The Library shall provide for the reproduction of Library content in compliance with U.S. copyright law. State employees and members of the general public may photocopy or request digital reproduction of Library content at a cost fixed by the Library based on cost of equipment, supplies, and staff time. Photocopying equipment shall be available for use by library users. Library staff shall provide digital reproduction services.

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

07 NCAC 02H .0105 INFORMATION, REFERENCE AND RESEARCH SERVICES
(a) State Library staff shall provide reference and research services for State employees to facilitate access to information and resources that address the business needs of State government.
(b) State Library staff shall provide information, reference services, and access to Library resources for the general public seeking information by or about North Carolina or conducting research related to North Carolina government, people, places, history, culture, statistical data, or genealogy.
(c) State Library staff shall provide instruction to State employees and the general public concerning the use of the Library's facilities and information tools and resources. Library staff shall develop and conduct informational and instructional programs related to information resources and library research.

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

07 NCAC 02H .0106 SERVICES FOR STATE AGENCIES
(a) State Library staff shall consult with State agencies requesting assistance with projects, programs, or situations requiring professional library knowledge and expertise. Library staff may consult on issues related to cataloging, classification, metadata, access, digitization, digital information management, and preservation of print and digital resources, based on staff availability and consideration of higher priority work as approved by the State Librarian.
(b) Cataloging staff shall perform classification, cataloging, and processing of library materials and resources for state government agencies on a priority basis. Before services are provided, the Library and the recipient State agency shall sign a memorandum of understanding that specifies the responsibilities and relationship between the two agencies and any costs required for library systems access and technologies.
(a) State agencies may receive library services, such as, cataloging, classification, collection assessment, metadata, digitization, digital information management, reference research, or the preservation of print and digital resources by submitting a request in writing to the State Library, 4640 Mail Service Center, Raleigh, NC 27699. All requests shall include the following:
(1) the name and address of the State agency;
(2) a description of the service(s) needed; and
(3) contact information for the State agency personnel overseeing the project.
(b) The State Librarian shall determine assistance considering factors which may include staff availability, work priorities, and accessibility of equipment and materials. The Library and the recipient State agency shall sign a memorandum of understanding that specifies the responsibilities and relationship between the two agencies for requests made under this Rule.

Authority G.S. 125-2.

SECTION .0300 – LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED

07 NCAC 02H .0302 ELIGIBILITY
Eligibility for the services of the Library for the Blind and Physically Handicapped is shall be determined by the Federal guidelines in 36 C.F.R. 701.6 which is incorporated by reference, including subsequent amendments and editions, and available for free at https://www.ecfr.gov/cgi-bin/text-idx?SID=56f1245ec016601b46b55f2331b4b7ce&mc=true&node=se36.3.701_16&rgn=div8 and is applied to all applicants.

Authority G.S. 125-2.

07 NCAC 02H .0303 APPLICATION
All users must complete an official application form and be certified in accordance with 36 C.F.R. 701.10 as eligible and meeting requirements established by the Library of Congress.
(a) To obtain services under Rule .0302 of this Section, users shall submit an application to the Library, 1841 Capital Boulevard, Raleigh, North Carolina 27635. Applications shall be submitted on a form prepared by the Library and include the user's:
(1) name, address and telephone number;
(2) county of residence;
(3) date of birth;
(4) gender;
(5) name, address, and telephone number of a friend or relative;
(6) status as an honorably discharged veteran of the Armed Forces of the United States;
(7) qualifying disability including:
(A) blindness;  
(B) visual handicap;  
(C) physical handicap;  
(D) reading disability; or  
(E) deaf and blind;  

(8) degree of hearing impairment of either:  
(A) moderate – some difficulty understanding speech; or  
(B) profound – cannot hear or understand speech;  

(9) preferred items such as: books recorded on digital cartridge with digital player; braille books; large print books; or music;  

(10) necessity for special attachments such as: headphones; amplifier; breath switch; or remote control;  

(11) language preference;  

(12) service preference such as:  
(A) requested materials only; or  
(B) materials requested by the Library based upon selected reading preferences;  


(14) reading restrictions such as: strong language, violence, or explicit descriptions of sex.

(b) Applications shall be certified by a competent authority and shall include the competent authority's name, address and telephone number, title and occupation, and an original signature.

In cases of blindness, visual impairment, physical handicap, or reading disability from organic dysfunction, a competent authority shall be defined as provided in 36 CFR 701.6(b)(2)(i), which is incorporated by reference, including subsequent amendments and editions, and available for free at https://www.ecfr.gov/cgi-bin/text-idx?SID=56ff245ec016601b46b55f2331b4b7ee&mc=true&node=se36.3.701_16&gn=d8. A competent authority shall not be relatives of the applicant, even if otherwise qualified.

Authority G.S. 125-2.

07 NCAC 02H .0304 LIBRARY COLLECTIONS

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

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

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

07 NCAC 02H .0305 CIRCULATION

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

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

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

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

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

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

(1) failure to return materials within the borrowing period. The borrowing period for materials are as follows:  
(A) six weeks for books;  
(B) two weeks for magazines; and  
(C) three weeks for DVD and VHS tapes;  

(2) damage to equipment or materials;  
(3) unauthorized use of materials or equipment, such as loaning materials or equipment to an ineligible person or modification of items owned by the Library; or  

(d) The period of suspension shall not exceed six months as determined by the Director of the Library for the Blind and Physically Handicapped.

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

Authority G.S. 125-2.
SUBCHAPTER 02I - LIBRARY DEVELOPMENT

SECTION .0100 - ORGANIZATIONAL RULES

07 NCAC 02I .0101 SCOPE OF RULES
The rules in this Subchapter apply to the Library Development Section of the State Library of North Carolina.

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

SECTION .0200 - STATE AID TO PUBLIC LIBRARIES

07 NCAC 02I .0202 STATE AID GRANTS
Libraries shall qualify for State Aid Grants by meeting the requirements listed in Rule .0201 of this Section. All grants shall be contingent upon appropriations budgeted by the General Assembly. Eligible county, regional, and municipal library systems shall receive grants subject to the approval of the Secretary of the Department of Natural and Cultural Resources based on the criteria in Rule .0201 of this Section. Assembly, Eligible county, regional, and municipal library systems shall receive grants subject to the approval of the Secretary of the Department of Natural and Cultural Resources subject to requirements in Rule .0201 of this Subchapter. Block and per capita income equalization grants State Aid Grants may be used for materials, salaries, equipment, and operating costs.

Authority G.S. 125-7.

SECTION .0300 - ORGANIZATION OF REGIONAL LIBRARIES

07 NCAC 02I .0302 REGIONAL AGREEMENT
(a) An agreement establishing a regional library shall contain:

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

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

Authority G.S. 125-2.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 13A .0101, .0114, readopt with substantive changes the rules cited as 15A NCAC 13A .0104-.0107, .0109-.0113, .0117-.0119, and readopt without substantive changes the rules cited as 15A NCAC 13A .0102, .0103, .0108, and .0116.

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

Link to agency website pursuant to G.S. 150B-19.1(e): https://deq.nc.gov/about/divisions/waste-management/hw/rules

Proposed Effective Date: March 1, 2018

Public Hearing:
Date: November 15, 2017
Time: 2:00 p.m.
Location: Green Square Building, Piedmont Conference Room (#1301), 217 W. Jones Street, Raleigh, NC

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

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

Comment period ends: December 15, 2017

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).
☒ State funds affected
☐ Environmental permitting of DOT affected

Analysis submitted to Board of Transportation
15A NCAC 13A .0101 GENERAL
(a) The Hazardous Waste Section of the Division of Waste Management shall administer the hazardous waste management program for the State of North Carolina.
(b) In applying the federal requirements incorporated by reference throughout this Subchapter, the following substitutions or exceptions shall apply:

When used in any of the federal regulations incorporated by reference throughout this Subchapter, except where the context requires references to remain without substitution (including with regard to forms, publications, publications, and regulations concerning international shipments, variances from land disposal restrictions, restrictions, and other program areas over which the federal government retains sole authority): "United States" shall mean the State of North Carolina; "Environmental Protection Agency," "EPA," "EPA," and "Agency" shall mean the Department of Environmental Quality; and "Administrator," "Regional Administrator," "Assistant Administrator," "Administrator," and "Director" shall mean the Secretary of the Department of Environmental Quality. The North Carolina Solid Waste Management Act and other applicable North Carolina General Statutes set forth in G.S. 130A shall be substituted for references to the Solid Waste Disposal Act, "the Resource Conservation and Recovery Act," and "RCRA" where required by context.
(c) In the event that there are inconsistencies or duplications in the requirements of those Federal rules incorporated by reference throughout this Subchapter and the State rules set out in this Subchapter, the provisions incorporated by reference shall prevail except where the State rules are more stringent.
(d) 40 CFR 260.1 through 260.3 (Subpart A), "General," "General" are incorporated by reference including subsequent amendments and editions.
(e) 40 CFR 260.11, "References," "References" is incorporated by reference including subsequent amendments and editions.
(f) Copies of all materials in this Subchapter may be inspected or obtained as follows:

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


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

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

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

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

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

15A NCAC 13A .0104 PUBLIC INFORMATION - PART 2
(a) The provisions concerning requests for information in 40 CFR 2.100 to 2.124, 2.108 (Subpart A), "Procedures for Disclosure of Records Under the Freedom of Information Act" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 2.106(b), 2.112(f), and 2.120 are 40 CFR 2.107 is not incorporated by reference.

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

(c) The provisions concerning confidentiality of business information in 40 CFR 2.201 to 2.311 (Subpart B), "Confidentiality of Business Information" are incorporated by reference including subsequent amendments and editions, except
that 40 CFR 2.209 (b) and (c), 2.301, 2.302, 2.303, 2.304, 2.306, 2.307, 2.308, 2.309, 2.310 and 2.311 are not incorporated by reference.

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

15A NCAC 13A .0105 RCRA / HAZARDOUS WASTE PERMIT REQUIREMENTS - PART 124
(a) 40 CFR 124.1 through 124.21 (Subpart A), "General Program Requirements", Requirements" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 124.2 (c) is not incorporated by reference, editions.
(b) 40 CFR 124.31 through 124.33 (Subpart B), "Specific Procedures Applicable to RCRA Permits": Permits" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 124.31(a), 124.32(a) 124.32(a), and 124.33(a) are not incorporated by reference.

(1) The following shall be substituted for the provisions of 40 CFR 124.31(a) which that are not incorporated by reference:
(A) Applicability. The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units and shall also apply to RCRA part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations. For the purposes of this Section, section, a "significant change" is any change that would qualify as a class 3 permit modification under 40 CFR 270.42.
(B) The requirements of this Section section do shall not apply to permit modifications under 40 CFR 270.42 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(2) The following shall be substituted for the provisions of 40 CFR 124.32(a) which that are not incorporated by reference:
(A) Applicability. The requirements of this Section section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units.
(B) The requirements of this Section section shall apply to RCRA part B applications seeking renewal of permits for such units under 40 CFR 270.51.
(C) The requirements of this Section section do shall not apply to permit modifications under 40 CFR 270.42 or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

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

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

15A NCAC 13A .0106 IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PART 261
(a) 40 CFR 261.1 through 261.9 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.
(b) 40 CFR 261.10 through 261.11 (Subpart B), "Criteria for Identifying the Characteristics of Hazardous Waste and for Listing Hazardous Waste" are incorporated by reference including subsequent amendments and editions.
(c) 40 CFR 261.20 through 261.24 (Subpart C), "Characteristics of Hazardous Waste" are incorporated by reference including subsequent amendments and editions.
(d) 40 CFR 261.30 through 261.37 261.35 (Subpart D), "Lists of Hazardous Wastes" are incorporated by reference including subsequent amendments and editions.
(e) 40 CFR 261.38 through 261.41 (Subpart E), "Exclusions/Exemptions" are incorporated by reference including subsequent amendments and editions.
(f) 40 CFR 261.140 through 261.151 (Subpart H), "Financial Requirements for Management of Excluded Hazardous Secondary Materials" are incorporated by reference including subsequent amendments and editions.
(g) 40 CFR 261.170 through 261.179 (Subpart I), "Use and Management of Containers" are incorporated by reference including subsequent amendments and editions.
(h) 40 CFR 261.190 through 261.200 (Subpart J), "Tank Systems" are incorporated by reference including subsequent amendments and editions.
(i) 40 CFR 261.400 through 261.420 (Subpart M), "Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials" are incorporated by reference including subsequent amendments and editions.
(j) 40 CFR 261.1030 through 261.1049 (Subpart AA), "Air Emission Standards for Process Vents" are incorporated by reference including subsequent amendments and editions.
(k) 40 CFR 261.1050 through 261.1079 (Subpart BB), "Air Emission Standards for Equipment Leaks" are incorporated by reference including subsequent amendments and editions.
(l) 40 CFR 261.1080 through 261.1090 (Subpart CC), "Air Emission Standards for Tanks and Containers" are incorporated by reference including subsequent amendments and editions.
(m) The Appendices to 40 CFR Part 261 are incorporated by reference including subsequent amendments and editions.

Authority G.S. 130A-294(c); 150B-21.6.
15A NCAC 13A .0107 STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE - PART 262

(a) 40 CFR 262.10 through 262.18 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions. In addition, a small quantity generator shall maintain aisle space of at least 2 feet in a central accumulation area to allow the unobstructed movement of personnel, fire prevention equipment, spill control equipment, and decontamination equipment.

(b) 40 CFR 262.20 through 262.27 (Subpart B), "The Manifest" "Requirement Requirements Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments and editions.

(c) 40 CFR 262.30 through 262.35 (Subpart C), "Pre-Transport Requirements: "Pre-Transport Requirements Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 262.40 through 262.44 (Subpart D), "Recordkeeping and Reporting" "Recordkeeping and Reporting Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments and editions. In addition, a generator shall keep records of inspections and results of inspections required by Section 262.34 40 CFR 262.16 and 262.17 for at least three years from the date of the inspection.

(e) 40 CFR 262.50 through 262.58 (Subpart E), "Exports of Hazardous Waste" are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 262.60 (Subpart F), "Imports of Hazardous Waste" are incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 262.70 (Subpart G), "Farmers" is incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 262.80 through 262.89 (Subpart H), "Transferrable Shipment of Hazardous Waste for Recovery within the OECD" "Transboundary Movements of Hazardous Waste for Recovery or Disposal" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 262.89(e) is not incorporated by reference.

(i) 40 CFR 262.200 through 262.216 (Subpart K), "Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities" is are incorporated by reference including subsequent amendments and editions.

(j) 40 CFR 262.230 through 262.233 (Subpart L), "Alternative Standards for Episodic Generation" are incorporated by reference including subsequent amendments and editions.

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

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

(a) Any person who treats, stores, disposes of hazardous waste shall 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) 40 CFR 264.1 through 264.4 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.

(c) 40 CFR 264.10 through 264.19 (Subpart B), "General Facility Standards", "Standards" are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 264.30 through 264.37 (Subpart C), "Preparedness and Prevention", "Prevention" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 264.50 through 264.56 (Subpart D), "Contingency Plan and Emergency Procedures", "Procedures" are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 264.70 through 264.77 (Subpart E), "Manifest System, Recordkeeping, and Reporting", "Reporting" are incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 264.90 through 264.101 (Subpart F), "Releases From Solid Waste Management Units", "Units" are incorporated by reference including subsequent amendments and editions. For the purpose of this incorporation by reference, "January 26, 1983" shall be substituted for "July 26, 1982" contained in 40 CFR 264.90(a)(2).

(h) 40 CFR 264.110 through 264.120 (Subpart G), "Closure and Post-Closure", "Post-Closure" are incorporated by reference including subsequent amendments and editions.


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

The owner or operator shall deposit the full amount of the closure cost estimate at the time the fund is established. Within one year of February 1, 1987, an owner or operator using a closure trust fund established prior to February 1, 1987, shall deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or shall obtain other financial assurance as specified in this Section.

Authority G.S. 130A-294(c); 150B-21.6.
The following shall be substituted for the provisions of 40 CFR 264.143(a)(6) and 264.145(a)(6) which were that are not incorporated by reference:

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

The following shall be substituted for the provisions of 40 CFR 264.145(a)(3) which were that are not incorporated by reference:

(A) Except as otherwise provided in Part (i)(3)(B) of this Rule, the owner or operator shall deposit the full amount of the post-closure cost estimate at the time the fund is established.

(B) If the Department finds that the owner or operator of an inactive hazardous waste disposal unit cannot is unable to provide financial assurance for post-closure through any other option (e.g. surety bond, letter of credit, or corporate guarantee), plans for annual payments to the trust fund over the term of the RCRA post-closure permit may shall be established by the Department as a permit condition.

The following additional requirement shall apply: shall be substituted for Section 15 of 40 CFR 264.151(a)(1) that is not incorporated by reference:

Section 15, Notice of Payment. The trustee shall notify the Department of payment to the trust fund, by certified mail within 10 days following said payment to the trust fund. The notice shall contain the name of the Grantor, the date of payment, the amount of payment, and the current value of the trust fund.

Concerning financial assurance for corrective action, the owner or operator shall choose from the financial instrument options provided in 40 CFR 264.145 Subpart H, or any combination of the financial instruments allowed by the Section to satisfy corrective action financial assurance requirements of 40 CFR 264.100 and 264.101. The wording of the financial assurance instrument or instruments shall be consistent with the wording provided in 40 CFR 264.151. The wording of the instrument used shall be modified to include the term "corrective action," as applicable.

(j) 40 CFR 264.170 through 264.179 (Subpart I), "Use and Management of Containers", "Containers" are incorporated by reference including subsequent amendments and editions.

(k) 40 CFR 264.190 through 264.200 (Subpart J), "Tank Systems", "Systems" are incorporated by reference including subsequent amendments and editions.

(l) The following are requirements for Surface Impoundments:

(1) 40 CFR 264.220 through 264.232 (Subpart K), "Surface Impoundments", "Impoundments" are incorporated by reference including subsequent amendments and editions.

(2) The following are additional standards for surface impoundments:

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

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

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

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

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

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

(G) Surface surface impoundments shall be constructed in such a manner to prevent landsliding, slippage slippage, or slumping.

(m) 40 CFR 264.250 through 264.259 (Subpart L), "Waste Piles", "Piles" are incorporated by reference including subsequent amendments and editions.

(n) 40 CFR 264.270 through 264.283 (Subpart M), "Land Treatment", "Treatment" are incorporated by reference including subsequent amendments and editions.

(o) 40 CFR 264.300 through 264.317 (Subpart N), "Landfills", "Landfills" are incorporated by reference including subsequent amendments and editions.

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

(q) 40 CFR 264.340 through 264.351 (Subpart O), "Incinerators", "Incinerators" are incorporated by reference including subsequent amendments and editions.

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

(1) In addition to the location standards set forth in 15A NCAC 13A .0109(c), Paragraph (c) of this Rule, the Department, in determining whether to issue a permit for a hazardous waste management facility, shall consider the risks
posed by the proximity of the facility to:
water table levels, levels; flood plains, plains;
water supplies, supplies; public water supply watersheds, watersheds; mines, mines; natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites, and population centers; population centers; natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites; and shall consider whether provision has provisions have been made for buffer zones zones, as required by this Rule. The Department shall also consider ground water travel time, soil pH, soil cation exchange capacity, soil permeability, permeability; slope, climate, local land use, slope; climate; local land use; transportation factors such as proximity to waste generators, route, route safety, and method of transportation; transportation; aesthetic factors such as the visibility, appearance, and noise level of the facility; potential impact on air quality, quality; and existence of seismic activity and cavernous bedrock. The basis for issuing or denying the permit are found in 40 CFR 264 as adopted by reference in this Rule.

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 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, facilities, and surface impoundments shall comply with the following separation distances:

(i) All hazardous waste shall be located a minimum of 500 feet from the property line of the facility.

(ii) Each hazardous waste landfill, long-term storage facility, or surface impoundment facility shall be constructed so that the bottom of the facility is 10 feet or more above the historical high ground water level. The historical high ground water level shall be determined by measuring the seasonal high ground water levels and predicting the long-term maximum high ground water level from published data on similar North Carolina topographic positions, elevations, geology, and climate; and

(iii) All hazardous waste shall be located a minimum of 1,000 feet from the zone of influence of any existing off-site ground water well used for drinking water, and outside the zone of influence of any existing or planned on-site drinking water well.

(D) Hazardous waste storage and treatment facilities for liquid waste that is classified as TC toxic, toxic, or acutely toxic hazardous waste due to the Toxicity Characteristic, as defined in 40 CFR 261.24, or is classified as Acute Hazardous Waste or Toxic Waste, as described in 40 CFR 261.30(b), and is stored or treated in tanks or containers shall not be located:

(i) in the recharge area of an aquifer which is designated as an existing sole drinking water source as defined in the Safe Drinking Water Act, Section .1424(e) [42 U.S.C. 300h-3(e)] unless an adequate secondary containment system, as described in 40 CFR 264.264, as adopted by reference in this Rule, is constructed, and after consideration of applicable factors in

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Subparagraph (r)(3) of this Rule, the owner or operator can demonstrate no risk to public health;

(ii) within 200 feet of surface water impoundments or surface water stream with continuous flow as defined by the United States Geological Survey;

(iii) in an area that will allow direct surface or subsurface discharge to WS-I, WS-II or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and 15A NCAC 18C .0102;

(iv) in an area that will allow direct surface or subsurface discharge to the watershed for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;

(v) within 200 feet horizontally of a 100-year floodplain elevation;

(vi) within 200 feet of a seismically active area as defined in Paragraph (c) of this Rule; and

(vii) within 200 feet of a mine, cave, or cavernous bedrock.

(3) The Department shall require any hazardous waste management facility to comply with greater separation distances or other protective measures when necessary to avoid risks posed by the proximity of the facility to: water table levels; flood plains; fresh 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; natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites; or to provide a buffer zone as required by this Rule. The Department shall also require protective measures when necessary to avoid unreasonable risks posed by the soil pH, soil cation exchange capacity, soil composition and permeability; permeability; climate; slope; climate; local land use; transportation factors such as proximity to waste generators, route, route safety, and method of transportation; transportation; aesthetic factors such as the visibility, appearance, and noise level of the facility; facility potential impact on air quality; 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 groundwater 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, and hazardous waste surface impoundments:
PROPOSED RULES

(A) A hazardous waste landfill, long-term storage, or a surface impoundment facility shall not be located:
   (i) In the recharge area of an aquifer which is an existing sole drinking water source;
   (ii) Within 200 feet of a surface water stream with continuous flow flow; as defined by the United States Geological Survey;
   (iii) In an area that will allow direct surface or subsurface discharge to WS-I, WS-II or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and 15A NCAC 18C .0102;
   (iv) In an area that will allow direct surface or subsurface discharge to a watershed for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;
   (v) Within 200 feet horizontally of a 100-year flood hazard elevation;
   (vi) Within 200 feet of a seismically active area; as defined in Paragraph (e) of this Rule; and
   (vii) Within 200 feet of a mine, cave, or cavernous bedrock.

(B) A hazardous waste landfill or long-term storage facility shall be located in geologic formations with the following soil characteristics:
   (i) The depth of the unconsolidated soil materials shall be equal to or greater than 20 feet;
   (ii) The percentage of fine-grained soil material shall be equal to or greater than 30 percent passing through a number 200 sieve;
   (iii) Soil liquid limit shall be equal to or greater than 30;
   (iv) Soil plasticity index shall be equal to or greater than 15;
   (v) Soil compacted hydraulic conductivity shall be a maximum of 1.0 x 10^-7 cm/sec;
   (vi) Soil Cation Exchange Capacity shall be equal to or greater than 5 milliequivalents per 100 grams;
   (vii) Soil Potential Volume Change Index shall be equal to or less than 4; and
   (viii) Soils shall be underlain by a geologic formation having a rock quality designation equal to or greater than 75 percent.

(C) A hazardous waste landfill or long-term storage facility shall be located in areas of low to moderate relief to the extent necessary to prevent landsliding or slippage and slumping. The site may be graded to comply with this standard.

(5) All new hazardous waste impoundments that close with hazardous waste residues left in place shall comply with the standards for hazardous waste landfills in Subparagraph (r)(4) of this Rule, unless the applicant can demonstrate that equivalent protection of public health and environment is afforded by some other standard.

The owners and operators of all new hazardous waste management facilities shall construct and maintain a minimum of two observation wells, one upgradient and one downgradient of the proposed facility; and shall establish background groundwater concentrations and monitor annually for all hazardous wastes that the owner or operator proposes to store, treat, or dispose at the facility.

The owners and operators of all new hazardous waste facilities shall demonstrate that the community has had an opportunity to participate in the siting process by complying with the following:

(A) The owners and operators shall hold at least one public meeting in the county in which the facility is to be located to inform the community of all hazardous waste management activities including the hazardous properties of the waste to be managed; the type of management proposed for the wastes; the mass and volume of the wastes; and the source of the wastes; and to allow the community to identify specific health, safety and environmental concerns or problems expressed by the community related to the hazardous waste activities associated with the facility. The owners and operators shall provide a public notice of this meeting at least 30 days prior to the meeting.
notice shall be documented in the facility permit application. The owners and operators shall submit as part of the permit application a complete written transcript of the meeting, all written material submitted that represents community concerns, and all other relevant written material distributed or used at the meeting. The written transcript and other written material submitted or used at the meeting shall be submitted to the local public library closest to and in the county of the proposed site with a request that the information be made available to the public.

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

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

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

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

(2) 40 CFR 264.550 through 264.555 (Subpart S), "Special Provisions for Cleanup", Cleanup are incorporated by reference including subsequent amendments and editions.

(t) 40 CFR 264.570 through 264.575 (Subpart W), "Drip Pads", Pads are incorporated by reference including subsequent amendments and editions.

(u) 40 CFR 264.600 through 264.603 (Subpart X), "Miscellaneous Units", Units are incorporated by reference including subsequent amendments and editions.

(v) 40 CFR 264.1030 through 264.1049 (Subpart AA), "Air Emission Standards for Process Vents", Vents are incorporated by reference including subsequent amendments and editions.

(w) 40 CFR 264.1050 through 264.1079 (Subpart BB), "Air Emission Standards for Equipment Leaks", Leaks are incorporated by reference including subsequent amendments and editions.

(x) 40 CFR 264.1080 through 264.1091 (Subpart CC), "Air Emission Standards for Tanks, Surface Impoundments, and Containers", Containers are incorporated by reference including subsequent amendments and editions.

(y) 40 CFR 264.1100 through 264.1102 264.1110 (Subpart DD), "Containment Units", Buildings are incorporated by reference including subsequent amendments and editions.

(z) 40 CFR 264.1200 through 264.1202 (Subpart EE), "Hazardous Waste Munitions and Explosives Storage", Storage are incorporated by reference including subsequent amendments and editions.

(aa) Appendices to 40 CFR Part 264 are incorporated by reference including subsequent amendments and editions.

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

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

(a) 40 CFR 265.1 through 265.4 (Subpart A), "General", General are incorporated by reference including subsequent amendments and editions.

(b) 40 CFR 265.10 through 265.19 (Subpart B), "General Facility Standards", Standards are incorporated by reference including subsequent amendments and editions.

(c) 40 CFR 265.30 through 265.37 (Subpart C), "Preparedness and Prevention", Prevention are incorporated by reference including subsequent amendments and editions, except that 265.35 is not incorporated by reference, editions.

The following shall be substituted for the provisions of 265.35.

Required aisle space: The owner or operator must maintain aisle space of at least two feet to allow the unobstructed movement of
personnel, fire prevention equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

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

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

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

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

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

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

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

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

(A) Except as otherwise provided in Part (h)(3)(B) of this Rule, the owner or operator shall deposit the full amount of the post-closure cost estimate at the time the fund is established.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5) 40 CFR 265.1100 through 265.1102 265.1110 (Subpart DD), "Containment Buildings", "Buildings" are incorporated by reference including subsequent amendments and editions.

6) 40 CFR 265.1200 through 265.1202 (Subpart EE), "Hazardous Waste Munitions and Explosives Storage", "Storage" are incorporated by reference including subsequent amendments and editions.

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

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

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

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

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

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

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

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

(f) 40 CFR 266.210 through 266.260 (Subpart N), "Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal", "Disposal" are incorporated by reference including subsequent amendments and editions.

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

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

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

(a) 40 CFR 268.1 through 268.14 268.19 (Subpart A), "General", "General" are incorporated by reference including subsequent amendments and editions.

(b) 40 CFR 268.10 through 268.14 (Subpart B), "Schedule for Land Disposal Prohibition and Establishment of Treatment Standards" are incorporated by reference including subsequent amendments and editions.

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

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

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

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

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

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

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

(c) The following are additional information requirements for all hazardous waste facilities, facilities as defined in 40 CFR 270.14, the owners and operators of hazardous waste facilities shall provide the following information:

(1) Description and documentation of the public meetings as required in 15A NCAC 13A .0109(r)(7);

(2) A description of the hydrological and geological properties of the site including flood plains, depth to water table, ground water travel time, seasonal and long-term groundwater level fluctuations, proximity to public water supply watersheds, consolidated rock, soil pH, soil cation exchange capacity, soil characteristics and composition and permeability; permeability; existence of cavernous bedrock and seismic activity; activity; slope; slope; mines; mines; climate; climate; location and withdrawal rates of surface water users within the immediate drainage basin and well water users within a one mile radius of the facility; water quality information of both surface and groundwater within 1000 feet of the facility; facility; and a description of the local air quality;

(3) A 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;
PROPOSED RULES

(4) A description of local land use including residential, industrial, commercial, recreational, agricultural, and the proximity to schools and airports;

(5) 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 shall include proposed alternative routes and restrictions necessary to protect the public health;

(6) A description of facility aesthetic factors including visibility, appearance, and noise level; and

(7) A description of any other objective factors that the Department determines are reasonably related and relevant to the proper siting and operation of the facility.

(d) In addition to the specific Part B Permit Application information requirements for hazardous waste disposal facilities, operators of surface impoundments shall provide the following information:

1. Design drawings and specifications of the leachate collection and removal system;
2. Design drawings and specifications of the artificial impervious liner;
3. Design drawings and specifications of the clay or clay-like liner below the artificial liner, and a description of the permeability of the clay or clay-like liner; and
4. A description of how hazardous wastes will be treated prior to placement in the facility.

(e) In addition to the specific Part B Permit Application information requirements for surface impoundments, operators of surface impoundments shall provide the following information:

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

(f) 40 CFR 270.30 through 270.33 (Subpart C), "Permit Conditions," are incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 270.40 through 270.43 (Subpart D), "Changes to Permit," are incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 270.50 through 270.51 (Subpart E), "Expiration and Continuation of Permits," are incorporated by reference including subsequent amendments and editions.

(i) 40 CFR 270.60 through 270.66 (Subpart F), "Special Forms of Permits," are incorporated by reference including subsequent amendments and editions, except that 40 CFR 270.67 and 270.68 are not incorporated by reference.

(j) 40 CFR 270.70 through 270.73 (Subpart G), "Interim Status," are incorporated by reference including subsequent amendments and editions. For the purpose of this incorporation by reference, "January 1, 1986" shall be substituted for "November 8, 1985" contained in 40 CFR 270.73(c).

(k) 40 CFR 270.235, (Subpart I), "Integration with Maximum Achievable Control Technology (MACT) Standards," is incorporated by reference including subsequent amendments and editions.

(l) The following are additional permitting requirements for hazardous waste facilities.

1. An applicant applying for a permit for a hazardous waste facility shall submit a disclosure statement to the Department as a part of the application for a permit or any time thereafter specified by the Department, permit a permit renewal, or a permit modification that involves a change in owner or operator. The disclosure statement shall be supported by an affidavit attesting to the truth and completeness of the facts asserted in the statement and shall include:

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

(2) In addition to the information set forth in Subparagraph (l)(1) of this Rule, the Department shall require from any applicant such additional information as it deems necessary to satisfy the requirements of G.S. 130A-295. Such The information may include:

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

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

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

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

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

(n) Requirements for Off-site Recycling Facilities.

(1) The permit requirements of 15A NCAC 13A .0109 apply to owners and operators of off-site recycling facilities unless excluded in Subparagraph (2) of Paragraph (n). (n) of this Rule.

(2) Requirements of 15A NCAC 13A .0111(c)(4), Subparagraphs (n)(4), (5), (6), (7) and (8) of this Rule do not apply to owners and operators of off-site recycling facilities that recycle only precious metals as described in 40 CFR 266.70(a), 40 CFR 266.70(a), as incorporated by reference in 15A NCAC 13A .0111(b).

(3) Off-site facilities that recycle precious metals shall follow comply with the regulations as described in 15A NCAC 13A .0111(b).

(4) Notwithstanding any other statement of applicability, the following provisions of 40 CFR Part 264, 264 as incorporated by reference, shall apply to owners and operators of off-site recycling facilities except those excluded in 15A NCAC 13A .0113(m)(2):

Subparagraph (n)(2) of this Rule:

(A) Subpart B - General Facility Standards;

(B) Subpart C - Preparedness and Prevention;

(C) Subpart D - Contingency Plan and Emergency Procedures;

(D) Subpart E - Manifest System, Recordkeeping and Reporting;

(E) Subpart F - Financial Requirements;

(F) Subpart G - Closure and Post-closure;

(G) Subpart H - Financial Requirements;

(H) Subpart I - Use and Management of Containers;

(I) 264.101 - Corrective Action for Solid Waste Management Units;

(J) Subpart X - Miscellaneous Units; and

(K) Subpart DD - Containment Buildings.

(5) The requirements listed in Subparagraph (n)(4) of this Rule apply to the entire off-site recycling facility, including all recycling units, staging and process areas, and permanent and temporary storage areas for wastes.

(6) The following provisions of 15A NCAC 13A .0109 shall apply to owners and operators of off-site recycling facilities:

(A) The the substitute financial requirements of Rule .0109(i)(1), (2) and (4); and

(B) The the additional standards of Rule .0109(r)(1), (2), (3), (6) and (7).

(7) The owner or operator of an off-site recycling facility shall keep a written operating record at his facility.

(8) The following information must shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(A) A a description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or recycling at the facility;

(B) The the location of all hazardous waste within the facility and the quantity at each location. This information must shall include cross-references to specific manifest document numbers if the waste was accompanied by a manifest; and
(C) Documentation of the fate of all hazardous wastes received from off-site or generated on-site. This shall include records of the sale, reuse, off-site transfer, or disposal of all waste materials.

(o) Permit Fees for Commercial Hazardous Waste Facilities.

(1) An applicant for a permit modification for a commercial hazardous waste facility shall pay an application fee for the Class of permit modification defined in 40 CFR 270.42 as follows:
   (A) Class 1 permit modification $100;
   (B) Class 2 permit modification $1,000; or
   (C) Class 3 permit modification $5,000.

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

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

15A NCAC 13A .0114 REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS - PART 271
40 CFR 271.17, "Sharing of Information", Information" has been incorporated by reference including subsequent amendments and editions.

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

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

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

15A NCAC 13A .0117 FEE SCHEDULE FOR COMMERCIAL HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES
(a) A commercial hazardous waste storage, treatment, or disposal facility other than a special purpose facility shall pay monthly, in addition to the fees applicable to all hazardous waste storage, treatment, or disposal facilities as required by G.S. 130A-294.1, a charge of forty-one dollars ($41.00) per hour of operation. The fee shall be paid for any time when hazardous waste is managed or during periods of maintenance, repair, testing, or calibration. Each facility shall submit an operational schedule to the Department on a quarterly basis.
(b) A special purpose commercial hazardous waste facility shall pay monthly, in addition to the fees applicable to all hazardous waste treatment, storage or disposal facilities as required by G.S. 130A-294.1, a charge per ton of hazardous waste received during the previous month and an additional charge based on the frequency of inspections as noted in the following schedules:

| Category as determined in 15A NCAC 0116, Effective January 1, 2013, a special purpose commercial hazardous waste facility shall pay four dollars and fifty cents ($4.50) per ton of hazardous waste received and: |
|---|---|
| Monthly Fee |
| 1 | $1,332.00 |
| 2 | $2,664.00 |
| 3 | $3,996.00 |
| 4 | $5,328.00 |
| 5 | $6,660.00 |

(1) Effective April 1, 2011 to December 31, 2011, three dollars and fifty cents ($3.50) per ton of hazardous waste received and:

| Category as determined in 15A NCAC 0116, Effective January 1, 2012 to December 31, 2012, four dollars ($4.00) per ton of hazardous waste received and: |
|---|---|
| Monthly Fee |
| 1 | $1,110.00 |
| 2 | $2,220.00 |
| 3 | $3,330.00 |
| 4 | $4,440.00 |
| 5 | $5,550.00 |

(2) Effective January 1, 2012 to December 31, 2012, four dollars ($4.00) per ton of hazardous waste received and:

| Category as determined in 15A NCAC 0116, Effective April 1, 2011 to December 31, 2011, four dollars and fifty cents ($4.50) per ton of hazardous waste received and: |
|---|---|
| Monthly Fee |
| 1 | $1,332.00 |
| 2 | $2,664.00 |
| 3 | $3,996.00 |
| 4 | $5,328.00 |
| 5 | $6,660.00 |

(3) Effective January 1, 2013, four dollars and fifty cents ($4.50) per ton of hazardous waste received and:

| Category as determined in 15A NCAC 0116, Effective April 1, 2011 to December 31, 2011, four dollars and fifty cents ($4.50) per ton of hazardous waste received and: |
|---|---|
| Monthly Fee |
| 1 | $1,332.00 |
| 2 | $2,664.00 |
| 3 | $3,996.00 |
| 4 | $5,328.00 |
| 5 | $6,660.00 |

(4) Effective January 1, 2013, four dollars and fifty cents ($4.50) per ton of hazardous waste received and:

| Category as determined in 15A NCAC 0116, Effective April 1, 2011 to December 31, 2011, four dollars and fifty cents ($4.50) per ton of hazardous waste received and: |
|---|---|
| Monthly Fee |
| 1 | $1,332.00 |
| 2 | $2,664.00 |
| 3 | $3,996.00 |
| 4 | $5,328.00 |
| 5 | $6,660.00 |

(5) Effective January 1, 2013, four dollars and fifty cents ($4.50) per ton of hazardous waste received and:

| Category as determined in 15A NCAC 0116, Effective April 1, 2011 to December 31, 2011, four dollars and fifty cents ($4.50) per ton of hazardous waste received and: |
|---|---|
| Monthly Fee |
| 1 | $1,332.00 |
| 2 | $2,664.00 |
| 3 | $3,996.00 |
| 4 | $5,328.00 |
| 5 | $6,660.00 |
(e) 40 CFR 279.40 through 279.47 (Subpart E), "Standards for Used Oil Transporter and Transfer Facilities" are incorporated by reference including subsequent amendments and editions.

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

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

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

(i) 40 CFR 279.80 through 279.81 279.82 (Subpart I), "Standards for Use as a Dust Suppressant and Disposal of Used Oil" are incorporated by reference including subsequent amendments and editions. (Note: 40 CFR 279.82, editions except that 40 CFR 279.82 which addresses used oil as a dust suppressant, is specifically not incorporated by reference. See also G.S. 130A-309.15 provides additional information for prohibited acts regarding used oil, oil, including used oil as a dust suppressant.

(j) Additional State Requirements:

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

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

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

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

(D) Public used oil collection centers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the petition must include the information required by 15A NCAC 24B .0001; 15A NCAC 02I .0501 and the petition shall also address as many of the factors listed in 40 CFR 273.81 as are appropriate for the waste or waste category addressed in the petition.

Authority G.S. 130A-294(c); 150B-21.6.
Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of CPA Examiners intends to amend the rules cited as 21 NCAC 08F .0103 and .0502.

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

Proposed Effective Date: February 1, 2018

Public Hearing:
Date: November 20, 2017
Time: 11:30 a.m.
Location: NC State Board of CPA Examiners, 1101 Oberlin Road, Suite 104, Raleigh, NC 27605

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

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

Comment period ends: December 15, 2017

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

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

21 NCAC 08F .0103 FILING OF EXAMINATION APPLICATIONS AND FEES
(a) All applications for CPA examinations shall be filed with the Board and accompanied by the examination fee. The Board sets the fee for each examination at the amount that enables the Board to recover its actual costs of examination services. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned. CPA Exam applications and fee information are on the Board’s website at www.nccpaboard.gov and may be requested from the Board.
(b) The initial application filed to take the examination shall include supporting documentation demonstrating that all legal requirements have been met, including:

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

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

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

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

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

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

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

December 15, 2017
www.nccpaboard.gov
(h) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

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

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

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

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

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

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

SECTION .0500 - APPLICATIONS FOR CERTIFICATES

21 NCAC 08F .0502 APPLICATION FOR CPA CERTIFICATE

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

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

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

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

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

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

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

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule-making Agency: Environmental Management Commission

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

Effective Date: July 1, 2017

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

Reason for Action: NC Session Law 2017-57 Section 13.19.(a) requires the adoption of temporary rules to define the Department’s application of the requirements from SL 2015-241 until such time as permanent rulemaking is completed. NC Session Law 2015-241 Section 14.16B requires the amendment of rules that directed the owner or operator of a noncommercial underground storage tank (UST) not immediately respond to any release by trying to recover all accessible contamination. The Session Law directs the Department of Environmental Quality to classify the risk posed by a noncommercial UST discharge before the UST owner or operator is required to perform any cleanup action. The amendments in 15A NCAC 02L .0404 clarify that the existing initial abatement actions requirements remain for a commercial UST release, and describe the emergency response, reporting, and, if determined by the Department to represent a 'high' risk, the initial abatement actions required for a noncommercial UST release in a manner consistent with SL 2015-241 Section 14.16B. The amendments in 15A NCAC 02L .0405 clarify that the Responsible Party shall comply with the existing limited site assessment requirements for a commercial UST release, and, (consistent with the initial abatement actions,) a noncommercial UST release if the release is determined by the Department to represent an unacceptable risk, in a manner consistent with SL 2015-241 Section 14.16B. The amendments in 15A NCAC 02L .0406 differentiate the risk posed by a release of petroleum from a commercial UST, a release of motor fuel from a noncommercial UST (typically a farm tank), and a release (typically heating oil) from a noncommercial UST. An evaluation of historical data found noncommercial heating oil impacts to drinking wells extended only up to about 75 feet from the location of the release, a much shorter distance than found for commercial tanks or noncommercial motor fuel tanks, which can both reach 1000 feet (or more.) The amendments use 'high' and 'low' risk to satisfy the division in SL 2015-241 Section 14.16B between "unacceptable risk" and "low risk" noncommercial releases. The amendments in 15A NCAC 02L .0408 clarify that the existing assessment and remediation requirements remain for a commercial UST release and a noncommercial UST release, if determined by the Department to represent a 'high' risk, as required by SL 2015-241 Section 14.16B. The amendments also clarify that a formal soil cleanup report is only required for a 'low' risk commercial UST release, but not for noncommercial UST releases determined by the Department to be 'low' risk (as they received notification of no cleanup, no further cleanup, or no further action from the Department upon classification as 'low' risk.) The amendments in 15A NCAC 02L .0409 includes public notification requirements for noncommercial UST releases that are determined to be 'low' risk and therefore do not have to perform initial abatement, site assessment, or other remediation to meet the groundwater or interim standards or maximum soil contaminant concentrations, as described under the preceding temporary rules.

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02L - GROUNDWATER CLASSIFICATION AND STANDARDS

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

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

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

(1) take immediate action to prevent any further discharge or release of petroleum from the underground storage tank; identify and mitigate any fire, explosion, explosion, or vapor hazard; remove any free product; and comply with the requirements of Rules .0601 through .0604 and .0604, .0701 through .0703, and .0705 of Subchapter 02N; 02N within 24 hours of discovery;

(2) incorporate the requirements of 15A NCAC 02N .0704 into the submittal required under Item (3) of this Paragraph or the limited site assessment report required under 15A NCAC 02L .0405 of this Section, whichever is applicable. Such The submittals shall constitute compliance with the reporting requirements of 15A NCAC 02N .0704(b); and

(3) submit within 90 days of the discovery of the discharge or release a soil contamination report containing information sufficient to show that remaining unsaturated soil in the side walls and at the base of the excavation does not contain
contaminant levels which exceed either the “soil-to-groundwater” or the residential maximum soil contaminant concentrations established by the Department pursuant to 15A NCAC 02L .0411 of this Section, whichever is lower. If such the showing is made, the discharge or release shall be classified as low risk by the Department as defined in Rules .0406 and .0407 of this Section.

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

1. take necessary actions to protect public health, safety, and welfare and the environment, including actions to prevent any further discharge or release of petroleum from the noncommercial underground storage tank; to identify and mitigate any fire, explosion, or vapor hazard; and to report the release within 24 hours of discovery, in compliance with G.S. 143-215.83(a), G.S. 143-215.84(a), G.S. 143-215.85(b), and G.S. 143-215.94E; and

2. provide or otherwise make available any information required by the Department to determine the site risk as described in Rules .0405, .0406, and .0407 of this Section.

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

1. describes the source and type of the petroleum release, site-specific risk factors, and risk factors present in the surrounding area as defined in Rules .0406 and .0407 of this Section;

2. demonstrates that no remaining risk factors are present that are likely to be affected per G.S. 143-215.94V(b); or

3. documents that soils remaining onsite do not contain contaminant levels that exceed either the "soil-to-groundwater" or the residential maximum soil contaminant concentrations established by the Department pursuant to Rule .0411 of this Section, whichever is lower.

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

History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;
Recodified from 15A NCAC 02L .0115(c)(1)-(3);
Amended Eff. December 1, 2005;
tanks and leach fields, underground storage tank systems, monitoring wells, borings, and the sampling points;
the results from a limited site assessment which shall include:
(a) the analytical results from soil samples collected during the construction of a monitoring well installed in the source area of each confirmed discharge or release from a noncommercial or commercial underground storage tank and either the analytical results of a groundwater sample collected from the well or, if free product is present in the well, the amount of free product in the well. The soil samples shall be collected every five feet in the unsaturated zone unless a water table is encountered at or greater than a depth of 25 feet from land surface in which case soil samples shall be collected every 10 feet in the unsaturated zone. The soil samples shall be collected from suspected worst-case locations exhibiting visible contamination or elevated levels of volatile organic compounds in the borehole;
(b) if any constituent in the groundwater sample from the source area monitoring well installed in accordance with Sub-item (a) of this Item, for a site meeting the high risk classification in 15A NCAC 02L .0406(1), exceeds the standards or interim standards established in 15A NCAC 02L .0202 by a factor of 10 and is a discharge or release from a commercial underground storage tank, the analytical results from a groundwater sample collected from each of three additional monitoring wells or, if free product is present in any of the wells, the amount of free product in such well. The three additional monitoring wells shall be installed as follows: as best as may be determined, one upgradient of the source of contamination and two downgradient of the source of contamination. The monitoring wells installed upgradient and downgradient of the source of contamination must be located such that groundwater flow direction may be determined; and
(c) potentiometric data from all required wells;
(7) the availability of public water supplies and the identification of properties served by the public water supplies within 1500 feet of the source area of a confirmed discharge or release;
(8) the land use, including zoning if applicable, within 1500 feet of the source area of a confirmed discharge or release;
(9) a discussion of site specific conditions or possible actions which could result in lowering the risk classification assigned to the release. Such The discussion shall be based on information known or required to be obtained under this Paragraph; and
(10) names and current addresses of all owners and operators of the underground storage tank systems for which a discharge or release is confirmed, the owner(s) of the land upon which such systems are located, and all potentially affected real property owners. When considering a request from a responsible party for additional time to submit the report, the Division shall consider the extent to which the request for additional time is due to factors outside of the control of the responsible party, the previous history of the person submitting the report in complying with deadlines established under the Commission's rules, the technical complications associated with assessing the extent of contamination at the site or identifying potential receptors, and the necessity for immediate action to eliminate an imminent threat to public health or the environment.

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

15A NCAC 02L .0406 DISCHARGE OR RELEASE CLASSIFICATIONS
The Department shall classify the risk of each known discharge or release as high, intermediate, intermediate, or low risk unless the discharge or release has been classified under 15A NCAC 02L .0404(a) or .0404(c) of this Section. For purposes of this Section:

(1) "High risk" means that:
(a) a water supply well, including one used for non-drinking purposes, has been contaminated by the release or discharge;
(b) a water supply well used for drinking water is located within 1000 feet of the source area of a confirmed discharge or release; release from a commercial underground storage tank or a noncommercial underground storage
tank storing motor fuel as defined by G.S. 143-215.94A(2)a., (7); (c) a water supply well not used for drinking water is located within 250 feet of the source area of a confirmed discharge or release; release from a commercial underground storage tank or a noncommercial underground storage tank storing motor fuel as defined by G.S. 143-215.94A(2)a., (7); (d) the groundwater within 500 feet of the source area of a confirmed discharge or release from a commercial underground storage tank or a noncommercial underground storage tank storing motor fuel as defined by G.S. 143-215.94A(2)a., (7) has the potential for future use in that there is no source of water supply other than the groundwater; (e) a water supply well, including one used for non-drinking purposes, is located within 150 feet of the source area of a confirmed discharge or release from a noncommercial underground storage tank storing heating oil for consumptive use on the premises; (f) the vapors from the discharge or release pose a serious threat of explosion due to accumulation of the vapors in a confined space; or (g) the discharge or release poses an imminent danger to public health, public safety, or the environment.

(2) "Intermediate risk" means that:
(a) surface water is located within 500 feet of the source area of a confirmed discharge or release from a commercial underground storage tank and the maximum groundwater contaminant concentration exceeds the applicable surface water quality standards and criteria found in 15A NCAC 02B .0200 by a factor of 10; (b) in the Coastal Plain physiographic region as designated on a map entitled "Geology of North Carolina" published by the Department in 1985, the source area of a confirmed discharge or release from a commercial underground storage tank is located in an area in which there is recharge to an unconfined or semi-confined deeper aquifer which the Department determines is being used or may be used as a source of drinking water; (c) the source area of a confirmed discharge or release from a commercial underground storage tank is within a designated wellhead protection area, as defined in 42 U.S.C. 300h-7(e); (d) the levels of groundwater contamination associated with a confirmed discharge or release from a commercial underground storage tank for any contaminant except ethylene dibromide, benzene, benzene, and alkane and aromatic carbon fraction classes exceed 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard or interim standard established in 15A NCAC 02L .0202, whichever is lower; or (e) the levels of groundwater contamination associated with a confirmed discharge or release from a commercial underground storage tank for ethylene dibromide and benzene exceed 1,000 times the federal drinking water standard set out in 40 CFR 141. 40 CFR 141, is incorporated by reference including subsequent amendments and editions. Copies may be obtained at no cost from the U.S. Government Bookstore's website at https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol23/pdf/CFR-2015-title40-vol23-part141.pdf. The material is available for inspection at the Department of Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603.

(3) "Low risk" means that:
(a) the risk posed does not fall within the high or intermediate risk categories; high risk category for any underground storage tank, or within the intermediate risk category for a commercial underground storage tank; or (b) based on review of site-specific information, limited assessment, assessment, or interim corrective actions, the Department determines that the discharge or release poses no significant risk to human health or the environment.

If the criteria for more than one risk category applies, the discharge or release shall be classified at the highest risk level identified in 15A NCAC 02L .0407 of this Section.
Assessment and remediation procedures shall be addressed as follows:

1. At the time that the Department determines the risk posed by the discharge or release, the Department shall also determine, based on site-specific information, whether the site is "residential" or "industrial/commercial." For purposes of this Section, a site is presumed residential, but may be classified as industrial/commercial if the Department determines based on site-specific information that exposure to the soil contamination is limited in time due to the use of the site and does not involve exposure to children. For purposes of this Paragraph, "site" means both the property upon which the discharge or release has occurred and any property upon which soil has been affected by the discharge or release.

2. The Department shall also determine, based on site-specific information, whether the site is "residential" or "industrial/commercial." For purposes of this Section, a site is presumed residential, but may be classified as industrial/commercial if the Department determines based on site-specific information that exposure to the soil contamination is limited in time due to the use of the site and does not involve exposure to children. For purposes of this Paragraph, "site" means both the property upon which the discharge or release has occurred and any property upon which soil has been affected by the discharge or release.

3. For a discharge or release from a commercial underground storage tank classified by the Department as low risk, the responsible party shall submit a report to the Department assessing the vertical and horizontal extent of soil contamination.

4. For a discharge or release classified by the Department as high or intermediate risk, the responsible party shall submit a report demonstrating that soil contamination has been remediated to either the residential or industrial/commercial maximum soil contaminant concentration established by the Department pursuant to 15A NCAC 02L .0411 of this Section; whichever is applicable.

(a) the residential or industrial/commercial maximum soil contaminant concentration, whichever is applicable, that has been established by the Department pursuant to 15A NCAC 02L .0411 of this Section; or

(b) the "soil-to-groundwater" maximum soil contaminant concentration that has been established by the Department pursuant to 15A NCAC 02L .0411 of this Section.
delivery of the copy of the notice. If notice by certified mail to occupants under this Paragraph is impractical, the responsible party may shall give notice by posting a copy of the notice prominently in a manner designed to give actual notice to the occupants. If notice is made to occupants by posting, the responsible party shall provide the Department with a description of the manner in which such the posted notice was given.

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

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

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate
Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jay Hemphill
Jeffrey A. Poley

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

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

RULES REVIEW COMMISSION MEETING DATES
October 19, 2017
November 16, 2017
December 14, 2017
January 18, 2017

RULES REVIEW COMMISSION MEETING
MINUTES
September 21, 2017

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

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

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

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

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

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

FOLLOW UP MATTERS
Child Care Commission
Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

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

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

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

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

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

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

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

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

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

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

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

Chairman Dunklin introduced OAH extern Haley McLoud to the Commission.

LOG OF FILINGS (PERMANENT RULES)
Pre-Reviewed Rules
Radiation Protection Commission
10A NCAC 15 .0611 was unanimously approved.

Commission for Public Health Title 10A
All rules were unanimously approved.

Board of Recreational Therapy Licensure
All rules were unanimously approved.

Non Pre-Reviewed Rules
Criminal Justice Education and Training Standards Commission
All rules were approved. Counsel advised the Commission to object due to failure to comply with the APA, but the Commission determined that the agency substantially complied with the APA pursuant to G.S. 150B-18, with Commissioner Doran voting against.

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

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

**Wildlife Resources Commission**
All rules were unanimously approved.

**Commission for Public Health Title 15A**
All rules were unanimously approved.

**Local Government Commission**
All rules were unanimously approved.

**Board of Chiropractic Examiners**
21 NCAC 10 .0306 was unanimously approved.

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

**Veterinary Medical Board**
21 NCAC 66 .0108 was unanimously approved.

**Building Code Council**
All rules were unanimously approved.

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

**LOG OF RULES (TEMPORARY RULES)**
**Environmental Management Commission**
All rules were unanimously approved.

**EXISTING RULES REVIEW**
**Banking Commission**
04 NCAC 03 - The Commission unanimously approved the report as submitted by the agency.

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

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

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

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

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

**Board of Pharmacy**
21 NCAC 46 – The Commission unanimously approved the report as submitted by the agency.
North Carolina Psychology Board
21 NCAC 54 - The Commission unanimously approved the report as submitted by the agency.

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

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

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

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

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

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

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

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

The meeting adjourned at 1:25 p.m.

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

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

Respectfully Submitted,

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:

Garth Dunklin, Chair
### Rules Review Commission Meeting

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September 21, 2017

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

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

Dear Mr. Seibert:

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

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

Sincerely,

Abigail M. Hammond
Commission Counsel
RRC DETERMINATION
PERIODIC RULE REVIEW
June 15, 2017
APO Review: August 19, 2017
Revenue, Department of
Total: 11

RRC Determination: Necessary with substantive public interest

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September 21, 2017

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

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

Dear Ms. Schwab:

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

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

Sincerely,

Abigail M. Hammond
Commission Counsel

cc: John Green
**RRC DETERMINATION**

**PERIODIC RULE REVIEW**

*May 18, 2017*

APO Review: *July 22, 2017*

**Interpreter and Transliterator Licensing Board**

Total: 2

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September 21, 2017

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

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

Dear Mr. Gray:

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

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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

RRC Determination: Necessary with substantive public interest

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September 21, 2017

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

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

Dear Mrs. McLaurin:

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

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

Sincerely,

Abigail M. Hammond
Commission Counsel
RRC DETERMINATION
PERIODIC RULE REVIEW

June 15, 2017
APO Review: August 19, 2017

Funeral Service, Board of
Total: 6

RRC Determination: Necessary with substantive public interest

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Periodic Rule Review

September 21, 2017

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September 21, 2017

Necessary without substantive public interest
RRC Determination
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If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

**OFFICE OF ADMINISTRATIVE HEARINGS**

Chief Administrative Law Judge  
JULIAN MANN, III

Senior Administrative Law Judge  
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Melissa Owens Lassiter  
A. B. Elkins II  
Selina Malherbe  
J. Randolph Ward  
Stacey Bawtinhimer

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