NORTH CAROLINA REGISTER

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September 15, 2017

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2017 – December 2017

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270th day from publication in the Register
31:13	01/03/17	12/07/16	01/18/17	03/06/17	03/20/17	05/01/17	05/2018	09/30/17
31:14	01/17/17	12/20/16	02/01/17	03/20/17	04/20/17	06/01/17	05/2018	10/14/17
31:15	02/01/17	01/10/17	02/16/17	04/03/17	04/20/17	06/01/17	05/2018	10/29/17
31:16	02/15/17	01/25/17	03/02/17	04/17/17	04/20/17	06/01/17	05/2018	11/12/17
31:17	03/01/17	02/08/17	03/16/17	05/01/17	05/22/17	07/01/17	05/2018	11/26/17
31:18	03/15/17	02/22/17	03/30/17	05/15/17	05/22/17	07/01/17	05/2018	12/10/17
31:19	04/03/17	03/13/17	04/18/17	06/02/17	06/20/17	08/01/17	05/2018	12/29/17
31:20	04/17/17	03/24/17	05/02/17	06/16/17	06/20/17	08/01/17	05/2018	01/12/18
31:21	05/01/17	04/07/17	05/16/17	06/30/17	07/20/17	09/01/17	05/2018	01/26/18
31:22	05/15/17	04/24/17	05/30/17	07/14/17	07/20/17	09/01/17	05/2018	02/09/18
31:23	06/01/17	05/10/17	06/16/17	07/31/17	08/21/17	10/01/17	05/2018	02/26/18
31:24	06/15/17	05/24/17	06/30/17	08/14/17	08/21/17	10/01/17	05/2018	03/12/18
32:01	07/03/17	06/12/17	07/18/17	09/01/17	09/20/17	11/01/17	05/2018	03/30/18
32:02	07/17/17	06/23/17	08/01/17	09/15/17	09/20/17	11/01/17	05/2018	04/13/18
32:03	08/01/17	07/11/17	08/16/17	10/02/17	10/20/17	12/01/17	05/2018	04/28/18
32:04	08/15/17	07/25/17	08/30/17	10/16/17	10/20/17	12/01/17	05/2018	05/12/18
32:05	09/01/17	08/11/17	09/16/17	10/31/17	11/20/17	01/01/18	05/2018	05/29/18
32:06	09/15/17	08/24/17	09/30/17	11/14/17	11/20/17	01/01/18	05/2018	06/12/18
32:07	10/02/17	09/11/17	10/17/17	12/01/17	12/20/17	02/01/18	05/2018	06/29/18
32:08	10/16/17	09/25/17	10/31/17	12/15/17	12/20/17	02/01/18	05/2018	07/13/18
32:09	11/01/17	10/11/17	11/16/17	01/02/18	01/22/18	03/01/18	05/2018	07/29/18
32:10	11/15/17	10/24/17	11/30/17	01/16/18	01/22/18	03/01/18	05/2018	08/12/18
32:11	12/01/17	11/07/17	12/16/17	01/30/18	02/20/18	04/01/18	05/2018	08/28/18
32:12	12/15/17	11/22/17	12/30/17	02/13/18	02/20/18	04/01/18	05/2018	09/11/18

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

August 14, 2017

EXECUTIVE ORDER NO. 15

DISASTER DECLARATION FOR THE TOWN OF WINDSOR

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

WHEREAS, starting on September 21, 2016, the Town of Windsor in Bertie County, North Carolina was impacted by the remnants of Tropical Storm Julia, which produced heavy rains and caused severe flooding in the area and extensive damage; and

WHEREAS, as a result of the severe weather the Town of Windsor proclaimed a local state of emergency on September 21, 2016; and

WHEREAS, due the impact of the severe weather, a joint preliminary damage assessment was done by local, state and federal emergency management officials on September 28, 2016; and

WHEREAS, I determined that a Type I disaster, as defined in N.C.G.S. §166A-19.21(b)(1), exists in the State of North Carolina, specifically in the Town of Windsor in Bertie County, North Carolina; and

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

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

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

Section 1. Pursuant to N.C.G.S. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Town of Windsor in Bertie, County North Carolina.

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

a. Debris clearance.
b. Emergency protective measures.
c. Roads and bridges.

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

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

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 14th day of August in the year of our Lord two thousand and seventeen.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER
GOVERNOR

August 14, 2017

EXECUTIVE ORDER NO. 16

GOVERNOR'S TEACHER ADVISORY COMMITTEE

WHEREAS, teachers are highly skilled professionals who are essential to the success of our public schools in North Carolina; and

WHEREAS, teachers work to support all students as they learn, develop, and grow; and

WHEREAS teachers are committed to working with a wide range of community organizations, businesses, and other partners to address students' educational potential and needs; and

WHEREAS teachers seek to develop the whole child, meeting the physical, social, and emotional needs of their students; and

WHEREAS, teachers strive to use cutting edge technology and innovative approaches to ensure that all students receive individualized instruction; and

WHEREAS, teachers pursue high quality professional development to bring best practices to the classroom; and

WHEREAS, teachers prepare students across North Carolina from pre-kindergarten through grade 12 to graduate from high school ready to pursue post-secondary education or a career; and

WHEREAS, it is important for teachers to share their specialized knowledge and skills to enhance public education and help public officials understand how the impact of their decisions affects the classroom;

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

Section 1. Establishment

The Governor's Teacher Advisory Committee ("Committee") is hereby established.

Section 2. Membership

a. The Committee shall be composed of up to twenty-five members appointed by the Governor. Members shall be active classroom teachers and may include other educational support personnel serving in North Carolina public schools. Members should represent diverse demographic and geographic regions of the state, grade levels, and subject areas.

b. Committee members shall serve terms of two years and may be reappointed to successive terms. Committee members serve at the pleasure of the Governor.

c. The Governor's Teacher Advisor shall serve as the Chair of the Committee. The Committee shall select a Vice-Chair from its membership.

Section 3. Duties

Committee members shall have the following responsibilities:

a. Advise the Governor regarding the impact of the following on teachers, students, and schools:

1) state and federal education policies for pre-kindergarten through grade 12;
2) local board of education policies that are not required by state or federal laws, policies or regulations;
3) the state budget;
4) proposed or pending state or federal legislation, policies or regulations; and
5) other issues deemed appropriate by the Governor.

b. Serve as Education Ambassadors for the Governor, including, but not limited to the following:

1) representing the Governor at designated events;
2) establishing and maintaining positive communications with local boards of education and education stakeholders for the purpose of sharing the Governor's education agenda; and
3) sharing information about opportunities for the Governor to support teachers in their critical roles.

c. Advise the Governor regarding other issues related to education as requested by the Governor.

Section 4. Meetings

a. The Committee shall meet as a body of the whole once a quarter and at other times at the call of the Chair or the Governor. The Committee may conduct meetings using electronic conferencing or other electronic means.

b. A simple majority of the Committee members shall constitute a quorum for the purpose of transacting the business of the Committee.

Section 5. Administration

The Office of the Governor shall provide staff and administrative support services for the Committee.

Members shall serve without compensation, but may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 6. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 26, dated September 3, 2013. This Executive Order shall remain in effect until August 14, 2021, pursuant to N.C. Gen. Stat.§ 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 14th day of August in the year of our Lord two thousand and seventeen.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER

GOVERNOR

August 15, 2017

EXECUTIVE ORDER NO. 17

NOTICE OF TERMINATION OF EXECUTIVE ORDERS 12 AND 13

WHEREAS, Executive Order No. 12, issued on July 27, 2017, declared a state of emergency in a portion of North Carolina due to a construction accident at the Bonner Bridge that resulted in damage to the main transmission power lines that provides power to Hatteras Island in Dare County and Ocracoke Island in Hyde County; and

WHEREAS, Executive Order No. 13, issued on July 27, 2017, waived the maximum hours of service for drivers transporting supplies and equipment for utility restoration and essentials in commerce, and with the concurrence of the Council of State temporarily suspended size and weight restrictions on vehicles used for utility restoration and carrying essentials on the interstate and intrastate highways in North Carolina.

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

Pursuant to N.C.G.S § 166A-19.20(c) the state of emergency that was declared by Executive Order No. 12 and the suspension of transportation regulations in Executive Order No. 13 are hereby terminated immediately.

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 15th day of August in the year of our Lord two thousand and seventeen.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

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

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice *is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Agriculture and Consumer Services intends to adopt the rules cited as 02 NCAC 52L .0101-.0113, .0201, .0301, .0401-.0402, amend the rule cited as 02 NCAC 52B .0213, and repeal the rule cited as 02 NCAC 52C .0701.*

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

Proposed Effective Date: *January 1, 2018*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice)*: *To request a public hearing, please send the request in writing with your contact information to Tien Cheng, 1001 Mail Service Center, Raleigh, NC 27699 or email a copy of the written request to tien.cheng@ncagr.gov.*

Reason for Proposed Action: *The General Assembly by way of Session Law 2015-263 moved regulatory and rulemaking authority over farmed cervids from the Wildlife Resources Commission to the Department of Agriculture and Consumer Services. The Department, under G.S. 106-549.97, has the duty to regulate the production, sale, possession, and transportation, including importation and exportation, of farmed cervids. One key goal is to limit the possibility of the spread of Chronic Wasting Disease to North Carolina's farmed cervid industry. 02 NCAC 52L .0101-.0113, .0201, .0301, and .0401-.0402 creates the necessary framework and enforcement mechanism for the Department to be able to carry out this mission. These rules also follow the USDA Standards and 9 C.F.R. Part 55 and 9 C.F.R. Part 81. Amendments to 02 NCAC 52B .0213 are also necessary for implementing an effective farmed cervid regulatory program. The Department is recommending the repeal of 02 NCAC 52C .0701 because the tuberculosis provisions are no longer necessary as North Carolina is currently a tuberculosis free state. Moreover, provisions governing testing and record requirements are covered under proposed rules 02 NCAC 52L .0101-.0113, .0201, .0301, and .0401-.0402.*

Comments may be submitted to: *Tien Cheng, 1001 Mail Service Center, Raleigh, NC 27699; email tien.cheng@ncagr.gov*

Comment period ends: *November 14, 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 52 – VETERINARY DIVISION

SUBCHAPTER 52B - ANIMAL DISEASE

SECTION .0200 - ADMISSION OF LIVESTOCK TO NORTH CAROLINA

02 NCAC 52B .0213 IMPORTATION REQUIREMENTS: FARMED CERVIDS

(a) No ~~cervidae may~~ farmed cervids shall be imported into North Carolina ~~from~~ from:

(1) a herd located in a county or its equivalent, if not within the United States or in a territory without counties, in which Chronic Wasting Disease ~~CWD~~ ("CWD") has been diagnosed; ~~diagnosed or from;~~

(2) a herd located in a county ~~which~~ or its equivalent, if not within the United States or in a territory without counties, that is contiguous to a county or its equivalent, if not within the United States or in a territory without counties, in which CWD has been ~~diagnosed.~~ diagnosed; or

(3) a CWD-positive, exposed, or suspect farmed cervid facility.

(b) Any imported farmed cervid that fails to comply with G.S. 106-549.97, 02 NCAC 52L, or this Rule, shall be deemed a CWD-

suspect animal until further investigation by the Veterinary Division.

(c) No CWD susceptible farmed cervids, as identified by the Veterinary Division or the USDA, shall be imported into North Carolina, without first being tested negative for CWD using an ante mortem test approved by the USDA.

(d) All ~~cervidae~~ farmed cervids entering North Carolina ~~must~~ shall be accompanied by all of the following:

(1) ~~an official health certificate issued within 30 days prior to arrival;~~ an interstate certificate of veterinary inspection ("ICVI") that shall be maintained by the farmed cervid owner for a period of five years, subject to inspection and copying by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division, as defined and required by 9 C.F.R. Part 86, which is hereby incorporated by reference including any later amendments and editions, and available free of cost at https://www.gpo.gov/fdsys/granule/CFR-2014-title9-vol1/CFR-2014-title9-vol1-part86;

(2) individual animal ~~identification,~~ identification ~~such as a bangle-type ear tag, with lettering two inches or greater that can be viewed from a distance~~ as required by 02 NCAC 52L .0112 and noted on the ~~health certificate;~~ ICVI;

(3) ~~an importation permit issued by the North Carolina State Veterinarian. The request for an importation permit must be made by a licensed, accredited veterinarian, as defined in 02 NCAC 52B .0401, and must be accompanied by a copy of the official health certificate and a copy of the captivity permit issued by the North Carolina Wildlife Resources Commission;~~ a valid transportation permit issued by the Veterinary Division;

(4) the following statement ~~must~~ shall also appear on the ~~health certificate:~~ ICVI: "All cervidae on this certificate originate from a Chronic Wasting Disease (CWD) monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, signs, or epidemiological evidence of CWD in this herd or any herd contributing to this herd for the previous five years.";

(5) proof of a negative test for brucellosis for all animals six months of age or older within 30 days prior to arrival. The herd of origin ~~must~~ shall have had no diagnosis of brucellosis in the 12 months preceding shipment; and

(6) proof of a negative ~~single cervical test for~~ USDA approved tuberculosis test for animals six months of age or older conducted within 60 days prior to arrival if the animal originates from a tuberculosis accredited ~~or qualified~~ herd. If the animal is six months of age or older and originates from a herd of unknown status, two negative ~~single cervical~~ USDA approved tests for tuberculosis ~~will~~ shall be required with the second being greater than 90 days from the initial test and within 60 days prior to arrival. If the animal is less than six months of age and from a herd of unknown status, one negative ~~single cervical~~ USDA approved tuberculosis test ~~will~~ shall be required. The herd of origin and commingled susceptible species ~~must~~ shall have had no diagnosis of tuberculosis in the 36 months preceding shipment.

(e) The State Veterinarian of North Carolina may issue orders prohibiting the importation of certain farmed cervids or issue moratoriums pending the investigation of any threat of disease based on his or her expertise and experience that will pose a risk of spreading disease that will damage or harm the North Carolina farmed cervid industry, including the control or spread of CWD.

Authority G.S. 106-307.5; 106-317; 106-400; 106-401; 106-549.97(a2).

SUBCHAPTER 52C - CONTROL OF LIVESTOCK DISEASES: MISCELLANEOUS PROVISIONS

SECTION .0700 – MISCELLANEOUS REQUIREMENTS

02 NCAC 52C .0701 INTRASTATE REQUIREMENTS: CERVIDAE

~~(a) Cervidae that originate from herds containing cervidae only may be sold within North Carolina, if they test negative for tuberculosis within 60 days of change of ownership.~~

~~(b) Cervidae that are commingled with domestic livestock may be sold within North Carolina provided that domestic cattle are tested annually, and all cervidae and bovidae other than domestic cattle and bison are tested negative for tuberculosis within 60 days prior to moving intrastate.~~

~~(c) Cervidae owners shall maintain records showing:~~

~~(1) date and source of new additions to the herd;~~

~~(2) date of deaths of cervidae and copy of laboratory report on cause of death; and~~

~~(3) date of sale or other disposition of any animal from a herd containing cervidae and the name and address of person who received the animal.~~

~~These records shall be maintained by the cervidae owner for a period of five years and shall be made available for inspection and copying by an employee of the NC Department of Agriculture Veterinary Division.~~

~~(d) All captive cervidae of any species 12 months of age or older that die of any cause shall be tested for Chronic Wasting Disease. The animal's head shall be submitted to a USDA approved laboratory for testing. Information about USDA approved laboratories may be found by calling the USDA APHIS Customer Service Call Center at 1-844-820-2234. A copy of the laboratory report shall be sent to the State Veterinarian 1030 Mail Service Center, Raleigh, North Carolina 27699.~~

~~(e) Cervidae owners shall comply with the "Uniform Methods & Rules: Tuberculosis Eradication in Cervidae," U.S. Department of Agriculture, which is hereby adopted by reference, including subsequent editions and amendments. A copy of this document~~

~~may be obtained from the NC Department of Agriculture Veterinary Division at no charge.~~

Authority G.S. 106-549.97(a2).

SUBCHAPTER 52L – FARMED CERVIDS

SECTION .0100 – FARMED CERVID LICENSE AND PERMIT

02 NCAC 52L .0101 INCORPORATION BY REFERENCE

(a) For the purpose of the rules in this Subchapter, the following rules and standards are hereby incorporated by reference including any subsequent amendments and editions:

(1) 9 C.F.R. Part 55;
(2) 9 C.F.R. Part 81;
(3) 9 C.F.R. Part 86; and
(4) The United States Department of Agriculture's Chronic Wasting Disease Program Standards (May 2014).

(b) The rules and standards incorporated by reference in Paragraph (a) of this Rule are available free of cost at https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR and https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/sa_alternate_livestock/sa_cervid_health/sa_cwd/ct_cervid_health_program.

Authority G.S. 106-317; 106-400; 106-549.97(a2).

02 NCAC 52L .0102 DEFINITIONS

(a) The definitions of the incorporated rules and standards under 02 NCAC 52L .0101 apply to such terms when used in this Subchapter, to the extent that they do not conflict with G.S. 106-549.97(a)(1) or Paragraph (b) of this Rule.

(b) The following definitions apply to this Subchapter:

(1) "APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.
(2) "Carcass" means the head, the whole animal, or tissue sample extracted in accordance with the USDA Standards, 9 C.F.R. 55.23(b)(3), and 9 C.F.R. 55.8.
(3) "Certified Herd" means any herd that has reached Certified status under an Approved State Chronic Wasting Disease Herd Certification Program as determined by the USDA in accordance with 9 C.F.R. 55.23(a) and 9 C.F.R. 55.24(a).
(4) "CWD Testing" means official Chronic Wasting Disease ("CWD") testing in accordance with the USDA Standards, (6.2) Official CWD Test, and 9 C.F.R. 55.8.
(5) "Diagnostic Laboratory" means the North Carolina Department of Agriculture & Consumer Services Veterinary Diagnostic Laboratory System.
(6) "Facility" means a facility for farmed cervids.
(7) "Fawns" or "Calves" means cervids under one year of age.
(8) "Herd Certification Program" means the North Carolina Farmed Cervid Herd Certification Program.
(9) "ICVI" means interstate certificate of veterinary inspection.
(10) "Licensed Facility" means any facility issued a farmed cervid license.
(11) "Licensee" means a person issued a farmed cervid license in accordance with the rules of this Subchapter and include designees made by the licensee.
(12) "Monitored Herd" means any herd that has reached Certified status under the North Carolina Monitored Herd Certification Program for CWD non-susceptible species in accordance with 02 NCAC 52L .0402.
(13) "Officially Identified" means the proper attachment of a tamper-resistant ear tag approved for use by the Veterinary Division, on a farmed cervid.
(14) "State" means the State of North Carolina.
(15) "Veterinary Division" means the Veterinary Division of the North Carolina Department of Agriculture and Consumer Services.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0103 FARMED CERVID LICENSE OR TEMPORARY EXHIBIT PERMIT REQUIRED

No person shall possess, exhibit, buy or sell, or partake in the production of any farmed cervid within the State unless that person first obtains a farmed cervid license or a temporary exhibit permit from the Veterinary Division in accordance with the rules in this Subchapter.

Authority 106-549.97(a2).

02 NCAC 52L .0104 FARMED CERVID LICENSE

(a) Farmed Cervid License.

(1) Persons interested in obtaining a farmed cervid license shall apply with the Veterinary Division.
(2) Both licensees and persons interested in obtaining a farmed cervid license shall comply with 02 NCAC 52L .0401(c)(1) and 02 NCAC 52L .0402(d)(1) by enrolling herds in either the Herd Certification Program or the Monitored Herd Certification Program, or both.

(b) Terms of License and Inventory Report.

(1) A farmed cervid license is valid from July 1 through June 30 for the year in which it was issued, unless a new license is approved after July 1, then any license approved shall take effect the date of issue.

(2) Licensees may apply for renewal each year during the renewal period of January 1 through March 31.

(3) Licensees shall submit an inventory report in writing with their license renewal. The inventory report shall include the:

(A) licensee's name, mailing address, telephone number, and email address;

(B) licensed facility name, address, and national premises identification number;

(C) farmed cervid license number;

(D) species, sex, and birth year of each farmed cervid;

(E) animal identification numbers for each farmed cervid;

(F) date of disposition or death of any farmed cervid.

(4) The inventory report shall be accompanied by a statement from the licensee verifying the information provided is accurate.

(c) Renewal of Farmed Cervid License.

(1) Existing farmed cervid licenses at existing facilities shall be renewed as long as the applicant for renewal continues to meet the licensing requirements of this Subchapter.

(2) A person whose license has lapsed shall not be eligible for renewal, but may apply for a new license.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0105 DENIAL OF FARMED CERVID LICENSE

(a) Circumstances or purposes for which a farmed cervid license shall not be issued or renewed include the following:

(1) failing to submit a complete application or renewal;

(2) submitting a falsified application or renewal;

(3) for the purpose of holding non-farmed cervids or farmed cervids that were transported without a valid transportation permit;

(4) for the purpose of rehabilitating non-farmed cervids;

(5) for the purpose of comingling farmed and non-farmed cervids;

(6) keeping any farmed cervid not for agricultural or commercial purposes, such as buying, selling, and production of farmed cervids, or for scientific, exhibition, and educational purposes;

(7) to an individual under the age of 18 years of age;

(8) failing to submit the proper application to have herds enrolled in either or both the Herd Certification Program or the Monitored Herd Certification Program; or

(9) the applicant has violated State or Federal laws or regulations for livestock, and that the nature of the violation indicates that the applicant may not comply with the requirements of the farmed cervid license.

(b) Any person whose farmed cervid license or permit has been revoked or suspended shall not be licensed within the period during which the order of revocation or suspension remains in effect.

(c) Any person who has been an officer, agent, or employee of a person whose farmed cervid license or permit has been revoked or suspended and who was responsible for, participated in, or worked for that person during the violation upon which the order of revocation or suspension was based, shall not be licensed for that facility within the period during which the order of revocation or suspension remains in effect.

(d) No farmed cervid license shall be issued until the applicant has constructed or acquired a facility for keeping farmed cervids that complies with 02 NCAC 52L .0201 and has been verified by the Veterinary Division upon inspection.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0106 TEMPORARY EXHIBIT PERMIT

(a) Temporary exhibit permits shall not be issued for the buying, selling, or production of farmed cervids.

(b) A temporary exhibit permit shall only be issued for Reindeer or Caribou.

(c) Persons interested in obtaining a temporary exhibit permit shall apply with the Veterinary Division.

(d) Temporary exhibit permits are only valid for the dates and locations specified. Interested persons shall apply to the Veterinary Division:

(1) five business days prior to the date of exhibit if the exhibitor previously submitted a detailed exhibit facility plan, with pictures, that have been pre-approved by the Veterinary Division; or

(2) 60 days prior to the date of exhibit.

(e) The Veterinary Division shall only issue temporary exhibit permits when the temporary exhibit area is inspected by the Veterinary Division and meets the following criteria:

(1) all farmed cervids to be exhibited are from a certified herd and officially identified in accordance with 02 NCAC 52L .0112 and 9 C.F.R. 55.25;

(2) the temporary exhibit facility meets 02 NCAC 52L .0201(a)(4)-(7) regarding fencing to prevent farmed cervid escapes; except for farmed cervids exhibited during parades, which shall be secured so that no farmed cervids may escape; and

(3) the temporary exhibit complies with Aedin's Law, G.S. 106-520.3A, and rules promulgated thereunder when those laws and rules apply.

(f) All permit holders shall report any cervid escape, entry, or death within 24 hours of discovery to the Veterinary Division in accordance with 02 NCAC 52L .0110.

(g) Circumstances or purposes for which a temporary exhibit permit shall not be issued include:

(1) failing to submit a complete application;

(2) submitting a falsified application;
(3) for the purpose of holding non-farmed cervids or farmed cervids that have been transported without a transportation permit;
(4) for the purpose of rehabilitating non-farmed cervids;
(5) for the purpose of comingling farmed and non-farmed cervids; and
(6) to an individual under the age of 18 years of age.

(h) Any person whose farmed cervid license or temporary exhibit permit has been revoked or suspended, shall not be issued a temporary exhibit permit within the period during which the order of revocation or suspension remains in effect.

(i) Any person who has been an officer, agent, or employee of a person whose farmed cervid license or permit has been revoked or suspended and who is responsible for, participated in, or worked for that person during the violation upon which the order of revocation or suspension was based, shall not be issued a permit for that exhibit within the period during which the order of revocation or suspension remains in effect.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0107 TRANSFER OF FARMED CERVID LICENSE OR TEMPORARY EXHIBIT PERMIT

(a) No farmed cervid license, permit, or animal identification issued or assigned by the Veterinary Division is transferable, except as provided by in this Rule.

(b) If a farmed cervid licensee or temporary exhibit permit holder becomes incapacitated, mentally incompetent, dies, or if the business is sold or otherwise acquired, a person who is at least 18 years of age and has obtained lawful possession of any farmed cervid and the licensed facility from the previous licensee, or that licensee's estate, may request the Veterinary Division in writing, prior to the transfer, that the existing farmed cervid license, permit, and animal identification be transferred to the new owner.

(c) Any license, permit, or animal identification transferred under this provision shall be subject to the same terms and conditions imposed on the original licensee.

(d) Any actions pending from complaint, investigation, or other cause may be continued notwithstanding any transfer under this Rule.

(e) No farmed cervid license, permit, or animal identification shall be transferred to a person who had a farmed cervid license or permit revoked or suspended by the Veterinary Division within the period during which the order of revocation or suspension remains in effect.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0108 VOLUNTARY SURRENDER OF FARMED CERVID LICENSE OR TEMPORARY EXHIBIT PERMIT

Farm cervid licensees or temporary exhibit permit holders may voluntarily surrender any license or permit issued under this Subchapter by notifying the Veterinary Division in writing.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0109 RECORDS AND INSPECTION

(a) Maintenance of Records.
(1) Each licensee shall maintain herd records for all farmed cervids, regardless of whether tagged with animal identification or not, as required by the USDA Standards and 9 C.F.R. 55.23(b), and also maintain a copy of any CWD Diagnostic Laboratory submission form.
(2) All records required by this Subchapter and any ICVI as defined and required by 9 C.F.R. Part 86 shall be maintained by the licensee for a period of five years.

(b) Inspection of Records. The licensee shall make all records required under this Subchapter available for inspection and copying by the Veterinary Division.

(c) Inspection and Inventory of Licensed Facility and Exhibit. The licensee shall make all enclosures, exhibits, and any farmed cervid available for inspection by the Veterinary Division under conditions where all identification on the animals may be safely read. The licensee shall be responsible for all costs incurred to present the animals for inspection and agree that any liability or injury to the animals during handling rests with the licensee.

(d) Fence Monitoring Requirement. The fence surrounding the enclosure shall be monitored weekly for structural soundness and stability by the licensee to prevent ingress and egress of any cervid.

(e) Maintenance.
(1) Any opening or passage resulting from damage or deterioration to the perimeter fence shall be sealed by the licensee within 24 hours upon detection or the animals secured until the fence is repaired to prevent any farmed cervid escape.
(2) Any damage to the enclosure fence that threatens its stability shall be repaired by the licensee within seven calendar days of detection, or within 24 hours if there is an imminent threat of farmed cervid escape.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0110 ESCAPE, DISAPPEARANCE, OR BREACH OF FACILITY

(a) When a licensee discovers the escape or disappearance of any farmed cervid, the licensee shall report the escape or disappearance within 24 hours by contacting the Veterinary Division by telephone or email. The telephone number and email address is available at http://www.ncagr.gov/vet/FarmedCervid/.
(1) The report shall include the identification numbers of the animals involved and the estimated time and date of escape or disappearance, and if deceased, the estimated time and date of death.
(2) A recaptured live farmed cervid shall be held in quarantine by itself or with other escapees by the licensee until the Veterinary Division determines the disposition of the farmed cervid. Failure to quarantine the escaped farmed cervid

to prevent commingling with the herd shall result in the quarantine of the entire herd.

(3) The licensee shall be responsible for all costs associated with CWD testing and disposal of any escaped animal.

(4) If live recapture is not possible, the licensee shall harvest the escaped cervid and submit the deceased cervid to the Diagnostic Laboratory for CWD testing.

(b) When a licensee discovers the entry of any non-farmed cervid into the licensed facility, the licensee shall report the entry within 24 hours by contacting the Veterinary Division by telephone or email, available at http://www.ncagr.gov/vet/FarmedCervid/, for further action or disposition of the non-farmed cervid.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0111 REPORTING CWD SYMPTOMS AND FARMED CERVID DEATH

(a) Each licensee shall notify the Veterinary Division by telephone upon discovery if any farmed cervid exhibits clinical symptoms of CWD, including loss of body condition, behavioral changes, excessive salivation, increased drinking and urination, depression, and eventual death. The Veterinary Division's telephone number is available at http://www.ncagr.gov/vet/FarmedCervid/.

(b) Farmed cervids that exhibit clinical symptoms of CWD shall not be transported unless directed by the Veterinary Division.

(c) Licensees shall report to the Veterinary Division using a form provided by the Veterinary Division within 24 hours upon knowledge of the death of any farmed cervid, including any slaughtered farmed cervid, whether sent to a slaughterhouse or slaughtered at the farm cervid facility for personal use. The report shall include the following information:

(1) licensee's name, mailing address, telephone number, and email address;

(2) licensed facility name, address, and national premises identification number;

(3) farmed cervid license number;

(4) year of date of death;

(5) species and sex of each farmed cervid;

(6) animal identification for each farmed cervid;

(7) name and location of the Diagnostic Laboratory where the carcass of the farmed cervid is to be submitted for CWD testing; and

(8) a statement from the licensee verifying the information provided is accurate.

(d) The carcass of any farmed cervid that was 12 months of age or older that died of any cause shall be submitted by the licensee to the Diagnostic Laboratory for CWD testing unless instructed otherwise by the Veterinary Division due to the condition of the carcass.

(e) Regardless of age, after death, the carcass of farmed cervids that exhibited clinical symptoms of CWD shall be submitted to the Diagnostic Laboratory for CWD testing unless instructed otherwise by the Veterinary Division due to the condition of the carcass.

(f) In cases where animals escape or disappear and are not available for tissue sampling and testing, or when the samples are of such poor quality, as determined in accordance with the USDA Standards, including (5.6) Sample Collection: Owner Responsibility, (5.7) Sample Collection and Submission Procedures, (5.9) Quality Control, (5.10) Consequences of Poor Quality and Missing Samples, (6.4) Test Results, and (6.5) Autolyzed Samples, that they cannot be tested for CWD, the Veterinary Division may investigate whether the unavailability of animals or usable samples for testing constitutes a failure to comply with program requirements and may affect the herd's status in the Herd Certification Program and the Monitored Herd Certification Program.

(g) The Veterinary Division may require CWD testing or quarantine, or both, at any facility should the following circumstances or conditions occur:

(1) any herd or animal that has tested positive for CWD within the facility;

(2) a facility that has received farmed cervid from a facility that tested positive for CWD within five years;

(3) a facility that may have been exposed to any CWD positive or suspect farmed cervid; or

(4) a facility that has transferred any farmed cervid that later tests positive for CWD within five years of transfer.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0112 ANIMAL IDENTIFICATION

(a) Animal Identification Required.

(1) Licensees shall identify all farmed cervids with two forms of animal identification in accordance with the USDA Standards and 9 C.F.R. 55.25.

(2) Licensees shall use USDA official tamper-resistant ear tags, approved for use by the Veterinary Division, to satisfy Subparagraph (a)(1) of this Rule.

(3) Farmed cervids born within a licensed facility shall be officially identified on or before 12 months of age. Fawns and calves shall be deemed a year old for purposes of the Rules in this Subchapter and shall be officially identified by the first coming July 1 following their birth unless the farmed cervid licensee can prove the age of the fawn or calf by way of record keeping the exact month and year a fawn or calf was born.

(4) All farmed cervids, regardless of age, shall be officially identified before being transported.

(5) All farmed cervids shall be identified and included in the inventory report and records as required by 02 NCAC 52L .0104(b) and 02 NCAC 52L .0109(a).

(b) Application for Animal Identification Tags.

(1) Applicants may request animal identification tags from the Veterinary Division using a form provided by the Veterinary Division by providing following information:

(A) applicant's name, mailing address, telephone number, and email address;
(B) licensed facility name, address, and national premises identification number; and
(C) farmed cervid license number.

(2) The application shall be accompanied by a statement from the licensee verifying that the information provided is accurate.

(3) The Veterinary Division may provide animal identification tags upon receipt of the completed application.

(c) Replacement of Animal Identification Tags.

(1) Lost Tags. The loss of a tag shall be reported to the Veterinary Division by the licensee.

(2) Unusable Tags. Tags that cannot be affixed to the ear of a farmed cervid or unreadable because of malformation or damage to the tags shall be reported to the Veterinary Division by the licensee.

(3) Licensees may request replacement tags using the same form as provided pursuant to Paragraph (b) of this Rule and shall include the information required by Paragraph (b) of this Rule. The Department may provide replacement tags upon receipt of the application.

(4) Licensees shall update their records to reflect any replacement of tags and notify the Veterinary Division of the update when submitting records during the license renewal period.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0113 TRANSPORTATION PERMIT

(a) No person shall transport any farmed cervid within the State unless that person first obtains a transportation permit from the Veterinary Division.

(b) A transportation permit shall only be issued by the Veterinary Division to an applicant to transport farmed cervids:

(1) from a Certified Herd;
(2) from a herd enrolled in the Monitored Herd Certification Program;
(3) to and from a veterinary medical facility for medical diagnosis or treatment;
(4) to a slaughterhouse for slaughter;
(5) for export out of North Carolina, subject to 9 C.F.R. 81.3; and
(6) for import into North Carolina, subject to 02 NCAC 52B .0213.

(c) All transportation permit applications shall be submitted to the Veterinary Division using a form provided by the Veterinary Division except for transportation for emergency veterinary treatment purposes in accordance with Paragraph (g) of this Rule, and shall include the following information:

(1) applicant's name, mailing address, telephone number, and email address;
(2) licensed facility or out-of-state facility name, address, and national premises identification number;
(3) farmed cervid license number or out-of-state CWD Herd Certification Program identification number;
(4) species and sex of each farmed cervid;
(5) animal identification for each farmed cervid;
(6) destination name, address, telephone number, and email address; and
(7) reason for the movement.

(d) Transportation permit applications shall include the following information when applicable:

(1) any farmed cervid to be moved for slaughter, the name and location of the Diagnostic Laboratory where the carcass of the farmed cervid is to be submitted for CWD testing;
(2) transporting farmed cervids to an exhibit, the exhibit permit number;
(3) importing farmed cervid into the State, a copy of the ICVI as defined and required by 9 C.F.R. Part 86; and
(4) importing into the State any CWD susceptible farmed cervid, as identified by the Veterinary Division or the USDA, a copy of the negative ante mortem CWD test result using a method approved by the USDA.

(e) The transportation permit application shall be accompanied by a statement from the applicant verifying that the information provided is accurate.

(f) No CWD susceptible farmed cervids shall be exported out of State unless the animals have reached Certified status.

(g) Emergency Veterinary Treatment. An applicant seeking to transport any farmed cervid for veterinary treatment shall first contact the Veterinary Division by telephone or email to seek authorization. The telephone number and email address is available at http://www.ncagr.gov/vet/FarmedCervid/. The applicant shall provide to the Veterinary Division, at the time of the request, information listed under Paragraph (c) of this Rule.

(h) No approval shall be issued for transportation of a farmed cervid to a veterinary medical facility out-of-state.

(i) Any verbal authorization from the Veterinary Division shall only allow transportation of the farmed cervid to the specified veterinary medical facility and directly back to the licensed facility, and shall not be construed to permit intervening destinations.

(j) Transportation permits shall be valid for 30 calendar days unless otherwise stated.

(k) Licensees shall notify the Veterinary Division in writing, including the identification numbers of any farmed cervid not transported in accordance with the transportation permit, within seven calendar days after the expiration of the permit.

(l) Any person transporting any farmed cervid shall present the transportation permit to any law enforcement officer or any representative of the Department upon request, except that a person transporting a farmed cervid by verbal authorization for emergency veterinary treatment shall provide the Veterinary Division's telephone number that the person contacted.

Authority G.S. 106-307.5; 106-549.97(a2).

SECTION .0200 – ENCLOSURE REQUIREMENTS

02 NCAC 52L .0201 ENCLOSURE REQUIREMENTS

(a) The enclosure size for any farmed cervid, including any fawn or calf, shall be at least half acre.

(b) Pen density requirements shall be as follows:

(1) Three or less animals, excluding fawns or calves, for the first half acre;

(2) each additional animal, excluding fawns or calves, requires an additional one fourth acre until the enclosure reaches two acres; and

(3) a facility larger than two acres may have more than nine animals, provided animal husbandry practices are utilized to prevent dietary, environmental, behavioral, or other stresses.

(c) Bodies of water and impassible areas shall not be counted towards the minimum enclosure size or the area for pen density.

(d) The enclosure shall be surrounded by a fence of sufficient strength and design to prevent ingress or egress of both farmed and non-farmed cervids under any circumstances, be at least eight feet high, and have a ground clearance of no greater than three inches.

(e) Farmed cervids shall not be contained within or be allowed to enter a place of residence.

(f) No exposed barbed wire, nails, or other protrusions that may cause injury to the animals shall be permitted within the enclosure.

(g) If a person wishes to maintain two or more separate herds, that person shall maintain separate herd inventories, records, working facilities, water sources, equipment, and land use. There shall be a buffer zone of at least 30 feet between the perimeter fencing around separate herds, and no commingling of animals shall occur. Movement of animals between herds shall be recorded as if they were separately owned herds.

Authority G.S. 106-549.97(a2).

SECTION .0300 – ENFORCEMENT

02 NCAC 52L .0301 LICENSE OR PERMIT REVOCATION, FORFEITURE, AND DEPOPULATION

(a) The Veterinary Division may take one or more of the following actions against any person for failure to comply with the requirements of G.S. 106-549.97, 9 C.F.R. Part 55, 9 C.F.R. Part 81, the USDA Standards, or this Subchapter:

(1) issue warnings;

(2) assess civil penalties up to five thousand dollars ($5,000) per animal;

(3) revoke any license or permit issued under this Subchapter;

(4) cancel the enrollment in the Herd Certification Program or the Monitored Herd Certification Program; or

(5) reduce the status of a herd in accordance with 02 NCAC 52L .0401(h).

(b) In addition to Paragraph (a) of this Rule, the Veterinary Division may direct the disposition of any farmed cervid in possession by a person without a valid farmed cervid license or permit in accordance with Paragraph (e) of this Rule and may order any farmed cervid brought into this state illegally to be quarantined, tested for CWD, or terminated, or any combination thereof.

(c) Violations of this subchapter include but are not limited to the following circumstances or conditions:

(1) providing inaccurate or false information to the Veterinary Division;

(2) failing to comply with animal identification requirements;

(3) failing to comply with facility enclosure and maintenance requirements;

(4) failing to comply with monitoring or record-keeping requirements;

(5) failing to allow the Veterinary Division to inspect any facility, farmed cervid, or record;

(6) failing to report the death, escape, or disappearance, of any farmed cervid; or

(7) failing to submit deceased farmed cervid for CWD testing.

(d) The Veterinary Division may revoke a farmed cervid license or temporary exhibit permit, or both, under any of the following circumstances or conditions:

(1) The farmed cervid licensee or temporary exhibit permit holder fails to report symptoms of chronic wasting disease in a farmed cervid to the Veterinary Division as required by 02 NCAC 52L .0102(n);

(2) The farmed cervid licensee or temporary exhibit permit holder fails to transport and submit a farmed cervid carcass to a Diagnostic Laboratory for CWD testing as required by 02 NCAC 52L .0102(m)-(n); or

(3) The farmed cervid licensee or temporary exhibit permit holder has transported any farmed cervid without a permit in accordance with 02 NCAC 52L .0113.

(e) Disposition of Farmed Cervid.

(1) In the event of decommissioning a facility, all farmed cervids shall be disposed of by the owner in one or more of the following manners:

(A) sell or otherwise transfer ownership and possession of any farmed cervid;

(B) export out of state any farmed cervid; or

(C) terminate any remaining farmed cervid.

(2) In the event the Veterinary Division has directed the disposition of any farmed cervid and when the owner refuses to comply, the Veterinary Division may terminate the farmed cervid, with costs to be paid by the owner.

(3) The release of any farmed cervid to the wild by any person without authorization by the Veterinary Division shall be prohibited.

(f) Disposal of Dead Farmed Cervids.

(1) Licensees shall be responsible for the proper disposal of any dead farmed cervid carcass and the costs associated with disposal.

(2) The carcass of farmed cervids that have been designated by the Department as CWD-positive, exposed, or suspect shall be disposed in accordance with the USDA Standards, (4.1) Suitable Disposal Methods, and using one of options provided under USDA Standards, Appendix V: Carcass Disposal of CWD-Positive Animals or Animals of Unknown Status.

(3) The carcass of farmed cervids that have not been designated by the Department as CWD-positive, exposed, or suspect may be disposed of in accordance with 02 NCAC 52C .0102.

Authority G.S. 106-549.97(a2); 106-549.97(j).

SECTION .0400 – HERD CERTIFICATION PROGRAMS

02 NCAC 52L .0401 NORTH CAROLINA FARMED CERVID HERD CERTIFICATION PROGRAM

(a) Scope. This Section shall only apply to CWD susceptible farmed cervids.

(b) Enrollment Qualifications.

(1) Only applicants that have a valid farmed cervid license or have applied for one shall be eligible to have herds enrolled in the Herd Certification Program.

(2) Applicants shall comply with all farmed cervid license requirements Rules in this Subchapter in order to have herds enrolled and remain in the Herd Certification Program.

(c) Enrollment.

(1) Persons who possess any CWD susceptible farmed cervid in the State shall apply with the Veterinary Division to have herds enrolled in the Herd Certification Program, if not already enrolled.

(2) The Veterinary Division shall determine the herd's enrollment eligibility and compliance with all farmed cervid license rules, and may request additional information regarding the herd animals and operations.

(3) The Veterinary Division shall deny enrollment if:

(A) the applicant submits an incomplete application;

(B) the applicant has provided false information;

(C) the applicant fails to provide additional information requested by the Veterinary Division;

(D) the applicant has previously violated State or Federal laws or regulations for livestock, and that the nature of the violation indicates that the applicant may not comply with the requirements of the Herd Certification Program;

(E) the herd to be enrolled has been designated as CWD-positive, exposed, or suspect by the Veterinary Division or by an APHIS employee, and has not yet entered into a valid herd plan;

(F) any pending or outstanding citation exists against the applicant;

(G) the applicant has failed to comply with any farmed cervid license requirement; or

(H) the applicant refuses inspection by the Veterinary Division in accordance with Paragraph (i) of this Rule.

(4) Upon determining that a herd is eligible to participate in the Herd Certification Program in accordance with Paragraphs (b) and (c) of this Rule, the Veterinary Division shall send the applicant a notice of enrollment that includes the herd's enrollment date.

(d) Enrollment Dates. The enrollment date for a herd that joins the North Carolina Herd Certification Program after August 13, 2012, shall be the date the herd is approved for participation upon inspection except:

(1) For new herds that were formed from and contain only animals from herds enrolled in an Approved State CWD Herd Certification Program, the enrollment date shall be the latest enrollment date for any source herd for the animals;

(2) The first day that the herd participated in any state program that APHIS at a later date determines qualifies as an Approved State CWD Herd Certification Program;

(3) If the herd was enrolled in the Monitored Herd Certification Program, then the enrollment date shall be the same as the Monitored Herd Certification Program enrollment date, subject to 9 C.F.R. 55.22(b)(1)(i); or

(4) Any other exception provided under 9 C.F.R. 55.22(b).

(e) Initial and Subsequent Herd Status.

(1) When a herd is first enrolled in the Herd Certification Program, it shall be placed in the First Year status; except that if the herd is composed only of animals:

(A) obtained from herds already enrolled in the Herd Certification Program, the newly enrolled herd shall have the same status as the lowest status of any herd that provided animals for the new herd; or

(B) enrolled in the Monitored Herd Certification Program, the newly enrolled herd shall have its status transferred, subject to 9 C.F.R. 55.22(b)(1)(i).

(2) If the herd continues to meet the requirements of the Herd Certification Program, each year, on the anniversary of the enrollment date, the herd status shall be upgraded by one year as follows:
  (A) First Year – starts on enrollment date of the herd in the CWD Herd Certification Program.
  (B) Second Year – starts on the anniversary date of the First Year.
  (C) Third Year – starts on the anniversary date of the Second Year.
  (D) Fourth Year – starts on the anniversary date of the Third Year.
  (E) Fifth Year – starts on the anniversary date of the Fourth Year.
(3) One year from the date a herd is placed in Fifth Year status, the herd status shall be changed to Certified, and the herd shall remain in Certified status as long as it is enrolled in the program, provided its status is not lost or suspended.

(f) Loss or Suspension of Herd Status.
(1) If the Veterinary Division determines that animals from a herd enrolled in the Herd Certification Program have commingled with animals from a herd with a lower program status, including CWD non-susceptible farmed cervids, the herd with the higher program status shall be reduced to the status of the herd with which its animals commingled.
(2) If a herd is designated a CWD-positive herd or a CWD-exposed herd by the Veterinary Division, it shall upon designation lose its program status and may only reenroll after entering into a herd plan.
(3) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd by the Veterinary Division, it shall upon designation be placed in Suspended status pending an epidemiologic investigation by the Veterinary Division in accordance with the USDA Standards. If the epidemiologic investigation:
  (A) determines that the herd was not commingled with a CWD-positive animal, the herd shall be reinstated to its former program status, and the time spent in Suspended status shall count toward its promotion to the next herd status level;
  (B) determines that the herd was commingled with a CWD-positive animal, the herd shall lose its program status and shall be designated a CWD-exposed herd;
  (C) is unable to make a determination regarding the exposure of the herd, because the necessary animal or animals are no longer available for testing (i.e., a trace animal from a known positive herd died and was not tested) or for other reasons, the herd status shall continue as Suspended until a herd plan is developed for the herd in accordance with its definition under 9 C.F.R. 55.1 and the USDA Standards, Part B. Guidance on Responding to CWD Affected Herds. If a herd plan is developed and implemented, the herd shall be reinstated to its former program status, and the time spent in Suspended status shall count toward its promotion to the next herd status level. If the epidemiological investigation finds that the owner of the herd has not complied with the rules of this Subchapter for animal identification, animal testing, and recordkeeping, the herd shall be reinstated into the Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status. Any herd reinstated after being placed in Suspended status shall then comply with the requirements of the herd plan as well as the requirements of the Herd Certification Program. The herd plan shall require testing of all animals that die in the herd for any reason, regardless of the age of the animal; may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question; and may include other requirements found necessary to control the risk of spreading CWD.

(g) Cancellation of Enrollment and Reduction of Herd Status.
(1) An owner may cancel participation of any herd in the Herd Certification Program by surrendering the owner's farmed cervid license in accordance with 02 NCAC 52L .0108 and by decommissioning the facility in accordance with 02 NCAC 52L .0301(e)(1).
(2) The Veterinary Division may cancel the enrollment or reduce the herd status of an enrolled herd after determining that the herd owner failed to comply with any Rule of this Subchapter, by giving written notice to the herd owner of the reasons for the proposed cancellation or reduction in status.
(3) Herd owners may appeal the designation of an animal as CWD-positive, cancellation of enrollment of a herd, or loss or suspension of herd status by writing to the Veterinary Division within ten business days of receiving the written decision. The appeal shall include

all of the facts and reasons that the herd owner relies upon to show that the reasons for the proposed action are incorrect or do not support the action.

(4) To appeal designation of an animal as CWD-positive, the owner may present as evidence the results of a DNA test requested and paid for by the owner to determine whether previous official CWD test results were correctly associated with an animal that belonged to the owner. If the owner intends to present such test results as evidence, the owner shall request the tests and state this in the written notice sent to the Veterinary Division. In such cases the Veterinary Division may postpone a decision on the appeal for a reasonable period pending receipt of the test results. Laboratories approved under 9 C.F.R. 55.8 are authorized to conduct DNA tests to compare tissue samples tested for CWD to samples from tissues that were collected at the same time from the same animal and are attached to an official animal identification device. The DNA tests are available only if the animal owner arranged to submit animal tissue attached to an official animal identification device along with the other tissues that were collected for the official CWD test.

(5) The Veterinary Division shall grant or deny the appeal in writing stating the reason for the Veterinary Division's decision.

(6) If the Veterinary Division grants an appeal of the status of a CWD-positive animal, the animal shall be re-designated as CWD-suspect pending further investigation to establish the final status of the animal and its herd.

(7) If there is a conflict as to a material fact determined by the Veterinary Division at the time of the appeal, a hearing shall be held to resolve the conflict.

(8) In the event of cancellation of enrollment by the Veterinary Division, any herd enrolled in the Herd Certification Program by that herd owner shall not reach Certified status until five years after the herd owner's new application for enrollment is approved by the Veterinary Division, regardless of the status of the animals of which the herd is composed.

(h) Adding Animals to Existing Herd.

(1) A herd may add animals from herds with the same or a higher herd status with no negative impact on the certification status of the receiving herd.

(2) If animals are acquired from a herd with a lower herd status, including CWD non-susceptible species, the receiving herd shall revert to the program status of the sending herd.

(3) If a herd participating in the Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd shall revert to First Year status with a new enrollment date as the date of acquisition of the animal.

(i) Inspection. If an inspection of any farmed cervid is needed as a part of enrollment, including reinstating a suspended status, the herd owner shall be responsible for assembling, handling, and restraining the farmed cervids. The owners shall be responsible for all costs incurred to present the animals for inspection and agree that any liability or injury to the animals during handling rests with the owner in accordance with the USDA Standards, (2.4) Participating Herd: Requirements for Enrollment.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0402 NORTH CAROLINA MONITORED HERD CERTIFICATION PROGRAM

(a) Scope. This section shall only apply to CWD non-susceptible farmed cervids.

(b) The Monitored Herd Certification Program shall provide an equivalent standard to the North Carolina Farmed Cervid Herd Certification Program for CWD non-susceptible farmed cervids.

(c) Enrollment Qualifications.

(1) Only applicants that have a valid farmed cervid license or have applied for one shall be eligible to have herds enrolled in the Monitored Herd Certification Program.

(2) Applicants shall comply with all farmed cervid license requirements under the rules in this Subchapter in order to have herds enrolled and remain in the Monitored Herd Certification Program.

(d) Enrollment Application.

(1) Persons who possess any CWD non-susceptible farmed cervid in the State shall apply with the Veterinary Division to have herds enrolled in the Monitored Herd Certification Program, if not already enrolled.

(2) The Veterinary Division shall determine the herd's enrollment eligibility and compliance with all farmed cervid license rules, and may request additional information regarding the herd animals and operations.

(3) The Veterinary Division shall deny an application if:

(A) the applicant submits an incomplete application;

(B) the applicant has provided false information;

(C) the applicant fails to provide additional information requested by the Veterinary Division;

(D) the applicant has previously violated State or Federal laws or regulations for livestock, and that the nature of the violation indicates that the applicant may not comply with the requirements of the Monitored Herd Certification Program;

(E) the herd to be enrolled has been commingled with any CWD-positive or CWD-exposed herd and has not yet entered into a valid herd plan.

(F) any pending or outstanding citation exists against the applicant;

(G) the applicant has failed to comply with any farmed cervid license requirement; or

(H) the applicant refuses inspection by the Veterinary Division in accordance with Paragraph (j) of this Rule.

(4) Upon determining that a herd is eligible to participate in the Monitored Herd Certification Program in accordance with Paragraphs (c) and (d) of this Rule, the Veterinary Division shall send the applicant a notice of enrollment that includes the herd's enrollment date.

(e) Enrollment Dates. The enrollment date for a herd that joins the North Carolina Monitored Herd Certification Program shall be the date the herd is approved for participation upon inspection except for new herds that were formed from and contain only animals from herds enrolled in the Monitored Herd Certification Program, the enrollment date shall be the latest enrollment date for any source herd for the animals.

(f) Initial and Subsequent Herd Status.

(1) When a herd is first enrolled in the Monitored Herd Certification Program, it shall be placed in the First Year status; except that if the herd is composed only of animals obtained from herds already enrolled in the Monitored Herd Certification Program, the newly enrolled herd shall have the same status as the lowest status of any herd that provided animals for the new herd.

(2) If the herd continues to meet the requirements of the Monitored Herd Certification Program, each year, on the anniversary of the enrollment date, the herd status shall be upgraded by one year as follows:

(A) First Year – starts on enrollment date of the herd in the Monitored Herd Certification Program.

(B) Second Year – starts on the anniversary date of the First Year.

(C) Third Year – starts on the anniversary date of the Second Year.

(D) Fourth Year – starts on the anniversary date of the Third Year.

(E) Fifth Year – starts on the anniversary date of the Fourth Year.

(3) One year from the date a herd is placed in Fifth Year status, the herd status shall be changed to Certified, and the herd shall remain in Certified status as long as it is enrolled in the program, provided its status is not lost.

(g) Loss of Herd Status.

(1) If the Veterinary Division determines that animals from a herd enrolled in the Monitored Herd Certification Program have commingled with animals from a herd with a lower program status, including CWD susceptible farmed cervids, the herd with the higher program status shall be reduced to the status of the herd with which its animals commingled.

(2) If a herd has been commingled with any CWD-positive herd or CWD-exposed herd, it shall lose its program status and may only reenroll after entering into a herd plan.

(3) If a herd has been commingled with any CWD-suspect herd, a trace back herd, or a trace forward herd by the Veterinary Division, it shall be placed in Suspended status pending an epidemiologic investigation by the Veterinary Division in accordance with the USDA Standards. If the epidemiologic investigation:

(A) determines that the herd was not commingled with a CWD-positive animal, the herd shall be reinstated to its former program status, and the time spent in Suspended status shall count toward its promotion to the next herd status level;

(B) determines that the herd was commingled with a CWD-positive animal, the herd shall lose its program status and may only reenroll after entering into a herd plan;

(C) is unable to make a determination regarding the exposure of the herd, because the necessary animal or animals are no longer available for testing (i.e., a trace animal from a known positive herd died and was not tested) or for other reasons, the herd status shall continue as Suspended until a herd plan is developed for the herd in accordance with its definition under 9 C.F.R. 55.1 and the USDA Standards, Part B. Guidance on Responding to CWD Affected Herds. If a herd plan is developed and implemented, the herd shall be reinstated to its former program status, and the time spent in Suspended status shall count toward its promotion to the next herd status level. If the epidemiological investigation finds that the owner of the herd has not complied with the rules of this Subchapter for animal identification, animal testing, and recordkeeping, the herd shall be reinstated into the Monitored Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status. Any herd reinstated after being placed

in Suspended status shall then comply with the requirements of the herd plan as well as the requirements of the Monitored Herd Certification Program. The herd plan shall require testing of all animals that die in the herd for any reason, regardless of the age of the animal; may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question; and may include other requirements found necessary to control the risk of spreading CWD.

(h) Cancellation of Enrollment and Reduction of Herd Status.

(1) An owner may cancel participation of any herd in the Monitored Herd Certification Program by surrendering the owner's farmed cervid license in accordance with 02 NCAC 52L .0108 and by decommissioning the facility in accordance with 02 NCAC 52L .0301(e)(1).

(2) The Veterinary Division may cancel the enrollment or reduce the herd status of an enrolled herd, after determining that the herd owner failed to comply with any rule of this Subchapter, by giving written notice to the herd owner of the reasons for the proposed cancellation or reduction in status.

(3) Herd owners may appeal the cancellation of enrollment of a herd or loss of herd status by writing to the Veterinary Division within 10 business days after being informed of the reasons for the action. The appeal shall include all the facts and reasons that the herd owner relies upon to show that the reasons for the proposed action are incorrect or do not support the action.

(4) The Veterinary Division shall grant or deny the appeal in writing stating the reason for the Veterinary Division's decision.

(5) If there is a conflict as to a material fact as determined by the Veterinarian Division at the time of the appeal, a hearing shall be held to resolve the conflict.

(6) In the event of cancellation of enrollment by the Veterinary Division, any herd enrolled in the Monitored Herd Certification Program by that herd owner shall not reach Certified status until five years after the herd owner's new application for enrollment is approved by the Veterinary Division, regardless of the status of the animals of which the herd is composed.

(i) Adding Animals to Existing Herd.

(1) A herd may add animals from herds with the same or a higher herd status with no negative impact on the certification status of the receiving herd.

(2) If animals are acquired from a herd with a lower herd status, including CWD susceptible species, the receiving herd shall revert to the program status of the sending herd.

(3) If a herd participating in the Monitored Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd shall revert to First Year status with a new enrollment date as the date of acquisition of the animal.

(j) Inspection. If an inspection of any farmed cervid is needed as a part of enrollment, the herd owner shall be responsible for assembling, handling, and restraining the farmed cervids. The owners shall be responsible for all costs incurred to present the animals for inspection and agree that any liability or injury to the animals during handling rests with the owner.

(k) If any CWD non-susceptible farmed cervid is determined by the Veterinary Division or the USDA as CWD susceptible, then the farmed cervid shall be transferred under the North Carolina Farmed Cervid Herd Certification Program.

Authority G.S. 106-549.97(a2).

TITLE 04 – DEPARTMENT OF COMMERCE

***Notice** is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Credit Union Division intends to readopt with substantive changes the rules cited as 04 NCAC 06B .0402; 06C .0101, .0201, .0202, .0209, .0301, .0302, .0304, .0306, .0307, .0311, .0312, .0313, .0401, .0402, .0404, .0409, .0501, .0601, .0707, .0801, .0901, .1001, .1002, .1201, .1301, .1302 and readopt without substantive changes the rules cited as 04 NCAC 06C .0203, .0407, .0502, and .1204.*

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): *www.nccud.org*

Proposed Effective Date: *January 1, 2018*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice)*: *A public hearing may be demanded by written request to Tony Knox, Deputy Administrator of the North Carolina Department of Commerce Credit Union Division within 15 days of the publication of the Notice of Text. The Address is 205 W Millbrook Road, Suite 105, Raleigh, NC 27609.*

Reason for Proposed Action: *Session Law 2013-413 (also known as House Bill 74) established an existing rules review process through G.S. 150B-21.3A. The process requires agencies that go through rulemaking under Article 2A of the Administrative Procedures Act to review all its existing rules in the NC Administrative Code. We are completing that process and*

readopting rules that are necessary with and without substantive change.

Comments may be submitted to: *Antonio (Tony) Knox, Deputy Administrator, North Carolina Credit Union Division, 205 W Millbrook Road, Suite 105, Raleigh, NC 27609; phone (919) 571-4888; fax (919) 420-7919*

Comment period ends: *November 14, 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 06 - CREDIT UNION DIVISION

SUBCHAPTER 06B - RULE-MAKING: DECLARATORY RULINGS AND CONTESTED CASES

SECTION .0400 - DECLARATORY RULINGS

04 NCAC 06B .0402 RESPONSE OF ADMINISTRATOR TO PETITION

(a) ~~Written Response.~~ A written response to the petition for a declaratory ruling, whether in the form of a declaratory ruling or a refusal to issue a declaratory ruling, shall be ~~signed by the Administrator or his designated representative within 60 days following the date on which the petition was received by the Division.~~ issued as set forth in G.S. 150B-4.

(b) ~~Refusal of Issue Declaratory Ruling.~~ The Administrator ~~may refuse to~~ shall issue a declaratory ~~ruling~~ ruling, ~~if one of the following circumstances exists:~~ except when:

(1) the request for a declaratory ruling does not meet the requirements set forth in this Subchapter;

~~(1)~~(2) ~~The~~ the subject matter is one in which the Administrator has no authority to issue a binding decision;

~~(2) The situation is one in which the amount of work that would be required by the Administrator and staff to issue the declaratory ruling would be the same as or greater than the work required to process the request through normal procedures or a contested case proceeding;~~

(3) ~~The petition does not state with enough specificity the factual situation involved, or~~ the question is presented in such a manner that the Administrator cannot determine what the question is, or that the Administrator cannot respond with a specific ~~ruling that will be binding on all parties;~~ ruling;

(4) ~~The~~ the petitioner does ~~not, in the opinion of the Administrator, possess sufficient interest in the question to be ruled on; or~~ not qualify as a person aggrieved, as defined in G.S. 150B-2(6);

(5) ~~For any other reason the Administrator finds the issuance of a declaratory ruling to be undesirable.~~ the Administrator has previously issued a declaratory ruling, or issued a final agency decision in a contested case, in which the same facts were considered;

(6) the facts underlying the request for a declaratory ruling were considered at the time the Rule was adopted; or

(7) the subject matter of the petition is involved in pending litigation.

(c) When the Administrator refuses to issue a declaratory ruling, the Administrator shall notify the petitioner of its decision in writing, stating reasons for the denial of a declaratory ruling.

Authority G.S. 54-109.12; 150B-4.

SUBCHAPTER 06C - CREDIT UNIONS

SECTION .0100 - GENERAL INFORMATION

04 NCAC 06C .0101 DEFINITIONS

When used in this Subchapter, the following words and phrases shall have the following meaning: ~~meaning, except to the extent that any such word or phrase is specifically qualified by its context:~~

(1) "Administrator" means the Administrator of State-Chartered ~~Credit~~ credit ~~Unions.~~ unions.

(2) "Board of Directors" means at least five persons elected or appointed to oversee the management of each organization.

(3) "Book value of loans" means the dollar amount of loans the ~~Credit~~ credit ~~Union~~ union has on its books.

(4) "Branch Office" means a facility ~~which~~ that a ~~Credit~~ credit ~~Union~~ union maintains and staffs at a location other than its main office to furnish

~~Credit~~ credit ~~Union~~ union services to its members.

(5) "Capital" consists of shares, undivided earnings, and reserves.

(6) "Commission" means the Credit Union Commission established by G.S.143B-439.

(7) "Corporate Credit Union" means a ~~Credit~~ credit ~~Union~~ union with an institutional field of membership, as set forth in ~~G.S. 54-110.1.~~ G.S. 54-110.1 and G.S. 54-110.2.

(8) "Credit union" means a cooperative nonprofit corporation under G.S. 54-109.1 and organized for the purpose of promoting thrift among its members by affording them an opportunity for accumulating their savings; and to create for them a source of credit for loans for provident and productive purposes. It may undertake such other activities relating to the purpose of the corporation as its bylaws may provide, such ~~Credit~~ credit ~~Union~~ union being chartered under the General Statutes of North Carolina.

(9) "Credit Union Service Organization" or "CUSO" means an organization formed and operated by ~~Credit Union(s),~~ credit union(s), or associations or organizations of ~~Credit Unions,~~ credit unions, to primarily provide ~~revenue generating services of the highest quality to Credit Union members, Credit Unions and others which are needed or wanted and can be provided efficiently and economically with a satisfactory overall rate of return on investment.~~ financial or operational products or services to credit unions or credit union members.

(10) "Deposits" means a preferred savings account on which the ~~Credit~~ credit ~~Union~~ union is obligated to pay a guaranteed interest rate on a continuing basis in such amounts and terms as the Board of Directors approve.

(11)~~(12)~~ "Dividend" means an operating expense of a ~~Credit Union which~~ credit union that is declared payable on share accounts from time to time by the Board of Directors. Dividends are paid as set forth in G.S. 54-109.54.

(12)~~(13)~~ "EDP" means electronic data processing.

(13)~~(14)~~ "Funds" means cash on hand or cash in the bank and investments.

~~(15) "Interest on deposit accounts" is an expense paid by the Credit Union for obtaining funds in a deposit account.~~

~~(16) "Interest on loans" means an amount charged to a member for borrowing funds from a Credit Union at a specified rate as declared by the Board of Directors, not to exceed the maximum legal rate.~~

~~(17) "Interest refund" means a percentage of the interest collected on loans which is refunded to those members who borrowed during a specific period pursuant to action of the Board of Directors.~~

(14) "League" means the Carolinas Credit Union League, the trade association that serves credit unions in North and South Carolina.

(15)~~(18)~~ "Members" means persons or organizations who have been accepted for membership by either the Board, membership officer, or an executive committee, after having met qualifications of being within the field of membership.

(16)~~(19)~~ "Membership" ~~in~~ means a ~~Credit~~ credit ~~Union~~ union ~~is~~ limited to those persons or groups as stipulated in the bylaws of ~~such Credit Union.~~ the credit union and set forth in G.S. 54-109.26.

(17)~~(20)~~ "Membership fee" means a fee that may be charged to applicants for membership as an entrance fee or as an annual membership fee as determined by the Board of Directors or as the bylaws may provide.

(18)~~(21)~~ "Reserve fund" means the portion of income to be entered on the books of the corporation to offset uncollectible loans in accordance with Section 54-109.86 of the General Statutes.

(19)~~(22)~~ "Shares" means the primary capital owned by the members and is comprised of the savings of the members. The par value shall be as the bylaws provide.

(20)~~(23)~~ Types of investment transactions ~~are~~ shall be defined as follows:

(a) "Standby commitments" means an agreement to purchase or sell a security at a future date, whereby the buyer is required to accept delivery of the security at the option of the seller.

(b) "Cash forward agreement" means an agreement to purchase or sell a security at a future date more than five days after the agreement is made and requires mandatory delivery and acceptance.

(c) "Reverse repurchase agreement" means an agreement whereby a credit union enters into an understanding to sell securities to a purchaser and to repurchase the same securities from that purchaser at a future date, regardless of the amount of consideration paid by the ~~Credit~~ credit ~~Union~~ union or the purchaser.

(d) "Repurchase agreement" means an agreement whereby a ~~Credit~~ credit ~~Union~~ union enters into an agreement to buy securities from a vendor and to resell securities at a future date. Repurchase agreements may be the following ~~of~~ two types:

(i) "Investment-type repurchase agreement" means a repurchase that contains the essential elements of a sale of

security as specified in Rule .1202(5) of this Subchapter.

(ii) "Loan-type repurchase agreement" means any repurchase ~~agreement~~ that does not qualify as an investment-type repurchase agreement.

(e) "Future" means a standardized contract for the ~~future~~ delivery of commodities, including certain government securities, sold on designated commodities exchange.

(21)~~(24)~~ "Unimpaired capital" consists of the shares, undivided ~~surplus~~ surplus, and reserves less any known or probable losses, as determined by management.

Authority G.S. 54-109.1; 54-109.2; 54-109.12; 54-109.21(25); 54-109.26; 54-109.86; 143B-439.

SECTION .0200 - ORGANIZATION OF CREDIT UNIONS

04 NCAC 06C .0201 INCORPORATION OF STATE CHARTERED CREDIT UNIONS

(a) All credit unions desiring a state charter ~~must~~ shall be organized as a corporation under the General Statutes, Articles 14A to ~~15~~ 15A of Subchapter III, Chapter 54. ~~The Credit Union law requires that~~ In accordance with G.S. 54-109.2(e), the responsibility, character, and general fitness of the officers, directors, and committeemen ~~is such to~~ shall command the confidence of the members and the community, and ~~to~~ warrant the belief by the ~~Credit Union administrator~~ Administrator that the business of the ~~Credit Union~~ credit union will be operated honestly, fairly, and efficiently. The Administrator shall determine whether the proposed field of membership is favorable to the success of such credit union and such determination will include an evaluation of any overlap in field of membership with existing credit unions, the field of membership requirements, the number of potential members, availability of payroll deductions, data processing, and evaluation of feasibility studies as conducted by ~~North Carolina Credit Union~~ the League, the Credit Union ~~Division or others,~~ Division, or other support groups for credit union start-ups, and other factors involved in its successful operation.

The following fees shall be charged when new credit unions are established:

(1) five dollars ($5.00) charter fee; and

(2) twenty dollars ($20.00)--investigation fee.

Authority G.S. 54-109.1; 54-109.2; 54-109.3; 54-109.11(3); 54-109.12; 143B-439.

04 NCAC 06C .0202 MINIMUM POTENTIAL MEMBERSHIP GUIDELINES

(a) Based on ~~experience,~~ established ~~policy~~ policy, ~~and~~ standards, and the history of the Credit Union Division chartering credit unions, the Administrator shall determine if the breadth and strength of the proposed field of membership is too broad or too weak to ~~effectively~~ operate as a credit union.

(b) ~~Established~~ The minimum potential membership guidelines for chartering credit unions in each of the various types of groups ~~are~~ shall be as follows:

TYPE OF GROUPS	MINIMUM POTENTIAL MEMBERSHIP
Occupational or Employer	300 Employees
Associational	500 Members
Residential or Community	1,000 Members
Multiple Occupational or Combination of Groups	500 Members

~~Notwithstanding the minimum potential membership numbers,~~ In addition to the membership, the makeup of the membership group and the level or support ~~is~~ shall be a key indicator for the degree of potential ~~success.~~ success as determined by the Administrator. Further, determination of the economic advisability of chartering a credit union is based upon such other things as level of group interest, leadership, willingness of management to become ~~involved,~~ involved in credit union operations, local economic factors, and availability of other credit union service.

A group ~~which~~ that is close to the minimum and has exceptional prospects for successful credit union operation ~~may~~ shall be considered for a state credit union charter.

Authority G.S. 54-109.2; 54-109.3(3); 54-109.11(3); 54-109.12; 54-109.21(25); 54-109.26(b).

04 NCAC 06C .0203 FIELDS OF MEMBERSHIP (READOPTION WITHOUT SUBSTANTIVE CHANGES)

04 NCAC 06C .0209 OUT OF STATE OFFICE FACILITIES

Before a credit union may open a branch office in another state, a written request ~~must~~ shall be submitted to the Administrator of credit unions for his or her approval. ~~approval insofar as North Carolina law is concerned. (The~~ The Administrator may request necessary information and conduct an investigation in evaluating the ~~request.)~~ request. It shall be the responsibility of the ~~Board~~ board of directors of each credit union operating in more than one state to seek the advice of an attorney to ~~see~~ ensure that the ~~Credit Union~~ credit union complies with applicable state laws of the other state(s).

Authority G.S. 54-109.6(a); 54-109.7; 54-109.11; 54-109.12; 54-109.16.

SECTION .0300 - BASIC INTERNAL CONTROLS: ACCOUNTING PROCEDURES AND OPERATION STANDARDS FOR STATE-CHARTERED CREDIT UNIONS

04 NCAC 06C .0301 GENERAL PROVISIONS

(a) Internal controls, accounting procedures, and operational standards adequate to safeguard the assets shall be established by all ~~Credit Unions.~~ credit unions.

(b) Credit ~~Unions~~ unions with ten million dollars ($10,000,000) or more in assets shall follow generally accepted accounting principles (GAAP) for financial statement and report preparation. Credit ~~Unions~~ unions with less than ten million dollars ($10,000,000) in assets may follow GAAP or use the procedures in the "Accounting Manual for Federal Credit ~~Unions" posted on the National Credit Union Administration website.(www.ncua.gov).~~ Unions," including any subsequent amendments that are incorporated by reference, and can be found at no cost on the National Credit Union Administration website (www.ncua.gov).

(c) At least 60 days before a credit union converts its records from a manual to an Electronic Data ~~Processing,~~ Processing (EDP) system through an outside servicer or changes EDP services, a copy of the proposed contract and a description of the data processing system shall be submitted to the Administrator for review and approval. If an in-house EDP system or the sponsoring company's EDP facilities are to be used, the Administrator shall be notified in writing of the proposed change before ~~extensive~~ planning and system programming begins. Contracts and ~~agreements,~~ agreements for EDP systems shall conform with the ~~following as a minimum:~~ following:

(1) ~~The~~ the right of the Administrator or his or her representative to request and receive ~~directly~~ from the service center any reports, summaries, or information contained in or derived from the data in the possession of the service center relating to the credit ~~union.~~ union;

(2) ~~Terms~~ terms of the contract, including dates for the beginning and end with disclosure of the charges to be ~~incurred.~~ incurred;

(3) ~~Notice~~ notice of the termination of the servicing contract or agreement, consistent with industry ~~standards.~~ standards;

(4) ~~The~~ the description of the equipment, services, reports, location of original documents and source ~~data;~~ data and method of transmittal of input information to the service ~~center~~ center, and applicable ~~controls.~~ controls;

(5) ~~Maintenance~~ a maintenance agreement that is consistent with industry ~~standards.~~ standards;

(6) ~~Availability~~ availability of technically qualified ~~personnel.~~ personnel;

(7) ~~The~~ the due diligence and review by the ~~Board~~ board of ~~Directors~~ directors or legal ~~counsel.~~ counsel; and

(8) ~~Fidelity~~ fidelity bond coverage for service center personnel and for losses due to system ~~errors;~~ errors and insurance coverage for losses from fire, disaster, or other causes resulting in an interruption of service.

~~(d) Requests for modification of the rules and regulations in regard to the general provisions shall be submitted in writing to the Administrator.~~

Authority G.S. 54-109.11; 54-109.12; 54-109.16; 54-109.17(a); 54-109.17(b).

04 NCAC 06C .0302 PROCEDURES

The basic internal controls, accounting ~~procedures~~ procedures, and operation standards for all credit unions ~~are~~ shall be as follows:

(1) ~~An~~ an adequate general ledger and detailed cash journal shall be maintained for the control of all transactions of the ~~Credit~~ credit ~~Union.~~ union;

(2) ~~A~~ a record of all correcting and adjusting entries, with an explanation of each entry, shall be ~~maintained.~~ maintained;

(3) ~~For~~ manual and computerized accounting systems, all receipts and disbursements shall be recorded and posted daily to cash journal and subsidiary ~~accounts.~~ accounts;

(4) ~~Deposits~~ deposits in the bank or credit union shall consist of an entire day's receipts as entered in the journal and cash record. If amounts are less than three hundred dollars ($300.00), more than one day's total receipts may be combined in a single deposit provided that no funds ~~are~~ shall be held more than three banking ~~days.~~ days;

(5) ~~Security~~ security shall be provided (cash drawer and lockbox) at a minimum for storage of ~~funds.~~ funds;

(6) ~~Credit~~ credit union funds shall be kept separate from all other ~~funds.~~ funds;

(7) ~~Cash~~ cash shall be balanced at the end of each working day, and a record made by each teller detailing coins, currency, checks, and other items counted as ~~cash.~~ cash;

(8) ~~A~~ a "cash over and short" account shall be maintained in the expense ledger, with a record showing the name of each person responsible for each ~~difference.~~ difference;

(9) ~~A~~ a pre-numbered receipt slip or other original ~~record,~~ record shall be made and preserved covering each payment ~~received.~~ received;

(10) ~~All~~ all bank or credit union accounts shall be reconciled at least monthly and ~~such~~ the reconciliations ~~preserved,~~ shall be maintained as set forth in Rule .1002 of this ~~Subchapter.~~ Subchapter;

(11) ~~A~~ a duplicate of itemized bank or credit union deposit slips, or other comparable detailed item record, shall be ~~preserved,~~ maintained, as set forth in Rule .1002 of this ~~Subchapter.~~ Subchapter;

(12) ~~The~~ the ~~exact~~ status of all the credit union's funds, including investments and funds held by agents or ~~attorneys~~ attorneys, shall be determinable at all ~~times.~~ times;

(13) ~~Checks~~ checks shall be pre-numbered by the printer and not signed in blank in advance of issue. Facsimile signature plates shall be maintained in the credit union vault under dual ~~control.~~ control;

(14) ~~Disbursements~~ disbursements shall be supported by invoices, vouchers, or other explanations of record, each showing the nature or purpose of each ~~disbursement.~~ disbursement;

(15) ~~Dual~~ dual control shall be maintained over all negotiable investment ~~securities.~~ securities;

(16) ~~Members'~~ members' accounts shall be posted and balanced ~~not less frequently than~~ monthly and supported by member trial balance or adding machine tapes, identified, dated, and ~~preserved.~~ maintained;

(17) ~~A~~ a trial balance of the general ledger shall be prepared within 15 ~~working~~ business days from the close of business of the last day of each month and financial statements ~~prepared~~ prepared; ~~therefrom.~~

(18) ~~Erasures and eradications for~~ correction of errors in records ~~are prohibited; corrections must be~~ shall be visible and approved by an authorized person, that shall be approved by the ~~Board~~ board of ~~Directors.~~ directors;

~~(19) Members' passbooks shall be held in the Credit Union office only if authorized by the Board of Directors.~~

~~(20)~~(19) ~~A~~ a signed membership card file covering all accounts shall be ~~maintained.~~ maintained;

~~(21)~~(20) ~~Payment~~ payment of dividends or interest on accounts shall be accomplished by check or by credit to the individual account. A record in support of dividend or interest paid by check or credited to accounts shall be ~~preserved.~~ maintained;

~~(22)~~(21) ~~A~~ a cross-index card record shall be maintained for each co-maker showing the date, name, and original amount of each note on which the individual appears as ~~co-maker.~~ co-maker;

~~(23)~~(22) ~~Minutes~~ minutes of meetings of the ~~Board~~ board of ~~Directors~~ directors shall record in detail all of its business transactions and be signed by the presiding officer and the secretary. Upon meeting as a ~~Board~~ board of ~~Directors,~~ directors, the secretary or designated member shall make a matter of record in the minutes of the meeting all written communications from the ~~Division.~~ Division;

~~(24)~~(23) ~~The~~ the supervisory committee shall have work papers to support its audit report. The reports and work papers shall be retained and made available for review by the ~~state,~~ Administrator, as set forth in Rule ~~.1002~~ .1001 of this ~~Subchapter.~~ Subchapter;

~~(25)~~(24) ~~A~~ a report of actions taken by the credit committee or loan officers shall be prepared, ~~signed~~ signed, and ~~preserved,~~ maintained, as set forth in Rule .1002 of this ~~Subchapter.~~ Subchapter;

~~(26)~~(25) ~~Minutes~~ minutes of each annual meeting of the members of the ~~Credit~~ credit ~~Union~~ union shall record all business ~~transacted.~~ transacted;

~~(27)~~(26) ~~All~~ all books and records of the ~~Credit~~ credit ~~Union~~ union shall have protection from fire and other hazards at all times. Active books and records of the ~~Credit~~ credit ~~Union~~ union should be located at the principal office at all ~~times.~~ times;

~~(28)~~(27) ~~Dormant~~ dormant accounts shall be controlled to prevent improper ~~withdrawal.~~ withdrawal;

~~(29)~~(28) ~~Annual~~ annual vacations of at least five consecutive working days (during periods when proofs of subsidiary ledgers are being made) shall be taken by each employee having access to cash and the general ledger. During the vacation, the employees shall remain ~~continuously absent.~~ absent;

~~(30)~~(29) ~~A~~ a record shall be maintained that shall ~~at all times~~ show the tax and insurance status of each piece of real estate securing the ~~Credit~~ credit ~~Union's~~ union's investment of funds in real estate mortgage ~~loans.~~ loans; and

~~(31)~~(30) ~~All~~ all tax liabilities shall be determined and paid in accordance with ~~the law.~~ State and federal laws.

Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17; 54-109.19; 54-109.92.

04 NCAC 06C .0304 MANAGEMENT DUTIES

All credit unions shall conduct their business and the selection of their employees using a ~~sufficiently~~ high degree of management and business skills to assure the safe and sound operation of the ~~Credit Union.~~ credit union. To maintain familiarity with current developments in the field of credit union management, ~~services~~ services, and operations as may be necessary, all management personnel and employees of credit unions ~~should~~ shall avail themselves of the educational opportunities as may be provided

by the ~~N.C. Credit Union~~ League, the Credit Union Division, ~~and others.~~ other trade associations, credit union support groups, and other industry training organizations.

Authority G.S. 54-109.12; 54-109.19; 54-109.35; 54-109.36; 54-109.92.

04 NCAC 06C .0306 DISPLAY OF FINANCIAL STATEMENTS

Each credit union shall display at its main office and all branches, copies of its monthly financial statement. ~~Such~~ The statement shall be posted in ~~both a conspicuous and available manner, so as to be~~ a manner that is accessible for inspection by members.

Authority G.S. 54-109.12.

04 NCAC 06C .0307 LISTING OF OFFICIALS AND OPERATING HOURS

(a) Each credit union shall notify the Administrator of the names and addresses of its officers, directors, committee members of the ~~Credit~~ credit ~~Committee~~ committee and ~~Supervisory Committee,~~ supervisory committee, ~~managers~~ managers, ~~or~~ and internal auditors.

(b) Each credit union shall notify the Administrator of its days and hours of operation.

(c) The credit union shall notify the Administrator of any changes to the information required by this Rule within ~~10~~ 15 business days.

Authority G.S. 54-109.12; 54-109.36.

04 NCAC 06C .0311 FIDELITY AND SURETY BONDS AND INSURANCE COVERAGE

(a) The ~~Board~~ board of ~~Directors~~ directors of a ~~Credit Union~~ credit union shall purchase a blanket fidelity bond as required by G.S. 54-109.44(2). Fidelity bonds shall provide coverage for the fraud and dishonesty of all employees, directors, officials, and supervisory and credit committee members.

(b) Every ~~Credit Union~~ credit union shall maintain the minimum bond and insurance coverage as required by G.S. 54-109.11(5).

(c) No form of surety bond shall be used except as is approved by the Administrator as set forth in G.S. 54-109.11(5). The approved bond forms shall be Credit Union Blanket Bond 500 Bond Series, plus faithful performance rider, Credit Union Blanket Bond, Standard Form No. 23 of the Surety Association of America, or an equivalent approved Bond Form including a faithful performance rider on a current ~~listing~~ listing, including any subsequent amendments to the bond forms. The approved bond forms are incorporated by reference and can be found at no cost on the Credit Union Division website (www.nccud.org). These bond forms shall be considered the minimum coverages required for the purpose of this ~~section.~~ Rule. The approved bond forms in this Paragraph provide faithful performance coverage for all employees and officials. Other forms, or changes in the amount of bond coverage, shall be approved by the Administrator based upon the applicable State rules and ~~laws.~~ laws, and as set forth in G.S. 54-109.11(5).

(d) Maximum deductible limits may be applied to the required coverage contained in 500 Bond Series, and Standard Form No. 23, as specified in this Paragraph:

$0 to 100,000	0
$100,001 to $250,000	$1,000
$250,000 to $1,000,000	2,000
Over $1,000,000	2,000
plus 1/1000 of total assets up to a maximum of	$200,000

Deductibles in excess of those provided in this Paragraph shall be approved by the Administrator based upon the applicable State rules and laws.

(e) In considering a request to deviate from the bond coverage and deductible amounts set forth in this Rule, the Administrator shall consider the following factors about the credit union:

(1) ~~Financial~~ financial strength;
(2) ~~Net~~ net worth;
(3) ~~Return~~ return on assets;
(4) ~~Quality~~ quality of assets; and
(5) ~~Capital,~~ capital, ~~Assets,~~ assets, ~~Management,~~ management, ~~Earnings,~~ earnings, and ~~Liquidity~~ liquidity, (CAMEL) rating, used by the Credit Union Division and NCUA to evaluate the soundness of credit unions on a uniform basis.

Authority G.S. 54-109.11(5); 54-109.12; 54-109.44(2).

04 NCAC 06C .0312 INSURANCE AND GROUP PURCHASING

Credit unions may purchase, ~~or~~ make available, or enter into cooperative marketing arrangements (group purchasing) to facilitate its members' voluntary purchase of insurance and ~~such~~ other goods and services ~~as are~~ that shall be in the interest of improving economic and social conditions of its members. Prior to entering into any agreement with a third party to provide goods, services, ~~and/or~~ and insurance to its members, the ~~Credit Union~~ credit union board of directors ~~should~~ shall ensure that the service is ~~professionally~~ researched, is needed and wanted by the members, is ~~accurately~~ clearly communicated, and is ~~carefully~~ monitored and evaluated to ensure that ~~such~~ the action will not have an adverse effect on the safety and soundness of the ~~Credit Union.~~ credit union.

Authority G.S. 54-109.12; 54-109.21; 54-109.75; 54-109.77; 54-109.92(a)(5).

04 NCAC 06C .0313 CREDIT UNION SERVICE ORGANIZATION (CUSO)

(a) For purposes of this Section, a "credit union service organization" (CUSO) is an entity defined in ~~Paragraph~~ Rule .0101~~(21)~~(9) of ~~these Rules.~~ this Subchapter.

(b) The purpose of a ~~credit union service organization~~ CUSO is to primarily provide ~~revenue generating services of the highest quality to credit union members, credit unions, and others which are needed or wanted and can be provided efficiently and economically with a satisfactory overall rate of return on investment.~~ financial or operational products or services to credit unions or credit union members. ~~It may~~ A CUSO may ~~provide,~~ provide ~~but is not limited to,~~ any ~~or all~~ of the following functions or services:

(1) credit union operational functions including ~~but not limited to~~, credit card and debit card services, ATM services, accounting systems, data processing, management training and support, payment item processing, record retention and storage, locator services, research services, debt collection services, credit analysis and loan servicing, and coin and currency services;

(2) family financial services including ~~including, but not limited to~~, financial planning, and ~~counselling,~~ counseling, including retirement ~~counselling,~~ counseling, estate planning and income tax preparation, developing and administering IRA and Keogh plans and other personnel benefit plans, and provision of trust services including acting as trustee or in other similar fiduciary capacities;

(3) acting as agent for the sale of liability, casualty, automobile, life, health, accident, ~~title~~ title, and other insurance;

(4) personal property leasing and development of leasing plans;

(5) any preapproved activities or services set forth in 12 C.F.R. 712.5;

~~(5)~~(6) other functions and services, as determined by the ~~Board~~ board of ~~Directors.~~ directors.

(c) A credit union may, either by itself or by agreement with other entities, form, invest in, or lend to a ~~credit union service organization,~~ CUSO, within the limits specified by State credit union law. Before investing in or lending to the CUSO, a credit union shall obtain a written agreement from the CUSO that will satisfy the requirements set forth in 12 C.F.R. 712.3 (d), and any subsequent amendments are incorporated by reference and can be found at no cost on the Code of Federal Regulations website www.ecfr.gov.

(d) A credit union investing in or lending to a ~~credit union service organization~~ CUSO ~~must~~ shall submit call reports or any other information upon request by the Administrator.

Authority G.S. 54-109.2(b)(5); 54-109.21(4); 54-109.21(14); 54-109.21(25).

SECTION .0400 - LOANS

04 NCAC 06C .0401 DELINQUENT LOANS AND LOAN LOSSES

(a) Monthly Schedule of Delinquent Loans. Each credit union shall, at the end of each month, prepare and review a schedule of delinquent loans ~~which~~ that shall list ~~in columnar form~~ the account number, ~~names~~ name(s) of ~~borrowers,~~ borrower(s), date of loan, date of last payment, original amount of loan and outstanding balance of loan at date of schedule, together with space to note current action or status.

The unpaid balance of loans shall be set apart in columns of the schedule of delinquent loans ~~which will~~ that shall indicate the extent of delinquency as determined by the delinquent installments according to the note contract, as follows:

(1) Loans on which the delinquent installments are ~~two months~~ 60 days but less than ~~six months~~ 180 days past due;

(2) Loans on which the delinquent installments are ~~six months~~ 180 days but less than ~~12 months~~ 365 days past due;

(3) Loans on which the delinquent installments are past due ~~12 month~~ 365 days or more.

Similar formats customized to a credit union's needs shall be acceptable as long as the report described in this Section may be produced upon request.

(b) Allowance for Loan Losses.

(1) Each credit union shall establish and maintain ~~such~~ the reserves as may be required by ~~the Act or by regulation,~~ State laws and the rules of this Subchapter, or in special cases by the ~~Administrator.~~ Administrator as set forth in G.S. 54-109.86. ~~All Credit Unions~~ Each credit union shall establish an Allowance for Loan Losses Account. The Allowance for Loan Losses Account is not an addition to but a part of the Regular Reserve as required by statute.

(2) The maintenance of a valuation Allowance for Loan Losses Account shall not eliminate the requirement for transferring a percentage of gross income before the payment of each dividend to the ~~Regular Reserve~~ regular reserve as required by ~~Credit Union Laws.~~ State credit union laws and rules of this Subchapter.

~~(3)~~ ~~As a minimum, adjustments~~ Adjustments to the valuation Allowance for Loan Losses shall be made prior to the distribution or posting of any dividend to the accounts of all the members so that the valuation allowance established ~~fairly~~ presents the value of loans and anticipated losses.

(4) Adjustments to the valuation Allowance for Loan Losses ~~will~~ shall be recorded in the expense account "Provision for Loan Losses."

(5) Dividends shall not exceed the amount available for that purpose after provisions have been made for the statutory transfer to the Regular Reserve Account and the removal of any deficit in the Regular Reserve Account.

(6) Each credit union shall review the Allowance for Loan Losses Account quarterly for accuracy prior to completion of the call report. An independent party shall annually review the credit union's (Allowance for Loan Losses Account. The independent party shall have no connection to the credit approval, the estimation process, the methodology, and its application.

Authority G.S. 54-109.12; 54-109.17; 54-109.86; 54-109.87.

04 NCAC 06C .0402 CHARGE-OFF OF UNCOLLECTABLE LOANS

(a) All credit unions shall have a Charge–Off of Uncollectable Loans Policy. All losses resulting from uncollectable loans shall be charged against the Allowance for Loan Losses or any special reserve required by the Administrator.

(b) A record shall be maintained of all loans charged off. ~~Such~~ The record shall contain the following information: account number, name, original date, amount of original loan, security, balance at time of charge-off, efforts made to collect, and ~~what~~ what, if any, recovery has been made on the security. This record shall be kept current and made available to the examiners at each examination.

(c) Any loans delinquent ~~12 months~~ 365 days or more, unless there is a high probability of no loss, or if the loan is secured by real estate where the borrower is demonstrating a reasonable level of repayment, or the loan is in the process of legal action, shall ~~will~~ be charged off in accordance with Paragraph (a) of this Rule. Any loan deemed uncollectable, because collection efforts are nonproductive regardless of the number of days delinquent, shall be charged off in accordance with Paragraph (a) of this Rule.

(d) Any recovery of charged-off loans shall be credited to the Allowance for Loan Losses.

Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17.

04 NCAC 06C .0404 LINE OF CREDIT LOANS

(a) ~~Limitations.~~ A credit union shall not make a line of credit loan that exceeds the stated sum or specified period of time approved by the ~~Board~~ board of directors of that credit union.

(b) ~~Reserves.~~ A credit union shall maintain for a period of one month, beginning on the seventh day of each month,

a reserve, ~~which~~ that shall consist of cash on hand or legal investments that mature in one year or less, in an amount not less than five percent of the aggregate unused portion of its line of credit loans determined as of the close of the previous month. Not more than 20 percent of the required reserve shall be in direct United States Government obligations. The ~~Credit Union~~ credit union shall keep current records of the aggregate unused portion of its line of credit loans and reserves, and the Administrator may require periodic or special reports based on these records.

Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17; 54-109.70; 54-109.71(b); 54-109.82.

04 NCAC 06C .0407 COMMERCIAL LENDING AND MEMBER BUSINESS LOANS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

04 NCAC 06C .0409 LOAN LIMITATIONS

(a) No loan or line of credit advance shall be made to an individual ~~member~~ member, ~~or~~ immediate family member, ~~as defined in Rule .0407(b)(1)(D),~~ if such a loan or line of credit advance ~~would cause~~ causes that member along with that member's immediate family to be indebted to the credit union in an aggregate amount exceeding 10 percent of the credit union's unimpaired shares and ~~surplus.~~ surplus as set forth in G.S. 54-109.67. For purposes of this ~~Section~~ Rule "unimpaired shares" shall mean shares without any assignments or pledges. "Surplus" shall mean undivided earnings and reserves.

(b) In the case of member business loans, additional loan limitations apply as set forth in Rule .0205(d) of this Subchapter and ~~Rule .0407(b)(2)(C)(i) of this Section.~~ pursuant to 12 C.F.R. Part 723 including any subsequent amendments that are incorporated by reference and can be found at no cost on the Code of Federal Regulations website www.ecfr.gov.

Authority G.S. 54-109.12; 54-109.67.

SECTION .0500 - IMPAIRMENT AND INSOLVENCY

04 NCAC 06C .0501 IMPAIRMENT

(a) An impairment of ~~share~~ capital shall be deemed to exist if the ~~Credit Union~~ credit union is unable to provide for Allowance for Loan Losses, or any other reserve required by the Administrator.

(b) In determining the degree of ~~capital impairment which~~ impairment of capital that may exist, loans receivable shall be valued at book value less the amount of reserves required. The total of the credit union's assets, valued according to generally accepted accounting principles, including loans receivable, less current and long-term liabilities, shall be considered to be net assets. If share deposit balances exceed net assets ~~so determined~~, an impairment shall be deemed to exist.

(c) Whenever it is determined that there exists an impairment of capital, the ~~Board~~ board of directors shall notify the Administrator. If required by the Administrator, pursuant to G.S. 54, Article 14A to 14N, the ~~Board~~ board of directors shall disclose to all shareholders the impairment of capital and ~~such~~ other matters regarding the financial condition of the ~~Credit Union.~~ credit union. ~~as deemed relevant by the Administrator.~~

Authority G.S. 54-109.12; 54-109.92; 54-109.93.

04 NCAC 06C .0502 INSOLVENCY (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0600 - DIVIDENDS: DEPOSITS AND INTEREST REBATE

04 NCAC 06C .0601 DIVIDENDS

(a) The ~~Board~~ board of directors ~~of any credit union~~ may declare dividends pursuant to G.S. 54-109.44 (5) and G.S. 54-109.54.

(b) No dividend ~~may~~ shall be declared or paid unless the ~~Credit Union~~ credit union has satisfied the statutory reserve requirements set forth in G.S. 54-109.86 and any other reserve account that ~~is required to~~ shall be maintained ~~in the discretion of~~ as prescribed by the Administrator.

Authority G.S. 54-109.12; 54-109.44(5); 54-109.54; 54-109.86; 54-109.87.

SECTION .0700 - ACCOUNTS

04 NCAC 06C .0707 STATEMENTS OF ACCOUNTS

~~Each credit union member shall be furnished, at least semiannually, statements of accounts. Such statements shall clearly reflect all transactions involving a member's accounts~~

~~during the previous period. Any member, pursuant to request, shall receive within a reasonable time, a statement reflecting his current outstanding balances in his accounts. A passbook shall suffice as a statement of accounts when not inconsistent with state and federal law, and shall be updated when presented by holder.~~

Authority G.S. 54-109.12.

SECTION .0800 - REPORTS TO ADMINISTRATOR

04 NCAC 06C .0801 FINANCIAL STATEMENTS AND OTHER INFORMATION

Each credit union shall furnish a report of condition to the Administrator due on the same date as designated by the federal insurer in January, April, July, and October. The report shall be submitted ~~to the Administrator~~ on forms supplied by the federal insurer for that purpose. The Administrator shall assess fines and penalties for reports not ~~timely filed,~~ filed within 15 days, as set forth in G.S. 54-109.13 and G.S. 54-109.15(b).

Authority G.S. 54-109.12; 54-109.13; 54-109.15; 54-109.16.

SECTION .0900 - PENSION PLANS

04 NCAC 06C .0901 CREDIT UNION AS CUSTODIAN

A credit union is authorized to act as custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension plan ~~which~~ that qualifies or qualified for specific tax treatment under Section 401(d) or 408 of the Internal Revenue Code, including any subsequent amendments that are incorporated by reference and can be found at no cost on the Internal Revenue Code website www.irs.gov and at www.gpo.gov, for its members or groups or organizations of its ~~members, provided the~~ members. The funds of such plans ~~are~~ shall be invested solely in share accounts of the ~~Credit Union.~~ credit union. All funds held in a custodial capacity ~~must~~ shall be maintained in accordance with applicable ~~laws and rules and regulations~~ State and federal laws, Rules and federal regulations, as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other State and federal authority exercising jurisdiction over such custodial accounts. The ~~Credit Union~~ credit union shall maintain individual records for each participant ~~which show~~ that shows ~~in detail~~ all transactions relating to the funds of each participant or beneficiary.

Authority G.S. 54-109.12; 54-109.17; 54-109.21(21).

SECTION .1000 - RETENTION OF RECORDS

04 NCAC 06C .1001 PERMANENT RECORD

(a) Each ~~Credit~~ credit ~~Union~~ union shall retain its records in a manner consistent with reasonable business practices and applicable ~~state~~ State and federal laws, ~~rules,~~ Rules, and federal regulations.

(b) The ~~Credit~~ credit ~~Union~~ union shall permanently retain the original records of the ~~Credit Union's~~ credit union's charter, bylaws, and any amendments to those documents.

(c) The following records shall be retained permanently in their original form or in any electronic or digital form that permits their retrieval and replication:

(1) the minutes of meetings of members and of the board of directors;
(2) audit reports;
(3) copies of the examination reports of the Credit Union Division;
(4) rulings and opinions from the Credit Union Division; and
~~(5) signature cards;~~
~~(6) journal and cash record;~~
~~(7) general ledger;~~
~~(8) loan and shares subsidiary ledgers;~~
~~(9) bank reconciliations; and~~
~~(10) a list of all records destroyed.~~
(5) supervisory committee minutes and audits.

~~(d) Credit Unions shall reference 12 C.F.R. Part 749 Appendix A for retention schedule guide lines.~~

Authority G.S. 54-109.12; 54-109.17.

04 NCAC 06C .1002 NONPERMANENT RECORDS

(a) Each ~~Credit~~ credit ~~Union~~ union shall retain nonpermanent records as defined in Paragraph (b) of this Rule, in a manner consistent with reasonable business practices and in accordance with this Section and applicable ~~state~~ State and federal laws, ~~rules,~~ Rules, and federal regulations. The board of directors of the credit union shall determine the length of time that any nonpermanent record not specified in this Rule shall be retained based upon reasonable business practices and the applicable State and federal laws, Rules, and federal regulations.

(b) ~~Nonpermanent records shall include any Credit Union~~ All records not referenced in Rule .1001 of this ~~Section.~~ Section shall be considered nonpermanent records.

~~(c) Nonpermanent records shall be kept in the original, or any electronic or digital form that permits their retrieval and replication. The Board of Directors of the Credit Union shall determine the length of time that each nonpermanent record is to be retained based upon reasonable business practices and the applicable state and federal laws, rules, and regulations.~~

(c) The following nonpermanent records shall be retained in their original form or in any electronic or digital form that permits their retrieval and replication:

GENERAL LEDGER

General Ledger	15 years
Journal Cash (Journal of original entry)	15 years
Signature Cards (after the account is closed)	10 years
Shares and Deposits Subsidiary Ledger	10 years
Bank Reconciliations	10 years
Registers: (Check, Money Orders, and Collateral)	10 years
Record of Receipts (Deposit tickets, Payroll Deduction Records)	10 years
Withdrawal Slips: (Cash Payments, Check Payments)	10 years

Cancelled Checks, Money Orders, Cancelled Checks	10 years
Bank Statements	10 years
Bank Deposit Slips	10 years
Invoices for Sale or Purchase of Securities	10 years

ADMINISTRATIVE

Certificates and Licenses to Operate Under Programs of Various Government Agencies	
After the Term of the Program Expires	10 years
Minutes of the Credit Committee Meetings	10 years
Charged off Loans (Note and Application)(after the date of the charge off)	10 years
Charge off Ledger Sheet	10 years

LEGAL JUDICIAL AUTHORIZATION

Attachments or Garnishments	10 years
Bond Claims	10 years
Court Orders	10 years

MEMBER RECORDS

Transaction Records	10 years
Members Periodic Statements	10 years
Month End Trial Balance	2 years
Signature Cards (after the account is closed)	10 years

LOANS (COMMERCIAL, CONSUMER, AND MORTGAGE)

Subsidiary Loan Ledgers	10 years
Delinquent Loan Schedules	5 years
Loan Applications (after the loan is paid)	2 years

OTHER

Tax Records	10 years
Personnel Records	10 years
Expense Reimbursement Forms	5 years
Reports: Statistical Reports submitted to NCUA or Credit Union Division	10 years
Escheat records, including communications between the credit union and the NC Department of State Treasurer and records containing the information required to be included in the report filed with the State Treasurer	10 years

Authority G.S. 54-109.12; 54-109.17.

SECTION .1200 - INVESTMENTS

04 NCAC 06C .1201 INVESTMENT ACTIVITIES

~~The North Carolina Credit Union Law, Article 14-I, specifies the investments which credit unions are authorized to make, which includes loans to members and the purchase of securities guaranteed by the U.S. government.~~ Investments shall be made pursuant to G.S. 54, Article 14 I. ~~Transactions~~ The Administrator shall consider transactions, such as agreements or options to buy or sell government securities at a future ~~date, which~~ date that are ~~merely~~ speculative in nature, ~~are considered~~ unsafe and unsound practices.

Authority G.S. 54-109.12; 54-109.82; 54-109.92(a).

04 NCAC 06C .1204 FEDERAL FUNDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1300 - RESERVES

04 NCAC 06C .1301 SPECIAL RESERVES FOR LIQUIDITY

(a) Credit unions shall have a Liquidity Policy and Contingency Funding Plan as set forth in 12 C.F.R. Part 741.12, including any subsequent amendments, which are incorporated by reference and can be found at no cost on the Code of Federal Regulations website www.ecfr.gov.

~~(a)~~(b) Credit unions with assets of two million ($2,000,000) or more and credit unions ~~which~~ that offer share draft accounts shall maintain a reserve of liquid assets (liquidity reserve) equal to a minimum of five percent ~~(5 percent)~~ of the total dollar value amount of the ~~Credit~~ credit ~~Union's~~ union's liability base.

~~(b)~~(c) The liability base shall consist of shares, deposits, and notes payable with a maturity of less than one year. ~~Specifically pledged~~ Pledged shares or deposits or both ~~are~~ shall be exempted up to the amount of the loans.

~~(c)~~(d) The liquidity reserve shall consist of cash, ~~shares~~ shares, and deposits in the National Credit Union Administration Central Liquidity Facility, corporate credit unions, or other financial institutions, and investments with a maturity of less than one year as authorized ~~under G.S. 54-109.82(3)(4)(5)(9)(10) and (12) of the North Carolina Credit Union laws.~~ by G.S. 54-109.82 (3),(4),(5),(9),(10), and (12). Government securities with a maturity of more than one year may be ~~included~~ included, provided securities are carried at the lower of cost or market and adjusted monthly on a ~~consistent~~ regular basis. Documentary evidence ~~must~~ shall be kept on file supporting the adjustments for a period of 18 months.

~~(d)~~(e) The liquidity reserve shall be determined monthly, not later than the tenth day of each month, and shall be based on the ~~Credit~~ credit ~~Union's~~ union's liability base as the last day of business of the preceding month.

~~(e)~~(f) The liquidity reserve ~~can only~~ shall be used to satisfy contractual line of credit agreements, share and deposit withdrawals. In the event the liquidity reserve falls below the required amount the ~~Credit~~ credit ~~Union~~ union ~~must~~ shall immediately notify the Administrator ~~of Credit Unions~~. The ~~Credit~~ credit ~~Union~~ union ~~will~~ shall have 60 days to replenish the liquidity reserve.

~~(f)~~(g) In any special case, the Administrator shall have the authority to require a liquidity reserve for credit unions with assets of less than two million dollars ($2,000,000) if ~~deemed~~ necessary to meet the liquidity needs of its ~~creditors.~~ creditors, as set forth in G.S. 54-109.86 (c).

Authority G.S. 54-109.12; 54-109.86 (b); 54-109.86(c)(2).

04 NCAC 06C .1302 OTHER RESERVES
(a) Regular reserves shall be maintained as set forth in G.S. 54-109.86. ~~54-109.86 of the North Carolina Credit Union laws.~~
(b) Special reserves for delinquent loans and reserves for line of credit shall be maintained as required in Rules .0401 and .0404(b) of ~~these Rules and Regulations.~~ this Subchapter.

Authority G.S. 54-109.12; 54-109.86(a)(b)(c).

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 adopt the rules cited as 15A NCAC 02T .0608, .0807-.0808, .1310; 02U .0118, .0404, readopt with substantive changes the rules cited as 15A NCAC 02T .0101-0108, .0110-.0118, .0120, .0203-.0204, .0302-.0306, .0401-.0405, .0501, .0504-.0508, .0601, .0604-.0607, .0701-.0702, .0704-.0708, .0801, .0804-.0805, .1101-.1111, .1201-.1209, .1302-.1307, .1403-.1404, .1601; 02U .0101-.0104, .0113, .0201-.0202, .0301, .0401-.0403, .0501, .0701, .0801-.0802, .0901, .1101, .1401, and readopt without substantive changes the rules cited as 15A NCAC 02T .0109, .0201, .0301, .0806, .1301, .1308, .1309, .1401-.1402, .1602, .1604-.1608; 02U .0105-.0112, .0114-.0117, .0120, and .0601.*

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): *https://deq.nc.gov/news/events/public-notices-hearings*

Proposed Effective Date: *May 1, 2018*

Public Hearing:
Date: *October 10, 2017*
Time: *6:00 p.m.*
Location: *DCR Battleship-Auditorium, 1 Battleship Road, Wilmington, NC 28401*

Public Hearing:
Date: *October 17, 2017*
Time: *6:00 p.m.*
Location: *Northview Middle School, 302 28th Ave NE, Hickory, NC 28601*

Public Hearing:
Date: *October 24, 2017*
Time: *6:00 p.m.*
Location: *Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury St., Raleigh, NC 27604*

Reason for Proposed Action: *To adopt rules that establish the following: operation and maintenance requirements for single family residences wastewater irrigation systems; operation and maintenance and residual management requirements for other non-discharge wastewater systems; animal waste residuals management; design criteria for closed-loop recycle systems; and demonstration of future wastewater treatment capacities. To readopt rules pursuant to G.S. 150B-21.3A.*

Comments may be submitted to: *Attn: 2T 2U Rule Comments, Department of Environmental Quality, Division of Water Resources, Water Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611; email 15ANCAC2T2URule_Comments@ncdenr.gov*

Comment period ends: *November 22, 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 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02T – WASTE NOT DISCHARGED TO SURFACE WATERS

SECTION .0100 – GENERAL REQUIREMENTS

15A NCAC 02T .0101 PURPOSE
The rules in this Subchapter ~~set forth the requirements and procedures for application and issuance of permits~~ shall govern application for and issuance of permits for the following systems ~~which~~ that do not discharge to surface waters of the state:
(1) sewer systems;
(2) disposal systems;
(3) treatment works;
(4) residual and residue disposal/utilization systems;
(5) animal waste management systems;

(6) treatment of contaminated soils; and
(7) stormwater management systems pursuant to 15A NCAC ~~2H~~ 02H .1000.

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

15A NCAC 02T .0102 SCOPE

The rules in this Subchapter shall apply to all persons proposing to construct, alter, extend, or operate any sewer system, treatment works, disposal system, ~~contaminates~~ contaminated soil treatment system, animal waste management system, stormwater management system or residual disposal/utilization ~~system which~~ system, that does not discharge to surface waters of the state. ~~state, including systems which discharge waste onto or below land surface.~~ However, these Rules ~~do~~ shall not apply to sanitary sewage systems or solid waste management facilities ~~which~~ that are permitted under the authority of the Commission for Public Health. The provisions for stormwater NPDES systems that discharge to waters of the State are codified ~~management systems can be found~~ in 15A NCAC 02H .1000. The rules in this Section are general requirements that shall apply to all program rules ~~(found in individual sections)~~ in this Subchapter.

Authority G.S. 130A-335; 143-215.1; 143-215.3(a)(1).

15A NCAC 02T .0103 DEFINITIONS

The terms used in this Subchapter ~~shall be as defined~~ shall have the meanings set forth in G.S. 143-212 and ~~143-213~~ G.S. 143-213, in this Rule, and ~~except as provided in this Rule and in definitions provided~~ in program-specific ~~program-specific~~ rules in this Subchapter: ~~Subchapter and as follows:~~

(1) "Agronomic rate" is defined as the amount of waste and other materials applied to soil to meet the nitrogen needs of the crop, but does not overload the soil with nutrients or other constituents that cause or contribute to a contravention of surface water or groundwater standards, limit crop growth, or adversely impact soil quality. Nitrogen needs of the crop shall be based on realistic yield expectations (RYE) established for a soil series through published Cooperative Extension Service bulletins, Natural Resources Conservation Service publications, county soil surveys, or site specific agronomist reports.
(2) "Animal waste" means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter or other materials generated at a feedlot.
(3) "Bedrock" is ~~as~~ defined in 15A NCAC 02L .0102.
(4) "Buffer" means a natural or vegetated area as defined in 15A NCAC 02B .0202.
(5) "CFR" means Code of Federal Regulations. ~~All CFRs cited herein may be obtained at Government Institutes, Inc., 4 Research Place, Suite 200, Rockville, Md, 20850-1714 for a cost of thirty-six dollars ($36.00) each plus four dollars ($4.00) shipping and handling or at http://www.gpoaccess.gov/cfr/. Copies are also available for review at 512 North Salisbury Street, Raleigh, North Carolina 27604.~~
(6) "Commission" ~~as~~ is defined in G.S. 143-212 or their delegate.
(7) "Compliance boundary" is ~~as~~ defined in 15A NCAC 02L .0102.
(8) "Deemed permitted" means that a facility is considered ~~as having~~ to have a needed permit and ~~being~~ to be compliant with the permitting requirements of G.S. 143-215.1(a), ~~143-215.1(a)~~ even though it has not received an individual permit for its construction or operation.
(9) "Department" ~~as~~ is defined in G.S. 143-212.
(10) "Director" means the Director of the Division or its delegate.
(11) "Division" means the Division of Water ~~Quality~~ Resources in the Department. ~~All rules cited in this Section under the authority of the Division may be obtained at 512 North Salisbury Street, Raleigh, North Carolina 27604 or at the Division's web page at www.ncwaterquality.org at no charge.~~
(12) "Effluent" means wastewater discharged ~~following all treatment processes~~ from a water pollution control facility following all treatment processes or from other point source whether treated or untreated.
(13) "Engineer" ~~is~~ means an individual who is currently licensed by the North Carolina Board of Examiners For Engineers and Land Surveyors or is authorized to practice under G.S. 89C as an engineer.
(14) "EPA" means the United States Environmental Protection Agency.
(15) "Ephemeral (stormwater) stream" ~~means a stream as~~ is defined in 15A NCAC 02B .0233.
(16) "Essential treatment unit" means any unit associated with the wastewater treatment process whose loss would likely render the facility incapable of meeting the required performance ~~criteria~~ criteria, including aeration units or other main treatment units, clarification equipment, filters, disinfection equipment, pumps and blowers.
(17) "General Permit" means a permit issued ~~under~~ pursuant to G.S. 143-215.1(b)(3), 143-215.1(b)(4) or 143-215.10C.
(18) "Groundwaters" ~~means those waters in the saturated zone of the earth as~~ is defined in 15A NCAC 02L .0102.
(19) "Groundwater standards" means groundwater standards as established in 15A NCAC 02L .0200.
(20) "Industrial wastewater" means all wastewater other than sewage or animal ~~waste~~ waste, and includes:

(a) wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;

(b) wastewater resulting from processes of trade or business, including wastewater from laundromats and ~~vehicle/equipment~~ vehicle or equipment washes, but ~~not~~ excluding wastewater from restaurants;

(c) stormwater that is contaminated with an industrial wastewater;

(d) any combination of sewage and industrial wastewater;

(e) municipal ~~wastewater~~ wastewater, unless it can be demonstrated ~~to the satisfaction of the Division~~ that the wastewater contains no industrial wastewater;

(f) contaminated groundwater extracted as part of an approved groundwater remediation system approved by the Division in accordance with 15A NCAC 02L .0100.

(21) "Intermittent stream" ~~means a stream as~~ is defined in 15A NCAC 02B .0233.

(22) "NPDES" means National Pollutant Discharge Elimination System.

(23) "Perennial stream" ~~means a stream as~~ is defined in 15A NCAC 02B .0233.

(24) "Perennial waterbody" ~~means a waterbody as~~ is defined in 15A NCAC 02B .0233.

(25) "Pollutant" means waste as defined in G.S. 143-213.

(26) "Potable waters" ~~means water as~~ is defined in 15A NCAC 02L .0102.

(27) "Private well" means any potable or irrigation well not directly controlled by a public authority or a public utility authorized by the North Carolina Public Utilities Commission. This may include a private individual or community well as defined in the public water supply rules ~~contained~~ codified in 15A NCAC 18C.

(28) "Professional engineer" means a person who is presently registered and licensed as a professional engineer by the North Carolina Board of Examiners For Engineers and Land Surveyors.

(29) "Public or community sewage system" means a single system of sewage collection, treatment, or disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county, a municipality or a public utility authorized to operate by the North Carolina Utilities Commission.

(30) "Residuals" means any solid, semisolid, or liquid waste, other than effluent or residues from agricultural products and processing, generated from a wastewater treatment facility, water supply treatment facility or air pollution control facility permitted under the authority of the Commission.

(31) "Residues from agricultural products and processing" means solids, semi-solids or liquid residues from food and beverage processing and ~~handling; silviculture; agriculture;~~ handling, silviculture, agriculture, and aquaculture operations permitted under the authority of the Commission that are non-toxic, non-hazardous and contain no domestic wastewater.

(32) "Restrictive horizon" is the layer in a soil profile that is capable of reducing the downward water movement to the minimum rate, as evidenced by lowest saturated hydraulic conductivity among all the soil layers. Restrictive horizon is often capable of perching ground water or wastewater effluent and is characterized by accumulation of finer soil particles (such as aluminum, clay, iron, silica, organic matter, or other compounds) or compaction due to heavy ~~equipments.~~ equipment.

(33) "Review boundary" is ~~as~~ defined in 15A NCAC 02L .0102.

(34) "Seasonal High Water Table" or "SHWT" is the highest level to which the soil is saturated, as may be determined through the identification of redoximorphic features in the soil ~~profile~~ profile, including low chroma mottling. This does not include temporary perched conditions. Alternatively, the SHWT can also be determined from water level measurements or via soil/groundwater modeling.

(35) "Secretary" ~~as~~ is defined in G.S. 143-212 ~~or its delegate.~~ and includes the Secretary's delegate.

(36) "Setback" means the ~~minimum~~ separation in linear feet, measured on a horizontal plane, required between a treatment works, disposal system, or utilization system and includes physical features such as ~~building~~ buildings, roads, property lines, or water bodies.

(37) "Sewage" means the liquid and solid human ~~waste,~~ waste and liquid waste generated by domestic water-using fixtures and ~~appliances,~~ appliances from any residence, place of business, or place of public assembly. Sewage does not include wastewater that is totally or partially industrial ~~wastewater,~~ wastewater or any other wastewater not considered to be domestic waste.

(38) "Soil scientist" means an individual who is currently licensed or authorized to practice soil science ~~under~~ pursuant to G.S. 89F by the North Carolina Board for Licensing of Soil Scientists.

(39) "Staff" means the staff of the Division.

(40) "Surface waters" means all waters as defined in G.S. 143-212 except underground waters.

(41) "Surface water standards" means surface water standards ~~as~~ established in 15A NCAC 02B .0200.

(42) "Technical specialist" means an individual designated by the Soil and Water Conservation Commission, pursuant to rules adopted by that Commission, to certify animal waste management plans or specific parts of a certified animal waste management plan.

(43) "Toxicity test" means a test for toxicity conducted using the procedures contained in 40 CFR 261, Appendix ~~II~~ II, which is ~~hereby~~ incorporated by reference including any subsequent amendments and editions.

(44) "Treatment works or disposal system ~~which~~ that does not discharge to surface waters" means any treatment works, facility, utilization system, or disposal system which is designed to:

(a) operate as closed system with no discharge to waters of the ~~state,~~ state; or

(b) ~~dispose/utilize of~~ dispose of or use wastes, including residuals, residues, contaminated soils and animal waste, ~~to~~ on the surface of the ~~land,~~ land; or

(c) dispose of wastes through a subsurface disposal system pursuant to G.S. 143-215.1(b)(4).

(45) "Waste oil" means any used nonhazardous petroleum product other than crankcase oil. Crankcase oil mixed with other used nonhazardous petroleum products shall be considered as waste oil.

(46) "Wetlands" are "waters" as defined in G.S. 143-212 and are areas that are inundated or saturated by an accumulation of surface or ground water as defined in 15A NCAC 02B .0202.

Authority G.S. 130A-335; 143-213; 143-215.3(a)(1).

15A NCAC 02T .0104 ACTIVITIES WHICH REQUIRE A PERMIT

~~No person shall do any of the things or carry out any of the activities contained in G.S. 143-215.1(a) until or unless the person shall have applied for and received a permit from the Division (or if appropriate a local program approved by the Division pursuant to this Subchapter) and shall have complied with the conditions prescribed in the permit or is deemed permitted by rules in this Subchapter.~~

Authority G.S. 130A-335; 143-215.1; 143-215.3(a)(1).

15A NCAC 02T .0105 GENERAL REQUIREMENTS

(a) Jurisdiction. Applications for permits from the Division shall be made in accordance with this Rule. Applications for permits under the jurisdiction of a local program shall be made in accordance with the requirements of the ~~Division-approved~~ Division-approved program.

(b) Applications. Application for a permit ~~must~~ shall be made on ~~Division~~ Division-approved forms completely filled out, where applicable, and fully executed in the manner set forth in Rule .0106 of this Section. A processing fee as described in G.S. 143-215.3D ~~must~~ shall be submitted with each application in the form of a check or money order made payable to the Department. Applications shall be returned if incomplete. ~~Sewer~~ Permits for sewer line extensions shall be applied for separately from treatment, utilization, and disposal systems. The Applicant ~~applicant~~ shall provide adequate documentation to the Division to ensure that the proposed system will meet all design and performance criteria as required under this Subchapter and other applicable rules, be operated as a non-discharge system, and protect surface water and groundwater standards. Variances to this Subchapter or adopted design criteria ~~must~~ shall be specifically requested in the application and, if approved pursuant to Paragraph (n) of this Rule, incorporated into the permit. The Division may accept certification from a licensed or certified professional (e.g. Professional Engineers, Licensed Soil Scientist, Licensed Geologist, Technical Specialist) that the design meets or exceeds minimum design criteria applicable to the project. ~~Division acceptance of certifications by the applicant or by licensed or certified professionals preparing reports for the application shall not constitute approval of a variance to this Subchapter or applicable minimum design and performance criteria unless specifically requested in the application and approved in the permit.~~ Division acceptance of certifications that were specifically requested by the Division to be provided with the application from the Applicant or from licensed or certified professionals preparing reports for the application and that were approved in the permit shall constitute approval of a variance to this Subchapter or to applicable minimum design and performance criteria.

(c) Application packages for new and expanding facilities shall include the following items:

(1) The number of executed copies shall include the number necessary for each review office and one additional copy. Additional copies shall be required if needed for federal and state grant and loan projects.

(2) Reports, engineering plans, specifications, and calculations as required by the applicable rules of this Subchapter. If prepared by licensed or certified professionals these reports shall be submitted in accordance with the respective statutes and rules governing that profession.

(3) Operational agreements as required by Rule .0115 of this Section.

(4) For projects that require environmental documentation pursuant to the North Carolina Environmental Policy Act, a final environmental document (Finding of No Significant Impact or Record of Decision).

(5) A general scaled location map, showing orientation of the facility with reference to at least two geographic references ~~(e.g. numbered~~

~~roads, named streams/rivers).~~ (e.g. numbered roads, named streams or rivers).

(6) ~~Documentation that other directly related (i.e. needed to properly construct and operate the facilities permitted under this Subchapter) environmental permit or certification applications are being prepared, have been applied for, or have been obtained (e.g. 401 certifications, erosion and sedimentation control plans, stormwater management plans).~~ Documentation that other environmental permit or certification applications that are needed to properly construct and operate the facilities permitted under this Subchapter are being prepared, have been applied for, or have been obtained (e.g. 401 certifications, erosion and sedimentation control plans, and stormwater management plans). The Division shall consider the application incomplete or issue the permit contingent on issuance of the dependent permits if issuance of other permits or certifications impact the system permitted under this Subchapter.

(7) A description of the project including the origin, type and flow of waste to be treated. For industrial processing facilities, a waste analysis extensive enough to allow a complete evaluation of the system's capability to treat the waste and any potential impacts on the waters of the state shall be included.

(8) Documentation of compliance with Article 21 Part 6 (Floodway Regulations) of Chapter 143 of the General Statutes.

(9) Documentation as required by other applicable ~~rule(s)~~ rules in this Subchapter.

(10) Documentation of the presence or absence of threatened or endangered aquatic species utilizing information provided by the Natural Heritage Program of the Department. This shall only apply to the area whose boundary is encompassed ~~by~~ by, and for the purpose ~~of~~ of, the installation, operation, and maintenance of facilities permitted herein (wastewater collection, treatment, storage, utilization, or disposal). This documentation shall provide information on the need for permit conditions pursuant to Paragraph (i) of this Rule. ~~The Natural Heritage Program can be contacted at http://www.ncnhp.org or write to Natural Heritage Program, 1601 Mail Service Center, Raleigh, NC 27699-1601.~~

(d) Application packages for renewals shall include updated site ~~plans, (if required as part of original submittal).~~ plans, if required as part of the original submittal.

(e) Application and annual Fees.

(1) Application Fee. For every application for a new or major modification of a permit under this Section, a nonrefundable application processing fee in the amount provided in G.S. 143-215.3D shall be submitted to the Division by the Applicant ~~applicant~~ at the time of application. For a facility with multiple treatment units under a single permit, the application fee shall be set by the total design treatment capacity. Modification fees shall be based on the projected annual fee for the facility.

(2) Annual Fees. An annual fee for administering and compliance monitoring shall be charged in each year of the term of every renewable permit according to the schedule in G.S. 143-215.3D(a). Annual fees ~~must~~ shall be paid for any facility operating on an expired permit that has not been rescinded or revoked by the Division. Permittees shall be billed annually by the Division. A change in the facility which changes the annual fee shall result in the revised annual fee being billed effective with the next anniversary date.

(3) Failure to pay an annual fee within 30 days after being billed shall be cause for the Division to revoke the permit.

(f) Designs for facilities permitted under this Section shall use the practicable waste treatment and disposal alternative with the least adverse impact on the environment in accordance with G.S. 143-215.1(b)(2).

(g) ~~In order to protect Publicly Owned Treatment Works, the~~ The Division shall incorporate pretreatment requirements under 15A NCAC ~~2H~~ 02H .0900 into the permit.

(h) Setbacks and required separation distances shall be provided as required by ~~individual~~ rules in this Subchapter. Setbacks to ~~streams (perennial and intermittent),~~ perennial and intermittent streams, perennial waterbodies, and wetlands shall be determined using the methodology set forth in 15A NCAC 02B .0233(4)(a). Setbacks to wells ~~are for~~ shall apply to those wells outside the compliance boundary. ~~Where~~ If wells and subsurface groundwater lowering drainage systems would otherwise be inside the compliance boundary as established in 15A NCAC 02L .0107, the Applicant ~~applicant~~ may request the compliance boundary be established closer to the waste disposal area and this shall be granted provided the groundwater standards can be met at the newly established compliance boundary.

(i) Permits ~~may~~ shall provide specific conditions to address the protection of threatened or endangered aquatic species as provided in plans developed pursuant in 15A NCAC 02B .0110 if the construction and operation of the facility directly impacts such species.

(j) The Permittee ~~permittee~~ shall ~~keep permits active~~ comply with all permit conditions and requirements until the waste treatment systems authorized by the permit are properly closed or subsequently permitted under another permit issued by the appropriate permitting authority for that activity.

(k) Monitoring of waste and surface waters shall be in accordance with 15A NCAC 02B .0505 except as otherwise provided by ~~specific~~ applicable rules in this Subchapter.

(l) Reporting shall be in accordance with 15A NCAC 02B .0506 except as otherwise provided by ~~specific~~ applicable rules in this Subchapter.

(m) Monitoring of groundwater shall be in accordance with Sections 15A NCAC 02L .0100 and 15A NCAC 02C .0100 except as otherwise provided by ~~specific~~ applicable rules in this Subchapter.

(n) The Director shall approve alternative Design Criteria and Application Submittal requirements in cases where the Applicant ~~applicant~~ can demonstrate that the alternative ~~design criteria~~ will ~~provide the following:~~ provide:

(1) equal or better treatment of the waste;

(2) equal or better protection of the waters of the state; and

(3) no increased potential for nuisance conditions from noise, odor or vermin.

(o) The Permittee shall retain the Division approved plans and specifications for the life of the facility.

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

15A NCAC 02T .0106 SUBMISSION OF PERMIT APPLICATIONS

(a) Permit applications, supporting information, and processing fee for permits issued by the Division shall be filed with the Division. Applications for permits from a ~~Division-approved~~ Division-approved local permitting program shall be submitted ~~directly~~ to the local program director. Division permit processing fees ~~are not~~ shall not be required for permits issued by delegated local permitting programs.

(b) Permit applications shall be signed as follows:

(1) in the case of corporations, by a principal executive officer of at least the level of ~~vice president,~~ vice-president or his authorized representative;

(2) in the case of a partnership or a limited partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor;

(4) in the case of a municipal, state, or other public ~~entity~~ entity, by either an executive officer, elected official in the highest level of elected office, or other authorized employee.

(c) Delegation of authority to sign permit applications to other authorized employees or any employee in a specific position ~~(i.e. signing officials)~~ shall be provided in ~~letter format~~ writing to the Division and signed by an authorized person pursuant to Paragraph (b) of this Rule. The delegation may be for a specific permit application or more general for certain or all types of water quality permits. The letter shall identify the extent of delegation.

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

15A NCAC 02T .0107 STAFF REVIEW AND PERMIT PREPARATION

(a) The staff of the Division shall conduct a review of plans, specifications and other project data accompanying the application and shall determine if the application and required information are complete. The staff shall acknowledge receipt of a complete application except for fast-track sewer applications. The local government unit or units having jurisdiction over specific residential projects shall be notified of permit applications in accordance with G.S. 143-215.1(d1).

(b) If the application ~~is not complete with~~ does not include all required information and the application fee, the application shall be returned to the Applicant. ~~applicant.~~ The staff shall advise the ~~applicant by mail:~~ Applicant:

(1) how the application or accompanying supporting information may be modified to make it acceptable ~~or complete;~~ for review; and

(2) that the 90 day processing period required in G.S. 143-215.1 and Rule .0108 of this Section begins upon receipt of a corrected ~~or complete~~ application with required supporting information.

(c) ~~Pursuant to G.S. 143-215.67(a), the staff of the Division shall determine for sewer system construction or sewer system extensions, whether the treatment works or the sewer system to which the proposed system will discharge is adequate to receive waste which will be discharged from the proposed system.~~ In reviewing a permit application for sewer system construction or sewer system extensions, the staff of the Division shall determine whether the treatment works or the sewer system to which the proposed system will discharge is adequate to receive waste which will be discharged from the proposed system, pursuant to G.S. 143-215.67(a).

(d) In reviewing a permit application for ~~For~~ new and expanding treatment works and disposal systems, the staff shall make a site-specific evaluation to determine the potential impacts of the proposed project on surface and ground water quality. The Applicant shall ~~applicant must~~ make the site accessible to the Division.

(e) If an application is accepted and later found to be incomplete, the Applicant ~~applicant~~ shall be advised how the application or accompanying supporting information may be modified to make it ~~acceptable or~~ complete. The staff shall advise the ~~applicant by mail:~~ Applicant:

(1) that the 90 day processing period required in G.S. 143-215.1(d) and Rule .0108 of this Section begins on the date the additional information is received; and

(2) that if all required information is not submitted within 30 days, the project will be returned as incomplete. Any resubmittal of a returned application ~~must~~ shall be accompanied with a new application fee.

Authority G.S. 143-215.1(b); 143-215.1(d); 143-215.3(a)(1); 143-215.3(a)(4).

15A NCAC 02T .0108 FINAL ACTION ON PERMIT APPLICATIONS TO THE DIVISION

(a) The Director shall take final action on all applications not later than 90 days following receipt of a complete application ~~and with~~ together with all required information. All ~~permits or~~ permits, renewals of ~~permits~~ permits, and decisions denying permits or renewals shall be in writing.

(b) The Director ~~may:~~ shall:

(1) issue a ~~permit~~ permit:

(A) containing such conditions as are necessary to effectuate the purposes of Article 21, Chapter 143 of the General Statutes; and

~~(2)~~(B) ~~issue a permit~~ containing time schedules for achieving compliance with applicable effluent standards and limitations, surface water or groundwater standards and other legally applicable requirements;

~~(2)~~(3) deny a permit application ~~where~~ if necessary to effectuate:

(A) the purposes of Article 21, Chapter 143;

(B) the purposes of G.S. 143-215.67(a); or

~~(C) rules on coastal waste treatment, disposal, found in Section 15A NCAC 02H .0400;~~

(C)~~(D)~~ rules on groundwater quality standards found in Subchapter 02L of this ~~Chapter.~~ Chapter; or

~~(3)~~(4) hold public meetings when necessary to obtain additional information needed to complete the review of the application. The application shall be considered as incomplete until the close of the meeting record.

(c) The Division may require any monitoring and reporting requirements, including groundwater, surface water or wetlands, waste, wastewater, ~~sludge,~~ residuals, soil, treatment process, lagoon/storage pond, and plant tissue, necessary to determine the source, quantity and quality of the waste and its effect upon the surface water, ground waters or wetlands. All reports ~~must~~ shall be submitted on ~~Division supplied~~ Division-supplied forms or forms approved by the Division as providing the same information as required by the Division's forms.

(d) If a permit is denied, the letter of denial shall state the ~~reason(s)~~ reason for denial and any reasonable measures which the Applicant ~~applicant~~ may take to make the application approvable.

(e) All permits requiring an annual fee shall be issued for a time period not to exceed ~~five~~ eight years.

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

15A NCAC 02T .0109 PERMIT RENEWALS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .0110 MODIFICATION AND REVOCATION OF PERMITS

~~Any~~ A permit issued by the Division pursuant to this Subchapter is subject to revocation ~~,~~ or modification upon 60 days notice by the Director in whole or part ~~for:~~ the following reasons:

(1) violation of any terms or conditions of the ~~permit;~~ permit or this Subchapter;

(2) obtaining a permit by misrepresentation or failure to disclose ~~fully~~ all relevant facts;

(3) refusal of the Permittee ~~permittee~~ to allow authorized employees of the Department upon presentation of credentials:

(a) to enter upon Permittee's ~~permittee's~~ premises on which a system is located in which any records are required to be kept under terms and conditions of the permit;

(b) to have access to any documents and records required to be kept under terms and conditions of the permit;

(c) to inspect any monitoring equipment or method required in the permit; or

(d) to sample any ~~pollutants.~~ pollutants;

(4) failure to pay the annual fee for administering and compliance ~~monitoring.~~ monitoring; or

(5) a determination by the Division that the conditions of the permit are in conflict with Administrative Code or Statute.

Authority G.S. 143-215.1(b)(2.); 143-215.3(a)(1).

15A NCAC 02T .0111 CONDITIONS FOR ISSUING GENERAL PERMITS

(a) ~~In accordance with the provisions of G.S. 143-215.1(b), (c) and (d), general permits may be developed by the Division and issued by the Director for categories of activities covered by this Subchapter. General permits may be written for categories of activities that involve the same or substantially similar operations, have similar treated waste characteristics, require the same limitations or operating conditions, and require the same or similar monitoring. After issuance of a general permit by the Director, persons operating facilities described by the general permit may request coverage under it, and the Director or his designee may grant appropriate certification. All individual operations which receive a "Certificate of Coverage" under a general permit are permitted under the specific general permit for which the coverage was issued. A Certificate of Coverage shall mean that approval is given to facilities that meet the requirements of coverage under the general permit. Persons operating facilities covered under general permits developed in accordance with this Rule shall be subject to the same limits, conditions, management practices, enforcement authorities, and rights and privileges as specified in the general permit.~~ After issuance of a general permit by the Director pursuant to G.S. 143-215.1(b), (c) or (d), persons operating facilities described by the general permit may request coverage under it. An operation that receives a "Certificate of Coverage" under a general permit shall be permitted under the general permit for which the coverage was issued. A Certificate of Coverage shall mean that approval is given to facilities that meet the requirements of coverage under the general permit. Persons operating facilities covered under general permits developed in accordance with this Rule shall be subject to the same limits, conditions, management practices, enforcement authorities, and rights and privileges specified in the general permit.

(b) ~~Upon development of a draft general permit, the Director shall publicly notice under G.S. 143-215.4 (b)(1) and (2), at least 30 days prior to final action, an intent to issue the general permit.~~

Upon development of a draft general permit, the Director shall publicly notice an intent to issue the general permit, pursuant to G.S. 143-215.4 (b)(1) and (2), at least 30 days prior to final action. ~~A one-time publication of the notice in a newspaper having general circulation in the geographic areas affected by the proposed permit shall be required.~~ The notice shall provide the name, address and phone number of the Division, a brief description of the intended action, and a brief description of the procedures for the formulation of final determinations, including a 30-day comment period and other means by which interested persons may comment upon the determinations.

(c) No provisions in any general permit issued under this Rule shall be interpreted ~~as allowing~~ to allow the Permittee ~~permittee~~ to violate state surface water standards, groundwater standards outside a Compliance Boundary established in accordance with 15A NCAC 02L .0107, or other applicable environmental Rules. Construction of new water supply wells for human consumption shall be prohibited within Compliance Boundaries for facilities covered under general permits issued under this Section. General permits issued pursuant to this Rule shall be considered individual permits for purposes of Compliance Boundaries established under 15A NCAC 02L .0107.

(d) To obtain ~~an individual~~ a Certificate of Coverage, a Notice of Intent to be covered by the general permit ~~must~~ shall be given by the Applicant ~~applicant~~ to the Division using ~~forms provided by the Division.~~ Division-approved forms. Coverage under the general permit shall be granted unless the Director makes a determination under Paragraph (h) of this Rule that an individual permit is required. If all requirements of Paragraph (h) are not met, an individual permit application and full application review procedure shall be required.

(e) ~~General permits~~ A general permit shall be effective for a term not to exceed ~~five years~~ eight years, at the end of which the Division may renew ~~them.~~ it. The Division shall satisfy public notice requirements specified in Paragraph (b) of this Rule prior to renewal of a general permit. ~~permits.~~ If the Division does not renew a general permit, all operations covered under that general permit shall be notified to submit applications for individual permits.

(f) Anyone engaged in activities covered by the general permit rules but not permitted in accordance with this Subchapter shall be in violation of G.S. 143-215.1.

(g) Any individual covered or considering coverage under a general permit may choose to pursue an individual permit for any operation covered by this Rule.

(h) The Director may require any person, otherwise eligible for coverage under a general permit, to apply for an individual permit by notifying that person that an application is required. Notification shall consist of a written description of the ~~reason(s)~~ reason for the decision, appropriate permit application forms and application instructions, a statement establishing the required date for submission of the application, and a statement informing the person that coverage by the general permit shall automatically terminate upon issuance of the individual permit. Reasons for requiring application for an individual permit include:

(1) the operation is a significant contributor of pollutants to the waters of the state;
(2) conditions at the permitted site change, altering the constituents or characteristics of the wastewater such that the operation no longer qualifies for coverage under a general permit;
(3) noncompliance with the general permit;
(4) noncompliance with the Commission rules in this Chapter;
(5) a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the operation;
(6) a determination by the Division that there has been or is the potential to have a direct discharge of ~~wastewater, sludge~~ wastewater or residuals to waters of the state; or
(7) the system has been allowed to deteriorate or leak such that it poses an immediate threat to the environment.

(i) General permits or individual Certificate of Coverages may be modified, terminated, or revoked and reissued in accordance with the authority and requirements of rules of this Subchapter.

Authority G.S. 143-215.1; 143-215.3(a)(1); 143-215.10C.

15A NCAC 02T .0112 DELEGATION OF AUTHORITY

For permits issued by the Division, the Director is authorized to delegate any or all of the functions contained in the rules of this Subchapter except the following:

(1) denial of a permit application;
(2) revocation of a permit not requested by the ~~permittee;~~ Permittee; and
(3) modification of a permit not requested by the ~~permittee.~~ Permittee.

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

15A NCAC 02T .0113 PERMITTING BY REGULATION

(a) The following disposal systems as well as those in Permitting By Regulation rules in this Subchapter (i.e., Rules .0203, .0303, .0403, ~~.1003,~~ .1103, .1203, .1303, .1403, and .1503) ~~are~~ shall be deemed to be permitted pursuant to G.S. ~~143-215.1(b)~~ 143-215.1(b), and it shall not be necessary for the Division to issue individual permits or coverage under a general permit for construction or operation of the following disposal systems provided the system does not result in any violations of surface water or groundwater standards, there is no direct discharge to surface waters, and all criteria required for the specific system ~~is~~ are met:

(1) Swimming pool and spa filter backwash and drainage, filter backwash from aesthetic fountains, and filter backwash from commercial or residential water features such as garden ponds or fish ~~ponds~~ ponds, that is discharged to the land surface;
(2) Backwash from raw water intake screening devices that is discharged to the land surface;
(3) Condensate from residential or commercial air conditioning units that is discharged to the land surface;
(4) Discharges to the land surface from individual non-commercial car washing operations;

(5) Discharges to the land surface from flushing and hydrostatic testing water associated with utility distribution systems, new sewer extensions or new reclaimed water distribution lines;

(6) Street wash water that is discharged to the land surface;

(7) Discharges to the land surface from firefighting ~~fire-fighting~~ activities;

(8) Discharges to the land surface associated with emergency removal and treatment activities for spilled oil authorized by the federal or state on-scene coordinator when such removals are undertaken to minimize overall environmental damage due to an oil spill;

(9) Discharges to the land surface associated with biological or chemical decontamination activities performed as a result of an emergency declared by the Governor or the Director of the Division of Emergency Management and that are conducted by or under the direct supervision of the federal or state on-scene coordinator and that meet the following criteria:

(A) the volume produced by the decontamination activity is too large to be contained onsite;

(B) the Division is informed prior to commencement of the decontamination activity; and

(C) the wastewater is not radiologically contaminated or classified as hazardous waste;

(10) Drilling muds, cuttings and well water from the development of wells or from other construction ~~activities~~ activities, including directional boring, except such wastes generated in the construction and development of oil and gas wells regulated by Article 27 of G.S. 113;

(11) Purge water from groundwater monitoring wells;

(12) Composting facilities for dead ~~animals,~~ animals if the construction and operation of the facilities is approved by the North Carolina Department of Agriculture and Consumer Services; the facilities are constructed on an impervious, weight-bearing foundation, operated under a roof; and the facilities are approved by the State Veterinarian pursuant to G.S. 106-403;

(13) Overflow from elevated potable water storage facilities;

(14) Mobile carwashes if:

(A) all detergents used are biodegradable;

(B) no steam cleaning, engine or parts cleaning is being conducted;

(C) notification is made prior to operation by the owner to the municipality or if not in a municipality then the county where the cleaning service is being provided; and

(D) ~~all~~ non-recyclable washwater is collected and discharged into a sanitary sewer or wastewater treatment ~~facility~~ facility, upon approval of the facility's ~~owner.~~ owner, such that no ponding or runoff of the washwater occurs;

(15) Mine tailings ~~where~~ if no chemicals are used in the mining process;

(16) Mine dewatering ~~where~~ if no chemicals are used in the mining process; ~~and~~

(17) Wastewater created from the washing of produce, with no further processing on-site, on farms where the wastewater is irrigated onto fields so as not to create runoff or cause a ~~discharge.~~ discharge; and

(18) Discharges to the land surface of less than 5,000 gallons per week of backwash water from greensand filters, not including conventional filters, reverse osmosis, and ion exchange filters, at potable water wells, provided ponding or runoff does not occur and the backwash does not contain radioactive material or arsenic; and

(19) Discharges to the land surface of less than 350 gallons per week of backwash water from reverse osmosis, ion exchange filters, greensand filters at private drinking water wells serving single-family residences, provided ponding or runoff does not occur.

(b) Nothing in this Rule shall be deemed to allow the violation of any ~~assigned~~ surface water, groundwater, or air quality standards, and in addition any such violation shall be considered a violation of a condition of a permit. Further, nothing in this Rule shall be deemed to apply to or permit disposal systems for which a state National Pollutant Discharge Elimination System permit is otherwise required.

(c) Any violation of this Rule or any discharge to surface waters from the disposal systems listed in Paragraph (a) of this Rule or the activities listed in other Permitted By Regulation rules in this Subchapter shall be reported in accordance with 15A NCAC 02B .0506.

(d) Disposal systems deemed permitted under this Subchapter shall remain deemed permitted, notwithstanding any violations of surface water or groundwater standards or violations of this Rule or other Permitted By Regulation rules in this Subchapter, until such time as the Director determines that they shall not be deemed permitted in accordance with the criteria established in this Rule.

(e) The Director may determine that a disposal system ~~should~~ shall not be deemed to be permitted in accordance with this Rule or other Permitted By Regulation rules in this Subchapter and require the disposal system to obtain an individual permit or a certificate of coverage under a general permit. This determination shall be made based on existing or projected environmental impacts, compliance with the provisions of this Rule or other Permitted By Regulation rules in this Subchapter, and the compliance history of the facility owner.

Authority G.S. 130A-300; 143-215.1(a)(1); 143-215.1(b)(4)(e); 143-215.3(a).

15A NCAC 02T .0114 WASTEWATER DESIGN FLOW RATES

(a) This Rule shall be used to determine wastewater flow rates for all systems ~~covered~~ governed by this Subchapter unless alternate criteria are provided by a ~~program-specific~~ program-specific rule ~~and~~ or for flow used for the purposes of 15A NCAC 02H .0105. These are ~~minimum~~ design daily flow rates for normal use and occupancy situations. Higher flow rates may be required where usage and occupancy are atypical, ~~including,~~ including those in Paragraph (e) of this Rule. Wastewater flow calculations ~~must~~ shall take hours of operation and anticipated maximum ~~occupancies/usage~~ occupancies and usage into account when calculating peak flows for design.

(b) In determining the volume of sewage from dwelling units, the flow rate shall be 120 gallons per day per bedroom. The minimum volume of sewage from each dwelling unit shall be 240 gallons per day and each additional bedroom above two bedrooms shall increase the volume by 120 gallons per day. Each bedroom or any other room or addition that can ~~reasonably be expected to~~ function as a bedroom shall be considered a bedroom for design purposes. When the occupancy of a dwelling unit exceeds two persons per bedroom, the volume of sewage shall be determined by the maximum occupancy at a rate of 60 gallons per person per day.

(c) The following table shall be used to determine the minimum allowable design daily flow of wastewater facilities. Design flow rates for establishments not identified below shall be determined using available flow data, water-using fixtures, occupancy or operation patterns, and other measured data.

Type of Establishments	Daily Flow For Design
Barber and beauty shops	
Barber Shops	50 gal/chair
Beauty Shops	125 gal/booth or bowl
Businesses, offices and factories	
General business and office facilities	25 gal/employee/shift
Factories, excluding industrial waste	25 gal/employee/shift
Factories or businesses with showers or food preparation	35 gal/employee/shift
Warehouse	100 gal/loading bay
Warehouse – self storage (not including caretaker residence)	1 gal/unit
Churches	
Churches without kitchens, day care or camps	3 gal/seat
Churches with kitchen	5 gal/seat
Churches providing day care or camps	25 gal/person (child & employee)
Fire, rescue and emergency response facilities	
Fire or rescue stations without on site staff	25 gal/person
Fire or rescue stations with on-site staff	50 gal/person/shift
Food and drink facilities	
Banquet, dining hall	30 gal/seat
Bars, cocktail lounges	20 gal/seat
Caterers	50 gal/100 sq ft floor space
Restaurant, full Service	40 gal/seat
Restaurant, single service articles	20 gal/seat
Restaurant, drive-in	50 gal/car space
Restaurant, carry out only	50 gal/100 sq ft floor space
Institutions, dining halls	5 gal/meal
Deli	40 gal/100 sq ft floor space
Bakery	10 gal/100 sq ft floor space
Meat department, butcher shop or fish market	75 gal/100 sq ft floor space
Specialty food stand or kiosk	50 gal/100 sq ft floor space
Hotels and Motels	
Hotels, motels and bed & breakfast facilities, without in-room cooking facilities	120 gal/room
Hotels and motels, with in-room cooking facilities	175 gal/room
Resort hotels	200 gal/room
Cottages, cabins	200 gal/unit
Self service laundry facilities	500 gal/machine
Medical, dental, veterinary facilities	
Medical or dental offices	250 gal/practitioner/shift
Veterinary offices (not including boarding)	250 gal/practitioner/shift
Veterinary hospitals, kennels, animal boarding facilities	20 gal/pen, cage, kennel or stall
Hospitals, medical	300 gal/bed

Hospitals, mental	150 gal/bed
Convalescent, nursing, rest homes without laundry facilities	60 gal/bed
Convalescent, nursing, rest homes with laundry facilities	120 gal/bed
Residential care facilities	60 gal/person
Parks, recreation, camp grounds, R-V parks and other outdoor activity facilities	
Campgrounds with comfort station, without water or sewer hookups	75 gal/campsite
Campgrounds with water and sewer hookups	100 gal/campsite
Campground dump station facility	50 gal/space
Construction, hunting or work camps with flush toilets	60 gal/person
Construction, hunting or work camps with chemical or portable toilets	40 gal/person
Parks with restroom facilities	250 gal/plumbing fixture
Summer camps without food preparation or laundry facilities	30 gal/person
Summer camps with food preparation and laundry facilities	60 gal/person
Swimming pools, bathhouses and spas	10 gal/person
Public access restrooms	325 gal/plumbing fixture
Schools, preschools and day care	
Day care and preschool facilities	25 gal/person (child & employee)
Schools with cafeteria, gym and showers	15 gal/student
Schools with cafeteria	12 gal/student
Schools without cafeteria, gym or showers	10 gal/student
Boarding schools	60 gal/person (student & employee)
Service stations, car wash facilities	
Service stations, gas stations	250 gal/plumbing fixture
Car wash facilities ~~(if recycling water see Rule .0235)~~	1200 gal/bay
Sports centers	
Bowling center	50 gal/lane
Fitness, exercise, karate or dance center	50 gal/100 sq ft
Tennis, racquet ball	50 gal/court
Gymnasium	50 gal/100 sq ft
Golf course with only minimal food service	250 gal/plumbing fixture
Country clubs	60 gal/member or patron
Mini golf, putt-putt	250 gal/plumbing fixture
Go-kart, motocross	250 gal/plumbing fixture
Batting cages, driving ranges	250 gal/plumbing fixture
Marinas without bathhouse	10 gal/slip
Marinas with bathhouse	30 gal/slip
Video game arcades, pool halls	250 gal/plumbing fixture
Stadiums, auditoriums, theaters, community centers	5 gal/seat
Stores, shopping centers, malls and flea markets	
Auto, boat, recreational vehicle dealerships/showrooms with restrooms	125 gal/plumbing fixture
Convenience stores, with food preparation	60 gal/100 sq ft
Convenience stores, without food preparation	250 gal/plumbing fixture
Flea markets	30 gal/stall
Shopping centers and malls with food service	130 gal/1000 sq ft
Stores and shopping centers without food service	100 gal/1000 sq ft
Transportation terminals – air, bus, train, ferry, port and dock	5 gal/passenger

(d) Design daily flow rates for proposed non-residential developments where the types of use and occupancy are not known shall be designed for a minimum of 880 gallons per ~~acre~~ acre, or the Applicant ~~applicant~~ shall specify an anticipated flow based upon anticipated or potential uses.

~~(e) Conditions applicable to the use of the above design daily flow rates:~~

~~(1) For restaurants, convenience stores, service stations and public access restroom facilities, higher design daily flow rates shall be required based on higher expected usage where use is increased because of its proximity to highways, malls, beaches, or other similar high use areas.~~

(e)~~(2)~~ Residential property on barrier islands and similar communities located south or east of the Atlantic Intracoastal Waterway and used as vacation rental as defined in G.S. 42A-4 shall use 120 gallons per day per habitable room. Habitable room shall mean a room or enclosed floor space used or intended to be

used for living or sleeping, excluding kitchens and dining areas, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets, and storage spaces.

(f) An adjusted daily sewage flow design rate shall be granted for permitted but not yet tributary connections and future connections tributary to the system upon showing that the capacity of a sewage system is adequate to meet actual daily wastewater flows from a facility included in Paragraph (b) or (c) of this Rule without causing flow violations at the receiving wastewater treatment plant or ~~capacity related~~ capacity-related sanitary sewer overflows within the collection system as follows:

(1) Documented, representative data from that facility or a comparable facility shall be submitted by an authorized signing official in accordance with Rule .0106 of this Section to the Division ~~as follows~~ for all flow reduction ~~request:~~ requests, as follows:

(A) Dates of flow meter calibrations during the time frame evaluated and indication if any adjustments were necessary.

(B) A breakdown of the type of connections (e.g. two bedroom units, three bedroom units) and number of customers for each month of submitted data as applicable. Identification of any non-residential connections including subdivision ~~clubhouses/pools,~~ clubhouses and pools, restaurants, schools, churches and businesses. For each non-residential connection, information ~~as~~ identified in Paragraph (c) of this Rule (e.g. 200 seat church, 40 seat restaurant, 35 person pool bathhouse).

(C) ~~Owner of the collection system.~~ A letter of agreement from the owner or an official, meeting the criteria of Rule .0106 of this Subchapter, of the receiving collection system or treatment works accepting the wastewater and agreeing with the adjusted design rate.

(D) Age of the collection system.

(E) Analysis of inflow and infiltration within the collection system or receiving treatment plant, as applicable.

(F) ~~Where~~ If a dedicated wastewater treatment plant serves the specific area and is representative of the residential wastewater usage, at least the 12 most recent consecutive monthly average wastewater flow readings and the daily total wastewater flow readings for the highest average wastewater flow month per ~~customers~~ customers, as reported to the Division.

(G) ~~Where~~ If daily data from a wastewater treatment plant cannot be ~~utilized~~ used or is not representative of the project area: ~~at least~~ 12 months worth of monthly average wastewater flows from the receiving treatment plant shall be evaluated to determine the peak sewage month. Daily wastewater flows shall then be taken from a flow meter installed at the most downstream point of the collection area for the peak month selected that is representative of the project area. Justification for the selected placement of the flow meter shall also be provided.

(H) An estimated ~~minimum~~ design daily sewage flow rate shall be ~~taken~~ determined by calculating the numerical average of the top three daily readings for the highest average flow month. The calculations shall also account for seasonal variations, excessive inflow and infiltration, age and suspected meter ~~reading/recording~~ reading and recording errors.

(2) The Division shall evaluate all data submitted but shall also consider other factors in granting, with or without adjustment, or denying a flow reduction request including: applicable weather conditions during the data period (i.e. rainy or drought), other historical monitoring data for the particular facility or other similar facilities available to the Division, the general accuracy of monitoring reports and flow meter readings, and facility usage (i.e., resort area).

(3) Flow increases shall be required if the calculations in Subparagraph (f)(1) of this Rule yield design flows higher than that specified in Paragraphs (b) or (c) of this Rule.

(4) The Permittee ~~applicant/owner~~ shall retain the letter of any approved adjusted daily design flow rate for the life of the facility and shall transfer such letter to any future Permittee. ~~new system owner.~~

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

15A NCAC 02T .0115 OPERATIONAL AGREEMENTS

(a) Prior to issuance or reissuance of a permit pursuant to this Subchapter for a wastewater facility or sewer extension as specified in G.S. 143-215.1(d1), a private ~~applicant shall provide evidence with the permit application:~~ Applicant shall:

(1) ~~To show~~ Demonstrate that the Applicant ~~applicant~~ has been designated as a public utility by the North Carolina Utilities Commission and is authorized to provide service to the specific project area. This may be a Certificate of Public

Convenience and Necessity or letter from the Public Staff; or

(2) Enter into and submit an executed Operational Agreement pursuant to G.S. 143-215.1(d1) with the Division.

(b) ~~Where~~ If the Applicant ~~applicant~~ is ~~not~~ a ~~Homeowner's or Property Owner's Association,~~ developer of lots to be sold, an executed Operational Agreement ~~must~~ shall be submitted with the permit application. A copy of the Articles of Incorporation, Declarations and By-laws shall be submitted to the ~~Division~~ Division, as required by 15A NCAC 02T .0116, with the engineer's certification ~~as required by 15A NCAC 02T .0116~~ and prior to operation of the permitted facilities.

(c) ~~For permit applications where~~ If the Applicant ~~applicant~~ is a legally formed Homeowners' or Property Owner's Association, an executed Operational Agreement and a copy of the Articles of Incorporation, Declarations and By-laws shall be submitted to the Division with the permit application.

~~(d) An Operational Agreement is required prior to donation to a public utility or municipality unless the applicant is the respective municipality or public utility. The Operational Agreement shall become void upon transferring the permit to the public utility or municipality via a change of ownership request to the Division and permit issuance into the new owner name.~~

Authority G.S. 143-215.1(d1).

15A NCAC 02T .0116 CERTIFICATION OF COMPLETION

(a) Prior to the operation of any sewer system, treatment works, utilization system, or disposal system for which an individual permit has been issued in accordance with this Subchapter and the application prepared by licensed professional, a certification ~~must~~ shall be received by the Division from a professional certifying that the sewer system, treatment works, utilization system, or disposal system has been installed in accordance with the rules, any minimum design criteria except as noted, and approved plans and specifications. The professional certification ~~must~~ shall be on official forms completely filled out, where applicable, and submitted to the Division. For facilities with phased construction or where there is a need to operate certain equipment under actual operating conditions prior to certification, additional certification may be needed as follow-ups to the initial, pre-operation certification. The Division may not acknowledge receipt of engineering certifications. The Permittee and the professional shall track the submittal of certifications.

(b) For sewer extensions ~~involving developer donated projects where the developer is the original Permittee,~~ where a transfer of ownership is desired, a change of ownership request shall be submitted ~~to the Division on Division~~ on Division-approved forms upon certifying completion of the project.

(c) All deeds, easements and encroachment agreements necessary for installation and operation and maintenance of the system shall be obtained prior to operation of the system.

(d) The Permittee shall maintain a copy of the individual permit and a set of final record drawings for the life of the facility.

Authority G.S. 143-215.1.

15A NCAC 02T .0117 TREATMENT FACILITY OPERATION AND MAINTENANCE

(a) For facilities permitted under this Subchapter, the ~~permittee must~~ Permittee shall designate an Operator in Responsible Charge and a back-up operator as required by the Water Pollution Control System Operators Certification Commission ~~as established in~~ pursuant to 15A NCAC 08F .0200 and 15A NCAC 08G .0200. ~~Copies of this Rule are available from the Division, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27604 at no charge.~~

(b) In order to insure the proper operation and maintenance of facilities permitted under this Section, the Operator in Responsible ~~Charge,~~ Charge or a back-up operator when appropriate ~~must~~ shall operate and visit the facility as required by the Water Pollution Control System Operators Certification Commission ~~as established in~~ pursuant to 15A NCAC 08F .0200 and 15A NCAC 08G .0200. ~~Copies of this Rule are available from the Division, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27604 at no charge.~~

Authority G.S. 143-215.3.

15A NCAC 02T .0118 DEMONSTRATION OF FUTURE WASTEWATER TREATMENT CAPACITIES

~~In order to insure that treatment, utilization, or disposal systems do not exceed their hydraulic treatment capacities, no~~ No permits for sewer line extensions shall be issued to wastewater treatment systems owned or operated by municipalities, counties, sanitary districts or public utilities unless they meet the following requirements:

(1) Prior to exceeding 80 percent of the ~~wastewater treatment system's~~ permitted hydraulic capacity (based on the average flow ~~of~~ during the last calendar year), the ~~permittee must~~ Permittee shall submit an ~~approvable~~ engineering evaluation of their future wastewater treatment, utilization, and disposal needs. This evaluation ~~must~~ shall outline ~~specific~~ plans for meeting future wastewater treatment, utilization, or disposal needs by either expansion of the existing system, elimination or reduction of extraneous flows, or water conservation and ~~must~~ shall include the ~~source(s)~~ source of funding for the improvements. If expansion is not proposed or is proposed for a later date, a ~~detailed~~ justification ~~must~~ shall be made ~~to the satisfaction of the Director~~ that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other ~~specific~~ measures to achieve waste flow reductions.

(2) Prior to exceeding 90 percent of the ~~wastewater treatment, utilization, or disposal systems~~ permitted hydraulic ~~capacity,~~ capacity (based on the average flow during the last calendar year), the ~~permittee must~~ Permittee shall obtain all permits needed for the expansion of the wastewater treatment, utilization, or disposal

system and, if construction is needed, submit ~~approvable~~ final plans and specifications for ~~expansion~~ expansion, including a construction schedule. If expansion is not proposed or is proposed for a later date, a ~~detailed~~ justification ~~must~~ shall be made ~~to the satisfaction of the Director~~ that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other specific measures to achieve waste flow reductions.

(3) The Director shall allow permits to be issued to facilities that are exceeding the 80 percent or 90 percent ~~loading rates~~ disposal capacity if the additional flow is not projected to result in the facility exceeding its permitted hydraulic capacity, the facility is in compliance with all other permit limitations and requirements, and ~~it is demonstrated to the satisfaction of the Director~~ that adequate progress is being made in developing the needed engineering evaluations or plans and specifications. In determining the adequacy of the progress, the Director shall consider the projected flows, the complexity and scope of the work to be ~~completed~~ completed, and any projected environmental impacts.

Authority G.S. 143-215.3.

15A NCAC 02T .0120 HISTORICAL CONSIDERATION IN PERMIT APPROVAL

(a) The Division shall consider an Applicant's ~~applicant's~~ compliance history in accordance with G.S. 143-215.1(b)(4)b.2. and with the requirements contained ~~within~~ in this Rule for environmental permits and certifications issued under Article 21. Paragraph (b) of this Rule is a partial set of criteria for routine consideration under G.S. 143-215.1(b)(4)b.2. The Director may also consider other compliance information in determining compliance history.

(b) When any of the following apply, permits for new and expanding facilities shall not be granted, unless the Division determines that the permit is specifically and solely needed for the construction of facilities to resolve non-compliance with any environmental statute or rule:

(1) The Applicant ~~applicant~~ or any parent, subsidiary, or other affiliate of the Applicant ~~applicant or parent~~ has been convicted of environmental crimes under G.S. 143-215.6B or under Federal law that would otherwise be prosecuted under G.S. 143-215.6B ~~where all appeals~~ and all appeals of this conviction have been abandoned or exhausted.

(2) The Applicant ~~applicant~~ or any parent, subsidiary, or other affiliate of the Applicant ~~affiliation~~ has previously abandoned a wastewater treatment facility without properly closing the facility in accordance with the permit or this Subchapter.

(3) The Applicant ~~applicant~~ or any parent, subsidiary, or other affiliate of the Applicant ~~affiliation~~ has not paid a civil penalty ~~where all appeals~~ and all appeals of this penalty have been abandoned or exhausted.

(4) The Applicant ~~applicant~~ or any parent, subsidiary, or other affiliate of the Applicant ~~affiliation~~ is currently not compliant with any compliance schedule in a permit, settlement agreement or order.

(5) The Applicant ~~applicant~~ or any parent, subsidiary, or other affiliate of the Applicant ~~affiliation~~ has not paid an annual fee in accordance with Rule .0105(e)(2).

(c) Permits for renewing facilities shall not be granted if the Applicant or any affiliation has not paid an annual fee in accordance with Rule .0105(e)(2).

(d)~~(c)~~ Any variance to this Rule shall be approved by the Director and shall be based on the current compliance status of the Permittee's ~~permittee's~~ facilities and the magnitude of previous violations. Variance approval shall not be delegated to subordinate staff.

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

SECTION .0200 – WASTEWATER PUMP AND HAUL SYSTEMS

15A NCAC 02T .0201 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .0203 PERMITTING BY REGULATION

(a) The following systems ~~are~~ shall be deemed permitted pursuant to Rule .0113 of this Subchapter ~~provided~~ if the system meets the criteria in Rule .0113 of this Subchapter and all criteria required for ~~the specific~~ that system in this Rule:

(1) Washwater from single-beverage kiosks and similar operations not regulated under the authority of the Division of ~~Environmental~~ Public Health if the following criteria are met:

(A) The facility notifies the appropriate Division regional office in writing advising of the type of operation, type and quantity of wastewater generated, and the receiving wastewater treatment facility. A letter from the facility that is accepting the wastewater (type and quantity) ~~specifically~~ agreeing to accept wastewater from the applicant shall be ~~included.~~ included;

(B) The wastewater does not contain any human ~~waste.~~ Waste; and

(C) The waste is collected and discharged into a sewer or treatment system designed and permitted to accept the type of wastewater being pumped and hauled.

(2) Industrial wastewater if the following criteria are met:

(A) The facility notifies the appropriate Division regional office in writing advising of the type of operation, type and quantity of wastewater generated, ~~location,~~ location of wastewater generation, and the receiving wastewater treatment facility. A letter from the facility accepting the wastewater (type and quantity) ~~specifically~~ agreeing to accept wastewater from the applicant shall be ~~included.~~ included;

(B) The wastewater does not contain any human ~~waste.~~ waste;

(C) The waste is collected and discharged into a sewer or treatment system designed and permitted to accept the type of wastewater being pumped and ~~hauled.~~ hauled;

(D) The pump and haul activity is not to alleviate a failing wastewater ~~system.~~ system; and

(E) The Division regional office concurs in writing that the activity meets the criteria in this Rule.

(3) ~~Pump~~ Pumping and hauling of waste from sewer cleaning activities.

(b) The Director may determine that a system ~~should~~ shall not be deemed permitted in accordance with this Rule and Rule .0113 of this Subchapter. This determination shall be made in accordance with Rule .0113(e) of this Subchapter.

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

15A NCAC 02T .0204 PERMITTING

(a) ~~Pump and haul permits are not acceptable long-term domestic wastewater treatment alternatives.~~ Permits for domestic wastewater shall only be issued in cases of environmental emergencies, nuisance conditions (e.g. odors, vectors), health problems, or for unavoidable delays in construction of systems previously permitted under this Section. Applications for pump and haul permits to for unavoidable construction delays must include documentation demonstrating the delay could not be avoided. Failure to complete construction prior to the expiration of a pump and haul permit due to unavoidable construction delays may subject the Permittee to enforcement action by the Division if the delay could have been avoided by payment of additional costs. The permits shall be issued for a period of no more than six months unless the Director determines that conditions are such that the final waste management options cannot be implemented within six months.

(b) Applications shall include a letter from the facility accepting the wastewater ~~specifically~~ agreeing to accept wastewater (type and quantity) from the applicant for the proposed activity.

(c) Pump and haul facilities shall include at a minimum 24 hours storage equipped with high-water alarms.

(d) Permitted pump and haul facilities or activities under this rule shall be inspected at least daily by the permittee or its representative.

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

SECTION .0300 - SEWER EXTENSIONS

15A NCAC 02T .0301 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .0302 DEFINITIONS

(a) The following definitions are used in this Section:

(1) "Alternative sewer system" means any sewer system (collection system) other than a gravity system or standard pump station and force main. These include pressure sewer systems, septic ~~tank/effluent~~ tank with effluent pump (STEP) sewer systems, vacuum sewer system, and small diameter variable grade gravity sewers.

(2) "Building" means any structure occupied or intended for supporting or sheltering any occupancy.

(3) "Building drain" means that part of the lowest piping of a drainage system that receives the discharge from soil, waste and other drainage pipes that extends 10 feet beyond the walls of the building and conveys the drainage to the building sewer.

(4) "Building sewer" means that part of the drainage system that extends from the end of the building drain and conveys the discharge from a single building to a public gravity sewer, private gravity sewer, individual sewage disposal system or other point of disposal.

(5) "Fast-track" means a permitting process whereby a professional engineer certifies that a sewer design and associated construction documents conform to all applicable sewer related rules and design ~~criteria, thereby forgoing an upfront technical review by the Division.~~ criteria.

(6) "Pressure sewer system" means an interdependent system of grinder pump stations, typically for residences, serving individual wastewater connections for single buildings that share a common and typically a small diameter pressure pipe (1.5 inches through 6 inches). Duplex or greater pump stations connected to a common pressure pipe that can operate both independently and simultaneously with other pump stations while maintaining operation of the system within the operating constraints ~~are not considered~~ shall be exclude from the definition of a pressure sewer system.

(7) "Private sewer" means any part of a sewer system ~~which~~ that collects wastewater from one

building and crosses another property or travels along a street right of way or from more than one building and is not considered a public sewer.

(8) "Public sewer" means a sewer located in a dedicated public street, roadway, or dedicated public right-of-way or easement ~~which~~ that is owned or operated by any municipality, county, water or sewer district, or any other political subdivision of the state authorized to construct or operate a sewer system.

(9) "Sewer system" means pipelines or conduits, pumping ~~stations,~~ stations including lift stations and grinder stations, alternative ~~systems,~~ systems and ~~appliances appurtenant thereto,~~ appurtenant appliances used for conducting wastewater to a point of ultimate treatment and disposal.

(10) "Small diameter, variable grade gravity sewer system" means a system of wastewater collection utilizing an interceptor tank to remove solids and grease from the waste ~~stream, thereby allowing smaller diameter pipes and shallower grades to be used.~~ stream. Flow is transferred to the central gravity system in the public right-of-way by gravity or effluent pumps. With venting and design, inflective grades (up-gradients) may also be accommodated.

(11) "Septic ~~tank/effluent~~ tank with effluent pump (STEP) system" means ~~the same type of system as a "pressure sewer system" except that~~ a pressure sewer system in which the individual grinder pump is replaced with a septic tank with an effluent pump either in the second chamber of the septic tank or in a separate pump tank that follows the septic tank.

(12) "Vacuum sewer system" means a mechanized system of wastewater collection ~~utilizing~~ using differential air pressure to move the wastewater. Centralized stations provide the vacuum with valve pits providing the collection point from the source and also the inlet air required to move the wastewater. In conjunction with the vacuum pumps, a standard (non vacuum) pump station and force main is used to transport the wastewater from the vacuum tanks to a gravity sewer or ultimate point of treatment and disposal.

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

15A NCAC 02T .0303 PERMITTING BY REGULATION

(a) The following systems ~~are~~ shall be deemed permitted pursuant to Rule .0113 of this Subchapter ~~provided~~ if the system meets the criteria in Rule .0113 of this Subchapter and all criteria required for ~~the specific~~ that system in this Rule:

(1) A building sewer documented by the local building inspector to be in compliance with the North Carolina State Plumbing ~~Code, which~~ Code and that serves a single building with the sole purpose of conveying wastewater from that building into a gravity sewer that extends onto or is adjacent to the building's property. A building sewer that contribute more than five percent of the existing wastewater treatment facility's design capacity or 50,000 gallons per day of flow as calculated using the wastewater design flow rates in Rule .0114 of this Subchapter shall not commence operations until after it receives approval form the regional office.

(2) A gravity sewer serving a single building with less than 600 gallons per day of flow as calculated using rates in 15A NCAC 02T .0114 that crosses another property or parallels a ~~right-of-way~~ right-of-way, provided that:

(A) an easement for crossing another property is obtained, a map is created and both are recorded at the Register of Deeds office in the county of residence for both property owners and runs with the ~~land,~~ land or, in the case of a building sewer traveling along a right-of-way, documented permission from the dedicated right-of-way owner to use such right-of-way;

(B) the building inspector certifies the sewer to the point of connection to the existing sewer is in accordance with state or local plumbing code; and

(C) no other connections are made to the sewer without prior approval from the Division.

(3) ~~New pump stations or sewage ejectors and force mains if all of the following criteria are met:~~ A pump station and force main serving a single building with less than 600 gallons per day of flow as calculated using the wastewater design flow rates in Rule .0114 of this Subchapter provided that:

~~(A) the pump station serves a single building,~~

~~(B) the force main does not traverse other property or parallel a street right-of-way,~~

(A) an easement for crossing another property is obtained, a map is created and both are recorded at the Register of Deeds office in the county of residence for both property owners and runs with the land or, in the case of a force main traveling along a right-of-way, documented permission form the dedicated right-of-way owner to use such right-of-way;

~~(C)~~(B) ~~the force main ties~~ if a force main is used, it ties into a non-pressurized ~~pipe/manhole/wetwell~~ pipe, manhole or wetwell; ~~(i.e. is not part of an alternative sewer system),~~

~~(D)~~(C) the system is approved by the local building inspector as being in complete compliance with the North Carolina Plumbing Code to the point of connection to the existing sewer, and

~~(E)~~(D) no other connections are made to the sewer without prior approval from the Division.

(4) The following sewer ~~operations~~ operations, provided that the work conforms to all rules, setbacks and design standards; record drawings of the completed project are kept for the life of the project; and new sources of wastewater flow, immediate or future, are not planned to be connected to the sewer other than previously permitted but not yet tributary:

(A) rehabilitation or replacement of sewers ~~in kind (i.e., size)~~ of the same size and with the same horizontal and vertical alignment;

(B) rehabilitation or replacement of public 6-inch sewers with 8-inch ~~sewers,~~ sewers, provided that the rehabilitation or replacement is to correct deficiencies and bring the sewer up to current ~~minimum~~ standards;

(C) line relocations of the same pipe size and within the same right-of-way or easement;

(D) parallel line installations of the same size and within the right-of-way or easement where the existing line will be abandoned;

(E) point repairs; and

(F) ~~in place~~ in-place pump station ~~repairs/upgrades and maintaining~~ repairs or upgrades that maintain permitted capacity to within five percent of the original permitted capacity for pump replacement.

(b) The Director may determine that a system ~~should~~ shall not be deemed permitted in accordance with this Rule and Rule .0113 of this Subchapter. This determination shall be made in accordance with Rule .0113(e) of this Subchapter.

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

15A NCAC 02T .0304 APPLICATION SUBMITTAL

(a) ~~Application~~ Applications for permits pursuant to this Section shall be made on forms provided by the Division. [https://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/collection-systems/sewer-extension-permitting]

(b) Applications shall not be submitted unless the Permittee has assured downstream sewer capacity.

(c) For pressure sewers, vacuum sewers, STEP systems and other alternative sewer systems discharging into a sewer system, the Permittee, by certifying the permit application and receiving an issued permit, ~~agrees to be responsible for~~ shall maintain in operable condition all ~~individual~~ pumps, tanks, service laterals and main lines as ~~permitted. The line from a building to the septic or pump tank is excluded from this responsibility.~~ permitted, excluding the line from a building to the septic or pump tank. ~~This does not prohibit the Permittee from entering into a service agreement with another entity. However, the Permittee shall be responsible for correcting any environmental or public health problems with the system.~~

(d) For sewer extensions ~~involving gravity sewers, pump stations and force mains or any combination thereof that do not require an Environmental Assessment pursuant to 15A NCAC 01C .0408 (except for low pressure sewers, vacuum sewers and STEP systems discharging to a sewer system), are not funded through the Division's Construction, Grants and Loans Section,~~ that have been designed in accordance with all applicable rules and design criteria, and ~~where~~ if plans, ~~calculations and specifications~~ calculations, specifications, and other supporting documents have been sealed by a professional engineer, application may be made according to the fast-track permitting process.

(e) ~~Projects involving an Environmental Assessment per 15A NCAC 01C .0408 or are funded through the Division's Construction, Grants and Loans Section must be submitted for a full technical review on application forms provided by the Division.~~ An application for sewers involving an Environmental Assessment shall not be considered complete until either a Finding of No Significant Impact or an Environmental Impact Statement and Record of Decision ~~is~~ has been issued.

~~(f) Where the plans were not prepared by a professional engineer, applications shall be submitted for full technical review on application forms specified by the Division.~~

~~(g)~~(f) ~~Low pressure sewer systems, vacuum sewer systems and other alternative sewer systems~~ Sewer systems where the design criteria has not been developed or if the system does not meet all applicable rules and design criteria shall be submitted for a full technical review using the official application form for those systems. [https://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/collection-systems/sewer-extension-permitting]

~~(h)~~(g) ~~A letter of agreement from the owner or an official, meeting the criteria in Rule .0106 of this Subchapter, of the receiving collection system or treatment works accepting the wastewater is required, if~~ If the application is not submitted by the owner of the receiving collection system or treatment ~~works.~~ works the application shall include a letter of agreement from the owner or an official of the receiving collection system or treatment works that accepts the wastewater and that meets the criteria if Rule .0106 of this Subchapter. ~~This letter shall be specific to the project whether or not capacity has been purchased through an intergovernmental agreement or contract. This letter shall also signify that the owner of the receiving collection system or treatment works has adequate capacity to transport and treat the~~

~~proposed new wastewater. This shall not negate the need for downstream sewer capacity calculations.~~ In addition, this letter shall:

(1) specifically refer to the project, regardless whether capacity has been purchased through an intergovernmental agreement of contract;

(2) signify that the owner of the receiving collection system or treatment works has adequate capacity to transport and treat the proposed new wastewater; and

(3) shall be dated within 12 months from the date of submitting the application.

This letter shall not obviate the need for the downstream sewer capacity calculations.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.67.

15A NCAC 02T .0305 DESIGN CRITERIA

(a) Construction of sewers and sewer extensions are prohibited in the following ~~areas unless the specified determinations are made:~~ area:

(1) ~~in~~ a natural area designated on the State Registry of Natural Heritage Areas by a protection agreement between the owner and the Secretary, unless ~~the Commission agrees that~~ no prudent, feasible or technologically possible alternative exists; or,

(2) ~~in~~ a natural area dedicated as a North Carolina Nature Preserve by mutual agreement between the owner and State of North Carolina (Governor and Council of State), unless ~~the Commission recommends and~~ the Governor and Council of State agree that no prudent, feasible or technologically possible alternative exists;

(b) Engineering design documents. The following documents shall be prepared prior to submitting a permit application to the Division. If submittal of such documents is not requested in the permitting process (i.e., fast-track), they shall be available upon request by the Division. If required by G.S. 89C, a professional engineer shall prepare these documents:

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C.]

(1) A plan and profile of sewers, showing their proximity to other utilities and natural features, such as water supply lines, water lines, wells, storm drains, surface waters, wetlands, roads and other trafficked areas.

(2) Design calculations including pipe and pump sizing, velocity, pump cycle times and level control settings, pump station buoyancy, wet well storage, surge protection, detention time in the wet well and force main, ability to flush low points in force mains with a pump cycle, and downstream sewer capacity analysis.

(3) ~~Specifications relative to the sewer system~~ Sewer system specifications describing all materials to be used, methods of construction and means for assuring the quality and integrity of the finished project.

(c) All deeds, easements and encroachment agreements necessary for ~~installation and operation~~ installation, operation, and maintenance of the system shall be obtained prior to operation of the system.

(d) There shall be no by-pass or overflow lines designed in any new sewer system except for valved piping and appurtenances intended for emergency pumping ~~operation(s).~~ operations.

(e) ~~A minimum of two~~ Two feet protection from a 100-year flood shall be provided unless there is a water-tight seal on all station hatches and manholes with control panels and vents extending two feet above the 100-year flood elevation.

(f) The following ~~minimum~~ separations shall be provided ~~for~~ from the sewer system to the listed feature except as allowed by Paragraph (g) of this Rule:

Storm sewers and other utilities not listed below (vertical)	~~24~~ 18 inches
Water mains (vertical-water over sewer including in benched trenches)	18 inches
or (horizontal)	10 feet
Reclaimed water lines (vertical – reclaimed over sewer)	18 inches
or (horizontal)	2 feet
Any private or public water supply source, ~~including any~~ consisting of wells, WS-I ~~waters~~ waters, ~~Class I~~ Class I, ~~or~~ Class II, ~~impounded~~ or Class III reservoirs used as a source of drinking water	100 feet
Waters classified ~~WS (except WS-I or WS-V),~~ WS-II, WS-III, WS-IV, B, SA, ORW, HQW, or SB from normal high water (or tide ~~elevation) and~~ elevation), wetlands that are directly abutting these waters and wetlands classified as UWL or SWL	50 feet
Any other stream, lake, impoundment, wetlands classified as WL, waters classified as C, SC, or WS-V, or ground water lowering and surface drainage ditches	10 feet
Any building foundation	5 feet
Any basement	10 feet
Top slope of embankment or cuts of 2 feet or more vertical height	10 feet
Drainage systems and interceptor drains	5 feet
Any swimming pool	10 feet
Final earth grade (vertical)	36 inches

(g) ~~Alternatives where~~ The following separations shall be permitted if separations in Paragraph (f) of this Rule cannot be ~~achieved. Nothing~~ achieved, provided that nothing in this Paragraph shall supersede the allowable alternatives provided in the Commission for Public Health Public Water Supply Rules (15A NCAC 18C), Commission for Public Health Sanitation Rules (15A NCAC 18A) or the Groundwater Protection Rules (15A NCAC 02L and 15A NCAC 02C) that pertain to the separation of sewer systems to water mains or public or private wells:

(1) For storm sewers, engineering solutions such as ductile iron pipe or structural bridging to prevent crushing the underlying ~~pipe.~~ pipe;

(2) For public or private wells, piping materials, testing methods and acceptability standards meeting water main standards shall be used where these ~~minimum~~ separations cannot be maintained. All appurtenances shall be outside the 100-foot ~~radius.~~ radius of the well. The ~~minimum~~ separation shall however not be less than 25 feet from a private well or 50 ~~ft~~ feet from a public ~~well.~~ well;

(3) For public water main horizontal or vertical separations, alternatives as described in 15A NCAC 18C .0906(b) and ~~(c).~~ (c);

(4) For less than 36-inches cover from final earth grade, ductile iron pipe shall be ~~specified.~~ required in any alternative. Ductile iron pipe or other pipe with proper bedding to develop design supporting strength shall be provided where sewers are subject to traffic bearing ~~loads.~~ loads; and

(5) For all other separations, materials, testing methods and acceptability standards meeting water main standards (15A NCAC 18C) shall be ~~specified.~~ required in any alternative.

(h) The following criteria shall be met for all pumping stations and force mains:

(1) Pump Station Reliability:

(A) ~~Pump stations, except when exempted by Subparagraph (j)(2) of this Rule,~~ Pump stations shall be designed with multiple pumps such that peak flow can be pumped with the largest pump out of service. Simplex pump stations (i.e. pump stations with only one pump) shall ~~only be allowable to~~ serve only a single building with an average daily design flow less than 600 gallons per day as calculated using Rule .0114 of this Subchapter.

(B) A standby power source or pump ~~is~~ shall be required at all pump stations except for ~~those~~ simplex pump ~~stations subject to Subparagraph (j)(2) of this Rule.~~ stations. Controls shall be provided to automatically activate the standby source and signal an alarm condition.

(C) As an alternative to Part (B) of this Subparagraph for pump stations with an average daily design flow less than 15,000 gallons per day as calculated using Rule .0114 of this Subchapter, a portable power source or pumping capability may be ~~utilized.~~ used. ~~It shall be demonstrated to the Division that the~~ The portable source ~~is~~ shall be owned or contracted by the permittee and ~~is~~ shall be compatible with the station. If the portable power source or pump is dedicated to multiple pump stations, an evaluation of all the pump stations' storage capacities and the rotation schedule of the portable power source or ~~pump, including travel timeframes, shall be provided in the case of a multiple station power outage.~~ Pump in a multiple station power outage, including travel timeframes, shall be provided.

(D) ~~As an alternative to Part (B) for~~ Simplex pump or vacuum stations connecting a single building to ~~an alternative~~ a sewer ~~system, wet well storage requirements~~ system shall ~~be documented to~~ provide 24-hours worth of wastewater storage ~~or,~~ or ~~exceed~~ shall provide storage in excess of that needed during the greatest power outage over the last three years or the documented response time to replace a failed pump, whichever is greater. Documentation ~~shall be required pursuant to the~~ of wastewater storage shall be provided with the permit application. In no case shall less than 6 hours worth of wastewater storage be provided above the pump-on level.

(E) All pump stations designed for two pumps or more shall have a telemetry system to provide remote notification of a problem condition ~~to include~~ including power failure and high water alarm.

(F) All pump stations shall have a high water audio and visual alarm.

(2) Pump stations shall have a permanent weatherproof sign stating the pump station identifier, 24-hour emergency number and instructions to call in case of emergency. Simplex pump or vacuum stations serving a single-family residence shall have a placard or sticker placed inside the control panel with a 24-hour emergency contact number.

(3) Screened vents for all wet wells.

(4) The public shall be restricted from access to the site and equipment.

(5) Air relief valves shall be provided at all high points along force mains where the vertical distance exceeds ten feet.

(i) The following criteria shall be met for gravity sewers:

(1) ~~for public gravity sewers,~~ public gravity sewers shall be equipped with a minimum eight inch diameter pipe and ~~for private gravity sewers,~~ private gravity sewers shall be equipped with a minimum six inch diameter pipe;

(2) the maximum separation between manholes shall be 425 feet unless ~~written~~ documentation is submitted with the application that the ~~owner/authority~~ owner has the capability to perform routine cleaning and maintenance ~~on~~ of the sewer at the specified manhole separation; and

(3) drop manholes shall be provided where invert separations exceed 2.5 feet.

(j) The following criteria shall be met for low pressure sewers, vacuum sewers, STEP and other alternative sewers discharging into another sewer system:

(1) Hydraulic modeling of the system shall be submitted using the ~~statistical (projected)~~ statistically projected number of pumps running at one time. If computer modeling is provided by a pump manufacturer, it shall be indicated and shall be considered part of the design calculations pursuant to Subparagraph (b)(2) of this Rule.

(2) Simplex pump stations shall only ~~be allowable for single family residences. to~~ serve a single building with an average daily design flow less than 600 gallons per day as calculated using Rule .0114 of this Subchapter. All other buildings connected to the system shall at a minimum have duplex pumps.

(3) Septic tanks shall adhere to the standards established in 15A NCAC 18A .1900.

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

15A NCAC 02T .0306 LOCAL PROGRAMS FOR SEWER SYSTEMS

(a) Jurisdiction. Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of municipalities and counties may apply to the Commission for ~~approval~~ certification of local programs for permitting construction, modification, and operation of public and private sewer systems in their utility service areas ~~(i.e., delegation)~~ pursuant to G.S. 143-215.1(f). Permits issued by ~~approved~~ certified local programs serve in place of permits issued by the Division except for projects involving an Environmental Impact Statement, ~~Assessment,~~ projects that do not meet all applicable sewer related rules and minimum design criteria, or if the permitting authority has not been certified (e.g. alternative sewer systems), which shall continue to be permitted by the Division. The Division may ~~chose~~ choose to cede permitting authority to the ~~approved~~ certified local program after review of Environmental Assessment projects and issuance of a Finding of No Significant Impact. ~~or if other permits are required.~~

(b) ~~Applications. Application~~ An application for ~~approval~~ certification of a local program must provide adequate information to assure compliance with the requirements of G.S. 143-215.1 (f) and the following requirements:

(1) Applications for local sewer system programs shall be submitted to the Director.

(2) The program application shall include: ~~include three copies of the intended permit application forms, permit shell(s), minimum design criteria (specifications), sewer ordinances, flow chart of permitting, staffing, inspection and certification procedures, intended permit application fees, downstream capacity assurance methods and other relevant documents to be used in administering the local program. The applicant shall specify in a cover letter what permits the local authority desires to issue. The options are any of the following: gravity sewers, pump stations, force mains, and/or pressure sewers. The applicant shall also specify whether such permits will be issued to public (to be self-owned) or private systems (not donated to delegated authority).~~

(A) the intended permit application forms;

(B) permit shells;

(C) design criteria and specifications;

(D) sewer ordinance;

(E) flow chart of permitting;

(F) staffing;

(G) inspection and certification procedures;

(H) intended permit application fees;

(I) downstream capacity assurance methods.

The applicant shall specify in a cover letter what permits the local authority desires to issue. The options are any of the following: gravity sewers, pump stations, force mains, or pressure sewers. The applicant shall also specify whether such permits will be issued to public (to be self-owned) or private (not donated to the certified authority).

(3) ~~Certification that the local~~ Local authorities for processing permit applications, setting permit requirements, enforcement, and penalties ~~are~~ shall be compatible with those for permits issued by the Division.

(4) If the treatment and disposal system receiving the ~~waste~~ wastewater from the sewer line extension permitted under the local program is under the jurisdiction of another local unit of government, then the program application must contain a written statement from ~~that~~ the other local unit of government that the proposed program complies with all its requirements and that the applicant has entered into a satisfactory contract which assures continued compliance.

(5) Any future amendments to the requirements of this Section shall be incorporated into the local sewer system program within 60 days of the effective date of the amendments.

(6) A Professional Engineer shall be on the staff of the local sewer system program or be retained as a consultant to review unusual situations or designs and to answer questions that arise in the review of proposed projects.

(7) Each project permitted by the local sewer system program shall be inspected for

compliance with the requirements of the local program at least once during construction.

(c) Approval of Local Programs. The staff of the Division shall acknowledge receipt of an application for a local sewer system program in writing, review the application, notify the applicant of additional information that may be required, and make a recommendation to the Commission ~~on the acceptability~~ regarding certification of the proposed local program.

(d) Conditions of Local Program Approval (Delegation). Once approved by the Commission, the ~~delegated authority~~ local program shall adhere to the following:

(1) Adequacy of Receiving Facilities. Local sewer system programs shall not issue a permit for a sewer project ~~which~~ that would increase the flow or change the characteristics of waste to a treatment works or sewer system unless the local program has received a written determination from the Division that, pursuant to G.S. 143-215.67 (a), the treatment works or sewer system ~~is adequate to receive~~ can adequately treat the waste. The Division staff may, when appropriate, provide one written determination that covers all local permits for domestic sewage sewer projects with total increased flow to a particular treatment works less than a specified amount and which are issued within a specified period of time. In no case shall the local sewer system program issue a permit for additional wastewater if the receiving wastewater treatment is in noncompliance with its Division issued permit unless the additional flow is allowed as part of a special order pursuant to G.S. 143-215.2. In no case shall the delegated authority issue a permit for additional wastewater without documenting capacity assurance along the tributary wastewater path to the wastewater treatment plant.

(2) All permitting actions shall be summarized and submitted to the Division and the appropriate Division Regional Office ~~on a quarterly basis~~ annually on Division ~~forms.~~ forms unless more frequent reporting is required by the Division. The report shall also provide a listing and summary of all enforcement actions taken or pending during the quarter. ~~The quarters begin on January 1, April 1, July 1 and October 1.~~ The report shall be submitted by February 1 of each year. ~~within 30 days after the end of each quarter.~~ Reporting forms are available at: https://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/collection-systems/local-programs

(3) A copy of all program ~~documents~~ documents, such as specifications, permit applications, permit shells, shell certification forms, and ordinance pertaining to ~~permitting~~ permitting, shall be submitted to the Division ~~on an annual basis~~ annually along with a summary of any other program changes. Program changes ~~to note~~ shall include ~~staffing,~~ staffing changes, processing fees, and ordinance revisions. After initial submittal of such documents and if no further changes occur in subsequent years, a letter stating such may be submitted in lieu of the ~~requested~~ required documentation. ~~The Division may request changes to local program documents if the Commission adopts more stringent standards.~~

(4) Modification of a Local Program. Modifications to local programs, including the expansion of permitting ~~authority~~ authority, shall not be required to be approved by the Commission, but by the Director.

(e) Appeal of Local Decisions. Appeal of individual permit denials or issuance with conditions the permit applicant finds unacceptable shall be made according to the approved local ordinance. The Commission shall not consider individual permit denials or issuance with conditions to which a Permittee objects. This Paragraph does not alter the enforcement authority of the Commission as specified in G.S. 143-215.1(f).

(f) The Division may audit the ~~delegated~~ certified program for compliance with this Rule and G.S. 143-215.1(f) at any time with a scheduled appointment with the ~~delegated~~ certified authority.

(g) The Division shall maintain a list of all local units of government with approved local sewer system programs and make copies of the list available to the public upon request and payment of ~~any~~ reasonable costs for reproduction. The list may be obtained from the Division.

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

SECTION .0400 – SYSTEM-WIDE COLLECTION SYSTEM PERMITTING

15A NCAC 02T .0401 SCOPE

The rules of this Section apply to system-wide collection systems pursuant to G.S. 143-215.9B, ~~where the Director may issue~~ governing the issuance of system-wide permits for collection systems relating to operation and maintenance of sewers, pump stations, force mains and all appurtenances.

Authority G.S. 143-215.1(a); 143-215.3(a); 143-215.9B.

15A NCAC 02T .0402 DEFINITIONS

The following definitions are used in this Section:

(1) "Collection system" means a public or private sewer system ~~system, consisting of sewer lines, force mains, pump stations or any combination thereof~~ that conveys wastewater to a designated wastewater treatment facility or separately-owned sewer system. For purposes of permitting, the collection system ~~is considered to be~~ shall mean any existing or newly installed sewer system extension up to the wastewater treatment facility property or point of connection with a separately-owned sewer system.

(2) "High-priority sewer" means any aerial sewer, sewer contacting surface waters, siphon, sewer positioned parallel to streambanks that is subject to erosion that undermines or deteriorates the sewer, or sewer designated as a high priority in a ~~Division-issued~~ Division-issued permit ~~where~~ if the sewer does not meet minimum design requirements.

Authority G.S. 143-215.1(a); 143-215.3(a); 143-215.9B.

15A NCAC 02T .0403 PERMITTING BY REGULATION

(a) Collection systems having an actual, permitted or ~~Division approved~~ Division-approved average daily flow less than 200,000 gallons per day ~~are~~ shall be deemed permitted pursuant to Rule .0113 of this Subchapter ~~provided~~ if the system meets the criteria in Rule .0113 of this Subchapter and all ~~specific~~ criteria required in this Rule:

(1) The ~~sewer~~ collection system ~~is~~ shall be effectively maintained and operated at all times to prevent discharge to land or surface ~~waters,~~ waters and to prevent any contravention of groundwater standards or surface water standards.

(2) A map of the ~~sewer~~ collection system ~~has been~~ shall have been developed and ~~is~~ shall be ~~actively~~ maintained.

(3) An operation and maintenance ~~plan~~ plan, including pump station inspection frequency, preventative maintenance schedule, spare parts inventory and overflow response ~~has been~~ shall have been developed and implemented.

(4) Pump stations that are not connected to a telemetry system ~~(i.e., remote alarm system) are inspected~~ shall be inspected by the permittee or its representative every day (i.e., 365 days per year). Pump stations that are connected to a telemetry system ~~are~~ shall be inspected at least once per week.

(5) High-priority sewers ~~are~~ shall be inspected by the permittee or its representative ~~at least~~ once every ~~six months~~ six-months, and inspections ~~are~~ shall be documented.

(6) A general observation by the permittee or its representative of the entire ~~sewer~~ collection system ~~is~~ shall be conducted ~~at least~~ once per year.

(7) Overflows and bypasses are reported to the appropriate Division regional office in accordance with 15A NCAC 02B .0506(a), and public notice ~~is~~ shall be provided as required by G.S. 143-215.1C.

(8) A Grease Control Program ~~is~~ shall be in place as follows:

(A) For publicly owned collection systems, the Grease Control Program shall include ~~at least~~ bi-annual distribution of educational materials for both commercial and residential users and the legal means to require grease interceptors for new construction and retrofit, if necessary, of grease interceptors at existing establishments. The plan shall also include legal means for inspections of the grease interceptors, enforcement for violators and the legal means to control grease entering the system from other public and private satellite ~~sewer~~ collection systems.

(B) For privately owned collection systems, the Grease Control Program shall include ~~at least~~ bi-annual distribution of grease education materials to users of the collection system by the permittee or its representative.

(C) Grease education materials shall be distributed more often than required in Parts (A) and (B) of this Subparagraph if necessary to prevent grease-related sanitary sewer overflows.

(9) Right-of-ways and easements ~~are~~ shall be maintained in the full easement width for personnel and equipment accessibility.

(10) Documentation shall be kept for Subparagraphs (a)(1) through (a)(9) of this Rule for ~~a minimum of~~ three years with the exception of the map, which shall be maintained for the life of the system.

(b) Private collection systems on a single property serving an industrial facility ~~where~~ from which the domestic wastewater contribution is less than 200,000 gallons per day shall be deemed permitted.

(c) The Director may determine that a collection system ~~should~~ shall not be deemed to be permitted in accordance with this Rule and Rule .0113 of this Subchapter. This determination shall be made in accordance with Rule .0113(e) of this Subchapter.

Authority G.S. 143-215.1(a); 143-215.3(a); 143-215.9B.

15A NCAC 02T .0404 MULTIPLE COLLECTION SYSTEMS UNDER COMMON OWNERSHIP

If a public entity owns multiple but separate collection systems (i.e., tributary to separate plants) and any one is subject to an individual permit, all collection systems shall be covered ~~under~~ by one permit. This shall not be applicable to public utilities authorized to operate by the North Carolina Utilities Commission ~~who~~ that own several individual systems within the state.

Authority G.S. 143-215.1(a); 143-215.3(a); 143-215.9B.

15A NCAC 02T .0405 IMPLEMENTATION

(a) Permit applications for the initial issuance of a collection system permit shall be completed and submitted to the Division within 60 days of the collection system owner's certified mail receipt of the Division's request for application submittal. Permit renewal requests shall be submitted to the Director at least 180

days prior to expiration, unless the permit has been revoked in accordance with ~~15A NCAC 02T .0110.~~ 15A NCAC 02T .0110, a request has been made to rescind the permit, or the Director extends this deadline. All applications must be submitted in duplicate, completed on official forms, and fully executed. Application forms available at: https://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/collection-systems/system-wide-collection-system-permitting.

(b) Collection systems subject to an individual permit shall comply with the standards in Rule .0403 of this ~~Section until such time as their individual permit is issued.~~ Section and such permit conditions contained in an individual permit to effectuate the purpose of Article 21, Chapter 143 of the General Statues.

Authority G.S. 143-215.1(a); 143-215.3(a); 143-215.9B.

SECTION .0500 – WASTEWATER IRRIGATION SYSTEMS

15A NCAC 02T .0501 SCOPE

The rules in this Section shall apply to all surface irrigation of wastewater systems not otherwise specifically governed by other rules of this Subchapter. Surface irrigation of wastewater shall include ~~includes~~ spray irrigation, drip irrigation, and any other application of wastewater to the ground surface.

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

15A NCAC 02T .0504 APPLICATION SUBMITTAL

(a) The requirements in this Rule shall apply to all new and expanding facilities. ~~facilities, as applicable.~~

(b) Soils Report. A soil evaluation of the disposal site shall be provided to the Division by the Applicant ~~applicant~~ in a report that includes the following. If required by G.S. 89F, a soil scientist shall prepare this evaluation:

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

(1) A field ~~Field~~ description of the soil profile, based on examinations of excavation pits or auger borings, within seven feet of land surface or to ~~bedrock~~ bedrock, describing the following parameters by individual diagnostic horizons:
   (A) the thickness of the horizon;
   (B) the texture;
   (C) the color and other diagnostic features;
   (D) the structure;
   (E) the internal drainage;
   (F) the depth, thickness, and type of restrictive horizon; ~~horizon(s);~~ and
   (G) the presence or absence and depth of evidence of any seasonal high water table. ~~table (SHWT).~~

   Applicants shall dig pits when necessary for evaluation of the soils at the ~~site.~~ site;

(2) Recommendations concerning loading rates of liquids, solids, other wastewater constituents and amendments. Annual hydraulic loading rates shall be based on in-situ measurement of saturated hydraulic conductivity in the most restrictive horizon for each soil mapping unit. Maximum irrigation precipitation rates shall be provided for each soil mapping ~~unit.~~ unit;

(3) A field-delineated soil map delineating soil mapping units within each land application site and showing all physical features, location of pits and auger borings, legends, scale, and a north arrow. The legends shall also include dominant soil series name and family or higher taxonomic class for each soil mapping ~~unit.~~ unit; and

(4) A ~~representative soils analysis (i.e., Standard Soil Fertility Analysis)~~ Standard Soil Fertility Analysis conducted on each land application site. The Standard Soil Fertility Analysis shall include the following parameters:
   (A) Acidity; ~~acidity,~~
   (B) Base Saturation (by calculation); ~~base saturation (by calculation),~~
   (C) Calcium; ~~calcium,~~
   (D) Cation Exchange Capacity; ~~cation exchange capacity,~~
   (E) Copper; ~~copper,~~
   (F) Exchangeable Sodium Percentage (by calculation); ~~exchangeable sodium percentage (by calculation),~~
   (G) Magnesium; ~~magnesium,~~
   (H) Manganese; ~~manganese,~~
   (I) Percent Humic Matter; ~~percent humic matter,~~
   (J) pH; ~~pH,~~
   (K) Phosphorus; ~~phosphorus,~~
   (L) Potassium; ~~potassium,~~
   (M) Sodium; ~~sodium,~~ and
   (N) Zinc. ~~zinc.~~

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

(c) Engineering design documents. If required by G.S. 89C, a professional engineer shall prepare these documents. The following documents shall be provided to the Division by the Applicant: ~~applicant:~~

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C.]~~

(1) engineering plans for the entire system, including treatment, storage, application, and disposal facilities and equipment except those previously permitted unless those previously permitted are directly tied into the new units or are ~~critical~~ necessary to ~~the~~ understanding ~~of~~ the complete process;

(2) specifications describing materials to be used, methods of construction, and means for

ensuring quality and integrity of the finished ~~product~~ product, including leakage testing; and

(3) engineering ~~calculations~~ calculations, including hydraulic and pollutant loading for each treatment unit, treatment unit sizing criteria, hydraulic profile of the treatment system, total dynamic head and system curve analysis for each pump, buoyancy calculations, and irrigation design.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering pursuant to G.S. 89C.]

(d) Site plans. If required by G.S. 89C, a professional land surveyor shall provide location information on boundaries and physical features not under the purview of other licensed professions. Site plans or maps shall be provided to the Division by the Applicant ~~applicant~~ depicting the location, orientation and relationship of facility components including:

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]~~

(1) ~~a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief and showing all facility related structures and fences within the treatment, storage, and disposal areas, and soil mapping units shown on all disposal sites;~~ a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief, showing:

(A) all facility-related structures and fences within the treatment, storage, and disposal areas; and

(B) soil mapping units on all disposal sites;

(2) the location of all wells (including usage and construction details if available), streams (ephemeral, intermittent, and perennial), springs, lakes, ponds, and other surface drainage features within 500 feet of all waste treatment, storage, and disposal sites ~~sites(s)~~ and delineation of the review and compliance boundaries;

(3) setbacks as required by Rule .0506 of this Section; and

(4) site property boundaries within 500 feet of all waste treatment, storage, and disposal sites. ~~sites(s).~~

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying pursuant to G.S. 89C.]

(e) Hydrogeologic report. A hydrogeologic description prepared by a Licensed Geologist, Licensed Soil Scientist, or Professional Engineer if required by Chapters 89E, 89F, or 89C, respectively, ~~respectively, of the subsurface to a depth of 20 feet or bedrock, whichever is less,~~ shall be provided to the Division by the Applicant ~~applicant~~ for systems treating industrial waste and any system with a design flow over 25,000 gallons per day. Industrial facilities with a design flow less than 25,000 gallons per day of wastewater that can demonstrate that the effluent will be of quality similar to domestic wastewater, including effluent requirements established in 15A NCAC 02T .0505(b)(1), shall, upon request, be exempted from this requirement. The hydrogeologic evaluation shall be of the subsurface to a depth of 20 feet or bedrock, whichever is less deep. ~~A greater depth of~~ An investigation to a depth greater than 20 feet is required if the respective depth is used in predictive calculations. This evaluation shall be based on ~~borings for which the numbers, locations, and depths are sufficient~~ sufficient numbers, locations, and depths of borings to define the components of the hydrogeologic evaluation. In addition to borings, other techniques may be used to investigate the subsurface conditions at the ~~site. These techniques may include~~ site, including geophysical well logs, surface geophysical surveys, and tracer studies. This evaluation shall be presented in a report that includes the following components:

~~[Note: The North Carolina Board for Licensing of Geologists, via letter dated April 6, 2006, North Carolina Board for Licensing of Soil Scientists, via letter dated December 1, 2005, and North Carolina Board of Examiners for Engineers and Surveyors, via letter dated December 1, 2005, have determined that preparation of hydrogeologic description documents pursuant to this Paragraph constitutes practicing geology under G.S. 89E, soil science under G.S. 89F, or engineering under G.S. 89C.]~~

(1) a description of the regional and local geology and hydrogeology;

(2) a description, based on field observations of the site, of the site topographic setting, streams, springs and other groundwater discharge features, drainage features, existing and abandoned wells, rock outcrops, and other features that may affect the movement of the contaminant plume and treated wastewater;

(3) changes in the lithology underlying the site;

(4) the depth to bedrock and the occurrence of any rock outcrops;

(5) the hydraulic conductivity and transmissivity of the affected ~~aquifer(s);~~ aquifer as determined by in-situ field testing, such as slug tests or pumping tests, in the intended area of irrigation;

(6) the depth to the seasonal high water table;

(7) a discussion of the relationship between the affected aquifers of the site to local and regional geologic and hydrogeologic features;

(8) a discussion of the groundwater flow regime of the site prior to the operation of the proposed facility and the post operation of the proposed ~~facility,~~ facility, focusing on the relationship of the system to groundwater receptors, groundwater discharge features, and groundwater flow media; and

(9) if the ~~SHWT~~ seasonal high water table is within six feet of the surface, a mounding analysis to

predict the level of the ~~SHWT~~ seasonal high water table after wastewater application.

[Note: The North Carolina Board for Licensing of Geologists, via letter dated April 6, 2006, North Carolina Board for Licensing of Soil Scientists, via letter dated December 1, 2005, and North Carolina Board of Examiners for Engineers and Surveyors, via letter dated December 1, 2005, have determined that preparation of hydrogeologic description documents pursuant to this Paragraph constitutes practicing geology pursuant to G.S. 89E, soil science pursuant to G.S. 89F, or engineering pursuant to G.S. 89C.]

(f) Property Ownership Documentation shall be provided to the Division by the Applicant, ~~applicant~~ consisting of:

(1) legal documentation of ownership (i.e., contract, deed or article of incorporation);

(2) ~~written notarized intent to purchase agreement~~ an agreement of an intent to purchase the property that is written, notarized, and signed by both parties, accompanied by a plat or survey map; or

(3) ~~written notarized lease agreement~~ an agreement to lease the property that is written, notarized, and signed by both parties, ~~specifically~~ indicating the intended use of the property, ~~as well as~~ accompanied by a plat or survey map. Lease agreements shall adhere to the requirements of 15A NCAC 02L .0107.

(g) Public utilities shall submit to the Division a Certificate of Public ~~Conveyance~~ Convenience and Necessity or a letter from the NC Utilities Commission stating that it has received a franchise application. ~~application has been received.~~

(h) A ~~complete~~ chemical analysis of the typical wastewater to be ~~discharged~~ irrigated shall be provided to the Division by the Applicant ~~applicant~~ for industrial waste, ~~including~~ which shall include:

(1) Total Organic Carbon; ~~Total Organic Carbon,~~

(2) 5-day Biochemical Oxygen Demand (BOD_5); ~~5-day Biochemical Oxygen Demand (BOD_5),~~

(3) Chemical Oxygen Demand (COD); ~~Chemical Oxygen Demand (COD),~~

(4) Nitrate Nitrogen (NO_3-N); ~~Nitrate Nitrogen (NO_3-N),~~

(5) Ammonia Nitrogen (NH_3-N); ~~Ammonia Nitrogen (NH_3-N),~~

(6) Total Kjeldahl Nitrogen (TKN); ~~Total Kjeldahl Nitrogen (TKN),~~

(7) pH; ~~pH,~~

(8) Chloride; ~~Chloride,~~

(9) Total Phosphorus; ~~Total Phosphorus,~~

(10) Phenol; ~~Phenol,~~

(11) Total Volatile Organic Compounds; ~~Total Volatile Organic Compounds,~~

(12) Fecal Coliform; ~~Fecal Coliform,~~

(13) Calcium; ~~Calcium,~~

(14) Sodium; ~~Sodium,~~

(15) Magnesium; ~~Magnesium,~~

(16) Sodium Adsorption Ratio (SAR); ~~Sodium Adsorption Ratio (SAR),~~

(17) Total Trihalomethanes; ~~Total Trihalomethanes,~~ and

~~Toxicity Test Parameters and~~

(18) Total Dissolved Solids.

(i) A project evaluation and a receiver site agronomic management plan (if applicable) and recommendations concerning cover crops and their ability to accept the proposed application rates of liquid, solids, minerals and other constituents of the wastewater shall be provided to the Division by the Applicant. ~~applicant.~~

(j) A residuals management plan as required by Rule ~~.0508~~ .0508(a) of this Section shall be provided to the Division by the Applicant. ~~applicant. A written commitment is not required at the time of application; however, it must be provided to the Division prior to operation of the permitted system.~~

~~(k) A water balance shall be provided to the Division by the applicant that determines required effluent storage based upon the most limiting factor of the hydraulic loading based on either the most restrictive horizon or groundwater mounding analysis; or nutrient management based on either agronomic rates for the specified cover crop or crop management.~~

(k) The Applicant shall provide to the Division a water balance that determines the required effluent storage based on the following most limiting factor:

(1) hydraulic loading based on the most restrictive horizon;

(2) hydraulic loading based on the groundwater mounding analysis;

(3) nutrient management based on agronomic rates for the specified cover crop; or

(4) nutrient management based on crop management.

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

15A NCAC 02T .0505 DESIGN CRITERIA

(a) The requirements in this Rule shall apply to all new and expanding facilities. ~~facilities, as applicable.~~

(b) Minimum degree of treatment for new and expanding systems: ~~systems are as follows:~~

(1) ~~For new~~ that are municipal, domestic and commercial facilities, except systems subject to Subparagraph (b)(2) of this Rule, ~~the minimum degree of treatment~~ shall meet a monthly average of each of the following:

(A) five-day Biochemical Oxygen Demand (BOD_5) ≤ 30 mg/L;

(B) Total Suspended Solids (TSS) ≤ 30 mg/L;

(C) Ammonia (NH_3-N) ~~(NH_3)~~ ≤ 15 mg/L; and

(D) Fecal Coliforms ≤ 200 colonies/100 mL. ~~ml.~~

~~(2) For expanding municipal, domestic, and commercial facilities except systems subject to Subparagraphs (b)(3) or (b)(4) of this Rule, facilities shall meet the limitation provided in Subparagraph (b)(1) of this Rule.~~

~~(3) For expanding municipal facilities, except those permitted as new under Subparagraph (b)(1) of this Rule, with lagoon treatment systems, the minimum degree of treatment shall meet a monthly average of five day Biochemical Oxygen Demand (BOD_5) ≤ 60 mg/L; Total Suspended Solids (TSS) ≤ 90 mg/L; Fecal Coliforms ≤ 200 colonies/100 ml. No expanding facilities shall be permitted under this provision for any project whose application is received by the Division after December 31, 2011.~~

~~(2)(4) For expanding municipal facilities whose application is received by the Division after December 31, 2011, except those permitted as new under Subparagraph (b)(1) of this Rule,~~ with lagoon treatment ~~systems~~ systems, except those permitted as new under Subparagraph (b)(1) of this Rule, ~~the minimum degree of treatment~~ shall meet a monthly average of each of the following:

(A) five-day Biochemical Oxygen Demand (BOD_5) ≤ 30 mg/L;

(B) Total Suspended Solids (TSS) ≤ 90 mg/L; and

(C) Fecal Coliforms ≤ 200 colonies/100 ~~ml.~~ mL; or

(3)~~(5)~~ that are not described in Subparagraphs (b)(1) and (b)(2) of this Rule shall meet treatment standards that assure that surface water or groundwater standards will not be exceeded. ~~Treatment for other operations shall be based on producing the quality effluent used in documenting protection of surface water or groundwater standards.~~

(c) All wastes shall be applied at agronomic rates unless predictive calculations are provided that ~~document~~ demonstrate State groundwater standards will be protected.

(d) All ~~treatment/storage lagoons/ponds~~ open-atmosphere treatment lagoons and ponds, and open-atmosphere storage units shall have at least two feet of freeboard.

(e) Waste, including treated waste, shall not be placed directly into, or in contact with, GA classified groundwater unless such placement will not result in a contravention of GA groundwater standards, as demonstrated by predictive calculations or modeling.

(f) Treatment works and disposal systems ~~utilizing~~ using earthen basins, lagoons, ponds or trenches, excluding holding ponds containing non-industrial treated effluent prior to ~~spray~~ irrigation, for treatment, storage or disposal shall have either a liner of natural material at least one foot in thickness and having a hydraulic conductivity of no greater than 1×10^{-6} centimeters per second when compacted, or a synthetic liner of sufficient thickness to exhibit structural integrity and an effective hydraulic conductivity no greater than that of the natural material liner.

(g) The bottoms of earthen impoundments, trenches or other similar excavations shall be at least four feet above the bedrock surface, except that the bottom of excavations ~~which~~ that are less than four feet above bedrock shall have a liner with a hydraulic conductivity no greater than 1×10^{-7} centimeters per second. Liner thickness shall be that thickness necessary to achieve a leakage rate consistent with the sensitivity of classified groundwaters. Liner requirements may be reduced if ~~it can be demonstrated by~~ the Applicant demonstrates ~~applicant~~ through predictive calculations or modeling methods that construction and use of these treatment and disposal units will not result in contravention of surface water or groundwater standards.

(h) Impoundments, trenches or other excavations made for the purpose of storing or treating waste shall not be excavated into bedrock unless the placement of waste into such excavations will not result in a contravention of surface water or groundwater standards, as demonstrated by predictive calculations or modeling.

(i) Each facility, except for those using septic tanks or lagoon treatment, shall provide flow equalization with either a capacity based upon a representative diurnal hydrograph or a capacity of 25 percent of the daily system design flow. ~~Flow equalization of at least 25 percent of the facilities permitted hydraulic capacity must be provided for all seasonal or resort facilities and all other facilities with fluctuations in influent flow which may adversely affect the performance of the system.~~

(j) By-pass and overflow lines shall be prohibited.

(k) Multiple pumps shall be provided ~~if~~ wherever pumps are used.

(l) Power reliability shall be provided, ~~provided~~ consisting of:

(1) automatically activated standby power ~~supply~~ supply, located onsite, and ~~onsite~~ capable of powering all essential treatment units under design conditions; or

(2) approval by the Director that the facility:

(A) serves a private water distribution system ~~which~~ that has automatic shut-off at power failure and no elevated water storage tanks; ~~tanks,~~

(B) has sufficient storage capacity that no potential for overflow exists; ~~exists,~~ and

(C) can tolerate septic wastewater ~~due to~~ during prolonged detention.

(m) A water-tight seal on all ~~treatment/storage~~ treatment and storage units or ~~minimum of~~ two feet of protection from the 100-year flood elevation shall be provided.

(n) Irrigation system design shall not exceed the recommended precipitation rates in the soils report prepared pursuant to Rule .0504 of this Section.

(o) ~~A minimum of~~ 30 days of residual storage shall be provided.

(p) Disposal areas shall be designed to maintain a one-foot vertical separation between the seasonal high water table and the ground surface.

(q) The public shall be prohibited access to the treatment, storage and irrigation facilities. ~~wetted irrigation area and treatment facilities.~~

(r) Influent pump stations shall meet the sewer ~~minimum~~ design criteria ~~as provided~~ set forth in Section .0300 of this Subchapter.

(s) Septic tanks shall adhere to the standards established in 15A NCAC 18A .1900.

(t) ~~The irrigation system~~ Facilities with an average daily flow greater than 10,000 GPD shall be provided with a flow meter to

~~allow accurate determination of~~ measure the volume of treated wastewater applied to each field.

(u) Coastal waste treatment facilities, defined in 15A NCAC 02H .0403, shall be equipped with noise and odor control devices that shall be enclosed.

(v) For coastal waste treatment facilities, defined in 15A NCAC 02H .0403, all essential treatment and disposal units shall be provided in duplicate.

(w) Facilities serving residential communities shall provide five days of effluent storage.

(x) Automatically activated irrigation systems shall be connected to a rain or moisture sensor to prevent irrigation during precipitation events or wet conditions that would cause runoff.

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

15A NCAC 02T .0506 SETBACKS

(a) The setbacks for irrigation sites shall be as follows:

	Spray (feet)	Drip (feet)
Any habitable residence or place of public assembly under separate ownership or not to be maintained as part of the project site	400	100
Any habitable residence or place of public assembly owned by the Permittee ~~permittee~~ to be maintained as part of the project site	200	15
Any private or public water supply source	100	100
Surface waters (streams – intermittent and perennial, perennial waterbodies, and wetlands)	100	100
Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)	100	100
Surface water diversions (ephemeral streams, waterways, ditches)	25	25
Any well with exception of monitoring wells	100	100
Any property line	150	50
Top of slope of embankments or cuts of two feet or more in vertical height	15	15
Any water line from a disposal system	10	10
Subsurface groundwater lowering drainage systems	100	100
~~Any swimming pool~~	~~100~~	~~100~~
Public right of way	50	50
Nitrification field	20	20
Any building foundation or basement	15	15

(b) The setbacks for treatment and storage units shall be as follows:

(feet)

Any habitable residence or place of public assembly under separate ownership or not to be maintained as part of the project site	100
Any private or public water supply source	100
Surface waters (streams – intermittent and perennial, perennial waterbodies, and wetlands)	50
Any well with exception of monitoring wells	100
Any property line	50

(c) Achieving the reclaimed water effluent standards ~~contained~~ established in 15A NCAC 02U .0301 shall permit the system to use the setbacks located in 15A NCAC 02U .0701(d) for property lines and the compliance boundary shall be at the irrigation area boundary.

(d) Setback waivers shall be written, notarized, signed by all parties involved and recorded with the county Register of Deeds. Waivers involving the compliance boundary shall be in accordance with 15A NCAC 02L .0107.

(e) Setbacks to property lines established in Paragraphs (a) and (b) of this Rule shall not be applicable when the Permittee, or the entity from which the Permittee is leasing, owns both parcels creating said property line.

(f) Habitable residences or places of public assembly under separate ownership constructed after the non-discharge facilities were originally permitted or subsequently modified, are exempt from the setback requirements in Paragraphs (a) and (b) of this Rule.

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

15A NCAC 02T .0507 OPERATION AND MAINTENANCE ~~PLAN~~

(a) An operation and maintenance plan shall be maintained for all systems. The plan shall:

(1) describe the operation of the system in sufficient detail to show what operations are necessary for the system to function and by whom the ~~functions~~ operations are to be conducted;

(2) describe anticipated maintenance of the system;

(3) include provisions for safety measures, ~~measures~~ including restriction of access to the site and equipment, as appropriate; and

(4) include spill control provisions, ~~provisions~~ including:

(A)~~(a)~~ response to upsets and bypasses, ~~bypasses~~ including control, containment, and remediation; and

(B)~~(b)~~ contact information for plant personnel, emergency responders, and regulatory agencies.

(b) Irrigation areas shall have a year-round vegetative cover.

(c) Irrigation shall not result in ponding or runoff of treated effluent.

(d) Irrigation and metering equipment shall be tested and calibrated annually, or as established by permit.

(e) Automobiles and heavy machinery shall not be allowed on the irrigation area, except during installation or maintenance activities.

(f) Water level gauges shall be provided for all open-atmosphere treatment lagoons and ponds, and open-atmosphere storage units.

(g) Vegetative cover shall be maintained on all earthen embankments.

(h) The Permittee shall keep a log of maintenance activities that occur at the facility.

(i) The Permittee shall perform inspections and maintenance to ensure proper operation of the facility.

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

15A NCAC 02T .0508 RESIDUALS MANAGEMENT ~~PLAN~~

(a) A Residuals Management Plan shall be maintained for all systems that generate residuals. The plan ~~must~~ shall include the following:

(1) a detailed explanation as to how the residuals will be collected, handled, processed, stored and disposed;

(2) an evaluation of the residuals storage requirements for the treatment facility, ~~facility~~ based upon the maximum anticipated residuals production rate and the ability to remove residuals;

(3) a permit for residuals disposal or utilization ~~utilization,~~ or a written commitment to the Permittee of a Department-approved ~~Department approved~~ residuals ~~disposal/utilization~~ disposal or utilization program accepting the residuals ~~which~~ that demonstrates that the approved program has adequate capacity to accept the residuals ~~residuals,~~ or that an application for approval has been submitted; and

(4) if oil, grease, grit, or screenings removal and collection is a designed unit process, a detailed explanation as to how ~~the oil/grease~~ these materials will be collected, handled, processed, stored and disposed.

(b) The Permittee shall maintain a record of all residuals removed from the facility.

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

SECTION .0600 – SINGLE-FAMILY RESIDENCE WASTEWATER IRRIGATION SYSTEMS

15A NCAC 02T .0601 SCOPE

The rules in this Section shall apply to all surface irrigation of wastewater systems ~~specifically~~ designed for one building single-family residences. One building single-family residences generating and utilizing reclaimed water shall meet requirements established in 15A NCAC 02U. Surface irrigation systems serving single-family residences ~~are~~ shall be considered to be ground absorption systems in accordance with 15A NCAC 02L .0107.

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

15A NCAC 02T .0604 APPLICATION SUBMITTAL

(a) The requirements in this Rule shall apply to all new and expanding ~~facilities, as applicable.~~ facilities.

(b) Soils Report. A soil evaluation of the disposal site shall be provided to the Division by the Applicant ~~applicant~~ in a report that includes the following. If required by G.S. 89F, a soil scientist shall prepare this evaluation:

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

(1) A field ~~Field~~ description of the soil profile, based on examinations of excavation pits and auger borings, within seven feet of land surface or to ~~bedrock~~ bedrock, describing the following parameters by individual diagnostic horizons:

(A) the thickness of the horizon;

(B) the texture;

(C) the color and other diagnostic features;

(D) the structure;

(E) the internal drainage;

(F) the depth, thickness, and type of restrictive ~~horizon(s);~~ horizon; and

(G) the presence or absence and depth of evidence of any seasonal high water table.

Applicants may be required to dig pits when necessary for proper evaluation of the soils at the site.

(2) Recommendations concerning loading rates of liquids, solids, other wastewater constituents and amendments. Annual hydraulic loading rates shall be based on in-situ measurement of saturated hydraulic conductivity in the most restrictive horizon for each soil mapping unit. Maximum irrigation precipitation rates shall be provided for each soil mapping unit.

(3) A field-delineated soil map delineating soil mapping units within each land application site and showing all physical features, location of pits and auger borings, legends, scale, and a north arrow. The legends shall also include dominant soil series name and family or higher taxonomic class for each soil mapping unit; and

(4) A ~~representative soils analysis (i.e., Standard Soil Fertility Analysis)~~ Standard Soil Fertility Analysis conducted on each land application site. The Standard Soil Fertility Analysis shall include the following parameters:

(A) Acidity; ~~acidity,~~
(B) Base Saturation (by calculation); ~~base saturation (by calculation),~~
(C) Calcium; ~~calcium,~~
(D) Cation Exchange Capacity; ~~cation exchange capacity,~~
(E) Copper; ~~copper,~~
(F) Exchangeable Sodium Percentage (by calculation); ~~exchangeable sodium percentage (by calculation),~~
(G) Magnesium; ~~magnesium,~~
(H) Manganese; ~~manganese,~~
(I) Percent Humic Matter; ~~percent humic matter,~~
(J) pH; ~~pH,~~
(K) Phosphorus; ~~phosphorus,~~
(L) Potassium; ~~potassium,~~
(M) Sodium; ~~sodium,~~ and
(N) Zinc. ~~zinc.~~

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

(c) Engineering design documents. If required by G.S. 89C, a professional engineer shall prepare these documents. The following documents shall be provided to the Division by the Applicant: ~~applicant:~~

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C.]~~

(1) engineering plans for the entire system, including treatment, storage, application, and disposal facilities and equipment except those previously permitted unless those previously permitted are directly tied into the new units or are ~~critical~~ necessary to ~~the~~ understanding ~~of~~ the complete process;
(2) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the finished product, including leakage testing; and
(3) engineering calculations, including hydraulic and pollutant loading for each treatment unit, treatment unit sizing criteria, hydraulic profile of the treatment system, total dynamic head and system curve analysis for each pump, buoyancy calculations, and irrigation design.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering pursuant to G.S. 89C.]

(d) Site plans. If required by G.S. 89C, a professional land surveyor shall provide location information on boundaries and physical features not under the purview of other licensed professions. Site plans or maps shall be provided to the Division by the Applicant ~~applicant~~ depicting the location, orientation and relationship of facility components including:

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]~~

(1) ~~a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief and showing all facility-related structures and fences within the treatment, storage and disposal areas, and soil mapping units shown on all disposal sites;~~ a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief, showing:
(A) all facility-related structures and fences within the treatment, storage, and disposal areas; and
(B) soil mapping units on all disposal sites;
(2) the location of all wells (including usage and construction details if available), streams (ephemeral, intermittent, and perennial), springs, lakes, ponds, and other surface drainage features within 500 feet of all waste treatment, storage, and disposal ~~site(s)~~ site and delineation of the review and compliance boundaries;
(3) setbacks as required by Rule .0606 of this Subchapter; and
(4) site property boundaries within 500 feet of all waste treatment, storage, and disposal ~~site(s).~~ sites.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying pursuant to G.S. 89C.]

(e) Property Ownership Documentation shall be provided to the Division consisting of:

(1) legal documentation of ownership (i.e., contract, deed or article of incorporation);
(2) ~~written notarized intent to purchase agreement~~ an agreement of an intent to purchase the property that is written, notarized, and signed by both parties, accompanied by a plat or survey map; or
(3) ~~written notarized lease agreement~~ an agreement to lease the property that is written, notarized, and signed by both parties, ~~specifically~~ indicating the intended use of the property, ~~as well as~~ accompanied by a plat or survey map. Lease agreements shall adhere to the requirements of 15A NCAC 02L .0107.

(f) An Operation and Maintenance Plan addressing routine inspections, maintenance schedules, troubleshooting and a layman's explanation about the wastewater treatment and irrigation disposal systems shall be submitted to the Division by the Applicant. ~~applicant.~~
(g) A letter from the local County Health Department denying the site for all subsurface systems shall be submitted to the Division by the Applicant. ~~applicant.~~
(h) ~~A notarized~~ A properly executed Operation and Maintenance Agreement shall be submitted to the Division by the Applicant. ~~applicant.~~

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

15A NCAC 02T .0605 DESIGN CRITERIA
(a) The requirements in this Rule shall apply to new and expanding facilities.
(b) Minimum degree of treatment for new and expanding systems ~~prior to storage~~ shall meet a monthly average of each of the following:

(1) five-day Biochemical Oxygen Demand (BOD_5) ≤ 30 mg/L;
(2) Total Suspended Solids (TSS) ≤ 30 mg/L;
(3) Ammonia (NH_3) ≤ 15 mg/L; and
(4) Fecal Coliforms ≤ 200 colonies/100 mL. ~~ml.~~

(c) Waste, including treated waste, shall not be placed directly into, or in contact with, GA classified groundwater unless such placement will not result in a contravention of GA groundwater standards, as demonstrated by predictive calculations or modeling.
(d) Excavation into bedrock shall be lined with a 10 millimeter synthetic liner.
(e) Earthen treatment and storage facilities shall be prohibited.
(f) By-pass and overflow lines shall be prohibited.
(g) A water-tight seal on all ~~treatment/storage~~ treatment and storage units or ~~minimum of~~ two feet of protection from the 100-year flood elevation shall be provided.
(h) Preparation of an operational management ~~plan,~~ plan and, if appropriate, a crop management plan shall be provided.
(i) Fencing shall be provided to prevent access to the irrigation site (minimum 2-strand wire) and treatment units shall be ~~secured with locks on all tankage and control panels.~~ lockable.
(j) Irrigation system design shall not exceed the recommended precipitation rates in the soils report prepared pursuant to Rule .0604 of this Section.
(k) Septic tanks shall adhere to 15A NCAC 18A .1900.
(l) Tablet chlorination or ultraviolet disinfection shall be provided.
(m) ~~A minimum of five~~ Five days of storage based on average daily flow between the pump off float and inlet invert pipe shall be provided.
(n) ~~Pump/dosing~~ Pump and dosing tanks shall have audible and visual alarms external to any structure.
(o) A rain or moisture sensor shall be provided to prevent irrigation during precipitation events or wet conditions that would cause runoff.
(p) ~~A minimum of~~ 18 inches of vertical separation between the apparent seasonal high water table and the ground surface shall be provided.
(q) ~~A minimum of one~~ One foot of vertical separation between any perched seasonal high water table and the ground surface shall be provided.
(r) Loading rates shall not exceed 50 inches per year.

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

15A NCAC 02T .0606 SETBACKS
(a) The setbacks for Irrigation sites shall be as follows:

	Spray (feet)	Drip (feet)
Any habitable residence or place of public assembly under separate ownership or not to be maintained as part of the project site	400	100
Any habitable residence or place of public assembly owned by the Permittee ~~permittee~~ to be maintained as part of the project site	200	15
Any private or public water supply source	100	100
Surface waters (streams – intermittent and perennial, perennial waterbodies, and wetlands)	100	100
Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)	100	100
Surface water diversions (ephemeral streams, waterways, ditches)	25	25
Any well with exception of monitoring wells	100	100
Any property line	150	50
Top of slope of embankments or cuts of two feet or more in vertical height	15	15
Any water line from a disposal system	10	10
Subsurface groundwater lowering drainage systems	100	100
~~Any swimming pool~~	~~100~~	~~100~~
Public right of way	50	50
Nitrification field	20	20
Any building foundation or basement	15	15

(b) Treatment and storage facilities associated with systems permitted under this Section shall adhere to the setback requirements in Section .0500 of this Subchapter except as provided in this Rule.

(c) Setback waivers shall be written, notarized, signed by both parties and recorded with the County Register of Deeds. Waivers involving the compliance boundary shall be in accordance with 15A NCAC 02L .0107.
(d) Setbacks to property lines established in Paragraphs (a) and (b) of this Rule shall not be applicable when the Permittee, or the entity from which the Permittee is leasing, owns both parcels creating said property line.
(e) Habitable residences or places of public assembly under separate ownership constructed after the non-discharge facilities were originally permitted or subsequently modified, are exempt from the setback requirements in Paragraphs (a) and (b) of this Rule.

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

15A NCAC 02T .0607 CONNECTION TO REGIONAL SYSTEM
If a public or community sewage system is or becomes available, the subject wastewater treatment facilities shall be closed and all wastewater shall be discharged into the public or community sewage system.

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

15A NCAC 02T .0608 OPERATION AND MAINTENANCE
(a) Irrigation areas shall have a year-round vegetative cover.
(b) Irrigation shall not result in ponding or runoff of treated effluent.
(c) Metering equipment shall be tested and calibrated annually, or as established by permit.
(d) Automobiles and heavy machinery shall not be allowed on the irrigation area, except during installation or maintenance activities.
(e) The Permittee shall keep a log of maintenance activities that occur at the facility.
(f) The Permittee shall perform inspections and maintenance to ensure proper operation of the facility.

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

SECTION .0700 – ~~HIGH RATE~~ HIGH-RATE INFILTRATION SYSTEMS

15A NCAC 02T .0701 SCOPE
This Section shall apply ~~applies~~ to all high-rate infiltration facilities. High-rate infiltration facilities include all facilities that dispose of wastewater effluent onto the land at an application rate that meets or exceeds the rates provided in Rule .0702 of this Section.

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

15A NCAC 02T .0702 DEFINITIONS
~~A~~ s used in this Section, "High-rate infiltration" shall mean any application rate that exceeds 1.75 inches of wastewater effluent per week or 0.156 gallons per day per square foot of land. ~~mean:~~

~~(1) In coastal areas as defined in Section 15A NCAC 02H .0400, an application rate that exceeds 1.75 inches of wastewater effluent per week (0.156 gallons per day per square foot of land).~~
~~(2) In non-coastal areas, an application rate that exceeds 1.50 gallons of wastewater effluent per day per square foot of land (16.8 inches per week).~~

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

15A NCAC 02T .0704 APPLICATION SUBMITTAL
(a) The requirements in this Rule shall apply to all new and expanding ~~facilities, as applicable.~~ facilities.
(b) Soils Report. A soil evaluation of the disposal site shall be provided to the Division by the Applicant ~~applicant~~ in a report that includes the following. If required by G.S. 89F, a soil scientist shall prepare this evaluation:
~~[Note: The North Carolina Board for Licensing of Soil Scientists has determined, via letter dated December 1, 2005, that preparation of soils reports pursuant to this Paragraph constitutes practicing soil science under G.S. 89F.]~~
(1) A field ~~Field~~ description of the soil profile, based on examinations of excavation pits or auger borings, within seven feet of land surface or to bedrock bedrock, describing the following parameters by individual diagnostic horizons:
(A) the thickness of the horizon;
(B) the texture;
(C) the color and other diagnostic features;
(D) the structure;
(E) the internal drainage;
(F) the depth, thickness, and type of restrictive ~~horizon(s);~~ horizon; and
(G) the presence or absence and depth of evidence of any seasonal high water ~~table (SHWT).~~ table.
Applicants shall dig pits when necessary for evaluation of the soils at the ~~site.~~ site;
(2) Recommendations concerning loading rates of liquids, solids, other wastewater constituents and amendments. Annual hydraulic loading rates shall be based on in-situ measurement of saturated hydraulic conductivity in the most restrictive horizon for each soil mapping unit. Maximum ~~irrigation precipitation~~ infiltration rates shall be provided for each soil mapping unit.
(3) A field-delineated soil map delineating soil mapping units within each land application site and showing all physical features, location of pits and auger borings, legends, scale, and a north arrow. The legends shall also include dominant soil series name and family or higher taxonomic class for each soil mapping unit; and
(4) A ~~representative soils analysis (i.e., Standard Soil Fertility Analysis)~~ Standard Soil Fertility Analysis conducted on each land application

site. The Standard Soil Fertility Analysis shall include the following parameters:

(A) Acidity; ~~acidity,~~
(B) Base Saturation (by calculation); ~~base saturation (by calculation),~~
(C) Calcium; ~~calcium,~~
(D) Cation Exchange Capacity; ~~cation exchange capacity,~~
(E) Copper; ~~copper,~~
(F) Exchangeable Sodium Percentage (by calculation); ~~exchangeable sodium percentage (by calculation),~~
(G) Magnesium; ~~magnesium,~~
(H) Manganese; ~~manganese,~~
(I) Percent Humic Matter; ~~percent humic matter,~~
(J) pH; ~~pH,~~
(K) Phosphorus; ~~phosphorus,~~
(L) Potassium; ~~potassium,~~
(M) Sodium; ~~sodium,~~ and
(N) Zinc. ~~zinc.~~

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

(c) Engineering design documents. If required by G.S. 89C, a professional engineer shall prepare these documents. The following documents shall be provided to the Division by the Applicant: ~~applicant:~~

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C.]~~

(1) engineering plans for the entire system, including treatment, storage, application, and disposal facilities and equipment except those previously permitted unless those previously permitted are directly tied into the new units or are ~~critical~~ necessary to ~~the~~ understanding ~~of~~ the complete process;
(2) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the finished product including leakage testing; and
(3) engineering calculations, including hydraulic and pollutant loading for each treatment unit, treatment unit sizing criteria, hydraulic profile of the treatment system, total dynamic head and system curve analysis for each pump, buoyancy calculations, and ~~irrigation/infiltration design.~~ infiltration design.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering pursuant to G.S. 89C.]

(d) Site plans. If required by G.S. 89C, a professional land surveyor shall provide location information on boundaries and physical features not under the purview of other licensed professions. Site plans or maps shall be provided to the Division by the Applicant ~~applicant~~ depicting the location, orientation and relationship of facility components including:

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]~~

(1) ~~a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief and showing all facility related structures and fences within the treatment, storage and disposal areas, and soil mapping units shown on all disposal sites;~~ a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief, showing:
    (A) all facility-related structures and fences within the treatment, storage, and disposal areas; and
    (B) soil mapping units on all disposal sites;
(2) the location of all wells (including usage and construction details if available), streams (ephemeral, intermittent, and perennial), springs, lakes, ponds, and other surface drainage features within 500 feet of all waste treatment, storage, and disposal ~~site(s)~~ sites and delineation of the review and compliance boundaries;
(3) setbacks as required by Rule .0706 of this Section; and
(4) site property boundaries within 500 feet of all waste treatment, storage, and disposal ~~site(s).~~ sites.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying pursuant to G.S. 89C.]

(e) Hydrogeologic report. A hydrogeologic description prepared by a Licensed Geologist, Licensed Soil Scientist, or Professional Engineer if required by Chapters 89E, 89F, or 89C, ~~respectively~~ respectively, ~~of the subsurface to a depth of 20 feet or bedrock, whichever is less,~~ shall be provided to the Division by the Applicant ~~applicant~~ for systems treating industrial waste and any system with a design flow over 25,000 gallons per day. Industrial facilities with a design flow less than 25,000 gallons per day, and can demonstrate that the effluent will be of quality similar to domestic wastewater including effluent requirements established in 15A NCAC 02T .0705(b) and 02T .0706(b) or (c) as applicable, may request and receive an exemption from this requirement. The hydrogeologic evaluation shall be of the subsurface to a depth of 20 feet or bedrock, whichever is less deep. ~~A greater depth of~~ An investigation to a depth greater than 20 feet is required if the respective depth is used in predictive calculations. This evaluation shall be based on ~~borings for which the numbers, locations, and depths are sufficient~~ sufficient numbers, locations, and depths of borings to define the components of the hydrogeologic evaluation.

In addition to borings, other techniques may be used to investigate the subsurface conditions at the ~~site.~~ site, including. ~~These techniques may include~~ geophysical well logs, surface geophysical surveys, and tracer studies. This evaluation shall be presented in a report that includes the following components:
~~[Note: The North Carolina Board for Licensing of Geologists, via letter dated April 6, 2006, North Carolina Board for Licensing of Soil Scientists, via letter dated December 1, 2005, and North Carolina Board of Examiners for Engineers and Surveyors, via letter dated December 1, 2005, have determined that preparation of hydrogeologic description documents pursuant to this Paragraph constitutes practicing geology under G.S. 89E, soil science under G.S. 89F, or engineering under G.S. 89C.]~~

(1) a description of the regional and local geology and hydrogeology;
(2) a description, based on field observations of the site, of the site topographic setting, streams, springs and other groundwater discharge features, drainage features, existing and abandoned wells, rock outcrops, and other features that may affect the movement of the contaminant plume and treated wastewater;
(3) changes in the lithology underlying the site;
(4) the depth to bedrock and the occurrence of any rock outcrops;
(5) the hydraulic conductivity and transmissivity of the affected ~~aquifer(s);~~ aquifer as determined by in-situ field testing, such as slug tests or pumping tests, in the intended area of infiltration;
(6) the depth to the seasonal high water table;
(7) a discussion of the relationship between the affected aquifers of the site to local and regional geologic and hydrogeologic features;
(8) a discussion of the groundwater flow regime of the site prior to the operation of the proposed facility and the post operation of the proposed ~~facility~~ facility, focusing on the relationship of the system to groundwater receptors, groundwater discharge features, and groundwater flow media; and
(9) a mounding analysis to predict the level of the ~~SHWT~~ seasonal high water table after wastewater application.

[Note: The North Carolina Board for Licensing of Geologists, via letter dated April 6, 2006, North Carolina Board for Licensing of Soil Scientists, via letter dated December 1, 2005, and North Carolina Board of Examiners for Engineers and Surveyors, via letter dated December 1, 2005, have determined that preparation of hydrogeologic description documents pursuant to this Paragraph constitutes practicing geology pursuant to G.S. 89E, soil science pursuant to G.S. 89F, or engineering pursuant to G.S. 89C.]

(f) Property Ownership Documentation shall be provided to the Division consisting of:

(1) legal documentation of ownership (i.e., contract, deed or article of incorporation);
(2) ~~written notarized intent to purchase agreement~~ an agreement of an intent to purchase the property that is written, notarized, and signed by both parties, accompanied by a plat or survey map; or
(3) ~~written notarized lease agreement~~ an agreement to lease the property that is written, notarized, and signed by both parties, ~~specifically~~ indicating the intended use of the property, ~~as well as~~ accompanied by a plat or survey map. Lease agreements shall adhere to the requirements of 15A NCAC 02L .0107.

(g) Public utilities shall submit a Certificate of Public ~~Conveyance~~ Convenience and Necessity or a letter from the NC Utilities Commission stating that it has received a franchise ~~application has been received.~~ application.

(h) A ~~complete~~ chemical analysis of the typical wastewater to be ~~discharged~~ infiltrated shall be provided to the Division by the Applicant ~~applicant~~ for industrial waste, ~~including~~ which shall include:

(1) ~~Total Organic Carbon,~~ Total Organic Carbon;
(2) ~~5-day Biochemical Oxygen Demand (BOD_5) ,~~ 5-day Biochemical Oxygen Demand (BOD_5);
(3) ~~Chemical Oxygen Demand (COD) ,~~ Chemical Oxygen Demand (COD);
(4) ~~Nitrate Nitrogen (NO_3-N) ,~~ Nitrate Nitrogen (NO_3-N);
(5) ~~Ammonia Nitrogen (NH_3-N) ,~~ Ammonia Nitrogen (NH_3-N);
(6) ~~Total Kjeldahl Nitrogen (TKN) ,~~ Total Kjeldahl Nitrogen (TKN);
(7) ~~pH,~~ pH;
(8) ~~Chloride,~~ Chloride;
(9) ~~Total Phosphorus,~~ Total Phosphorus;
(10) ~~Phenol,~~ Phenol;
(11) ~~Total Volatile Organic Compounds,~~ Total Volatile Organic Compounds;
(12) ~~Fecal Coliform,~~ Fecal Coliform;
(13) ~~Calcium,~~ Calcium;
(14) ~~Sodium,~~ Sodium;
(15) ~~Magnesium,~~ Magnesium;
(16) ~~Sodium Adsorption Ratio (SAR) ,~~ Sodium Adsorption Ratio (SAR);
(17) ~~Total Trihalomethanes,~~ Total Trihalomethanes; and
~~Toxicity Test Parameters and~~
(18) Total Dissolved Solids.

(i) A project evaluation and a receiver site agronomic management plan (if applicable) containing recommendations concerning cover crops and their ability to accept the proposed application rates of liquid, solids, minerals and other constituents of the wastewater shall be provided to the Division.

(j) A residuals management plan as required by Rule ~~.0708~~ .0708(a) of this Section is to be provided to the Division. ~~A written commitment is not required at the time of application; however, it must be provided prior to operation of the permitted system.~~

~~(k) A water balance shall be provided to the Division that determines required effluent storage based upon the most limiting factor of the hydraulic loading based on either the most restrictive horizon or groundwater mounding analysis; or nutrient~~

~~management based on either agronomic rates for a specified cover crop or crop management requirements.~~

(k) The Applicant shall provide to the Division a water balance that determines the required effluent storage based on the following most limiting factor:

(1) hydraulic loading based on the most restrictive horizon;

(2) hydraulic loading based on the groundwater mounding analysis;

(3) nutrient management based on agronomic rates for the specified cover crop; or

(4) nutrient management based on crop management.

(l) Facilities utilizing subsurface groundwater lowering drainage systems shall demonstrate that groundwater and surface water standards will be protected.

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

15A NCAC 02T .0705 DESIGN CRITERIA

(a) The requirements in this Rule shall apply to all new and expanding facilities. ~~facilities, as applicable.~~

~~(b) Degree of treatment shall be based on a monthly average 5-day Biochemical Oxygen Demand (BOD5) ≤ 10 mg/L; Total Suspended Solids (TSS) ≤ 15 mg/L; Ammonia Nitrogen (NH^3-N) ≤ 4 mg/L; Fecal Coliforms ≤ 14 per 100 mL; and Nitrate Nitrogen (NO^3-N) ≤ 10 mg/L for domestic and commercial operations. Treatment for other operations shall be based on producing the quality effluent used in documenting protection of surface water or groundwater standards. More stringent effluent limits may be applied in accordance with calculations submitted by the applicant to document protection of surface water or groundwater standards.~~

(b) Minimum degree of treatment for new and expanding systems:

(1) that are municipal, domestic and commercial facilities, except systems subject to Subparagraph (b)(2) of this Rule, shall meet a monthly average of each of the following:

(A) five-day Biochemical Oxygen Demand (BOD_5) ≤ 10 mg/L;

(B) Total Suspended Solids (TSS) ≤ 15 mg/L;

(C) Ammonia (NH_3-N) ≤ 4 mg/L;

(D) Fecal Coliforms ≤ 14 colonies/100 mL; and

(E) Nitrate Nitrogen (NO_3-N) ≤ 10 mg/L; or

(2) that are not described in Subparagraph (b)(1) of this Rule shall meet treatment standards that assure that surface water or groundwater standards will not be exceeded.

(c) All ~~treatment/storage lagoons/ponds~~ open-atmosphere treatment lagoons and ponds, and open-atmosphere storage and basin infiltration units shall have at least two feet of freeboard.

(d) Waste, including treated waste, shall not be placed directly into, or in contact with, GA classified groundwater unless such placement will not result in a contravention of GA groundwater standards, as demonstrated by predictive calculations or modeling.

(e) Treatment works and disposal systems ~~utilizing~~ using earthen basins, lagoons, ponds or trenches, excluding holding ponds containing non-industrial treated effluent prior to ~~spray irrigation~~ infiltration, for treatment, storage or disposal shall have either a liner of natural material at least one foot in thickness and having a hydraulic conductivity of no greater than 1×10^{-6} centimeters per second when compacted, or a synthetic liner of sufficient thickness to exhibit structural integrity and an effective hydraulic conductivity no greater than that of the natural material liner.

(f) The bottoms of earthen impoundments, trenches or other similar excavations shall be at least four feet above the bedrock surface, except that the bottom of excavations ~~which~~ that are less than four feet above bedrock shall have a liner with a hydraulic conductivity no greater than 1×10^{-7} centimeters per second. Liner thickness shall be that thickness necessary to achieve a leakage rate consistent with the sensitivity of classified groundwaters. Liner requirements may be reduced if ~~it can be demonstrated by~~ the Applicant demonstrates ~~applicant~~ through predictive calculations or modeling methods that construction and use of these treatment and disposal units will not result in contravention of surface water or groundwater standards.

(g) Impoundments, trenches or other excavations made for the purpose of storing or treating waste shall not be excavated into bedrock unless the placement of waste into such excavations will not result in a contravention of surface water or groundwater standards, as demonstrated by predictive calculations or modeling.

(h) Each facility, except for those using septic tanks or lagoon treatment, shall provide flow equalization with either a capacity based upon a representative diurnal hydrograph or a capacity of 25 percent of the daily system design flow. ~~Flow equalization of at least 25 percent of the facilities permitted hydraulic capacity must be provided for all seasonal or resort facilities and all other facilities with fluctuations in influent flow which may adversely affect the performance of the system.~~

(i) By-pass and overflow lines shall be prohibited.

(j) Multiple pumps shall be provided ~~if~~ wherever pumps are used.

(k) Power reliability shall be ~~provided~~ provided, consisting of:

(1) automatically activated standby ~~power supply~~ power supply, located ~~onsite,~~ onsite and capable of powering all essential treatment units under design conditions; or

(2) approval by the Director that the facility:

(A) serves a private water distribution system ~~which~~ that has automatic shut-off at power failure and no elevated water storage ~~tanks,~~ tanks;

(B) has sufficient storage capacity that no potential for overflow ~~exists,~~ exists; and

(C) can tolerate septic wastewater ~~due to~~ during prolonged detention.

(l) A water-tight seal on all ~~treatment/storage~~ treatment and storage units or ~~minimum of~~ two feet of protection from the 100-year flood elevation shall be provided.

(m) ~~Irrigation~~ Infiltration system design shall not exceed the recommended precipitation rates in the soils report prepared pursuant to Rule .0704 of this Section.
(n) ~~A minimum of~~ 30 days of residuals storage shall be provided.
(o) Disposal areas shall be designed to maintain a one-foot vertical separation between the seasonal high water table and the ground surface.
(p) The public shall be prohibited access to the treatment, storage and infiltration facilities. ~~wetted disposal area and treatment facilities.~~
(q) Influent pump stations shall meet the sewer ~~minimum~~ design criteria ~~as provided~~ set forth in Section .0300 of this Subchapter.
(r) Septic tanks shall adhere to 15A NCAC 18A .1900.
(s) Infiltration areas shall be designed to allow routine maintenance of the area without interruption of disposal.
(t) Subsurface groundwater lowering drainage systems permitted under this Subchapter shall be subject to the corrective action requirements in 15A NCAC 02L .0106.
(u) Waste treatment facilities shall be equipped with noise and odor control devices that shall be enclosed.
(v) All essential treatment and disposal units shall be provided in duplicate.
(w) The application rate shall not exceed 10 gallons per day per square foot (GPD/ft^2).
(x) Facilities with an average daily flow greater than 10,000 GPD shall be provided with a flow meter to measure the volume of treated wastewater applied to each infiltration site.
(y) Subsurface groundwater lowering drainage systems shall be prohibited within the compliance boundary.
(z) Facilities serving residential communities shall provide five days of effluent storage, unless the Applicant demonstrates that the infiltrated effluent will not pond, runoff or breakout regardless of weather or soil conditions.
(aa) Automatically activated infiltration systems, excluding basin, rotary, and spray bed infiltration systems, shall be connected to a rain or moisture sensor to prevent infiltration during precipitation events or wet conditions that would cause runoff.

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

15A NCAC 02T .0706 SETBACKS

(a) The setbacks for Infiltration Units shall be as follows:

	Spray (feet)	Drip (feet)	Basin (feet)
Any habitable residence or place of public assembly under separate ownership or not to be maintained as part of the project site	400	100	100
Any habitable residence or place of public assembly owned by the Permittee to be maintained as part of the project site	200	15	50
Any private or public water supply source	100	100	100
Surface waters (streams – intermittent and perennial, perennial waterbodies, and wetlands)	200	200	200
Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)	200	200	200
Subsurface groundwater lowering drainage systems	200	200	200
Surface water diversions (ephemeral streams, waterways, ditches)	50	50	50
Any well with exception of monitoring wells	100	100	100
Any property line	150	50	50
Top of slope of embankments or cuts of two feet or more in vertical height	100	100	100
Any water line from a disposal system	10	10	10
Public right of way	50	50	50
Nitrification field	20	20	20
Any building foundation or basement	15	15	15
Impounded public water supplies	500	500	500
Public shallow groundwater supply (less than 50 feet deep)	500	500	500
~~(feet)~~			
~~Any habitable residence or place of public assembly under separate ownership or not to be maintained as part of the project site~~			~~400~~
~~Any habitable residence or place of public assembly owned by the permittee to be maintained as part of the project site~~			~~200~~
~~Any private or public water supply source~~			~~100~~
~~Surface waters (streams – intermittent and perennial, perennial waterbodies, and wetlands)~~			~~200~~
~~Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)~~			~~200~~
~~Subsurface groundwater lowering drainage systems~~			~~200~~
~~Surface water diversions (ephemeral streams, waterways, ditches)~~			~~50~~
~~Any well with exception of monitoring wells~~			~~100~~
~~Any property line~~			~~200~~
~~Top of slope of embankments or cuts of two feet or more in vertical height~~			~~100~~
~~Any water line from a disposal system~~			~~10~~

~~Any swimming pool~~	~~100~~
~~Public right of way~~	~~50~~
~~Nitrification field~~	~~20~~
~~Any building foundation or basement~~	~~15~~
~~Impounded public water supplies~~	~~500~~
~~Public shallow groundwater supply (less than 50 feet deep)~~	~~500~~

(b) Setbacks in Paragraph (a) of this Rule to surface waters, groundwater lowering ditches, and subsurface groundwater lowering drainage systems shall be 100 feet if the treatment units are designed to meet a Total Nitrogen of 7 ~~mg/l~~ mg/L and Total Phosphorus of 3 ~~mg/l~~ mg/L effluent limit.
(c) Setbacks in Paragraph (a) of this Rule to surface waters, groundwater lowering ditches, and subsurface groundwater lowering drainage systems shall be 50 feet if the treatment units are designed to meet a Total Nitrogen of 4 ~~mg/l~~ mg/L and Total Phosphorus of 2 ~~mg/l~~ mg/L effluent limit. This setback provision ~~does~~ shall not apply to SA waters.
(d) Treatment and storage facilities associated with systems permitted under this Section shall adhere to the setback requirements in Section .0500 of this Subchapter except as provided in this Rule.
(e) Setback waivers shall be written, notarized, signed by all parties involved and recorded with the County Register of Deeds. Waivers involving the compliance boundary shall be in accordance with 15A NCAC 02L .0107.
(f) Setbacks to property lines established in Paragraphs (a) and (d) of this Rule shall not be applicable when the Permittee, or the entity from which the Permittee is leasing, owns both parcels creating said property line.
(g) Habitable residences or places of public assembly under separate ownership constructed after the non-discharge facilities were originally permitted or subsequently modified, are exempt from the setback requirements in Paragraphs (a) and (d) of this Rule.

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

15A NCAC 02T .0707 OPERATION AND MAINTENANCE ~~PLAN~~

(a) An operation and maintenance plan shall be maintained for all systems. The plan shall:

(1) describe the operation of the system in sufficient detail to show what operations are necessary for the system to function and by whom the functions are to be conducted;
(2) describe anticipated maintenance of the system;
(3) include provisions for safety ~~measures,~~ measures including restriction of access to the site and equipment, as appropriate; and
(4) include spill control ~~provisions,~~ provisions including:
  (A) response to upsets and ~~bypasses,~~ bypasses including control, containment, and remediation; and
  (B) contact information for plant personnel, emergency responders, and regulatory agencies.

(b) Infiltration areas, excluding basin, rotary, and spray bed infiltration systems, shall have a year-round vegetative cover.
(c) Infiltration, excluding basin infiltration systems, shall not result in ponding or runoff of treated effluent.
(d) Infiltration and metering equipment shall be tested and calibrated annually, or as established by permit.
(e) Automobiles and heavy machinery shall not be allowed on the infiltration area, except during installation or maintenance activities.
(f) Water level gauges shall be provided for all open-atmosphere treatment lagoons and ponds, and all open-atmosphere storage and basin infiltration units.
(g) Vegetative cover shall be maintained on all earthen embankments.
(h) Basin, rotary, and spray bed infiltration systems shall be cleaned to remove deposited materials every permit cycle, or as established by permit.
(i) The Permittee shall keep a log of all maintenance activities that occur at the facility.
(j) The Permittee shall perform inspections and maintenance to ensure proper operation of the facility.

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

15A NCAC 02T .0708 RESIDUALS MANAGEMENT ~~PLAN~~

(a) A Residuals Management Plan shall be maintained for all systems that generate residuals. The plan ~~must~~ shall include the following:

(1) a detailed explanation as to how the residuals will be collected, handled, processed, stored and disposed;
(2) an evaluation of the residuals storage requirements for the treatment ~~facility~~ facility, based upon the maximum anticipated residuals production rate and the ability to remove residuals;
(3) a permit for residuals disposal or ~~utilization,~~ utilization or a written commitment to the Permittee of a ~~Department approved~~ Department-approved residuals ~~disposal/utilization~~ disposal or utilization program accepting the residuals ~~which~~ that demonstrates that the approved program has adequate capacity to accept the ~~residuals,~~ residuals or that an application for approval has been submitted; and
(4) if oil, grease, grit, or screenings removal and collection is a designed unit process, a detailed explanation as to how ~~the oil/grease~~ these materials will be collected, handled, processed, stored and disposed.

(b) The Permittee shall maintain a record of all residuals removed from the facility.

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

SECTION .0800 – OTHER NON-DISCHARGE WASTEWATER SYSTEMS

15A NCAC 02T .0801 SCOPE

This Section ~~applies~~ shall apply to systems not specifically regulated by other rules in this Subchapter ~~in which the waste~~ and governs waste that is disposed of by ground absorption systems or other non-discharge systems such as infiltration lagoons and evaporative ~~systems~~ systems, as well as authorizations to construct for NPDES facilities.

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

15A NCAC 02T .0804 APPLICATION SUBMITTAL

Submittal requirements shall be the same as systems permitted under ~~15A NCAC 02T .0504~~ 15A NCAC 02T .0504, except those that are not applicable to authorization to construct type ~~permits (e.g., soils report, hydrogeological investigations, or receiver site management plan).~~ permits.

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

15A NCAC 02T .0805 DESIGN CRITERIA

Design requirements shall be the same as systems permitted under ~~15A NCAC 02T .0505~~ 15A NCAC 02T .0505, except those that are not applicable to authorization to construct type permits ~~(e.g. degree of treatment and irrigation system design requirements)~~ or specifically addressed by Section 15A NCAC 02H .0100.

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

15A NCAC 02T .0806 SETBACKS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .0807 OPERATION AND MAINTENANCE

Operation and maintenance requirements shall be the same as systems permitted under 15A NCAC 02T .0707.

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

15A NCAC 02T .0808 RESIDUALS MANAGEMENT

Residuals management requirements shall be the same as systems permitted under 15A NCAC 02T .0708.

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

SECTION .1100 – RESIDUALS MANAGEMENT

15A NCAC 02T .1101 SCOPE

This Section shall apply ~~applies~~ to the treatment, storage, transportation, use, and disposal of residuals. Not regulated under this Section is the treatment, storage, transportation, use, or disposal of:

(1) oil, grease, grit and screenings from wastewater treatment facilities;
(2) septage from wastewater treatment facilities;
(3) ash that is regulated in accordance with Section .1200;
(4) residuals that are regulated in accordance with Section .1300 and Section .1400 of this Subchapter;
(5) residuals that are prepared for land application, used, or disposed of in a solid waste management facility permitted by the Division of Waste Management;
(6) residuals that are disposed of in an incinerator permitted by the Division of Air Quality;
(7) residuals that are transported out of state for treatment, storage, use, or disposal; ~~and~~
(8) residuals that meet the definition of a hazardous waste in accordance with 40 CFR 260.10 as adopted by reference in 15A NCAC 13A .0102(b) or that have a concentration of polychlorinated biphenyls equal to or greater than 50 milligrams per kilogram of total solids on a dry weight basis; and ~~(i.e., dry weight basis).~~
(9) byproduct waste resulting from any process of industry, manufacturing, trade, business, or the development of any natural resource (i.e., not from a wastewater treatment, water supply treatment, or air pollution control facility permitted under the authority of the Commission).

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

15A NCAC 02T .1102 DEFINITIONS

As used in this Section:

(1) "Aerobic digestion" shall mean the biochemical decomposition of organic matter in residuals into carbon dioxide and water by microorganisms in the presence of air.
(2) "Agricultural land" shall mean land on which a food crop, feed crop, or fiber crop is grown.
(3) "Anaerobic digestion" shall mean the biochemical decomposition of organic matter in residuals into methane gas and carbon dioxide by microorganisms in the absence of air.
(4) "Bag and other container" shall mean a bag, bucket, bin, box, carton, vehicle, trailer, tanker, or an open or closed receptacle with a load capacity of 1.102 short tons or one metric ton or less.
(5) "Base flood" shall mean a flood that has a one percent chance ~~change~~ of occurring in any given year. ~~year (i.e., a flood with a magnitude equaled once in 100 years).~~
(6) "Biological residuals" shall mean residuals that have been generated during the treatment of domestic wastewater, the treatment of animal

processing wastewater, or the biological treatment of industrial wastewater.

(7) "Biological treatment" shall mean treatment in a system that ~~utilizes~~ uses biological processes, ~~processes that shall include~~ including lagoons, activated sludge systems, extended aeration systems, and fixed film systems.

~~(8) "Bulk residuals" shall mean residuals that are transported and not sold or given away in a bag or other container for application to the land.~~

(8)~~(9)~~ "Cover" shall mean soil or ~~other~~ Division-approved material used to cover residuals placed in a surface disposal unit.

(9)~~(10)~~ "Cumulative pollutant loading rate" shall mean the maximum amount of a pollutant that ~~can~~ is permitted to be applied to a unit area of land.

(10)~~(11)~~ "Dedicated program" shall mean a program involving the application of ~~bulk~~ residuals in which any of the permitted land meets the definition of a dedicated land application site.

(11)~~(12)~~ "Dedicated land application site" shall mean land:

(a) to which ~~bulk~~ residuals are applied at greater than agronomic rates; ~~rates,~~

(b) to which ~~bulk~~ residuals are applied through fixed irrigation facilities or irrigation facilities fed through a fixed supply system; ~~system,~~ or

(c) where the primary use of the land is for the disposal of ~~bulk residuals,~~ residuals and agricultural crop production is of secondary importance.

(12)~~(13)~~ "Density of microorganisms" shall mean the number of microorganisms per unit mass of total solids on a dry weight basis ~~(i.e., dry weight basis)~~ in the residuals.

(13)~~(14)~~ "Dry weight basis" shall mean the weight calculated after the residuals have been dried at 105 degrees Celsius until they reach a constant mass.

(14)~~(15)~~ "Feed crop" shall mean a crop produced for consumption by animals.

(15)~~(16)~~ "Fiber crop" shall mean a crop grown for fiber ~~production. This shall include~~ production, including flax and cotton.

(16)~~(17)~~ "Food crop" shall mean a crop produced for consumption by ~~humans. This shall include~~ humans, including fruits, vegetables, and tobacco.

(17)~~(18)~~ "Grit" shall mean sand, gravel, cinders, or other materials with a high specific gravity generated during preliminary treatment of wastewater in a wastewater treatment facility.

(18)~~(19)~~ "Incorporation" shall mean the mixing of residuals with top soil to a minimum depth of four inches by methods such as discing, plowing, and rototilling.

(19)~~(20)~~ "Injection" shall mean the subsurface application of liquid residuals to a depth of four to 12 inches.

(20)~~(21)~~ "Land application" shall mean the spraying or spreading of residuals onto the land surface, ~~surface;~~ the injection of residuals below the land surface, ~~surface;~~ or the incorporation of residuals into the soil so that the residuals can condition the soil or fertilize crops or vegetation grown in the soil.

(21)~~(22)~~ "Lower explosive limit for methane gas" shall mean the lowest percentage of methane gas in air, by volume, that propagates a flame at 25 degrees Celsius and atmospheric pressure.

(22)~~(23)~~ "Monthly average" shall mean the arithmetic mean of all measurements taken during ~~the~~ a month.

(23)~~(24)~~ "Pathogens" shall mean disease-causing ~~organisms~~ organisms, including disease-causing bacteria, protozoa, viruses, and viable helminth ova.

(24)~~(25)~~ "Place residuals" shall mean to dispose of residuals in a surface disposal unit.

(25)~~(26)~~ "Person who prepares residuals" shall mean either the person who generates residuals during the treatment of waste in a wastewater treatment facility or the person who derives a material from residuals.

(26)~~(27)~~ "Pollutant limit" shall mean a numerical value that describes the amount of a pollutant allowed per unit amount of residuals or the amount of a pollutant that can be applied to a unit area of land.

(27)~~(28)~~ "Public contact site" shall mean land with a high potential for contact by the public as defined in 40 CFR ~~503.11(l). This shall include~~ 503.11(1), including public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.

(28)~~(29)~~ "Runoff" shall mean rainwater, leachate, or other liquid that drains overland and runs off of the land surface.

(29)~~(30)~~ "Screenings" shall mean rags or other relatively large materials generated during preliminary treatment of wastewater in a wastewater treatment facility.

(30)~~(31)~~ "Seismic impact zone" shall mean an area that has a 10 percent or greater probability that the horizontal ground level acceleration of the rock in the area exceeds 0.10 gravity once in 250 years.

(31)~~(32)~~ "Specific oxygen uptake rate (SOUR)" shall mean the mass of oxygen consumed per unit time per unit mass of total solids on a dry weight basis ~~(i.e., dry weight basis)~~ in the residuals.

(32)~~(33)~~ "Surface disposal unit" shall mean the land on which only residuals are placed for final disposal, including monofills, lagoons, and

trenches and not including land on which residuals is either treated or stored. ~~not including land on which residuals is either treated or stored. This shall include monofills, lagoons, and trenches.~~

(33)~~(34)~~ "Surface disposal unit boundary" shall mean the outermost perimeter of a surface disposal unit.

(34)~~(35)~~ "Total solids" shall mean the materials that remain as residue after the residuals have been dried at between 103 and 105 degrees Celsius until they reach a constant mass.

(35)~~(36)~~ "Water treatment residuals" shall mean residuals that have been generated during the treatment of potable or process water.

(36)~~(37)~~ "Unstabilized residuals" shall mean residuals that have not been treated in either an aerobic or an anaerobic treatment process.

(37)~~(38)~~ "Unstable area" shall mean land subject to natural or human-induced forces that may damage the structural components of a surface disposal ~~unit. This shall include~~ unit, including land on which the soils are subject to mass movement.

(38)~~(39)~~ "Vector attraction" shall mean the characteristic of residuals that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

(39)~~(40)~~ "Volatile solids" shall mean the amount of the total solids in the residuals lost when they are combusted at 550 degrees Celsius in the presence of excess air.

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

15A NCAC 02T .1103 PERMITTING BY REGULATION

(a) The following systems ~~are~~ shall be deemed permitted pursuant to Rule .0113 of this Subchapter ~~provided~~ if the system meets the criteria in Rule .0113 of this Subchapter and all criteria required for ~~the specific~~ that system in this Rule:

(1) Preparation for land application, use, or disposal of residuals in a solid waste facility permitted by the Division of Waste Management that is approved to receive the residuals.

(2) Land application of residuals that have been prepared for land application in a solid waste facility permitted by the Division of Waste Management approved to receive the residuals ~~as long as~~ if the requirements of this Section are met.

(3) Land application sites onto which Class A residuals that are sold or given away in a bag or other container ~~container,~~ are ~~applied~~ applied, provided the following criteria ~~is~~ are met:

(A) the residuals meet the pollutant limits in Rule .1105(a) and Rule .1105(c) of this Section,

(B) the residuals meet the pathogen requirements in Rule .1106(a)(1) of this Section,

(C) the residuals meet the vector attraction reduction requirements in Rule .1107(a) of this Section, and

(D) the land application activities are carried out according to the instructions provided in the informational sheet, ~~sheet or bag~~ bag, or other container label as required in Rule .1109(c) ~~.1109(a)~~ of this Section.

(4) Land application sites onto which ~~bulk~~ Class A biological residuals are applied, ~~provided that~~ if the residuals and activities meet ~~meeting~~ the following criteria:

(A) the residuals meet the pollutant limits in Rule .1105(a) and Rule .1105(c) of this Section,

(B) the residuals meet the pathogen requirements in Rule .1106(b) of this Section,

(C) the residuals meet the vector attraction reduction requirements in Rule .1107(a) of this Section, and

(D) the land application activities meet all applicable conditions of Rule .1108(b) ~~.1108(b)(1)~~ and Rule .1109(a)(1) ~~.1109(b)~~ of this Section.

(5) Land application sites onto which Class A non-biological residuals ~~generated from the treatment of potable or fresh water or that are generated from the treatment of non-biological industrial wastewater with no domestic or municipal wastewater contributions~~ are applied, ~~provided that~~ if the residuals and activities meet the following criteria:

(A) the residuals meet the pollutant limits in Rule .1105(a) and Rule .1105(c) of this Section,

(B) the residuals meet the pathogen requirements in Rule .1106(b) of this Section, and

(C) the land application activities meet all applicable conditions of Rule .1108(b) ~~.1108(b)(1)~~ and Rule ~~.1109~~ .1109(a)(1) of this Section.

(6) Transportation of residuals from the ~~residuals generating~~ residuals-generating source facility to other Division or Division of Waste Management facilities approved to treat, store, use, or dispose the residuals.

(b) The Director may determine that a system ~~should~~ shall not be deemed permitted in accordance with this Rule and Rule .0113 of this Subchapter. This determination shall be made in accordance with Rule .0113(e) of this Subchapter.

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

15A NCAC 02T .1104 APPLICATION SUBMITTAL

(a) For new and expanding residuals treatment and storage facilities:

(1) Site plans. If required by G.S. 89C, a professional land surveyor shall provide location information on boundaries and physical features not under the purview of other licensed professions. Site plans or maps shall be provided to the Division by the Applicant ~~applicant~~ depicting the location, orientation and relationship of facility ~~components~~ components, including:

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]~~

(A) a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief and showing all facility-related structures and fences within the treatment and storage areas;

(B) the location of all wells (including ~~usage~~ use and construction details if available), streams (ephemeral, intermittent, and perennial), springs, lakes, ponds, and other surface drainage features within 500 feet of all treatment and storage facilities and delineation of the review and compliance boundaries;

(C) setbacks as required by Rule .1108 of this Section; and

(D) site property boundaries within 500 feet of all treatment and storage facilities.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying pursuant to G.S. 89C.]

(2) Engineering design documents. If required by G.S. 89C, a professional engineer shall prepare these documents. The following documents shall be provided to the Division by the Applicant: ~~applicant:~~

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C.]~~

(A) engineering plans for the facilities and equipment except those previously permitted unless they are directly tied into the new units or are ~~critical~~ necessary to ~~the~~ understanding ~~of~~ the complete process;

(B) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the finished product, ~~product~~ including leakage testing; and

(C) engineering ~~calculations~~ calculations, including hydraulic and pollutant loading for each unit, unit sizing criteria, hydraulic profile of the facilities, total dynamic head and system curve analysis for each pump, and buoyancy calculations.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated ~~December~~ 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering pursuant to G.S. 89C.]

(b) For new and modified sources of residuals:

(1) Site maps shall be provided to the Division by the Applicant ~~applicant~~ depicting the location of the source.

(2) ~~A complete~~ An analysis of the residuals shall be provided to the Division by the Applicant. ~~applicant.~~ The analysis ~~may include~~ shall include:

(A) all pollutants identified in Rule .1105 of this Section; ~~Section,~~

(B) nutrients and micronutrients; ~~micronutrients,~~

(C) hazardous waste characterization tests; ~~tests,~~ and

(D) proof of compliance with Rule .1106 and Rule .1107 of this Section if applicable.

(3) A ~~sampling/monitoring~~ sampling and monitoring plan that describes how compliance with Rule .1105, Rule .1106, and Rule .1107 of this Section if applicable shall be provided to the Division by the Applicant. ~~applicant.~~

(c) For new and expanding non-dedicated land application sites:

(1) ~~Buffer~~ Setback maps shall be provided to the Division by the Applicant ~~applicant~~ depicting the location, orientation and relationship of land application site features including:

(A) a scaled map of the land application site, showing all related structures and fences within the land application area;

(B) the location of all wells, streams (ephemeral, intermittent, and perennial), springs, lakes, ponds, and other surface drainage features within 500 feet of the land application area

and delineation of the review and compliance boundaries;

(C) setbacks as required by Rule .1108 of this Section; and

(D) property boundaries within 500 feet of the land application site.

(2) Soils Report. A soil evaluation of the land application site shall be provided to the Division by the Applicant. ~~applicant.~~ This evaluation shall be presented in a report that includes the following. If required by G.S. 89F, a soil scientist shall prepare this evaluation:

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

(A) Confirmation of a county soils map, soil evaluation, and verification of the presence or absence of a seasonal high water table within three feet of land surface or establishment of a soil map through field description of soil profile, based on examinations of excavation pits or auger borings, within seven feet of land surface or to bedrock describing the following parameters by individual diagnostic horizons: thickness of the horizon; texture; color and other diagnostic features; structure; internal drainage; depth, thickness, and type of restrictive horizon; ~~horizon(s);~~ and presence or absence and depth of evidence of any seasonal high water table. ~~table (SHWT).~~

(B) A representative soils analysis for standard soil fertility and all pollutants listed in Rule .1105(b) of this Section. The Standard Soil Fertility Analysis shall include the following parameters: acidity; base saturation (by calculation); calcium; cation exchange capacity; copper; exchangeable sodium percentage (by calculation); magnesium; manganese; percent humic matter; pH; phosphorus; potassium; sodium, and zinc.

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

(3) A project evaluation and a land application site management plan (if applicable) with recommendations concerning cover crops and their ability to accept the proposed application rates of liquid, solids, minerals and other constituents of the residuals shall be provided to the Division.

(4) Unless the land application site is owned by the Permittee, property ownership documentation consisting of a notarized landowner agreement shall be provided to the Division.

(d) For new and expanding dedicated land application sites:

(1) Site plans. If required by G.S. 89C, a professional land surveyor shall provide location information on boundaries and physical features not under the purview of other licensed professions. Site plans or maps shall be provided to the Division by the Applicant ~~applicant~~ depicting the location, orientation and relationship of land application site features including:

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]~~

(A) a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief and showing all facility-related structures and fences within the land application area;

(B) the location of all wells (including ~~usage~~ use and construction details if available), streams (ephemeral, intermittent, and perennial), springs, lakes, ponds, and other surface drainage features within 500 feet of the land application site and delineation of the review and compliance boundaries;

(C) setbacks as required by Rule .1108 of this Section; and

(D) property boundaries within 500 feet of the land application site.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying pursuant to G.S. 89C.]

(2) Engineering design documents (for land applications sites onto which ~~bulk~~ residuals are applied through fixed irrigation facilities or irrigation facilities fed through a fixed supply system only). If required by G.S. 89C, a professional engineer shall prepare these documents. The following documents shall be

provided to the Division by the Applicant: ~~applicant:~~

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C.]~~

(A) engineering plans for the facilities and equipment except those previously permitted unless they are directly tied into the new units or are ~~critical~~ necessary to ~~the~~ understanding ~~of~~ the complete process;

(B) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the finished ~~product~~ product, including leakage testing; and

(C) engineering ~~calculations~~ calculations, including hydraulic and pollutant loading, sizing criteria, hydraulic profile, total dynamic head and system curve analysis for each pump, and irrigation design.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering pursuant to G.S. 89C.]

(3) Soils Report. A soil evaluation of the land application site shall be provided. This evaluation shall be presented to the Division by the Applicant ~~applicant~~ in a report that includes the following. If required by G.S. 89F, a soil scientist shall prepare this evaluation:

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

(A) Field description of soil profile, based on examinations of excavation pits or auger borings, within seven feet of land surface or to bedrock describing the following parameters by individual diagnostic horizons: thickness of the horizon; texture; color and other diagnostic features; structure; internal drainage; depth, thickness, and type of restrictive ~~horizon(s);~~ horizon; and presence or absence and depth of evidence of any seasonal high water table. ~~table (SHWT).~~ Applicants shall dig pits if necessary for proper evaluation of the soils at the site.

(B) Recommendations concerning loading rates of liquids, solids, other residuals constituents and amendments (i.e., for land application sites onto which ~~bulk~~ residuals are applied through fixed irrigation facilities or irrigation facilities fed through a fixed supply system only). Annual hydraulic loading rates shall be based on in-situ measurement of saturated hydraulic conductivity in the most restrictive horizon for each soil mapping unit. Maximum irrigation precipitation rates shall be provided for each soil mapping unit.

(C) A field-delineated soil map delineating soil mapping units within the land application site and showing all physical features, location of pits and auger borings, legends, scale, and a north arrow. The legends shall also include dominant soil series name and family or higher taxonomic class for each soil mapping unit.

(D) A representative soils analysis for standard soil fertility and all pollutants listed in Rule .1105(b) of this Section. The Standard Soil Fertility Analysis shall include the following parameters: acidity, base saturation (by calculation), calcium, cation exchange capacity, copper, exchangeable sodium percentage (by calculation), magnesium, manganese, percent humic matter, pH, phosphorus, potassium, sodium, and zinc.

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

(4) Hydrogeologic report. A hydrogeologic description prepared by a Licensed Geologist, Licensed Soil Scientist, or Professional Engineer if required by Chapters 89E, 89F, or 89C, respectively, ~~respectively of the subsurface to a depth of 20 feet or bedrock, whichever is less,~~ shall be provided to the Division by the Applicant. ~~applicant.~~ The hydrogeologic evaluation shall be of the subsurface to a depth of 20 feet or bedrock, whichever is less deep. ~~A greater depth of~~ An investigation to a depth greater than 20 feet is required if the respective depth is used in predictive calculations. This evaluation shall be based on ~~borings for which the numbers, locations, and depths are sufficient~~ sufficient

numbers, locations, and depths of borings to define the components of the hydrogeologic evaluation. In addition to borings, other techniques may be used to investigate the subsurface conditions at the site, including ~~site. These techniques may include~~ geophysical well logs, surface geophysical surveys, and tracer studies. This evaluation shall be presented in a report that includes the following components:
~~[Note: The North Carolina Board for Licensing of Geologists, via letter dated April 6, 2006, North Carolina Board for Licensing of Soil Scientists, via letter dated December 1, 2005, and North Carolina Board of Examiners for Engineers and Surveyors, via letter dated December 1, 2005, have determined that preparation of hydrogeologic description documents pursuant to this Paragraph constitutes practicing geology under G.S. 89E, soil science under G.S. 89F, or engineering under G.S. 89C.]~~

(A) a description of the regional and local geology and hydrogeology;

(B) a description, based on field observations of the land application site, of the land application site topographic setting, streams, springs and other groundwater discharge features, drainage features, existing and abandoned wells, rock outcrops, and other features that may affect the movement of the contaminant plume and treated wastewater;

(C) changes in the lithology underlying the ~~land application~~ site;

(D) depth to the bedrock and the occurrence of any rock outcrops;

(E) the hydraulic conductivity and transmissivity of the affected ~~aquifer(s);~~ aquifer as determined by in-situ field testing, such as slug tests or pumping tests, in the intended area of irrigation;

(F) the depth to the seasonal high water table;

(G) a discussion of the relationship between the affected aquifers of the land application site to local and regional geologic and hydrogeologic features;

(H) a discussion of the groundwater flow regime of the ~~land application~~ site prior to the operation of the proposed site and the post operation of the proposed ~~site~~ site, focusing on the relationship of the site to groundwater receptors, groundwater discharge features, and groundwater flow media; and

(I) if residuals are applied through fixed irrigation facilities or irrigation facilities fed through a fixed supply system only and if the ~~SHWT~~ seasonal high water table is within six feet of the surface, a mounding analysis to predict the level of the ~~SHWT~~ seasonal high water table after residuals land application.

[Note: The North Carolina Board for Licensing of Geologists, via letter dated April 6, 2006, North Carolina Board for Licensing of Soil Scientists, via letter dated December 1, 2005, and North Carolina Board of Examiners for Engineers and Surveyors, via letter dated December 1, 2005, have determined that preparation of hydrogeologic description documents pursuant to this Paragraph constitutes practicing geology pursuant to G.S. 89E, soil science pursuant to G.S. 89F, or engineering pursuant to G.S. 89C.]

(5) For land application sites onto which ~~bulk~~ residuals are applied through fixed irrigation facilities or irrigation facilities fed through a fixed supply system only, the Applicant shall provide to the Division a water balance ~~shall be provided to the Division by the applicant~~ that determines the required residuals storage based upon the following most limiting factor: ~~factor~~

(A) hydraulic loading based on the most restrictive horizon;

(B) hydraulic loading based on the groundwater mounding analysis;

(C) nutrient management based on agronomic rates for the specified cover crop; or

(D) nutrient management based on crop management.

~~of the hydraulic loading based on either the most restrictive horizon or groundwater mounding analysis; or nutrient management based on either agronomic rates for the specified cover crop or crop management requirements.~~

(6) A project evaluation and a receiver site management plan (if applicable) with recommendations concerning cover crops and their ability to accept the proposed application rates of liquid, solids, minerals and other constituents of the residuals shall be provided to the Division by the Applicant. ~~applicant.~~

(7) Property Ownership Documentation shall be provided to the Division by the Applicant ~~applicant~~ consisting of:

(A) legal documentation of ownership (i.e., contract, deed or article of incorporation);

(B) ~~written notarized intent to purchase agreement~~ an agreement of an intent to

purchase the property that is written, notarized, and signed by both parties, accompanied by a plat or survey map; or

(C) ~~written notarized lease agreement~~ an agreement to lease the property that is written, notarized, and signed by both parties, ~~specifically~~ indicating the intended use of the property, ~~as well as~~ accompanied by a plat or survey map. Lease agreements shall adhere to the requirements of 15A NCAC 02L .0107.

(e) For new and expanding surface disposal units:

(1) Site plans. If required by G.S. 89C, a professional land surveyor shall provide location information on boundaries and physical features not under the purview of other licensed professions. Site plans or maps shall be provided to the Division by the Applicant ~~applicant~~ depicting the location, orientation and relationship of the surface disposal unit features including:

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]~~

(A) a scaled map of the surface disposal unit, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief and showing all surface disposal unit-related structures and fences within the surface disposal unit;

(B) the location of all wells (including ~~usage~~ use and construction details if available), streams (ephemeral, intermittent, and perennial), springs, lakes, ponds, and other surface drainage features within 500 feet of the surface disposal unit and delineation of the review and compliance boundaries;

(C) setbacks as required by Rule .1108 of this Section; and

(D) site property boundaries within 500 feet of the surface disposal unit.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying pursuant to G.S. 89C.]

(2) Engineering design documents. If required by G.S. 89C, a professional engineer shall prepare these documents. The following documents shall be provided to the Division by the Applicant: ~~applicant:~~

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C.]~~

(A) engineering plans for the surface disposal unit and equipment except those previously permitted unless they are directly tied into the new units or are ~~critical~~ necessary to ~~the~~ understanding ~~of~~ the complete process;

(B) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the finished ~~product~~ product, including leakage testing; and

(C) engineering ~~calculations~~ calculations, including hydraulic and pollutant loading, sizing criteria, hydraulic profile, and total dynamic head and system curve analysis for each pump.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering pursuant to G.S. 89C.]

(3) Soils Report. A soil evaluation of the surface disposal unit site shall be provided to the Division by the Applicant ~~applicant~~ in a report that includes the following. If required by G.S. 89F, a soil scientist shall prepare this evaluation:

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

(A) Field description of soil profile, based on examinations of excavation pits or auger borings, within seven feet of land surface or to bedrock describing the following parameters by individual diagnostic horizons: thickness of the horizon; texture; color and other diagnostic features; structure; internal drainage; depth, thickness, and type of restrictive horizon; ~~horizon(s);~~ and presence or absence and depth of evidence of any seasonal high water table. ~~table (SHWT).~~ Applicants may be required

to dig pits when necessary for proper evaluation of the soils at the site.

(B) A field-delineated soil map delineating major soil mapping units within the surface disposal unit site and showing all physical features, location of pits and auger borings, legends, scale, and a north arrow. The legends shall also include dominant soil series name and family or higher taxonomic class for each soil mapping unit.

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

(4) Hydrogeologic report. A hydrogeologic description prepared by a Licensed Geologist, Licensed Soil Scientist, or Professional Engineer if required by Chapters 89E, 89F, or 89C, respectively, ~~respectively of the subsurface to a depth of 20 feet or bedrock, whichever is less,~~ shall be provided to the Division by the Applicant. ~~applicant.~~ The hydrogeologic evaluation shall be of the subsurface to a depth of 20 feet or bedrock, whichever is less deep. ~~A greater depth of~~ An investigation to a depth greater than 20 feet is required if the respective depth is used in predictive calculations. This evaluation shall be based on ~~borings for which the numbers, locations, and depths are sufficient~~ sufficient numbers, locations, and depths of borings to define the components of the hydrogeologic evaluation. In addition to borings, other techniques may be used to investigate the subsurface conditions at the site, including ~~site. These techniques may include~~ geophysical well logs, surface geophysical surveys, and tracer studies. This evaluation shall be presented in a report that includes the following components:

~~[Note: The North Carolina Board for Licensing of Geologists, via letter dated April 6, 2006, North Carolina Board for Licensing of Soil Scientists, via letter dated December 1, 2005, and North Carolina Board of Examiners for Engineers and Surveyors, via letter dated December 1, 2005, have determined that preparation of hydrogeologic description documents pursuant to this Paragraph constitutes practicing geology under G.S. 89E, soil science under G.S. 89F, or engineering under G.S. 89C.]~~

(A) a description of the regional and local geology and hydrogeology;

(B) a description, based on field observations of the site, of the site topographic setting, streams, springs and other groundwater discharge features, drainage features, existing and abandoned wells, rock outcrops, and other features that may affect the movement of the contaminant plume and treated wastewater;

(C) changes in the lithology underlying the site;

(D) the depth to bedrock and the occurrence of any rock outcrops;

(E) the hydraulic conductivity and transmissivity of the affected ~~aquifer(s);~~ aquifer as determined by in-situ field testing, such as slug tests or pumping tests, in the intended area of irrigation;

(F) the depth to the seasonal high water table;

(G) a discussion of the relationship between the affected aquifers of the site to local and regional geologic and hydrogeologic features; and

(H) a discussion of the groundwater flow regime of the site prior to the operation of the proposed unit and the post operation of the proposed unit, ~~unit~~ focusing on the relationship of the unit to groundwater receptors, groundwater discharge features, and groundwater flow media.

[Note: The North Carolina Board for Licensing of Geologists, via letter dated April 6, 2006, North Carolina Board for Licensing of Soil Scientists, via letter dated December 1, 2005, and North Carolina Board of Examiners for Engineers and Surveyors, via letter dated December 1, 2005, have determined that preparation of hydrogeologic description documents pursuant to this Paragraph constitutes practicing geology pursuant to G.S. 89E, soil science pursuant to G.S. 89F, or engineering pursuant to G.S. 89C.]

(5) Property Ownership Documentation shall be provided to the Division by the Applicant ~~applicant~~ consisting of:

(A) legal documentation of ownership (i.e., contract, deed or article of incorporation);

(B) ~~written notarized intent to purchase agreement~~ an agreement of an intent to purchase the property that is written, notarized, and signed by both parties, accompanied by a plat or survey map; or

(C) ~~written notarized lease agreement~~ an agreement to lease the property that is written, notarized, and signed by both parties, ~~specifically~~ indicating the

intended use of the property, ~~as well as~~ accompanied by a plat or survey map. Lease agreements shall adhere to the requirements of 15A NCAC 02L .0107.

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

15A NCAC 02T .1105 POLLUTANT LIMITS

(a) ~~Bulk residuals or residuals that are sold or given away in a bag or other container~~ Residuals shall not be land applied ~~to the land~~ if the concentration of any pollutant in the residuals exceeds the ceiling concentration for that pollutant as stipulated in the following on a dry weight basis: ~~(i.e., on a dry weight basis):~~

Pollutant (milligrams per kilogram)	Ceiling Concentration
Arsenic	75
Cadmium	85
Copper	4,300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7,500

(b) ~~Bulk~~ Class B residuals shall not be land applied ~~to the land~~ if ~~the land~~ application causes the ~~exceedance of the~~ cumulative pollutant loading ~~rate~~ rate, on a dry weight basis, to be exceeded for any pollutant as stipulated in the following: ~~following (i.e., on a dry weight basis):~~

Pollutant Loading Rate (kilograms per hectare)	Cumulative Pollutant
Arsenic	41
Cadmium	39
Copper	1,500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2,800

(1) ~~A person shall determine compliance~~ Compliance with the cumulative pollutant loading rates shall be determined using one of the following methods:

(A) by calculating the existing cumulative level of pollutants using ~~actual~~ analytical data from all historical land application ~~events~~ of residuals not otherwise exempted by this ~~Paragraph~~ Paragraph; or

(B) for land on which land application events of residuals has not occurred or for which the data required in Rule .1105(b) is incomplete, by determining background concentrations through representative soil sampling.

~~(2) When applied to the land, bulk residuals shall be exempt from complying with this Paragraph as long as they meet all of the following criteria:~~

~~(A) the monthly average concentrations stipulated in Rule .1105(c) of this Section.~~

~~(B) the pathogen reduction requirements stipulated in Rule .1106(b) of this Section, and~~

~~(C) the vector attraction reduction requirements stipulated in Rule .1107 of this Section.~~

(c) ~~Bulk~~ Class A residuals shall not be applied ~~to a lawn, home garden, or public contact use site nor shall residuals be sold or given away in a bag or other container for application to the land~~ if the concentration of any pollutant in the residuals exceeds the concentration for that ~~pollutant~~ pollutant, as stipulated in the following on a dry weight basis: ~~(i.e., on a dry weight basis):~~

Pollutant (milligrams per kilogram)	Monthly Average Concentration
Arsenic	41
Cadmium	39
Copper	1,500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2,800

(d) ~~Bulk residuals~~ Residuals shall not be placed in a surface disposal unit if the concentration of any pollutant in the residuals exceeds the concentration for that ~~pollutant~~ pollutant, as stipulated in the following on a dry weight basis: ~~(i.e., on a dry weight basis):~~

Distance from Surface Disposal Unit Boundary to Closest Property Line (meters)	Ceiling Concentration (milligrams per kilogram)		
	Arsenic	Chromium	Nickel
0 to less than 25	30	200	210
25 to less than 50	34	220	240
50 to less than 75	39	260	270
75 to less than 100	46	300	320
100 to less than 125	53	360	390
125 ~~and greater~~ to less than 150	62	450	420

greater than 150	73	600	420

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

15A NCAC 02T .1106 PATHOGEN REDUCTION REQUIREMENTS

(a) The following pathogen requirements shall be met when biological residuals are land applied ~~to the land~~ or placed in a surface disposal unit:

(1) The Class A pathogen requirements shall be met when ~~bulk~~ biological residuals are applied to a lawn, home garden, or public contact use ~~site~~ site, or sold or given away in a bag or other container for land application. ~~application to the land.~~

(2) Biological residuals placed in a surface disposal unit shall be exempt from meeting the Class A or Class B pathogen requirements if the vector attraction reduction method in Rule .1107(b)(2) of this Section is met.

~~(3) Programs involving the land application of biological residuals generated by wastewater treatment facilities treating industrial wastewater only that are operational at the time of this Rule's effective date shall comply with the requirements stipulated in this Rule no later than five years from the effective date of this Rule unless the Permittee is adhering to an established schedule in an individual permit, settlement agreement, special order pursuant to G.S. 143-215.2, or other similar document that establishes a later deadline.~~

(3) The pathogen reduction requirements in Subparagraph (b)(2) and Paragraph (c) of this Rule shall not apply for biological residuals generated from treatment of waste shown to not contain pathogens.

(b) ~~For~~ Class A biological residuals ~~to be classified as Class A with respect to pathogens,~~ shall meet the following requirements: ~~shall be met:~~

(1) The requirements in this Paragraph ~~are~~ shall be met ~~either prior to~~ no later than meeting ~~or at the same time as~~ the vector attraction reduction requirements in Rule .1107 of this Section, ~~Section are met,~~ unless the vector attraction reduction methods ~~stipulated~~ in Rule .1107(a)(6), Rule .1107(a)(7), and Rule .1107(a)(8) of this Section are met.

(2) ~~The biological~~ Biological residuals ~~are~~ shall be monitored for the density of fecal coliform or Salmonella sp. bacteria at the time that the ~~biological~~ residuals are used or ~~disposed~~ disposed, or at the time they are prepared for sale or giving away in a bag or other container for land application ~~to the land for the density of fecal coliform or Salmonella sp. bacteria~~ to demonstrate that: ~~the following:~~

(A) the density of fecal coliform is less than 1,000 Most Probable Number per gram of total solids on a dry weight basis; ~~(i.e., dry weight basis),~~ or

(B) the density of ~~Salmonella~~ Salmonella sp. bacteria is less than three Most Probable Number per four grams of total solids on a dry weight basis. ~~(i.e., dry weight basis).~~

(3) The biological residuals meet one of the following ~~alternatives:~~ requirements:

(A) Time/Temperature. The temperature of the biological residuals shall be maintained at a specific value for a period of consecutive time in accordance with the following:

Total Solids (percent)	Temperature (t) (degrees Celsius)	Time	Equation to Determine Minimum Holding Time (D) (days)
≥ 7	≥ 50	≥ 20 minutes	$\frac{131{,}700{,}000}{10^{0.1400t}}$
≥ 7	≥ 50	≥ 15 seconds[1]	$\frac{131{,}700{,}000}{10^{0.1400t}}$
< 7	≥ 50	≥ 15 seconds <30 minutes	$\frac{131{,}700{,}000}{10^{0.1400t}}$
<7	≥ 50	≥ 30 minutes	$\frac{50{,}070{,}000}{10^{0.1400t}}$

1 – when residuals are heated by warmed gases or an immiscible liquid

(B) Alkaline Treatment. The pH of the biological residuals shall be raised to above 12 and shall remain ~~remains~~ above 12 for 72 consecutive hours. The temperature of the biological residuals shall be above 52 degrees

Celsius for 12 hours or longer during the period that the pH of the biological residuals is above 12. At the end of the 72-hour period during which the pH is above 12, the biological residuals shall be air dried to achieve a total solids greater than 50 ~~percent,~~ percent;

(C) Prior Testing for Enteric Viruses/Viable Helminth Ova. The biological residuals shall be analyzed prior to pathogen reduction treatment to determine whether the biological residuals contain enteric viruses or viable helminth ova. The density of enteric viruses prior to pathogen reduction treatment shall be less than one Plaque-forming Unit per four grams of total solids on a dry weight basis ~~(i.e., dry weight basis)~~ or the density of viable helminth ova shall be less than one per four grams of total solids on a dry weight basis. ~~(i.e., dry weight basis).~~ When the density of enteric viruses or viable helminth ova are equal to or greater than these values, the biological residuals shall be considered ~~to be~~ Class A following pathogen reduction treatment if the resultant densities are less than these values and the operating parameters for the pathogen reduction treatment are documented. ~~documented to the satisfaction of the Division.~~ After this demonstration, the biological residuals shall be considered ~~to be~~ Class A ~~as long as~~ if the operating parameters for the pathogen reduction treatment are met and documented; ~~documented to the satisfaction of the Division,~~

(D) No Prior Testing for Enteric Viruses/Viable Helminth Ova. The density of enteric viruses in the biological residuals shall be less than one Plaque-forming Unit per four grams of total solids on a dry weight basis ~~(i.e., dry weight basis)~~ or the density of viable helminth ova in the biological residuals shall be less than one per four grams of total solids on a dry weight basis ~~(i.e., dry weight basis)~~ at the time that the biological residuals are used or disposed or ~~is~~ are prepared for sale or giving away in a bag or other container ~~contained~~ for land application; ~~application to the land,~~

(E) Process to Further Reduce Pathogens - Composting. The biological residuals shall be composted using either the within-vessel method or the static aerated pile method, during which the temperature of the biological residuals is maintained at 55 degrees Celsius or higher for three consecutive days or longer. Alternatively, the biological residuals shall be composted using the windrow method, during which the temperature of the biological residuals is maintained at 55 degrees Celsius or higher for 15 consecutive days or longer. The windrow shall be turned five times during the period when the biological residuals are maintained at 55 degrees Celsius or ~~higher,~~ higher. Natural decay of the biological residuals under uncontrolled conditions ~~are not sufficient to meet this process,~~ shall not be deemed to comply with these composting requirements;

(F) Process to Further Reduce Pathogens - Heat Drying. The biological residuals shall be dried by direct or indirect contact with hot gases to reduce the moisture content of the biological residuals to 10 percent or lower. During the process, either the temperature of the biological residuals particles ~~exceeds~~ shall exceed 80 degrees Celsius or the wet bulb temperature of the gas in contact with the biological residuals as they leave the dryer exceeds 80 degrees ~~Celcius,~~ Celsius;

(G) Process to Further Reduce Pathogens - Heat Treatment. The biological residuals shall be heated to a temperature of 180 degrees Celsius or higher for 30 minutes. This process ~~is only available to~~ shall be applied only to biological residuals that are in a liquid ~~state,~~ state;

(H) Process to Further Reduce Pathogens - Thermophilic Aerobic Digestion. The biological residuals shall be agitated with air or oxygen to maintain aerobic conditions, and the mean cell residence time of the biological residuals shall be 10 days at between 55 and 60 degrees Celsius. This process ~~is only available to~~ shall be applied only to biological residuals that are in a liquid ~~state,~~ state;

(I) Process to Further Reduce Pathogens - Beta Ray Irradiation. The biological residuals shall be irradiated with beta rays from an accelerator at dosages of

at least 1.0 megarad at room temperature ~~(i.e., approximately 20 degrees Celsius),~~ (i.e., approximately 20 degrees Celcius);

(J) Process to Further Reduce Pathogens - Gamma Ray Irradiation. The biological residuals shall be irradiated with gamma rays from certain isotopes, such as Cobalt 60 and Cesium 137, at room temperature ~~(i.e., approximately 20 degrees Celsius),~~ (i.e., approximately 20 degrees Celcius); or

(K) Process to Further Reduce Pathogens - Pasteurization. The temperature of the biological residuals shall be maintained at 70 degrees Celsius or higher for 30 minutes or longer.

(c) ~~For~~ Class B biological residuals ~~to be classified as Class B with respect to pathogens~~ shall meet one of the following ~~shall be met:~~ requirements:

(1) Fecal Coliform Density Demonstration. Seven samples of the biological residuals ~~are~~ shall be collected at the time the residuals are used or disposed, and the geometric mean of the density of fecal coliform in the samples collected ~~is~~ shall be less than either 2,000,000 Most Probable Number per gram of total solids on a dry weight basis ~~(i.e., dry weight basis)~~ or 2,000,000 Colony Forming Units per gram of total solids on a dry weight basis. ~~(i.e., dry weight basis).~~

(2) Process to Significantly Reduce Pathogens. The biological residuals meet one of the following requirements: ~~processed in a process to significantly reduce pathogens. The processes to significantly reduce pathogens are as follows:~~

(A) Aerobic Digestion. Biological residuals ~~are~~ shall be agitated with air or oxygen to maintain aerobic conditions for a specific mean cell time at a specific temperature. Values for the mean cell residence time and temperature ~~are~~ shall be between 40 days at 20 degrees Celsius and 60 days at 15 degrees ~~Celcius,~~ Celsius;

(B) Air Drying. Biological residuals ~~are~~ shall be dried on sand beds or on paved or unpaved basins for ~~a minimum of~~ three months. During two of the three months, the ambient average daily temperature ~~is~~ shall be above zero degrees ~~Celcius,~~ Celsius;

(C) Anaerobic Digestion. Biological residuals ~~are~~ shall be treated in the absence of air for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature ~~are~~ shall be between 15 days at 35 to 55 degrees Celsius and 60 days at 20 degrees ~~Celcius,~~ Celsius;

(D) Composting. Using either the within-vessel, static aerated pile, or windrow composting methods, the temperature of the biological residuals ~~is~~ shall be raised to 40 degrees Celsius or higher and ~~remains~~ shall remain at 40 degrees Celsius or higher for five days. For four hours during the five days, the temperature in the compost pile ~~exceeds~~ shall exceed 55 degrees Celsius. Natural decay of the biological residuals under uncontrolled conditions ~~are not sufficient to meet this process~~ shall not be deemed to comply with these composting requirements; or

(E) Lime Stabilization. Sufficient lime ~~is~~ shall be added to the biological residuals to raise the pH to 12 after two hours of contact.

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

15A NCAC 02T .1107 VECTOR ATTRACTION REDUCTION REQUIREMENTS

(a) Biological residuals shall not be land applied ~~to the land~~ unless the requirements of one of the following vector attraction reduction alternatives have been met: ~~met. Programs involving the land application of biological residuals generated by wastewater treatment facilities treating industrial wastewater only that are operational at the time of this Rule's effective date shall comply with the requirements stipulated in this Rule no later than five years from the effective date of this Rule unless the Permittee is adhering to an established schedule in an individual permit, settlement agreement, special order pursuant to G.S. 143-215.2, or other similar document that establishes a later deadline. The vector attraction reduction alternatives shall be as follows:~~

(1) 38-Percent Volatile Solids Reduction. The mass of the volatile solids in the biological residuals shall be reduced by ~~a minimum of~~ 38 percent between the time that the biological residuals enter the digestion process and the time it is land applied; ~~applied,~~

(2) 40-Day Bench Scale Test. A portion of previously anaerobically-digested biological residuals shall be further anaerobically-digested in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. The volatile solids in the biological residuals shall be reduced by less than 17 percent as measured from the beginning to the end of the ~~test,~~ test;

(3) 30-Day Bench Scale Test. A portion of previously aerobically-digested biological residuals shall be further aerobically-digested

in the laboratory in a bench-scale unit for 30 additional days at a temperature of 20 degrees Celsius. The previously aerobically-digested biological residuals shall either have a concentration of two percent total solids or less or shall be diluted with effluent down to two percent total solids at the start of the test. The volatile solids in the biological residuals shall be reduced by less than 15 percent as measured from the beginning to the end of the ~~test,~~ test;

(4) Specific Oxygen Uptake Rate Test. The specific oxygen uptake rate (SOUR) for biological residuals treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids on a dry weight basis ~~(i.e., dry weight basis)~~ corrected to a temperature of 20 degrees ~~Celcius,~~ Celsius;

(5) 14-Day Aerobic Processes. The biological residuals shall be treated in an aerobic process for 14 days or longer. During that time the temperature of the biological residuals shall be higher than 40 degrees Celsius, and the average temperature of the biological residuals shall be higher than 45 degrees ~~Celcius,~~ Celsius;

(6) Alkaline Stabilization. The pH of the biological residuals shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 ~~hours,~~ hours;

(7) Drying of Stabilized Residuals. The biological residuals shall be dried to 75 percent total solids if the biological residuals contain no unstabilized solids from a primary wastewater treatment process. The biological residuals shall not be mixed with other materials to meet this requirement; ~~Mixing of the biological residuals with other materials shall not be used to meet this alternative,~~

(8) Drying of Unstabilized Residuals. The biological residuals shall be dried to 90 percent total solids if the biological residuals contain unstabilized solids from a primary wastewater treatment process. The biological residuals shall not be mixed with other materials to meet this requirement; ~~Mixing of the biological residuals with other materials shall not be used to meet this alternative,~~

(9) Injection.

(A) Biological residuals shall be injected below the land surface ~~of the land~~ in accordance with ~~40 CFR 503.33(b)(9)(ii).~~ 40 CFR 503.33(b)(9)(ii); and

(B) ~~If~~ Class A ~~with respect to pathogens, the~~ biological residuals shall be injected below the land surface within eight hours after being discharged from the pathogen treatment ~~process,~~ process; or

(10) Incorporation.

(A) ~~If~~ Class B ~~with respect to pathogens, the~~ biological residuals shall be incorporated into the soil within six hours after land application; and ~~application to the land,~~

(B) ~~If~~ Class A ~~with respect to pathogens, the~~ biological residuals shall be land applied ~~to the land~~ within eight hours after being discharged from the pathogen treatment process.

(b) Biological residuals shall not be placed in a surface disposal unit unless one of the following vector attraction reduction alternatives have been met:

(1) Any alternative stipulated in Paragraph (a) of this ~~Rule,~~ Rule; or

(2) Daily Cover. Biological residuals shall be covered with soil or ~~other~~ Division-approved material at the end of each operating day.

(c) For biological residuals generated by wastewater treatment facilities treating industrial wastewater only, the vector attraction reduction requirements in Paragraph (a) of this Rule shall be met unless the Permittee demonstrates that the residuals are pathogen free or meet the pathogen requirements in Rule .1106(b)(2) of this Section.

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

15A NCAC 02T .1108 SETBACKS

(a) For residuals treatment and storage facilities, the following ~~minimum~~ setbacks in feet ~~(i.e., in feet)~~ shall be as follows: ~~adhered to:~~

Habitable residences or places of public assembly under separate ownership or not to be maintained as part of the project site	100
Any private ~~Private~~ or public water supply source ~~sources~~	100
Surface waters (streams – intermittent and perennial, lakes, perennial waterbodies, and wetlands)	50
Any well ~~Wells~~ with exception of ~~to~~ monitoring wells	100
Any property line ~~Property lines~~	50

(b) For land onto which Class A ~~bulk~~ residuals are applied or stockpiled, the following ~~minimum~~ setbacks in feet ~~(i.e., in feet)~~ shall be as follows: ~~adhered to:~~

~~(1) If the bulk residuals meet the requirements of Rules .1105(c), .1106(b), and .1107 of this Section:~~

	Liquid Residuals	Cake Residuals
Any private ~~Private~~ or public water supply source ~~sources~~	100	100
Surface waters (streams - intermittent and perennial, perennial waterbodies, and wetlands)	100	25
Surface water diversions (ephemeral streams, waterways, ditches)	25	0
Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)	25	0
Any well ~~Wells~~ with exception of ~~to~~ monitoring wells	100	100
Bedrock outcrops	25	0

(c) For land onto which Class B residuals are applied or stockpiled, the following setbacks in feet shall be as follows:

~~(2) If the bulk residuals do not meet the requirements of Rules .1105(c), .1106(b), and .1107 of this Section:~~

	Surface Application by Vehicle	Surface Application	Injection / Incorporation by Irrigation
Habitable residences or places of public assembly under separate ownership or not to be maintained as part of the project site	400	400	200
Habitable residences or places of public assembly owned by the Permittee, ~~permittee,~~ the owner of the land, or the lessee/operator of the land to be maintained as part of the project site	0	200	0
Any property line ~~Property lines~~	50	150	50
Public right ~~rights~~ of way	50	50	50
Any private ~~Private~~ or public water supply source ~~sources~~	100	100	100
Surface waters (streams - intermittent and perennial, perennial waterbodies, and wetlands)	~~100~~ 32.8	~~100~~ 32.8	~~50~~ 32.8
Surface water diversions (ephemeral streams, waterways, ditches)	25	~~100~~ 25	25
Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)	25	100	25
Subsurface groundwater lowering drainage systems	0	100	0
Any well ~~Wells~~ with exception of ~~to~~ monitoring wells	100	100	100
Bedrock outcrops	25	25	25
Top of slope of embankments or cuts of two feet or more in vertical height	15	15	15
Any building foundation ~~Building foundations~~ or basement ~~basements~~	0	15	0
Any water line ~~Water lines~~	0	10	0
~~Swimming pools~~	~~100~~	~~100~~	~~100~~
Nitrification field ~~fields~~	0	20	0

(d)~~(c)~~ For the construction and operation of surface disposal units, the following ~~minimum~~ setbacks in feet ~~(i.e., in feet)~~ shall be as follows: ~~adhered to:~~

Habitable residences or places of public assembly under separate ownership or not to be maintained as part of the project site	400
Any property line ~~Property lines~~	50
Public right ~~rights~~ of way	50
Any private ~~Private~~ or public water supply source ~~sources~~	100
Surface waters (streams - intermittent and perennial, perennial waterbodies, and wetlands)	100
Surface water diversions (ephemeral streams, waterways, ditches)	25
Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)	100
Subsurface groundwater lowering drainage systems	100
Any well ~~Wells~~ with exception of ~~to~~ monitoring wells	100
Any water line ~~Water lines~~	10
~~Swimming pools~~	~~100~~

(e) Setback waivers from habitable residences or places of public assembly under separate ownership, or not to be maintained as part of the project site, shall be written, notarized, and signed by all parties involved.

(f) Setbacks to property lines established in Paragraphs (a), (c), and (d) of this Rule shall not be applicable when the Permittee; the entity from which the Permittee is leasing; or the entity that executed the notarized landowner agreement in 15A NCAC 02T .1104(c)(4) owns both parcels creating said property line.

(g) Habitable residences or places of public assembly under separate ownership constructed after the non-discharge facilities were originally permitted or subsequently modified, are exempt from the setback requirements in Paragraphs (a) and (d) of this Rule.

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

15A NCAC 02T .1109 ~~OPERATION AND~~ RESIDUALS MANAGEMENT PRACTICES

~~(a) For residuals that are sold or given away in a bag or other container for application to the land, either a label shall be affixed to the bag or other container or an information sheet shall be provided to the person who receives the residuals. The label/information sheet shall contain the following information:~~

- ~~(1) the name and address of the person who prepared the residuals and~~
- ~~(2) a statement that land application of the residuals shall be prohibited except with the instructions on the label/sheet.~~
- ~~(3) that residuals shall be applied at agronomic rates and recommended rates for intended uses.~~

(a)~~(b)~~ Land applied residuals shall meet the following requirements: ~~For land onto which bulk residuals are applied, the following shall apply:~~

(1) Residuals ~~Bulk residuals~~ shall not be land applied ~~to the land~~ under the following conditions:

- (A) if the requirements specified by 40 CFR 503.14(a) as stated on January 1, 1996 and incorporated by reference ~~cannot be~~ have not been met;
- (B) if the application causes prolonged nuisance conditions;
- (C) if the land fails to assimilate the ~~bulk~~ residuals or the application causes the contravention of surface water or groundwater standards;
- (D) if the land is flooded, frozen, or snow-covered or is otherwise in a condition such that runoff of the residuals would occur;
- (E) within the 100-year flood elevation unless the ~~bulk~~ residuals are injected or incorporated within a 24-hour period following the application of residuals to land; ~~land application event;~~
- (F) during precipitation events or within 24 hours following a rainfall event of 0.5 inches or greater in a 24-hour period;
- (G) if the slope of the land is greater than 10 percent when ~~bulk~~ liquid residuals are surface applied, and if the slope of the land is greater than 18 percent when ~~bulk~~ liquid residuals are injected or incorporated;
- (H) if the land does not have an established vegetative cover crop unless the land is in a state or federal no-till program or the ~~bulk~~ residuals are incorporated within a 24-hour period following the injection or application of residuals to land; ~~land application event or injected;~~
- (I) if the vertical separation of the seasonal high water table and the depth of residuals application is less than one foot;
- (J) if the vertical separation of the depth to bedrock and the depth of residuals application is less than one foot; or
- (K) if the application exceeds agronomic ~~rates~~ rates, except for dedicated sites where the Applicant ~~applicant~~ has specifically requested higher rates in an applications pursuant to Rule .1104(d) of this Section.
- (L) new land application sites located within a WS-I watershed pursuant to 15A NCAC 02B .0212 or within the Critical Area of a WS-II pursuant to Sub-Item (4)(g) of Rule 15A NCAC 02B .0212, or within the Critical Area of a WS-III or WS-IV watershed pursuant to Sub-Item (4)(h) of Rules 15A NCAC 02B .0215, and .0216.

(2) Class B land application sites shall have ~~For land onto which bulk residuals that do not meet the requirements of Rule .1106(b) of this Section are applied,~~ the following public access restrictions: ~~restrictions shall be adhered to:~~

- (A) public access to public contact sites shall be restricted for one calendar year after any ~~residuals land application event;~~ land application of residuals;
- (B) public access to land that is not a public contact site shall be restricted for 30 days after any ~~residuals land application event;~~ land application of residuals; and
- (C) public access to land associated with a dedicated land application site shall be restricted continuously while the land is permitted for active use and for one calendar year after the final ~~residuals land application event.~~ land application of residuals.

(3) Class B land application sites shall have ~~For land onto which bulk residuals that do not meet the requirements of Rule .1106(b) of this~~

~~Section are applied,~~ the following harvesting and grazing restrictions: ~~restrictions shall be adhered to:~~

(A) animals shall not be allowed to graze on land for 30 calendar days after any ~~residuals land application event;~~ land application of residuals;

(B) food crops, feed crops, and fiber crops shall not be harvested for 30 calendar days after any ~~residuals land application event;~~ land application of residuals;

(C) food crops with harvested parts that touch the ~~residuals/soil~~ mixture of residuals and soil and are totally above the land surface shall not be harvested for 14 months after any ~~residuals land application event;~~ land application of residuals;

(D) food crops with harvested parts below the land surface ~~of the land~~ shall not be harvested for 20 months after any ~~residuals land application event~~ land application of residuals ~~when~~ if the residuals remain on the land surface for four months or longer prior to incorporation into the soil;

(E) food crops with harvested parts below the land surface ~~of the land~~ shall not be harvested for 38 months after any ~~residuals land application event~~ land application of residuals ~~when~~ if the residuals remain on the land surface for less than four months prior to incorporation into the soil; and

(F) turf grown on land where residuals are applied shall not be harvested for one calendar year after any ~~residuals land application event.~~ land application of residuals.

(b) Class A residuals that are sold or given away in a bag or other container for land application are exempt from Paragraph (a) of this Rule.

(c) Class A residuals that are sold or given away in a bag or other container for land application, shall either have a label affixed to the bag or other container, or an information sheet shall be provided to the person who receives the residuals. The label or information sheet shall contain the following information:

(1) the name and address of the person who prepared the residuals;

(2) a statement that land application of the residuals shall be prohibited except with the instructions on the label or information sheet; and

(3) that residuals shall be applied at agronomic rates and recommended rates for intended uses.

(d)~~(c)~~ Surface disposal units shall meet the following requirements: ~~For surface disposal units, the following conditions shall be met:~~

(1) For new and expanding surface disposal units shall meet the following requirements: ~~units, the following conditions shall be met.~~

(A) Surface disposal units shall not be located in a seismic impact zone unless designed to withstand the maximum recorded horizontal ground level ~~acceleration,~~ acceleration;

(B) Surface disposal units shall not be located less than 60 meters from a fault that has displacement in Holocene ~~time,~~ time;

(C) Surface disposal units shall not be located within ~~an~~ a geologically unstable ~~area,~~ area;

(D) Surface disposal units shall not be located within the 100-year ~~floodplain,~~ floodplain;

(E) Surface disposal units shall not restrict base flood ~~flow,~~ flow;

(F) The vertical separation of the seasonal high water table and the bottom of surface disposal units shall not be less than three ~~feet,~~ feet; and

(G) Surface disposal units shall be provided with a liner system with a maximum hydraulic conductivity of 10^{-7} centimeters per second. Units into which cake residuals are to be placed shall be equipped with a leachate collection system. Units into which liquid residuals are to be placed shall be equipped with a decanting system and freeboard marker. ~~If cake residuals are to be placed in the unit, a leachate collection system shall be required. If liquid residuals are to be placed in the unit, a decanting system and freeboard marker shall be required.~~

(2) The following ~~conditions~~ requirements shall be met while surface disposal units are permitted for active use and for three calendar years after closure:

(A) The requirements specified by 40 CFR 503.24(a) as stated on January 1, 1996 and incorporated by reference shall be ~~met,~~ met;

(B) Surface disposal units shall not cause prolonged nuisance ~~conditions,~~ conditions;

(C) Surface disposal units shall not cause the contravention of surface water or groundwater ~~standards,~~ standards;

(D) Runoff from a 24-hour 25-year storm event, decant water, and leachate ~~(i.e., as applicable)~~ shall be collected from surface disposal ~~units,~~ units;

(E) If biological residuals are placed in the surface disposal unit, the concentration of methane gas shall not exceed 25 percent of the lower explosive limit for methane gas in any structure within the surface disposal unit ~~boundary,~~ boundary;

(F) If biological residuals are placed in the surface disposal unit, the concentration of methane gas shall not exceed the lower explosive limit for methane gas at any property line of the surface disposal ~~unit,~~ unit;

(G) Public access to surface disposal units shall be restricted ~~continuously,~~ continuously;

(H) Animals shall not be allowed to graze on surface disposal ~~units,~~ units; and

(I) Food crops, feed crops, and fiber crops shall not be harvested from surface disposal units.

(3) Following active use, surface disposal units shall be closed. Permits for surface disposal units shall be maintained for ~~a minimum of~~ three years following successful closure. Requests for approval of closure plans shall be submitted to the Division at least 180 days prior to the date that a surface disposal unit is to be closed and shall include the following information:

(A) how the surface disposal unit will be closed;

(B) a discussion of how the leachate collection system will be operated and maintained, if applicable;

(C) a description of the system used to monitor the air for methane gas in the air in any structures within the surface disposal unit boundary and at the property line of the surface disposal unit, if applicable;

(D) a discussion of how public access to the surface disposal unit will be restricted; and

(E) proof that the deed for the surface disposal unit property has been amended to provide permanent written notification to subsequent owners of the property that the property was used for the purposes of operating a surface disposal unit.

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

15A NCAC 02T .1110 OPERATION AND MAINTENANCE ~~PLAN~~

(a) An Operation and Maintenance Plan shall be maintained for all residuals management programs. The plan shall:

(1) describe the operation of the program and ~~any~~ all associated facilities and equipment in sufficient detail to show what operations are necessary for the program to function and by whom the functions are to be conducted;

(2) describe anticipated maintenance of facilities and equipment that are associated with the ~~program,~~ program;

(3) include provisions for safety ~~measures~~ measures, including restriction of access to the site and equipment, as appropriate;

(4) include spill control ~~provisions~~ provisions, including:

(A)~~(a)~~ response to upsets and ~~bypasses~~ bypasses, including control, containment, and remediation; and

(B)~~(b)~~ contact information for program personnel, emergency responders, and regulatory agencies;

(5) detail procedures for sampling and monitoring to ensure that the program stays in compliance with this Section and ~~any~~ each issued permit; and

(6) for surface disposal units, detail procedures for post-closure care management.

(b) The Permittee shall ensure that an electronic or physical copy of their permit and the Operation and Maintenance Plan required by Paragraph (a) of this Rule is available when land applying residuals.

(c) Residuals shall be stored or staged in a manner to prevent runoff of leachate and other wastewaters generated from residuals storage or staging.

(d) Class A residuals may be staged at the application site for up to 30 days for biological residuals and 60 days for non-biological residuals. Storage or staging that exceeds these limits shall require written approval from the Division.

(e) Class B residuals shall not be stored or staged at any land application site without prior written approval from the Division.

(f) The Permittee shall perform inspections and maintenance on storage, distribution, and application facilities.

(g) Class B land application areas shall be clearly marked on each site prior to and during any land application of residuals.

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

15A NCAC 02T .1111 MONITORING AND REPORTING

(a) Representative samples of residuals that are prepared for land application ~~to the land~~ or placed in a surface disposal unit shall be collected and analyzed.

(b) The analytical methods listed in 40 CFR ~~503.8(b)~~ 503.8(b), incorporated by reference with subsequent amendments and editions. ~~as stated on January 1, 1996 shall be incorporated into this Section by reference.~~

(c) Residuals land applied ~~to the land~~ or placed in a surface disposal unit shall be monitored for pollutants as ~~listed in~~ required by Rule .1105(a) and Rule .1105(d) of this Section and Rule .1106 and Rule .1107 of this Section, as applicable, at the following frequency: ~~Rule .1105(a) and Rule .1105(d) of this Section as well~~

~~as Rule .1106 and Rule .1107 as applicable at the frequency as stipulated in the following:~~

Metric Tons per 365 day period (Dry Weight Basis)	Monitoring Frequency
Greater than zero but less than 290	Once per year
Equal to or greater than 290 but less than 1,500	Once per quarter (four times per year)
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (six times per year)
Equal to or greater than 15,000	Once per month (12 times per year)

(d) A report of all monitoring and reporting requirements as specified in the permit shall be submitted to the Division by the Permittee ~~permittee~~ annually on or before March 1st of each calendar year.

(e) All records shall be retained for ~~a minimum of~~ five years.

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

SECTION .1200 – COAL COMBUSTION PRODUCTS MANAGEMENT

15A NCAC 02T .1201 SCOPE

(a) This Section shall apply ~~applies~~ to the treatment, storage, transportation, and beneficial reuse ~~use, and disposal~~ of coal combustion products (CCPs) that ~~are defined as~~ meet the definition of wastewater treatment residuals. ~~Not regulated under this Section is~~ This Section shall not regulate the treatment, storage, transportation, use, or disposal of:

(1) CCPs that are not generated from a wastewater treatment facility; ~~and~~

(2) CCPs that are transported out of state for treatment, storage, use, or ~~disposal.~~ disposal; and

(3) CCPs that are used for structural fill.

(b) CCPs may be distributed for the following ~~uses including:~~ uses:

(1) fuel ~~Fuel~~ for combustion for energy recovery in equipment such as ~~in boilers,~~ boilers and ~~furnaces, etc. for energy recovery.~~ furnaces;

(2) material ~~Material~~ for manufacturing ~~of~~ concrete products, asphalt products, brick products, lightweight aggregate, roofing materials, insulation products, plastics, paints, bowling balls, cosmetics, and other manufactured products in which the CCPs are encapsulated in the manufactured ~~product.~~ product;

(3) daily, ~~Daily,~~ intermediate, and final cover as well as any other use at a landfill as approved by the Division of Waste ~~Management.~~ Management;

(4) material ~~Material~~ for traction control during snow and ~~ice events.~~ ice events;

(5) substitute ~~Substitute~~ for blasting grit, roofing granules, and filter cloth precoat for residuals ~~dewatering.~~ dewatering;

(6) flowable ~~Flowable~~ fill for backfill of trenches for potable water mains as approved by the Division of Environmental Health, sanitary sewers, storm drainage structures, and other similar uses where flowable fill is used in lieu of compacted ~~soil.~~ soil;

(7) raw ~~Raw~~ product for the stabilization of ~~residuals.~~ residuals;

(8) soil ~~Soil~~ nutrient additive, amendment, or other agricultural ~~purpose.~~ purpose;

(9) overlay ~~Overlay~~ for roads, residential driveways, farm roads, and high-traffic farm ~~areas.~~ areas; or

(10) bedding ~~Bedding~~ for pipes, railroad beds, and underground storage tanks.

~~(11) Structural fill.~~

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

15A NCAC 02T .1202 DEFINITIONS

As used in this Section:

(1) "Coal combustion products" or "CCPs" is defined in G.S. 130A-309.201(4). ~~shall mean fly ash, bottom ash, boiler slag, flue gas emission control products, mill rejects, and cenospheres resulting from the combustion solely of coal, oil, or natural gas; the combustion of any mixtures of coal, oil, or natural gas; or the combustion of any mixture of coal and up to a 50 percent mixture of other fuels as provided for in 58 FR 42466.~~

(2) "Dry weight basis" shall mean the weight calculated after the CCPs have been dried at 105 degrees Celsius until they reach a constant mass.

(3) "Flowable fill" shall mean a controlled, low strength, cementitious material that is used primarily as a backfill in lieu of compacted soil and typically exhibits a compressive strength of greater than 30 pounds per square inch.

(4) "Land application" shall mean the spraying or spreading of CCPs onto the land surface; the injection of CCPs below the land surface; or the incorporation of CCPs into the soil so that the CCPs can condition the soil or fertilize crops or vegetation grown in the soil.

(5) "Monthly average" shall mean the arithmetic mean of all measurements taken during ~~the~~ a month.

(6) "Pollutant limit" shall mean a numerical value that describes the amount of a pollutant allowed per unit amount of CCPs.

(7) "Source of CCPs" shall mean the point of origin of the ~~CCPs~~ CCPs, such as a coal fired power plant's wastewater treatment system.

~~(8) "Structural fill" shall mean an engineered fill constructed using CCPs that is properly placed in accordance with this Section and compacted. This shall include fill used for embankments,~~

~~greenscapes, foundations, construction foundations, and for bases/sub bases under a structure or a footprint of a paved road, parking lot, sidewalk, walkway, or similar structure.~~

(8)~~(9)~~ "Toxicity Characteristic Leaching Procedure" shall mean EPA Test Method Number 1311 as described in EPA publication SW-846, entitled Test Methods for Evaluating Solid Waste, Physical/Chemical Methods.

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

15A NCAC 02T .1203 PERMITTING BY REGULATION

(a) The following activities ~~are~~ shall be deemed permitted in accordance with Rule .0113 of this Subchapter ~~provided~~ if the activity does not result in any violations of groundwater or surface water quality ~~standards (i.e., ground or surface),~~ standards, there is no direct discharge to surface waters, the generator of the ~~CCPs,~~ CCPs provides the information required by Rule .1207(a) of this Section to the recipient of the CCPs, and all other ~~specified~~ criteria required for the specific activity ~~is~~ are met:

(1) use ~~Use~~ of CCPs as fuel for combustion in boilers, furnaces, etc. for energy ~~recovery.~~ recovery;

(2) use ~~Use~~ of CCPs as material for manufacturing concrete products, asphalt products, brick products, lightweight aggregate roofing materials, insulation products, plastics, paints, bowling balls, cosmetics and other manufactured products in which the CCPs are encapsulated in the manufactured ~~product.~~ product;

(3) use ~~Use~~ or disposal of CCPs in a solid waste facility permitted by the Division of Waste Management that is approved to receive the ~~CCPs.~~ CCPs;

(4) use ~~Use~~ of CCPs as material for traction control during snow and ice events, ~~provided that~~ if the CCPs do not exceed the leachate concentrations ~~of concern~~ set forth in Rule .1205(a) of this ~~Section.~~ Section;

(5) use ~~Use~~ of CCPs as a substitute for blasting grit, roofing granules, and filter cloth precoat for residuals dewatering, ~~provided that~~ if the CCPs do not exceed the leachate concentrations of concern in Rule .1205(a) of this ~~Section.~~ Section;

(6) use ~~Use~~ of CCPs in flowable fill for backfill of trenches for potable water mains as approved by the Division of Environmental Health, sanitary sewers, storm drainage structures, and other trenching uses ~~provided that~~ if the CCPs do not exceed the leachate concentrations ~~of concern~~ set forth in Rule ~~.1206(a)~~ .1205(a) of this ~~Section.~~ Section;

(7) use ~~Use~~ of CCPs as a raw product for the stabilization of ~~residuals.~~ residuals; and

(8) land ~~Land~~ application of ~~sites onto which~~ CCPs ~~are land applied, provided that~~ if the following criteria are met:

(A) the CCPs meet the pollutant limits in Rule .1205 of this ~~Section.~~ Section; ~~and~~

(B) the land application activities meet all applicable conditions of Rule .1108(b)(1) and Rule.1109(b)(1) of this ~~Subchapter.~~ Subchapter; and

(C) less than 12,400 tons are applied to any one site.

~~(9) Use of CCPs as a base or subbase under a structure or footprint of a paved road, parking lot, sidewalk, or similar structure as long as the total depth of CCPs does not exceed one foot.~~

(b) Unless otherwise specified in Rule .1203(a) of this Section, CCPs that are used for the activities deemed permitted in this Rule are not subject to the pollutant limits in Rule .1205 of this Section.

(c) The Director may determine that a system should not be deemed permitted in accordance with this Rule and Rule .0113 of this Subchapter. This determination shall be made in accordance with Rule .0113(e) of this Subchapter.

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

15A NCAC 02T .1204 APPLICATION REQUIREMENTS

(a) The requirements in this Rule shall apply to activities not deemed permitted under Rule .1203 of this Section.

(b) For new and modified sources of CCPs:

(1) site ~~Site~~ plans or maps shall be provided to the Division by the Applicant, ~~applicant~~ depicting the location of the ~~source,~~ source;

(2) an ~~An~~ analysis of the CCPs shall be provided to the Division by the Applicant. ~~applicant.~~ The analysis shall include all pollutants identified in Rule .1205 of this Section. If the CCPs are to be used in a land application, the analyses shall also include nutrients and ~~micronutrients,~~ micronutrients; and

(3) a ~~A~~ sampling/monitoring plan that describes how Rule .1205 of this Section shall be complied with shall be provided to the Division by the Applicant. ~~applicant.~~

(c) For uses of CCPs not already approved by the ~~applicant's/Permittee's~~ Applicant's or Permittee's individual permit, information shall be provided to the Division by the Applicant ~~applicant~~ that describes and explains site-specific engineering or institutional controls proposed to prevent adverse impacts to public health and the environment.

(d) For the use of CCR for land application with greater than 12,400 tons of CCP to be applied to a single site, documentation shall be provided to the Division by the Applicant, showing that environmental releases to groundwater, surface water, and soil are comparable to or lower than those from analogous products made without CCR, or that environmental releases to groundwater, surface water, or soil will be at or below relevant regulatory and

health-based benchmarks for human and ecological receptors during use.

~~(d) For new and expanding structural fill sites or sites where CCPs are used for bedding if the bedding is applied at a depth greater than two feet underneath the structure:~~

~~(1) Site plans. If required by G.S. 89C, a professional land surveyor shall provide location information on boundaries and physical features not under the purview of other licensed professions. Site plans or maps shall be provided to the Division by the applicant depicting the location, orientation, and relationship of the CCPs use site's features including:~~

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]~~

~~(A) a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief and showing all site related structures and fences within the site;~~

~~(B) the location of all wells (including usage and construction details if available), streams (ephemeral, intermittent, and perennial), springs, lakes, ponds, and other surface drainage features within 500 feet of the CCPs use boundry and delineation of the review and compliance boundaries;~~

~~(C) setbacks as required by Rule .1206 of this Section; and~~

~~(D) site property boundaries within 500 feet of the CCPs use boundary.~~

~~(2) Information shall be provided to the Division that describes and explains site specific engineering or institutional controls proposed to prevent adverse impacts to public health and the environment.~~

~~(3) Property Ownership Documentation of the site where the CCPs are to be used shall be provided to the Division. This documentation shall consist of:~~

~~(A) legal documentation of ownership (i.e., contract, deed or article of incorporation);~~

~~(B) written notarized intent to purchase agreement signed by both parties, accompanied by a plat or survey map; or~~

~~(C) easements specifically indicating the intended use of the property, as well as a plat or survey map. Easements shall adhere to the requirements of 15A NCAC 02L .0107.~~

~~(e) The submittal process for information~~ Information listed in Paragraph (c) of this Rule shall not be required if a permit from the Division has been issued that ~~specifically~~ addresses the use of CCPs from the source of CCPs, at ~~new and expanding structural fill sites or~~ sites where CCPs are used for bedding.

~~(f) A compliance boundary shall be established for all structural fill sites not subject to Rule .1203 of this Section and the permittee shall comply with the provisions of 15A NCAC 02L .0107.~~

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

15A NCAC 02T .1205 POLLUTANT LIMITS

(a) Except as provided for in Rule .1203 of this Section, CCPs shall not be distributed for use or used if the concentration of any pollutant during the performance of a Toxicity Characteristic Leaching Procedure of the CCPs exceeds the leachate concentration of concern for that pollutant as follows: ~~stipulated in the following:~~

Pollutant	Leachate Concentration of Concern (milligrams per liter)
Arsenic	5.0
Barium	100.0
Cadmium	1.0
Chromium	5.0
Lead	5.0
Mercury	0.2
Selenium	1.0
Silver	5.0

(b) Except as provided for in Rule .1203 of this Section, CCPs shall not be distributed for use or used if the concentration of any pollutant in the CCPs exceeds the ceiling concentration for that pollutant on a dry weight basis as ~~stipulated in the following (i.e., on a dry weight basis):~~ follows:

Pollutant	Ceiling Concentration (milligrams per kilogram)
Arsenic	75
Cadmium	85
Copper	4,300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7,500

(c) Except as provided for in Rule .1203 of this Section, CCPs shall not be distributed for use or used if the concentration of any pollutant in the CCPs exceeds the concentration for that pollutant on a dry weight basis as follows: ~~stipulated in the following (i.e., on a dry weight basis):~~

Pollutant	Monthly Average Concentration (milligrams per kilogram)
Arsenic	41
Cadmium	39
Copper	1,500

Lead	300
Mercury	17
Molybdenum	75
Nickel	420
Selenium	100
Zinc	2,800

(d) CCPs may be distributed for use or used if the limits specified in Paragraphs (a), (b), or (c) of this Rule are not met ~~provided that~~ if the following criteria are met:

(1) the ~~The~~ potential release of pollutants from the CCPs to the environment is minimized to the extent ~~practicable,~~ practicable; and

(2) the ~~The~~ Applicant ~~applicant~~ demonstrates that it will meet the applicable surface water and groundwater quality standards at the compliance boundary at the site of use. ~~shall demonstrate to the Division the ability to meet the applicable surface water quality or groundwater quality standards at the compliance boundary at the site of use is demonstrated.~~

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

15A NCAC 02T .1206 SETBACKS

For areas for the storage of CCPs ~~and sites where CCPs are used for structural fill and bedding, where the bedding is applied at a depth greater than two feet underneath the structure,~~ the following ~~minimum~~ setbacks ~~(i.e., in feet)~~ in feet shall be adhered to:

Private or public water supply sources	100
Surface waters (streams - intermittent and perennial, lakes, perennial waterbodies, and wetlands)	50
Wells with exception to monitoring wells	100
Seasonal high water table	2

All distances are horizontal distances except for the distance from a seasonal high water ~~table~~ table, which is a measured as a vertical distance.

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

15A NCAC 02T .1207 ~~OPERATION AND~~ MANAGEMENT PRACTICES

(a) For CCPs to be distributed for use, the following shall be provided by the Permittee ~~permittee~~ to the person who receives the CCPs:

(1) the name and address of the person who distributed the CCPs;

(2) materials safety data, pursuant to 29 CFR 1910.1200, for the CCPs;

(3) guidance regarding how to comply with Paragraphs (b), (c), and (d) of this Rule;

(4) guidance regarding requirements ~~stipulated~~ required by this Section that are specific to the intended use and must be followed by the recipient of the CCPs; and

(5) a statement that use of the CCPs ~~shall be~~ is prohibited unless in compliance with the guidance provided.

(b) CCPs shall be transported in a manner that does not cause nuisances and hazards to public health or safety or otherwise cause an adverse impact.

(c) The person distributing CCPs shall take preparatory measures to store CCPs prior to distribution for use, as well as prior to use, to prevent unpermitted runoff to surface waters.

(d) The person distributing CCPs shall take actions necessary to prevent wind erosion and surface runoff from conveying CCPs onto adjacent property or into any surface waters prior to distribution for use as well as after use.

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

15A NCAC 02T .1208 OPERATION AND MAINTENANCE ~~PLAN~~

(a) An Operation and Maintenance Plan shall be maintained for all CCPs management programs. The plan shall:

(1) describe the operation of the program and any associated wastewater treatment systems and equipment in sufficient detail to show what operations are necessary for the program to function and by whom the functions are to be conducted;

(2) describe anticipated maintenance of wastewater treatment systems and equipment that are associated with the program;

(3) include provisions for safety ~~measures~~ measures, including restriction of access to the site and equipment, as appropriate;

(4) include spill control ~~provisions~~ provisions, including:

(a) response to ~~spills~~ spills, including control, containment, and ~~remediation~~ remediation; and

(b) contact information for program personnel, emergency responders, and regulatory ~~agencies;~~ agencies; ~~and~~

(5) describe the sampling and analysis protocol used to ensure that the program complies with this Section and ~~any~~ all issued permits.

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

15A NCAC 02T .1209 MONITORING AND REPORTING

(a) Records shall be maintained by the Permittee ~~permittee~~ of all CCPs distributed for use or used and shall include the following:

(1) the source, volume and type of CCPs distributed for use or used;

(2) the date of CCPs distributed for use or used; and

(3) the name of the initial recipient of the CCPs and a description of their intended use.

(b) A report of all monitoring and reporting requirements as specified in the permit shall be submitted annually to the Division by the Permittee on or before March 1st of each calendar year.

(c) All records shall be retained for ~~a minimum of~~ five years.

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

SECTION .1300 – ANIMAL WASTE MANAGEMENT SYSTEMS

15A NCAC 02T .1301 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1302 DEFINITIONS

The definitions used for the purpose of this Section shall be as defined in G.S. 143-215.10B, in Rule .0103 of this Subchapter, of Rule .1102 in this Subchapter, and as follows:

(1) "Animal waste management plan" means a plan to properly collect, store, treat or apply animal waste to the land in an environmentally safe manner developed in accordance with G.S. 143-215.10C.

(2) "Animal Waste Residuals" means residuals that have been generated during the treatment of animal waste.

(3) "Bag or other container" shall mean a bag, bucket, bin, box, carton, vehicle, trailer, tanker, or an open or closed receptacle with a load capacity of 1.102 short tons or one metric ton or less.

(4) "Bulk animal waste residuals" shall mean animal waste residuals that are transported and not sold or given away in a bag or other container for application to the land.

~~(2)~~(5) "Expanded animal waste management system" means ~~animal waste treatment and storage facilities which require an increase over the existing animal waste design treatment and storage capacity due to~~ an increase in the permitted steady state live weight at the feedlot.

~~(3)~~(6) "New animal waste management system" means animal waste management systems which are constructed and operated at a site where no feedlot existed previously or ~~where a system serving a feedlot has been abandoned or unused for a period of four years or more and is then put back into service.~~ where a permit for a system has been rescinded and is then reissued when the permittee confines animals in excess of the thresholds established in G.S. 143-215.10B. Notwithstanding Rule .1307(a) of this Section, a 'new animal waste management system' shall not apply to a facility where a system serving a feedlot which has been abandoned or unused for a period of less than five years and then put back into service or if all of the following conditions are met:

(A) Has had no animals on site for five continuous years or more;

(B) Notifies the Division in writing at least 60 days prior to bringing any animals back on to the site;

(C) The system depopulated after January 1, 2005, and the system ceased operation no longer than 10 years prior to the current date;

(D) At the time the system ceased operation, the system was in compliance with an individual permit or a general permit issued pursuant to G.S. 143-215.10C;

(E) The Division issues an individual permit or certificate of coverage under a general permit issued pursuant to G.S. 143-215.10C for operation of the system before any animals are brought on the facility;

(F) The permit for the animal waste management system does not allow production, measured by steady state live weight, to exceed the greatest steady state live weight previously permitted for the system under G.S. 143-215.10C;

(G) No component of the animal waste management system, other than an existing barn or land application site, shall be constructed on land that is located within the 100-year floodplain; and

(H) The inactive animal waste management system was not closed using the expenditure of public funds and was not closed pursuant to a settlement agreement, court order, cost share agreement, or grant condition.

~~(4)~~(7) "NRCS" means the U.S. Department of Agriculture - Natural Resources Conservation Service.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A.

15A NCAC 02T .1303 PERMITTING BY REGULATION

(a) The following systems are deemed permitted pursuant to Rule .0113 of this Subchapter provided the system meets the criteria in Rule .0113 of this Subchapter and all criteria required for the specific system in this Rule:

(1) Systems that do not meet the criteria of an animal operation permitted under Rule .1304 or Rule .1305 of this Subchapter and all other systems not specifically mentioned in this ~~Section. If~~ Section if:

(A) the waste is land applied at no greater than agronomic rates to land owned by the waste generator or under the waste generators ~~authority,~~ authority; ~~agronomic rates must be met.~~

(B) the storage and land application of waste is not closer than 100 feet of a well;

(C) animal waste is not applied on land that is flooded, saturated with water, frozen, or snow covered at the time of land application; and

(D) no animal waste is land applied during precipitation events.

(2) Poultry operations which use a dry litter system with more than 30,000 birds and that do not meet the criteria specified in Rule .1305 of this Subchapter if:

(A) records are maintained for a minimum of three years which include the dates the litter was removed, the estimated amount of litter removed and the location of the sites where the litter was land applied by the poultry operation;

(B) the waste is applied at no greater than agronomic rates;

(C) a vegetative buffer (separation) of at least 25 feet is maintained from a perennial stream or perennial waterbody for land application sites;

(D) land application of litter is not closer than 100 feet from a well;

~~(C)~~(E) litter is stockpiled not closer than 100 feet from a perennial ~~stream~~ stream, ~~or~~ perennial ~~waterbody;~~ waterbody, or well;

~~(D)~~(F) litter is not stockpiled uncovered for greater than 15 days; ~~and~~

(G) animal waste is not applied on land that is flooded, saturated with water, frozen, or snow covered at the time of land application;

(H) no animal waste is land applied during precipitation events; and

~~(E)~~(I) if a manure hauler is used, records must be maintained of the dates the litter was removed, the estimated amount of litter removed, and name, address and phone number of the manure hauler.

(3) Land application sites under separate ownership from the waste generator, receiving animal waste from animal waste management systems which are deemed permitted, when all the following conditions are met:

(A) the waste is applied at no greater than agronomic rates; ~~and~~

(B) the storage and land application of animal waste is not closer than 100 feet from a well;

~~(B)~~(C) a vegetative buffer (separation) of at least 25 feet is maintained from a perennial stream or perennial ~~waterbody.~~ waterbody;

(D) animal waste is not applied on land that is flooded, saturated with water, frozen, or snow covered at the time of land application; and

(E) no animal waste is land applied during precipitation events.

(b) The Director may determine that a system should not be deemed permitted in accordance with this Rule and Rule .0113 of this Subchapter. This determination shall be made in accordance with Rule .0113(e) of this Subchapter.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A.

15A NCAC 02T .1304 STATE PERMITTING REQUIREMENTS

(a) This rule applies to animal waste management systems that meet the definition of an animal operation in G.S. 143-215.10B but are not subject to regulation under Rule .1305.

(b) An animal waste management plan shall be submitted as follows:

(1) The animal waste management practices or combination of practices which are selected to comprise a plan for a specific facility must meet NRCS standards, or the standard of practices adopted by the Soil and Water Conservation Commission pursuant to ~~15A NCAC 06F .0104,~~ 02 NCAC 59E .0104, or standards for any combination of practices which provide water quality protection and are approved by one of these two agencies; and all applicable state statutes and rules at the time of development or design. NRCS standards relating to phosphorus application rates for animal waste are not incorporated as part of this rule.

(2) As required by G.S. 143-215.10C, plans must be approved by a technical specialist and the certificate must be submitted to the Division on Division supplied forms or forms approved by the Division as providing the same information as required by the Division's forms. The technical specialist must certify that the best management practices that comprise the plan meet the applicable standards and specifications.

~~(5)~~(3) The waste shall not be applied at greater than agronomic rates.

~~(3)~~(4) The land application and siting setbacks must meet the applicable conditions established in G.S. 106-803 and NRCS standards at the time of ~~construction.~~ site construction or at the time the land application site is first put into use.

(5) Notwithstanding Rule .1304(b)(4) of this Section, land application of waste shall be no closer than 100 feet from a well and no closer than 200 feet from a dwelling not owned by the waste generator at the time the land application site is first put into use.

(6) Notwithstanding Rule .1304(b)(4) of this Section, a vegetative buffer (separation) of at least 25 feet is maintained from a perennial stream or perennial waterbody for land application sites.

(7) The waste shall not be applied on land that is flooded, saturated with water, frozen, or snow covered at the time of land application.

(8) Land application of waste is prohibited during precipitation events.

(9) All waste application equipment must be tested and calibrated at least once every two calendar years, and the results must be documented on forms supplied by or approved by the Division as providing the same information as required by the Division's forms.

(10) Highly visible waste-level gauges shall be installed and maintained to mark the level of the waste in each animal waste lagoon or storage pond that does not gravity feed through a free flowing transfer pipe into a subsequent waste storage structure. The gauge shall have readily visible permanent markings.

~~(4)~~(11) New and expanded animal waste treatment systems such as lagoons and waste storage structures shall be located at least 100 feet from a perennial stream or perennial waterbody. For new and expanding systems, this setback requirement shall also apply to areas in feedlots where an established vegetative cover will not be maintained because of the concentration of animals, with the exception of stock trails and stream crossings.

~~(6)~~(12) For animal waste management facilities desiring to increase their animal population beyond that permitted, a new individual permit or new certificate of coverage to operate under a general permit must be issued before the additional animals are stocked.

(c) For each change of ownership of the system, the new owner must notify the Division in writing within 60 days of transfer of ownership.

(d) New and expanding swine facilities must demonstrate compliance with Rule .1307 of this Section prior to receiving a permit from the Division.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A; 143-215.10I.

15A NCAC 02T .1305 NPDES PERMITTING REQUIREMENTS

(a) This Rule applies to animal waste management systems subject to regulation under G.S. 143-215.10C and ~~40 CFR § 122.23~~ 40 CFR 122.23, which is incorporated by reference including subsequent amendments and editions and shall apply throughout this Rule. 40 CFR 122.23 can be accessed free of charge at http://www.gpo.gov/fdsys/. ~~and G.S. 143-215.10C.~~

(b) With the exception of dry litter poultry systems, an animal waste management plan shall be submitted as follows:

(1) The animal waste management practices or combination of practices which are selected to comprise a plan for a specific facility must meet NRCS standards, or the standard of practices adopted by the Soil and Water Conservation Commission pursuant to ~~15A NCAC 06F .0104,~~ 02 NCAC 59E .0104, or standards for any combination of practices which provide water quality protection and are approved by one of these two agencies; and all applicable state statutes and rules and all applicable federal requirements at the time of development or design.

(2) As required by G.S. 143-215.10C, plans must be approved by a technical specialist and the certificate must be submitted to the Division on Division supplied forms or forms approved by the Division as providing the same information as required by the Division's forms. The technical specialist must certify that the best management practices that comprise the plan meet the applicable standards and specifications.

~~(5)~~(3) The waste shall not be applied at greater than agronomic rates.

~~(3)~~(4) The land application and siting setbacks must meet the applicable conditions established in G.S. 106-803, and NRCS standards ~~and 40 CFR Part 412~~ at the time of site construction or at the time the land application site is first put into use.

(5) The land application and siting setbacks must meet the applicable conditions established in 40 CFR Part 412.

(6) Notwithstanding Subparagraph (b)(4) of this Rule, land application of waste shall be no closer than 100 feet from a well and no closer than 200 feet from a dwelling not owned by the waste generator at the time the land application site is first put into use.

(7) The waste shall not be applied on land that is flooded, saturated with water, frozen, or snow covered at the time of land application.

(8) Land application of waste is prohibited during precipitation events.

(9) All waste application equipment must be tested and calibrated at least once every calendar year, and the results must be documented on forms supplied by or approved by the Division as providing the same information as required by the Division's forms.

(10) Highly visible waste-level gauges shall be installed and maintained to mark the level of the waste in each animal waste lagoon or storage pond that does not gravity feed through a free flowing transfer pipe into a subsequent waste storage structure. The gauge shall have readily visible permanent markings.

~~(4)~~(11) New and expanded animal waste treatment systems such as lagoons and waste storage structures shall be located at least 100 feet from a perennial stream or perennial waterbody. For new and expanding systems, this setback requirement shall also apply to areas in feedlots where an established vegetative cover will not be maintained because of the concentration of

animals, with the exception of stock trails and stream crossings.

~~(6)~~(12) For animal waste management facilities desiring to increase their animal population beyond that permitted, a new individual permit or new certificate of coverage to operate under a general permit must be issued before the additional animals are stocked.

(c) Dry litter poultry systems, for the purpose of this Rule and G.S. 143-215.10C, shall submit an animal waste management plan as follows:

(1) The animal waste management practices or combination of practices which are selected to comprise a plan for a specific facility must meet NRCS standards, or the standard of practices adopted by the Soil and Water Conservation Commission, or standards for any combination of practices which provide water quality protection and are approved by one of these two agencies; and all applicable state statutes and rules and all applicable federal requirements at the time of development or design.

(2) The land application and siting setbacks must meet the conditions established in NRCS standards and 40 CFR Part 412 at the time of construction.

(3) New and expanded animal waste structures such as houses and dry stacks shall be protected from the 100-year flood as determined by the Federal Emergency Management Agency.

(4) The waste shall not be applied at greater than agronomic rates.

(5) Notwithstanding Subparagraph (c)(2) of this Section, land application of waste shall be no closer than 100 feet from a well and no closer than 200 feet from a dwelling not owned by the waste generator.

(6) The waste shall not be applied on land that is flooded, saturated with water, frozen, or snow covered at the time of land application.

(7) Land application of waste is prohibited during precipitation events.

(8) All waste application equipment must be tested and calibrated at least once every calendar year, and the results must be documented on forms supplied by or approved by the Division as providing the same information as required by the Division's forms.

(9) Highly visible waste-level gauges shall be installed and maintained to mark the level of the waste in each animal waste lagoon or storage pond that does not gravity feed through a free flowing transfer pipe into a subsequent waste storage structure. The gauge shall have readily visible permanent markings.

~~(5)~~(10) For animal waste management facilities desiring to increase their animal population beyond that permitted, a new individual permit or new certificate of coverage to operate under a general permit must be issued before the additional animals are stocked.

(d) For each change of ownership of the system, the new owner must notify the Division in writing within 60 days of transfer of ownership.

(e) Systems shall meet all applicable requirements of 40 CFR Part 122 and 40 CFR Part 412.

(f) New and expanding swine facilities must demonstrate compliance with Rule .1307 of this Section prior to receiving a permit from the Division.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A; 143-215.10I.

15A NCAC 02T .1306 CLOSURE REQUIREMENTS

(a) Any containment basin, such as a lagoon or a waste storage structure, permitted at an animal operation other than a cattle facility under this Section shall continue to be subject to the conditions and requirements of the facility's permit until closed to NRCS standards and the permit is rescinded by the Division. Closure shall include pre-notification to the Division and submittal of closure form supplied by the Division or forms approved by the Division as providing the same information as required by the Division's forms within 15 days of completion of closure.

(b) Any Containment basin, such as a lagoon or a waste storage structure, permitted at a cattle facility under this Section shall continue to be subject to the conditions and requirements of the facility's permit until that permit is rescinded by the Division. Upon request of the permittee, the permit may be rescinded by the Division prior to closure of the containment basin if the cattle facility has not met the definition of an animal operation as established in G.S. 143-215.120B for the previous three years or longer. Upon permit rescission, the following requirements shall apply:

(1) The cattle facility shall be subject to the requirements of Rule .1303 of this Section and Rule .0113 of the Subchapter until the containment basin is closed to NRCS standards.

(2) The farm owner shall maintain records of land application and weekly records of containment basin waste levels on forms provided by or approved by the Division.

(3) Closure shall include pre-notification to the Division and submittal of closure form supplied by the Division or forms approved by the Division as providing the same information as required by the Division's forms within 15 days of completion of closure.

(c) The Division shall have the authority to deny a request for permit rescission based on the factors set out in Rule .0113(e) of this Subchapter.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A.

15A NCAC 02T .1307 SWINE WASTE MANAGEMENT SYSTEM PERFORMANCE STANDARDS

(a) This Rule applies to animal waste management systems subject to regulation under ~~G.S. 143-215.10I.~~ G.S. 143-215. 10I and S.L. 2015-263.

(b) An animal waste management system that serves a swine farm subject to regulation under G.S. 143-215.10I, shall meet all of the following performance standards:

(1) Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff. To meet this standard:
   (A) Earthen structures must be designed and constructed with synthetic liners to eliminate seepage.
   (B) Solids storage structures shall meet applicable engineering practices and NRCS design standards.
   (C) The Certified Animal Waste Management Plan (CAWMP) must include all components as listed in G.S. 143-215.10C(e) and meet current NRCS standards for a Comprehensive Nutrient Management Plan (CNMP) as defined by Part 600 ~~600, Subpart E~~ of the NRCS National Planning Procedures Handbook, which are hereby incorporated by reference, including any subsequent additions or amendments. The handbook may be downloaded at no cost from the NRCS website: ~~http://www.nrcs.usda.gov/technical/afo/cnmp_guide_index.html~~ http://www.nrcs.usda.gov/wps/portal/nrcs/site/national/home/.
   (D) Swine waste treatment structures that automatically convey swine waste using pumps must have audible and visible high water alarms with an auto dialer device set to contact the farm owner or farm manager; a gravity overflow to a basin that can contain the flow rate of the largest pump in the system for the maximum amount of time that an operator will not be on-site; or a secondary containment structure designed, constructed, and operated to contain the volume of the largest animal waste treatment structure and the flow rate of the largest pump in the system for the maximum amount of time that an operator will not be on-site.
   (E) No more than the equivalent volume of one month of design flow of untreated swine waste shall be accumulated and stored prior to the initiation of treatment.

(2) Substantially eliminate atmospheric emission of ammonia. To meet this standard:
   (A) Combined ammonia emissions from swine waste treatment and storage structures may not exceed an annual average of 0.2 kg NH_3-N/wk/1,000 kg of steady-state live weight;
   (B) Ammonia emissions from land application sites shall not exceed an annual average of 0.2 kg NH_3-N/wk/1,000 kg of steady-state live weight; and
   (C) Ammonia emissions from the swine farm must not exceed an annual average of 0.9 kg NH_3-N/wk/1,000 kg of steady-state live weight.

(3) Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the swine farm is located. To meet this standard, swine waste management systems must reduce odor levels, frequency, and duration from the whole farm, such that the requirements of 15A NCAC 02D .1808 are met at the property boundary.

(4) Substantially eliminate the release of disease-transmitting vectors and airborne pathogens. To meet this standard:
   (A) Swine waste management systems shall meet the vector attraction reduction requirements in Rule .1107 of this Subchapter for the land application of separated solids and animal waste residuals.
   (B) Swine waste management systems shall meet the pathogen reduction requirements in Rule .1106 of this Subchapter for Class A biosolids that are to be land applied pursuant to Rule .1106(a)(1) or for Class B biosolids that are to be otherwise applied to land.
   (C) Fecal coliform concentrations in the final liquid effluent shall not exceed an annual average of 7,000 Most Probable Number/100mL.

(5) Substantially eliminate nutrient and heavy metal contamination of soil and groundwater. To meet this standard, swine waste management systems that land apply effluent shall:
   (A) Meet the current NRCS requirements for a Comprehensive Nutrient Management Plan (CNMP) as defined by Part ~~600, Subpart E~~ 600 of the NRCS National Planning Procedures Handbook; and
   (B) Demonstrate through predictive calculations or modeling that land application of swine waste at the

proposed rate will not cause or contribute to a violation of groundwater standards under 15A NCAC 02L.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A; 143-215.10I.

15A NCAC 02T .1308 EVALUATION AND APPROVAL OF SWINE WASTE MANAGEMENT SYSTEMS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1309 LAGOON CONVERSION REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1310 ANIMAL WASTE RESIDUALS MANAGEMENT

(a) This Rule applies to the treatment, storage, transportation, use, and disposal of animal waste residuals to be applied to a lawn, home garden, or public contact use site or sold or given away in a bag or other container for application to the land. Not regulated under this Rule is the treatment, storage, transportation, use, or disposal of:

(1) animal waste residuals applied to agricultural land in accordance with Rule .1303, Rule .1304, Rule 1305, Rule .1307 of this Section, or Rule .1403 of this Subchapter;

(2) up to four cubic yards of animal waste residuals distributed from a facility subject to regulation under Rule .1303 or Rule .1304 of this Section per visit to individuals for personal use, with a maximum of ten cubic yards per year per individual;

(3) oil, grease, grit and screenings from wastewater treatment facilities;

(4) septage from wastewater treatment facilities;

(5) ash that is regulated in accordance with Section .1200 of this Subchapter;

(6) residuals that are regulated in accordance with Section .1100 of this Subchapter;

(7) residuals that are prepared for land application, used, or disposed of in a solid waste management facility permitted by the Division of Waste Management;

(8) residuals that are disposed of in an incinerator permitted by the Division of Air Quality;

(9) residuals that are transported out of state for treatment, storage, use, or disposal; and

(10) residuals that meet the definition of a hazardous waste in accordance with 40 CFR 260.10 as adopted by reference in 15A NCAC 13A .0102(b) or that have a concentration of polychlorinated biphenyls equal to or greater than 50 milligrams per kilogram of total solids (i.e., dry weight basis).

(b) For new and modified sources of animal waste residuals, the application shall submit a permit application in writing to the Division that includes the following:

(1) Site maps shall be provided to the Division by the applicant depicting the location of the source and demonstrate compliance with siting setbacks applicable to animal waste management systems established in G.S. 106-803, and NRCS standards at the time of construction;

(2) A complete analysis of the animal waste residuals. The analysis may include all pollutants identified in Paragraph (c) in this Rule, nutrients and micronutrients, and proof of compliance with pathogen and vector requirements in Paragraphs (f) and (g) of this Rule if applicable;

(3) A sampling/monitoring plan that describes how compliance with Paragraphs (c), (f), and (g) of this Rule if applicable shall be provided to the Division by the applicant;

(4) A marketability statement detailing destinations and approximate amounts of the final product to be distributed; and

(5) A copy of the label/information sheet that complies with Paragraph (h) of this Rule.

(c) Bulk animal waste residuals shall not be applied to a lawn, home garden, or public contact use site nor shall animal waste residuals be sold or given away in a bag or other container for application to the land if the concentration of any pollutant in that residual exceeds the ceiling concentration for that pollutant as stipulated in the following (i.e., on a dry weight basis):

Pollutant	Ceiling Concentration (milligrams per kilogram)
Arsenic	75
Cadmium	85
Copper	4,300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7,500

(d) Bulk animal waste residuals shall not be applied to a lawn, home garden, or public contact use site nor shall animal waste residuals be sold or given away in a bag or other container for application to the land if the concentration of any pollutant in that residual exceeds the concentration for that pollutant as stipulated in the following (i.e., on a dry weight basis):

Pollutant	Monthly Average Concentration (milligrams per kilogram)
Arsenic	41
Cadmium	39
Copper	1,500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2,800

(e) The Class A pathogen requirements shall be met when bulk animal waste residuals are applied to a lawn, home garden, or public contact use site or sold or given away in a bag or other container for application to the land.

(f) For animal waste residuals to be classified as Class A with respect to pathogens, the requirements of Rule .1106(b) of this Subchapter shall be met.

(g) Animal waste residuals shall not be applied to a lawn, home garden, or public contact use site or sold or given away in a bag or other container for application to the land unless the requirements of one of the vector attraction reduction alternatives have been met. The vector attraction reduction alternatives shall be as follows:

(1) 38-Percent Volatile Solids Reduction. The mass of the volatile solids in the animal waste residuals shall be reduced by a minimum of 38 percent between the time that the animal waste residuals enter the digestion process and the time it is land applied.

(2) 40-Day Bench Scale Test. A portion of previously anaerobically-digested animal waste residuals shall be further anaerobically-digested in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. The volatile solids in the animal waste residuals shall be reduced by less than 17 percent as measured from the beginning to the end of the test.

(3) 30-Day Bench Scale Test. A portion of previously aerobically-digested animal waste residuals shall be further aerobically-digested in the laboratory in a bench-scale unit for 30 additional days at a temperature of 20 degrees Celsius. The previously aerobically-digested animal waste residuals shall either have a concentration of two percent total solids or less or shall be diluted with effluent down to two percent total solids at the start of the test. The volatile solids in the animal waste residuals shall be reduced by less than 15 percent as measured from the beginning to the end of the test.

(4) Specific Oxygen Uptake Rate Test. The specific oxygen uptake rate (SOUR) for animal waste residuals treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (i.e., dry weight basis) corrected to a temperature of 20 degrees Celsius.

(5) 14-Day Aerobic Processes. The animal waste residuals shall be treated in an aerobic process for 14 days or longer. During that time the temperature of the animal waste residuals shall be higher than 40 degrees Celsius, and the average temperature of the animal waste residuals shall be higher than 45 degrees Celsius.

(6) Alkaline Stabilization. The pH of the animal waste residuals shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

(7) Drying of Stabilized Residuals. The animal waste residuals shall be dried to 75 percent total solids if the animal waste residuals contain no unstabilized solids from a primary wastewater treatment process. Mixing of the animal waste residuals with other materials shall not be used to meet this alternative.

(8) Drying of Unstabilized Residuals. The animal waste residuals shall be dried to 90 percent total solids if the animal waste residuals contain unstabilized solids from a primary wastewater treatment process. Mixing of the animal waste residuals with other materials shall not be used to meet this alternative.

(h) For animal waste residuals that are sold or given away in a bag or other container for application to the land, either a label shall be affixed to the bag or other container or an information sheet shall be provided to the person who receives the animal waste residuals. The label/information sheet shall contain the following information:

(1) The name and address of the person who prepared the animal waste residuals;

(2) A statement that land application of the animal waste residuals shall be prohibited except in accordance with the instructions on the label/information sheet;

(3) A statement that animal waste residuals shall be applied at agronomic rates and recommended rates for intended uses;

(4) A statement that the animal waste residuals shall not be applied to any site that is flooded, frozen, or snow covered;

(5) A statement that adequate procedures shall be provided to prevent surface runoff from carrying any disposed or stored animal waste residuals into any surface waters;

(6) A statement which identifies that this material shall be prevented from entering any public or private water supply source (including wells), stream, lake, or river;

(7) Pollutant concentration for pollutants listed in Paragraph (c) of this Rule; and

(8) Nitrogen and phosphorous concentration.

(i) Monitoring and Reporting.

(1) Animal waste residuals applied shall be monitored for pollutants as listed in Paragraph (b) of this Rule as well as Paragraph (e) of this Rule and Paragraph (f) of this Rule as applicable at the frequency as stipulated in the following for each residuals source facility:

Metric Tons per 365 day period (Dry Weight Basis)	Monitoring Frequency
Greater than zero but less than 290	Once per year
Equal to or greater than 290 but less than 1,500	Once per quarter (four times per year)
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (six times per year)
Equal to or greater than 15,000	Once per month (12 times per year)

(2) A report of all monitoring and reporting requirements as specified in the permit shall be submitted to the Division by the permittee annually on or before March 1st of each calendar year.

(3) All records shall be retained for a minimum of five years.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.10A.

SECTION .1400 – MANURE HAULER OPERATIONS

15A NCAC 02T .1401 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1402 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1403 PERMITTING BY REGULATION

(a) The following systems are deemed permitted pursuant to Rule .0113 of this Subchapter provided the system meets the criteria in Rule .0113 of this Subchapter and all criteria required for the specific system in this Rule:

(1) Manure Hauler that land apply a total of 100 tons or less of animal waste per calendar year if:

(A) animal waste is applied at no greater than agronomic rates; and

(B) a ~~setback~~ vegetated buffer (separation) of at least 25 feet is maintained from a perennial stream or perennial waterbody during land application.

(2) Manure Hauler that land apply a total of more than 100 tons of animal waste per calendar year if:

(A) animal waste is applied at no greater than agronomic rates;

(B) animal waste is not stockpiled uncovered for greater than 15 days;

(C) animal waste is not stockpiled within 100 feet of a perennial stream or perennial waterbody;

(D) a ~~setback~~ vegetated buffer (separation) of at least 25 feet is maintained from a perennial stream or perennial waterbody during land application;

(E) the Manure Hauler registers with the Division by one year from the effective date of this Rule. Manure Hauler that begin operation following the effective date of this Rule must register with the Division prior to accepting or purchasing manure.

(F) the Manure Hauler ~~submits an annual report, as specified in this Section, to the Division by March 1 of each year; and~~ keeps records of land application activity including the date, location and amount of all animal waste received, and the date locations, application rate, acreage, waste analysis, and receiving crops of all animal waste land application; and

(G) the field on which animal waste is applied has had a representative Standard Soil Fertility Analysis within the last three years from a Division certified laboratory pursuant to 15A NCAC 02H .0800.

(b) The Director may determine that a system should not be deemed permitted in accordance with this Rule and Rule .0113 of this Subchapter. This determination shall be made in accordance with Rule .0113(e) of this Subchapter.

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

15A NCAC 02T .1404 ANNUAL REPORTS

~~(a) Manure Haulers that land apply more than 100 tons but less than 750 tons of animal waste per calendar year shall submit to the Division a report of the activities for the calendar year that includes the following:~~

~~(1) Name, mailing address, and phone number of the Manure Hauler;~~

~~(2) Date, location, and amount of all animal waste received; and~~

~~(3) Date, location, amount, and acreage of all animal waste land application.~~

~~(b) Manure Haulers that land apply 750 tons or more of animal waste per calendar year shall submit to the Division a report of the activities for the calendar year that includes the following:~~

~~(1) Name, mailing address, and phone number of the Manure Hauler;~~

~~(2) Dates, locations, and amounts of animal waste received; and~~

~~(3) Dates, locations, application rate, acreage, waste analysis, and receiving crop of all animal waste land applied.~~

~~(c) Annual reports shall be submitted by March 1 for the preceding calendar year, on Division supplied forms or forms approved by the Division as providing the same information as required by the Division's forms.~~

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

SECTION .1600 –GROUNDWATER REMEDIATION SYSTEMS

15A NCAC 02T .1601 SCOPE

The rules in this Section apply to all persons proposing to construct, modify, expand, or operate a groundwater treatment system that extracts and treats contaminated groundwater and reintroduces the treated groundwater. These include closed-loop groundwater remediation systems as defined in G.S. 143-215.1A. Such systems typically use infiltration galleries or injection wells. This Section does not apply to in-situ groundwater remediation wells, as defined by ~~15A NCAC 02C .0209(e)(3)(C),~~ 15A NCAC 02C .0225(a), unless such a system includes the withdrawal, treatment, and reintroduction of the treated groundwater.

Authority G.S. 143-214.2(b); 143-215.1; 143-215.1A.

15A NCAC 02T .1602 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1604 APPLICATION SUBMITTAL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1605 DESIGN CRITERIA (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1606 SETBACKS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1607 MONITORING AND REPORTING REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02T .1608 REQUIREMENTS FOR CLOSURE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SUBCHAPTER 02U – RECLAIMED WATER

SECTION .0100 – GENERAL REQUIREMENTS

15A NCAC 02U .0101 PURPOSE

(a) The rules in this Subchapter shall apply to reclaimed water systems. This includes the generation and utilization of ~~tertiary treated~~ wastewater ~~effluent meeting the standards in Rule .0301 of this Subchapter,~~ used in a beneficial manner and for the purpose of conservation of the State's water resources by reducing the use of ~~a~~ potable ~~water~~ water, surface water, and groundwater. ~~resource (potable water, surface water, groundwater).~~

(b) The disposal of treated wastewater effluent that does not serve in place of the use of a water resource is ~~covered~~ governed by Subchapter 02T of this Chapter.

(c) Reclaimed water utilization systems permitted pursuant to this Subchapter ~~do~~ shall not exempt any discharge to waters of the State from meeting the permitting requirements established by the National Pollutant Discharge Elimination System (NPDES) permitting program pursuant to G.S. 143-215.1 and 15A NCAC 02H .0100.

~~(c)~~(d) Any use of reclaimed water for Aquifer Storage and Recovery shall be in accordance with G.S. 143-214.2.

~~(e) Requirements for closed-loop recycle systems are provided in Section .1000 of Subchapter 02T of this Chapter.~~

(e) The reuse or return of wastewater from a permitted animal waste facility for waste flushing is governed by 15A NCAC 02T .1300.

(f) The recycling of wastewater from groundwater remediation systems through an Injection Well or Infiltration Gallery is governed by 15A NCAC 02T .1600.

~~(f)~~(g) The rules in this subchapter set forth the requirements and procedures for application and issuance of permits for the following reclaimed water systems:

(1) treatment works;
(2) utilization systems;
(3) bulk distribution programs; and
(4) local program approval.

Authority G.S. 143-215.1; 143-215.1(f); 143-215.3(a)(1); 143-355.5.

15A NCAC 02U .0102 SCOPE

The rules in this Subchapter shall apply to all persons proposing to construct, alter, extend, or operate any reclaimed water treatment works or utilization system. The rules in this Section are general requirements that apply to all program rules ~~(found in individual sections)~~ in this Subchapter.

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

15A NCAC 02U .0103 DEFINITIONS

The terms used in this Subchapter shall have the meanings set forth ~~are defined~~ in G.S. 143-212 and 143-213, ~~and 15A NCAC 02T .0103~~ 15A NCAC 02T .0103, in this Rule, and in program-specific rules in this Subchapter: ~~except as provided in this Rule as follows:~~

(1) "Beneficial manner" means the use of water as a necessary part of an activity or process ~~to which~~ that the water is being added.
(2) "Beneficial Reuse" means the utilization of reclaimed water in a beneficial manner and for the purpose of conservation of the State's water resources by reducing the use of other potable ~~water~~ water, surface water, and groundwater resources. ~~resources (potable water, surface water, groundwater).~~
(3) "Conjunctive system" means a system where the reclaimed water option is in addition to ~~not necessary to meet the wastewater disposal needs of the facility and where~~ other wastewater utilization or disposal methods ~~(e.g., NPDES permit)~~ that are available to the facility at all ~~times.~~ times, and reclaimed water utilization is not necessary to meet the wastewater disposal needs of the facility.
(4) "Dedicated system" means a system where the reclaimed water utilization is necessary to meet the wastewater disposal needs of the facility and where other wastewater utilization or

disposal methods to accommodate the entire wastewater flow generated at the facility are not available.

(5) "Closed-loop recycle facility" means a system in which non-domestic wastewater is repeatedly recycled back through the process in which the waste was generated.

~~(4)~~(6) "Direct contact irrigation" means application methods that result in the direct contact of reclaimed water on the portion of the crop intended for human consumption.

~~(5)~~(7) "Five-day side stream detention pond" means a basin capable of holding five days worth of treatment plant effluent based on the ~~(permitted flow capacity)~~ permitted flow capacity in the event that the reclaimed water does not meet the required quality standards for the approved use.

~~(6)~~(8) "Indirect contact irrigation" means application methods that ~~will~~ preclude direct contact of reclaimed water on the portion of the crop intended for human consumption.

~~(7)~~(9) "Net environmental benefit" associated with wetlands augmentation sites is documented evidence supporting continued maintenance of natural conditions, and the protection of endangered species as required in Rule .0105(c)(10) of this Section. Wetland augmentation systems shall provide documentation of the protection of existing wetland uses in accordance with 15A NCAC 02B .0201(f) and ~~.0231~~ .0231, and shall not result in net degradation of the wetland.

~~(8)~~(10) "Reclaimed Water" means treated wastewater ~~effluent,~~ effluent meeting effluent standards established pursuant to Rule .0301 of this Subchapter, and used for beneficial reuse.

Authority G.S. 143-213; 143-215.3(a)(1).

15A NCAC 02U .0104 ACTIVITIES WHICH REQUIRE A PERMIT

~~No person shall do any of the things or carry out any of the activities contained in G.S. 143-215.1(a) until or unless the person has applied for and received a permit from the Division (or if appropriate a local program approved by the Division pursuant to this Subchapter) and has complied with the conditions prescribed in the permit or is deemed permitted by rules in this Subchapter.~~

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

15A NCAC 02U .0105 GENERAL REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0106 SUBMISSION OF PERMIT APPLICATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0107 STAFF REVIEW AND PERMIT PREPARATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0108 FINAL ACTION ON PERMIT APPLICATIONS TO THE DIVISION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0109 PERMIT RENEWALS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0110 MODIFICATION AND REVOCATION OF PERMITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0111 CONDITIONS FOR ISSUING GENERAL PERMITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0112 DELEGATION OF AUTHORITY (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0113 PERMITTING BY REGULATION ~~(SEE S.L. 2011-48)~~

(a) The following utilizations of reclaimed water and closed-loop recycle activities ~~are~~ shall be deemed to be permitted pursuant to ~~G.S. 143-215.1(b)~~G.S. 143-215.1(b), and it is not necessary for the Division to issue individual permits or coverage under a general permit for construction or operation of the following utilization systems provided the system does not result in any violations of surface water or groundwater standards, there is no unpermitted direct discharge to surface waters, and all criteria required for the specific system ~~is~~ are met:

(1) Discharges to the land surface from flushing and hydrostatic testing water associated with utility distribution systems, new ~~sewer extensions~~ sewer extensions, or new reclaimed water distribution lines;

(2) Overflow from elevated and covered or enclosed reclaimed water storage facilities ~~where~~ if no viable alternative exists and all ~~possible~~ reasonable measures are taken to reduce the risk of overflow;

(3) Any de minimus runoff from reclaimed water used during fire fighting or extinguishing, dust control, soil compaction for construction purposes, street sweeping, overspray on yard inlets, overspray on golf cart paths, or vehicle washing provided the use is approved in a permit issued by the Division;

(4) Incidental discharge to a municipal separate storm sewer system (MS4) that occurs as a result of reclaimed water utilization activities provided ~~the use~~ such activity is approved in a reclaimed water utilization permit issued by the Division, and the discharge does not violate water quality standards. This does not exempt the reclaimed water user from complying with

any applicable local ordinances that may prohibit such discharges;

(5) Rehabilitation, repair, or replacement of reclaimed water lines in kind ~~(i.e., size)~~ with the same horizontal and vertical alignment;

(6) In accordance with 15A NCAC 02H .0106(f)(5), ~~flushing~~ flushing, ~~(including air release valve discharge)~~ including air release valve discharge, and hydrostatic testing water discharges associated with reclaimed water distribution systems ~~provided that~~ if no water quality standards are violated;

(7) Utilization of reclaimed water received from a reclaimed water bulk distribution program permitted under Rule .0601 of this Subchapter;

(8) Irrigation of residential lots or commercial ~~(non-residential)~~ application areas less than ~~one acre~~ two acres in size that are supplied with reclaimed water as part of a conjunctive ~~use~~ reclaimed water system meeting the requirements of Rules .0301, .0401, .0403, .0501, and .0701 of this Subchapter; Chapter 89G of the General Statutes; approved by the local building inspection department; and installed by a North Carolina Licensed Irrigation Contractor pursuant to G.S. 89G. A scaled site map showing the location of the reclaimed water irrigation system and all features necessary to show compliance with applicable setbacks in Rule .0701 of this Subchapter shall be submitted to the reclaimed water provider;

(9) Irrigation of agricultural ~~crops~~ crops, including irrigation of ornamental crops by field nurseries and aboveground container nurseries, supplied with reclaimed water as part of a conjunctive ~~use~~ reclaimed water system meeting the requirements of this Subchapter and approved by the reclaimed water provider;

(10) Drip irrigation sites supplied with reclaimed water as part of a conjunctive ~~use~~ reclaimed water system generated from an onsite wastewater treatment facility meeting the criteria of this Subchapter and ~~where~~ the conjunctive system has been approved by the Department and is permitted under 18A .1900; ~~and~~

(11) Reuse of produced waters and flowback waters from oil and gas wells regulated by Article 27 of G.S. 113 for reuse in accordance with water and waste management plans approved pursuant to rules of the Mining and Energy Commission as set forth in ~~15A NCAC 05H.~~ 15A NCAC 05H;

(12) Toilet and urinal flushing systems supplied by reclaimed water as part of a conjunctive reclaimed water system meeting the applicable requirements of Rules .0301, .0401, .0403, .0501, and .0701 of this Subchapter; Chapter 89G of the General Statutes; approved by the local building inspection department; and installed by a North Carolina Licensed Plumbing Contractor pursuant to G.S. 89;

(13) Return of wastewater within an industrial or commercial process where there is no anticipated release of wastewater provided the facility develops and maintains a spill control plan in the event of a release, no earthen basins are used, and the system is contained and under roof;

(14) Recycling of rinse water at concrete mixing facilities for concrete mix removal from equipment provided the wastewater is contained within concrete structures, there is sufficient storage capacity to contain the runoff from a 24-hour, 25-year storm event plus one foot freeboard and the facility develops and maintains a spill control plan in the event of a wastewater release. The facility shall notify the appropriate Division regional office in writing noting the owner, location, and that the design complies with the above criteria;

(15) Recycling of wash and rinse water at vehicle wash facilities provided the wastewater is contained within concrete, steel or synthetic structures, all vehicle washing is conducted under roof or there are no direct or indirect precipitation inputs, and the facility develops and maintains a spill control plan in the event of a wastewater release;

(16) The reuse or return of wastewater within the treatment works of a permitted wastewater treatment system;

(17) Recycle systems that are part of a stormwater management systems permitted under 15A NCAC 02H .1000, and the wastewater is recycled back through the process in which the waste was generated; and

(18) Recycling of rinse water for separating gems from gravel, sand, or rock in a flume at commercial gem mine facilities with total system flow of less than 100,000 gpd, provided the wastewater is contained within storage structures, no biological or chemical additives are used, and the facility develops and maintains a spill control plan in the event of a wastewater release. The facility shall notify the appropriate Division regional office in writing noting the owner, location, and that the design complies with the required criteria.

(b) Nothing in this Rule shall be deemed to allow the violation of any ~~assigned~~ surface water, groundwater, or air quality standards, and in addition any such violation is a violation of a condition of a permit.

(c) The reclaimed water user shall report any violation of this Rule or any discharge to surface waters from the utilization systems listed in Paragraph (a) of this ~~Rule.~~ Rule to the Division and in accordance with 15A NCAC 02B .0506.

(d) Utilization systems deemed permitted under this Subchapter shall remain deemed permitted, notwithstanding any violations of surface water or groundwater standards or violations of this Rule or other Permitted By Regulation rules in this Subchapter, until such time as the Director determines that they ~~should~~ shall not be deemed permitted in accordance with the criteria established in this Rule.

(e) The Director may determine that a utilization system ~~should~~ shall not be deemed to be permitted in accordance with this Rule and require the utilization system to obtain an individual permit or a certificate of coverage under a general permit. This determination shall be made based on existing or projected environmental impacts, compliance with the provisions of this Rule and the compliance history of the facility owner.

Authority G.S. 130A-300; 143-215.1(a)(1); 143-215.1(b)(4)(e); 143-215.3(a),(d).

15A NCAC 02U .0114 WASTEWATER DESIGN FLOW RATES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0115 OPERATIONAL AGREEMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0116 CERTIFICATION OF COMPLETION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0117 TREATMENT FACILITY OPERATION AND MAINTENANCE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02U .0118 DEMONSTRATION OF FUTURE WASTEWATER TREATMENT CAPACITIES

Demonstration of future wastewater treatment capacities shall be completed pursuant to 15A NCAC 02T .0118.

Authority G.S. 143-215.3.

15A NCAC 02U .0120 HISTORICAL CONSIDERATION IN PERMIT APPROVAL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0200 - APPLICATION REQUIREMENTS

15A NCAC 02U .0201 APPLICATION SUBMITTAL – ~~CONJUNCTIVE SYSTEMS~~

(a) The requirements in this Rule shall apply to all new and expanding ~~conjunctive~~ reclaimed water and closed-loop recycle ~~facilities, as applicable.~~ facilities.

(b) A soil evaluation of the utilization site where the reclaimed water is applied to the land surface or otherwise used in a ground absorption manner shall be provided to the Division by the Applicant. ~~applicant.~~ Evaluations shall include recommended loading rates of liquids, solids, and other constituents. For systems that utilize reclaimed water through irrigation, the evaluation shall also include recommended maximum irrigation precipitation rates. If required by G.S. 89F, a soil scientist shall prepare this evaluation.

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

(c) Engineering design documents. If required by G.S. 89C, a professional engineer shall prepare engineering design documents. The following documents shall be provided to the Division by the Applicant: ~~applicant:~~

(1) engineering plans for the entire system, including treatment, storage, application, and utilization facilities and equipment except those previously permitted unless those previously permitted are directly tied into the new units or are ~~critical~~ necessary to ~~the~~ understanding ~~of~~ the complete process;

(2) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the finished ~~product~~ product, including leakage testing; and

(3) engineering ~~calculations~~ calculations, including hydraulic and pollutant loading for each treatment unit, treatment unit sizing criteria, hydraulic profile of the treatment system, total dynamic head and system curve analysis for each pump, buoyancy calculations, and irrigation design.

(4) closed-loop facilities utilizing storage ponds shall provide a water balance calculation documenting all inputs and losses.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C. In addition, the North Carolina Board of Examiners for Engineers and Surveyors has determined that design of residential reclaimed irrigations systems owned by the property owner does not constitute engineering ~~under~~ pursuant to G.S. 89C.]

(d) Site plans. If required by G.S. 89C, a professional land surveyor shall provide location information on boundaries and physical features not under the purview of other licensed professions. The Applicant ~~applicant~~ shall provide site plans or maps for treatment and storage facilities and where the reclaimed water is applied to the land surface or otherwise used in a ground absorption manner, except where reclaimed water is utilized for irrigation to single-family residential lots, showing the location, orientation and relationship of facility components including:

(1) a scaled map of the site showing all facility-related structures and fences within 500 feet of the treatment, storage, and utilization areas;

(2) for land application sites and other ground absorption uses, the site map shall include topography; ~~and~~

(3) to the extent needed to determine compliance with setbacks, the location of all features included in Rule .0701 of this ~~Subchapter.~~ Subchapter; and

(4) setbacks as required by Rule .0701 of this Subchapter and delineation of the review and compliance boundaries.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying ~~under~~ pursuant to G.S. 89C.]

(e) The Applicant ~~applicant~~ shall provide property ownership documentation to the Division consisting of:

(1) legal documentation of ownership (e.g., contract, deed or article of incorporation);

(2) ~~written notarized intent to purchase agreement~~ an agreement of an intent to purchase the property that is written, notarized, and signed by both parties, accompanied by a plat or survey map;

(3) an easement running with the land indicating the intended use of the property and meeting the condition of 15A NCAC 02L .0107(f); or

(4) ~~written notarized lease agreement~~ an agreement to lease the property that is written, notarized, and signed by both parties, indicating the intended use of the property, ~~as well as~~ accompanied by a plat or survey map. When this Subparagraph is utilized to document property ownership, groundwater standards must be met across the entire site and a compliance boundary need not be provided. Lease agreements shall adhere to the requirements of 15A NCAC 02L .0107.

(f) Public utilities shall submit a Certificate of Public Convenience and Necessity or a letter from the NC Utilities Commission to the Division stating that it has received a franchise ~~application has been received.~~ application.

(g) For reclaimed or recycled water generated from industrial wastewater, the ~~The~~ Applicant ~~applicant~~ shall provide a ~~complete~~ chemical analysis of the typical reclaimed water to be ~~utilized~~ utilized, and a listing of any toxic pollutant that the Applicant currently uses or manufactures as an intermediate or final product or byproduct (the Director may waive or modify this requirement for any Applicant if the Applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the Director has adequate information to issue the permit). f~~or industrial waste.~~ The Director may determine that subsequent toxicity testing is required based on the provided information. New facilities may provide chemical analysis of the source water along with predictive calculations for chemical characteristics prior to utilization. The analysis shall include:

(1) Total Organic Carbon;
(2) 5-day Biochemical Oxygen Demand (BOD5);
(3) Chemical Oxygen Demand (COD);
(4) Nitrate Nitrogen (NO3-N);
(5) Ammonia Nitrogen (NH3-N);
(6) Total Kjeldahl Nitrogen (TKN);
(7) pH;
(8) Chloride;
(9) Total Phosphorus;
(10) Phenol;
(11) Total Volatile Organic Compounds;
(12) Escherichia coli (E.coli) or Fecal Coliform;
(13) Coliphage (Type 2 reclaimed water only);
(14) Clostridium perfringens (Type 2 reclaimed water only);
(15) Calcium;
(16) Sodium;
(17) Magnesium;
(18) Sodium Adsorption Ratio (SAR);
(19) Total Trihalomethanes; and
~~(20) Toxicity Test Parameters; and~~
~~(21)~~(20) Total Dissolved Solids.

(h) For irrigation sites, the Applicant ~~applicant~~ shall provide to the Division a project evaluation and a receiver site agronomic management plan and recommendations concerning cover crops and their ability to accept the proposed application rates of liquid, solids, minerals and other constituents of the wastewater.

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

15A NCAC 02U .0202 APPLICATION SUBMITTAL FOR ~~NON-CONJUNCTIVE~~ DEDICATED RECLAIMED WATER SYSTEMS

(a) In addition to the Application Submittal Requirements established Rule .0201 of this Section, the ~~The~~ requirements in this Rule shall apply to all new and expanding ~~non-conjunctive~~ dedicated reclaimed water facilities~~, as applicable.~~ facilities.

(b) Soils Report. A soil evaluation of the utilization site shall be provided to the Division by the Applicant. ~~applicant.~~ If required by G.S. 89F, a soil scientist shall prepare this evaluation. This evaluation shall be presented in a report that includes the following:

(1) A field ~~Field~~ description of the soil profile, based on examinations of excavation pits and auger borings, within seven feet of land surface or to bedrock describing the following parameters by individual diagnostic horizons:
(A) the thickness of the horizon;
(B) the texture;
(C) the color and other diagnostic features;
(D) the structure;
(E) the internal drainage;
(F) the depth, thickness, and type of restrictive ~~horizon(s);~~ horizons; and
(G) presence or absence and depth of evidence of any seasonal high water ~~table (SHWT);~~ table;
Applicants shall dig pits when necessary for proper evaluation of the soils at the site;

(2) Recommendations concerning loading rates of liquids, solids, other wastewater constituents and ~~amendments;~~ amendments. Annual ~~annual~~ hydraulic loading rates shall be based on in-situ measurement of saturated hydraulic conductivity in the most restrictive horizon for each soil mapping ~~unit;~~ unit. Maximum ~~maximum~~ irrigation precipitation rates shall be provided for each soil mapping unit;

(3) A field-delineated soil map delineating soil mapping units within each land application site and showing all physical features, location of pits and auger borings, legends, scale, and a north ~~arrow;~~ arrow. The legends shall also include dominant soil series name and family or higher taxonomic class for each soil mapping unit; and

(4) A ~~representative soils analysis (i.e., Standard Soil Fertility Analysis)~~ Standard Soil Fertility Analysis conducted on each land application site. The Standard Soil Fertility Analysis shall include the following parameters:

(A) Acidity; ~~acidity,~~
(B) Base Saturation (by calculation); ~~base saturation (by calculation),~~
(C) Calcium; ~~calcium,~~
(D) Cation Exchange Capacity; ~~cation exchange capacity,~~
(E) Copper; ~~copper,~~
(F) Exchangeable Sodium Percentage (by calculation); ~~exchangeable sodium percentage (by calculation),~~
(G) Magnesium; ~~magnesium,~~
(H) Manganese; ~~manganese,~~
(I) Percent Humic Matter; ~~percent humic matter,~~
(J) ~~pH,~~ pH;
(K) Phosphorus; ~~phosphorus,~~
(L) Potassium; ~~potassium,~~
(M) Sodium; ~~sodium,~~ and
(N) Zinc. ~~zinc.~~

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

~~(c) Engineering design documents. If required by G.S. 89C, a professional engineer shall prepare these documents. The applicant shall provide the following documents to the Division:~~

~~(1) engineering plans for the entire system, including treatment, storage, application, and utilization facilities and equipment except those previously permitted unless those previously permitted are directly tied into the new units or are critical to the understanding of the complete process;~~

~~(2) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the finished product including leakage testing; and~~

~~(3) engineering calculations including hydraulic and pollutant loading for each treatment unit, treatment unit sizing criteria, hydraulic profile of the treatment system, total dynamic head and system curve analysis for each pump, buoyancy calculations, and irrigation design.~~

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C. In addition, the North Carolina Board of Examiners for Engineers and Surveyors has determined that design of residential reclaimed irrigations systems owned by the property owner does not constitute engineering under G.S. 89C.]~~

~~(d) Site plans. If required by G.S. 89C, a professional land surveyor shall provide location information on boundaries and physical features not under the purview of other licensed professions. The applicant shall provide site plans or maps to the Division where the reclaimed water is applied to the land surface or otherwise used in a ground absorption manner depicting the location, orientation and relationship of facility components including:~~

~~(1) a scaled map of the site, with topographic contour intervals not exceeding 10 feet or 25 percent of total site relief and showing all facility related structures and fences within the treatment, storage and utilization areas, soil mapping units shown on all utilization sites;~~

~~(2) the location of all wells (including usage and construction details if available), streams (ephemeral, intermittent, and perennial), springs, lakes, ponds, and other surface drainage features within 500 feet of all waste treatment, storage, and utilization site(s) and delineation of the review and compliance boundaries;~~

~~(3) setbacks as required by Rule .0701 of this Subchapter; and~~

~~(4) site property boundaries within 500 feet of all waste treatment, storage, and utilization site(s).~~

~~[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not under the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]~~

~~(e)~~(c) Hydrogeologic report. A hydrogeologic description of the subsurface, prepared by a Licensed Geologist, Licensed Soil Scientist, or Professional Engineer if required by Chapters 89E, 89F, or ~~89C~~89C, ~~respectively~~ respectively, ~~of the subsurface to a depth of 20 feet or bedrock, whichever is less,~~ shall be provided to the Division by the Applicant ~~applicant~~ for ~~systems treating industrial waste and any system~~ reclaimed water land application sites with a design flow ~~of~~ over 25,000 gallons per day. Industrial facilities generating less than 25,000 gallons per day of wastewater, and can demonstrate that the effluent will be of quality similar to domestic wastewater, including effluent requirements established in 15A NCAC 02U .0301(b), shall, upon request, be exempted from this requirement. ~~A greater depth of investigation is required if the respective depth is used in predictive calculations. This evaluation shall be based on borings for which the numbers, locations, and depths are sufficient to define the components of the hydrogeologic evaluation. In addition to borings, other techniques may be used to investigate the subsurface conditions at the site. These techniques may include geophysical well logs, surface geophysical surveys, and tracer studies.~~ This evaluation shall be presented in a report that includes a mounding analysis to predict the level of the seasonal high water table after reclaimed water application, if the seasonal

high water table is within six feet of the surface. The report shall also consider ~~that includes~~ the following components:

(1) ~~a description of~~ the regional and local geology and hydrogeology based on research of literature for the area;

(2) ~~a description, based on~~ field observations of the site, ~~of the site~~ topographic setting, streams, springs and other groundwater discharge features, drainage features, existing and abandoned wells, rock outcrops, and other features that may affect the movement of the reclaimed water; ~~contaminant plume and treated wastewater;~~

(3) changes in the lithology underlying the site;

(4) the depth to bedrock and the occurrence of any rock outcrops;

(5) the hydraulic conductivity and transmissivity of the affected ~~aquifer(s);~~ aquifer;

(6) the depth to the seasonal high water table;

(7) ~~a discussion of the~~ relationship between the affected aquifers of the site to local and regional geologic and hydrogeologic features; and

(8) ~~a discussion of the~~ groundwater flow regime of the site prior to the operation of the proposed facility and the post operation of the proposed facility focusing on the relationship of the system to groundwater receptors, groundwater discharge features, and groundwater flow ~~media; and~~ media.

~~(9) if the SHWT is within six feet of the surface, a mounding analysis to predict the level of the SHWT after wastewater reclaimed water application.~~

[Note: The North Carolina Board for Licensing of Geologists, via letter dated April 6, 2006, North Carolina Board for Licensing of Soil Scientists, via letter dated December 1, 2005, and North Carolina Board of Examiners for Engineers and Surveyors, via letter dated December 1, 2005, have determined that preparation of hydrogeologic description documents pursuant to this Paragraph constitutes practicing geology ~~under~~ pursuant to G.S. 89E, soil science ~~under~~ pursuant to G.S. 89F, or engineering ~~under~~ pursuant to G.S. 89C.]

~~(f) The applicant shall provide property ownership documentation to the Division consisting of:~~

~~(1) legal documentation of ownership (i.e., contract, deed or article of incorporation);~~

~~(2) written notarized intent to purchase agreement signed by both parties, accompanied by a plat or survey map;~~

~~(3) an easement running with the land specifically indicating the intended use of the property and meeting the condition of 15A NCAC 02L .0107(f); or~~

~~(4) written notarized lease agreement signed by both parties, indicating the intended use of the property, as well as a plat or survey map. Groundwater standards shall be met across the entire site, and a compliance boundary shall not be provided.~~

~~(g) Public utilities shall submit a Certificate of Public Convenience and Necessity or a letter from the NC Utilities Commission stating that a franchise application has been received.~~

~~(h) The applicant shall provide to the Division a complete chemical analysis of the typical reclaimed water to be utilized for industrial waste. The analysis shall include:~~

~~(1) Total Organic Carbon;~~

~~(2) 5-day Biochemical Oxygen Demand (BOD5);~~

~~(3) Chemical Oxygen Demand (COD);~~

~~(4) Nitrate Nitrogen (NO3-N);~~

~~(5) Ammonia Nitrogen (NH3-N);~~

~~(6) Total Kjeldahl Nitrogen (TKN);~~

~~(7) pH;~~

~~(8) Chloride;~~

~~(9) Total Phosphorus;~~

~~(10) Phenol;~~

~~(11) Total Volatile Organic Compounds;~~

~~(12) Escherichia coli (E. coli) or Fecal Coliform;~~

~~(13) Coliphage (Type 2 reclaimed water only);~~

~~(14) Clostridium perfringens (Type 2 reclaimed water only);~~

~~(15) Calcium;~~

~~(16) Sodium;~~

~~(17) Magnesium;~~

~~(18) Sodium Adsorption Ratio (SAR);~~

~~(19) Total Trihalomethanes;~~

~~(20) Toxicity Test Parameters; and~~

~~(21) Total Dissolved Solids.~~

~~(i) For irrigation sites, the applicant shall provide to the Division a project evaluation and a receiver site agronomic management plan and recommendations concerning cover crops and their ability to accept the proposed application rates of liquid, solids, minerals and other constituents of the wastewater.~~

~~(j)~~(d) The Applicant ~~applicant~~ shall provide to the Division a residuals management plan as required by ~~Rule .0802~~ Rule .0802(a) of this Subchapter. ~~A written commitment is not required at the time of application; however, it shall be provided prior to operation of the permitted system.~~

(e) The Applicant shall provide to the Division a water balance that determines the required effluent storage based on the following most limiting factor:

(1) hydraulic loading based on the most restrictive horizon;

(2) hydraulic loading based on the groundwater mounding analysis;

(3) nutrient management based on agronomic rates for the specified cover crop; or

(4) nutrient management based on crop management.

~~(k) The shall provide a water balance to the Division that determines required storage based upon the most limiting factor of the hydraulic loading based on either the most restrictive horizon or groundwater mounding analysis; or nutrient management based on either agronomic rates for a specified cover crop or crop management requirements.~~

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

SECTION .0300 - EFFLUENT STANDARDS

15A NCAC 02U .0301 RECLAIMED WATER EFFLUENT STANDARDS

(a) Reclaimed water treatment processes classified as Type 2 by the rules in this Subchapter shall produce an effluent quality ~~a tertiary quality effluent (filtered or equivalent)~~ prior to storage, distribution, or utilization that meets the parameter limits listed below:

(1) monthly average BOD_5 of less than or equal to 5 ~~mg/l~~ mg/L and a daily maximum BOD_5 of less than or equal to 10 ~~mg/l;~~ mg/L;

(2) monthly average TSS of less than or equal to 5 ~~mg/l~~ mg/L and a daily maximum TSS of less than or equal to 10 ~~mg/l;~~ mg/L;

(3) monthly average ~~NH_3~~ NH_3-N of less than or equal to 1 ~~mg/l~~ mg/L and a daily maximum ~~NH_3~~ NH_3-N of less than or equal to 2 ~~mg/l;~~ mg/L;

(4) monthly geometric mean Escherichia coli (E. coli) or fecal coliform level of less than or equal to 3/100 ~~ml~~ mL and a daily maximum E. coli or fecal coliform level of less than or equal to 25/100 ~~ml;~~ mL;

(5) monthly geometric mean Coliphage level of less than or equal to 5/100 ~~ml~~ mL and a daily maximum Coliphage level of less than or equal to 25/100 ~~ml;~~ mL;

(6) monthly geometric mean Clostridium perfringens level of less than or equal to 5/100 ~~ml~~ mL and a daily maximum Clostridium perfringens level of less than or equal to 25/100 ~~ml;~~ mL; and

(7) maximum Turbidity of 5 Nephelometric Turbidity Units (NTUs).

(b) Reclaimed water treatment processes classified as Type 1 by the rules in this Subchapter shall produce an effluent quality ~~a tertiary quality effluent (filtered or equivalent)~~ prior to storage, distribution, or utilization that meets the parameter limits listed below:

(1) monthly average BOD_5 of less than or equal to 10 ~~mg/l~~ mg/L and a daily maximum BOD_5 of less than or equal to 15 ~~mg/l;~~ mg/L;

(2) monthly average TSS of less than or equal to 5 ~~mg/l~~ mg/L and a daily maximum TSS of less than or equal to 10 ~~mg/l;~~ mg/L;

(3) monthly average ~~NH_3~~ NH_3-N of less than or equal to 4 ~~mg/l~~ mg/L and a daily maximum ~~NH_3~~ NH_3-N of less than or equal to 6 ~~mg/l;~~ mg/L;

(4) monthly geometric mean E. coli or fecal coliform level of less than or equal to 14/100 ~~ml~~ mL and a daily maximum E. coli or fecal coliform level of less than or equal to 25/100 ~~ml;~~ mL; and

(5) maximum Turbidity of 10 NTUs.

(c) Reclaimed water produced by industrial facilities are not required to meet the criteria in this Rule if the reclaimed water is used at the facility in an industrial process and the area of use has no public access and does not result in employee exposure.

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

SECTION .0400 - DESIGN STANDARDS

15A NCAC 02U .0401 DESIGN CRITERIA FOR RECLAIMED ~~WASTEWATER~~ WATER TREATMENT FACILITIES ~~CONJUNCTIVE SYSTEMS~~

(a) The requirements in this Rule shall apply to all new and expanding ~~conjunctive~~ reclaimed water treatment ~~facilities, as applicable.~~ facilities.

(b) Continuous on-line monitoring and recording for turbidity or particle count and flow shall be provided prior to storage, distribution or utilization.

(c) Effluent from the treatment facility shall not be discharged to the storage, distribution or utilization system if either the turbidity exceeds 10 NTUs or if the permitted pathogen levels cannot be met. The facility shall have the ability to ~~utilize~~ use alternate wastewater management options when the effluent quality is not sufficient.

(d) An automatically activated standby power source or other means to prevent improperly treated wastewater from entering the storage, distribution or utilization system shall be provided.

(e) The permit shall require an operator certified by the Water Pollution Control System Operators Certification Commission (WPCSOCC) of a grade equivalent or greater than the facility classification to be on call 24 hours per day.

(f) No storage facilities are required ~~as long as~~ if it can be demonstrated that other permitted means of disposal are available if 100 percent of the reclaimed water cannot be ~~utilized.~~ used. When provided, storage basins shall meet the design requirements in Rule .0402 ~~(g)~~(f) of this Section.

(g) Reclaimed water irrigation system design shall not exceed the recommended precipitation rates in the soils report prepared pursuant to ~~Rule .0201~~ Section .0200 of this Subchapter. ~~Single family~~ Single-family residential irrigation systems and commercial ~~(non-residential)~~ irrigation systems ~~less than one acre in size that are~~ permitted by regulation under Rule .0113(8) of this Subchapter do not require preparation of a soils report.

(h) All open-atmosphere treatment lagoons and ponds, and open-atmosphere storage units shall have at least two feet of freeboard.

~~(h)~~(i) Type 2 reclaimed water treatment facilities shall provide dual disinfection systems containing UV disinfection and chlorination or equivalent dual disinfection processes to meet pathogen control requirements.

~~(i)~~(j) Type 2 reclaimed water treatment facilities shall provide documentation that the combined treatment and disinfection processes are capable of the following:

(1) log 6 or greater reduction of E. coli;

(2) log 5 or greater reduction of Coliphage; and

(3) log 4 or greater reduction of Clostridium perfringens.

(k) Automatically activated irrigation systems shall be connected to a rain or moisture sensor to prevent irrigation during precipitation events, or wet conditions that would cause runoff.

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

15A NCAC 02U .0402 DESIGN CRITERIA FOR DEDICATED RECLAIMED WATER TREATMENT FACILITIES

(a) In addition to the Design Criteria established in Rule .0401 of this Section, ~~The~~ the requirements in this Rule shall apply to all new and expanding ~~non-conjunctive~~ dedicated reclaimed water facilities, ~~as applicable.~~ unless specified otherwise.

(b) Each facility, except for those using septic tanks or lagoon treatment, shall provide flow equalization with either a capacity based upon a representative diurnal hydrograph or a capacity of 25 percent of the daily system design flow. ~~Aerated flow equalization facilities shall be provided with a capacity based upon either a representative diurnal hydrograph or at least 25 percent of the daily system design flow.~~

(c) Dual facilities shall be provided for all essential treatment units.

~~(d) Continuous on-line monitoring and recording for turbidity or particle count and flow shall be provided prior to storage, distribution, or utilization.~~

~~(e)~~(d) Effluent from the treatment facility shall be discharged to a five-day side-stream detention ~~pond~~ unit if either the turbidity exceeds 10 NTUs or if the permitted pathogen levels cannot be met. The facility shall have the ability to return the effluent in the five-day side-stream detention ~~pond~~ unit back to the head of the treatment facility.

~~(f)~~(e) There shall be no public access to the wastewater treatment facility or the five-day side-stream detention ~~pond.~~ unit. ~~The five-day side-stream detention pond shall have either a liner of natural material at least one foot in thickness and having a hydraulic conductivity of no greater than 1 x 10^{-6} centimeters per second when compacted, or a synthetic liner of sufficient thickness to exhibit structural integrity and an effective hydraulic conductivity no greater than that required of the natural material liner. Liner requirements of the five-day side-stream detention pond or separation distances between the bottom of the five-day side-stream detention pond and the groundwater table may be reduced if it can be demonstrated by predictive calculations or modeling methods that satisfy the Director, that construction and use of the five-day side-stream detention pond will not result in contravention of assigned groundwater standards at the compliance boundary.~~

~~(g)~~(f) The storage ~~basin~~ and five-day side-stream detention units shall have either a liner of natural material at least one foot in thickness and having a hydraulic conductivity of no greater than 1 x 10^{-6} centimeters per second when compacted, or a synthetic liner of sufficient thickness to exhibit structural integrity and an effective hydraulic conductivity no greater than that required of the natural material liner. Liner requirements of the ~~storage basin~~ unit or separation distances between the bottom of storage basin and the groundwater table may be reduced if it can be demonstrated by predictive calculations or modeling methods that satisfy the Director, that construction and use of the ~~storage basin~~ unit will not result in contravention of assigned groundwater standards at the compliance boundary.

~~(h) Automatically activated standby power supply onsite, capable of powering all essential treatment units under design conditions shall be provided.~~

~~(i) The permit shall require an operator certified by the Water Pollution Control System Operators Certification Commission (WPCSOCC) of a grade equivalent or greater than the facility classification to be on call 24 hours per day.~~

~~(j)~~(g) By-pass and overflow lines ~~are~~ shall be prohibited.

~~(k)~~(h) Multiple pumps shall be provided ~~if~~ wherever pumps are used.

~~(l)~~(i) A water-tight seal on all ~~treatment/storage~~ treatment and storage units or ~~minimum of~~ two feet of protection from the 100-year flood elevation shall be provided.

~~(m) Reclaimed water irrigation system design shall not exceed the recommended precipitation rates in the soils report prepared pursuant to Rule .0202 of this Subchapter.~~

~~(n)~~(j) ~~A minimum of~~ 30 days of residual storage shall be provided.

~~(o)~~(k) Utilization areas shall be designed to maintain a one-foot vertical separation between the seasonal high water table and the ground surface.

~~(p)~~(l) Influent pump stations shall meet the sewer ~~minimum~~ design criteria ~~as provided~~ set forth in 15A NCAC 02T .0300.

~~(q) Type 2 reclaimed water treatment facilities shall provide dual disinfection systems containing UV disinfection or equivalent and chlorination or equivalent to provide pathogen control.~~

~~(r) Type 2 reclaimed water treatment facilities shall provide documentation that the combined treatment and disinfection processes are capable of the following:~~

~~(1) log 6 or greater reduction of E. coli;~~

~~(2) log 5 or greater reduction of Coliphage; and~~

~~(3) log 4 or greater reduction of Clostridium perfringens.~~

(m) Domestic, commercial, or industrial dedicated reclaimed water systems, including single-family residence facilities, with flow less than 1,000 gallons per day (gpd), are exempt from meeting Paragraphs (c) and (h) of this Rule, if repair or replacement of essential treatment units can be completed within five days.

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

15A NCAC 02U .0403 DESIGN CRITERIA FOR DISTRIBUTION LINES ~~(SEE S.L. 2011-218)~~

(a) The requirements in this Rule shall apply to all new distribution lines.

(b) All reclaimed water valves, storage ~~facilities~~ facilities, and outlets shall be tagged or labeled to warn the public or employees that the water is not intended for drinking.

(c) All reclaimed water piping, valves, ~~outlets~~ outlets, and other appurtenances shall be color-coded, taped, or otherwise marked to identify the source of the water as being reclaimed water as follows:

(1) All reclaimed water piping and appurtenances shall be either colored purple (Pantone 522 or equivalent) and embossed or integrally stamped or marked "CAUTION: RECLAIMED WATER - DO NOT DRINK" or be installed with a purple (Pantone 522 or equivalent) identification tape or polyethylene vinyl wrap. The warning shall be stamped on opposite sides of the pipe and repeated every three feet or less;

(2) Identification tape shall be at least three inches wide and have white or black lettering on purple

(Pantone 522 or equivalent) field stating "CAUTION: RECLAIMED WATER - DO NOT DRINK". Identification tape shall be installed on top of reclaimed water pipelines, fastened at least every 10 feet to each pipe length and run continuously the entire length of the pipe; and

(3) Existing underground distribution systems retrofitted for the purpose of ~~utilizing~~ conveying reclaimed water shall be taped or otherwise identified as in Subparagraphs (1) or (2) of this Paragraph. This identification need not extend the entire length of the distribution system but shall be incorporated within 10 feet of crossing any potable water supply line or sanitary sewer line.

(d) All reclaimed water valves and outlets shall be of a type, or secured in a manner, that permits operation by personnel authorized by the entity that operates the reclaimed water system.

(e) Hose bibs shall be located in locked, below grade vaults that shall be labeled as being of nonpotable quality. As an alternative to the use of locked vaults with standard hose bib services, other locking mechanisms such as hose bibs ~~which~~ that can only be operated by a tool may be placed above ground and labeled as nonpotable water.

(f) ~~Cross-Connection Control~~ There shall be no direct cross-connections between the reclaimed water and potable waters systems, unless such connection has been approved by the Department pursuant to 15A NCAC 18C .0406.

~~(1) There shall be no direct cross-connections between the reclaimed water and potable waters systems;~~

~~(2) Where both reclaimed water and potable water are supplied to a reclaimed water use area in residential or commercial (irrigation) applications, a dual check valve device (or a device providing equal or better protection) shall be installed at the potable water service connection to the use area;~~

~~(3) Where both reclaimed water and potable water are supplied to a reclaimed water use area in industrial or commercial (non-irrigation) applications, a reduced pressure principle backflow prevention device or an approved air gap separation pursuant to 15A NCAC 18C shall be installed at the potable water service connection to the use area; and~~

~~(4) Where potable water is used to supplement a reclaimed water system, there shall be an air gap separation, approved and regularly inspected by the potable water supplier, between the potable water and reclaimed water systems.~~

(g) Irrigation system piping shall be considered part of the distribution system for the purposes of this Rule.

(h) Reclaimed water distribution lines shall be located ~~10~~ at least 2 feet horizontally from and 18 inches below any water line ~~where~~ if practicable. ~~Where~~ If these separation distances cannot be met, the piping and integrity testing procedures shall meet water main standards in accordance with 15A NCAC 18C.

(i) Reclaimed water distribution lines shall not be less than 50 feet from a well unless the piping and integrity testing procedures meet water main standards in accordance with 15A NCAC 18C, but in no case shall they be less than 25 feet from a private well.

(j) Reclaimed water distribution lines shall meet the separation distances to sewer lines in accordance with 15A NCAC 02T .0305.

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

15A NCAC 02U .0404 DESIGN CRITERIA FOR CLOSED-LOOP RECYCLE SYSTEMS

(a) The requirements in this Rule shall apply to all new and expanding closed-loop recycle facilities.

(b) Design criteria related to closed-loop recycle systems in general.

(1) There shall be no public access to the wastewater treatment equipment, wastewater storage structures, or to the wastewater within a closed-loop recycle facility.

(2) If potable water is used to supplement a closed-loop recycle water system, there shall be no direct cross-connections between the closed-loop system and potable water systems, unless such connection has been approved by the Department pursuant to 15A NCAC 18C .0406.

(c) Design criteria related to treatment and storage units used in closed-loop recycle systems.

(1) The facility shall have the ability to stop production of effluent, return the effluent back to the treatment facility, store the effluent, or discharge the effluent to another permitted wastewater treatment facility when recycling cannot be conducted.

(2) Essential treatment units shall be provided in duplicate if proper operation of the treatment unit is essential to the operation of the closed-loop recycle system and the operation cannot safely or efficiently be immediately stopped or altered to operate without the closed-loop recycle system.

(3) An automatically activated standby power source, system shutdown, or other means shall be employed to prevent improperly treated wastewater from entering a treated waste water storage structure or from being recycled if loss of power would create an unsafe condition.

(4) If they are suitable for reuse, residues recovered during the treatment process may be recycled through the processes that generated the wastewater rather than disposed of as a waste.

(5) A water tight seal on all treatment and storage units or two feet of protection from the 100-year flood elevation shall be provided.

(6) Storage units in a closed-loop recycle system shall be designed to contain the accumulation of water from a 25-year, 24-hour storm event

with 1 foot freeboard, unless the system is protected from rainfall and runoff.

(7) The bottoms of earthen impoundments, trenches or other similar excavations shall be at least four feet above the bedrock surface, except that the bottom of excavations that are less than four feet above bedrock shall have a liner with a hydraulic conductivity no greater than 1×10^{-7} centimeters per second. Liner thickness shall be that thickness necessary to achieve a leakage rate consistent with the sensitivity of classified groundwaters. Liner requirements may be reduced if the Applicant demonstrates through predictive calculations or modeling methods that construction and use of these treatment and disposal units will not result in contravention of surface water or groundwater standards.

(8) Treatment works and disposal systems using earthen basins, lagoons, ponds or trenches, excluding holding ponds containing non-industrial treated effluent prior to irrigation, for treatment, storage or disposal shall have either a liner of natural material at least one foot in thickness and having a hydraulic conductivity of no greater than 1×10^{-6} centimeters per second when compacted, or a synthetic liner of sufficient thickness to exhibit structural integrity and an effective hydraulic conductivity no greater than that of the natural material liner.

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

SECTION .0500 - GENERAL UTILIZATION REQUIREMENTS

15A NCAC 02U .0501 RECLAIMED WATER UTILIZATION ~~(SEE S.L. 2011-48)~~

(a) Reclaimed water utilized in a manner that includes application to the land surface shall meet the following criteria:

(1) The reclaimed water shall meet requirements for Type 1 reclaimed water in Rule .0301(b) of this Subchapter;

(2) Notification shall be provided by the Permittee ~~permittee~~ or its representative to inform the public and employees of the use of reclaimed water ~~(Non-Potable Water)~~ and that the reclaimed water is not intended for drinking. Notification material shall be provided to employees in a language they understand;

(3) The reclaimed water generator shall develop and maintain a record keeping program for distribution of reclaimed water;

(4) The reclaimed water generator shall develop and maintain an education and approval program for all use of reclaimed water. Educational material shall be provided to employees in a language they understand;

(5) The reclaimed water generator shall develop and maintain a routine review and inspection program for all uses of reclaimed water on property not owned by the generator;

(6) The compliance boundary and the review boundary for groundwater are established at the irrigation area boundaries. No deed restrictions or easements shall be required to be filed on adjacent properties. Land application of effluent shall be on property controlled by the generator unless an easement is provided in accordance with ~~15A NCAC 02L .0107~~ 15A NCAC 02L .0107, except in cases where a compliance boundary is not established; and

(7) Reclaimed water irrigated on designed soil matrix, such as artificial or natural turf athletic fields with subsurface drainage shall meet the following conditions:

(A) Annual hydraulic loading and maximum precipitation rates shall be designed to irrigate a volume not to exceed the design water capacity of the designed soil matrix above the drainage system; and

(B) Outlets of the drainage system shall not be allowed to discharge directly to surface waters (intermittent or perennial) or to storm water conveyance systems that do not allow for infiltration prior to discharging to surface waters.

(b) Reclaimed water used for activities ~~other than land application (such as industrial and commercial uses)~~ industrial and commercial uses shall meet the criteria below:

(1) The reclaimed water shall meet requirements for Type 1 reclaimed water;

(2) Notification shall be provided by the Permittee ~~permittee~~ or its representative to inform the public and employees of the use of reclaimed water ~~(Non-Potable Water)~~ and that the reclaimed water is not intended for drinking, and notification material shall be provided to employees in a language they understand;

(3) The reclaimed water generator shall develop and maintain an education and approval program for all reclaimed water users, and educational material shall be provided to employees in a language they understand;

(4) The reclaimed water generator shall develop and maintain a record keeping program for distribution of reclaimed water;

(5) The reclaimed water generator shall develop and maintain a routine review and inspection program for all reclaimed water users; and

(6) Reclaimed water used for activities other than land application shall not be used in a manner that causes exposure to aerosols.

~~(c) Reclaimed water used in commercial or industrial facilities for the purposes of urinal and toilet flushing or fire protection in~~

~~sprinkler systems shall be approved by the Director if the applicant can demonstrate to the Division that public health and the environment will be protected.~~

~~(d)~~(c) Reclaimed water shall not be used for swimming pools, hot-tubs, spas or similar uses.

~~(e) Reclaimed water shall not be used for direct reuse as a raw potable water supply.~~

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

SECTION .0600 - BULK DISTRIBUTION OF RECLAIMED WATER

15A NCAC 02U .0601 BULK DISTRIBUTION OF RECLAIMED WATER (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0700 - SETBACKS

15A NCAC 02U .0701 SETBACKS

(a) Treatment and storage facilities associated with systems permitted under this Subchapter shall adhere to the setback requirements in 15A NCAC 02T ~~.0500~~ .0500, except as provided in this Rule.

(b) Final effluent storage facilities shall meet all setback requirements for riparian buffer rules pursuant to 15A NCAC ~~02B~~ 02B, as well as the following setbacks:

	feet
Any private or public water supply source	100
Surface waters (streams – intermittent and perennial, perennial waterbodies, and wetlands)	50
Any well with exception of monitoring wells	100
Any property line for facilities constructed on or after June 18, 2011	50
Any property line for facilities constructed prior to June 18, 2011	0

Otherwise storage facilities shall meet the provisions of Paragraph (a) of this Rule.

(c) The setbacks for utilization areas where reclaimed water is discharged to the ground shall be as follows:

	feet
Surface waters (streams – intermittent and perennial, perennial waterbodies, and wetlands) not classified SA	25
Surface waters (streams – intermittent and perennial, perennial waterbodies, and wetlands) not classified SA, provided that the reclaimed water to be utilized contains no more than 10 mg/L of Total Nitrogen and no more than 2 mg/L of Total Phosphorus in addition to applicable requirements of Section .0300 of this Subchapter	0
Surface waters (streams – intermittent and perennial, perennial waterbodies, and wetlands) classified SA	100
Any well with exception to monitoring wells	100

(d) No setback between the application area and property lines is required.

(e) Setbacks between reclaimed water storage ponds and property lines or wells under separate ownership may be waived by the adjoining property owner. A copy of the signed waiver shall be provided to the Department.

(f) Setbacks between reclaimed water storage ponds and wells under the same ownership as the reclaimed water storage pond may be waived by the property owner.

(g) Setback waivers, other than those allowed in Paragraphs (e) and (f) of this Rule, shall be written, notarized, signed by all parties involved and recorded with the County Register of Deeds. Setback waivers involving the compliance boundary shall be in accordance with 15A NCAC 02L .0107.

(h) Setbacks to property lines established in Paragraph (b) of this Rule shall not be applicable when the Permittee, or the entity from which the Permittee is leasing, owns both parcels creating said property line.

(f) Habitable residences or places of public assembly under separate ownership constructed after the non-discharge facilities were originally permitted or subsequently modified, are exempt from the setback requirements in Paragraph (a) of this Rule.

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

SECTION .0800 – OPERATIONAL PRACTICES ~~(PLANS)~~

15A NCAC 02U .0801 OPERATION AND MAINTENANCE ~~PLAN~~

(a) An Operation and Maintenance Plan shall be maintained by the Permittee ~~permittee~~ for all reclaimed water ~~systems.~~ generators and closed-loop recycle systems. The plan shall:

(1) describe the operation of the system in sufficient detail to show what operations are necessary for the system to function and by whom the ~~functions~~ operations are to be conducted;

(2) include a sampling and monitoring plan to evaluate quality of reclaimed water within the distribution system to provide quality assurance at the time of reuse, and specify actions to be taken in response to unsatisfactory monitoring results;

(3) provide a map of all reclaimed water distribution lines and record drawings of all reclaimed water utilization systems under the Permittee's ~~permittee's~~ control;

(4) describe anticipated maintenance of the system;

(5) include provisions for safety ~~measures~~ measures, including restriction of access to the site and equipment, as required in this Subchapter; and

(6) include spill control ~~provisions~~ provisions, including:

~~(a)~~(A) response to upsets and ~~bypasses~~ bypasses, including control, containment, and remediation; and

~~(b)~~(B) contact information for plant personnel, emergency responders, and regulatory agencies.

(b) Irrigation areas shall have a year-round vegetative cover.

(c) Irrigation shall not result in ponding or runoff of treated effluent.

(d) Irrigation and metering equipment shall be tested and calibrated annually, or as established by permit.

(e) Automobiles and heavy machinery shall not be allowed on the irrigation area, except during installation or maintenance activities.

(f) Water level gauges shall be provided for all open-atmosphere treatment lagoons and ponds, and open-atmosphere storage units.

(g) Vegetative cover shall be maintained on all earthen embankments.

(h) The Permittee shall keep a log of maintenance activities that occur at the facility.

(i) The Permittee shall perform inspections and maintenance to ensure proper operation of the facility.

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

15A NCAC 02U .0802 RESIDUALS MANAGEMENT ~~PLAN~~

(a) A Residuals Management Plan shall be maintained for all reclaimed water and closed-loop recycle systems that generate residuals. The plan shall include the following:

(1) an explanation as to how the residuals will be collected, handled, processed, stored and disposed;

(2) an evaluation of the residuals storage requirements for the treatment ~~facility~~ facility, based upon the maximum anticipated residuals production rate and the ability to remove residuals;

(3) a permit for residuals disposal or ~~utilization,~~ utilization or a written commitment to the Permittee of a ~~Department approved~~ Department-approved residuals ~~disposal/utilization~~ disposal or utilization program accepting the residuals ~~which~~ that demonstrates that the approved program has adequate capacity to accept the ~~residuals,~~ residuals or that an application for approval has been submitted; and

(4) if oil, grease, grit, or screenings removal and collection is a designed unit process, an explanation as to how ~~the oil/grease~~ these materials will be collected, handled, processed, stored and disposed.

(b) The Permittee shall maintain a record of all residuals removed from the facility.

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

SECTION .0900 - LOCAL PROGRAM APPROVAL

15A NCAC 02U .0901 LOCAL PROGRAM APPROVAL

(a) Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of municipalities and counties may apply to the Division for approval of programs for permitting construction, modification, and operation of reclaimed water distribution lines and permitting users under their authority, unless prohibited by other rules in this Subchapter. Construction of and modifications to treatment works, including pump stations for reclaimed water distribution, require Division approval. Permits issued by approved local programs shall serve in place of permits issued by the Division. Local program approval shall not be granted for ~~non-conjunctive~~ dedicated reclaimed water systems. ~~uses.~~

(b) Applications. Applications for approval of local programs shall provide ~~adequate~~ information to assure compliance with the requirements of this Subchapter and the following:

(1) Include two copies of the permit application forms, intended ~~permits~~ permits, including types of uses, ~~minimum~~ design ~~criteria~~ criteria, ~~(specifications),~~ flow chart of permitting, inspection and certification procedures, and other relevant documents to be used in administering the local program; and

(2) Certification that the local authority has procedures in place for processing permit applications, setting permit requirements, enforcement, and penalties that are compatible with those for permits issued by the Division.

(c) Any amendments to the requirements of this Subchapter shall be incorporated into the local program within 60 days of the effective date of the amendments.

(d) If required by G.S. 89C, a North Carolina registered Professional Engineer shall be on the staff of the local program or retained as a consultant to review unusual situations or designs and to answer questions that arise in the review of proposed projects. The local program shall also provide staff or retain a consultant to review all other non-engineering related program areas.

(e) Each project permitted by the local program shall be inspected for compliance with the requirements of the local program at least once during construction.

(f) Approval of Local Programs. The Division staff shall acknowledge receipt of an application for a local ~~program~~ program, ~~in writing,~~ review the application, notify the Applicant ~~applicant~~ of additional information that may be required, and make a recommendation to the Commission on the acceptability of the proposed local program.

(g) All permitting actions, ~~bypasses from distribution lines,~~ enforcement actions, and monitoring of the distribution system shall be summarized and submitted to the Division ~~at a minimum~~ on an annual basis on Division-approved forms ~~provided by the Division~~. The report shall also provide a listing and summary of

all enforcement actions taken or pending during the year. The report shall be submitted within 30 days after the end of each year.
(h) ~~A copy of all program documents such as specifications, permit applications, permit shells and shell certification forms shall be submitted to the Division on an annual basis along with a summary of any other program changes.~~ A summary of any program changes shall be submitted to the Division on an annual basis. Program changes to note include staffing, processing fees, and ordinance revisions.
(i) Modification of a Local Program. After a local program has been approved by the Commission, any modification of the program procedures or requirements specified in this Rule shall be approved by the Director to assure that the procedures and requirements remain at least as stringent as the state-wide requirements in this Subchapter.
(j) Appeal of Local Decisions. Appeal of individual permit denials or issuance with conditions the permit Applicant ~~applicant~~ finds unacceptable shall be made according to the approved local ordinance. The Commission shall not consider individual permit denials or issuance with conditions to which a Permittee ~~permittee~~ objects. This Paragraph does not alter the enforcement authority of the Commission as specified in G.S. 143-215.1(f).

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

SECTION .1100 - WETLANDS AUGMENTATION

15A NCAC 02U .1101 WETLANDS AUGMENTATION

(a) Wetland augmentation shall be limited as follows:
(1) Wetland augmentation shall be limited to pine flat and hardwood flat wetlands as defined in the most current version of the N.C. Wetland Assessment Method (NC WAM) User Manual developed by the N.C. Wetland Functional Assessment Team (NC WFAT), excluding riparian ~~zones. The NC WAM User Manual can be accessed at the following web address: http://portal.ncdenr.org/web/wq/swp/ws/pdu/ncwam;~~ zones;
(2) Reclaimed water discharge to Salt Water Wetlands (SWL) or Unique Wet Lands (UWL), as defined in 15A NCAC 02B .0101, is not permitted under the rules in this Subchapter; and
(3) Reclaimed water discharge to wetlands areas shall be limited to times when the depth to groundwater is greater than or equal to one foot.

(b) In addition to the requirements established in Rule .0201 or Rule .0202 of this ~~Subchapter~~ Subchapter, ~~as applicable,~~ all new and expanding wetlands augmentation ~~facilities,~~ facilities ~~as applicable,~~ shall:
(1) Identify the classification of the existing wetlands according to the most current version of the N.C. Wetlands Assessment Method (NC WAM) User Manual and information provided by the North Carolina Natural Heritage Program (NC NHP);
(2) Identify the existing beneficial uses of the reclaimed water to the wetlands in accordance with 15A NCAC 02B .0231, and support any demonstration of net environmental benefit;
(3) Determine the hydrologic regime of the wetlands, including depth and duration of inundation, and average monthly water level fluctuations. An estimated monthly water budget shall be provided by the Applicant ~~applicant~~ and compared to actual conditions during operation;
(4) Identify class of reclaimed water to be discharged, associated parameter concentrations, and annual loading rates to the wetlands;
(5) Determine whether the wetland occurs in a ground water recharge or discharge area;
(6) Provide baseline monitoring information for wetlands sufficient to allow determination of reference conditions, to be performed for at least one representative year prior to initiation of discharge;
(7) Provide a project evaluation and receiver site agronomic plan that includes a hydraulic loading recommendation based on the soils report, hydrogeologic description, agronomic investigation, wetland type, local topography, aquatic life, wildlife, and all other investigative results to support that there will be no negative effects on the uses of the ~~wetlands,~~ wetlands including the biological criteria and net environmental benefits will be gained. Hydraulic loading recommendations shall reflect seasonal changes to ~~wetlands~~ wetlands, including restrictions during times of high water table levels;
(8) For ~~non-conjunctive~~ dedicated wetlands augmentation systems, provide 200 percent of the land requirements based on the recommended hydraulic loading rate. After five years of operation the Permittee may request and receive a reduction in the additional land requirement ~~provided that~~ if operational data supports that sufficient utilization capacity exists for the reclaimed water generator;
(9) 10 percent of the land requirements shall remain in a natural state to be used as a basis of comparison to the wetlands receiving reclaimed water;
(10) For application of reclaimed water exhibiting parameter concentrations greater than 100 percent of the groundwater standards, provide a site-specific hydrogeologic investigation (i.e., evaluation of wetlands/groundwater interaction, groundwater recharge/discharge, gradient, project proximity to water supply wells) to show that hydrogeologic conditions are adequate to prevent degradation of groundwater quality and demonstrate through hydrogeological modeling that groundwater

standards will not be exceeded at the compliance boundary; and

(11) Provide documentation that any applicable NPDES program requirements have been met, pursuant to 15A NCAC 02H .0100.

(c) All renewal applications for wetlands augmentation facilities, shall submit documentation that the project continues to function as designed and that the net environmental benefit aspects remain applicable.

(d) Reclaimed water utilized for wetlands augmentation shall meet the following reclaimed water effluent standards:

(1) Reclaimed water discharged to natural wetlands shall be treated to Type 1 reclaimed water standards;

(2) In addition to water quality requirements associated with Type 1 reclaimed water, reclaimed water discharged to wetlands shall not exceed the following concentrations, unless net environmental benefits are provided:

(A) Total Nitrogen (as Nitrogen) of 4.0 ~~mg/l;~~ mg/L; and

(B) Total Phosphorus (as Phosphorus) of 1 ~~mg/l;~~ mg/L;

(3) Metal concentrations in reclaimed water discharged to wetlands shall not exceed North Carolina surface water quality standards, unless acute whole effluent toxicity testing demonstrates absence of toxicity.

(e) Reclaimed water facilities utilizing wetlands augmentation, shall meet the criteria below:

(1) Notification shall be provided by the Permittee ~~permittee~~ or its representative to inform the public of the use of reclaimed water ~~(Non Potable Water)~~ and that the reclaimed water is not intended for drinking;

(2) The reclaimed water generator shall develop and maintain a wetlands monitoring program. This monitoring will be conducted during the first five growing seasons after initiation of the application of reclaimed water, after which the Applicant ~~applicant~~ may apply for ~~and receive~~ reduced monitoring. The monitoring requirements ~~must~~ shall include the following items:

(A) vegetation, macroinvertebrates, amphibians, fish, birds, and threatened or endangered species surveys;

(B) water chemistry;

(C) surface water and ground water depth readings; and

(D) groundwater monitoring plan except for those projects receiving reclaimed water characterized by average annual parameter concentrations less than or equal to 50 percent of ground water quality criteria, and less than 50 percent of required surface water discharge concentrations;

(3) The reclaimed water generator shall develop and maintain an education program for all users of reclaimed water on property not owned by the generator;

(4) The reclaimed water generator shall develop and maintain a routine review and inspection program for the wetlands augmentation system; and

(5) The compliance boundary and the review boundary for groundwater shall be established at the property line. No deed restrictions or easements are required to be filed on adjacent properties. Land application of reclaimed water shall be on property controlled by the generator unless a contractual agreement is provided in accordance with ~~15A NCAC 02L .0107~~ 15A NCAC 02L .0107, except when ~~in cases where~~ a compliance boundary is not established.

(f) Permitting of wetlands augmentation uses shall not be delegated to local programs.

Authority G.S. 143-215.1; 143-215.3(a); S.L. 2006-250.

SECTION .1400 - IRRIGATION TO FOOD CHAIN CROPS

15A NCAC 02U .1401 IRRIGATION TO FOOD CHAIN CROPS

(a) Irrigation to food chain crops shall be limited as follows:

(1) Reclaimed water utilized for direct or indirect contact irrigation of food chain crops that will be peeled, skinned, cooked or thermally processed before consumption shall be treated to Type 1 reclaimed water standards;

(2) For the purposes of this Rule, tobacco is not considered a food chain crop;

(3) Reclaimed water shall not be utilized for direct contact irrigation of food chain crops that will not be peeled, skinned, cooked or thermally processed before consumption except as approved in Subparagraph (5) of this Paragraph;

(4) Reclaimed water utilized for indirect contact irrigation of food chain crops that will not be peeled, skinned, cooked or thermally processed before consumption shall be treated to Type 2 reclaimed water standards; and

(5) If requested, the Department shall authorize demonstration projects to collect and present data related to the direct application of reclaimed water on crops that are not peeled, skinned, cooked, or thermally processed before consumption. Crops produced during such demonstration projects may be used as animal feed or may be thermally processed, cooked, or otherwise prepared for human consumption in a manner approved by the North Carolina Department of Agriculture and Consumer Services. If the Applicant, ~~applicant,~~ based on

the data collected, demonstrates to the Department that public health will be protected if their reclaimed water is directly applied to crops ~~which~~ that are not peeled, skinned, cooked, or thermally processed, the Department shall waive the prohibition described in Subparagraph (3) of this Paragraph for that project. When considering such demonstration projects, the Department shall seek the advice of the North Carolina Department of Agriculture and Consumer Services.

(b) In addition to the requirements established in Rule .0201 or Rule .0202 of this ~~Subchapter~~ Subchapter, ~~as applicable,~~ all new and expanding irrigation to food chain crops systems shall submit a ~~representative soil analysis for standard soil fertility~~ Standard Soil Fertility Analysis for each field to be irrigated. ~~A~~ The Standard Soil Fertility Analysis shall include the following parameters:

(1) Acidity;
(2) Base Saturation (by calculation);
(3) Calcium;
(4) Cation Exchange Capacity;
(5) Copper;
(6) Exchangeable Sodium Percentage (by calculation);
(7) Magnesium;
(8) Manganese;
(9) Percent Humic Matter;
(10) pH;
(11) Phosphorus;
(12) Potassium;
(13) Sodium; and
(14) Zinc.

(c) When a water balance is required by Rule .0202(k) of this ~~Subchapter~~ Subchapter, the water balance shall include seasonal water requirements for the crops.

(d) For irrigation sites not owned by the Permittee, ~~permittee,~~ a ~~notarized~~ land owner agreement shall be provided to the Division. The land owner agreement shall include the following:

(1) a description of the approved uses and conditions for use of the reclaimed water consistent with the requirements of this Rule;
(2) a condition requiring the reclaimed water supplier shall provide the landowner with the results of sampling performed to document compliance with the reclaimed water effluent standards; and
(3) a condition requiring the landowner to report to the Permittee ~~permittee~~ any use of the reclaimed water inconsistent with the uses in the agreement.

(e) All renewal Applicants ~~applicants~~ for dedicated irrigation to food chain crop systems shall submit:

(1) A ~~representative soil analysis for standard soil fertility~~ Standard Soil Fertility Analysis for each field to be irrigated. A Standard Soil Fertility Analysis shall include the following parameters:
(A) Acidity;
(B) Base Saturation (by calculation);
(C) Calcium;
(D) Cation Exchange Capacity;
(E) Copper;
(F) Exchangeable Sodium Percentage (by calculation);
(G) Magnesium;
(H) Manganese;
(I) Percent Humic Matter;
(J) pH;
(K) Phosphorus;
(L) Potassium;
(M) Sodium; and
(N) Zinc;
(2) The inventory of commercial agricultural operations using reclaimed water to irrigate food chain crops required in Subparagraph (d)(7) of this Rule; and
(3) For irrigation sites not owned by the Permittee, ~~permittee,~~ a ~~notarized~~ land owner agreement pursuant to Paragraph (d) of this Rule.

(f) Reclaimed water facilities providing reclaimed water for the irrigation of food chain crops shall meet the criteria below:

(1) Crops irrigated by direct contact with reclaimed water shall not be harvested within 24 hours of irrigation with reclaimed water;
(2) Notification at the utilization site shall be provided by the Permittee ~~permittee~~ or its representative to inform the public of the use of reclaimed water ~~(Non-Potable Water)~~ and that the reclaimed water is not intended for drinking;
(3) The reclaimed water generator shall develop and maintain a record keeping program for distribution of reclaimed water;
(4) The Permittee ~~permittee~~ shall develop and maintain an education program for users of reclaimed water for irrigation to food chain crops;
(5) The reclaimed water generator shall provide all landowners receiving reclaimed water for irrigation of food chain crops a summary of all reclaimed water system performance as required in G.S. 143-215.1C;
(6) The reclaimed water generator shall develop and maintain a routine review and inspection program for all irrigation to food chain crop systems; and
(7) The Permittee ~~permittee~~ shall maintain an inventory of commercial agricultural operations using reclaimed water to irrigate food chain crops for each year of operation. The inventory shall be maintained for five years. The inventory of food chain crop irrigation shall include the following:
(A) name of the agricultural operation;
(B) name and telephone number of the owner or operator of the agricultural operation;

(C) address of the agricultural operation;
(D) food chain crops irrigated with reclaimed water;
(E) type of application ~~(e.g., irrigation)~~ method used; and
(F) approximate irrigation area where ~~under irrigation on which~~ food chain crops are grown.

Authority G.S. 143-215.1; 143-215.3(a); S.L. 2006-250.

TITLE 19A – DEPARTMENT OF TRANSPORTATION

***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 Transportation intends to readopt with substantive changes the rules cited as 19A NCAC 06D .0203.*

Link to agency website pursuant to G.S. 150B-19.1(c): *https://www.ncdot.gov/about/regulations/rules/*

Proposed Effective Date: *January 1, 2018*

Public Hearing:
Date: *Monday, October 16, 2017*
Time: *3:00 p.m.*
Location: *Transportation Mobility and Safety Conference Room 161, 750 Greenfield Parkway, Garner, NC 27529*

Reason for Proposed Action: *Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of Subchapter 19A NCAC 06C, this rule was determined as "Necessary With Substantive Public Interest" thus necessitation readoption. Upon review for the readoption process, the agency deemed the rule to be unnecessary and is recommending repeal.*

Comments may be submitted to: *Helen Landi, 1501 Mail Service Center, Raleigh, NC 27699-1501; email hlandi@ndot.gov*

Comment period ends: *November 14, 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 06 – TRANSIT, RALIL, AND AVIATION

SUBCHAPTER 06D - BICYCLE AND BIKEWAY PROGRAM

SECTION .0200 - BOARD POLICY RELATING TO BIKEWAYS

19A NCAC 06D .0203 DESIGNING FOR BICYCLES AND BIKEWAYS

~~Bicycle transportation facilities shall be designed in conjunction with state and federal highway projects, consistent with the following guidelines:~~

~~(1) New bridges, grade separated interchanges, tunnels, and viaducts are to be designed to give safe access to bicycles.~~
~~(2) All improvements to bridges, grade separated interchanges, tunnels, and viaducts are to be designed to give safe access to bicycles where feasible.~~
~~(3) Secondary bicycle facilities shall be designed to be within highway rights of way.~~
~~(4) Paved shoulders shall be designed in a manner which will accommodate bicycle traffic.~~

Authority G.S. 136-71.10; 136-71.11; 143B-350(f).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 06 – BOARD OF BARBER EXAMINERS

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Board of Barber Examiners intends to amend the rules cited as 21 NCAC 06F .0102 and 06L .0116.*

Link to agency website pursuant to G.S. 150B-19.1(c): *https://www.ncbarbers.com/news.html*

Proposed Effective Date: *January 1, 2018*

Public Hearing:
Date: *October 4, 2017*
Time: *10:00 a.m.*
Location: *5809 Departure Drive, Suite 102, Raleigh, NC 27616*

Reason for Proposed Action: *The amendment to 21 NCAC 06F .0102 would allow a barber-school manager to manage a barbershop or another barber school. The amendment to 21 NCAC 06L .0116 would allow a barbershop manager to manage a barber school or another barbershop.*

Comments may be submitted to: *Dennis Seavers, North Carolina Board of Barber Examiners, 5809 Departure Drive, Suite 102, Raleigh, NC 27616; phone (919) 981-5210 x22; fax (919) 981-5068; email dseavers@ncbarbers.com*

Comment period ends: *November 14, 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**

SUBCHAPTER 06F – BARBER SCHOOL

SECTION .0100 – BARBER SCHOOL

21 NCAC 06F .0102 MANAGER

(a) Each barber school shall designate one of the instructors required by G.S. 86A-22(2) as the school manager.

(b) The barber school manager is responsible for the school's compliance with G.S. 86A-15 and the rules in this Subchapter, whether present on the school premises or not.

~~(c) A barber school manager shall not manage a barber shop or another barber school.~~

Authority G.S. 86A-15; 86A-22.

SUBCHAPTER 06L - BARBER SHOPS

21 NCAC 06L .0116 BARBER SHOP MANAGERS

(a) All barber shop managers shall verify that any licensee employed in the barber shop is the person whose name appears on the license or permit prior to allowing the licensee to perform barbering services in the shop. This verification shall be based on government issued identification.

~~(b) A barber shop manager shall not manage another barber shop or a barber school.~~

~~(c)~~(b) The shop manager is responsible for the sanitary condition, as defined in 21 NCAC 06P .0103(10), of the entire shop.

~~(d)~~(c) The barber shop manager is accountable for activities at the shop whether present on the premises or not.

Authority G.S. 86A-15; 86A-22.

This Section contains information for the meeting of the Rules Review Commission August 17, 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	**Appointed by House**
Jeff Hyde (1st Vice Chair)	Garth Dunklin (Chair)
Robert A. Bryan, Jr.	Andrew P. Atkins
Margaret Currin	Anna Baird Choi
Jay Hemphill	Paul Powell
Jeffrey A. Poley	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

September 21, 2017	October 19, 2017
November 16, 2017	December 21, 2017

RULES REVIEW COMMISSION MEETING
MINUTES
August 17, 2017

The Rules Review Commission met on Thursday, August 17, 2017, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew P. Atkins, Bobby Bryan, 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 Vojtko.

The meeting was called to order at 10:02 a.m. with Chairman Dunklin presiding.

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

APPROVAL OF MINUTES

Chairman Dunklin discussed modifications to the July 20, 2017 minutes made after initial posting of the draft on the website regarding the readoption deadlines for the Board of Agriculture 02 NCAC 37, and the Alcoholic Beverage Control Commission 14B NCAC 15A.

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the July 20, 2017 meeting. There were no additional modifications and the minutes were approved as distributed.

FOLLOW UP MATTERS

Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

10A NCAC 27H .0202, .0203, .0204, .0205, and .0206 – The agency is addressing the objections from the March and June meetings. No action was required by the Commission.

DRAFT

Department of Insurance
11 NCAC 05A .0501, .0505, .0508, and .0511 - The rewritten rules were unanimously approved.

Social Services Commission
10A NCAC 70I .0101, .0201, .0202, .0302, .0305, .0306, .0308, .0405, .0503, .0504, .0506, .0601, .0604, .0609, .0613, and .0614 - The agency is addressing the objection to Rule .0308, and extension for the rest of the rules from the July meeting. No action was required by the Commission.

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.

LOG OF FILINGS (PERMANENT RULES)
Pre-Reviewed Rules
Tobacco Trust Fund Commission
All rules were unanimously approved.

Department of Commerce - Division of Employment Security
All rules were unanimously approved.

Prior to the review of the rules from the Division of Employment Security, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the rules because she works with the Board of Review.

Department of Natural and Cultural Resources
All rules were unanimously approved.

Department of Public Safety - Boxing Authority
All rules were unanimously approved.

Board of Funeral Service
All rules were unanimously approved.

Non Pre-Reviewed Rules
Department of Administration
01 NCAC 04A .0201 was unanimously approved.

Board of Agriculture
All rules were unanimously approved.

Child Care Commission
The Commission extended the period of review for the rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period of review in order to allow the agency to complete requested technical changes and submit the rewritten rules at a later meeting.

Dedra Alston, the rulemaking coordinator with the agency, addressed the Commission.

Environmental Management Commission
15A NCAC 02D .0530 was unanimously approved.

Coastal Resources Commission
All rules were unanimously approved.

Cemetery Commission
21 NCAC 07D .0101 was unanimously approved.

Board of Examiners of Electrical Contractors

All rules were unanimously approved.

Building Code Council
All rules were unanimously approved.

EXISTING RULES REVIEW
Department of Environmental Quality
04 NCAC 12 - The Commission unanimously approved the report as submitted by the agency.

Apprenticeship and Training Council
04 NCAC 22 – Pursuant to S.L. 2017-57, the Council was transferred from the Department of Commerce to the NC Community Colleges Systems Office, effective July 1, 2017. As community colleges are exempt from G.S. 150B Article 2A pursuant to G.S. 150B-1(g), these rules are no longer subject to the existing rules review in G.S. 150B-21.3A. No action was required by the Commission.

Social Services Commission
10A NCAC 70A - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 70B - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 70C - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 70D -The agency did not conduct the review and all rules contained in the report expired on August 17, 2017 pursuant to G.S. 150B-21.3A(d)(1). No action was required by the Commission.
10A NCAC 70E - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 70F - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 70G - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 70H - The Commission deferred review pursuant to Rule 26 NCAC 05 .0210 because it had a question regarding an apparent discrepancy in the report.
10A NCAC 70J - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 70L - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 70N - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 70O - The Commission unanimously approved the report as submitted by the agency.

NC Alarm Systems Licensing Board
14B NCAC 17 - The Commission unanimously approved the report as submitted by the agency.

NC Appraisal Board
21 NCAC 57 - The Commission unanimously approved the report as submitted by the agency.

Department of Natural and Cultural Resources
07 NCAC 02 - As reflected in the attached letter, the Commission voted to schedule readoption of this Rule no later than April 30, 2018 pursuant to G.S. 150B-21.3A(d)(2).

Well Contractors Certification Commission
15A NCAC 27 – As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than February 28, 2018 pursuant to G.S. 150B-21.3A(d)(2).

Board of Dietetics/Nutrition
21 NCAC 17 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than July 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Department of Administration
The agency requested a waiver of 26 NCAC 05 .0211 for the reports for 01 NCAC 38, 39, 40, 43, and 44.

The waiver request was unanimously approved. The Commission rescheduled the date of review for the reports, and amended 26 NCAC 05 .0211. The Commission will review the agency's reports at its February 2018 meeting.

John Maddrey, General Counsel with the agency, addressed the Commission.

Board of Pharmacy
The agency requested a waiver of 26 NCAC 05 .0211 for the report for 21 NCAC 46.

The waiver request was unanimously approved. The Commission rescheduled the date of review for the report, and amended 26 NCAC 05 .0211. The Commission will review the agency's report at its September 21, 2017 meeting.

COMMISSION BUSINESS
The Commission held an election to fill the vacancy for the 2nd Vice Chairman.

Jeanette Doran was elected to 2nd Vice Chairman.

The Chairman gave a brief update on S16 and HB162.

The meeting adjourned at 10:50 a.m.

The next regularly scheduled meeting of the Commission is Thursday, September 21st 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

DRAFT

August 17, 2017

Rules Review Commission
Meeting
Please **Print** Legibly

Name	Agency
Jeff Conder	Tobacco Trust Fund Commission
Kristin Hicks	Agronomic
Derek Vagner	Dept of Ag
William Upchurch	TTFC
JOHN F. MADDREY	DEPARTMENT OF ADMINISTRATION
BARRY GUPTON	NCDOI / NCBCC
Jennifer Everett	DEQ
S. Middlebrooks	DNCR
Richard Harrison	NCDOT - TTFC
Angel Craig	NCSBI
Tamara Lewis	NCSBI
Sheena Cobrand	Dept. of Commerce - Employment Security
Christina McLaurin	NC Board of Funeral Service
[illegible]	DHHS / NDEE
Nathan Morris	NC Cemetery Commission
Reed Foundry	NCBEC
Tricia Angoli	OSWP
Joelle Burleson	NCDEQ - DAQ
Patrick Knowlson	NCDEQ - DAQ
M. Craven	ASLB (OPS)

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

August 17, 2017

Shawn Middlebrooks, Rulemaking Coordinator
Department of Natural and Cultural Resources
4601 Mail Service Center
Raleigh, North Carolina 27699

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **07 NCAC 02**

Dear Mr. Middlebrooks:

Attached to this letter is the rule 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 rule was discussed at the August 17, 2017 Rules Review Commission meeting regarding the scheduling of this rule for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rule identified on the attached printout shall be readopted by the agency no later than April 30, 2018.

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

Sincerely,

Abigail M. Hammond

Abigail M. Hammond
Commission Counsel

cc: Ashley Snyder, Agency Legal Specialist

Administration 919/431-3000 fax:919/431-3100
Rules Division 919/431-3000 fax: 919/431-3104
Judges and Assistants 919/431-3000 fax: 919/431-3100
Clerk's Office 919/431-3000 fax: 919/431-3100
Rules Review Commission 919/431-3000 fax: 919/431-3104
Civil Rights Division 919/431-3036 fax: 919/431-3103

An Equal Employment Opportunity Employer

RRC DETERMINATION
PERIODIC RULE REVIEW
May 18, 2017
APO Review: July 22, 2017

Natural and Cultural Resources, Department of
Total: 1

RRC Determination: Necessary with substantive public interest

Rule	Determination
07 NCAC 02H .0303	Necessary with substantive public interest

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

August 17, 2017

Jennifer Everett, Rulemaking Coordinator
Department of Environment Quality
Well Contractors Certification Commission
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 27**

Dear Ms. Everett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, these rules were discussed at the August 17, 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 February 28, 2018.

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

Sincerely,

Abigail M. Hammond

Abigail M. Hammond
Commission Counsel

Administration 919/431-3000 fax:919/431-3100
Rules Division 919/431-3000 fax: 919/431-3104
Judges and Assistants 919/431-3000 fax: 919/431-3100
Clerk's Office 919/431-3000 fax: 919/431-3100
Rules Review Commission 919/431-3000 fax: 919/431-3104
Civil Rights Division 919/431-3036 fax: 919/431-3103

An Equal Employment Opportunity Employer

RRC DETERMINATION
PERIODIC RULE REVIEW
May 18, 2017
APO Review: July 22, 2017

Well Contractors Certification Commission
Total: 5

RRC Determination: Necessary with substantive public interest

Rule			Determination
15A	NCAC	27 .0110	Necessary with substantive public interest
15A	NCAC	27 .0301	Necessary with substantive public interest
15A	NCAC	27 .0410	Necessary with substantive public interest
15A	NCAC	27 .0420	Necessary with substantive public interest
15A	NCAC	27 .0440	Necessary with substantive public interest

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

August 17, 2017

Charla Burill, Rulemaking Coordinator
North Carolina Board of Dietetics/Nutrition
140 Preston Executive Drive, Suite 205-C
Cary, North Carolina 27513

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 17**

Dear Mrs. Burill:

Attached to this letter is the rule 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 rule was discussed at the August 17, 2017 Rules Review Commission meeting regarding the scheduling of this rule for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rule identified on the attached printout shall be readopted by the agency no later than July 31, 2019.

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

Sincerely,

Abigail M. Hammond

Abigail M. Hammond
Commission Counsel

Administration 919/431-3000 fax:919/431-3100
Rules Division 919/431-3000 fax: 919/431-3104
Judges and Assistants 919/431-3000 fax: 919/431-3100
Clerk's Office 919/431-3000 fax: 919/431-3100
Rules Review Commission 919/431-3000 fax: 919/431-3104
Civil Rights Division 919/431-3036 fax: 919/431-3103

An Equal Employment Opportunity Employer

RRC DETERMINATION
PERIODIC RULE REVIEW
September 15, 2016
APO Review: October 04, 2016

Dietetics/Nutrition, Board of
Total: 6

RRC Determination: Necessary with substantive public interest

Rule	Determination
21 NCAC 17 .0101	Necessary with substantive public interest
21 NCAC 17 .0104	Necessary with substantive public interest
21 NCAC 17 .0105	Necessary with substantive public interest
21 NCAC 17 .0107	Necessary with substantive public interest
21 NCAC 17 .0109	Necessary with substantive public interest
21 NCAC 17 .0303	Necessary with substantive public interest

LIST OF APPROVED PERMANENT RULES
August 17, 2017 Meeting

ADMINISTRATION, DEPARTMENT OF				
Impoundment and Removal	01	NCAC	04A	.0201
AGRICULTURE, BOARD OF				
Soil Testing Service	02	NCAC	37	.0201
Plant Analysis Service	02	NCAC	37	.0202
TOBACCO TRUST FUND COMMISSION				
Policy	02	NCAC	57	.0101
Authorization	02	NCAC	57	.0102
Definitions	02	NCAC	57	.0103
Purpose	02	NCAC	57	.0201
Types of Programs	02	NCAC	57	.0202
Eligibility to Receive Grants	02	NCAC	57	.0203
Applications for Grants	02	NCAC	57	.0204
Special Information Needed for Direct Compensatory Programs	02	NCAC	57	.0205
Review of Proposals	02	NCAC	57	.0207
Award of Grants	02	NCAC	57	.0208
Reporting	02	NCAC	57	.0209
Policies Governing Compensatory Programs	02	NCAC	57	.0210
Purpose	02	NCAC	57	.0301
Eligibility to Receive Grants	02	NCAC	57	.0302
The Primary Beneficiary	02	NCAC	57	.0303
Applications for Grants	02	NCAC	57	.0304
Review of Proposals	02	NCAC	57	.0306
Award of Grants	02	NCAC	57	.0307
Reporting	02	NCAC	57	.0308
Policies Governing Qualified Agricultural Program Grants	02	NCAC	57	.0309
COMMERCE - EMPLOYMENT SECURITY, DIVISION OF				
Address Changes and Electronic Address Changes	04	NCAC	24A	.0102
Addresses for Notice and Electronic Notice	04	NCAC	24A	.0103
Addresses for Filing Claims, Appeals, Exceptions, Request...	04	NCAC	24A	.0104
Definitions	04	NCAC	24A	.0105
Power of Attorney	04	NCAC	24A	.0109
Limitation on Authority Granted by Power of Attorney	04	NCAC	24A	.0110
Request for Separation Information from Employer	04	NCAC	24B	.0402
Notice Requirement for Overpayment	04	NCAC	24B	.0601
NDNH Claimant Notice	04	NCAC	24B	.1101
NDNH Employer Notice	04	NCAC	24B	.1102
Claimant Response for Employment and Wage Information	04	NCAC	24B	.1103
Employer Response to Request for Employment and Wage Info...	04	NCAC	24B	.1104
Appeals Hearing Notice	04	NCAC	24C	.0204

Telephone Hearings	04	NCAC	24C	.0205
Requirements for Requesting Noncharging of Benefit Payments	04	NCAC	24D	.0103
Requirements for Filing Protests to List of Charges	04	NCAC	24D	.0202
Grounds for Protesting List of Charges	04	NCAC	24D	.0203
Determination on Grounds Contained in Protest	04	NCAC	24D	.0205
Adequacy Threshold Determination	04	NCAC	24D	.0302
Adequacy Penalty Determination	04	NCAC	24D	.0303
Appealing Adequacy Penalty Determination	04	NCAC	24D	.0304

NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

Borrowing Privileges	07	NCAC	02H	.0107
Registration	07	NCAC	02H	.0108
Restriction and Suspension of Privileges	07	NCAC	02H	.0109

INSURANCE, DEPARTMENT OF

Purpose	11	NCAC	05A	.0501
Training Requirements	11	NCAC	05A	.0505
Apparatus	11	NCAC	05A	.0508
Six Mile Insurance District	11	NCAC	05A	.0511

PUBLIC SAFETY, DEPARTMENT OF - BOXING AUTHORITY

Weigh-Ins for Boxing	14B	NCAC	10	.0501
Weigh-Ins Mixed Martial Arts	14B	NCAC	10	.0801

ENVIRONMENTAL MANAGEMENT COMMISSION

Prevention of Significant Deterioration	15A	NCAC	02D	.0530

COASTAL RESOURCES COMMISSION

General Use Standards for Ocean Hazard Areas	15A	NCAC	07H	.0306
Requesting the Development Line	15A	NCAC	07J	.1301

CEMETERY COMMISSION

Report	21	NCAC	07D	.0101

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS OF

Production of Public Records	21	NCAC	18B	.0110
Requirements for All Examination Applicants	21	NCAC	18B	.0201
Experience	21	NCAC	18B	.0202
Examinations	21	NCAC	18B	.0204
Annual License Fees	21	NCAC	18B	.0404
Reclassification of Current License	21	NCAC	18B	.0501
Qualified Individual - Listing Options after Expiration	21	NCAC	18B	.0504
Qualified Individual - Initial Listing Options	21	NCAC	18B	.0505

FUNERAL SERVICE, BOARD OF

Practicing During Disasters	21 NCAC 34B .0617
Practicing During Emergencies	21 NCAC 34B .0618

BUILDING CODE COUNCIL

2014 Electrical Code - Pool Pump Motor Replacement	680.21(C)
2018 Building Code	2018 Building Code
2018 Fire Prevention Code	2018 Fire Prevention Code
2018 Fuel Gas Code	2018 Fuel Gas Code
2018 Plumbing Code	2018 Plumbing Code

RRC Determination
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Necessary with substantive public interest

Environmental Quality,
Department of
04 NCAC 12C .0108
04 NCAC 12D .0102
04 NCAC 12D .0103
04 NCAC 12D .0116
04 NCAC 12D .0117

Alarm Systems Licensing Board
14B NCAC 17 .0101
14B NCAC 17 .0102
14B NCAC 17 .0103
14B NCAC 17 .0104
14B NCAC 17 .0105
14B NCAC 17 .0106
14B NCAC 17 .0107
14B NCAC 17 .0108
14B NCAC 17 .0201
14B NCAC 17 .0202
14B NCAC 17 .0203
14B NCAC 17 .0204
14B NCAC 17 .0205
14B NCAC 17 .0206
14B NCAC 17 .0207
14B NCAC 17 .0208
14B NCAC 17 .0209
14B NCAC 17 .0210
14B NCAC 17 .0301
14B NCAC 17 .0302
14B NCAC 17 .0303
14B NCAC 17 .0304
14B NCAC 17 .0305
14B NCAC 17 .0306
14B NCAC 17 .0307
14B NCAC 17 .0401
14B NCAC 17 .0402
14B NCAC 17 .0403
14B NCAC 17 .0501
14B NCAC 17 .0502
14B NCAC 17 .0503
14B NCAC 17 .0504
14B NCAC 17 .0505
14B NCAC 17 .0506

Appraisal Board
21 NCAC 57C .0101
21 NCAC 57D .0303
21 NCAC 57D .0311

RRC Determination
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Necessary without substantive public interest

Environmental Quality,
Department of
04 NCAC 12D .0101

Social Services Commission
10A NCAC 70A .0101
10A NCAC 70A .0102
10A NCAC 70A .0103
10A NCAC 70A .0104
10A NCAC 70A .0105
10A NCAC 70A .0106
10A NCAC 70A .0107
10A NCAC 70A .0108
10A NCAC 70A .0109
10A NCAC 70A .0110
10A NCAC 70A .0111
10A NCAC 70A .0112
10A NCAC 70A .0113
10A NCAC 70A .0201
10A NCAC 70A .0202
10A NCAC 70A .0203
10A NCAC 70B .0101
10A NCAC 70B .0102
10A NCAC 70B .0103
10A NCAC 70B .0104
10A NCAC 70B .0105
10A NCAC 70B .0301
10A NCAC 70C .0101
10A NCAC 70C .0102
10A NCAC 70C .0103
10A NCAC 70E .0601
10A NCAC 70E .0602
10A NCAC 70E .0701
10A NCAC 70E .0702
10A NCAC 70E .0703
10A NCAC 70E .0704
10A NCAC 70E .0705
10A NCAC 70E .0706
10A NCAC 70E .0707
10A NCAC 70E .0708
10A NCAC 70E .0709
10A NCAC 70E .0710
10A NCAC 70E .0801
10A NCAC 70E .0802
10A NCAC 70E .0803
10A NCAC 70E .0804
10A NCAC 70E .0805
10A NCAC 70E .0806

10A NCAC 70E .0901
10A NCAC 70E .0902
10A NCAC 70E .0903
10A NCAC 70E .1001
10A NCAC 70E .1101
10A NCAC 70E .1102
10A NCAC 70E .1103
10A NCAC 70E .1104
10A NCAC 70E .1105
10A NCAC 70E .1106
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10A NCAC 70E .1110
10A NCAC 70E .1111
10A NCAC 70E .1112
10A NCAC 70E .1113
10A NCAC 70E .1114
10A NCAC 70E .1115
10A NCAC 70E .1116
10A NCAC 70E .1117
10A NCAC 70F .0101
10A NCAC 70F .0201
10A NCAC 70F .0202
10A NCAC 70F .0203
10A NCAC 70F .0204
10A NCAC 70F .0205
10A NCAC 70F .0206
10A NCAC 70F .0207
10A NCAC 70F .0208
10A NCAC 70G .0401
10A NCAC 70G .0402
10A NCAC 70G .0403
10A NCAC 70G .0501
10A NCAC 70G .0502
10A NCAC 70G .0503
10A NCAC 70G .0504
10A NCAC 70G .0505
10A NCAC 70G .0506
10A NCAC 70G .0507
10A NCAC 70G .0508
10A NCAC 70G .0509
10A NCAC 70G .0510
10A NCAC 70G .0511
10A NCAC 70G .0512
10A NCAC 70G .0513
10A NCAC 70J .0101
10A NCAC 70J .0102
10A NCAC 70J .0103
10A NCAC 70J .0104
10A NCAC 70J .0105
10A NCAC 70J .0106
10A NCAC 70J .0201
10A NCAC 70J .0202
10A NCAC 70J .0203
10A NCAC 70J .0204
10A NCAC 70J .0205
10A NCAC 70J .0206
10A NCAC 70L .0102
10A NCAC 70L .0201
10A NCAC 70L .0301

Appraisal Board
21 NCAC 57A .0101
21 NCAC 57A .0102
21 NCAC 57A .0201
21 NCAC 57A .0202
21 NCAC 57A .0203
21 NCAC 57A .0204
21 NCAC 57A .0206
21 NCAC 57A .0207
21 NCAC 57A .0208
21 NCAC 57A .0209
21 NCAC 57A .0210
21 NCAC 57A .0211
21 NCAC 57A .0301
21 NCAC 57A .0302
21 NCAC 57A .0303
21 NCAC 57A .0304
21 NCAC 57A .0306
21 NCAC 57A .0401
21 NCAC 57A .0402
21 NCAC 57A .0403
21 NCAC 57A .0404
21 NCAC 57A .0405
21 NCAC 57A .0406
21 NCAC 57A .0407
21 NCAC 57A .0409
21 NCAC 57A .0410
21 NCAC 57A .0501
21 NCAC 57B .0101
21 NCAC 57B .0102
21 NCAC 57B .0103
21 NCAC 57B .0201
21 NCAC 57B .0202
21 NCAC 57B .0203
21 NCAC 57B .0204
21 NCAC 57B .0205
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21 NCAC 57B .0207
21 NCAC 57B .0208
21 NCAC 57B .0209
21 NCAC 57B .0210
21 NCAC 57B .0211
21 NCAC 57B .0212
21 NCAC 57B .0301
21 NCAC 57B .0302
21 NCAC 57B .0303
21 NCAC 57B .0304
21 NCAC 57B .0305
21 NCAC 57B .0306
21 NCAC 57B .0307
21 NCAC 57B .0401
21 NCAC 57B .0402
21 NCAC 57B .0403
21 NCAC 57B .0601
21 NCAC 57B .0602
21 NCAC 57B .0603
21 NCAC 57B .0604
21 NCAC 57B .0605
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21 NCAC 57B .0609
21 NCAC 57B .0610
21 NCAC 57B .0611
21 NCAC 57B .0612
21 NCAC 57B .0613
21 NCAC 57B .0614
21 NCAC 57C .0102
21 NCAC 57C .0103
21 NCAC 57C .0104
21 NCAC 57C .0201
21 NCAC 57C .0301
21 NCAC 57C .0302
21 NCAC 57C .0303
21 NCAC 57C .0401
21 NCAC 57D .0101
21 NCAC 57D .0102
21 NCAC 57D .0201
21 NCAC 57D .0202
21 NCAC 57D .0203
21 NCAC 57D .0204
21 NCAC 57D .0301
21 NCAC 57D .0302
21 NCAC 57D .0304
21 NCAC 57D .0305
21 NCAC 57D .0306
21 NCAC 57D .0307
21 NCAC 57D .0308
21 NCAC 57D .0309
21 NCAC 57D .0310
21 NCAC 57D .0312
21 NCAC 57D .0401

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Unnecessary

Environmental Quality, Department of
04 NCAC 12C .0101
04 NCAC 12C .0105
04 NCAC 12C .0109
04 NCAC 12D .0104
04 NCAC 12D .0105
04 NCAC 12D .0106
04 NCAC 12D .0107
04 NCAC 12D .0108
04 NCAC 12D .0109
04 NCAC 12D .0110
04 NCAC 12D .0111
04 NCAC 12D .0112
04 NCAC 12D .0113
04 NCAC 12D .0114
04 NCAC 12D .0115
04 NCAC 12D .0118
04 NCAC 12D .0119
04 NCAC 12D .0131
04 NCAC 12E .0101
04 NCAC 12E .0102
04 NCAC 12F .0101
04 NCAC 12F .0102
04 NCAC 12F .0103
04 NCAC 12F .0104
04 NCAC 12F .0105
04 NCAC 12F .0106
04 NCAC 12F .0107
04 NCAC 12F .0108

Social Services Commission
10A NCAC 70A .0114
10A NCAC 70B .0201
10A NCAC 70B .0202
10A NCAC 70N .0101
10A NCAC 70N .0102
10A NCAC 70O .0101
10A NCAC 70O .0102
10A NCAC 70O .0103
10A NCAC 70O .0104

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at http://www.ncoah.com/hearings/decisions/
If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton
A. B. Elkins II
Selina Malherbe
J. Randolph Ward
Stacey Bawtinhimer

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				PUBLISHED			
16	CPS	08523	6/15/2017	Judy Y Su	v.	NC Crime Victims Compensation Commission	Brooks
17	CPS	00723	6/27/2017	Jennifer Lee Recio	v.	Janice W Carmicheal	Sutton
16	DHR	07520	6/5/2017	Elaine Shelton	v.	NC Child Development and Early Education Health and Human Services	Brooks
16	DHR	10569	6/6/2017	Loving Caring & Sharing Development Center	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	Ward
16	DHR	10873	6/14/2017	Goldsboro Dental Arts	v.	North Carolina Department of Health and Human Services Division of Medical Assistance	Overby
16	DOJ	10875	6/14/2017	Terry Lee Vaughan Jr.	v.	NC Sheriffs Education and Training Standards Commission	Elkins
16	DOJ	10877	6/22/2017	James Lee Burnette	v.	NC Sheriffs Education and Training Standards Commission	Sutton
16	DOJ	11317	6/19/2017	Harfel Clementa Davis	v.	NC Sheriffs Education and Training Standards Commission	Ward
17	DOJ	00883	6/27/2017	Tarek Maurice Ollison	v.	NC Private Protective Services Board	Ward
17	DOJ	00913	6/27/2017	Orrin Anthony Bynes	v.	NC Private Protective Services Board	Ward
17	DOJ	01213	6/27/2017	Jeremy Kendall Muldrow	v.	NC Private Protective Services Board	Ward
17	DOJ	01658	6/27/2017	Darrell Lynn Stevenson	v.	NC Private Protective Services Board	Ward
14	EHR	02032	6/29/2017	Keever & Peryear LP	v.	Person County Environmental Health Department and NC Department of Health	Overby

						and Human Services, Environmental Health Section	
16	INS	12336	6/14/2017	Karen O'Brien	v.	North Carolina State Health Plan for Teachers and State Employees	Lassiter
17	INS	00783	4/5/2017; 6/22/2017	Michael John Dayton	v.	North Carolina State Health Plan	Overby
17	INS	01031	6/16/2017	Curtis W Price	v.	North Carolina State Health Plan	Culpepper
16	OSP	10021	6/8/2017	Timothy Scott Reynolds	v.	North Carolina Department of Public Safety Adult Corrections & Juvenile Justice	Sutton
16	OSP	12067	6/23/2017	Tankita T Peterson	v.	Caswell Developmental Center Dept of Health & Human Services	Lassiter
17	SOS	03019	6/20/2017	Pamela Rene L'Tanya Hailey	v.	Notary Public in North Carolina NC Dept of the Secretary of State	Brooks
				UNPUBLISHED			
17	CRA	02827	6/13/2017	Yah-Oshawar Alkebulanis Ali El	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Brooks
14;15	CSE	09125; 08281	6/1/2017	Paul C Castagno	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	May
15	CSE	04887	6/19/2017	Michael J Laverne	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Elkins
16	CSE	04121	6/19/2017	Cecil Campbell	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Elkins
16	CSE	10242	6/13/2017	Jason N Maddox	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Brooks
16	CSE	10244	6/7/2017	Antwan Daniels	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
16	CSE	10754	6/19/2017	Wesley J Booth	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	10841	6/19/2017	Elijah R Lewis	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	10849	6/1/2017	Herbert Leon Johnson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Brooks
16	CSE	10934	6/19/2017	Joanna L Smith	v.	NC Wake Co CSE Agency	Elkins
16	CSE	11269	6/21/2017	Thomas C Yu	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
16	CSE	11315	6/21/2017	Jeffrey John Laforge	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
16	CSE	11441	6/23/2017	Luis Giraldo	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter

16	CSE	11598	6/28/2017	Roderick F Harmon	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
16	CSE	11784	6/12/2017	Vernon L Quinn	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
17	CSE	03160	6/21/2017	Justin Neeley	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	03243	6/14/2017	Ray Rhinehardt	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
16	DCS	05310	6/19/2017	Shaneeka Currence	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Elkins
16	DHR	11131	6/7/2017	Tiffiany Cannady	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Lassiter
17	DHR	00488	6/15/2017	Bennett's Family Care Home Kelly Bennett	v.	NC Department of Health and Human Services	May
17	DHR	00724	6/13/2017	Millicent Mccray	v.	Department of Health and Human Services, Division of Health Service Regulation	Brooks
17	DHR	01576	6/7/2017	Veleria Smith	v.	Department of Health and Human Services	Overby
17	DHR	01624	6/16/2017	Jenise Whisnant	v.	Division of Child Development Department of Health and Human Services	Mann
17	DHR	01673	6/28/2017	Christy Fogg	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Bawtinhimer
17	DHR	01855	6/29/2017	Robert Robinson Birch Manor Group Home	v.	NC Department of Health and Human Services	Mann
17	DHR	01859	6/28/2017	Joshua Bustamante	v.	Person County Environmental Health	Bawtinhimer
17	DHR	02083	6/1/2017	Matthew T Salley	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Brooks
17	DHR	02358	6/28/2017	Nicole Kennedy	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Bawtinhimer
17	DHR	02467	6/28/2017	Jonathan Hause	v.	NC Department of Health and Human Services Central Regional Hospital	Bawtinhimer
17	DHR	02502	6/20/2017	Jeffrey Clarence Simmons	v.	Department of Health and Human Services, Division of Health Service Regulation	Brooks
17	DHR	02560	6/9/2017	The Sunshine House #40 ID 41000202	v.	Division of Child Dev & Early Education	May
17	DHR	02618	6/22/2017	Garry Sanders	v.	NC Department of Health and Human Services Office of Controller	Overby
17	DHR	03079	6/7/2017	Angela M Lockhart	v.	Department of Health and Human Services, Division of Health Service Regulation	Brooks
17	DHR	03763	6/22/2017; 6/27/2017	Dean's Tender Daycare Center	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	Ward

17	DOJ	00876	6/13/2017	Andrell Rosenique Boyd	v.	NC Private Protective Services Board	Ward
17	DOJ	00885	6/13/2017	Lovern Northington	v.	NC Private Protective Services Board	Ward
17	DOJ	01051	6/13/2017	Marcus McCrimmon	v.	NC Private Protective Services Board	Ward
11	DST	10875	6/5/2017	Russell E Greene	v.	North Carolina Department of State Treasurer Retirement Systems Division	May
17	EHR	02500	6/20/2017; 6/21/2017	Ironworld Manufacting LLC	v.	NCDENR DEQ	Brooks
17	INS	00984	6/20/2017	Kasey Best Jordan	v.	North Carolina State Health Plan	Lassiter
17	INS	01785	6/28/2017	John Layne Denton	v.	State Employees Health Plan/ OAH	Bawtinhimer
17	INS	02464	6/21/2017	Sharon Marie Glenn	v.	Dept. of State Treasurer Lotta Crabtree, Deputy Executive Administrator and Legal Counsel	Overby
17	INS	02615	6/28/2017	Wesley Jason Winkelman	v.	The University of North Carolina at Chapel Hill	Bawtinhimer
17	INS	02723	6/26/2017	Patricia Fazzone	v.	North Carolina State Health Plan	Overby