

NORTH CAROLINA REGISTER

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October 15, 2008

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

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Governor's Review

Reuben Young reuben.young@ncmail.net
Legal Counsel to the Governor (919) 733-5811
116 West Jones Street(919)
Raleigh, North Carolina 27603

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Joint Legislative Administrative Procedure Oversight Committee
545 Legislative Office Building
300 North Salisbury Street (919) 733-2578
Raleigh, North Carolina 27611 (919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney karenc@ncleg.net
Jeff Hudson, Staff Attorney jeffreyh@ncleg.net

County and Municipality Government Questions or Notification

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

contact: Jim Blackburn jim.blackburn@ncacc.org
Rebecca Troutman rebecca.troutman@ncacc.org

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

contact: Anita Watkins awatkins@nclm.org

NORTH CAROLINA REGISTER
 Publication Schedule for January 2008 – December 2008

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:	270 th day from publication in the Register
22:13	01/02/08	12/06/07	01/17/08	03/03/08	03/20/08	05/01/08	05/13/08	09/28/08
22:14	01/15/08	12/19/07	01/30/08	03/17/08	03/20/08	05/01/08	05/13/08	10/11/08
22:15	02/01/08	01/10/08	02/16/08	04/01/08	04/21/08	06/01/08	01/2009	10/28/08
22:16	02/15/08	01/25/08	03/01/08	04/15/08	04/21/08	06/01/08	01/2009	11/11/08
22:17	03/03/08	02/11/08	03/18/08	05/02/08	05/20/08	07/01/08	01/2009	11/28/08
22:18	03/17/08	02/25/08	04/01/08	05/16/08	05/20/08	07/01/08	01/2009	12/12/08
22:19	04/01/08	03/10/08	04/16/08	06/02/08	06/20/08	08/01/08	01/2009	12/27/08
22:20	04/15/08	03/25/08	04/30/08	06/16/08	06/20/08	08/01/08	01/2009	01/10/09
22:21	05/01/08	04/10/08	05/16/08	06/30/08	07/21/08	09/01/08	01/2009	01/26/09
22:22	05/15/08	04/24/08	05/30/08	07/14/08	07/21/08	09/01/08	01/2009	02/09/09
22:23	06/02/08	05/09/08	06/17/08	08/01/08	08/20/08	10/01/08	01/2009	02/27/09
22:24	06/16/08	05/23/08	07/01/08	08/15/08	08/20/08	10/01/08	01/2009	03/13/09
23:01	07/01/08	06/10/08	07/16/08	09/02/08	09/22/08	11/01/08	01/2009	03/28/09
23:02	07/15/08	06/23/08	07/30/08	09/15/08	09/22/08	11/01/08	01/2009	04/11/09
23:03	08/01/08	07/11/08	08/16/08	09/30/08	10/20/08	12/01/08	01/2009	04/28/09
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23:07	10/01/08	09/10/08	10/16/08	12/01/08	12/22/08	02/01/09	05/2010	06/28/09
23:08	10/15/08	09/24/08	10/30/08	12/15/08	12/22/08	02/01/09	05/2010	07/12/09
23:09	11/03/08	10/13/08	11/18/08	01/02/09	01/20/09	03/01/09	05/2010	07/31/09
23:10	11/17/08	10/24/08	12/02/08	01/16/09	01/20/09	03/01/09	05/2010	08/14/09
23:11	12/01/08	11/05/08	12/16/08	01/30/09	02/20/09	04/01/09	05/2010	08/28/09
23:12	12/15/08	11/20/08	12/30/08	02/13/09	02/20/09	04/01/09	05/2010	09/11/09

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) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) 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;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) 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 of rules.

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO.146 ABNORMAL MARKET DISRUPTION

WHEREAS, the President of the United States, on September 10, 2008, declared a pre-land fall declaration of State of Emergency due to the conditions created by Hurricane Ike;

WHEREAS, preparations for Hurricane Ike may cause a disruption in the production and delivery of petroleum products, including gasoline; and

WHEREAS, I have determined that abnormal market disruptions to the production, distribution, or sale of goods and services in North Carolina have occurred pursuant to N.C.G.S. § 75-38(e).


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 HEREBY ORDERED:**

- (1) Pursuant to N.C.G.S. § 75-38, an abnormal market disruption exists as a result of the conditions of Hurricane Ike.
- (2) The execution of this Executive Order triggers the enforcement of N.C.G.S. § 75-38, "Prohibit excessive pricing during states of disaster, states of emergency, or abnormal disruptions." The investigation and enforcement of this statute is hereby vested in the Attorney General of North Carolina.

This Executive Order is effective immediately and remains in effect for 45 days.

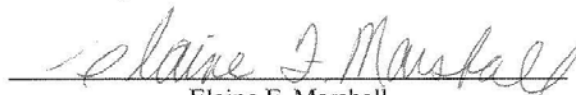
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twelfth day of September in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

SUMMARY OF NOTICE OF INTENT TO REMEDIATE A DRY-CLEANING SOLVENT FACILITY OR ABANDONED SITE

Union Road Cleaners
DSCA Site No. 36-0004

Pursuant to N.C.G.S. §143-215.104L, PP-Hudson, LLC has filed with the North Carolina Department of Environment and Natural Resources (DENR) a Notice of Intent to Remediate a Dry-Cleaning Solvent Facility or Abandoned Site (NOI). The purpose of this summary is to notify the public of the proposed remedy for the affected property and invite comment on the proposed remedy.

The Property consists of the following parcel in Gastonia, North Carolina identified by street address and by the following property tax parcel identification numbers:

Union Hudson Crossing Shopping Center
2210 Union Road, Space #1
Gastonia, Gaston County, North Carolina
Parcel Number 3554-26-7633

Dry-cleaning solvent contamination has been discovered in soil and groundwater on a portion of the Property. The proposed remedy includes land use restrictions to control current and future site risks at the property referenced above.

The NOI is available for review by the public at the address provided below. To arrange a review of the NOI or for additional information, contact Billy Meyer at (919)508-8415. Written public comments may be submitted to DENR no later than December 15, 2008. Written requests for a public meeting may be submitted to DENR no later than November 14, 2008. All such comments and requests should be addressed as follows:

Billy Meyer, DSCA Program
Special Remediation Branch
Superfund Section
Division of Waste Management
North Carolina Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

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 Pesticide Board intends to adopt the rule cited as 02 NCAC 09L .1807 and amend the rules cited as 02 NCAC 09L .1002, .1402.

Proposed Effective Date: February 1, 2009

Public Hearing:

Date: November 12, 2008

Time: 1:00 p.m.

Location: Governor Martin Building, N.C. State Fairgrounds, 1025 Blue Ridge Road, Raleigh, N.C. 27607

Reason for Proposed Action: *These revisions are required to implement the recommendations of the 2008 Governor's Task Force on Preventing Agricultural Pesticide Exposure and the requirements of Senate Bill 847, "Prevent Agricultural Pesticide Exposure."*

Procedure by which a person can object to the agency on a proposed rule: *Any person may object to the proposed rules by submitting a written statement of objection(s) to James W. Burnette, Jr., Secretary, N.C. Pesticide Board, 1090 Mail Service Center, Raleigh, NC 27699-1090.*

Comments may be submitted to: *James W. Burnette, 1090 Mail Service Center, Raleigh, NC 27699-1090, phone 919-733-3556, fax 919-733-9796, email james.burnette@ncagr.gov*

Comment period ends: December 15, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 09 – FOOD AND DRUG PROTECTION

SUBCHAPTER 09L - PESTICIDE SECTION

SECTION .1000 - AERIAL APPLICATION OF PESTICIDES

02 NCAC 09L .1002 GENERAL REQUIREMENTS

(a) All agricultural aircraft operations in North Carolina shall comply with the Federal Occupational Safety and Health Act of 1971 (OSHA), the North Carolina Occupational Safety and Health Law, all regulations promulgated there under and the Federal Aviation Regulations part 137. In any case of conflict, a provision of the aforementioned authorities takes precedence over any of these Rules.

(b) Each aerial application business shall have a licensed contractor. The contractor shall be responsible for the compliance of the business with the North Carolina Pesticide Law of 1971 and all regulations promulgated thereunder except where the responsibility is specifically designated to another person(s) by these Rules.

(c) All agricultural aircraft operations (pilot or contractor) shall keep a written record to be completed within 72 hours after each application. This requirement must be fulfilled sooner if requested by an employee of the Pesticide Section for the purposes of a pesticide incident investigation. The record shall show the following:

- (1) name of contractor;
- (2) name and address of the person for whom the pesticide was applied;
- (3) identification of farm or land sites treated with pesticide(s);
- (4) name of crop which was treated;
- (5) total number of acres treated;
- (6) the year, month, day, date, and approximate time the pesticide was applied; the specific time of day when each pesticide application was completed;
- (7) the brand name of the pesticide(s) and EPA registration number;
- (8) amount of formulated product or active material applied per acre (must specify);
- (9) total gallons or pounds per acre of the final tank mix applied per acre;

- (10) name of pilot;
- (11) signature of person completing this record.

- (10) the weather conditions at the site of the emergency or accidental release of pesticide(s).

(d) Each day of application shall be recorded as a separate record.

~~(d)~~(e) The pilot shall, prior to application, learn and confirm:

- (1) the boundaries and exact location of the target area(s),
- (2) the identity of nontarget areas and safety hazards located on or adjacent to the target areas.

~~(e)~~(f) Spray and spreading equipment shall be thoroughly rinsed after each agricultural aircraft operation except when the next agricultural aircraft operation will be made using the same pesticide, or if another pesticide, one which by its manufacturer's recommendations is compatible with that previously in the equipment, and will not result in any adverse effects or illegal residues. Rinsing shall be conducted in an area where an environmental hazard will not be created by the drainage or disposal of waste materials and conducted with methods which will not create an environmental or human hazard.

~~(f)~~(g) During application, the flow and mixture of the pesticide(s) shall be uniform. Pilots and contractors shall utilize equipment which will maintain a uniform mixture and flow during application.

~~(g)~~(h) Pilots and contractors shall use and operate, in any agricultural aircraft operation, aircraft equipped with spray or spreading equipment suited, according to its manufacturer's recommendations for the pesticide(s) to be applied. All aerial spray or spreading equipment shall be free of leaks and shall have a positive shutoff system to prevent leaking and dissemination of pesticides on any nontarget areas over which the flight is made. Such equipment shall not allow spillage, dripping and backflow or create a hazard from vapors or drift.

~~(h)~~(i) The loading area shall be kept reasonably free of pesticide contamination.

~~(i)~~(j) No pesticide(s) shall be applied by an aerial applicator while any persons other than those assisting in the application are in the target area.

~~(j)~~(k) The shape of the tank or hopper of the spray or spreading equipment shall be such as to allow complete drainage during flight and on ground.

~~(k)~~(l) The contractor or pilot shall immediately notify the Secretary of the Board, or designated alternate, of any emergency or accidental release of pesticide(s) from the application or auxiliary equipment. They shall provide the following information:

- (1) the name of the pilot,
- (2) the contractor involved,
- (3) the name of the property owner or operator,
- (4) the location of the incident,
- (5) the name of the pesticide,
- (6) the estimated amount of pesticide involved,
- (7) the estimated size of the area that received the spill,
- (8) the description of what is located within 300 feet from the edge of the spill in all directions,
- (9) the number of humans or animals known to have been contaminated,

Authority G.S. 143-458; 143-463; 143-466.

SECTION .1400 - GROUND APPLICATION OF PESTICIDES

02 NCAC 09L .1402 RECORD KEEPING REQUIREMENTS

All licensed pesticide applicators, as defined in G.S. 143-460 which includes public operators, utilizing ground equipment shall keep for three years and make available to the commissioner for like period records of all applications of restricted use pesticides showing the following:

- (1) name of licensed pesticide applicator or licensed public operator;
- (2) name and address of the person for whom the pesticide was applied;
- (3) identification of farm or site(s) treated with pesticide(s);
- (4) name of crop, commodity, or object(s) which was treated with pesticide(s);
- (5) approximate number of acres or size or number of other object(s) treated;
- (6) ~~date(s) pesticide(s) was applied;~~ the year, month, date and the specific time of day when each pesticide application was completed and each day of application shall be recorded as a separate record;
- (7) the brand name of the pesticide(s) and EPA registration number(s);
- (8) amount (volume or weight) of pesticide formulation(s) or active ingredient(s) applied per unit of measure; and
- (9) name(s) of person(s) applying pesticide(s).

Authority G.S. 143-458; 143-463; 143-466(a).

SECTION .1800 - WORKER PROTECTION STANDARDS FOR AGRICULTURAL PESTICIDES

02 NCAC 09L .1807 SPECIFIC INFORMATION ABOUT APPLICATIONS

(a) Concerning application information requirements contained in Sections 170.122 and 170.222 the following is also required:

- (1) In addition to the requirements of Sections 170.122(c)(3), and 170.222(c)(3), the specific time of day when each pesticide application was completed must be recorded immediately upon completion of the application. Each day of the application shall be recorded as a separate record.
- (2) After the application information referenced in 1807(a)(1) and the other information in Sections 170.122(c)(3) and 170.222(c)(3) has been displayed for the required period of time in Section 170.122(b) and 170.222(b), the

agricultural employer shall maintain the information for a period of two years from the specific time of day when each pesticide application was completed. Such information shall be available for inspection and copying by the Board or its agents upon their request.

(b) In addition to information contained in Section 170.224(b), the handler employer must make the agricultural owner aware of the specific time of day when each pesticide application was completed. The agricultural employer shall display the information immediately and shall make it part of the record required to be maintained in Subparagraph (a)(1) and (2) of this Rule.

Authority G.S. 143-466(a).

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Home Inspector Licensure Board/North Carolina Department of Insurance intends to amend the rule cited as 11 NCAC 08 .1103.

Proposed Effective Date: February 1, 2009

Public Hearing:

Date: November 14, 2008

Time: 9:00 a.m.

Location: Office of State Fire Marshal, 322 Chapanoke Road Raleigh, N.C.

Reason for Proposed Action: The amendment emphasizes to the client the need to read the entire report.

Procedure by which a person can object to the agency on a proposed rule: The Home Inspector Licensure Board/Department of Insurance will accept written objections to this rule until the expiration of the comment period on December 15, 2008.

Comments may be submitted to: Ellen K. Sprenkel, 1201 Mail Service Center, Raleigh, NC 27699-1201, phone (919)733-4529, fax (919) 733-6495, email esprenkel@ncdoi.net

Comment period ends: December 15, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
Local
Substantive (>=\$3,000,000)
None

CHAPTER 08 - ENGINEERING AND BUILDING CODES DIVISION

SECTION .1100 - N.C. HOME INSPECTOR STANDARDS OF PRACTICE AND CODE OF ETHICS

11 NCAC 08 .1103 PURPOSE AND SCOPE

(a) Home inspections performed according to this Section shall provide the client with an understanding of the property conditions, as inspected at the time of the home inspection.

(b) Home inspectors shall:

- (1) Provide a written contract, signed by the client, before the home inspection is performed that shall:
(A) State that the home inspection is in accordance with the Standards of Practice of the North Carolina Home Inspector Licensure Board;
(B) Describe what services shall be provided and their cost; and
(C) State, when an inspection is for only one or a limited number of systems or components, that the inspection is limited to only those systems or components;
(2) Inspect readily visible and readily accessible installed systems and components listed in this Section; and
(3) Submit a written report to the client that shall:
(A) Describe those systems and components required to be described in Rules .1106 through .1115 of this Section;
(B) State which systems and components designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting;
(C) State any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling;
(D) State whether the condition reported requires repair or subsequent

observation, or warrants further investigation by a specialist; and

- (E) State the name, license number, and signature of the person supervising the inspection and the name, license number, and signature of the person conducting the inspection.

(c) This Section does not limit home inspectors from:

- (1) Reporting observations and conditions or rendering opinions of items in addition to those required in Paragraph (b) of this Rule; or
- (2) Excluding systems and components from the inspection if requested by the client, and so stated in the written contract.

(d) Written reports required by this Rule for pre-purchase home inspections of three or more systems shall include a separate section labeled "Summary" that includes any system or component that:

- (1) does not function as intended or adversely affects the habitability of the dwelling; or
- (2) warrants further investigation by a specialist or requires subsequent observation.

This summary shall not contain recommendations for routine upkeep of a system or component to keep it in proper functioning condition or recommendations to upgrade or enhance the function or efficiency of the home. This summary shall contain the following statements: "This summary is not the entire report. ~~The complete report may include additional information of concern to the client. It is recommended that the client read the complete report.~~ The full report may include additional information of interest or concern to the client. It is strongly recommended that the client promptly read the complete report. For information regarding the negotiability of any item in this report under a real estate purchase contract, contact your North Carolina real estate agent or an attorney."

Authority G.S. 143-151.49.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0323, 0333.

Proposed Effective Date: April 1, 2009

Public Hearing:

Date: December 16, 2008

Time: 1:00 p.m.

Location: 1751 Varsity Drive, Room 428, 4th Floor, Centennial Campus Headquarters, Raleigh, NC

Reason for Proposed Action:

15A NCAC 10F .0323- Petition from Burke County Board of Commissioners to establish water safety rules in Lake James in the vicinity of NC Hwy 126 Bridge

15A NCAC 10F .0333- Petition from the Lake Wylie Marine Commission to establish water safety rules on the waters of Lake Wylie.

Procedure by which a person can object to the agency on a proposed rule: Any person who wishes to object to a proposed rule may do so by writing or emailing the agency person specified in connection with a given rule within the public comment period set up for this rule. For this rule, the contact person is Betsy Foard.

Comments may be submitted to: Betsy Foard, 1710 Mail Service Center, Raleigh, NC 27699-1701, phone (919) 707-0013, email Betsy.Foard@ncwildlife.org

Comment period ends: December 16, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact: A copy of the fiscal note can be obtained from the agency.

- State
- Local 15A NCAC 10F .0333
- Substantive (\geq \$3,000,000)
- None 15A NCAC 10F .0323

CHAPTER 10 – WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0323 BURKE COUNTY

(a) Regulated Areas. This Rule applies only to the following waters or portions of waters in Burke County described as follows:

- (1) Lake Hickory;
- (2) Lake James;— James, delineated by markers consistent with paragraph (e) of this section, at the following locations:

- (A) ~~Holiday Shores Subdivision; Subdivision as delineated by appropriate markers;~~
- (B) ~~Lake James Campground; Campground as delineated by appropriate markers;~~
- (C) ~~Laurel Pointe Subdivision; Subdivision as delineated by appropriate markers;~~
- (D) ~~Boyd Moore Cove; Cove as delineated by appropriate markers;~~
- (E) ~~East Shores development; development as delineated by appropriate markers;~~
- (F) Eastern shore of Lake James at Mallard Cove;
- (G) Highway 126 Bridge, area defined using the North American Datum of 1983 beginning 50 yards from the northeast side defined by a shore to shore line extending from state plane coordinates: Northing = 224985.481182, Easting = 348767.698377 to Northing = 224912.319514, Easting = 348805.193732, encompassing all waters to a line 50 yards south of the Canal Bridge Access Area defined by a line extending shore to shore from state plane coordinates: Northing = 224445.196801, Easting = 348537.550908 to Northing = 224555.69654, Easting = 348306.485157.

(3) Lake Rhodhiss.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of any designated ~~and marked~~ public boat launching ramp, bridge, marina, boat storage structure, boat service area, dock, or pier, ~~pier~~; or while on ~~the~~ designated waters of the areas described in Paragraph (a) of this Rule.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area established with the approval of the Executive Director, or his representative, on the regulated areas described in Paragraph (a) of this Rule.

(d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Executive Director, or his representative, on the regulated areas described in Paragraph (a) of this Rule.

(e) Placement and Maintenance of Markers. The Board of Commissioners of Burke County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers, if applicable. With regard to marking the regulated areas described in Paragraph (a) of this Rule, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.

Authority G.S. 75A-3; 75A-15; 102-1.1.

15A NCAC 10F .0333 MECKLENBURG AND GASTON COUNTIES

(a) Regulated Areas. This Rule applies to the following waters of Lake Wylie in Mecklenburg and Gaston Counties:

- (1) McDowell Park – The waters of the coves adjoining McDowell Park and the Southwest Nature Preserve in Mecklenburg County, including the entrances to the coves on either side of Copperhead Island;
- (2) Gaston County Wildlife Club Cove – The waters of the cove at the Gaston County Wildlife Club on South Point Peninsula in Gaston County;
- (3) Buster Boyd Bridge- The areas 250 feet to the north and 150 feet to the south of the Buster Boyd Bridge;
- (4) Highway 27 Bridge – The area beginning 50 yards north of the NC 27 Bridge and extending 50 yards south of the southernmost of two railroad trestles immediately downstream from the NC 27 Bridge;
- (5) Brown's Cove – The area beginning at the most narrow point of the entrance to Brown's Cove and extending 250 feet in both directions; and
- (6) Paradise Point Cove – The waters of the Paradise Point Cove between Paradise Circle and Lakeshore Drive as delineated by appropriate markers.
- (7) Withers Cove - The area 50 feet on either side of Withers Bridge.
- (8) All other bridges – the areas that are within 50 feet of any bridge in North Carolina that crosses the waters of Lake Wylie that is not otherwise specifically mentioned in this Paragraph.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat-launching ramp, dock, pier, marina, boat storage structure or boat service area.

(c) Speed Limit Near All Other Bridges. No person shall operate a vessel at greater than no-wake speed within 50 feet of any bridge in North Carolina that crosses the waters of Lake Wylie that is not otherwise specifically mentioned in Paragraph (a) of this Rule.

~~(e)~~(d) Speed Limit in Marked Swimming or Mooring Areas. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked mooring area or marked swimming area.

~~(d)~~(e) Placement and Maintenance of Markers. The Lake Wylie Marine Commission is designated a suitable agency for placement and maintenance of markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

Substantive (≥\$3,000,000)
 None

CHAPTER 10 – BOARD OF CHIROPRACTIC EXAMINERS

CHAPTER 10 – CHIROPRACTIC EXAMINERS

SECTION .0200 - PRACTICE OF CHIROPRACTIC

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Board of Chiropractic Examiners intends to amend the rule cited as 21 NCAC 10 .0203.

Proposed Effective Date: February 1, 2009

Public Hearing:

Date: November 6, 2008

Time: 10:00 a.m.

Location: Board Office, 174 Church Street, Concord, NC 28025

Reason for Proposed Action: Under the existing rule, an applicant for North Carolina licensure who has been licensed in another state for several years may obtain a waiver of certain National Board examinations. The number of examinations that may be waived currently depends on the date of initial licensure. The proposed amendment would change the operative date for obtaining waivers from the date of initial licensure to the date of graduation from chiropractic college. In the judgment of the N.C. Board of Examiners, this change would make the waiver rule fairer by eliminating discrimination against chiropractors whose initial licensure was delayed by extenuating circumstances such as illness or military service.

Procedure by which a person can object to the agency on a proposed rule: Objections may be filled with the Secretary of the Board of Examiners whose address is P.O. Box 312, Concord, NC 28026

Comments may be submitted to: John A. Webster, D.C., Secretary of the Board, P.O. Box 312, Concord, NC 28026

Comment period ends: December 15, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

State
 Local

21 NCAC 10 .0203 NORTH CAROLINA EXAMINATION

(a) Eligibility. Only those applicants who meet the requirements of this Rule and G.S. 90-143, or in the case of reciprocity applicants, G.S. 90-143.1, and who have submitted a timely and complete written application pursuant to Rule 21 NCAC 10 .0202 shall be allowed to take the North Carolina examination.

(b) Dates of Examination. The North Carolina examination shall be given four times each year, on the fourth Saturday in January, April, July and October. Eligible applicants shall be notified of the exact date, time and location of the examination as soon as possible after their written applications have been approved by the Board.

(c) National Boards. Except as provided in Paragraph (e) of this Rule, in order to take the North Carolina examination, an applicant who has never been licensed in this state or who is not a reciprocity applicant shall first achieve a score of 375 or higher on each of the following examinations given by the National Board of Examiners: Part I, Part II, Part III (WCCE) and the elective examination (termed "Physiotherapy" by the National Board). In addition, the applicant shall achieve a score of 475 or higher on Part IV of the National Board examination.

(d) Report of Scores. The applicant shall arrange for his test results from any National Board examination to be reported to the North Carolina Board in a timely manner. Failure to comply with this provision shall be a basis for delaying the issuance of a license.

(e) Waiver of National Boards. The Board recognizes that many established practitioners were licensed completed their professional education prior to the introduction of one or more National Board examinations. Notwithstanding the requirements of Paragraph (c) of this Rule, an applicant who submits National Board examination results in conformity with the following schedule shall not be disqualified from licensure in North Carolina:

- (1) If the applicant was initially licensed in his home state graduated from chiropractic college before July 1, 1966, he shall not be required to submit a score from any National Board examination;
(2) If the applicant was initially licensed in his home state graduated from chiropractic college between July 1, 1966 and June 30, 1986, he shall be required to submit scores of 375 or higher on National Board Part I, Part II, and the elective examination termed "Physiotherapy"; but he shall not be required to submit a score on Part III (WCCE) or Part IV;
(3) If the applicant was initially licensed in his home state graduated from chiropractic college between July 1, 1986 and June 30, 1997, he

shall be required to submit scores of 375 or higher on National Board Part I, Part II, the elective examination termed "Physiotherapy" and Part III (WCCE); but he shall not be required to submit a score on Part IV.

In order to receive a license, an applicant who qualifies for a waiver of any National Board score must take and pass the SPEC examination and the North Carolina examination and satisfy all other requirements for licensure.

(f) SPEC Examination. In order to take the North Carolina Examination, a reciprocity applicant, a waiver applicant pursuant to Paragraph (d) of this Rule, or an applicant previously licensed in this State whose license has been cancelled pursuant to G.S. 90-155 for more than 180 days must first take and pass the Special Purpose Examination for Chiropractic ("SPEC").

(g) Nature of Examination. The North Carolina examination is a written test of the an applicant's knowledge of chiropractic jurisprudence. No part of the examination is open-book, and no reference material of any kind shall be allowed in the examination area. The passing grade is 75.

(h) Review of Examination Results. An applicant who has been denied licensure because he failed the North Carolina examination may request a review of his answers provided his request is made in writing and received by the Secretary not later than 20 days after issuance of the examination results. Unless the applicant specifically requests to review his answers in person, the review shall be limited to a re-tabulation of the applicant's score to make certain no clerical errors were made in grading. If the applicant requests to review his answers in person, he shall be permitted to do so at the office of the Board in the presence of a representative of the Board and for a period of not more than 30 minutes. The applicant shall not be permitted to discuss his examination with any member of the Board, grader, or test administrator.

(i) Date of Licensure. An applicant who meets all the requirements for licensure shall be issued a license within 30 days after taking the North Carolina examination.

Authority G.S. 90-142; 90-143; 90-143.1; 90-144; 90-146.

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.

This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: N. C. Commission for Public Health

Rule Citation: 10A NCAC 45A .0202

Effective Date: October 1, 2008

Date Approved by the Rules Review Commission: September 18, 2008

Reason for Action: Legislative approval for the DHHS budget, which was effective 07/16/08, authorized expansion of financial eligibility for the department's HIV Medications Program to 300%. This temporary rule makes this legislated expansion of coverage possible, and it will be followed by a permanent version of the same rule change. The adoption of this change as a temporary rule will enable newly-eligible HIV patients to receive departmentally-provided life-saving medications as soon as legally possible.

CHAPTER 45 - GENERAL PROCEDURES FOR PUBLIC HEALTH PROGRAMS

SUBCHAPTER 45A - PAYMENT PROGRAMS

SECTION .0200 - ELIGIBILITY DETERMINATIONS

10A NCAC 45A .0202 DETERMINATION OF FINANCIAL ELIGIBILITY

(a) A patient must meet the financial eligibility requirements of this Subchapter to be eligible for benefits provided by the payment programs. Financial eligibility shall be determined through application of income scales. The definition of annual net income in Rule .0203 of this Subchapter and the definitions of family in Rule .0204 of this Subchapter shall be used in applying the income scales, except as provided in Paragraphs (c), (e) and (f) of this Rule.

(b) A person is financially eligible for services under the Sickle Cell Program if the net family income is at or below the federal poverty level in effect on July 1 of each fiscal year.

(c) A person is financially eligible for the HIV Medications Program if the gross family income is at or below ~~250~~ 300 percent of the federal poverty level in effect on July 1 of each fiscal year, with the following exceptions:

- (1) If a waiting list develops, priority for enrollment into the Program shall be given to those whose net family income is at or below 125 percent of the federal poverty ~~level;~~ level, and second priority to those individuals with

income above 125 percent and at or below 250 percent of federal poverty guidelines; and

(2) At any time that the Program's financial eligibility level is changed, all clients enrolled in the Program during the most recent year or at the time the eligibility level is changed shall be eligible to continue to be enrolled in and served by the Program. This shall be true even if the clients' financial status at that time places them above the newly-established level. The eligibility of these clients shall remain in force until:

- (A) they no longer qualify for the Program other than for financial reasons; or
- (B) they no longer require the services of the Program; or
- (C) their income increases such that they have an income that exceeds the level under which they originally qualified for and enrolled into the Program; or
- (D) they fail to comply with the rules of the Program.

Changes related to the Program's financial eligibility level or status shall be communicated to interested parties within North Carolina's HIV community (e.g., persons living with HIV disease, their families and caregivers, advocates and service providers, relevant local and state agencies) by the Program via electronic or print mechanisms.

(d) A person is financially eligible for the Kidney Program if the net family income is at or below the following scale:

- Family Size 1: \$6,400;
- Family Size 2: \$8,000;
- Family Size 3: \$9,600;
- Family Size 4: \$11,000;
- Family Size 5: \$12,000;
- Family Size 6 and over: add \$800 per family member.

(e) A person is financially eligible for the Cancer Program if gross family income is at or below 115 percent of the federal poverty level in effect on July 1 of each year.

(f) A child is financially eligible for Children's Special Health Services if the child is approved for Medicaid when applying or reapplying for program coverage, except for children eligible under Paragraph (g) and (h) of this Rule.

(g) A child approved for Children's Special Health Services post adoption coverage pursuant to 10A NCAC 43F .0800, is eligible for services under Children's Special Health Services if the child's net income is at or below the federal poverty level in effect on July 1 of each year.

(h) A person is financially eligible for services under the Adult Cystic Fibrosis Program if the net family income is at or below the federal poverty level in effect on July 1 of each year.

(i) The financial eligibility requirements of this Subchapter do not apply to:

- (1) Migrant Health Program;
- (2) School Health Fund financial eligibility determinations performed by a local health department which has chosen to use the financial eligibility standards of the Department of Public Instruction's free lunch program;
- (3) Prenatal outpatient services sponsored through local health department delivery funds, 10A NCAC 43C .0200; or through Perinatal Program high risk maternity clinic reimbursement funds, 10A NCAC 43C .0300; and
- (4) Diagnostic assessments for infants up to 12 months of age with sickle cell syndrome.

(j) Except as provided in Paragraphs (k) and (l) of this Rule, once an individual is determined financially eligible for payment program benefits, the individual remains financially eligible for a period of one year after the date of application for financial eligibility unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter or his family's financial resources or expenses during that period. If there is a change, financial eligibility for payment program benefits must be redetermined. Financial eligibility must be redetermined at least once a year.

(k) For purposes of the Kidney Program and HIV Medications Program, once an individual is determined to be financially eligible, if the application for financial eligibility was received by the Department in the fourth quarter of the fiscal year, the individual remains financially eligible for benefits until the end

of the next fiscal year unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter or his family's financial resources or expenses during that period.

(l) Children eligible for Children's Special Health Services Program benefits under Paragraph (f) of this Rule are financially eligible for a service if they were Medicaid eligible on the date the requested service was initiated.

(m) If the most current financial eligibility form on file with the Department shows that the patient was financially eligible on the date an Authorization Request for payment for drugs was received, the Authorization Request shall be approved so long as the Authorization Request is received less than 30 days prior to the expiration of financial eligibility and the authorized service does not extend more than 30 days after the expiration of financial eligibility.

History Note: Authority G.S. 130A-4.2; 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205;

Eff. July 1, 1981;

Amended Eff. July 1, 1986; April 1, 1984; July 1, 1983; October 1, 1982;

Transferred and Recodified from 10 NCAC 4C .0202 Eff. April 4, 1990;

Temporary Amendment Eff. August 9, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 1, 1996; July 1, 1995; April 1, 1995; October 1, 1994;

Temporary Amendment Eff. July 1, 1997; April 1, 1997; March 1, 1997;

Amended Eff. August 1, 1998;

Temporary Amendment Eff. November 1, 2006;

Amended Eff. October 1, 2007;

Temporary Amendment Eff. October 1, 2008.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday September 18, 2008 10:00 a.m. at 1307 Glenwood Avenue, Assembly 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 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Keith O. Gregory
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
John B. Lewis
Clarence E. Horton, Jr.
Daniel F. McLawhorn

RULES REVIEW COMMISSION MEETING DATES

October 16, 2008 November 20, 2008
December 18, 2008 January 15, 2009

**RULES REVIEW COMMISSION
September 18, 2008
MINUTES**

The Rules Review Commission met on Thursday, September 18, 2008, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jim Funderburk, Jeff Gray, Jennie Hayman, Clarence Horton, and Dan McLawhorn.

Staff members present were: Joseph DeLuca and Bobby Bryan, Commission Counsel, and Dana Vojtko, Publications Coordinator.

The following people were among those attending the meeting:

Catherine Blum	DENR/Division of Marine Fisheries
L.V. Taylor	Wake County Resident
Robert M. Ward	City of Burlington
Ray Starling	Department of Agriculture and Consumer Services
Lee Hunter	Department of Agriculture and Consumer Services
Howard Isley	Department of Agriculture and Consumer Services
S.C. Kitchen	Durham County Attorney
Lisa Johnson	DHHS/Social Services Commission
Bob Hensley	DHHS/Social Services Commission
Sharon Thompson	Johnston Community College
Rose May Westbrook	Johnston Community College Student
Kristie Bradshaw	Johnston Community College Student
Tori Ham	Johnston Community College Student
Robin Warren	Johnston Community College Student
Yolanda George	Johnston Community College Student
Charles Brown	Town of Cary
Palmer Sugg	Broughton Wilkins
Linda Burhans	Board of Nursing
Jean Stanley	Board of Nursing
David Kalbacker	Board of Nursing
Nadine Pfeiffer	DHHS/Division of Health Service Regulation
William L. Warren	DHHS/Division of Health Service Regulation - Construction
Kenney McDowell	City of Greensboro
Ellen Sprenkel	Department of Insurance
Walter L. James	Department of Insurance

Lisa Martin	NC Home Builders Association
Rich Carpenter	DENR/Division of Marine Fisheries
Cady Thomas	NC Association of Realtors
Tony Arnold	DENR/Division of Environmental Health
Nancy Pate	Department of Environment and Natural Resources
Jason Robinson	DENR/Division of Water Quality
Rich Gannon	DENR/Division of Water Quality
Joan Troy	DENR/Wildlife Resources Commission
Erin Gould	Department of Labor
Bill Lane	Kilpatrick Stockton
John Cox	City of Durham
Paula Slonoker	Triad Real Estate and Building Industry Coalition (TREBIC)
Charles Wilkins	Broughton Wilkins
Will Crumbley	Office of State Budget and Management
Ed McLenaghan	Office of State Budget and Management
Kathryn Jones Cooper	Department of Justice
Josephine Kerr	Department of Justice
E. Ann Christian	American Massage Therapy Association of NC
Barry Smith	Freedom Newspaper
Jack Nichols	Board of Nursing
Elaine Chiosso	Haw River Assembly
Donald W. Laton	Department of Justice
Paul Meyer	NC Association of County Commissioners
Kim Hibbard	NC League of Municipalities

APPROVAL OF MINUTES

The meeting was called to order at 10:05 a.m. with Ms. Hayman presiding. She reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the August, 21 2008 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

10A NCAC 46 .0301 - Commission for Public Health. The Commission approved the rewritten rule submitted by the agency.

10A NCAC 70F .0102, .0201, .0202 - Social Services Commission. The Commission approved the rewritten rules submitted by the agency.

10A NCAC 70G .0501, .0503, .0510, .0512 - Social Services Commission. The Commission approved the rewritten rules submitted by the agency.

10A NCAC 70H .0401, .0406 - Social Services Commission. The Commission approved the rewritten rules submitted by the agency.

10A NCAC 70I .0405, .0604, .0613, .0901 - Social Services Commission. The Commission approved the rewritten rules submitted by the agency.

10A NCAC 70K .0101, .0103, .0201, .0204, .0301 - Social Services Commission. The Commission approved the rewritten rules submitted by the agency.

15A NCAC 02B .0262-.0273 – Environmental Management Commission. The review of these rules was displaced until the end of the meeting.

15A NCAC 03I .0101 - Marine Fisheries Commission. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 03O .0201 - Marine Fisheries Commission. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 30 .0201, .0516 - Board of Massage and Bodywork Therapy. The Commission approved the rewritten rules submitted by the agency.

IPC 302.1: NC Building Code Council – Detrimental or Dangerous Materials – No rewritten rule has been submitted and no action was taken.

LOG OF FILINGS

Chairman Hayman presided over the review of the log of permanent rules.

All rules were approved unanimously with the following exceptions:

02 NCAC 52J .0401: Board of Agriculture – This rule was approved contingent on receipt of a technical change in line 13 changing "not" to "no". The change has been received.

02 NCAC 52J .0602: Board of Agriculture - The Commission extended the period of review to give the agency an opportunity to add language to the rule ensuring that the documents incorporated by reference in Rule .0401 also apply to this rule.

Veronica Taylor, a Wake County resident, spoke in opposition to Rule .0602. Ray Starling and Lee Hunter spoke from the agency.

The Commission has received requests from more than 10 persons clearly requesting legislative review of all of the rules from the Board of Agriculture and they are therefore subject to a delayed effective date.

21 NCAC 36 .0318: Board of Nursing - The Commission objected to this Rule based on lack of statutory authority and ambiguity. It is not clear when certain nursing school faculty members must meet the requirements of (e)(3). It is also unclear whether the agency intends for the rule to apply to faculty members hired after July 1, 2006 and before the effective date of these amendments. Paragraphs (e)(3) and (4) became effective July 1, 2006. As they are currently written, the portion of the rule requiring compliance by December 31, 2010, applies to only those members who were faculty on the date the rule became effective. New faculty members would continue to have three years after they were hired to comply with the rule. The intent of (e)(3) and the proposed amendment to (e)(4) taken together appear to mean that all faculty members, even those employed less than three years, must complete the (e)(3) requirements by Dec. 31, 2010. That would also mean that the three years allowance in (e)(3) would not apply to faculty hired after December 31, 2007. All faculty would have to meet the requirements of (e)(3) by December 31, 2010, regardless of date of hire. But then the rule has a retroactive effect, at least as to any faculty hired after December 31, 2007 and before this rule becomes effective. It will shorten the three year period those hires had to comply with (e)(3). There is no authority cited to change the rule and apply it to faculty hired before the effective date of this rule.

TEMPORARY RULES

Chairman Hayman presided over the review of the temporary rule. The rule was approved unanimously.

The meeting recessed for a short break at 11:00 a.m. and reconvened at 11:10 a.m.

FOLLOW-UP MATTERS (cont.)

15A NCAC 02B .0262-.0273 – Environmental Management Commission. The Commission took the following action concerning each of these rules. Except where another or additional action is noted, the Commission extended the period of review on all aspects of these rules in order to further study the authority for these rules, especially the rules relating to the requirements to retrofit existing development to deal with stormwater and nutrient loading. There were also either no motions or no majorities to approve or object to the revised rules submitted for the September RRC review.

15A NCAC 02B .0262 – The Commission extended the period of review of this rule. Commissioner Gray voted against the motion. The agency also needs to make the technical change requested by staff in new item (3), page 2 line 10, by changing “first” to “second.”

15A NCAC 02B .0263 – The Commission objected to this rule based on ambiguity or lack of authority. It is not clear that this rule in item (10) merely attempts to summarize current North Carolina law concerning vested rights and existing development or is attempting to redefine it. It is not consistent with current North Carolina law in that in the first line of (10)(a) it recognizes vested rights under N.C. zoning law but fails to recognize them under N.C. development law. To the extent this rule might be attempting to redefine North Carolina law in this regards, there is no authority to do so.

15A NCAC 02B .0264 – The Commission extended the period of review of this rule. The agency also needs to make the technical change requested by staff in (1) line 11 and remove “six to” as unnecessary and not a requirement. The agency also needs to determine whether it needs to add S.L. 2006-259 as statutory authority to the history note.

15A NCAC 02B .0265 – The Commission objected to (3)(a)(iv), page 2 lines 27 – 31 of this rule, based on ambiguity. It is unclear how this “guidance,” requiring certain methods of stormwater runoff treatment, is to be enforced. Since the agency has not incorporated this by reference, it appears that the agency has no authority to enforce it. If they have no enforcement authority it is unclear what the affect of such a requirement would be. The Commission also objected to (4)(a) especially lines 31 and 32 in that it is unclear whether the agency intends to restrict itself to only the “criteria described in Item (3) of this rule” or whether any other criteria, either in these rules, other rules or law, or even criteria not embodied in any other rule or law could also be included in the model program and ordinance. Rich Gannon, Kathryn Cooper, and Jane Oliver spoke in favor of this rule. Chuck Kitchen, Kenny McDowell, Charles Wilkins, and Lisa Martin spoke in opposition to this rule.

15A NCAC 02B .0266 – The Commission extended the period of review of this rule with Commissioners Gray and Crisp opposed to the motion. The agency also needs to comply with the technical change request pertaining to inserting in (4)(c), page 5 line 24, “and model ordinance” after “program.” Rich Gannon, Kathryn Cooper, and Elaine Chiosso spoke in favor of this rule. Chuck Kitchen, Cady Thomas, Bill Lane, Lisa Martin, John Cox, and Kenny McDowell spoke in opposition to this rule.

15A NCAC 02B .0267 – The Commission extended the period of review of this rule.

15A NCAC 02B .0268 – The Commission extended the period of review of this rule. The agency also needs to make the technical change requested by staff in item (1) line 7 and change “purposes ... is” to “purposes ... are” or “purpose is.” Commissioner McLawhorn specifically mentioned that he believed the agency’s explanation concerning the application of mitigation burden and benefit satisfied him and he was satisfied there was no longer any problem with this rule as to that issue.

The meeting recessed for a short break at 1:46 p.m. and reconvened at 2:00 p.m.

15A NCAC 02B .0269 – The Commission extended the period of review of this rule.

15A NCAC 02B .0270 – The Commission objected to this rule based on ambiguity. It remains unclear what the intent of the agency is concerning modifications of NPDES permits, especially in item (6) (and wherever else there might be any mention of, reference to, or effect on an NPDES permit). There was no specific discussion concerning the other substantive objections made in July. Chuck Kitchen spoke in opposition to this rule.

15A NCAC 02B .0271 – The Commission extended the period of review of this rule.

15A NCAC 02B .0272 – The Commission extended the period of review of this rule. The agency still needs to make a technical change in (2)(d), page 1 line 6 and page 2 line 1 by changing “lands ... land” to either singular or plural, not each one.

15A NCAC 02B .0273 – The Commission extended the period of review of this rule.

COMMISSION PROCEDURES AND OTHER BUSINESS

The Commissioners by consensus authorized the staff to schedule an orientation and general business meeting for the day prior to either the October or November meeting.

The meeting adjourned at 2:27 p.m.

The next scheduled meeting of the Commission is Thursday, October 16, 2008 at 10:00 a.m.

Respectfully Submitted,
Dana Vojtko
Publications Coordinator

LIST OF APPROVED PERMANENT RULES
September 18, 2008 Meeting

AGRICULTURE, BOARD OF

Adoption by Reference

02 NCAC 52J .0401

RULES REVIEW COMMISSION

<u>Authorized Persons</u>	02 NCAC 52J .0402
<u>Definitions</u>	02 NCAC 52J .0403
<u>Certification Requirements for Euthanasia Technicians</u>	02 NCAC 52J .0404
<u>Certification Standards</u>	02 NCAC 52J .0405
<u>Application Requirements</u>	02 NCAC 52J .0406
<u>Training and Examinations</u>	02 NCAC 52J .0407
<u>Trainers</u>	02 NCAC 52J .0408
<u>Probationary Euthanasia Technicians</u>	02 NCAC 52J .0409
<u>Exam Required</u>	02 NCAC 52J .0410
<u>New Application</u>	02 NCAC 52J .0411
<u>Issuance of Certification</u>	02 NCAC 52J .0412
<u>Length of Certification</u>	02 NCAC 52J .0413
<u>Termination of Employment</u>	02 NCAC 52J .0414
<u>Notice of Termination</u>	02 NCAC 52J .0415
<u>Recertification</u>	02 NCAC 52J .0416
<u>Certification Renewal</u>	02 NCAC 52J .0417
<u>Duties</u>	02 NCAC 52J .0418
<u>Grounds for Discipline - Certified Euthanasia Technicians</u>	02 NCAC 52J .0419
<u>Intracardiac Injection</u>	02 NCAC 52J .0501
<u>Carbon Monoxide Equipment</u>	02 NCAC 52J .0601
<u>Dead Animals</u>	02 NCAC 52J .0603
<u>Individual Separation</u>	02 NCAC 52J .0604
<u>Chamber Requirements</u>	02 NCAC 52J .0605
<u>Inspections and Records</u>	02 NCAC 52J .0606
<u>Cleaning Chamber</u>	02 NCAC 52J .0607
<u>Operational Guides and Instruction Manuals</u>	02 NCAC 52J .0608
<u>Persons Required to be Present</u>	02 NCAC 52J .0609
<u>Methods of Euthanasia Permitted Under Extraordinary Circu...</u>	02 NCAC 52J .0701
<u>Gunshot or Other Methods</u>	02 NCAC 52J .0702
<u>Methods and Standards</u>	02 NCAC 52J .0703
<u>Technician Not Required</u>	02 NCAC 52J .0704
<u>Reports</u>	02 NCAC 52J .0705
<u>Manual Required</u>	02 NCAC 52J .0801
<u>Contents</u>	02 NCAC 52J .0802
<u>Additional Contents</u>	02 NCAC 52J .0803

MEDICAL CARE COMMISSION

<u>Required Spaces</u>	10A NCAC 13D .3201
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PUBLIC HEALTH, COMMISSION FOR

<u>Minimum Standard Health Department: Staffing</u>	10A NCAC 46 .0301
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SOCIAL SERVICES COMMISSION

<u>Licensure</u>	10A NCAC 70F .0102
<u>Governance</u>	10A NCAC 70F .0201
<u>Responsibilities of the Governing Body</u>	10A NCAC 70F .0202

<u>Personnel</u>	10A NCAC 70G .0501
<u>Placement Services</u>	10A NCAC 70G .0503
<u>Medication Administration Requirements</u>	10A NCAC 70G .0510
<u>Physical Restraining Holds, Behavior Management and Disci...</u>	10A NCAC 70G .0512
<u>Personnel</u>	10A NCAC 70H .0401
<u>Notification Regarding Preplacement Assessment</u>	10A NCAC 70H .0406
<u>Personnel Positions</u>	10A NCAC 70I .0405
<u>Health Services</u>	10A NCAC 70I .0604
<u>Discipline and Behavior Management</u>	10A NCAC 70I .0613
<u>Application of Physical Plant Requirements</u>	10A NCAC 70I .0901
<u>Definition</u>	10A NCAC 70K .0101
<u>Licensing Actions</u>	10A NCAC 70K .0103
<u>Personnel</u>	10A NCAC 70K .0201
<u>Program of Care</u>	10A NCAC 70K .0204
<u>Application of Physical Plant Requirements</u>	10A NCAC 70K .0301
INSURANCE, DEPARTMENT OF	
<u>Calculation Procedure and Data Requirements for Rate Devi...</u>	11 NCAC 16 .0403
<u>Maximum Net Retention Standard</u>	11 NCAC 18 .0118
LABOR, DEPARTMENT OF	
<u>Shop Inspections and National Board R Stamp Qualification...</u>	13 NCAC 13 .0210
<u>Standards</u>	13 NCAC 13 .0701
ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF	
<u>Scope of Delegated Authority</u>	15A NCAC 01O .0101
<u>Eligibility for Delegation of Authority</u>	15A NCAC 01O .0102
<u>Delegation of Authority</u>	15A NCAC 01O .0103
MARINE FISHERIES COMMISSION	
<u>Definitions</u>	15A NCAC 03I .0101
<u>Standards for Shellfish Bottom and Water Column Lease</u>	15A NCAC 03O .0201
<u>Application Process</u>	15A NCAC 03O .0402
<u>Eligibility Criteria</u>	15A NCAC 03O .0404
MASSAGE AND BODYWORK THERAPY, BOARD OF	
<u>Application and Scope</u>	21 NCAC 30 .0201
<u>Treatment in Body Cavities</u>	21 NCAC 30 .0516
ADMINISTRATIVE HEARINGS, OFFICE OF	
<u>Location</u>	26 NCAC 01 .0101
<u>Scope and Availability</u>	26 NCAC 02C .0401
<u>Content and Filing Procedures</u>	26 NCAC 04 .0202

LIST OF APPROVED TEMPORARY RULES
September 18, 2008 Meeting

PUBLIC HEALTH, COMMISSION FOR
Determination of Financial Eligibility

10A NCAC 45A .0202

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 431-3000. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray	Randall May
Selina Brooks	A. B. Elkins II
Melissa Owens Lassiter	Joe Webster
Don Overby	Shannon Joseph

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL BEVERAGE CONTROL COMMISSION</u>				
Partnership T/A C Js Lounge v. ABC Commission	07 ABC 0201	Overby	03/11/08	
ABC Commission v. Rainbow Enterprises, Inc T/A Club N Motion	07 ABC 1532	Gray	06/20/08	23:05 NCR 489
Benita, Inc., T/A Pantana Bob's v. ABC Commission	07 ABC 1584	Overby	04/21/08	23:01 NCR 141
Original Grad, Inc/ T/A Graduate Food and Pub	07 ABC 1648	Joseph	02/25/08	
N.C. Alcoholic Beverage Control Commission v. Feest Inc. T/A Spankys Sports Bar and Grill	07 ABC 2135	Gray	09/12/08	
AM Enterprises of Fayetteville, Inc., T/A Izzy's Sports Bar v. ABC Commission	08 ABC 0371	Lassiter	06/13/08	
Bhavesh Corporation, T/A K&B Foomart v. ABC Commission	08 ABC 0508	Overby	05/19/08	
<u>CRIME VICTIMS COMPENSATION</u>				
Patricia Ginyard v. Crime Victim Compensation Commission	06 CPS 1720	Gray	05/27/08	
Carrie R. McDougal v. Victims Compensation Services Division	07 CPS 1970	Elkins	05/23/08	
Taereka S Johnson v. NC Crime Victims Compensation Commission	08 CPS 0402	Morrison	08/08/08	
Rich's Towing and Service Inc. v. NC Department of Crime Control And Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 0698	May	08/13/08	
Steel Supply and Erection Co., Department of Crime Control and Public Safety, Division of State Highway Patrol and Department of Revenue	08 CPS 0777	Overby	05/29/08	
Randy S. Griffin v. NC Crime Victims Compensation Commission	08 CPS 0995	May	09/11/08	
Interstate Crushing Inc. v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1086	Overby	09/29/08	
Sterett Equipment Company LLC v. N.C. Dept. of Crime Control And Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1206	Overby	09/29/08	
Bertrand E. Dupuis d/b/a New England Heavy Hauling v. N.C. Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1207	Overby	09/29/08	
Bulldog Erectors, Inc v. N.C. Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1208	Overby	09/29/08	
Continental Machinery Movers Inc. v. N.C. Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1209	Overby	09/29/08	
Michael Alan Moore v. Crime Victims Compensation Commission	08 CPS 1478	Lassiter	09/08/08	
SOOF Trucking, Ray Charles Solomon v. Secretary of Crime Control And Public Safety	08 CPS 1526	Overby	09/09/08	

CONTESTED CASE DECISIONS

A list of Child Support Decisions may be obtained by accessing the OAH Website: <http://www.ncoah.com/hearings/decisions/>

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Gloria McNair Jean's Jewels v. Div. of Child Development, DHHS	06 DHR 0633	Lassiter	07/11/08
Gloria McNair Jean's Jewels v. Div. of Child Development, DHHS	06 DHR 1350	Lassiter	07/11/08
Character Builders, Inc., Clavon Leonard v. DMA, Developmental Disabilities and Substance Abuse Services	07 DHR 0124	Elkins	08/07/08
Character Builders, Inc., Clavon Leonard v. DMA, Developmental Disabilities and Substance Abuse Services	07 DHR 0125	Elkins	08/07/08
Arthur Burch and Margaret and Burch v. Department of Health and Human Services	07 DHR 0242	Brooks	04/30/08
The "M" Company LLC, v. DHHS, DMA, Program Integrity	07 DHR 0429	Webster	05/29/08
Judy E. Pettus v. Office of Chief Medical Examiner, Thomas B. Clark, Iii, Md, Pathologist	07 DHR 0535	Webster	05/05/08
Alterra Clare Bridge of Asheville v. DHHS, DFS, Adult Care Licensure Section	07 DHR 0914	Gray	06/06/08
Shirley Brooks Dial v. Health Care Personnel Registry	07 DHR 0931	Webster	02/27/08
Midtown Food Mart #2, Kerab Giebrehiwot, Mehreteab Wooldeghebibel and Fesseha Zeru	07 DHR 1044	Webster	04/25/08
Midtown Food Mart III, Chenet Hailesslassi and Fesseha Zeru v. DHHS	07 DHR 1045	Webster	04/28/08
Carolyn E. Reed v. DHHS, Division of Social Services Program Integrity AFDC/Work First	07 DHR 1214	Webster	07/21/08
Mrs. Elizabeth Futrell v. Value Options	07 DHR 1331	Lassiter	06/09/08
Cornell Jones v. DHHS, Division of Health Services Regulation	07 DHR 1399	Joseph	04/22/08
Dianetta Foye v. Division of Child Development, DHHS, Services	07 DHR 1440	Joseph	05/07/08
Rufus Patrick Devers v. DHHS, Division of Health Service Regulation Health Care Personnel Registry	07 DHR 1442	Joseph	05/29/08
Ray Dukes, Bright Future Learning Center v. DHHS, Division of Public Health, Child and Adult Care Food Program	07 DHR 1473	Joseph	04/08/08
Hospice of the Piedmont, Inc., v. DHHS, Division of Health Service Regulation, Licensure and Certification Section and DHHS, Division of Health Service Regulation, CON Section	07 DHR 1617	Elkins	05/21/08
Janice Addison v. Value Options	07 DHR 1618	Webster	05/16/08
Donna Hicks Crocker v. DHHS/DMA	07 DHR 1629	Joseph	08/01/08
Rebecca Dehart v. DHHS, Division of Health Service Regulation Health Care Personnel Registry Section	07 DHR 1650	Elkins	05/21/08
Ellen Brown v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	07 DHR 1651	Elkins	05/21/08
Joann Lennon v. Value Options Medicaid	07 DHR 1770	Webster	05/16/08
Angeline Currie v. DHHS	07 DHR 1986	Elkins	06/04/08
Tameala Jones v. OAH	07 DHR 1993	Webster	05/16/08
Dianetta Foye v. Division of Child Development, DHHS, Services	07 DHR 2020	Joseph	05/07/08
Lashauna Reid v. CCMHC (PFCS-Service Provider)	07 DHR 2039	Elkins	08/05/08
Family & Youth Services, Inc. Angela Ford, President v. DHHS, Division of Medical Assistance Provider Services	07 DHR 2057	Webster	05/16/08
Yolanda Jones v. DHHS, Adult Licensure Section	07 DHR 2081	Webster	05/16/08
Tianna Troy Legal guardian Mother Traci Lookadoo v. Value Option	07 DHR 2087	Elkins	05/23/08
Gary Carlton, Sr., v. DHHS	07 DHR 2099	Brooks	07/10/08
Alexis Ford/Linda M McLaughlin v. DHHS	07 DHR 2111	Elkins	06/04/08
Roger Houston v. DHHS, Div. of Health Service Regulation	07 DHR 2176	Gray	07/08/08
Dorothy L. Davis v. OAH	07 DHR 2179	May	07/02/08
Kevin McMillian/Linda M McLaughlin v. DHHS	07 DHR 2239	Elkins	06/04/08
Maurisha Bethea/Linda McLaughlin v. DHHS	07 DHR 2240	Elkins	06/04/08
Anna Fields v. Value Options	07 DHR 2326	Joseph	06/02/08
Larry Hopper v. DHHS	07 DHR 2356	May	06/20/08
Shelby Davis v. DHHS	08 DHR 0014	Lassiter	05/09/08
Hellon P. Johnson v. DHHS	08 DHR 0020	May	07/03/08
Lenora King v. DHHS	08 DHR 0034	Joseph	05/01/08
Forest Mewborn v. Health Care Personnel Registry	08 DHR 0043	Elkins	05/23/08
Wilma Jackson v. Value Options	08 DHR 0082	Joseph	06/02/08
Carmelita Wiggins v. Value Options	08 DHR 0198	Webster	05/16/08
Murphy's Outreach Community Developmental Services, Inc, d/b/a Outreach Home Health	08 DHR 0220	Joseph	07/22/08
Lisa Helms v. DHHS	08 DHR 0255	Overby	06/17/08
Pearlene Johnson Ivery v. DMA, Third Party Recovery (Medicaid)	08 DHR 0286	Brooks	07/07/08
Mamaue Aytch v. DHHS	08 DHR 0325	Elkins	05/23/08
Brenda McGilvary v. DHHS, Division of Social Services	08 DHR 0384	Webster	08/05/08
Fannie M. Wilson v. OAH	08 DHR 0393	Webster	06/17/08
Angela D Seabrooks/The Jabez House LLC v. DHHS/Division of Mental	08 DHR 0403	Joseph	06/09/08

CONTESTED CASE DECISIONS

Health, Developmental and Substance Abuse Services, The Guilford Center			
William McCray Pretty v. DHHS, Division of Facility Services	08 DHR 0411	Webster	06/12/08
Focus Health Services, Inc. via Annette Johnson, Owner Operator v. North Carolina Department of Health and Human Services and Albemarle Mental Health Center for Developmental Disabilities and Substance Abuse Services	08 DHR 0442	Gray	06/12/08
Earline Ross (Quentin Galloway) v. DHHS (Medicaid)	08 DHR 0549	May	06/09/08
Frances Milligan v. DHHS	08 DHR 0566	May	06/19/08
Betty Williams v. DHHS	08 DHR 0570	Joseph	06/02/08
Susan Nelson v. Medicaid	08 DHR 0573	May	06/09/08
Brent Morris Per Dedrea Moors (Mother) v. Priscilla Valet, DMA	08 DHR 0585	May	06/09/08
Brenda M. Finney v. Medicaid	08 DHR 0586	Joseph	06/09/08
Allred & Allred Day Care Center, Inc. v. N.C. Department of Health and Human Services, Division of Public Health, Child And Adult Care Food Program	08 DHR 0617	May	06/04/08
Lakeva Robinson v. DMA/Value Options	08 DHR 0625	May	05/28/08
Ronald Lee Young v. N.C. Department of Health and Human Services	08 DHR 0631	Joseph	07/21/08
Tina Miller v. OAH, DHHS	08 DHR 0661	Lassiter	06/10/08
Doris Harris v. Division of Child Development	08 DHR 0710	May	07/02/08
Michelle D. Mills v. DHHS, Division of Health Service Regulation	08 DHR 0712	Joseph	06/09/08
Trena Ellis v. DHHS	08 DHR 0730	Lassiter	07/03/08
Faith Davis v. Pride in North Carolina Value Options	08 DHR 0746	Overby	05/28/08
Evonne Neal v. Medicaid	08 DHR 0748	May	06/20/08
Maria Dejesus Ruiz La Vaca Ramona v. N.C. Department of Health and Human Services	08 DHR 0760	Overby	07/24/08
Ray C. Price v. DHHS, Office of the Controller	08 DHR 0767	Brooks	07/07/08
Cheryl I Rice v. DHHS	08 DHR 0793	Overby	07/10/08
Destiny A Taylor v. Division of Child Development	08 DHR 0794	Gray	07/21/08
Mary Ada Mills, Mary M. Mills MSA FCH v. Adult Care Licensure	08 DHR 0808	May	08/26/08
Lula Bowden v. OAH	08 DHR 0852	May	06/20/08
Donovan Harris v. Value Options	08 DHR 0894	May	06/19/08
Gabrielle Lloyd v. DHHS, Division of Health Service Regulation	08 DHR 0905	May	09/22/08
Janice Chavis v. DHHS	08 DHR 0923	Lassiter	05/19/08
Frankie Nicole Carter v. DHHS, Division of Health Service Regulation	08 DHR 0929	Brooks	06/19/08
Christine Maria Plyer v. Medicaid Reimbursement	08 DHR 0949	Mann	06/18/08
Margaret Mubanga v. NC Department of Health and Human Services	08 DHR 0961	Gray	08/25/08
Evangeline Ingram v. Value Options	08 DHR 0997	Gray	06/10/08
Marcia Veronica Harris v. Department of Health and Human Services, Division of Health Service Regulation	08 DHR 0169	Lassiter	08/11/08
Maureen Jordan parent of Destinne Jordan v. Value Options	08 DHR 1005	Gray	06/19/08
Triangle Alternative Inc. Dorothy George v. Office of Administrative Hearings	08 DHR 1012	May	07/21/08
Terrie P Hill dba Positive Care MHL 041-595 2203 Wanda Drive v. N.C. Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1015	Lassiter	09/12/08
Terrie P Hill dba Positive Care II MHL 041-633 3406 Fern Place v. NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1016	Lassiter	09/12/08
Terrie P Hill dba Positive Care II MHL 041-765 3406 Fern Place v. NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1017	Lassiter	09/12/08
Mario Jackson v. DHHS	08 DHR 1024	Overby	06/19/08
Edwin F Clavijo, El Exito v. NC Department of Health and Human Services, Division of Public Health, Nutrition Services Branch	08 DHR 1034	Lassiter	09/15/08
Linda F. Ellison v. NC Department of Health and Human Services and or EDS	08 DHR 1035	Joseph	07/09/08
Doris Smith v. Health Care Personnel Registry	08 DHR 1238	Brooks	08/08/08
Martha Washington Harper v. DSS	08 DHR 1041	Brooks	06/23/08
Mary K. Tulay v. DHHS	08 DHR 1055	Joseph	07/09/08
Gwendolyn F. Gulley v. NC Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section	08 DHR 1062	Overby	09/09/08
Rhonda Jones v. Value Options	08 DHR 1064	Webster	07/18/08
One Love Developmental Services v. Division of Health Service Regulation, Department of Health and Human Services	08 DHR 1068	Lassiter	07/25/08
Jona Turner v. Office of Administrative Hearings	08 DHR 1092	Webster	07/18/08
Tonia Chatman Davis v. N.C. Department of Health and Human Services	08 DHR 1141	Lassiter	07/28/08
Mary M. Branch v. North Carolina Dept of Health and Human	08 DHR 1174	Elkins	08/11/08

CONTESTED CASE DECISIONS

Services, Value Options			
Haywood Miller, Bobby Jean Graves Miller v. DHHS, Mental Health Licensure Certification Section	08 DHR 1181	Overby	07/01/08
Jan Williams v. Value Options, DHHS	08 DHR 1231	Overby	07/09/08
Heather Peete v. OAH	08 DHR 1281	Lassiter	07/02/08
Ann Moody v. DHHS	08 DHR 1299	Webster	07/18/08
Khahada Kirby v. Value Options	08 DHR 1310	Webster	07/18/08
Amir Abusamak v. N.C. Department of Health and Human Services	08 DHR 1325	Gray	07/16/08
Big Z Supermarket, Abdul Hamdan v. Cory Menees, NC Dept. of Health and Human Services	08 DHR 1343	Overby	08/27/08
Alesia Alwahishi dba Brotherhood Market	08 DHR 1356	Gray	07/22/08
Nigel Brown v. Value Options	08 DHR 1358	Gray	08/29/08
Michael Grondahl v. DHHS	08 DHR 1491	Gray	08/01/08
Tyechia Jones v. Value Options/DHHS	08 DHR 1492	Mann	09/18/08
Kelly A Schofield MD – Clinical Director Youth Quest Inc. v. N.C. Department of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1505	Lassiter	09/08/08
Edward Kenneth Smith v. NC Department of Health and Human Services, Division of Health Service Regulation	08 DHR 1537	Lassiter	09/16/08
Elsie Mae Joiner v. Health Care Registry DHHS	08 DHR 1560	Lassiter	09/11/08
Margaret Brack for Elgin Brack v. Value Options Emery Milliken DHHS	08 DHR 1576	Lassiter	08/27/08
Evans Momanyi Mose v. DHHS, Division of Health Service Regulation	08 DHR 1591	Webster	10/01/08
Draughton's Supermarket, Betty Draughton v. Cumberland County Health Dept. WIC Office	08 DHR 1592	Gray	08/25/08
Tyonne Sheri Glenn v. Value Options	08 DHR 1628	May	09/19/08
Amanda Hennes v. N.C. Department of Health and Human Services	08 DHR 1696	Gray	09/22/08
Bobbie L Cribb v. Office of Administrative Hearings	08 DHR 1714	Gray	09/08/08
Irene McLendon/Mikala McLendon v. Value Options	08 DHR 1722	Webster	10/01/08
Keyanna Byrd v. DHHS	08 DHR 1751	Webster	10/01/08
Joshua Dmae Thompson (Consumer) Sebrena Yvett Thompson (Mother) v. Department of Mental Health	08 DHR 1844	Webster	10/01/08

DEPARTMENT OF JUSTICE

Dallas Ray Joyner v. Criminal Justice Education and Training Standards Commission	07 DOJ 0719	Overby	04/15/08
Richard Junior Hopper v. Private Protective Services Board	07 DOJ 1071	Webster	02/21/08
Sheldon Avery McCoy v. Criminal Justice Education and Training Standards Commission	07 DOJ 1162	Mann	04/07/08
David Steven Norris v. Private Protective Services Board	07 DOJ 1256	Elkins	04/16/08
Scott McLean Harrison v. North Carolina Criminal Justice Education And Training Standards Commission	07 DOJ 1330	Webster	06/24/08
Brian Campbell v. Department of Justice, Company Police Program	07 DOJ 1344	Webster	02/25/08
John Mark Goodin v. Alarm Systems Licensing Board	07 DOJ 1405	Lassiter	04/04/08
James Lee Rodenberg v. Depart. of Justice, Company Police Program	07 DOJ 1434	Webster	02/25/08
Michael L. Scriven v. Private Protective Services Board	07 DOJ 1483	Elkins	03/25/08
Lamuel Tommy Anderson v. North Carolina Department of Justice Campus Police Program	07 DOJ 1500	Joseph	06/03/08
Roger Wayne Mungo, Jr., Sheriffs' Education and Training Standards Commission	07 DOJ 1510	Overby	05/19/08
Steven L. Haire v. North Carolina Department of Justice, Campus Police Program	07 DOJ 1558	Joseph	05/22/08
Iris Nina Bumpass v. Criminal Justice Education and Training Standards Commission	07 DOJ 2071	Webster	05/16/08
Michael Gerald Copeland v. Private Protective Services Board	07 DOJ 2286	Gray	07/17/08
Leigh Ann Branch v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0177	Gray	06/23/08
Jimmy Dean Poston v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0179	Webster	08/28/08
Katheryn Renee Johnson v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 0180	Brooks	06/18/08
Gerald Boyce Bond, Jr. v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0181	Gray	07/14/08
Lamar Krider v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0183	Gray	06/20/08
John Edward Isaacks, Jr. v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 0184	May	06/18/08
Anthony Ray Haynie v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0207	Brooks	08/06/08
Anthony Ray Haynie v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0532	Brooks	08/06/08

CONTESTED CASE DECISIONS

Jonathan R. Elam v. Private Protective Services Board	08 DOJ 0568	Webster	05/08/08
Wilford Odell Hamlin v. Private Protective Services Board	08 DOJ 0713	Joseph	05/01/08
Stephen Joseph Ciliberti v. N.C. Private Protective Services Board	08 DOJ 0858	Gray	07/15/08
Deborah Moore Anderson v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 1038	Brooks	05/28/08
Dustin Elvin Campbell v. Criminal Justice Education and Training Standards Commission	08 DOJ 1078	Lassiter	07/14/08
Cynthia Kay Saintsing v. Criminal Justice Education and Training Standards Commission	08 DOJ 1079	Lassiter	07/14/08
Timothy C. Darrh v. DHHS/Value Options	07 DOJ 1239	Overby	07/07/08
David Alan Moore v. North Carolina Private Protective Services Board	08 DOJ 1264	Morrison	07/21/08
Gregory Alan Hooks v. NC Alarm Systems Licensing Board	08 DOJ 1265	Morrison	07/10/08
Tina Ann Ward v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 1273	Gray	08/29/08

DEPARTMENT OF LABOR

Sandra Leroux, Leroux Entertainment Corporation d/b/a Spectacular Events! V. DOL	08 DOL 0754	May	07/08/08
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DEPARTMENT OF TRANSPORTATION

Kevin Douglas v. Dept. of Justice Criminal Justice Standards, DMV License and Theft, Holly Springs Police Department	07 DOT 2221	Webster	05/12/08
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DEPARTMENT OF STATE TREASURER

Trevor Allan Hampton v. N.C. State Retirement Systems	07 DST 1493	Overby	09/08/08
Patricia V. Leonard v. State Treasurer/Retirement Systems Division	07 DST 1928	Lassiter	03/12/08

William S. Greene v. DST, Retirement Systems Division	08 DST 0235	Gray	07/16/08
Jerry Alan Reese v. DST, State and Local Finance Division and the Local Government Commission	08 DST 0256	Morrison	07/25/08

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EDUCATION, STATE BOARD OF

Bradford Dale Gulley v. Depart. of Education Attorney Generals Office	07 EDC 1486	Webster	05/16/08
Lucretia Burrus v. State Board of Education	07 EDC 2210	Webster	05/16/08
Gregory Bates v. DPI, Licensure Section	07 EDC 2238	Gray	04/30/08
Heather S. Brame v. State Board of Education	07 EDC 2287	Joseph	05/07/08
Sandra Chesser v. State Board of Education	08 EDC 0022	May	04/30/08
Terry L. Moore v. N.C. Department of Public Instruction	08 EDC 0386	Morrison	07/22/08
Hubert Thomas Byrum v. Office of State Superintendent	08 EDC 0619	Gray	06/04/08
Gary Alan Cooper v. N.C. State Board of Education	08 EDC 0920	Gray	08/01/08
Selena Blad v. NC Board of Education	08 EDC 1316	Brooks	09/17/08

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

Henry S. Cowell, III and Carolyn Dressler v. DENR, Div. of Coastal Management	06 EHR 1185	Brooks	05/30/08
Robin R. Moore v. DENR, Division of Waste Management	06 EHR 1479	Lassiter	03/24/08
NC Coastal Federation v. DENR, Division of Coastal Management and Wind over Waves, LLC	07 EHR 0345	Lassiter	04/07/08
John B. Chastain, Jr., W.B. Chastain v. N.C. Department of Environment and Natural Resources	07 EHR 0722	Brooks	06/26/08
Terry Hill DAQ 2007-015 v. DENR, Division of Air Quality	07 EHR 0937	Morrison	04/08/08
Frank Home Construction, Inc. v. Division of Water Quality	07 EHR 1061	Webster	05/12/08
Durham Land Associates LLC v. County of Durham, Engineering Department	07 EHR 1140	Overby	08/20/08
Durham Land Associates LLC v. County of Durham, Engineering Department	07 EHR 1141	Overby	08/20/08
Martha and Charles Morton v. N.C. Department of Environment And Natural Resources	07 EHR 1297	Overby	06/02/08
Kenneth & Mary Anne Sutton v. DENR, Division of Coastal Management	07 EHR 1316	Overby	05/09/08
William Lewell Huff v. N.C. Department of Environment and Natural Resources	07 EHR 1579	Overby	06/02/08
Stridemark, LLC v. North Carolina Department of Environment and Natural Resources, Division of Air Quality	07 EHR 1564	Webster	07/17/08
Gleason James v. Appalachian District Health Department	07 EHR 2073	Brooks	09/05/08
Frank Myers Investments, LLC v. DENR	07 EHR 2377	May	05/28/08
W Russell Overman Martin County Water & Sewer District v. DENR	08 EHR 0345	Gray	06/10/08

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CONTESTED CASE DECISIONS

Public Water Supply Section			
Ray Poole's Park, Jean Poole v. DENR, Public Water Supply Section	08 EHR 0563	Joseph	05/16/08
Joe S. Edge Sr. v. N.C. Department of Environment and Natural Resources	08 HER 0757	Gray	09/17/08
Donald Lindsay v. Cherokee County Health Dept.	08 EHR 0764	Brooks	07/10/08
Joel M. Walker v. Division of Water Quality Well Contractors Certification Commission	08 EHR 0985	Joseph	06/11/08
Eddie Verdis Hood v. N.C. Department of Environment and Natural Resources	08 EHR 1073	Overby	07/30/08
Research Triangle Institute v. Division of Waste Management, Hazardous Waste Section, DENR	08 EHR 1100	Overby	07/11/08
Tracie Locklear, Ammie Brewer-James, Native Designs Hair & Tanning Salon v. DENR, Health Radiation Protection	08 EHR 1143	Gray	7/17/08
Donna C Garrett v. Cherokee County Health Dept., Environmental Health Division	08 EHR 1246	Brooks	09/09/08
Roray Kent Mishak, Town of China Grove v. NCDENR, Public Water Supply Section	08 EHR 1573	Brooks	09/08/08
<u>DEPARTMENT OF INSURANCE</u>			
Sandra Vanderbeek v. Teachers' and State Employees' Comprehensive Major Medical Plan	07 INS 1130	Overby	03/12/08
Alesha D Carter v. State Health Plan	07 INS 1858	Lassiter	05/19/08
<u>MISCELLANEOUS</u>			
Kevin Edral Douglas v. Wake County District Attorney, DMV	07 MIS 1976	Webster	05/12/08
Jeannie L Day v. City of Asheville Control, Brenda Sears Officer White	08 MIS 0895	Brooks	08/18/08
Promise Land Ministries Inc., Joel K. Wilson v. Mitchell County Tax Assessor and Board of Equalization	08 MIS 1447	May	09/17/08
<u>OFFICE OF STATE PERSONNEL</u>			
Marsha A Early v. Durham County Department of Social Services	01 OSP 0279	Lassiter	04/02/08
Scott Burgess v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol	07 OSP 0052	Gray	07/16/08
Divina P. Shields v. North Carolina State University	07 OSP 0317	Lassiter	07/11/08
Jacqueline B. Maynard v. UNC	07 OSP 0575	Webster	04/08/08
Warren R. Follum v. NCSU	07 OSP 0577	Webster	03/21/08
Sharon P. House v. UNC	07 OSP 0630	Webster	04/08/08
Pam Moses v. Macon County Health Department	07 OSP 0945	Overby	06/30/08
Cassandra F. Barner v. Halifax County Department of Social Serv.	07 OSP 1186	Joseph	05/16/08
Michael Shelton Woody v. DENR, Division of Forest Resources	07 OSP 1255	Brooks	05/13/08
Kellee M. Buck v. Dare County Department of Social Services	07 OSP 1385	Overby	05/27/08
Dennis E. Hrynkow v. Dept. of Insurance	07 OSP 1400	Joseph	04/03/08
Stacey M. Gaspue v. N.C. Department of Corrections	07 OSP 1479	Overby	06/09/08
James Dobaly v. North Carolina Department of Health and Human Services	07 OSP 1873	Lassiter	07/02/08
Adley K. Prager v. Dept. of Crime Control and Public Safety and Butner Public Safety	07 OSP 2011	Webster	05/29/08
Charlene J. Shaw v. Peter Bucholz, Hoke Correctional Institution	07 OSP 2012	Joseph	04/07/08
Jacqueline Burkes v. DOC, Hoke 4320, Mr. Peter Bucholz	07 OSP 2047	Joseph	04/07/08
Charles Jones v. Bryan Beatty, Secretary of Crime Control & Public Safety and The Dept. of Crime Control & Public Safety (NC Highway Patrol)	07 OSP 2222	Morrison	06/05/08
Norman K. Goering v. Crime Control and Public Safety, Highway Patrol	07 OSP 2256	Joseph	07/29/08
Kimberly James v. UNC-Charlotte	08 OSP 0146	Webster	05/08/08
Nancy Hester v. Guilford County AOC Pretrial Services	08 OSP 0224	Overby	06/19/08
Ray Stanford Williams Jr. v. NC Department of Cultural Resources	08 OSP 0529	Morrison	08/19/08
Laura L. Holliman v. Caledonia Correctional Inst.	08 OSP 0591	Gray	07/08/08
Ashley K. Severson v. Greene County	08 OSP 0611	Joseph	07/29/08
Sharon V Blackmon v. Office of Administrative Hearings	08 OSP 0624	Gray	09/19/08
Richard D. Lincoln v. DOT	08 OSP 0801	Gray	05/27/08
Robert M. Hewitt v. Morrison Correctional Institute	08 OSP 0971	Gray	06/26/08
Kenyatta Burrus v. Craven County Clerk of Superior Court	08 OSP 1089	Overby	06/12/08
Dexter J. Hill v. Department of Agriculture and Consumer Services	08 OSP 1167	Overby	07/08/08
Rita McKeithan v. Stanly County Department of Social Services	08 OSP 1240	May	08/26/08
Dianna Humphrey v. Caswell Center	08 OSP 1327	Lassiter	07/02/08
Charles Godwin v. NC Department of Crime Control and Public Safety	08 OSP 1463	Lassiter	07/28/08
Vincent Morton v. Cherry Hospital	08 OSP 1497	Webster	09/16/08
Kyla Solomon v. Office of Citizen Services	08 OSP 1547	Lassiter	07/22/08

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CONTESTED CASE DECISIONS

Richard Manson v. NC A&T State University	08 OSP 1561	Brooks	09/25/08
Richard T Ward v. NC DOT Ferry Division	08 OSP 1617	Lassiter	08/27/08
Patrice A Bernard v. NC A&T	08 OSP 1724	Gray	09/18/08

RESPIRATORY CARE BOARD

Angelique Thompson v. Respiratory Care Board	07 RCB 1176	Gray	03/13/08	23:01 NCR 153
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DEPARTMENT OF REVENUE

Parker Bark Company Inc. v. Department of Revenue	08 REV 1228	Overby	06/17/08
Deandra A. Scott v. Department of Revenue	08 REV 1180	Overby	07/01/08
Goretty Williams v. Department of Revenue	08 REV 1227	Overby	07/08/08
Anthony Chad Bynum v. Department of Revenue	08 REV 1268	Overby	07/09/08

OFFICE OF SECRETARY OF STATE

Richard C Garrard Jr. v. NC Department of Secretary of State	07 SOS 2080	Brooks	09/12/08
Bennett Jeffrey Packer v. North Carolina Department of The Secretary of State	07 SOS 2241	May	06/09/08
Hope Taylor (formerly Taylor-Guevara) v. North Carolina Department of The Secretary of State	07 SOS 2280	Joseph	05/21/08
Robert C Garrard Jr. v. NC Department of Secretary of State	08 SOS 0523	Brooks	09/12/08
Wendy Branch Miller v. SOS	08 SOS 1018	Lassiter	07/14/08

UNC HOSPITALS

Charity Smith v. UNC Hospitals	08 UNC 0533	Gray	07/28/08
Jimmy L. Holder v. UNC Hospitals	08 UNC 0589	May	07/29/08
Barbara C. King v. UNC Hospitals	08 UNC 0805	May	07/29/08
Eva Kali Green v. UNC Hospitals	08 UNC 0841	May	09/22/08
Kaprina Wells v. UNC Hospitals	08 UNC 0860	Gray	07/28/08
Rolie Adrienne Webb "Andi" v. UNC Hospitals	08 UNC 0881	Gray	06/11/08
Marcus M. McCullers v. UNC Hospitals	08 UNC 0928	Gray	07/30/08
Satarah K. Latiker v. UNC Hospitals	08 UNC 0952	May	08/21/08
Mary C. Gessell v. UNC Hospitals	08 UNC 0981	Joseph	09/18/08
Richard and Amy Whitt v. UNC Hospitals	08 UNC 1048	May	08/15/08
John G Sell v. UNC Hospitals	08 UNC 1334	Joseph	08/26/08

WELL CONTRACTORS CERTIFICATION COMMISSION

Charles P. Pool v. Well Contractors Certification Commission	08 WCC 0514	Gray	07/15/08
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WILDLIFE RESOURCES COMMISSION

Lisa Roddy v. Wildlife Resources Commission	08 WRC 0970	Brooks	06/24/08
Rickey Dale Logan	08 WRC 1229	Lassiter	07/28/08