

NORTH CAROLINA REGISTER

VOLUME 23 • ISSUE 19 • Pages 1952 - 2015

April 1, 2009

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Contact List for Rulemaking Questions or Concerns

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

Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, North Carolina 27609
(919) 431-3000
(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules molly.masich@oah.nc.gov (919) 431-3071
Julie Edwards, Editorial Assistant julie.edwards@oah.nc.gov (919) 431-3073
Tammara Chalmers, Editorial Assistant tammara.chalmers@oah.nc.gov (919) 431-3083
Angel Chen, Editorial Assistant angel.chen@oah.nc.gov (919) 431-3077

Rule Review and Legal Issues

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

contact: Joe DeLuca Jr., Commission Counsel joe.deluca@oah.nc.gov (919) 431-3081
Bobby Bryan, Commission Counsel bobby.bryan@oah.nc.gov (919) 431-3079

Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street
Raleigh, North Carolina 27603-8005
(919) 807-4700
(919) 733-0640 FAX

contact: William Crumbley, Economic Analyst william.crumbley@ncmail.net (919) 807-4740

Governor's Review

Eddie Speas eddie.speas@nc.gov
Legal Counsel to the Governor (919) 733-5811
116 West Jones Street(919)
Raleigh, North Carolina 27603

Legislative Process Concerning Rule-making

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

contact: Karen Cochrane-Brown, Staff Attorney karen@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
Raleigh, North Carolina 27603
(919) 715-2893

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

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

contact: Anita Watkins awatkins@nclm.org

NORTH CAROLINA REGISTER
Publication Schedule for January 2009 – December 2009

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
23:13	01/02/09	12/08/08	01/17/09	03/03/09	03/20/09	05/01/09	05/2010	09/29/09
23:14	01/15/09	12/19/08	01/30/09	03/16/09	03/20/09	05/01/09	05/2010	10/12/09
23:15	02/02/09	01/09/09	02/17/09	04/03/09	04/20/09	06/01/09	05/2010	10/30/09
23:16	02/16/09	01/26/09	03/03/09	04/17/09	04/20/09	06/01/09	05/2010	11/13/09
23:17	03/02/09	02/09/09	03/17/09	05/01/09	05/20/09	07/01/09	05/2010	11/27/09
23:18	03/16/09	02/23/09	03/31/09	05/15/09	05/20/09	07/01/09	05/2010	12/11/09
23:19	04/01/09	03/11/09	04/16/09	06/01/09	06/22/09	08/01/09	05/2010	12/27/09
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23:22	05/15/09	04/24/09	05/30/09	07/14/09	07/20/09	09/01/09	05/2010	02/09/10
23:23	06/01/09	05/08/09	06/16/09	07/31/09	08/20/09	10/01/09	05/2010	02/26/10
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24:11	12/01/09	11/05/09	12/16/09	02/01/10	02/22/10	04/01/10	05/2010	08/28/10
24:12	12/15/09	11/20/09	12/30/09	02/15/10	02/22/10	04/01/10	05/2010	09/11/10

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

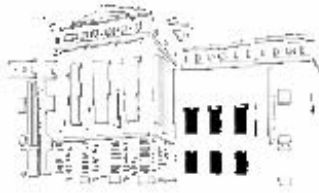
EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

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



BEVERLY EAVES PERDUE
GOVERNOR

**EXECUTIVE ORDER NO. 7
PROCLAMATION OF STATE OF EMERGENCY
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA**

WHEREAS, I have determined that a State of Emergency and threatened disaster, as defined in G.S. §166A-6 and G.S. § 14-288.1(10), exists in the State of North Carolina, as a result of a winter storm that caused wide spread snow and ice beginning on January 19, 2009;

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

Section 1. I have determined that a state of emergency and threatened disaster, as defined in G.S. 166A-4(3) and G.S. 14-288.1(10), exists in the State of North Carolina.

Section 2. Pursuant to G.S. 166A-6 and 14-288.15, I, therefore, proclaim the existence of a state of emergency in the State.

Section 3. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this Executive Order and the provisions of the North Carolina Emergency Operations Plan.

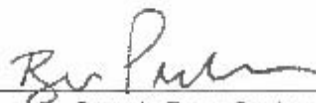
Section 4. I hereby delegate to Reuben F. Young, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in the State.

Section 5. Further, Reuben F. Young, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G.S. 1-43B-476.

Section 6. I hereby order this Executive Order: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency or disaster prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and, (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

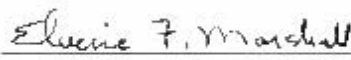
Section 7. This Executive Order shall become effective immediately and shall continue until it is terminated in writing.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh this 20th day of January in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-third.

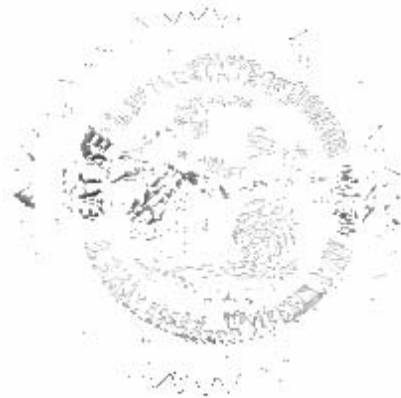


Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall by *Frederick M. Lloy*
Secretary of State *Chief Rep. by County*





BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 8

NOTICE OF TERMINATION OF
EXECUTIVE ORDER OF STATE OF DISASTER
AND STATE OF EMERGENCY
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

WHEREAS, Executive Order No. 7 was signed on January 20, 2009,
declaring a threatened disaster and State of Emergency as a result of a winter
storm which occurred on January 19 and 20, 2009; and,

WHEREAS, the Executive Order contained the provision that it
would be effective until terminated in writing.

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

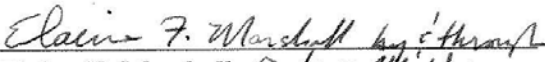
That Executive Order No. 7 declaring a threatened disaster and State
of Emergency signed on January 20, 2009, is hereby terminated, effective as
of 10:00 a.m. on the date signed below, due to the ending of that emergency.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
the great Seal of the State of North Carolina at the Capital in Raleigh, this
the 21st day of January, 2009.



Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall *Rodney Maddox*
Secretary of State *Chris Deputy Secretary*

**EXECUTIVE ORDER NO. 9****TO ESTABLISH THE EMERGENCY MEDICAL SERVICES AND TRAUMA RULES
EFFECTIVE DATE**

WHEREAS, North Carolina is committed to ensuring that citizens receive quality emergency medical services and trauma care; and

WHEREAS, in 2008 the North Carolina Department of Health and Human Services (DHHS) launched an extensive 14-month process to revise the Emergency Medical Services and Trauma rules in order to better meet the needs of citizens requiring emergency medical care, including holding stakeholder meetings and seven public hearings, and receiving and considering written comments; and

WHEREAS, on November 7, 2008, the North Carolina Medical Care Commission took the following actions: (1) adopted Emergency Medical Services and Trauma rules at 10A NCAC 13P .0204, 10A NCAC 13P .0209, 10A NCAC 13P .0301, 10A NCAC 13P .0302, 10A NCAC 13P .0305, and 10A NCAC 13P .0409, which were approved as permanent rules by the Rules Review Commission on December 18, 2008, and (2) adopted Emergency Medical Services and Trauma rule at 10A NCAC 13P .0102, which was approved as a permanent rule by the Rules Review Commission on January 22, 2009; and

WHEREAS, these rules serve to establish the criteria necessary for DHHS to ensure the public health and safety of critically sick and injured patients requiring emergency medical care; and

WHEREAS, without these rules, there would be no authority for DHHS to provide the necessary medical oversight of certain aspects of patient care being rendered to citizens in need of emergency medical care, therefore endangering the health and safety of such citizens; and

WHEREAS, Senate Bill 232 was filed on February 18, 2009 specifically disapproving the permanent rules and, as a result of such filing, the effective date of the permanent rules would be the earlier of either the day an unfavorable final action is taken on the Senate Bill 232

or the day the 2009 session of the General Assembly adjourns without ratifying a bill specifically disapproving these rules; and

WHEREAS, the Administrative Procedures Act authorizes the Governor, by Executive Order, to make effective a permanent rule upon finding that it is necessary to protect public health, safety, or welfare;

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

Section 1. Findings.

It is necessary that the permanent rules regarding emergency medical services and trauma services, 10A NCAC 13P .0102, 10A NCAC 13P .0204, 10A NCAC 13P .0209, 10A NCAC 13P .0301, 10A NCAC 13P .0302, 10A NCAC 13P .0305, and 10A NCAC 13P .0409, be made effective immediately in order to protect the public health, safety, and welfare.

Section 2. Effective Date of the Rule.

The permanent rules regarding emergency medical services and trauma services, 10A NCAC 13P .0102, 10A NCAC 13P .0204, 10A NCAC 13P .0209, 10A NCAC 13P .0301, 10A NCAC 13P .0302, 10A NCAC 13P .0305, and 10A NCAC 13P .0409, are hereby made effective March 3, 2009, pursuant to the Executive Order Exception authority contained in the Administrative Procedures Act, N.C.G.S. §150B-21.3(c).

Section 3. Effective Date.

This Executive Order becomes effective March 3, 2009, and shall remain in effect until rescinded.

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



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall *by and through*
Secretary of State *Rodney Maddox*
Chief Deputy Secretary of State



EXECUTIVE ORDER NO. 10

ETHICAL STANDARDS FOR THE STATE HEALTH COORDINATING COUNCIL

WHEREAS, the State Health Coordinating Council (SHCC) is a public advisory body established by Executive Order No. 139 (March 3, 2008) for the purpose of advising the Governor on the statewide planning of health care facilities, equipment, and services provided under the Certificate of Need Law; and

WHEREAS, the SHCC works with the Department of Health and Human Services (DHHS) to prepare and recommend the State Medical Facilities Plan (SMFP) to the Governor for approval or amendment; and

WHEREAS, the advice and collective judgment of the SHCC has proven invaluable in ensuring that quality health care services are made available broadly to all citizens of this State regardless of whether they live in rural or urban areas, whether they have the means to pay for those services or whether they are insured by public or private payors; and

WHEREAS, to provide the expertise necessary to perform its complex advisory functions, the membership of the SHCC includes persons knowledgeable about healthcare services and delivery including medical educators, researchers, physicians, and representatives of professional associations; and

WHEREAS, because of the diversity of the SHCC membership, conflicts between competing economic interests are inherent in, but also beneficial to, the development of the SMFP; and

WHEREAS, the General Assembly has concluded that the State Government Ethics Act does not cover public entities that only have advisory authority, and the State Ethics Commission has determined that the SHCC only has advisory authority; and

WHEREAS, it is nevertheless important that the SHCC exercise its advisory responsibilities in a transparent manner so that the Governor and citizens will have full knowledge of the professional and economic interests that the members of the SHCC have as the

Governor evaluates their expert advice in adopting or amending the SMFP recommended by the SHCC; and

WHEREAS, the members of the SHCC in the past have voluntarily followed ethical standards; and

WHEREAS, this is a salutary practice, which should be formalized by Executive Order;

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

1. The members of the SHCC shall always act in the best interests of the public and shall bring their particular knowledge and experience to the SHCC to serve the public interest as identified in the Certificate of Need Law, Chapter 131E, Article 9 of the General Statutes;
2. The following process shall be observed for all meetings of the SHCC and SHCC subcommittees at which the SHCC or SHCC subcommittee takes any action:
 - a. At the beginning of each meeting, the Chair shall remind all members of their duty to act always in the best interest of the public without regard for their own professional, institutional or financial interests and that they should recuse themselves from voting on any matter on which they cannot meet this standard.
 - b. Prior to conducting any business, each member shall disclose any professional or institutional interest he or she may have in any matter coming before the SHCC or SHCC subcommittee for action at that meeting. The Chair will determine if the member needs to recuse himself or herself from voting on the matter in order to ensure the integrity of the actions of the SHCC or SHCC subcommittee.
 - c. Prior to conducting any business, each member shall also disclose any financial benefit he or she may derive from any matter coming before the SHCC or SHCC subcommittee for action at that meeting. A member derives a financial benefit from a matter under consideration if the person or his/her spouse (i) has an ownership interest in an entity that is a party to the matter under consideration; (ii) will derive any income or commission as a direct result of action on the matter under consideration; or (iii) will acquire property as a direct result of action on the matter under consideration. When any member indicates that he or she will derive a financial benefit from a matter coming before the SHCC or any subcommittee, the member shall recuse himself or herself from voting on the matter.
 - d. A member who has recused himself or herself from voting is not prohibited from deliberating on the matter unless the Chair determines, after review, that participation by the member in deliberations would impair the integrity of the actions of the SHCC or SHCC subcommittee.

- e. The minutes of the SCHCC and its subcommittees will reflect all disclosures and recusals made pursuant to this section, and such minutes will be provided to the Governor for review with the SMFP.
 - f. A challenge to a member's participation in a vote on issues under this Executive Order may be raised only by a member of the SHCC or an employee of the Division of Health Services Regulation of DHHS. In such case where a challenge is made, the Chair, in consultation with the DHHS legal counsel, shall determine whether the challenge is valid and the action that should be taken.
 - g. For the purposes of this Executive Order, the term "Chair" means the Chair of the SHCC or the Chair of any SHCC subcommittee. In the absence of the Chair or if the professional, institutional, or financial interests of the Chair must be reviewed pursuant to this section, then the Vice-Chair of the SHCC or SHCC subcommittee shall make the determinations required by this section.
3. Members of the SHCC are expected to and should confer with DHHS on any matters that come before them in development of the SMFP. No member of the SHCC, however, shall improperly influence or attempt to influence DHHS in performing its role in developing the SMFP as to any provision in which the member has a direct, conflicting professional, institutional or financial interest;
 4. This Executive Order is for the Governor's purposes in reviewing and approving or amending the proposed SMFP submitted by the SHCC and DHHS. This Order does not and shall not be construed to create any rights, nor create claims, under the Certificate of Need Law, State Government Ethics Act, or otherwise.

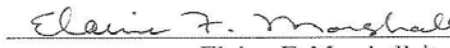
This Executive Order is effective immediately and shall remain in effect until rescinded in writing.

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 third day of March in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-third.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall *by and through*
Secretary of State *Rodney W. Adcox*
Chief Deputy Secretary
of State

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

Best Dry Cleaners
DSCA Site No. 92-0030

Pursuant to N.C.G.S. §143-215.104L, Peak Plaza Associates LP have 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 Apex, Wake County, North Carolina identified by street address and by the following property tax parcel identification numbers:

1781 W Williams Street
Parcel Number 0733612463

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 for a limited portion of 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 May 30, 2009. Written requests for a public meeting may be submitted to DENR no later than April 30, 2009. 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

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Design Center Carolinas LLC**

Pursuant to N.C.G.S. § 130A-310.34, Design Center Carolinas LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Notice of Intent") in Charlotte, Mecklenburg County, North Carolina. The Brownfields Property consists of 0.28 acres and is located at 118-120 West Worthington Avenue. Environmental contamination exists in the Brownfields Property's groundwater. Design Center Carolinas LLC has committed itself to effecting construction on the Brownfields Property and the next parcel east (at 100 West Worthington Avenue) of a 20-plus story residential building that includes office and/or retail use on the ground level. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Design Center Carolinas LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) any proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Charlotte-Mecklenburg Public Library, 310 North Tryon St., Charlotte, NC 28202 by contacting Ms. Joyce Reimann at that address, at (704) 416-0152 or at jreimann@plcmc.org; or at the offices of the N.C. Brownfields Program (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents), 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411.

Written public comments may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the Property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if Design Center Carolinas LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the Property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on April 2, 2009. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Brownfields Program Manager
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION PUBLIC NOTICE

Notice is hereby given for an additional public comment period concerning the proposed amendments to modify the exemption of combustion sources from the Air Toxics rules in 15A NCAC 02Q .0701, .0702, .0706, and .0709. The comment period opens on March 11, 2009 and closes on April 9, 2009.

This public comment period was initially noticed in Volume 23, Issue 07 of the North Carolina Register, pages 666-672, on October 1, 2008. The Environmental Management Commission received several requests for an extension of the comment period. The comment period was extended noticed in Volume 23, Issue 12 of the North Carolina Register, pages 1087-1088, on December 15, 2008 until December 31, 2008.

The purpose of this additional comment period is to allow the public to address the latest developments on Clean Air Act Sections 112(d) and 112(j) as they pertain to the proposed rule amendments. Relevant information is available on the Division of Air Quality web site at: <http://www.ncair.org/rules/combustionsources/>. No changes have been made to the rule amendments as originally published in the North Carolina Register on October 1, 2008.

NOTE: The proposed amendments considered in this rule-making action, if adopted, will be effective statewide; if they are later adopted by a local air pollution control agency, then that agency will enforce them in its area of jurisdiction.

COMMENT PROCEDURES: Any person desiring to comment is requested to submit a written statement for inclusion in the record of proceedings. The comment period will open on March 11, 2009 and will remain open until April 9, 2009. To be included, the written statement must be received by the Division by April 9, 2009.

INFORMATION: Copies of the proposed rule changes may be downloaded at <http://daq.state.nc.us/Rules/Hearing/> Copies of the proposals may also be reviewed at the regional offices of the North Carolina Department of Environment and Natural Resources, Division of Air Quality, located at the following cities:

Asheville	828/296-4500
Fayetteville	910/433-3300
Mooreville	704/663-1699
Raleigh	919/791-4200
Washington	252/946-6481
Wilmington	910/796-7215
Winston-Salem	336/771-5000

Comments should be sent to and additional information concerning the proposals may be obtained by contacting:

Mr. Michael Abraczinskas
Division of Air Quality
1641 Mail Service Center
Raleigh, North Carolina 27699-1641
(919) 715-3743 Phone
(919) 715-7476 Fax
Michael.Abraczinskas@ncmail.net

DATE: _____

B. Keith Overcash, P.E.
Director

Note from the Codifier

Approved Rules Pending the General Assembly

Rules approved by the Rules Review Commission subject to review pursuant to G.S. 150B-21.3 by the General Assembly in the session beginning in January 2009 have completed 30 legislative days. The rules pending this session have been entered into the NC Administrative Code with the exceptions listed below.

Pursuant to G.S. 150B-21.3, if a bill that specifically disapproves a rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. A rule that is specifically disapproved by a bill ratified by the General Assembly before it becomes effective does not become effective.

Legislation has been introduced to disapprove the following rules:

					RRC Approved	Bill Introduced
MEDICAL CARE COMMISSION						
10A	NCAC	13P	.0102	Definitions	01/22/2009	SB 232
10A	NCAC	13P	.0204	EMS Provider License Requirements	12/18/2008	SB 232
10A	NCAC	13P	.0209	Air Medical Ambulance: Vehicle and Equipment Requirements	12/18/2008	SB 232
10A	NCAC	13P	.0301	Specialty Care Transport Program Criteria	12/18/2008	SB 232
10A	NCAC	13P	.0302	Air Medical Specialty Care Transport Program Criteria for...	12/18/2008	SB 232
10A	NCAC	13P	.0305	Air Medical Specialty Care Transport Program Criteria for...	12/18/2008	SB 232
10A	NCAC	13P	.0409	EMS Peer Review Committee for Specialty Care Transport Pr...	12/18/2008	SB 232
ENVIRONMENTAL MANAGEMENT COMMISSION						
15A	NCAC	02B	.0262	Jordan Water Supply Nutrient Strategy: Purpose and Scope	11/20/2008	HB 239
15A	NCAC	02B	.0263	Jordan Water Supply Nutrient Strategy: Definitions	11/20/2008	HB 239
15A	NCAC	02B	.0264	Jordan Water Supply Nutrient Strategy: Agriculture	10/16/2008	HB 239
15A	NCAC	02B	.0265	Jordan Water Supply Nutrient Strategy: Stormwater Managem...	11/20/2008	HB 239
15A	NCAC	02B	.0266	Jordan Water Supply Nutrient Strategy: Stormwater Managem...	11/20/2008	HB 239
15A	NCAC	02B	.0267	Jordan Water Supply Nutrient Strategy: Protection of Exis...	11/20/2008	HB 239
15A	NCAC	02B	.0268	Jordan Water Supply Nutrient Strategy: Mitigation of Exis...	10/16/2008	HB 239
15A	NCAC	02B	.0269	Riparian Buffer Mitigation Fees to the NC Ecosystem Enhan...	10/16/2008	HB 239
15A	NCAC	02B	.0270	Jordan Water Supply Nutrient Strategy: Wastewater Dischar...	10/16/2008	HB 239
15A	NCAC	02B	.0271	Jordan Water Supply Nutrient Strategy: Stormwater Require...	10/16/2008	HB 239
15A	NCAC	02B	.0272	Jordan Water Supply Nutrient Strategy: Fertilizer Management	10/16/2008	HB 239
15A	NCAC	02B	.0273	Jordan Water Supply Nutrient Strategy: Options for Offse...	10/16/2008	HB 239
15A	NCAC	02B	.0311	Cape Fear River Basin	11/20/2008	SB 166

COASTAL RESOURCES COMMISSION

15A NCAC 07H .0306 General Use Standards for Ocean Hazard Areas 11/20/2008 SB 524

GENERAL CONTRACTORS, LICENSING BOARD FOR

21 NCAC 12 .0211 Multitunit Buildings 06/19/2008 HB 210

MEDICAL BOARD

21 NCAC 32X .0101 Required Information 08/21/2008 S646 H703

21 NCAC 32X .0102 Voluntary Information 08/21/2008 S646

21 NCAC 32X .0103 Reporting of Medical Judgments, Awards, Payments and Sett... 08/21/2008 S646 H703

21 NCAC 32X .0104 Contents of the Report 08/21/2008 S646

21 NCAC 32X .0105 Publication of Judgments, Awards, Payments or Settlements 08/21/2008 S646 H703

21 NCAC 32X .0106 Publishing Certain Misdemeanor Convictions 08/21/2008 S646

21 NCAC 32X .0107 Noncompliance or Falsification of Information 08/21/2008 S646

BUILDING CODE COUNCIL

Chapter 11 Accessibility Code 05/15/2008 SB 607

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 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Division of Mental Health, Development Disabilities and Substance Abuse Services intends to amend the rules cited as 10A NCAC 27G .0810 - .0812.

Proposed Effective Date: November 1, 2009

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): A person may demand a public hearing on the proposed rules by submitting a request in writing to Amanda J. Reeder, 3018 Mail Service Center, Raleigh, NC 27699-3018.*

Reason for Proposed Action: *The proposed amendments will further clarify the Administrative Review and Hearing procedures involved in processing appeals to the State MH/DD/SA Appeals Panel, and clarify time frames involved in those procedures.*

Procedure by which a person can object to the agency on a proposed rule: *The objection, reasons for the objection and the clearly identified portion of the rule to which the objection pertains may be submitted in writing to Amanda J. Reeder, 3018 Mail Service Center, Raleigh, NC 27699-3018.*

Comments may be submitted to: *Amanda J. Reeder, 3018 Mail Service Center, Raleigh, NC 27699-3018, phone (919) 715-2780, fax (919) 733-1221, email Amanda.Reeder@ncmail.net.*

Comment period ends: June 1, 2009

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 919-431-3000.

Fiscal Impact:

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

CHAPTER 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .0800 - WAIVERS AND APPEALS

10A NCAC 27G .0810 STATE MH/DD/SA APPEALS PANEL ADMINISTRATIVE REVIEW PROCEDURES

~~(a) Appeals of the decision of local area authorities shall be forwarded, along with all supplementary documentation considered during the local area appeals process, to the Division Director within 15 days of the local decision being rendered.~~

(a) Appellants, as identified in G.S. 122C-151.4(c), shall file written notice of appeal of the final decision of the Local Management Entity (LME) with the Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (Division) within 30 calendar days of the date of the final LME decision.

(b) "File or Filing" means personal delivery, delivery by certified mail, or delivery by licensed overnight express mail to the current Director of the North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services. A document or paper is deemed filed as of the date it is delivered to the Director. Filings addressed to a person other than the Division Director, or which fail to be filed within the time periods established by this Rule, or which otherwise fail to be filed in conformity with these Rules shall be considered as improper filings and denied.

(c) Upon notification of the appeal filed pursuant to G.S. 122C-151.4(c)(1)-(c)(3), the LME shall forward a copy of its final decision, the signed contract between the LME and the contractor or former contractor, where applicable a copy of the endorsement application, and all supplementary documentation considered during the local appeals process, to the Division Director, with a copy to the appellant, within five business days of the date of the notification.

(d) Upon notification of the appeal filed under G.S. 122C-151.4(c)(4) and (5), the LME shall forward notification of its final decision and all supplementary documentation considered during the local appeals process to the Division Director, with a

copy to the appellant, within five business days of the date of the notification.

~~(b)(e)~~ The Division Director shall appoint an impartial Panel, consisting of a Chairman, an LME representative and a provider representative, and shall forward all information to the Chairman of the Panel within five-10 working business days: days of receipt.

(f) The Panel shall deliberate in closed session on each specific item being appealed.

(g) The Panel shall vote on each specific item being appealed.

(h) Findings and decisions of the Panel shall be by majority vote.

(i) The Panel may obtain any form of technical assistance or consultation relevant to the appeal in conducting the administrative review.

~~(e)(j)~~ The Panel shall complete an administrative review and notify the appealing party and the ~~area program-LME~~ of its decision, in writing, within 15 business days of the Panel's receipt of the appeal. appeal record. Unless further appealed within 15 days of the date of this decision, this decision shall be considered final

(k) Any decision may be delayed until a subsequent meeting if the Panel determines that it lacks sufficient information to render a decision at the initial administrative review.

(l) In all cases the administrative review decision shall be rendered within 30 business days of the date of the Panel's receipt of the appeal record.

~~(d)(m)~~ The appellant or the LME ~~Either party named in the appeal~~ may request a hearing by the appeal the administrative review decision by requesting an informal hearing before the Panel before the Panel's administrative decision is considered to be final by submitting a written request to the Chairman of the Panel within 15 business days of the date of the administrative review decision.

(n) Unless the appellant or the LME requests a hearing before the Panel within 15 business days of the date of the administrative review decision, the administrative review decision shall be considered final.

(o) These Rules do not apply to contracts for personal services provided by a professional individual which include, but are not limited to, those of a doctor, dentist, attorney, architect, professional engineer, scientist or performer of the fine arts or similar professionals, or consultative service on a temporary or occasional basis.

(e) A hearing shall be scheduled by the Panel no more than 30 days after a written request for a hearing is received by the Chairman.

~~(f) The hearing shall be scheduled at a time and place designated by the Chairman.~~

(g) The appealing party and the area program shall be notified of the time and place of the hearing no less than 15 days prior to the hearing.

Authority G.S. 122C-151.4.

10A NCAC 27G .0811 STATE MH/DD/SA APPEALS PANEL HEARING PROCEDURES

(a) An informal hearing shall be held by the Panel no more than 30 business days after a written request for an informal hearing is received by the Chairman.

(b) The informal hearing shall be held at a time and place designated by the Chairman.

(c) The appellant and the LME shall be notified of the time and place of the informal hearing no less than 15 business days prior to the date of the informal hearing.

~~(a)(d)~~ The Chairman of the Panel:

- (1) shall convene the ~~meeting-hearing~~ at the prearranged time and place;
- (2) may afford the opportunity for rebuttal and summary comments to either of the presenting parties;
- (3) may limit the total number of persons presenting for the appellant and ~~appellee~~; the LME; and
- (4) may impose time limits for presentations.

(e) Both the appellant and the LME shall attend the informal hearing.

~~(b)(f)~~ The official representative of the appellant and ~~appellee~~ the LME shall:

- (1) provide written notice to the Chairman of the ~~Panel, specify specifying by name and position~~ position, all individuals who will ~~be present for attend the hearing; informal hearing no later than five business days before the hearing date;~~
- (2) provide the Panel with any requested information; and
- (3) ~~if appropriate, ensure that a representative of the appellant and appellee the LME will be available at attend the informal hearing to make a presentation.~~

~~(e)(g)~~ Any member of the Panel may address questions to the representatives of the appellant or of the ~~appellee LME~~.

~~(d)(h)~~ All persons present at the ~~appeal informal hearing~~ shall address only the Chairman or a specific member of the Panel who has addressed a specific question to that individual.

~~(e)(i)~~ Direct exchanges between presenters for the appellant and the ~~appellee LME~~ shall be prohibited.

(j) No transcript shall be made and no party shall be allowed to record the proceeding. The panel may choose to record the proceeding for its own use. A tape so made shall be destroyed after the panel issues its decision.

~~(f)(k)~~ The Panel may obtain any form of technical assistance or consultation relevant to the appeal.

Authority G.S. 122C-151.4.

10A NCAC 27G .0812 STATE MH/DD/SA APPEALS PANEL HEARING DECISIONS

(a) The Panel shall ~~vote in open~~ deliberate in closed session on each specific item being appealed.

(b) The Panel shall vote on each specific item being appealed.

(c) Findings and decisions of the Panel shall be by majority vote.

~~(b)(d)~~ Within five working days, each ~~Each~~ decision shall be conveyed in writing to the ~~appealing party and the area authority~~ appellant and the LME within 10 business days of the date of the decision.

~~(e)(e)~~ Any decision may be ~~rescheduled for~~ delayed until a subsequent meeting if the Panel determines that it lacks sufficient information to render a decision at the initial informal hearing.

~~(d)(f)~~ In all cases ~~a final~~ the hearing decision shall be rendered within 30 business days of the date of the ~~written request for a~~ informal hearing.

(g) Appeals of the Panel's hearing decision shall be filed pursuant to G.S. 122C-151.4(f).

Authority G.S. 122C-151.4.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Justice Academy intends to amend the rules cited as 12 NCAC 06A .0101, .0102, and .0603; and repeal the rules cited as 12 NCAC 06A .0604, .0703, and .0803.

Proposed Effective Date: August 1, 2009

Public Hearing:

Date: April 23, 2009

Time: 10:00 a.m.

Location: North Carolina Justice Academy Campus, Royal Building, Classroom 6, Salemburg, NC 28385

Reason for Proposed Action:

12 NCAC 06A .0101-.0102 – The North Carolina Justice Academy acquired Edneyville High School on April 1, 1998. It created the Larry T. Justus campus of the North Carolina Justice Academy at Edneyville, NC on this date.

12 NCAC 06A .0603 – Law enforcement officers are responsible for securing their own duty weapons. The Academy does not have the means to provide secure storage of an officer's weapon.

12 NCAC 06A .0604 – The North Carolina Justice Academy does not have a safe to secure personal items for trainees attending classes at our campus.

12 NCAC 06A .0703 – The Director of the North Carolina Justice Academy or designee has the authority to determine who uses the Academy facilities per written policy and procedures established by the North Carolina Justice Academy.

12 NCAC 06A .0803 – The North Carolina Justice Academy has established written policy and procedures that cover appeal rights.

Procedure by which a person can object to the agency on a proposed rule: Persons objecting to the proposed rules can speak at a public hearing scheduled for April 23, 2009 at 10:00 a.m. at the North Carolina Justice Academy in Classroom 6 of the Royal Building, or they may fax objections to (910) 525-5439. Additionally, they may mail their objections to Peggy

Schaefer, North Carolina Justice Academy, P. O. Box 99, 200 W. College Street, Salemburg, NC 28385.

Comments may be submitted to: Peggy Schaefer, P. O. Box 99, 200 W. College Street, Salemburg, NC 28385, phone (910) 525-4151, fax (910) 525-5439

Comment period ends: June 1, 2009

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) 431-3000.

Fiscal Impact:

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

CHAPTER 06 - THE NORTH CAROLINA JUSTICE ACADEMY

SUBCHAPTER 06A - ORGANIZATION AND RULES

SECTION .0100 - GENERAL PROVISIONS

12 NCAC 06A .0101 NAME AND LOCATION

The North Carolina Justice Academy is located in Salemburg, North Carolina. Carolina and Edneyville, North Carolina.

Authority G.S. 17D-1; 17D-2.

12 NCAC 06A .0102 MAILING ADDRESS

The mailing address of the Justice Academy is: The North Carolina Justice Academy, P.O. Drawer 99, Salemburg, North Carolina ~~28385~~, 28385 and PO Box 600, Edneyville, North Carolina 28727.

Authority G.S. 17D-1; 17D-2.

SECTION .0600 - STUDENT CONDUCT

12 NCAC 06A .0603 FIREARMS

All students bringing firearms or ammunition on campus must check them at the business office. All students shall secure firearms and ammunition in a manner such that they are

inaccessible to non-certified law enforcement officers. Students shall not keep firearms and ammunition in dorm rooms.

Authority G.S. 17D-1; 17D-2.

12 NCAC 06A .0604 VALUABLES

~~Students desiring to check valuables may check them at the business office where they will be secured in a safe. The academy is not responsible for items lost or stolen from student rooms, vehicles, or purses.~~

Authority G.S. 17D-1; 17D-2; 17D-4.

SECTION .0700 - BUILDING USE

12 NCAC 06A .0703 USE BY PUBLIC

~~The academy facilities are open for use by the general public when cleared through the business office.~~

Authority G.S. 17D-1; 17D-2; 17D-3; 17D-4.

SECTION .0800 - STUDENT AWARDS AND CERTIFICATES

12 NCAC 06A .0803 APPEAL UPON UNSATISFACTORY COMPLETION OF COURSE

~~A student who does not satisfactorily complete a course may request a hearing with the deputy director of the academy who will, after an informal hearing, decide whether the student is to be awarded a certificate.~~

Authority G.S. 17D-1; 17D-2.

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Sheriffs' Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 10B .0601.

Proposed Effective Date: *August 1, 2009*

Public Hearing:

Date: *June 9, 2009*

Time: *2:00 p.m.*

Location: *Western Justice Academy, 3971 Chimney Rock Road, Edneyville, NC 28727*

Reason for Proposed Action: *Rules set out the basic training requirements for the Detention Officer Certification Course, and adjustment of hours in some topical areas to better address curriculum. Total hours remain unchanged.*

Procedure by which a person can object to the agency on a proposed rule: *Objections shall be submitted in writing explaining the reasons for objection and specifying the portion of the Rule to which the objection is being made. Such object should be to: Julia Lohman, Sheriffs' Standards Division, NC Department of Justice, PO Box 629, Raleigh, NC 27602.*

Comments may be submitted to: *Julia Lohman, 114 West Edenton Street, Raleigh, NC 27602, phone (919) 716-6460, fax (919) 716-6753, email jlohman@ncdoj.gov*

Comment period ends: *June 9, 2009*

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 919-431-3000.

Fiscal Impact:

- ☐ State
- ☐ Local
- ☐ Substantive (\geq \$3,000,000)
- ☒ None

CHAPTER 10 - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0600 - MINIMUM STANDARDS OF TRAINING FOR DETENTION OFFICERS

12 NCAC 10B .0601 DETENTION OFFICER CERTIFICATION COURSE

(a) This Section establishes the current standard by which Sheriffs' Office and district confinement personnel shall receive detention officer training. The Detention Officer Certification Course shall consist of a minimum of 162 hours of instruction designed to provide the trainee with the skills and knowledge necessary to perform those tasks considered essential to the administration and operation of a confinement facility.

(b) Each Detention Officer Certification Course shall include the following identified topic areas and approximate minimum instructional hours for each area:

- | | | |
|-----|---|------------------------------|
| (1) | Orientation | 2 hours |
| (2) | Criminal Justice System | 3 hours |
| (3) | Legal Aspects of Management & Supervision | 16 hours 19 hours |
| (4) | Contraband/Searches | 6 hours |
| (5) | Processing Inmates | 7 hours |
| (6) | First Aid & CPR | 10 hours |
| (7) | Medical Care in the Jail | 6 hours |
| (8) | Patrol & Security Functions of the Jail | 5 hours |

(9)	Key and Tool Control	2 hours
(10)	Supervision & Management of Inmates	5 hours
(11)	Suicides & Crisis Management	5 hours
(12)	Introduction to Rules & Regulations	2 hours
(13)	Governing Jails	3 hours 2 hours
(14)	Stress	9 hours
(15)	Investigative Process in the Jail	24 hours
(16)	Subject Control Techniques	6 hours
(17)	Aspects of Mental Illness	7 hours
(18)	Transportation of Inmates	4 hours
(19)	Fire Emergencies	22 hours 20 hours
(20)	Physical Fitness for Detention Officers	5 hours
(21)	Communication Skills	3 hours
(22)	Ethics	7 hours
(23)	Review/Testing	3 hours
	State Comprehensive Examination	162 hours
	TOTAL HOURS	

(c) Consistent with the curriculum development policy of the Commission as published in the "Detention Officer Certification Course Management Guide", the Commission shall designate the developer of the Detention Officer Certification Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Detention Officer Certification Courses. Individuals who complete such a pilot Detention Officer Certification Course offering shall be deemed to have complied with and satisfied the minimum training requirement.

(d) The "Detention Officer Certification Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for the Detention Officer Certification Course. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099. The cost of this manual is forty dollars (\$40.00) at the time of adoption of this Rule.

(e) The "Detention Officer Certification Course Management Guide" as published by the North Carolina Justice Academy is hereby incorporated by reference and shall automatically include any later amendments, editions of the incorporated matter to be used by school directors in planning, implementing and delivering basic detention officer training. The standards and requirements established by the "Detention Officer Certification Course Management Guide" must be adhered to by the school director. Each certified school director shall be issued a copy of the guide at the time of certification at no cost to the certified school.

Authority G.S. 17E-4(a).

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02L .0202.

Proposed Effective Date: *January 1, 2010*

Public Hearing:

Date: *April 21, 2009*

Time: *6:30 p.m.*

Location: *Western Piedmont Community College, Moore Hall, 1001 Burkemont Avenue, Morganton, NC*

Public Hearing:

Date: *April 23, 2009*

Time: *6:30 p.m.*

Location: *Bladen Community College, Multipurpose Auditorium Building, 7418 Hwy 41 West, Dublin, NC*

Public Hearing:

Date: *April 30, 2009*

Time: *6:30 p.m.*

Location: *Archdale Building, Ground Floor Hearing Room, 512 N. Salisbury Street, Raleigh, NC*

Reason for Proposed Action: *Groundwater Quality Standards for the protection of groundwaters of the state are established by 15A NCAC 02L .0202. They are the maximum allowable concentrations resulting from any discharge of contaminants to the land or waters of the state, which may be tolerated without creating a threat to human health or which would otherwise render the groundwater unsuitable for its intended best usage as an existing or potential source of drinking water supply for humans. This rulemaking is deemed necessary as a result of research in recent years on arsenic toxicology that has resulted in the federal MCL being revised from 0.050 mg/L to 0.01 mg/L. The current arsenic groundwater standard is 0.050 mg/L. The DWQ staff, with the concurrence of the DPH staff, recommends using the information that is currently available in the IRIS database to calculate a revised groundwater standard of 0.00002 mg/L for arsenic. The proposed standard significantly reduces the risk of adverse health effects from exposure to arsenic in groundwater used as a drinking water source for humans. In addition, the DWQ has identified necessary revisions to 39 groundwater standards in addition to arsenic as a result of the 2006-2008 triennial review and a standard for formaldehyde was added. The State is required by 15A NCAC 02L .0202(f) to review its groundwater water quality standards and interim maximum allowable concentrations every three years to determine if changes are needed and, if necessary, to make those changes. Revision of these standards is needed to ensure that they contain the most recent health and toxicological information. Other minor changes such as significant figures, units of measure and chemical names have been incorporated as well.*

Procedure by which a person can object to the agency on a proposed rule: *Comments may be presented at the public hearings or submitted in writing to the Planning Section of the NCDENR Division of Water Quality beginning April 1, 2009 and ending on June 1, 2009. The Hearing Officer may limit the length of time that you may speak at the public hearing so that all those who wish to speak may have an opportunity to do so. The EMC is very interested in all comments pertaining to the proposed Groundwater Quality Standards. If you wish to*

present verbal comments at the public hearing, it is requested that you submit a copy of your comments in writing to the Hearing Officer in order for your full comments to be captured in the rulemaking record. Written comments may be submitted to: Sandra Moore, DENR/Division of Water Quality/Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617, Sandra.Moore@ncmail.net, phone (919) 807-6417 or by fax at (919) 807-6497. In case of inclement weather on the day of the scheduled public hearing, please contact the above telephone number for a recorded message regarding any changes to the location, day or time of the hearing.

Comments may be submitted to: Sandra Moore, DENR/Division of Water Quality/Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617, phone (919) 807-6417, fax (919) 807-6497, email Sandra.Moore@ncmail.net

Comment period ends: June 1, 2009

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) 431-3000.

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

- ☒ State
- ☒ Local
- ☒ Substantive ($\geq \$3,000,000$)
- ☐ None

Fiscal Note posted at

http://www.osbm.state.nc.us/files/pdf_files/DENR02232009.pdf

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02L - GROUNDWATER CLASSIFICATION AND STANDARDS

SECTION .0200 - CLASSIFICATIONS AND GROUNDWATER QUALITY STANDARDS

15A NCAC 02L .0202 GROUNDWATER QUALITY STANDARDS

(a) The groundwater quality standards for the protection of the groundwaters of the state are those specified in this Rule. They are the maximum allowable concentrations resulting from any discharge of contaminants to the land or waters of the state,

which may be tolerated without creating a threat to human health or which would otherwise render the groundwater unsuitable for its intended best usage.

(b) The groundwater quality standards for contaminants specified in Paragraphs (g) and (h) of this Rule shall be as listed, except that:

- (1) Where the standard for a substance is less than the practical quantitation limit, the detection of that substance at or above the practical quantitation limit shall constitute a violation of the standard.
- (2) Where two or more substances exist in combination, the Director shall consider the effects of chemical interactions as determined by the Division of Public Health and may establish maximum concentrations at values less than those established in accordance with Paragraphs (c), (g), or (h) of this Rule. In the absence of information to the contrary, in accordance with Paragraph (d) of this Rule, the carcinogenic risks associated with carcinogens present shall be considered additive and the toxic effects associated with non-carcinogens present shall also be considered additive.
- (3) Where naturally occurring substances exceed the established standard, the standard shall be the naturally occurring concentration as determined by the Director.

(c) Except for tracers used in concentrations which have been determined by the Division of Public Health to be protective of human health, and the use of which has been permitted by the Division, substances which are not naturally occurring and for which no standard is specified shall not be permitted in ~~detectable concentrations at or above the practical quantitation limit~~ at or above the practical quantitation limit in Class GA or Class GSA groundwaters. Any person may petition the Director to establish an interim maximum allowable concentration for a substance for which a standard has not been established under this Rule. The petitioner shall submit relevant toxicological and epidemiological data, study results, and calculations necessary to establish a standard in accordance with Paragraph (d) of this Rule. Within three months after the establishment of an interim maximum allowable concentration for a substance by the Director, the Director shall initiate action to consider adoption of a standard for that substance.

(d) Groundwater quality standards for substances in Class GA and Class GSA groundwaters are established as the least of:

- (1) Systemic threshold concentration calculated as follows: $[\text{Reference Dose (mg/kg/day)} \times 70 \text{ kg (adult body weight)} \times \text{Relative Source Contribution (.10 for inorganics; .20 for organics)}] / [2 \text{ liters/day (avg. water consumption)}]$;
- (2) Concentration which corresponds to an incremental lifetime cancer risk of 1×10^{-6} ;
- (3) Taste threshold limit value;
- (4) Odor threshold limit value;
- (5) Maximum contaminant level; or
- (6) National secondary drinking water standard.

(e) The following references, in order of preference, shall be used in establishing concentrations of substances which correspond to levels described in Paragraph (d) of this Rule.

- (1) Integrated Risk Information System (U.S. EPA).
- (2) Health Advisories (U.S. EPA Office of Drinking Water).
- (3) Other health risk assessment data published by U.S. EPA.
- (4) Other appropriate, published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.

(f) Groundwater quality standards specified in Paragraphs (g) and (h) of this Rule and interim maximum allowable concentrations established pursuant to Paragraph (c) of this Rule shall be reviewed on a triennial basis. Appropriate modifications to established standards shall be made in accordance with the procedure prescribed in Paragraph (d) of this Rule where modifications are considered appropriate based on data published subsequent to the previous review.

(g) Class GA Standards. Where not otherwise indicated, the standard refers to the total concentration in milligrams micrograms per liter of any constituent in a dissolved, colloidal or particulate form which is mobile in groundwater. This does not apply to sediment or other particulate matter which is preserved in a groundwater sample as a result of well construction or sampling procedures.

- (1) ~~acetone: 0.7~~
- (2) ~~acenaphthene: 0.08~~
- (3) ~~acenaphthylene: 0.21~~
- (4) ~~acrylamide (propenamide): 0.000008~~
- (5) ~~anthracene: 2.1~~
- (6) ~~arsenic: 0.05~~
- (7) ~~atrazine and chlorotriazine metabolites: 0.0030~~
- (8) ~~barium: 2.0~~
- (9) ~~benzene: 0.001~~
- (10) ~~benzo(a)anthracene (benz(a)anthracene): 0.0000479~~
- (11) ~~benzo(b)fluoranthene: 4.79×10^{-5}~~
- (12) ~~benzo(k)fluoranthene: 4.79×10^{-4}~~
- (13) ~~benzo(g,h,i)perylene: 0.21~~
- (14) ~~benzo(a)pyrene: 4.79×10^{-6}~~
- (15) ~~boron: 0.315~~
- (16) ~~bromodichloromethane: 0.00056~~
- (17) ~~bromoform (tribromomethane): 0.00443~~
- (18) ~~n butylbenzene: 0.07~~
- (19) ~~sec butylbenzene: 0.07~~
- (20) ~~tert butylbenzene: 0.07~~
- (21) ~~butylbenzyl phthalate: 0.10~~
- (22) ~~cadmium: 0.00175~~
- (23) ~~caprolactam: 3.5~~
- (24) ~~carbofuran: 0.035~~
- (25) ~~carbon disulfide: 0.7~~
- (26) ~~carbon tetrachloride: 0.000269~~
- (27) ~~chlordan: 1.0×10^{-4}~~
- (28) ~~chloride: 250.0~~
- (29) ~~chlorobenzene: 0.05~~
- (30) ~~chloroethane: 2.80~~

- (31) ~~chloroform (trichloromethane): 0.07~~
- (32) ~~chloromethane (methyl chloride): 2.6×10^{-3}~~
- (33) ~~2 chlorophenol: 0.00036~~
- (34) ~~2 chlorotoluene: 0.14~~
- (35) ~~chromium: 0.05~~
- (36) ~~chrysene: 0.00479~~
- (37) ~~cis 1,2 dichloroethene: 0.07~~
- (38) ~~coliform organisms (total): 1 per 100 milliliters~~
- (39) ~~color: 15 color units~~
- (40) ~~copper: 1.0~~
- (41) ~~cyanide (free cyanide): 0.07~~
- (42) ~~2, 4 D (2,4 dichlorophenoxy acetic acid): 0.07~~
- (43) ~~dibenz(a,h)anthracene: 4.7×10^{-6}~~
- (44) ~~1,2 dibromo 3 chloropropane: 2.5×10^{-5}~~
- (45) ~~dichlorodifluoromethane (Freon 12; Halon): 1.4~~
- (46) ~~p,p' dichlorodiphenyl dichloroethane (DDD): 1.4×10^{-4}~~
- (47) ~~p,p' dichlorodiphenyltrichloroethane (DDT): 1.0×10^{-4}~~
- (48) ~~1,1 dichloroethane: 0.07~~
- (49) ~~1,2 dichloroethane (ethylene dichloride): 0.00038~~
- (50) ~~1,1 dichloroethylene (vinylidene chloride): 0.007~~
- (51) ~~1,2 dichloropropane: 0.00051~~
- (52) ~~1,3 dichloropropene (cis and trans isomers): 0.00019~~
- (53) ~~dieldrin: 2.2×10^{-6}~~
- (54) ~~di n butyl (or dibutyl) phthalate (DBP): 0.7~~
- (55) ~~diethylphthalate (DEP): 5.0~~
- (56) ~~di(2 ethylhexyl) phthalate (DEHP): 0.0025~~
- (57) ~~2,4 dimethylphenol (m xylene): 0.14~~
- (58) ~~di n octyl phthalate: 0.14~~
- (59) ~~p dioxane (1,4 diethylene dioxide): 0.007~~
- (60) ~~dioxin: 2.2×10^{-10}~~
- (61) ~~diphenyl (1,1 diphenyl): 0.35~~
- (62) ~~dissolved solids (total): 500~~
- (63) ~~disulfoton: 2.8×10^{-4}~~
- (64) ~~diundecyl phthalate (Santicizer 711): 0.14~~
- (65) ~~endosulfan II (beta endosulfan): 0.0420~~
- (66) ~~endrin: 0.002~~
- (67) ~~endrin (total endrin: includes endrin, endrin aldehyde, and endrin ketone): 2.1×10^{-3}~~
- (68) ~~epichlorohydrin (1 chloro 2,3 epoxypropane): 0.00354~~
- (69) ~~ethylbenzene: 0.550~~
- (70) ~~ethylene dibromide (EDB; 1,2 dibromoethane): 4.0×10^{-7}~~
- (71) ~~ethylene glycol: 14.0~~
- (72) ~~fluoranthene: 0.28~~
- (73) ~~fluorene: 0.28~~
- (74) ~~fluoride: 2.0~~
- (75) ~~foaming agents: 0.5~~
- (76) ~~gross alpha (adjusted) particle activity (excluding radium 226 and uranium): 15 pCi/l~~
- (77) ~~heptachlor: 7.8×10^{-6}~~
- (78) ~~heptachlor epoxide: 3.8×10^{-6}~~

PROPOSED RULES

- (79) heptane: 0.42
- (80) hexachlorobenzene (perchlorobenzene): 0.00002
- (81) hexachlorocyclohexane isomers (total hexachlorocyclohexane: includes alpha,beta,delta,gamma, and epsilon isomers): 1.9×10^{-5}
- (82) n-hexane: 0.42
- (83) indeno(1,2,3-cd)pyrene: 4.79×10^{-5}
- (84) iron: 0.3
- (85) isophorone: 0.0368
- (86) isopropylbenzene: 0.070
- (87) isopropyl ether (diisopropyl ether): 0.070
- (88) lead: 0.015
- (89) lindane: 2.0×10^{-4}
- (90) manganese: 0.05
- (91) mercury: 0.00105
- (92) metadichlorobenzene (1,3-dichlorobenzene): 0.170
- (93) methanol: 3.5
- (94) methoxychlor: 0.035
- (95) methylene chloride (dichloromethane): 0.0046
- (96) methyl ethyl ketone (MEK; 2-butanone): 4.20
- (97) 2-methylnaphthalene: 0.0140
- (98) 3-methylphenol (m-cresol): 0.0350
- (99) 4-methylphenol (p-cresol): 3.5×10^{-3}
- (100) methyl tert-butyl ether (MTBE): 0.2
- (101) naphthalene: 0.021
- (102) nickel: 0.1
- (103) nitrate: (as N) 10.0
- (104) nitrite: (as N) 1.0
- (105) N-nitrosodimethylamine: 7.0×10^{-7}
- (106) orthodichlorobenzene (1,2-dichlorobenzene): 0.024
- (107) oxamyl: 0.175
- (108) paradichlorobenzene (1,4-dichlorobenzene): 0.0014
- (109) pentachlorophenol: 0.00029
- (110) petroleum aliphatic carbon fraction class C5-C8: 0.42
- (111) petroleum aliphatic carbon fraction class C9-C18: 4.20
- (112) petroleum aliphatic carbon fraction class C19-C36: 42.0
- (113) petroleum aromatics carbon fraction class C9-C22: 0.210
- (114) pH: 6.5-8.5
- (115) phenanthrene: 0.21
- (116) phenol: 0.30
- (117) phorate: 1.4×10^{-3}
- (118) n-propylbenzene: 0.070
- (119) pyrene: 0.21
- (120) selenium: 0.05
- (121) silver: 0.0175
- (122) simazine: 0.004
- (123) styrene (ethenylbenzene): 0.1
- (124) sulfate: 250.0
- (125) tetrachloroethylene (perchloroethylene; PCE): 0.0007
- (126) 2,3,4,6-tetrachlorophenol: 0.210
- (127) toluene (methylbenzene): 1.0
- (128) toxaphene: 3.1×10^{-5}
- (129) 2, 4, 5, TP (Silvex): 0.05
- (130) trans-1,2-dichloroethene: 0.10
- (131) 1,1,1-trichloroethane (methyl chloroform): 0.2
- (132) trichloroethylene (TCE): 0.0028
- (133) trichlorofluoromethane: 2.1
- (134) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113): 210.0
- (135) 1,2,3-trichloropropane: 5.0×10^{-6}
- (136) 1,2,4-trimethylbenzene: 0.350
- (137) 1,3,5-trimethylbenzene: 0.350
- (138) vinyl chloride (chloroethylene): 1.5×10^{-5}
- (139) xylenes (o-, m-, and p-): 0.53
- (140) zinc: 1.05
- (1) Acenaphthene: 80
- (2) Acenaphthylene: 200
- (3) Acetone: 6 mg/L
- (4) Acrylamide: 0.008
- (5) Anthracene: 2 mg/L
- (6) Arsenic: 0.02
- (7) Atrazine and chlorotriazine metabolites: 3
- (8) Barium: 700
- (9) Benzene: 1
- (10) Benzo(a)anthracene (benz(a)anthracene): 0.05
- (11) Benzo(b)fluoranthene: 0.05
- (12) Benzo(k)fluoranthene: 0.5
- (13) Benzoic acid: 30 mg/L
- (14) Benzo(g,h,i)perylene: 200
- (15) Benzo(a)pyrene: 0.005
- (16) Bis(chloroethyl)ether: 0.03
- (17) Bis(2-ethylhexyl) phthalate (di(2-ethylhexyl) phthalate): 3
- (18) Boron: 700
- (19) Bromodichloromethane: 0.6
- (20) Bromoform (tribromomethane): 4
- (21) Butylbenzyl phthalate: 1 mg/L
- (22) Cadmium: 2
- (23) Caprolactam: 4 mg/L
- (24) Carbofuran: 40
- (25) Carbon disulfide: 700
- (26) Carbon tetrachloride: 0.3
- (27) Chlordane: 0.1
- (28) Chloride: 250 mg/L
- (29) Chlorobenzene: 50
- (30) Chloroform (trichloromethane): 70
- (31) Chloromethane (methyl chloride): 3
- (32) 2-Chlorophenol: 0.4
- (33) 2-Chlorotoluene (o-chlorotoluene): 100
- (34) Chromium: 10
- (35) Chrysene: 5
- (36) Coliform organisms (total): 1 per 100 milliliters
- (37) Color: 15 color units
- (38) Copper: 1 mg/L
- (39) Cyanide (free cyanide): 70
- (40) 2, 4-D (2,4-dichlorophenoxy acetic acid): 70
- (41) DDD: 0.1

PROPOSED RULES

- | | |
|---|---|
| (42) <u>DDT: 0.1</u> | (91) <u>Lindane (gamma hexachlorocyclohexane): 0.03</u> |
| (43) <u>Dibenz(a,h)anthracene: 0.005</u> | (92) <u>Manganese: 50</u> |
| (44) <u>Dibromochloromethane: 0.4</u> | (93) <u>Mercury: 1</u> |
| (45) <u>1,2-Dibromo-3-chloropropane: 0.04</u> | (94) <u>Methanol: 4 mg/L</u> |
| (46) <u>Dibutyl (or di-n-butyl) phthalate: 700</u> | (95) <u>Methoxychlor: 40</u> |
| (47) <u>1,2-Dichlorobenzene (orthodichlorobenzene): 20</u> | (96) <u>Methylene chloride (dichloromethane): 5</u> |
| (48) <u>1,3-Dichlorobenzene (metadichlorobenzene): 200</u> | (97) <u>Methyl ethyl ketone (2-butanone): 4 mg/L</u> |
| (49) <u>1,4-Dichlorobenzene (paradichlorobenzene): 6</u> | (98) <u>2-Methylnaphthalene: 30</u> |
| (50) <u>Dichlorodifluoromethane (Freon-12; Halon): 1 mg/L</u> | (99) <u>3-Methylphenol (m-cresol): 400</u> |
| (51) <u>1,1-Dichloroethane: 6</u> | (100) <u>4-Methylphenol (p-cresol): 40</u> |
| (52) <u>1,2-Dichloroethane (ethylene dichloride): 0.4</u> | (101) <u>Methyl tert-butyl ether (MTBE): 20</u> |
| (53) <u>1,2-Dichloroethene (cis): 70</u> | (102) <u>Naphthalene: 6</u> |
| (54) <u>1,2-Dichloroethene (trans): 100</u> | (103) <u>Nickel: 100</u> |
| (55) <u>1,1-Dichloroethylene (vinylidene chloride): 7</u> | (104) <u>Nitrate: (as N) 10 mg/L</u> |
| (56) <u>1,2-Dichloropropane: 0.6</u> | (105) <u>Nitrite: (as N) 1 mg/L</u> |
| (57) <u>1,3-Dichloropropene (cis and trans isomers): 0.4</u> | (106) <u>N-nitrosodimethylamine: 0.0007</u> |
| (58) <u>Dieldrin: 0.002</u> | (107) <u>Oxamyl: 200</u> |
| (59) <u>Diethylphthalate: 6 mg/L</u> | (108) <u>Pentachlorophenol: 0.3</u> |
| (60) <u>2,4-Dimethylphenol (m-xenol): 100</u> | (109) <u>Petroleum aliphatic carbon fraction class (C5 - C8): 400</u> |
| (61) <u>1,4-Dioxane (p-dioxane): 3</u> | (110) <u>Petroleum aliphatic carbon fraction class (C9 - C18): 700</u> |
| (62) <u>Dioxin (2,3,7,8-TCDD): 0.0002 ng/L</u> | (111) <u>Petroleum aliphatic carbon fraction class (C19 - C36): 10 mg/L</u> |
| (63) <u>1,1-Diphenyl (1,1-biphenyl): 400</u> | (112) <u>Petroleum aromatics carbon fraction class (C9 - C22): 200</u> |
| (64) <u>Dissolved solids (total): 500 mg/L</u> | (113) <u>pH: 6.5 - 8.5</u> |
| (65) <u>Disulfoton: 0.3</u> | (114) <u>Phenanthrene: 200</u> |
| (66) <u>Endosulfan: 40</u> | (115) <u>Phenol: 30</u> |
| (67) <u>Endrin, total: (includes endrin, endrin aldehyde and endrin ketone): 2</u> | (116) <u>Phorate: 1</u> |
| (68) <u>Epichlorohydrin: 4</u> | (117) <u>Pyrene: 200</u> |
| (69) <u>Ethyl acetate: 3 mg/L</u> | (118) <u>Selenium: 20</u> |
| (70) <u>Ethylbenzene: 600</u> | (119) <u>Silver: 20</u> |
| (71) <u>Ethylene dibromide (1,2-dibromoethane): 0.02</u> | (120) <u>Simazine: 4</u> |
| (72) <u>Ethylene glycol: 10 mg/l</u> | (121) <u>Styrene: 70</u> |
| (73) <u>Fluoranthene: 300</u> | (122) <u>Sulfate: 250 mg/L</u> |
| (74) <u>Fluorene: 300</u> | (123) <u>1,1,2,2-Tetrachloroethane: 0.2</u> |
| (75) <u>Fluoride: 2 mg/L</u> | (124) <u>Tetrachloroethylene (perchloroethylene; PCE): 0.07</u> |
| (76) <u>Foaming agents: 500</u> | (125) <u>2,3,4,6-Tetrachlorophenol: 200</u> |
| (77) <u>Formaldehyde: 600</u> | (126) <u>Toluene: 600</u> |
| (78) <u>Gross alpha (adjusted) particle activity (excluding radium-226 and uranium): 15 pCi/l</u> | (127) <u>Toxaphene: 0.03</u> |
| (79) <u>Heptachlor: 0.008</u> | (128) <u>2, 4, 5,-TP (Silvex): 50</u> |
| (80) <u>Heptachlor epoxide: 0.004</u> | (129) <u>1,2,4-Trichlorobenzene: 70</u> |
| (81) <u>Heptane: 400</u> | (130) <u>1,1,1-Trichloroethane: 200</u> |
| (82) <u>Hexachlorobenzene (perchlorobenzene): 0.02</u> | (131) <u>Trichloroethylene (TCE): 3</u> |
| (83) <u>Hexachlorobutadiene: 0.4</u> | (132) <u>Trichlorofluoromethane: 2 mg/L</u> |
| (84) <u>Hexachlorocyclohexane isomers (technical grade): 0.02</u> | (133) <u>1,2,3-Trichloropropane: 0.005</u> |
| (85) <u>n-Hexane: 400</u> | (134) <u>1,1,2-Trichloro-1,2,2-trifluoroethane (CFC-113): 200 mg/L</u> |
| (86) <u>Indeno(1,2,3-cd)pyrene: 0.05</u> | (135) <u>Vinyl chloride: 0.03</u> |
| (87) <u>Iron: 300</u> | (136) <u>Xylenes (o-, m-, and p-): 500</u> |
| (88) <u>Isophorone: 40</u> | (137) <u>Zinc: 1 mg/L</u> |
| (89) <u>Isopropylbenzene: 70</u> | |
| (90) <u>Lead: 15</u> | |
- (h) Class GSA Standards. The standards for this class shall be the same as those for Class GA except as follows:
- (1) chloride: allowable increase not to exceed 100 percent of the natural quality concentration.
 - (2) total dissolved solids: 1000 mg/l.

(i) Class GC Waters.

- (1) The concentrations of substances which, at the time of classification exceed the standards applicable to Class GA or GSA groundwaters shall not be caused to increase, nor shall the concentrations of other substances be caused to exceed the GA or GSA standards as a result of further disposal of contaminants to or beneath the surface of the land within the boundary of the area classified GC.
- (2) The concentrations of substances which, at the time of classification, exceed the standards

applicable to GA or GSA groundwaters shall not be caused to migrate as a result of activities within the boundary of the GC classification, so as to violate the groundwater or surface water quality standards in adjoining waters of a different class.

- (3) Concentrations of specific substances, which exceed the established standard at the time of classification, shall be listed in Section .0300 of this Subchapter.

Authority G.S. 143-214.1; 143B-282(a)(2).

APPROVED RULES

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on February 19, 2009.

**REGISTER CITATION TO THE
NOTICE OF TEXT****AGRICULTURE, BOARD OF**

<u>Adoption by Reference</u>	02	NCAC	38	.0701*	23:06 NCR
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HHS - MENTAL HEALTH, DIVISION OF

<u>Scope</u>	10A	NCAC	26C	.0101*	22:08 NCR
<u>Application</u>	10A	NCAC	26C	.0102*	22:08 NCR
<u>Review Process</u>	10A	NCAC	26C	.0103*	22:08 NCR
<u>Designation</u>	10A	NCAC	26C	.0104*	22:08 NCR
<u>Appeal</u>	10A	NCAC	26C	.0105*	22:08 NCR

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Sanctions for Violations by Agencies or Schools</u>	12	NCAC	10B	.0202*	23:06 NCR
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MARINE FISHERIES COMMISSION

<u>Definitions</u>	15A	NCAC	03I	.0101*	23:05 NCR
<u>Introduce, Transfer or Hold Imported Marine and Estuarine...</u>	15A	NCAC	03I	.0104*	23:05 NCR
<u>Pound Net Set Permit Application and Processing</u>	15A	NCAC	03J	.0502*	23:05 NCR

COASTAL RESOURCES COMMISSION

<u>Variance Petitions</u>	15A	NCAC	07J	.0701*	23:03 NCR
<u>Procedures for Deciding Variance Petitions</u>	15A	NCAC	07J	.0703*	23:03 NCR

HEARING AID DEALERS AND FITTERS, BOARD OF

<u>Fee Schedule</u>	21	NCAC	22B	.0603	23:10 NCR
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STATE PERSONNEL COMMISSION

<u>Sign-On Bonus</u>	25	NCAC	01D	.0116*	23:07 NCR
<u>Severance Salary Continuation</u>	25	NCAC	01D	.2701*	23:07 NCR

**TITLE 02 – DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

02 NCAC 38 .0701 ADOPTION BY REFERENCE
The following are incorporated by reference, including

subsequent amendments, as standards for storage, handling and installation of liquefied petroleum gas:

(1) National Fire Protection Association, Pamphlet No. 58 (NFPA 58), "Liquefied Petroleum Gas Code," with the following

additions and exceptions:

- (a) All cut-off valves and regulating equipment exposed to rain, sleet, or snow shall be protected against such elements either by design or by a hood;
 - (b) "Firm Foundation" as used in NFPA 58 means that the foundation material has a level top surface, rests on solid ground, is constructed of a masonry material or wood treated to prevent decay by moisture rot and will not settle, careen or deteriorate;
 - (c) No person shall use liquefied petroleum gas as a source of pressure in lieu of compressed air in spray guns or other pressure operated equipment;
 - (d) Piping, tubing or regulators shall be considered well supported when they are rigidly fastened in their intended position;
 - (e) At bulk storage installations, the bulkhead and the plant piping on the hose side of the bulkhead shall be designed and constructed so that an application of force from the hose side will not result in damage to the plant piping on the tank side of the bulkhead. In addition, the bulkhead shall incorporate a means, for instance, mechanical or pneumatic, to automatically close emergency valves in the event of a pull away;
 - (f) As an alternative to the requirement for a fire safety analysis the owner, or his designee, of an LP-gas facility which utilizes individual storage containers in excess of 4,000 gallons water capacity, storage containers interconnected through the liquid withdrawal outlets of the containers with an aggregate water capacity in excess of 4,000 gallons, or storage containers interconnected through the vapor withdrawal outlets of the containers with an aggregate capacity in excess of 6,000 gallons, shall, for all installations of containers of such capacity or for additions to an existing LP-gas facility which result in containers of such capacity, meet with fire officials for the jurisdiction in which the facility is located in order to:
 - (i) review potential exposure to fire hazards to or from real property which is adjacent to such facility;
 - (ii) identify emergency access routes to such facility; and
 - (iii) review the equipment and emergency shut-down procedures for the facility.
- The owner of such facility or his designee shall document in writing the time, date and place of such meeting(s), the participants in the meeting, and the discussions at the meeting in order to provide a written record. This documentation shall be made available to the Department not later than 60 days after installation of the new or additional containers. Compliance with the availability requirement shall be met by having a copy of the documentation kept on site or at the owner's office and immediately available for review by NCDA&CS inspection personnel. This meeting, review, and documentation shall be repeated when NCDA&CS determines that the plant design has changed or that potential exposures have significantly changed, so as to increase the likelihood of injury.
- (g) An LP-gas facility which utilizes storage containers that are interconnected through the vapor withdrawal outlets of the containers only with an aggregate water capacity in excess of 4,000 gallons, but not in excess of 6,000 gallons, shall be exempt from the requirements of a fire safety analysis;
 - (h) A fire safety analysis as described in NFPA 58 may be prepared by the owner of an LP-Gas facility, or by an employee of such owner in the course of the employee's employment, and the Department shall not require that it be prepared, approved or sealed by a professional engineer. Note: This is in keeping with a formal interpretation (F.I. No.: 58-01-2) by the technical committee for Liquefied Petroleum Gases issued by the National Fire Protection Association on November 7, 2001, with an effective date of November 27, 2001. However, the North Carolina Board of Examiners for Engineers and Surveyors regulates the practice of engineering, and has taken the position that the preparation of a fire safety analysis constitutes the practice of engineering; and

- (i) Section 1.3.2 (11) of NFPA 58 (2008 Edition), or equivalent provisions in later editions, shall not apply.
- (2) National Fire Protection Association, Pamphlet No. 54, "National Fuel Gas Code," with the addition that underground service piping shall rise above ground immediately before entering a building.
- (3) National Fire Protection Association, Pamphlet No. 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages," Chapter 12 (in 2008 Edition) as it applies to LP-Gas dispensers for motor vehicle fuel along with dispensers for other motor vehicle fuels.

Copies of Pamphlet No. 54, Pamphlet No. 58 and Pamphlet No. 30A are available for inspection in the Office of the Director of the Standards Division. They may be obtained at a cost of forty-four dollars (\$44.00) each for Pamphlet Nos. 54 and 58 and for thirty-four dollars and fifty cents (\$34.50) for Pamphlet 30A (August 2008 price), plus shipping, by contacting National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy, Massachusetts 02269, by calling them at 800-344-3555, or by accessing them on the Internet at www.nfpacatalog.org.

History Note: Authority G.S. 119-55; Eff. May 1, 1983; Amended Eff. April 1, 2009; September 1, 2002; August 1, 2002; January 1, 1994; June 1, 1993; December 1, 1988; December 1, 1987.

- (3) 10A NCAC 27G .6000 Inpatient Hospital Treatment for Individuals who have Mental Illness or Substance Abuse Disorders.

(d) Clients affected include those persons who are mentally ill, individuals with mental retardation or developmental disabilities and accompanying behavior disorders, and substance abusers as defined in G.S. 122C-3 who require custody and treatment before a district court hearing or after commitment.

(e) Facilities designated as facilities for the custody and treatment of involuntary clients shall have adequate staffing and provide supervision to ensure the protection of the individual and the general public.

History Note: Authority G.S. 122C-252; Temporary Rule Eff. January 1, 1986, for a Period of 32 Days to Expire on February 1, 1986; Eff. February 1, 1986; Amended Eff. March 1, 2009.

10A NCAC 26C .0102 REQUEST FOR DESIGNATION

(a) A request for designation shall be made to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS).

(b) Each request shall include the following:

- (1) name and address of applicant;
- (2) type of facility to be designated and type of service for which designation is requested;
- (3) staffing levels of the facility;
- (4) location of the facility;
- (5) name of the administrator;
- (6) status of license; and
- (7) name and principal business address of holder of license.

History Note: Authority G.S. 122C-252; Temporary Rule Eff. January 1, 1986, for a Period of 32 Days to Expire on February 1, 1986; Eff. February 1, 1986; Amended Eff. March 1, 2009.

10A NCAC 26C .0103 REVIEW PROCESS

(a) Upon receipt of the request, the DMH/DD/SAS shall review the following regarding the facility prior to granting designation:

- (1) status of licensure by the Division of Health Service Regulation;
- (2) status of accreditation by an accrediting body, such as the Council on Accreditation, the Council on Quality and Leadership, the Council on Accreditation of Rehabilitation Facilities, or The Joint Commission, and review of the most recent survey report;
- (3) adequacy of treatment program provided clients;
- (4) consistency of staff coverage with proposed services;
- (5) existence and adequacy of staff capability to manage the more dangerous and violent involuntary client as well as procedures for

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 26C .0101 SCOPE

(a) The purpose of this Section is to establish procedures by which 24-hour facilities may be designated as facilities for the custody and treatment of involuntary clients, pursuant to G.S. 122C-252.

(b) This Section applies to all those state facilities, 24-hour facilities licensed under Chapter 122C of the General Statutes of North Carolina, and hospitals licensed under Chapter 131E of the General Statutes of North Carolina that wish to provide custody and treatment of those individuals involuntarily committed under Article 5, Parts 7 and 8 of Chapter 122C of the General Statutes.

(c) Facilities that are licensed in accordance with G.S. 122C requirements in the following categories may request a designation to care for and treat individuals under petitions of involuntary commitment:

- (1) 10A NCAC 27G .3100 Nonhospital Medical Detoxification for Individuals who are Substance Abusers;
- (2) 10A NCAC 27G .5000 Facility Based Crisis for Individuals of all Disability Groups; and

- transfer to a more secure facility, where applicable;
- (6) existence and adequacy of security procedures, including elopement and suicide prevention procedures;
- (7) existence and adequacy of seclusion and restraint capabilities, policies and procedures;
- (8) adequacy of staff training as to North Carolina laws pertaining to the involuntary committed client; and
- (9) existence and adequacy of clients' rights policies and procedures.

(b) The facility shall make information specified in Paragraph (a) of this Rule available to the DMH/DD/SAS and such other information relevant to the request process as the DMH/DD/SAS shall request.

*History Note: Authority G.S. 122C-252;
Temporary Rule Eff. January 1, 1986, for a Period of 32 Days to Expire on February 1, 1986;
Eff. February 1, 1986;
Amended Eff. March 1, 2009; April 1, 1990.*

10A NCAC 26C .0104 DESIGNATION

- (a) The DMH/DD/SAS shall designate as facilities for the custody and treatment of involuntary clients those facilities that demonstrate both treatment capability and the capability to assure the safety of the client and the general public.
- (b) The DMH/DD/SAS shall notify the facility in writing of its designation status.
- (c) The DMH/DD/SAS shall notify the Clerks of Superior Court in that region of those facilities designated with copies to be sent to the local management entities. For purposes of this Rule, local management entity shall have the same definition as set forth in G.S. 122C-3(20b).
- (d) A list of designated facilities may be obtained from the DMH/DD/SAS at a cost to cover printing and postage or may be downloaded from the DMH/DD/SAS website at <http://www.dhhs.state.nc.us/ivc>.
- (e) A facility granted designation shall notify the DMH/DD/SAS of any changes in operation concerning any of the information submitted with the original request within seven calendar days of the change.
- (f) Designation may be terminated by the DMH/DD/SAS upon finding that the facility no longer meets the qualifications for designation and is no longer able to provide treatment.

*History Note: Authority G.S. 122C-252;
Temporary Rule Eff. January 1, 1986, for a Period of 32 Days to Expire on February 1, 1986;
Eff. February 1, 1986;
Amended Eff. March 1, 2009.*

10A NCAC 26C .0105 APPEAL

Any facility denied designation or whose designation has been terminated under this Section may appeal pursuant to the contested case process set forth in G.S. 150B, Article 3.

History Note: Authority G.S. 122C-252; 150B-23;

*Temporary Rule Eff. January 1, 1986, for a Period of 32 Days to Expire on February 1, 1986;
Eff. February 1, 1986;
Amended Eff. March 1, 2009; April 1, 1990.*

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 10B .0202 SANCTIONS FOR VIOLATIONS BY AGENCIES OR SCHOOLS

If the Commission finds that a violation of any rules in this Chapter has been committed by an agency or school, the Commission may:

- (1) issue an oral warning and request for compliance;
- (2) issue a written warning and request for compliance;
- (3) issue an official written reprimand;
- (4) summarily suspend when the Commission finds that the public health, safety, or welfare requires emergency action, revoke, or deny accreditation to any school or program or course of instruction until corrective measures have been taken to bring the agency or school into compliance with the rules in this Subchapter and verification of such compliance has been made by the Commission; or
- (5) revoke, or deny accreditation to any school or program or course of instruction for a specific period of time to be determined by the Commission's Probable Cause Committee; however, not to exceed one year.

*History Note: Authority G.S. 17E-4;
Eff. January 1, 1991;
Recodified from 12 NCAC 10B .0205 Eff. January 1, 1992;
Amended Eff. March 1, 2009; August 1, 1998.*

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 03I .0101 DEFINITIONS

All definitions set out in G.S. 113, Subchapter IV and the following additional terms apply to this Chapter:

- (1) Enforcement and management terms:
 - (a) Commercial Quota. Total quantity of fish allocated for harvest by commercial fishing operations.
 - (b) Educational Institution. A college, university or community college accredited by an accrediting agency recognized by the U.S. Department of Education.
 - (c) Internal Coastal Waters or Internal Waters. All coastal fishing waters except the Atlantic Ocean.

- (d) Length of finfish.
 - (i) Curved fork length. A length determined by measuring along a line, tracing the contour of the body from the tip of the upper jaw to the middle of the fork in the caudal (tail) fin.
 - (ii) Fork length. A length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin, except that fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.
 - (iii) Total length. A length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
- (e) Recreational Possession Limit. Restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
- (f) Recreational Quota. Total quantity of fish allocated for harvest for a recreational purpose.
- (g) Regular Closed Oyster Season. March 31 through October 15, unless amended by the Fisheries Director through proclamation authority.
- (h) Seed Oyster Management Area. An open harvest area that, by reason of poor growth characteristics, predation rates, overcrowding or other factors, experiences poor utilization of oyster populations for direct harvest and sale to licensed dealers and is designated by the Marine Fisheries Commission as a source of seed for public and private oyster culture.
- (2) Fishing Activities:
 - (a) Aquaculture operation. An operation that produces artificially propagated stocks of marine or estuarine resources or obtains such stocks from permitted sources for the purpose of rearing in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following:
 - (i) food,
 - (ii) predator protection,
 - (iii) salinity,
 - (iv) temperature controls, or
 - (v) water circulation,
 utilizing technology not found in the natural environment.
 - (b) Attended. Being in a vessel, in the water or on the shore and immediately available to work the gear and within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
 - (c) Blue Crab Shedding. The process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following:
 - (i) food,
 - (ii) predator protection,
 - (iii) salinity,
 - (iv) temperature controls, or
 - (v) water circulation,
 utilizing technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
 - (d) Depuration. Purification or the removal of adulteration from live oysters, clams, and mussels by any natural or artificially controlled means.
 - (e) Long Haul Operations. Fishing a seine towed between two boats.
 - (f) Peeler Crab. A blue crab that has a soft shell developing under a hard shell and having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.
 - (g) Possess. Any actual or constructive holding whether under claim of ownership or not.
 - (h) Recreational Purpose. A fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.
 - (i) Shellfish marketing from leases and franchises. The harvest of oysters, clams, scallops, mussels, from privately held shellfish bottoms and

- lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
 - (j) Shellfish planting effort on leases and franchises. The process of obtaining authorized cultch materials, seed shellfish, and polluted shellfish stocks and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
 - (k) Shellfish production on leases and franchises:
 - (i) The culture of oysters, clams, scallops, and mussels, on shellfish leases and franchises from a sublegal harvest size to a marketable size.
 - (ii) The transplanting (relay) of oysters, clams, scallops and mussels from areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
 - (l) Swipe Net Operations. Fishing a seine towed by one boat.
 - (m) Transport. Ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
 - (n) Use. Employ, set, operate, or permit to be operated or employed.
- (3) Gear:
- (a) Bunt Net. The last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
 - (b) Channel Net. A net used to take shrimp which is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a boat.
 - (c) Commercial Fishing Equipment or Gear. All fishing equipment used in coastal fishing waters except:
 - (i) Cast nets;
 - (ii) Collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;
- (iii) Dip nets or scoops having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
 - (iv) Gigs or other pointed implements which are propelled by hand, whether or not the implement remains in the hand;
 - (v) Hand operated rakes no more than 12 inches wide and weighing no more than six pounds and hand operated tongs;
 - (vi) Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;
 - (vii) Landing nets used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;
 - (viii) Minnow traps when no more than two are in use;
 - (ix) Seines less than 30 feet in length;
 - (x) Spears, Hawaiian slings or similar devices, which propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas or similar means.
- (d) Dredge. A device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
 - (e) Fixed or stationary net. A net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
 - (f) Fyke Net. An entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).

- (g) Gill Net. A net set vertically in the water to capture fish by entanglement by the gills in its mesh as a result of net design, construction, mesh size, webbing diameter or method in which it is used.
 - (h) Hoop Net. An entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
 - (i) Mechanical methods for clamming. Dredges, hydraulic clam dredges, stick rakes and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams.
 - (j) Mechanical methods for oystering. Dredges, patent tongs, stick rakes and other rakes when towed by engine power and any other method that utilizes mechanical means to harvest oysters.
 - (k) Mesh Length. The diagonal distance from the inside of one knot to the outside of the other knot, when the net is stretched hand-tight.
 - (l) Pound Net Set. A fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support the trap. The lead(s), enclosures, and holding pen are not conical, nor are they supported by hoops or frames.
 - (m) Purse Gill Nets. Any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
 - (n) Seine. A net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh size, webbing diameter, or method in which it is used.
- (4) Fish habitat areas. The estuarine and marine areas that support juvenile and adult populations of fish species, as well as forage species utilized in the food chain. Fish habitats as used in this definition, are vital for portions of the entire life cycle, including the early growth and development of fish species. Fish habitats in all coastal fishing waters, as determined through marine and estuarine survey sampling, include:
- (a) Anadromous fish nursery areas. Anadromous fish nursery areas are those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
 - (b) Anadromous fish spawning areas. Anadromous fish spawning areas are those areas where evidence of spawning of anadromous fish has been documented in Division sampling records through direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
 - (c) Coral:
 - (i) Fire corals and hydrocorals (Class Hydrozoa);
 - (ii) Stony corals and black corals (Class Anthozoa, Subclass Scleractinia); or
 - (iii) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia), which include sea fans (*Gorgonia* sp.), sea whips (*Leptogorgia* sp. and *Lophogorgia* sp.), and sea pansies (*Renilla* sp.).
 - (d) Intertidal Oyster Bed. A formation, regardless of size or shape, formed of shell and live oysters of varying density.
 - (e) Live rock. Living marine organisms or an assemblage thereof attached to a hard substrate, excluding mollusk shells, but including dead coral or rock. Living marine organisms associated with hard bottoms, banks, reefs, and live rock include:
 - (i) Coralline algae (Division Rhodophyta);
 - (ii) *Acetabularia* sp., mermaid's fan and cups (*Udotea* sp.), watercress (*Halimeda* sp.), green feather, green grape algae (*Caulerpa* sp.) (Division Chlorophyta);
 - (iii) *Sargassum* sp., *Dictyopteris* sp., *Zonaria* sp. (Division Phaeophyta);
 - (iv) Sponges (Phylum Porifera);

- (v) Hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, Solengastrea (Class Anthozoa);
- (vi) Bryozoans (Phylum Bryozoa);
- (vii) Tube worms (Phylum Annelida), fan worms (Sabellidae); feather duster and Christmas treeworms (Serpulidae), and sand castle worms (Sabellaridae);
- (viii) Mussel banks (Phylum Mollusca: Gastropoda); and
- (ix) Acorn barnacles (Arthropoda: Crustacea: Semibalanus sp.).
- (f) Nursery areas. Nursery areas are those areas in which for reasons such as food, cover, bottom type, salinity, temperature and other factors, young finfish and crustaceans spend the major portion of their initial growing season. Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly early juveniles. Secondary nursery areas are those areas in the estuarine system where later juvenile development takes place. Populations are composed of developing sub-adults of similar size which have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.
- (g) Shellfish producing habitats. Shellfish producing habitats are those areas in which shellfish, such as clams, oysters, scallops, mussels, and whelks, whether historically or currently, reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
- (h) Strategic Habitat Areas. Strategic Habitat Areas are locations of individual fish habitats or systems of habitats that provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.
- (i) Submerged aquatic vegetation habitat. Submerged aquatic vegetation (SAV) habitat is submerged lands that:
 - (i) are vegetated with one or more species of submerged aquatic vegetation including bushy pondweed or southern naiad (*Najas guadalupensis*), coontail (*Ceratophyllum demersum*), eelgrass (*Zostera marina*), horned pondweed (*Zannichellia palustris*), naiads (*Najas* spp.), redhead grass (*Potamogeton perfoliatus*), sago pondweed (*Stuckenia pectinata*, formerly *Potamogeton pectinatus*), shoalgrass (*Halodule wrightii*), slender pondweed (*Potamogeton pusillus*), water stargrass (*Heteranthera dubia*), water starwort (*Callitriche heterophylla*), waterweeds (*Elodea* spp.), widgeongrass (*Ruppia maritima*) and wild celery (*Vallisneria americana*). These areas may be identified by the presence of above-ground leaves, below-ground rhizomes, or reproductive structures associated with one or more SAV species and include the sediment within these areas; or
 - (ii) have been vegetated by one or more of the species identified in Sub-item (4)(i)(i) of this Rule within the past 10 annual growing seasons and that meet the average physical requirements of water depth (six feet or less), average light availability (secchi depth of one foot or more), and limited wave exposure that characterize the environment suitable for growth of SAV. The past presence of SAV may be demonstrated by aerial photography, SAV survey, map, or other

documentation. An extension of the past 10 annual growing seasons criteria may be considered when average environmental conditions are altered by drought, rainfall, or storm force winds.

This habitat occurs in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In defining SAV habitat, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, or rules 15A NCAC 03K .0304, .0404 and 03I .0101, to apply to or conflict with the non-development control activities authorized by that Act.

(5) Licenses, permits, leases and franchises, and record keeping:

- (a) Assignment. Temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, is still the responsible party for the license.
- (b) Designee. Any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
- (c) For Hire Vessel. As defined by G.S. 113-174 when the vessel is fishing in state waters or when the vessel originates from or returns to a North Carolina port.
- (d) Holder. A person who has been lawfully issued in their name a license, permit, franchise, lease, or assignment.
- (e) Land:
 - (i) For commercial fishing operations, when fish reach the shore or a structure connected to the shore.
 - (ii) For purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when the fish reaches the shore or a structure connected to the shore.

- (iii) For recreational fishing operations, when fish are retained in possession by the fisherman.

- (f) Licensee. Any person holding a valid license from the Department to take or deal in marine fisheries resources.
- (g) Master. Captain of a vessel or one who commands and has control, authority, or power over a vessel.
- (h) New fish dealer. Any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name or ocean pier license in that name on June 30, 1999. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
- (i) North Carolina Trip Ticket. Paper forms provided by the Division, and electronic data files generated from software provided by the Division, for the reporting of fisheries statistics, which include quantity, method and location of harvest.
- (j) Office of the Division. Physical locations of the Division conducting license and permit transactions in Wilmington, Washington, Morehead City, Columbia, Roanoke Island and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses or Coastal Recreational Fishing Licenses are not considered Offices of the Division.
- (k) Responsible party. Person who coordinates, supervises or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations and the person responsible for use of the issued license in compliance with applicable statutes and rules.
- (l) Tournament Organizer. The person who coordinates, supervises or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
- (m) Transaction. Act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed or landed.

- (n) Transfer. Permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.

History Note: Authority G.S. 113-134; 113-174; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993;
Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996;
Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997;
Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. August 1, 2000;
Amended Eff. April 1, 2009; October 1, 2008; December 1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001.

15A NCAC 03I .0104 INTRODUCE, TRANSFER OR HOLD IMPORTED MARINE AND ESTUARINE ORGANISMS

(a) In order to protect the marine and estuarine resources of North Carolina from unacceptable risks from predators, pests, parasites, and disease, it is unlawful, without first obtaining a permit from the Fisheries Director or without obtaining live marine and estuarine organisms from a permit holder:

- (1) To place into the coastal fishing waters of the state live marine and estuarine organisms not native to the state. For the purpose of this Rule, this action is an introduction.
- (2) To place into the coastal fishing waters of the state live marine and estuarine organisms which are native but which originated outside the State's boundaries. For the purpose of this Rule, this action is a transfer.
- (3) To hold or maintain any live marine or estuarine organism imported into the state in a quarantine or isolation system for live bait or use in an aquaculture operation as defined in 15A NCAC 03I .0101.
- (4) To sell for bait any live marine or estuarine organism imported into the state.

(b) Any person desiring to obtain a Permit to Introduce, Transfer or Hold Imported Marine and Estuarine Organisms must make written application to the Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557-0769. In order for the Fisheries Director to determine the level of risk to any native marine resource or the environment, the applicant shall provide:

- (1) A certification from a pathologist that a sample of 60 organisms from proposed shipments are disease free or a certification from a governmental veterinary service that the organisms to be shipped were produced in an area or facility free of diseases posing a risk

to North Carolina's estuarine resources, or their environment, as determined by the Fisheries Director; and

- (2) A certification from a biologist or veterinarian that macroscopic and microscopic examination indicates the shipment contains only those species identified on the permit application.

(c) The Fisheries Director shall require disinfection, quarantine or destruction of organisms and transfer materials as a condition of the permit, upon finding the importation poses a risk to North Carolina's estuarine resources, or their environment.

(d) The Fisheries Director may hold public meetings prior to granting permits for activities specified in Paragraph (a) of this Rule to gather information concerning risks to native marine resources or the environment.

History Note: Authority G.S. 113-134; 113-182; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. November 1, 1991;
Recodified from 15A NCAC 3I .0004 Eff. December 17, 1996;
Amended Eff. April 1, 2009.

15A NCAC 03J .0502 POUND NET SET PERMIT APPLICATION AND PROCESSING

(a) All initial, renewal or transfer applications for Pound Net Set Permits, and the operation of such pound net sets, shall comply with the rules governing all permits as provided in 15A NCAC 03O .0502. The procedures and requirements for obtaining permits are set forth in 15A NCAC 03O .0501.

(b) Applicants for Pound Net Set permits shall meet the following eligibility requirements as determined by the Fisheries Director:

- (1) Applicant is an individual and not a corporation, partnership, organization or other entity;
- (2) Applicant has in the past complied with fisheries rules and laws and does not have any licenses or privileges under suspension or revocation. In addition, a history of habitual fisheries violations evidenced by eight or more convictions in 10 years shall make an individual ineligible.
- (3) Applicant has in the past complied with all permit conditions, rules and laws related to pound nets.
- (4) Applicant holds proper valid license(s) and permit(s) necessary to fish the type of net indicated in the application.

(c) Applications for Pound Net Set permits shall include the following:

- (1) A base map provided by the Division indicating the proposed set location including an inset vicinity map showing the location of the proposed set with detail sufficient to permit on-site identification and location.
- (2) Declaration of the type of pound net that will be deployed at the site. One of the following pound net fisheries shall be specified:

- (A) Flounder pound net set;
- (B) Bait pound net set;
- (C) Shrimp pound net set;
- (D) Blue crab pound net set;
- (E) Other finfish pound net set.

(d) For proposed new location(s), the Fisheries Director shall issue a public notice of intent to consider issuance of a Pound Net Set Permit allowing for public comment for 20 days, and after the comment period, may hold public meetings to take comments on the proposed pound net set. If the Director does not approve or deny the application within 90 days of receipt of a complete and verified application, the application is deemed denied. The applicant shall be notified of denial in writing. Approval is conditional based upon the applicant's continuing compliance with eligibility requirements set out in Paragraph (e) of this Rule and specific conditions contained on the Pound Net Set Permit. The final decision to approve or deny the Pound Net Set Permit application may be appealed by the applicant by filing a petition for a contested case hearing, in writing, within 60 days from the date of mailing notice of such final decision to the applicant, with the Office of Administrative Hearings.

(e) In order for a site to be deemed suitable for a pound net set, the proposed set location shall meet the following criteria as determined by the Fisheries Director:

- (1) The proposed pound net set, either alone or when considered cumulatively with other existing pound net sets in the area, will not interfere with public navigation or with existing, traditional uses of the area other than navigation, and will not violate 15A NCAC 03J .0101 and .0102;
- (2) The proposed pound net set will not interfere with the rights of any riparian or littoral landowner, including the construction or use of piers;
- (3) The proposed pound net set will not, by its proximate location, interfere with existing pound net sets in the area. Flounder or other finfish pound net sets will be a minimum of 1,000 yards, as measured in a perpendicular direction, from any point on a line following the permitted location of existing pound net sets; except
 - (A) in Chowan River as referenced in 15A NCAC 03J .0203; and
 - (B) for renewal of pound net sets permitted prior to January 1, 2003;
- (4) The proposed shrimp or blue crab pound net set will be a minimum of 300 yards, as measured in a perpendicular direction, from any point on a line following the permitted location of existing pound net sets;
- (5) The proposed pound net set is not located in Core Sound in areas designated in 15A NCAC 03R .0113 except that only those Pound Net Set Permits valid within the specified area as of March 1, 1994, may be renewed or transferred subject to the requirements of this Rule; and

- (6) Issuance of the proposed Pound Net Set Permit is in compliance with management measures adopted in fishery management plans.

History Note: Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52; Eff. April 1, 2009.

15A NCAC 07J .0701 VARIANCE PETITIONS

(a) Any person whose application for a CAMA major or minor development permit has been denied or issued with condition(s) that the person does not agree with may petition for a variance from the Commission by means of the procedure described in this Section. Before filing a petition for a variance from a rule of the Commission, the person must seek relief from local requirements restricting use of the property, and there must not be pending litigation between the petitioner and any other person which may make the request for a variance moot.

(b) The procedure in this Section shall be used for all variance petitions except when:

- (1) the Commission determines that more facts are necessary; or
- (2) there are controverted facts that are necessary for a decision on the variance petition.

(c) Variance petitions shall be submitted on forms provided by the Department of Environment and Natural Resources. The following information shall be submitted before a variance petition is considered complete:

- (1) the case name and location of the development as identified on the denied permit application;
- (2) a copy of the deed to the property on which the proposed development would be located;
- (3) a copy of the permit application and denial for the development in question;
- (4) the date of the petition, and the name, address, and phone number of the petitioner and his or her attorney, if applicable;
- (5) a complete description of the proposed development, including a site drawing with topographical and survey information;
- (6) a stipulation that the proposed project is inconsistent with the rule from which the petitioner seeks a variance;
- (7) notice of the variance petition sent certified mail, return receipt requested to the adjacent property owners and persons who submitted written comments to the Division of Coastal Management or the Local Permit Officer during the permit review process and copies of the documents which indicate that the certified mail notices were received or that deliveries were attempted;
- (8) an explanation of why the petitioner believes that the Commission should make the following findings, all of which are necessary for a variance to be granted:
 - (A) that unnecessary hardships would result from strict application of the

- development rules, standards, or orders issued by the Commission;
- (B) that such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property;
- (C) that such hardships did not result from actions taken by the petitioner; and
- (D) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.

- (9) a proposed set of stipulated facts, for staff's consideration, containing all of the facts relied upon in the petitioner's explanation as to why he meets the criteria for a variance; and
- (10) proposed documents, for the staff's consideration, that the petitioner wants the Commission to consider.

(d) Petitions shall be mailed to the Director of the Division of Coastal Management, Department of Environment and Natural Resources, 400 Commerce Avenue, Morehead City NC 28557 and to Air and Natural Resources Section, Environmental Division, Attorney General's Office, 9001 Mail Service Center, Raleigh, NC 27699-9001.

(e) A variance petition shall be considered by the Commission at a scheduled meeting. Petitions shall be scheduled in chronological order based upon the date of receipt of a complete variance petition by the Division of Coastal Management. A complete variance petition, as described in Paragraph (c) of this Rule, shall be received by the Division of Coastal Management at least six weeks in advance of a scheduled Commission meeting to be considered by the Commission at that meeting. If the petitioner seeks to postpone consideration of his or her variance request, the request shall be treated as though it was filed on the date petitioner requested postponement and scheduled for hearing after all then pending variance requests.

(f) Written notice of a variance hearing or Commission consideration of a variance petition shall be provided to the petitioner and the permit officer making the initial permit decision.

History Note: Authority G.S. 113A-120.1; 113A-124; Eff. December 12, 1979; Amended Eff. December 1, 1991; May 1, 1990; March 1, 1988, February 1, 1983; Temporary Amendment Eff. December 20, 2001; Temporary Amendment Expired October 12, 2002; Temporary Amendment Eff. December 1, 2002; Amended Eff. March 1, 2009; June 1, 2005; August 1, 2004.

15A NCAC 07J .0703 PROCEDURES FOR DECIDING VARIANCE PETITIONS

(a) The Commission may review the variance petition and staff recommendation and hear oral presentation by the petitioner, if any, in full session or may appoint a member or members to do

so. In cases where a member or members are appointed, they shall report a summary of the facts and a recommended decision to the Commission.

(b) The Commission or its appointed member or members shall be provided with copies of the petition, the stipulated facts, and the staff recommendation before considering the petition.

(c) At the Commission's request, staff shall orally describe the petition to the Commission or its appointed member(s) and shall present comments concerning whether the Commission should make the findings necessary for granting the variance. The petitioner shall also be allowed to present oral arguments concerning the petition. The Commission may set time limits on such oral presentations.

(d) The final decision of the Commission may be made at the meeting at which the matter is heard or in no case later than the next scheduled meeting. The final decision shall be transmitted to the petitioner by certified mail, return receipt requested within 30 days of the meeting at which the Commission reached its decision. In the event that the Commission cannot reach a final decision because it determines that more facts are necessary, it shall remand the matter to staff and the petitioner with instructions for the parties to either agree to the necessary fact(s) or to request a hearing in the Office of Administrative Hearings.

(e) Final decisions concerning variance petitions shall be made by concurrence of a majority of a quorum of the Commission.

(f) To grant a variance, the Commission must affirmatively find each of the four factors listed in G.S. 113A-120.1(a).

- (1) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;
- (2) that such hardships result from conditions peculiar to the petitioner's property such as location, size, or topography;
- (3) that such hardships did not result from actions taken by the petitioner; and
- (4) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.

History Note: Authority G.S. 113A-120.1; Eff. December 12, 1979; Amended Eff. December 1, 1991; March 3, 1981; Temporary Amendment Eff. December 20, 2001; Temporary Amendment Expired October 12, 2002; Temporary Amendment Eff. December 1, 2002; Amended Eff. March 1, 2009; August 1, 2004.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD

21 NCAC 22B .0603 FEE SCHEDULE

The Board hereby establishes the following fees:

- (1) For a continuing education make-up class provided by the Board, not to exceed two days (per person, per day). \$ 50.00
- (2) For a license examination preparation course provided by the Board, not to exceed three days (per person, per day). \$ 50.00
- (3) For approval of a continuing education program provider. \$ 40.00
- (4) Verifying and recording attendance at a continuing education program (per program, per person). \$ 15.00
- (5) For a voluntary apprentice training workshop (per person, per day, not to exceed three days). \$ 50.00
- (6) Examination fee. \$300.00
- (7) Application for a license by examination. \$250.00
- (8) Application for a license to fit and sell hearing aids in this state by a licensee of another state or territory. \$150.00
- (9) Issuance of certificate of license after successfully passing examination. \$ 25.00
- (10) Application for registration as an apprentice \$100.00
- (11) Renewal of apprentice registration. \$150.00
- (12) Annual license renewal. \$250.00
 - (a) Late fee to reinstate expired license within 60 days after license expiration (in addition to renewal fee). \$ 25.00
 - (b) Late fee to reinstate expired license more than 60 days after license expiration (in addition to renewal fee). \$ 50.00
- (13) To reissue a suspended license more than 90 days after but not more than two years after license suspended. \$200.00

History Note: Authority G.S. 12-3.1; 93D-3; 93D-5; 93D-6; 93D-8; 93D-9; 93D-11; 93D-13;
Temporary Adoption Eff. July 11, 1991, For a Period of 180 Days to Expire on January 7, 1992;
Eff. January 1, 1992;
Amended Eff. March 1, 2009; March 1, 2007.

CHAPTER 25 - OFFICE OF STATE PERSONNEL

25 NCAC 01D .0116 SIGN-ON BONUS

When the Legislature appropriates funds to use for a sign-on bonus for a certain occupational group, the following provisions shall apply unless otherwise provided by Statute or session law:

- (1) A sign-on bonus is a lump sum payment that serves as a recruitment incentive to aid in the employment of individuals in critical positions

that have labor market shortages which affect the business needs of the agency and which impair the delivery of essential services.

- (2) Labor market shortages are defined through significant vacancy rates, turnover rates, difficulty in recruitment and fluctuating market conditions. Agencies will track and provide data related to these factors for the specific occupation in the bonus program. Turnover and vacancy rates in an occupation that are five percent or higher as compared to agency-wide and statewide rates for all occupations are significant. Recruitment difficulty is defined by active recruitment of positions that required more than six months to obtain a qualified applicant pool. Fluctuating market conditions are identified as competitors begin to rapidly increase pay and offer new incentives such as bonuses.
- (3) The amount of the bonus shall be determined based on labor market data and available funds.
- (4) An employee shall receive one-half of the bonus in the first paycheck and will receive a second installment after successful completion of 36 consecutive months provided the employee retain eligibility as outlined in this Rule. Bonuses for part-time employees are pro-rated.
- (5) Eligibility for the initial sign-on bonus:
 - (a) A newly employed permanent full-time and permanent part-time employee who is employed to work at least 36 months is eligible for a sign-on bonus. An employee who works 30 to 40 hours per week is considered full-time for this purpose. An employee who works at least 20 hours but less than 30 hours per week is part-time;
 - (b) An employee who has worked in a State agency within the last twelve months is not eligible to receive a sign-on bonus and shall remain ineligible for twelve months from the separation date;
 - (c) An employee who has previously received a sign-on bonus under the agency's bonus program is not eligible for a sign-on bonus; and
 - (d) A sign-on bonus shall not be paid when contract placement or recruitment fees are paid by the agency in connection with the employment.
- (6) Eligibility for the final sign-on bonus installment:
 - (a) An employee who remains employed in same agency and the occupational

- area for 36 consecutive months is eligible for the final installment of the sign-on bonus payment;
- (b) An employee who is subsequently promoted to a classification in the same occupational area is eligible for the final installment after completion of 36 consecutive months;
 - (c) An employee whose performance rating at any time is not at or above "good" or "meets" or who has documented disciplinary actions for misconduct or performance shall be ineligible for the final sign-on bonus installment;
 - (d) An employee who receives a sign-on bonus who subsequently transfers to another agency before the completion of 36 consecutive months is not eligible for the final sign-on bonus installment; and
 - (e) An employee with less than 24 months of consecutive service who changes from a permanent 30 to 40 hour appointment to a permanent 20 but less than 30 hour appointment is not eligible for the final sign-on bonus installment.
- (7) Repayment of Sign-on Bonus:
- (a) An employee who terminates employment with the agency, either voluntarily or involuntarily, before the completion of 36 months of consecutive service shall repay a prorated amount of the sign-on bonus based on months of service completed;
 - (b) The repayment shall be based on the following formula:
 - (i) \$ of Initial Sign-on Bonus Received/ 36 Months = prorated Monthly Amount; and
 - (ii) Prorated Monthly amount x (36 Months - Months Worked) = Amount due; and
 - (c) The amount due shall be deducted in full from the employee's final paycheck. If the amount deducted exceeds the final paycheck, the remaining balance shall be paid in full to the agency within 60 days from the last date of employment.
- (8) Credit for Consecutive Service:
- (a) One month of credit toward the 36 months is granted for each month that the employee is in pay status for one-half or more of the scheduled workdays and holidays in the pay period; and
 - (b) Time on military leave or workers' compensation leave applies to consecutive service with the final installment being paid when the employees return to work.
- (9) The agency shall:
- (a) Develop and submit a plan for administering the bonus to the Office of State Personnel that includes the following:
 - (i) Regional market data that identifies the practices of competitors for bonus programs and defines the agency's practice; and
 - (ii) Guidelines for administration of the bonus program within the agency that defines eligibility, method of payment, and criteria for repayment;
 - (b) Submit to the Office of State Personnel the base line data related to vacancy rates, turnover, recruitment issues, and market conditions for the occupation no later than 30 days from the approval of the agency plan; and
 - (c) Submit yearly reports to the Office of State Personnel that detail the vacancy rates, turnover, recruitment issues, and market conditions for the occupation.
- (10) The Office of State Personnel shall:
- (a) Review and approve or disapprove agency plans according to the standards in this Rule;
 - (b) Monitor and audit agency adherence to their plan and State Personnel Commission; and
 - (c) Analyze yearly data from the agency related to vacancy, turnover, recruitment and market to report the impact of the bonus program in the annual Compensation and Benefits Report to the NC General Assembly.

History Note: Authority G.S. 126-4; S.L. 2008-107, Section 26.12B.(a); Eff. March 1, 2009.

25 NCAC 01D .2701 SEVERANCE SALARY CONTINUATION

G.S. 143-27.2 provides for severance salary continuation or a discontinued service retirement allowance when the Director of the Budget determines that the closing of a State institution or a reduction-in-force will accomplish economies in the State Budget, provided reemployment is not available. "Economies in

the State Budget" means economies resulting from elimination of a job and its responsibilities or from a lack of funds to support the job. The provisions outlined below provide for uniform application of severance salary continuation for eligible employees:

(1) Eligible Employees:

- (a) A full-time or part-time (20 hours or over) employee with a permanent appointment who does not obtain another permanent or time-limited permanent job in State government or any other permanent position that is funded in part or in whole by the State by the effective date of the separation shall be eligible for severance salary continuation. Also eligible are employees with trainee appointments who have completed six months of service, and employees who had a permanent appointment prior to entering a trainee appointment;
- (b) An employee with a probationary, temporary or intermittent appointment is not eligible for severance salary continuation;
- (c) An employee separated from a time-limited permanent appointment is not eligible for severance salary continuation. If the appointment extends beyond three years, the appointment is made permanent and the employee becomes eligible for severance salary continuation;
- (d) An employee who is separated or scheduled to be separated due to reduction in force and who applies for retirement benefits based on early retirement, service retirement, long term disability or a discontinued service retirement as provided by G.S. 143-27.2 shall not be eligible for severance salary continuation. An employee who is eligible for early or service retirement may elect to delay retirement and receive severance salary continuation;

(i) Amount of Salary Continuation:

Years of Service

Less than 1 year
 1 but less than 5 years
 5 but less than 10 years
 10 but less than 20 years
 20 or more years

Payment

2 weeks
 1 month
 2 months
 3 months
 4 months

- (ii) Age Adjustment Factor: An employee qualifies for the age adjustment factor at 40 years of age. To compute the amount of the adjustment, 2.5 percent of the annual base salary shall be added for

- (e) An employee who is reemployed from any retired status with the State and who is subsequently terminated as a result of reduction in force shall be eligible for severance salary continuation;
- (f) An employee who is receiving workers' compensation or short-term disability payments is eligible for severance salary continuation;
- (g) An employee on leave with pay or leave without pay shall be separated on the effective date of the reduction-in-force, the same as other employees, and shall be eligible to receive severance salary continuation;
- (h) An employee with a permanent appointment separated by reduction-in-force, may accept a temporary State position and remain eligible to receive severance salary continuation in accordance with this Section;
- (i) An employee may continue to receive severance salary continuation if reemployed under a contractual arrangement in a State university or community college in accordance with G.S. 143-27.2. However, an employee receiving salary continuation may not be reemployed in any other State agency until 12 months have elapsed since the separation; and
- (j) An employee with a permanent appointment scheduled to be separated through reduction-in-force may decline a lower level position with regard to salary grade (or salary grade equivalency), salary rate or appointment type and retain eligibility for severance salary continuation.

(2) Amount and Method of Payment:

- (a) Severance salary continuation shall be based on total State service and supplemented by an age adjustment factor as follows:

each full year over 39 years of age; however, the total age adjustment factor payment shall be limited by the service payment and cannot exceed the total service payments;

- (b) When calculating severance, the employee's annual salary at the time of separation shall be used except when the employee has received a promotion to a higher salary grade (or salary grade equivalency) and salary rate within the previous 12 months. If an employee has been promoted within the last 12 months, the salary used to calculate severance is the employee's salary rate prior to the promotion, including any across-the-board legislative salary increases since the promotion;
 - (c) Severance salary continuation shall be paid on a pay period basis and is not subject to employee or employer retirement contributions, and as a result, shall not be included in computing average final compensation for retirement purposes;
 - (d) Any period covered by severance salary continuation shall not be credited as a period of state service;
 - (e) An employee who is reemployed in any permanent position with the State or any other permanent position that is paid in part or in whole by the State while receiving severance salary continuation will no longer be eligible for such pay effective on the date of reemployment;
 - (f) If an employee dies while receiving severance salary continuation, the balance of such payment shall be made to the deceased employee's death benefit beneficiary as designated with the Teachers' and State Employees' Retirement System in a lump sum payment; and
 - (g) Funds for severance salary continuation shall be provided as directed by the Office of State Budget and Management.
- (3) For each employee who receives severance salary continuation, agencies shall show on the separate form, Form PD-105, the calculation and amount of such payment.
- History Note: Authority G.S. 126-4(10); 143-27.2; Eff. October 1, 1985; Amended Eff. October 1, 1995; September 1, 1991; November 1, 1990; November 1, 1988; Recodified from 25 NCAC 01D .0509 Eff. December 29, 2003; Amended Eff. March 1, 2009.*

This Section contains information for the meeting of the Rules Review Commission on Thursday, April 16, 2009 9:00 a.m. at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3100. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

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
Curtis Venable

COMMISSION COUNSEL

Joe DeLuca (919)431-3081
Bobby Bryan (919)431-3079

RULES REVIEW COMMISSION MEETING DATES

April 16, 2009 May 21, 2009
June 18, 2009 July 16, 2009

AGENDA**RULES REVIEW COMMISSION****Thursday, April 16, 2009, 9:00 A.M.**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Pesticide Board – 02 NCAC 09L .1002, .1807 (DeLuca)
 - B. Private Protective Services Board – 12 NCAC 07D .0402, .0501 (Bryan)
 - C. Criminal Justice Education and Training Standards Commission – 12 NCAC 09B .0205, .0301 (Bryan)
 - D. Criminal Justice Education and Training Standards Commission – 12 NCAC 09C .0306 (Bryan)
 - E. Criminal Justice Education and Training Standards Commission – 12 NCAC 09H .0102 (Bryan)
 - F. Department of Labor – 13 NCAC 07F .0903, .0904, .0905, .0916, .0919, .0920, .0921 (Bryan)
 - G. Environmental Management Commission – 15A NCAC 02D .1205, .1212 (DeLuca)
 - H. Licensing Board for General Contractors – 21 NCAC 12 .0202 (DeLuca)
 - I. Board of Cosmetic Art Examiners – 21 NCAC 14H .0105 (DeLuca)
 - J. Medical Board – 21 NCAC 32K .0208 (DeLuca)
 - K. State Personnel Commission – 25 NCAC 01I .2002 (DeLuca)
 - L. Office of Administrative Hearings – 26 NCAC 03 .0120 (Gray)

- IV. Review of Log of Permanent Rule filings for rules filed between February 23, 2009 and March 20, 2009 (attached)
- V. Review of Temporary Rules
- VI. Commission Business
- Next meeting: May 21, 2009
-

Commission Review
Log of Permanent Rule Filings
February 23, 2009 through March 20, 2009

ADMINISTRATION, DEPARTMENT OF

The rules in Chapter 44 are from the office for historically underutilized businesses.

The rules in Subchapter 44A concern certification including general provisions (.0100); HUB certification application (.0200); documentation (.0300); third party challenge (.0400); revocation of HUB certification (.0500); and review (.0600).

<u>Scope</u>	01	NCAC	44A	.0101
Amend/*				
<u>Documentation</u>	01	NCAC	44A	.0202
Amend/*				
<u>Duration of Certification</u>	01	NCAC	44A	.0204
Amend/*				
<u>Denial</u>	01	NCAC	44A	.0206
Amend/*				
<u>Required Documentation</u>	01	NCAC	44A	.0301
Amend/*				
<u>Challenge Initiation</u>	01	NCAC	44A	.0401
Amend/*				
<u>HUB Status During Challenge</u>	01	NCAC	44A	.0404
Amend/*				
<u>Reasons for Revocation</u>	01	NCAC	44A	.0501
Amend/*				
<u>Notice</u>	01	NCAC	44A	.0502
Amend/*				
<u>Review</u>	01	NCAC	44A	.0601
Amend/*				
<u>Status Pending Review</u>	01	NCAC	44A	.0605
Amend/*				

HHS - MENTAL HEALTH, DIVISION OF

The rules in Chapter 27 concern mental health community facilities and services.

The rules in Subchapter 27G are from either the department or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services including general information (.0100); operation and management rules (.0200); physical plant rules (.0300); facility licensing procedures (.0400); area program requirements (.0500); area authority or county program monitoring of facilities and services (.0600); accreditation of area programs and services (.0700); waivers and appeals (.0800); general rules for infants and toddlers (.0900); partial hospitalization for individuals who are mentally ill (.1100); psychological rehabilitation facilities for individuals with severe and persistent mental illness (.1200); residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1300); day treatment for children and adolescents with emotional or behavioral disturbances (.1400); intensive residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1500); residential treatment staff secure facilities for children or adolescents (.1700); psychiatric residential

treatment facilities for children and adolescents (.1900); specialized community residential centers for individuals with developmental disabilities (.2100); before/after school and summer developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2200); adult developmental and vocational programs for individuals with developmental disabilities (.2300); developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2400); early childhood intervention services (ECIS) for children with an at risk for developmental delays or disabilities, or atypical development and their families (.2500); nonhospital medical detoxification for individuals who are substance abusers (.3100); social setting detoxification for substance abuse (.3200); outpatient detoxification for substance abuse (.3300); residential treatment/rehabilitation for individuals with substance abuse disorders (.3400); outpatient facilities for individuals with substance abuse disorders (.3500); outpatient opioid treatment (.3600); day treatment facilities for individuals with substance abuse disorders (.3700); substance abuse services for DWI offenders (.3800); drug education schools (DES) (.3900); treatment alternatives to street crimes (TASC) (.4000); substance abuse primary prevention services (.4200); therapeutic community (.4300); facility based crises services for individual of all disability groups (.5000); community respite services for individuals of all disability groups (.5100); residential therapeutic (habilitative) camps for children and adolescents of all disability groups (.5200); day activity for individuals of all disability groups (.5400); sheltered workshops for individuals of all disability groups (.5500); supervised living for individuals of all disability groups (.5600); assertive community treatment service (.5700); supportive employment for individuals of all disability groups (.5800); case management for individuals of all disability groups (.5900); inpatient hospital treatment for individuals who have mental illness or substance abuse disorders (.6000); emergency services for individuals of all disability groups (.6100); outpatient services for individuals of all disability groups (.6200); companion respite services for individuals of all disability groups (.6300); personal assistants for individuals of all disabilities groups (.6400); employment assistance programs (.6500); specialized foster care services (.6600); forensic screening and evaluation services for individuals of all disability groups (.6700); prevention services (.6800); consultation and education services (.6900); local management entity response to complaints (.7000); and target population (.7100).

<u>General</u>	10A	NCAC	27G	.0701
Repeal/*				
<u>Accreditation Review</u>	10A	NCAC	27G	.0702
Repeal/*				
<u>Accreditation of the Area Program</u>	10A	NCAC	27G	.0703
Repeal/*				
<u>Denial r Revocation of the Accreditation</u>	10A	NCAC	27G	.0704
Repeal/*				
<u>Interim Accreditation for New Services</u>	10A	NCAC	27G	.0705
Repeal/*				
<u>Reciprocity</u>	10A	NCAC	27G	.0706
Repeal/*				
<u>Purchase of Service and Capitation Contracts</u>	10A	NCAC	27G	.0707
Repeal/*				

MENTAL HEALTH, COMMISSION FOR

The rules in Chapter 28 are from either the Secretary or the Mental Health Commission and concern state operated facilities and services.

The rules in Subchapter 28F concern admission and discharge including admission (.0100); voluntary admissions, involuntary commitments and discharge of adults from regional psychiatric hospitals (.0200); medical staff bylaws of North Carolina regional mental hospitals (.0300); hospitals behavior therapy programs (.0400); designation of research facilities in regional psychiatric hospitals (.0500); voluntary admission of adults who are not otherwise admissible as clients to designated research facilities in regional psychiatric hospitals (.0600); admission of deaf clients to state psychiatric hospitals and transfer of deaf clients to Dorothea Dix Hospital (.0700); general rules for MR Centers (.0800); voluntary admission and discharge to alcoholic rehabilitation centers (ARCS) (.0900); and probation and discharge (.1000).

<u>Regions for Division Institutional Admissions</u>	10A	NCAC	28F	.0101
Amend/*				

MENTAL HEALTH, COMMISSION FOR

The rules in Subchapter 29D are miscellaneous rules including Carolina Alternatives (.0100); single portal of entry and exit designation (.0200); designation of area mental health: mental retardation and substance abuse authorities and catchment areas (.0300); therapeutic homes for children and adolescents (.0400); Butner ordinances (.0500); substance abuse assessments for individuals charged with or convicted of driving while impaired(dwi) (.0600); procedures for amending rules (.0700); and community relations (.0800).

<u>Scope</u>	10A	NCAC	29D	.0301
Repeal/*				
<u>Definition</u>	10A	NCAC	29D	.0302
Repeal/*				
<u>Area Authorities and Catchment</u>	10A	NCAC	29D	.0303
Repeal/*				
<u>Change of Catchment Areas</u>	10A	NCAC	29D	.0304
Repeal/*				

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs).

The rules in Subchapter 9C concern the administration of criminal justice education and training standards including responsibilities of the criminal justice standards division (.0100); forms (.0200); certification of criminal justice officers (.0300); accreditation of criminal justice schools and training courses (.0400); minimum standards for accreditation of associate of applied science degree programs incorporating basic law enforcement training (.0500); and equipment and procedures (.0600).

<u>Agency Reporting of Drug Screening Results</u>	12	NCAC	09C	.0310
Amend/*				

LABOR, DEPARTMENT OF

The rules in Chapter 7 are from the Commissioner of Labor and cover the Occupational and Safety Health Act (OSHA).

The rules in Subchapter 7F cover specific OSHA standards for various industries: general (.0100); construction (.0200); agriculture (.0300); shops fabricating structural steel and steel plate (.0400); maritime (.0500); communication towers (.0600); blasting and use of explosives (.0700); and cranes and derricks standards (.0900).

<u>Toxic and Hazardous Substances</u>	13	NCAC	07F	.0106
Repeal/*				

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Chapter 2 concern environmental management and are promulgated by the Environmental Management Commission or the Department of Environment and Natural Resources.

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards and classifications themselves (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

<u>French Broad River Basin</u>	15A	NCAC	02B	.0304
Amend/*				

The rules in Subchapter 02C concern well construction standards including criteria and standards applicable to water-supply and certain other type wells (.0100); criteria and standards applicable to injection wells (.0200); and permitting and inspection of private

drinking water wells (.0300).

<u>Definitions</u>	15A	NCAC	02C	.0102
Amend/*				
<u>Registration</u>	15A	NCAC	02C	.0103
Repeal/*				
<u>Permits</u>	15A	NCAC	02C	.0105
Amend/*				
<u>Standards of Construction: Water Supply Wells</u>	15A	NCAC	02C	.0107
Amend/*				
<u>Standards of Construction: Wells Other than Water Supply</u>	15A	NCAC	02C	.0108
Amend/*				
<u>Pumps and Pumping Equipment</u>	15A	NCAC	02C	.0109
Amend/*				
<u>Well Tests for Yield</u>	15A	NCAC	02C	.0110
Amend/*				
<u>Disinfection of Water Supply Wells</u>	15A	NCAC	02C	.0111
Amend/*				
<u>Well Maintenance: Repair: Groundwater Resources</u>	15A	NCAC	02C	.0112
Amend/*				
<u>Abandonment of Wells</u>	15A	NCAC	02C	.0113
Amend/*				
<u>Data and Records Required</u>	15A	NCAC	02C	.0114
Amend/*				
<u>Designated Areas: Wells Cased to Less than 20 Feet</u>	15A	NCAC	02C	.0116
Amend/*				
<u>Designated Areas: Wells Cased to Less than 30 Feet</u>	15A	NCAC	02C	.0117
Amend/*				
<u>Variance</u>	15A	NCAC	02C	.0118
Amend/*				
<u>Delegation</u>	15A	NCAC	02C	.0119
Amend/*				

WILDLIFE RESOURCES COMMISSION

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10B are hunting and trapping rules and cover general hunting and wildlife provisions (.0100), hunting specific animals (.0200), trapping (.0300), and tagging furs (.0400).

<u>Migratory Game Birds</u>	15A	NCAC	10B	.0105
Amend/*				
<u>Wildlife Taken for Depredations or Accidentally</u>	15A	NCAC	10B	.0106
Amend/*				
<u>Big Game Kill Reports</u>	15A	NCAC	10B	.0113
Amend/*				
<u>Permitted Archery Equipment</u>	15A	NCAC	10B	.0116
Amend/*				
<u>Wildlife Collectors</u>	15A	NCAC	10B	.0119
Amend/*				
<u>Prohibited Taking and Manner of Take</u>	15A	NCAC	10B	.0201
Amend/*				
<u>Bear</u>	15A	NCAC	10B	.0202

Amend/*				
<u>Deer (White Tailed)</u>	15A	NCAC	10B	.0203
Amend/*				
<u>Wild Boar (Both Sexes)</u>	15A	NCAC	10B	.0204
Amend/*				
<u>Squirrels</u>	15A	NCAC	10B	.0206
Amend/*				
<u>Wild Turkey</u>	15A	NCAC	10B	.0209
Amend/*				
<u>Foxes (Gray and Red)</u>	15A	NCAC	10B	.0212
Amend/*				
<u>Crow</u>	15A	NCAC	10B	.0215
Amend/*				
<u>Open Seasons</u>	15A	NCAC	10B	.0302
Amend/*				
<u>Bag Limits</u>	15A	NCAC	10B	.0303
Amend/*				
<u>Trappers and Hunters</u>	15A	NCAC	10B	.0404
Amend/*				
<u>Sale of Live Foxes and Coyotes to Controlled Fox Hunting ...</u>	15A	NCAC	10B	.0409
Amend/*				

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish (.0300); non-game fish (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600).

<u>Public Mountain Trout Waters</u>	15A	NCAC	10C	.0205
Amend/*				
<u>Spawning Areas</u>	15A	NCAC	10C	.0208
Amend/*				
<u>Possession of Certain Fishes</u>	15A	NCAC	10C	.0211
Amend/*				
<u>State Inland Fishing License Exemptions</u>	15A	NCAC	10C	.0216
Amend/*				
<u>Open Seasons: Creel and Size Limits</u>	15A	NCAC	10C	.0305
Amend/*				
<u>Manner of Taking Non-game Fishes: Purchase and Sale</u>	15A	NCAC	10C	.0401
Amend/*				

The rules in Subchapter 10D are game lands rules.

<u>General Regulations Regarding Use</u>	15A	NCAC	10D	.0102
Amend/*				
<u>Hunting On Game Lands</u>	15A	NCAC	10D	.0103
Amend/*				
<u>Fishing on Game Lands</u>	15A	NCAC	10D	.0104
Amend/*				

The rules in Subchapter 10E concern fishing and boating access areas.

<u>Use of Areas Regulated</u>	15A	NCAC	10E	.0104
Amend/*				

The rules in Subchapter 10H concern activities regulated by the Commission including controlled hunting preserves for domestically raised game birds (.0100), holding wildlife in captivity (.0300), commercial trout ponds (.0400), fish propagation (.0700), falconry (.0800), game bird propagators (.0900), taxidermy (.1000), furbearer propagation (.1100), controlled fox hunting preserves (.1200), and reptiles and amphibians (.1300).

<u>Establishment and Operation</u>	15A	NCAC	10H	.0102
Amend/*				
<u>Bird Feeders</u>	15A	NCAC	10H	.0108
Amend/*				
<u>Quail Call-Pen Traps</u>	15A	NCAC	10H	.0109
Amend/*				
<u>Quail Call-Pen Traps</u>	15A	NCAC	10H	.0907
Amend/*				
<u>Possession of Reptiles and Amphibians</u>	15A	NCAC	10H	.1302
Amend/*				

The rules in Subchapter 10I concern endangered and threatened species.

<u>Protection of Endangered/Threatened/Special Concern Species</u>	15A	NCAC	10I	.0102
Amend/*				

EDUCATION, BOARD OF

The rules in Chapter 6 concern elementary and secondary education.

The rules in Subchapter 6C concern personnel including general provisions (.0100); teacher education (.0200); certification (.0300); annuities and pensions (.0400); performance appraisal system (.0500); and code of professional practice and conduct for North Carolina educators (.0600).

<u>Teacher Evaluation Process</u>	16	NCAC	06C	.0503
Adopt/*				
<u>Rubric for Teacher Evaluation</u>	16	NCAC	06C	.0504
Adopt/*				

REVENUE, DEPARTMENT OF

The rules in Chapter 7 concern sales and use tax.

The rules in Chapter 7B concern state sales and use tax including general provisions (.0100); general application of law to manufacturing and industrial processing (.0200); specific tangible personalty classified for use by industrial users (.0300); specific industries (.0400); exempt sales to manufacturers (.0500); sales of mill machinery and accessories (.0600); specific industry purchases (.0700); adjustments, replacements and alterations and installation sales (.0800); advertising, advertising agencies and public relations firms (.0900); barbers, beauty shop operators, shoe and watch repairmen (.1000); sales of bulk tobacco barns and farm machines and equipment (.1100); hotels and motels, tourist camps and tourist cabins (.1200); sales in interstate commerce (.1300); sales of medicines, drugs and medical supplies (.1400); finance companies, finance charges and carrying charges (.1500); sales to or by hospitals, educational, charitable or religious institutions, and refunds thereto (.1600); sales to or by the state, counties, and other political subdivisions (.1700); hospitals and sanitariums (.1800); tire recappers and retreaders and tire and tube repairs (.1900); sales and gifts by employers to employees or other users (.2000); electricity, piped natural gas, bottled gas, coal, coke, fuel oil, oxygen, acetylene, hydrogen, liquefied petroleum gas and other combustibles (.2100); food and food products for human consumption (.2200); sales to out-of-state merchants for resale (.2300); sales of medical supplies and equipment to veterinarians (.2400); furniture and storage warehousemen (.2500); liability of contractors, use tax on equipment brought into state and building materials (.2600); dentists, dental laboratories and dental supply houses (.2700); florists, nurserymen, greenhouse operators and farmers (.2800); vending machines (.2900); articles taken in trade, trade-ins, reposessions, returned merchandise and used or secondhand merchandise (.3000); radio and television stations and motion picture theatres (.3100); telecommunications and telegraph companies (.3200); orthopedic appliances (.3300); memorial stone and monument dealers and monument manufactures (.3400); machinists and foundrymen and pattern makers (.3500); funeral expenses (.3600); lubricants and oils and greases (.3700);

premiums and gifts and trading stamps (.3800); containers, wrapping and packing and shipping materials (.3900); fertilizer, seeds and feed and insecticides (.0400); artists, art dealers and photographers. (.4100); sales to the United States government or agencies thereof (.4200); refunds to interstate carriers (.4300); lease or rental (.4400); laundries, dry cleaning plants, launderettes, linen rentals and solicitors for such businesses (.4500); motor vehicles and boats (.4600); printers and newspaper or magazine publishers (.4700); basis of reporting (.4800); transportation charges (.4900); eyeglasses and other ophthalmic aids and supplies, oculists and optometrists and opticians (.5000); leased departments and transient sellers (.5100); baby chicks and poultz (.5200); certificate of authority and bond requirements (.5300); and forms used for sales and use tax purposes (.5400).

<u>Supplies and Equipment</u>	17	NCAC	07B	.1202
Amend/*				
<u>Housing Authorities</u>	17	NCAC	07B	.1705
Amend/*				
<u>Oxygen</u>	17	NCAC	07B	.1804
Amend/*				
<u>Hospital Supplies</u>	17	NCAC	07B	.1805
Amend/*				
<u>Tire Repair Materials</u>	17	NCAC	07B	.1903
Amend/*				
<u>Sales by Tire Recappers</u>	17	NCAC	07B	.1904
Amend/*				
<u>Propane Sold to Schools</u>	17	NCAC	07B	.2103
Amend/*				
<u>Aviation Fuel</u>	17	NCAC	07B	.2105
Amend/*				
<u>Food and Food Products</u>	17	NCAC	07B	.2201
Amend/*				
<u>Disposable Lunchroom Supplies</u>	17	NCAC	07B	.2202
Amend/*				
<u>Meals on Trains: Planes: Etc.</u>	17	NCAC	07B	.2204
Amend/*				
<u>Caterers</u>	17	NCAC	07B	.2205
Amend/*				
<u>Food Service Supplies</u>	17	NCAC	07B	.2207
Amend/*				
<u>Fraternity and Sorority Meals</u>	17	NCAC	07B	.2208
Amend/*				
<u>In General</u>	17	NCAC	07B	.2301
Amend/*				
<u>Sales by Veterinarians</u>	17	NCAC	07B	.2402
Amend/*				
<u>Weigh Hoppers Sold to Contractors</u>	17	NCAC	07B	.2603
Amend/*				
<u>Sand: Stone Sold to Contractors</u>	17	NCAC	07B	.2604
Amend/*				
<u>Sandblast Sand Sold to Contractors</u>	17	NCAC	07B	.2605
Amend/*				
<u>Repossessions</u>	17	NCAC	07B	.3002
Amend/*				
<u>Repair Parts for Used Property</u>	17	NCAC	07B	.3005
Amend/*				
<u>Used Property Sold for Repair Charges</u>	17	NCAC	07B	.3011
Amend/*				
<u>Trade: Grain for Flour</u>	17	NCAC	07B	.3012

Amend/*				
<u>Radio and Television: Etc. Receipts</u>	17	NCAC	07B	.3101
Amend/*				
<u>Rental of Films: Recordings</u>	17	NCAC	07B	.3103
Amend/*				
<u>Supplies to Install Memorial Stones/Monuments/Bronze Grav...</u>	17	NCAC	07B	.3403
Amend/*				
<u>Molds: Dies: For Resale</u>	17	NCAC	07B	.3503
Amend/*				
<u>Molds: Dies: Nonmanufacturers' Use</u>	17	NCAC	07B	.3505
Amend/*				
<u>Lubricating Service</u>	17	NCAC	07B	.3701
Amend/*				
<u>Car Wash Businesses</u>	17	NCAC	07B	.3703
Amend/*				
<u>Sales of Trading Stamps</u>	17	NCAC	07B	.3802
Amend/*				
<u>Gift Certificates</u>	17	NCAC	07B	.3804
Amend/*				
<u>Royalties</u>	17	NCAC	07B	.4402
Amend/*				
<u>Maintenance of Leased Property</u>	17	NCAC	07B	.4403
Amend/*				
<u>Insurance on Leased Property</u>	17	NCAC	07B	.4406
Amend/*				
<u>Golf Driving Range Fees</u>	17	NCAC	07B	.4414
Amend/*				
<u>Skating Rink Fees</u>	17	NCAC	07B	.4415
Amend/*				
<u>Garment Repairs and Storage</u>	17	NCAC	07B	.4506
Amend/*				
<u>Uniform Rentals</u>	17	NCAC	07B	.4509
Amend/*				
<u>Dyeing of Garments</u>	17	NCAC	07B	.4511
Amend/*				
<u>Ophthalmic Instruments</u>	17	NCAC	07B	.5003
Amend/*				

ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR

The rules in Chapter 56 are from the board of examiners for engineers and surveyors and concern the organization of the board (.0100); instructional programs (.0300); records and reports of the board, retention and dispositions (.0400); professional engineer (.0500); professional land surveyor (.0600); rules of professional conduct (.0700); firm registration (.0800); general business entities (.0900); temporary permit (.1000); seal (.1100); rulemaking proceedings (.1200); board disciplinary procedures (.1300); contested cases (.1400); fees (.1500); standards of practice for land surveying in north carolina (.1600); and continuing professional competency (.1700).

<u>Requirements for Licensing</u>	21	NCAC	56	.0501
Amend/*				
<u>Application Procedure: Individual</u>	21	NCAC	56	.0502
Amend/*				
<u>Examinations</u>	21	NCAC	56	.0503
Amend/*				

RULES REVIEW COMMISSION

<u>Expirations and Renewals of Certificates</u> Amend/*	21	NCAC	56	.0505
<u>Application Procedure: Individual</u> Amend/*	21	NCAC	56	.0602
<u>Examinations</u> Amend/*	21	NCAC	56	.0603
<u>Expirations and Renewals of Certificates</u> Amend/*	21	NCAC	56	.0606
<u>Rules of Professional Conduct</u> Amend/*	21	NCAC	56	.0701
<u>Procedure</u> Amend/*	21	NCAC	56	.0802
<u>Annual Renewal</u> Amend/*	21	NCAC	56	.0804
<u>Design</u> Amend/*	21	NCAC	56	.1102
<u>Standard Certification Requirements</u> Amend/*	21	NCAC	56	.1103
<u>Certification of Standard Design Plans</u> Amend/*	21	NCAC	56	.1106
<u>Improper Practice by a Licensee</u> Amend/*	21	NCAC	56	.1301
<u>Decision of Board</u> Amend/*	21	NCAC	56	.1413
<u>Surveying Procedures</u> Amend/*	21	NCAC	56	.1602
<u>Classification of Boundary Surveys</u> Amend/*	21	NCAC	56	.1603
<u>Mapping Requirements for Boundary Surveys</u> Amend/*	21	NCAC	56	.1604
<u>Specifications for Topographic and Planimetric Mapping, I...</u> Amend/*	21	NCAC	56	.1606
<u>Global Positioning Systems Surveys</u> Amend/*	21	NCAC	56	.1607
<u>Classification/Land Information System/Geographic Informa...</u> Amend/*	21	NCAC	56	.1608
<u>Definitions</u> Amend/*	21	NCAC	56	.1702
<u>Requirements</u> Amend/*	21	NCAC	56	.1703
<u>Determination of Credit</u> Amend/*	21	NCAC	56	.1705
<u>Recordkeeping</u> Amend/*	21	NCAC	56	.1706
<u>Exemptions</u> Amend/*	21	NCAC	56	.1707
<u>Comity/Out-of-Jurisdiction Resident</u> Amend/*	21	NCAC	56	.1709
<u>Compliance</u> Amend/*	21	NCAC	56	.1712
<u>Sponsors</u> Amend/*	21	NCAC	56	.1713

REAL ESTATE COMMISSION

The rules in Chapter 58 are from the North Carolina Real Estate Commission.

The rules in Subchapter 58A are rules relating to real estate brokers and salesmen including rules dealing with general brokerage (.0100); application for license (.0300); examinations (.0400); licensing (.0500); real estate commission hearings (.0600); petitions for rules (.0700); rulemaking (.0800); declaratory rulings (.0900); real estate recovery fund (.1400); forms (.1500); discriminating practices prohibited (.1600); mandatory continuing education (.1700); limited nonresident commercial licensing (.1800); and post-licensure education (.1900).

<u>Agency Agreements and Disclosure</u>	21	NCAC	58A	.0104
Amend/*				
<u>Advertising</u>	21	NCAC	58A	.0105
Amend/*				
<u>Broker-In-Charge</u>	21	NCAC	58A	.0110
Amend/*				
<u>Offers and Sales Contracts</u>	21	NCAC	58A	.0112
Amend/*				
<u>Reporting Criminal Convictions and Disciplinary Actions</u>	21	NCAC	58A	.0113
Amend/*				
<u>Residential Property Disclosure Statement</u>	21	NCAC	58A	.0114
Amend/*				
<u>Confidentiality of Examinations</u>	21	NCAC	58A	.0405
Amend/*				
<u>Business Entities</u>	21	NCAC	58A	.0502
Amend/*				
<u>Active and Inactive License Status</u>	21	NCAC	58A	.0504
Amend/*				
<u>Reinstatement of Expired License, Revoked, Surrendered or...</u>	21	NCAC	58A	.0505
Amend/*				
<u>Denial or Withdrawal of Postlicensing Education Credit</u>	21	NCAC	58A	.1904
Amend/*				

The rules in Subchapter 58C deal with real estate prelicensing education schools including rules dealing with the licensing of all schools except private real estate schools (.0100); private real estate schools (.0200); prelicensing courses (.0300); and pre-licensing course instructors (.0600).

<u>Withdrawal or Denial of Approval</u>	21	NCAC	58C	.0105
Amend/*				
<u>School Name</u>	21	NCAC	58C	.0203
Amend/*				
<u>Licensing Exam Confidentiality: School Perform/Licensing</u>	21	NCAC	58C	.0218
Amend/*				
<u>Course Completion Standards</u>	21	NCAC	58C	.0304
Amend/*				
<u>Course Scheduling</u>	21	NCAC	58C	.0305
Amend/*				
<u>Course Completion Reporting</u>	21	NCAC	58C	.0309
Amend/*				
<u>Notice of Scheduled Courses</u>	21	NCAC	58C	.0313
Amend/*				
<u>Denial or Withdrawal of Approval</u>	21	NCAC	58C	.0608
Amend/*				

The rules in Subchapter 58E are the real estate continuing education rules both update and elective course components including rules dealing with update courses (.0100); update course instructors (.0200); elective courses, sponsors, and instructors (.0300); general sponsor requirements (.0400); and course operational requirements (.0500).

<u>Distance Education Courses</u> Adopt/*	21	NCAC	58E	.0310
<u>Student Participation Standards</u> Amend/*	21	NCAC	58E	.0511

The rules in Subchapter 58F set the standards for the broker transition course.

<u>Basic Requirement</u> Repeal/*	21	NCAC	58F	.0101
<u>Course Content</u> Repeal/*	21	NCAC	58F	.0102
<u>Course Sponsors and Instructors</u> Repeal/*	21	NCAC	58F	.0103
<u>Course Operational Requirements</u> Repeal/*	21	NCAC	58F	.0104
<u>Course Completion Reporting and Per Student Fee</u> Repeal/*	21	NCAC	58F	.0105
<u>Withdrawal of Sponsor and Instructor Approval</u> Repeal/*	21	NCAC	58F	.0106

COMMUNITY COLLEGES, BOARD OF

The rules in Chapter 2 concern Community Colleges.

The rules in Subchapter 2C deal with the organization and operation of the colleges including trustees and colleges (.0100); personnel (.0200); students (.0300); libraries and learning resource centers (.0400); equipment (.0500); college evaluation (.0600); and civil rights (.0700).

<u>Intercollegiate Athletics</u> Adopt/*	23	NCAC	02C	.0110
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The rules in Subchapter 2D cover the fiscal affairs of community colleges including salaries (.0100), student fees (.0200) and budgeting, accounting and fiscal management (.0300).

<u>Tuition and Fees for Curriculum Programs</u> Amend/*	23	NCAC	02D	.0202
<u>Operating Budget Requests: Distribution of Funds</u> Amend/*	23	NCAC	02D	.0301
<u>Budget FTE Funding</u> Amend/*	23	NCAC	02D	.0326
<u>Reporting Student Membership Hours to the Department</u> Amend/*	23	NCAC	02D	.0327

The rules in Subchapter 2E cover educational programs including program classification (.0100); curriculum programs (.0200); adult, extension, and community service programs (.0300); industrial services (.0400); articulation (.0500); and vocational curriculum (.0600).

<u>Program Classification</u> Amend/*	23	NCAC	02E	.0101
<u>Courses and Standards for Curriculum Programs</u> Amend/*	23	NCAC	02E	.0204

<u>Program Review</u>	23	NCAC	02E	.0205
Amend/*				
<u>Customized Training Program</u>	23	NCAC	02E	.0401
Amend/*				

ADMINISTRATIVE HEARINGS, OFFICE OF

The rules in Chapter 2 are from the rules division and cover publication of The North Carolina Administrative Code (NCAC) and the North Carolina Register (NCR).

The rules in Subchapter 2C are the submission procedures for rules and other documents to be published in the North Carolina Register and the North Carolina Administrative Code including general provisions (.0100); codification of rules (.0200); the Register (.0300); the Administrative Code (.0400); temporary rules (.0500); emergency rules (.0600); and publication on the OAH website (.0700).

<u>Electronic Filing</u>	26	NCAC	02C	.0308
Amend/*				

The rules in Chapter 3 are from the Hearings Division and cover procedure (.0100), mediated settlement conferences (.0200), and expedited hearing procedures for complex contested cases (.0300).

<u>General</u>	26	NCAC	03	.0101
Amend/*				

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	

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Michael Daniel Clair v. T/A Par 3 Bistro v. ABC Commission	07 ABC 1289	Lassiter	10/07/08	
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	
Don Mariachi Ventures, T/A EL Mariachi Gordo	07 ABC 2155	Webster	11/05/08	
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa T/A JB Food Mart	08 ABC 0097	May	09/03/08	
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AM Enterprises of Fayetteville, Inc., T/A Izzy's Sports Bar v. ABC Commission	08 ABC 0371	Lassiter	06/13/08	
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Downtown Event Center, Inc. T/A Downtown Event Center v. ABC Commission	08 ABC 0937	May	09/16/08	
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Taureka S Johnson v. NC Crime Victims Compensation Commission	08 CPS 0402	Morrison	08/08/08	
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ATS Specialized, Inc, v. Dept. of Crime Control and Public Safety, Div. Of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 0864	May	09/11/08	
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Randy S. Griffin v. NC Crime Victims Compensation Commission	08 CPS 0995	May	09/11/08	
Kenneth Lee Moore v. Dept. of Crime Control and Public Safety	08 CPS 1093	Webster	10/27/08	
Interstate Crushing Inc. v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier	08 CPS 1086	Overby	09/29/08	

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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
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SOOF Trucking, Ray Charles Solomon v. Secretary of Crime Control And Public Safety	08 CPS 1526	Overby	09/09/08
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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

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Midtown Food Mart III, Chenet Haileslasi and Fesseha Zeru v. DHHS	07 DHR 1045	Webster	04/28/08
Kelly Schofield MD, Clinical Director, Youth Quest, Inc. v. DHHS, DFS Mental Health Licensure and Certification	07 DHR 1064	Joseph	10/17/08
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Dianetta Foye v. Division of Child Development, DHHS, Services	07 DHR 1440	Joseph	05/07/08
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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
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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	
Beth Suzanne Garson v. DHHS, Division of Social Services, Regulatory and Licensing Services	07 DHR 1718	Joseph	01/09/09	
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Lashauna Reid v. CCMHC (PFCS-Service Provider)	07 DHR 2039	Elkins	08/05/08	
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Yolanda Jones v. DHHS, Adult Licensure Section	07 DHR 2081	Webster	05/16/08	
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Brent Morris Per Dedrea Moors (Mother) v. Priscilla Valet, DMA	08 DHR 0585	May	06/09/08
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Holly Martin Ph.D, Div. of Medical Assistance of DHHS	08 DHR 1534	Webster	01/06/09
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	08 DHR 1914	Joseph	11/17/08
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Carrie E. Crosson and Leroy J. Crosson v. Vance County Dept. of Social Services	08 DHR 2048	Joseph	10/28/08
Elizabeth Elaine Croker v. DHHS, Div. of Health Service Regulation	08 DHR 2050	Webster	12/23/09
Stephanie Craven v. Health Care Registry	08 DHR 2051	Joseph	11/25/08
Marsha Hester v. Health Care Personnel Registry	08 DHR 2056	Gray	02/11/09
Dejuan Martell Willis v. DHHS, Div. of Health Service Regulation	08 DHR 2074	Joseph	01/06/09
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Forever Young Group Care LLC T/A FY Inc v. DHHS, Div. of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 2159	Lassiter	01/16/09
Shirley Hawls v. DHHS	08 DHR 2225	Joseph	01/08/09
Bennett Short v. Medicaid	08 DHR 2226	Mann	12/18/08
ReNu Life Extended, Diane Harrison CEO, v. Div. of Health Service Regulation, Licensure Division, Barbara Ryan, Chief	08 DHR 2256	Gray	02/03/09
Naomi J. Silver v. DHHS	08 DHR 2257	Gray	01/22/09
Pearline H. White v. DHHS	08 DHR 2263	Mann	01/15/09
Cynthia McMillian v. Div. of Child Development	08 DHR 2273	Overby	01/23/09
Zarie D. Wooten v. DHHS, Division of Child Development	08 DHR 2294	May	02/13/09
David McBrayer v. Value Options	08 DHR 2303	Brooks	12/01/08
Diane Harrison, ReNu Life Extended, Inc., v. Adult Care Section, Div. of Health Service Regulation	08 DHR 2304	Gray	02/03/09
Family Network Services, Inc., Ron Blake, Altrice Gales	08 DHR 2311	Joseph	12/01/08
Laverne Jones, Jeffrey's Rest Home v. DHHS	08 DHR 2343	Webster	02/23/09
Sabrina Brower v. Value Options/DHHS	08 DHR 2373	Mann	01/13/09
Emmanuel House, Erthel J. Anderson v. DHHS, Div. of Medical Asst.	08 DHR 2382	Gray	12/10/08
William P. Miller, Chapter 11 Trustee for Debtor Faiger M. Blackwell (Dogwood Forest) v. DHHS, Div. of Health Service Regulation Adult Care Licensure Section	08 DHR 2388	Gray	11/06/08
Alexandria Adelaide, dba Pine Forrest Home v. DHHS, DFS – Adult Care Licensure Section	08 DHR 2408	Webster	12/11/08
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James Pardue President and CEO Ralph Scott Lifeservice, Inc v. DHHS	08 DHR 2567	Gray	12/11/08
Debora Bolton Stamatakis DDS PA, DR. Stamatakis & Nick Stamatakis v. DHHS, Emery Milliken	08 DHR 2580	Gray	02/23/09
Regina McCall QP, Turning Pointe Group Home Inc. v. OAH, Mental Health Licensure & Certification Section	08 DHR 2703	Overby	01/30/09
Victoria J. Deranamie v. DHHS, Div. of Health Service Regulation	08 DHR 3048	May	02/23/09
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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
Timothy Daniel McFalls v. N.C. Criminal Justice Education and Training Standards Commission	07 DOJ 1712	May	09/03/08
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
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Joseph Shane Johnston v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0209	Lassiter	10/07/08
Patrick Edsel Cashwell v. Criminal Justice Education and Training Standards Commission	08 DOJ 0498	Webster	10/01/08
Anthony Ray Haynie v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0532	Brooks	08/06/08
Jonathan R. Elam v. Private Protective Services Board	08 DOJ 0568	Webster	05/08/08
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Stephen Joseph Ciliberti v. N.C. Private Protective Services Board	08 DOJ 0858	Gray	07/15/08
Lawrence William Sitgraves v. Sheriffs' Education and Training Standards Commission	08 DOJ 1036	May	09/16/08
Deborah Moore Anderson v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 1038	Brooks	05/28/08
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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
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Stephen Matthew Crotts v. Sheriffs' Education and Training Standards Commission	08 DOJ 1275	Brooks	10/27/08
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Reshella Moore v. Sheriffs' Education and Training Standards Comm.	08 DOJ 1846	Joseph	09/25/08
Jamaal Ahkiem Gittens v. Private Protective Services Board	08 DOJ 1867	May	10/08/08

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Matthew William MacDonald v. Criminal Justice Education and Training Standards Commission	08 DOJ 2033	Brooks	12/01/08
Ronald Lewis Leak v. Private Protective Services Board	08 DOJ 2080	Overby	10/14/08
Penny Thomas Schronce v. Sheriffs' Education and Training Standards Commission	08 DOJ 2109	Brooks	12/01/08
Dwight Wendell Parker v. Criminal Justice Education and Training Standards Commission	08 DOJ 2110	Gray	10/27/08
Aaron McDowell v. Company Police Program	08 DOJ 2176	Brooks	01/05/09
Richard Bryant Honeycutt v. Criminal Justice Education and Training Standards Commission	08 DOJ 2209	May	12/31/08
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Sandra Leroux, Leroux Entertainment Corporation d/b/a Spectacular Events! V. DOL	08 DOL 0754	May	07/08/08
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Kevin Douglas v. Dept. of Justice Criminal Justice Standards, DMV License and Theft, Holly Springs Police Department	07 DOT 2221	Webster	05/12/08
Terry J. Kyte, Pres. Kyte Construction v. DMV	08 DOT 1517	Elkins	12/03/08
Benjamin Cartwright Simmons III, Citation #3131650-8 v. DMV	08 DOT 1774	Lassiter	11/03/08

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Robert A. Gabriel Sr. v. DST	05 DST 0586	Gray	12/31/08	23:16 NCR 1695
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	23:05 NCR 524
Jerry Alan Reese v. DST, State and Local Finance Division and the Local Government Commission	08 DST 0256	Morrison	07/25/08	
Charles C. Williams, Sr., v. Dept. of Treasurer	08 DST 0736	Elkins	10/27/08	

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Earnest Waters v. State Ethics Commission	08 EBD 2375	Gray	02/13/09
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Stephen Miller Gibson v. DPI	07 EDC 0121	May	09/17/08
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Gregory Bates v. DPI, Licensure Section	07 EDC 2238	Gray	04/30/08
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Nancy L. Ashburn v. NC Department of Public Instruction	07 EDC 2357	Brooks	08/19/08
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Anderson Sand & Grave; LLC, Gerald L. Anderson LLC, and Gerald Anderson	05 EHR 1787	Gray	10/29/08	23:16 NCR 1701
Henry S. Cowell, III and Carolyn Dressler v. DENR, Div. of Coastal Management	06 EHR 1185	Brooks	05/30/08	23:05 NCR 501
Robin R. Moore v. DENR, Division of Waste Management	06 EHR 1479	Lassiter	03/24/08	
Ray Sael v. DENR, Div. of Water Quality	06 EHR 1671	Gray	01/22/09	
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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
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Durham Land Associates LLC v. County of Durham, Engineering Department	07 EHR 1141	Overby	08/20/08
Dennis L. Jude v. NC Department of Environment and Natural Resources	07 HER 1238	Webster	08/20/08
Martha and Charles Morton v. N.C. Department of Environment And Natural Resources	07 EHR 1297	Overby	06/02/08
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William Lewell Huff v. N.C. Department of Environment and Natural Resources	07 EHR 1579	Overby	06/02/08
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Donald Lindsay v. Cherokee County Health Dept.	08 EHR 0764	Brooks	07/10/08
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George Bess, Sr., v. DENR, Div. of Air Quality	08 EHR 1000	Overby	10/28/08
Eddie Verdis Hood v. N.C. Department of Environment and Natural Resources	08 EHR 1073	Overby	07/30/08
John S. Stirewalt, Architect, Agent for B. Parker Overton, Landowner v. DENR, Div of Coastal Management	08 EHR 1090	Webster	11/24/08
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
Riegel Ridge Partners v. DENR , Div. of Waste Management	08 EHR 1414	Gray	12/17/08
Michael J. Campbell v. Rowan County Health Department	08 EHR 1572	Books	10/10/08
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Bethel Jr. High School NC 144418, Heather Teague v. DENR Public Water Supply Section	08 EHR 1810	Brooks	10/10/08
The Village of Walnut Creek PWS ID#NC0496155 v. DENR Public Water Supply Section	08 EHR 1892	Gray	11/18/08
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Tabernacle Week Day School Cynthia M. Doyle v. DENR, Public Water Supply Section	08 EHR 1984	Mann	10/20/08
Michael Chapman FV Productions v. Stanly County Environmental Health Dennis R. Joyner, Health Director Division of Environment Health Terry Pierce, Director	08 EHR 1986	Lassiter	11/03/08
Carl J. Peters and Color Works v. City of Raleigh	08 EHR 2005	Joseph	10/28/08
Michael J. Carnes v. DENR, Div. of Air Quality	08 EHR 2042	Brooks	01/06/09
Country Fun Land Inc., A North Carolina Corporation v. DENR, Div. of Water Quality	08 EHR 2470	Elkins	02/04/09
Pro Dev 8, LLC v. City of Raleigh, Stormwater Management Division	08 EHR 3308	Joseph	01/08/09
Gary Kelly v. Div. of Air Quality	09 EHR 0219	Gray	02/17/09

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Ronald Caleb White v. Employment Security Commission UI Division	08 ESC 2568	Joseph	12/12/08	
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Benjamin Brodey, Inger Brodey, Clara Brodey	07 INS 1139	Elkins	10/24/08	
Nettie C Minshew v. North Carolina State Health Plan	07 INS 1319	Gray	09/08/08	
Albert N. Whiting, by his daughter, Brooke E. Whiting v. Teachers' and State Employees' Comprehensive Major Medical Plan	07 INS 1431			
Alesha D Carter v. State Health Plan	07 INS 1858	Lassiter	05/19/08	
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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	
Catherine Seay v. Judge Debra Sasser, Wake County District Court Civil Division	08 MIS 2295	Elkins	11/24/08	

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Scott Burgess v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol	07 OSP 0052	Gray	07/16/08	
Ralph Mitchell Foard v. Highway Patrol	07 OSP 0135	Webster	11/06/08	
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Warren R. Follum v. NCSU	07 OSP 0577	Webster	03/21/08	
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Marcus Guy v. A&T University	07 OSP 0760	Webster	09/16/08	
Michael Phillips v. A&T State University	07 OSP 0833	Overby	11/12/08	
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	23:05 NCR 528
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. Gasque v. N.C. Department of Corrections	07 OSP 1479	Overby	06/09/08	
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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	
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Ashley K. Severson v. Greene County	08 OSP 0611	Joseph	07/29/08	
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Rita McKeithan v. Stanly County Department of Social Services	08 OSP 1240	May	08/26/08	
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Charles Godwin v. NC Department of Crime Control and Public Safety	08 OSP 1463	Lassiter	07/28/08	
Reid DuBose III v. Dept. of Commerce	08 OSP 1476	Lassiter	10/31/08	
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Kyla Solomon v. Office of Citizen Services	08 OSP 1547	Lassiter	07/22/08	
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Karen E. Browder v. Forsyth County Department of Social Services	08 OSP 1771	Gray	11/17/08	
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JoAnn C. Walker v. DOA	08 OSP 1976	Brooks	12/23/08	
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Prudentia Ngwainmbi v. Elizabeth Sate University	08 OSP 2240	Joseph	12/08/08	
Darryl R. McCathan v. DOC	08 OSP 2274	Gray	01/03/09	
Josephine Hood v. Dorothea Dix Hospital Food and Nutrition	08 OSP 2276	Webster	12/23/08	
Garland Morman v. Dorothea Dix Hospital Food and Nutrition	08 OSP 2277	Webster	01/06/09	
Jackie L. Eley v. DHHS, Hearing Office	08 OSP 2286	Gray	01/06/09	
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Angelique Thompson v. Respiratory Care Board	07 RCB 1176	Gray	03/13/08	23:01 NCR 153
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Richard C Garrard Jr. v. NC Department of Secretary of State	07 SOS 2080	Brooks	09/12/08	
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Wendy Branch Miller v. SOS	08 SOS 1018	Lassiter	07/14/08	
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Vickie M. Jackson v. SOS	08 SOS 1784	Gray	10/27/08	

UNC HOSPITALS

Deborah A. Fearington v. UNC Hospitals, Patient Account Services	07 UNC 2248	Webster	11/05/08	
Charity Smith v. UNC Hospitals	08 UNC 0533	Gray	07/28/08	
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Bobby and Robin Wilson v. UNC Hospitals	08 UNC 0595	May	09/11/08	
Christine Gwyn v. UNC Hospitals	08 UNC 0734	May	09/11/08	
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	