

NORTH CAROLINA REGISTER

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April 15, 2011

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PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone (919) 431-3000
Fax (919) 431-3104*

*Julian Mann, III, Director
Camille Winston, Deputy Director
Molly Masich, Codifier of Rules
Dana Vojtko, Publications Coordinator
Julie Edwards, Editorial Assistant
Tammara Chalmers, Editorial Assistant*

Contact List for Rulemaking Questions or Concerns

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

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

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

contact: Molly Masich, Codifier of Rules molly.masich@oah.nc.gov (919) 431-3071
Dana Vojtko, Publications Coordinator dana.vojtko@oah.nc.gov (919) 431-3075
Julie Edwards, Editorial Assistant julie.edwards@oah.nc.gov (919) 431-3073
Tammara Chalmers, Editorial Assistant tammara.chalmers@oah.nc.gov (919) 431-3083

Rule Review and Legal Issues

Rules Review Commission
1711 New Hope Church Road (919) 431-3000
Raleigh, North Carolina 27609 (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 (919) 807-4700
Raleigh, North Carolina 27603-8005 (919) 733-0640 FAX
Contact: Anca Grozav, Economic Analyst osbmruleanalysis@osbm.nc.gov (919) 807-4740

NC Association of County Commissioners
215 North Dawson Street (919) 715-2893
Raleigh, North Carolina 27603
contact: Jim Blackburn jim.blackburn@ncacc.org
Rebecca Troutman rebecca.troutman@ncacc.org

NC League of Municipalities (919) 715-4000
215 North Dawson Street
Raleigh, North Carolina 27603
contact: Erin L. Wynia ewynia@nclm.org

Governor's Review

Edwin M. Speas, Jr. edwin.speas@nc.gov
General Counsel to the Governor (919) 733-5811
116 West Jones Street
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Legislative Process Concerning Rule-making

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

contact: Karen Cochrane-Brown, Staff Attorney Karen.cochrane-brown@ncleg.net
Jeff Hudson, Staff Attorney Jeffrey.hudson@ncleg.net

NORTH CAROLINA REGISTER
Publication Schedule for January 2011 – December 2011

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
25:13	01/03/11	12/08/10	01/18/11	03/04/11	03/21/11	05/01/11	05/2012	09/30/11
25:14	01/18/11	12/22/10	02/02/11	03/21/11	03/21/11	05/01/11	05/2012	10/15/11
25:15	02/01/11	01/10/11	02/16/11	04/04/11	04/20/11	06/01/11	05/2012	10/29/11
25:16	02/15/11	01/25/11	03/02/11	04/18/11	04/20/11	06/01/11	05/2012	11/12/11
25:17	03/01/11	02/08/11	03/16/11	05/02/11	05/20/11	07/01/11	05/2012	11/26/11
25:18	03/15/11	02/22/11	03/30/11	05/16/11	05/20/11	07/01/11	05/2012	12/10/11
25:19	04/01/11	03/11/11	04/16/11	05/31/11	06/20/11	08/01/11	05/2012	12/27/11
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26:07	10/03/11	09/12/11	10/18/11	12/02/11	12/20/11	02/01/12	05/2012	06/29/12
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26:10	11/15/11	10/24/11	11/30/11	01/17/12	01/20/12	03/01/12	05/2012	08/11/12
26:11	12/01/11	11/07/11	12/16/11	01/30/12	02/20/12	04/01/12	05/2012	08/27/12
26:12	12/15/11	11/22/11	12/30/11	02/13/12	02/20/12	04/01/12	05/2012	09/10/12

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.

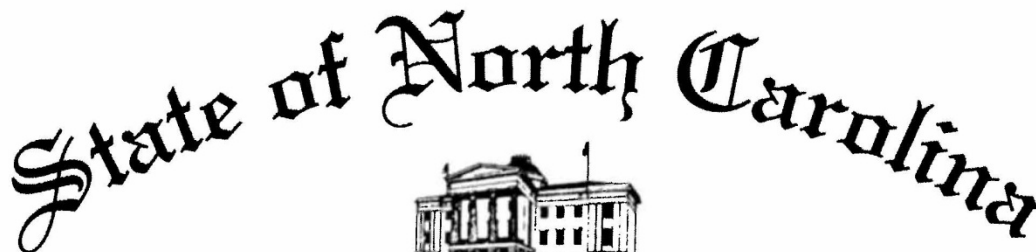
NOTICE OF TEXT

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.



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 84

**ESTABLISHING THE NORTH CAROLINA
EARLY CHILDHOOD ADVISORY COUNCIL**

WHEREAS, ensuring that all North Carolina's young children have the best possible start so that they are healthy and ready for success in school and in life is essential for the future strength and vitality of the State; and

WHEREAS, research demonstrates the unparalleled importance of the early years in setting the course of each child's life; and

WHEREAS, long-term studies of the impact of high-quality programs and services for young children show that children who have the advantage of those services have better outcomes, including less crime, higher graduation rates, and greater likelihood of being employed—providing a many-fold return on each dollar invested; and

WHEREAS, North Carolina has established many high-quality programs that provide a strong foundation for future efforts and is a national leader in a number of programs—such as Smart Start, More at Four, North Carolina's rated license, T.E.A.C.H., and ABCD developmental screening—which have produced significant improvements that support children's development; and

WHEREAS, a comprehensive, integrated approach is needed to support young children and their families, including physical and mental health services, early care and education, and family strengthening and support services; and

WHEREAS, state-level coordination of policies, programs, and services for young children can enhance the early childhood system; and

WHEREAS, providing a means of ongoing collaboration and focus can increase North Carolina's efficiency and effectiveness in serving young children and their families; and

WHEREAS, North Carolina has a unique opportunity through federal funding to launch a new system-building initiative, drawing on the State's strengths and expertise and bringing

together a broad array of individuals to provide leadership for the next steps in building an excellent system to serve our youngest citizens.

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

Section 1. Establishment and Purpose

The North Carolina Early Childhood Advisory Council ("ECAC" or "Advisory Council") is hereby established, consistent with 42 U.S.C. § 9837b(b). The Advisory Council shall create and sustain a shared vision for young children and a comprehensive, integrated system of high-quality health services, family strengthening services, and early care and education services that supports ready children, families, and communities. The Advisory Council also shall develop, encourage and support initiatives to strengthen the state's early childhood system and achieve the best possible outcomes for the state's young children.

Section 2. Membership

- a. All members of the Advisory Council shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Advisory Council shall consist of no more than 30 members.
- b. Advisory Council members shall serve terms of three years. Initial appointment terms shall be staggered for one, two, or three years so that approximately one-third of the terms expire each year. Vacancies among the members shall be filled by the Governor to serve for the remainder of the unexpired term.
- c. The Advisory Council shall include members required by federal law and others deemed appropriate by the Governor.
- d. The Governor may serve as Chair of the Advisory Council or shall appoint a Chair of the Advisory Council, who shall serve at the pleasure of the Governor.

Section 3. Committees

The Governor, the Governor's designee, or the Chair of the Advisory Council may establish committees, task forces or work groups as necessary to carry out the Advisory Council's duties.

Section 4. Duties

The Advisory Council shall have the following duties and functions:

- a. Strengthen state-level coordination and collaboration among the various sectors and settings of early childhood programs in the State, including health, family strengthening, and early care and education.

- b. Create and sustain a shared vision for young children in North Carolina and adopt system-wide outcomes for young children.
- c. Develop a statewide strategic plan that delineates major goals and actions for reaching the desired system-wide outcomes for young children.
- d. Identify key infrastructure needs or enhancements and recommend policies to promote and sustain a comprehensive, integrated system of high-quality health, family support, and early care and education services that supports ready children, families, and communities.
- e. Identify funding priorities and recommend to the Governor a budget for a high-quality, comprehensive, integrated system of state services to young children and their families.
- f. Conduct periodic statewide needs assessments on the quality and availability of programs and services for children from birth to school entry.
- g. Recommend enhancements in state early learning standards and undertake efforts to maintain high-quality comprehensive early learning standards, as needed.
- h. Recommend strategies to improve the quality of health, family strengthening, and early care and education services for young children and their families, and to increase overall participation of children in existing state and federal programs.
- i. Identify opportunities for and barriers to coordination and collaboration among existing federally- and state-funded programs for young children.
- j. Recommend strategies to create an effective, comprehensive, integrated professional development system and career advancement plans for the workforce serving young children and their families.
- k. Assess the capacity and effectiveness of two- and four-year public and private institutions of higher education in the State toward supporting the development of early childhood educators and other staff serving young children and their families.
- l. Recommend and promote strategies to develop and implement a statewide, unified, longitudinal data collection system for early childhood education programs and services.
- m. Develop and implement plans to increase awareness of the importance of investing in early childhood development and to increase commitment among parents, professionals, businesses, policy makers, and the public at large to ensuring that all young children in North Carolina are healthy, learning, and thriving.
- n. Periodically review the statewide strategic plan and the recommendations in the statewide strategic report to address any changes in state and local needs.

- o. Monitor progress toward goals and present an annual written report of progress to date.
- p. Coordinate, advise, and oversee, as appropriate, relevant federal grants and other grant programs to maximize the effectiveness of resources in working toward the State's goals for the early childhood system and outcomes for young children.
- q. Seek, identify, and advocate for resources, including submitting grant proposals, for funding to implement the State's early childhood initiatives. To the extent funds are available, the Advisory Council is specifically authorized to make grants to other entities, to contract with other entities, and to utilize funds for the operation of the Advisory Council.
- r. Carry out additional responsibilities as assigned by the Governor to advance the early childhood system and achieve the best possible outcomes for young children.

Section 5. Meetings and Public Hearings

- a. The Advisory Council shall meet at least three times a year and at other times at the call of the Governor or the Chair.
- b. A simple majority of the Advisory Council members shall constitute a quorum for the purpose of transacting the business of the Advisory Council.
- c. The Advisory Council periodically shall hold public hearings and provide an opportunity for public comment regarding the strategic plan and the implementation of the Advisory Council's duties.

Section 6. Administration


The Office of the Governor shall provide necessary administrative and staff support services to the Advisory Council. The Advisory Council is authorized to accept funds and in-kind services from other state, federal and private entities, as authorized by the North Carolina State Budget Act. No per diem allowance shall be paid to members of the Advisory Council. Members of the Advisory Council and staff may receive necessary travel and subsistence expenses in accordance with state law. These expenses shall be paid from federal funds where possible. If federal funds are not available, these expenses may be paid only if the Office of the Governor has sufficient funds or if another source of funds is available.

Section 7. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until March 14, 2015, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 15th day of March in the year of our Lord two thousand and eleven and of the Independence of the United States of America the two hundred and thirty-fifth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 85

**CONSOLIDATION AND REORGANIZATION OF EXECUTIVE BRANCH
AGENCIES TO IMPROVE THE EFFICIENCY OF STATE GOVERNMENT**

WHEREAS, the North Carolina Constitution gives the Governor the power to submit to the General Assembly changes, elimination, consolidation and reorganization of the powers, duties and functions of the agencies and departments within the Executive Branch of State Government whenever the Governor determines that such action is in the best interest of the State; and

WHEREAS, a principal reason for exercising this power is to ensure that State government services are delivered in an effective and coordinated way; and

WHEREAS, the Governor has the responsibility to spend tax dollars wisely and efficiently; and

WHEREAS, I have determined that the State of North Carolina is in a time of economic challenge, such that the way State Government has operated must change in order to continue to deliver critical services to North Carolina citizens.

NOW, THEREFORE, pursuant to the powers conferred on me as Governor by Article III, Section 5(10) of the Constitution and the laws of North Carolina, as a first step in the process of reorganizing State Government, **IT IS ORDERED:**

The Executive Branch of State Government is hereby consolidated and reorganized as provided herein.

Section 1. Use of Terms

For purposes of this Executive Order, the terms "Type I Transfer" and "Type II Transfer" shall have the meaning prescribed by the General Assembly in the Executive Organization Act of 1971, N.C. Gen. Stat. § 143A-6, and the terms "Agency," "Board," "Commission," "Committee," "Council," "Division," "Head of Department," and "Principal State Department" shall have the meaning prescribed by the General Assembly in the Executive Organization Act of 1973, N.C. Gen. Stat. § 143B-3.

Section 2. Applicability to Departments and Agencies

This Executive Order is applicable to the following departments and agencies: the Department of Administration, the Department of Commerce, the Department of Correction, the Department of Crime Control and Public Safety, the Department of Cultural Resources, the Department of Environment and Natural Resources, the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, the Department of Revenue, the Department of Transportation, the Office of State Personnel, the Office of State Budget and Management, the Office of Information Technology Services, and the Employment Security Commission.

Section 3. Statutes Remain in Effect

Except as herein expressly modified, the provisions of Chapters 143, 143A and 143B of the North Carolina General Statutes remain in force.

Section 4. Department of Management and Administration

The Office of State Personnel and the Office of Information Technology Services are hereby consolidated into the Department of Administration. The Department of Administration, as established by N.C. Gen. Stat. § 143B-366, is hereby renamed the Department of Management and Administration. All powers, duties, functions and obligations heretofore vested in the former Department of Administration, and any subunit or division of the former Department of Administration, are hereby vested in the Department of Management and Administration. All references in the General Statutes or laws of the State to the "Department of Administration" are hereby deleted and replaced with the "Department of Management and Administration." All references to the "Secretary of Administration" in the General Statutes or laws of the State are hereby deleted and replaced with the "Secretary of Management and Administration." This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Department of Administration. Where the former Department of Administration or a division or other subunit of the former Department of Administration is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Management and Administration.

- a. The Office of State Personnel, as established by N.C. Gen. Stat. § 126-3, is transferred to the Department of Management and Administration by a Type I transfer. All powers, duties and functions of the Office of State Personnel as specified in N.C. Gen. Stat. Chapter 126 and as specified elsewhere in the laws of this State are transferred to the Department of Management and Administration. All powers and duties of the Office of State Personnel specifically enumerated in N.C. Gen. Stat. § 126-3 are added to those powers and duties of the Department of Management and Administration specified in N.C. Gen. Stat. § 143-341. All references in the General Statutes or laws of the State to the "Office of State Personnel" are hereby deleted and replaced with the "Department of Management and Administration." All references in the General Statutes or laws of the State to the "State Personnel Director" are hereby deleted and replaced with the

“Secretary of Management and Administration or the Secretary’s designee.” This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Office of State Personnel. Where the former Office of State Personnel or a division or other subunit of the former Office of State Personnel is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Management and Administration. State employees currently employed by and under the supervision of the former State Personnel Director and the former Office of State Personnel are hereby transferred to the supervision of the Secretary of Management and Administration. Additionally, to ensure the consistent application of human resource policies and practices, the human resource functions within the Cabinet State Agencies will be centralized within the Department of Management and Administration. All human resources positions, professional development/training positions, and safety officer positions, and all related administrative support positions and budgets, will be transferred to the supervision of the Secretary of Management and Administration. The Department of Management and Administration, in conjunction with the Office of State Budget and Management, will review such agency positions to determine which positions will be transferred to the Department of Management and Administration. Transfers of positions pursuant to this Order shall not affect any individual employee’s current compensation or benefits.

- b. The Office of Information Technology Services, as established by N.C. Gen. Stat. Chapter 147, Article 3D, is hereby transferred to the Department of Management and Administration by a Type I transfer. All powers, duties and functions of the Office of Information Technology Services as specified in N.C. Gen. Stat. Chapter 147, Article 3D and as specified elsewhere in the laws of this State are transferred to the Department of Management and Administration. All powers and duties of the Office of Information Technology Services specifically enumerated in N.C. Gen. Stat. §§ 147-33.82 and 147-33.83 are added to those powers and duties of the Department of Management and Administration specified in N.C. Gen. Stat. § 143-341. All references in the General Statutes or laws of the State to the “Office of Information Technology” are hereby deleted and replaced with the “Department of Management and Administration.” All references in the General Statutes or laws of the State to the “State Chief Information Officer” are hereby deleted and replaced with the “Secretary of Management and Administration or the Secretary’s designee.” This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Office of Information Technology Services. Where the former Office of Information Technology Services or a division or other subunit of the former Office of Information Technology Services is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Management and Administration. State employees currently employed by and under the supervision of the former State Chief Information Officer and the former Office of Information Technology Services are hereby transferred to the supervision of the Secretary of Management and Administration. Additionally, all employees within the Cabinet State Agencies who serve in the position of or exercise the responsibility of Chief Information Officer are hereby transferred to the supervision of the Secretary of Management and Administration. Transfers of positions pursuant to this Order shall not affect any individual employee’s current compensation or benefits.

- c. All commissions, boards, councils, committees or other similar entities established under or administratively housed in the Office of State Personnel or the Office of Information Technology Services are hereby transferred to the Department of Management and Administration. Such entities shall continue to exercise their authority and power as currently provided in the laws of the State.
- d. The Codifier of Rules shall reorganize the North Carolina Administrative Code, including specifically Titles 1, 9 and 25, to reflect the aforementioned consolidation of the former Department of Administration, the former Office of State Personnel, and the former Office of Information Technology Services into the Department of Management and Administration. The Codifier of Rules shall make changes in the text of any affected rules to reflect changes in the organizational structure of the Department of Management and Administration. The changes by the Codifier are exempt from the requirements of Chapter 150B of the General Statutes and do not require the review or approval of the Rules Review Commission.

Section 5. Department of Public Safety

There is hereby established and created a principal department to be known as the Department of Public Safety. Any reference in the General Statutes or laws of the State to the "principal departments" as enumerated in N.C. Gen. Stat. § 143B-6 or to "cabinet agencies" or "cabinet departments" is hereby deemed to include the Department of Public Safety. The Department of Correction, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Crime Control and Public Safety are hereby consolidated into the Department of Public Safety. The Department of Public Safety shall be headed by the Secretary of Public Safety, who shall be appointed by and serve at the pleasure of the Governor. The Department of Public Safety shall include, but not be limited to, the following three divisions: the Division of Corrections, the Division of Juvenile Justice and Delinquency Prevention, and the Division of Crime Control and Emergency Management.

- a. The Department of Correction, as established in N.C. Gen. Stat. § 143B-260, is hereby transferred to the Department of Public Safety by a Type I transfer. All powers, duties and functions of the Department of Correction and any subunit or division of the Department of Correction as specified in N.C. Gen. Stat. Chapter 143B, Article 6 and as specified elsewhere in the laws of this State are transferred to the Department of Public Safety. All references in the General Statutes or laws of the State to the "Department of Correction" are hereby deleted and replaced with the "Department of Public Safety Division of Corrections." All references in the General Statutes or laws of the State to the "Secretary of Correction" are hereby deleted and replaced with the "Secretary of Public Safety or the Secretary's designee." The Secretary of Public Safety shall designate a Commissioner of Corrections who shall be exempt from the State Personnel Act under N.C. Gen. Stat. § 126-5(c1) and who shall oversee those functions formerly housed in the Department of Correction, as assigned by the Secretary. This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Department of Correction. Where the former Department of Correction or a

division or other subunit of the former Department of Correction is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Public Safety. State employees currently employed by and under the supervision of the former Secretary of Correction and the former Department of Correction are hereby transferred to the supervision of the Secretary of Public Safety. Transfers of positions pursuant to this Order shall not affect any individual employee's current compensation or benefits.

- b. The Department of Juvenile Justice and Delinquency Prevention, as established by N.C. Gen. Stat. § 143B-511, is hereby transferred to the Department of Public Safety by a Type I transfer. All powers, duties and functions of the Department of Juvenile Justice and Delinquency Prevention as specified in N.C. Gen. Stat. Chapter 143B, Article 12 and as specified elsewhere in the laws of this State are transferred to the Department of Public Safety. All references in the General Statutes or laws of the State to the "Department of Juvenile Justice and Delinquency Prevention" are hereby deleted and replaced with the "Department of Public Safety Division of Juvenile Justice and Delinquency Prevention." All references in the General Statutes or laws of the State to the "Secretary of Juvenile Justice and Delinquency Prevention" are hereby deleted and replaced with the "Secretary of Public Safety or the Secretary's designee." The Secretary of Public Safety shall designate a Commissioner of Juvenile Justice and Delinquency Prevention who shall be exempt from the State Personnel Act under N.C. Gen. Stat. § 126-5(c1) and who shall oversee those functions formerly housed in the Department of Juvenile Justice and Delinquency Prevention, as assigned by the Secretary. Notwithstanding any other laws to the contrary, the legal custody and control of confidential juvenile records, as provided in N.C. Gen. Stat. Chapter 7B, shall belong to the Commissioner of Juvenile Justice and Delinquency Prevention, and the Commissioner shall exercise such control independent of the Secretary of Public Safety. This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Department of Juvenile Justice and Delinquency Prevention. Where the former Department of Juvenile Justice and Delinquency Prevention or a division or other subunit of the former Department of Juvenile Justice and Delinquency Prevention is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Public Safety. State employees currently employed by and under the supervision of the former Secretary of Juvenile Justice and Delinquency Prevention and the former Department of Juvenile Justice and Delinquency Prevention are hereby transferred to the supervision of the Secretary of Public Safety. Transfers of positions pursuant to this Order shall not affect any individual employee's current compensation or benefits.
- c. The Department of Crime Control and Public Safety, as established by N.C. Gen. Stat. § 143B-473, is hereby transferred to the Department of Public Safety by a Type I transfer. All powers, duties and functions of the Department of Crime Control and Public Safety as specified in N.C. Gen. Stat. Chapter 143B, Article 11 and as specified elsewhere in the laws of this State are transferred to the Department of Public Safety. All references in the General Statutes or laws of the State to the "Department of Crime Control and Public Safety" are hereby deleted and replaced with the "Department of Public Safety Division of Crime Control and Emergency Management." All references in the General Statutes

or laws of the State to the “Secretary of Crime Control and Public Safety” are hereby deleted and replaced with the “Secretary of Public Safety or the Secretary’s designee.” The Secretary of Public Safety shall designate a Commissioner of Crime Control and Emergency Management who shall be exempt from the State Personnel Act under N.C. Gen. Stat. § 126-5(c1) and who shall oversee those functions formerly housed in the Department of Crime Control and Public Safety, as assigned by the Secretary. This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Department of Crime Control and Public Safety. Where the former Department of Crime Control and Public Safety or a division or other subunit of the former Department of Crime Control and Public Safety is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Public Safety. State employees currently employed by and under the supervision of the former Secretary of Crime Control and Public Safety and the former Department of Crime Control and Public Safety are hereby transferred to the supervision of the Secretary of Public Safety. Transfers of positions pursuant to this Order shall not affect any individual employee’s current compensation or benefits.

- d. All commissions, boards, councils, committees or other similar entities established under or administratively housed in the former Department of Correction, the former Department of Juvenile Justice and Delinquency Prevention, or the former Department of Crime Control and Public Safety are hereby transferred to the Department of Public Safety. Such entities shall continue to exercise their authority and power as currently provided in the laws of the State.
- e. The Codifier of Rules shall reorganize the North Carolina Administrative Code, including specifically Titles 5, 14A and 28, to reflect the organization of the Department of Public Safety and the elimination of the former Department of Correction, the former Department of Juvenile Justice and Delinquency Prevention, and the former Department of Crime Control and Public Safety. The Codifier of Rules shall make changes in the text of any affected rules to reflect changes in the organizational structure of the Department of Public Safety. The changes by the Codifier are exempt from the requirements of Chapter 150B of the General Statutes and do not require the review or approval of the Rules Review Commission.
- f. Notwithstanding the provisions of N.C. Gen. Stat. § 126-5(d)(1), the Department of Public Safety may designate exempt managerial positions in a number up to one percent (1%) of the total number of full-time positions in the department, not to exceed 90 positions in the department.

Section 6. Department of Commerce

- a. The Unemployment Insurance Division of the Employment Security Commission, as established or operated pursuant to N.C. Gen. Stat. § 96-3(b) and N.C. Gen. Stat. Chapter 96, Article 2, is hereby transferred to the Department of Commerce by a Type I transfer. All powers, duties and functions related to the Unemployment Insurance Division as specified in N.C. Gen. Stat. Chapter 96 and as specified elsewhere in the laws of this

State are transferred to the Department of Commerce. Provided, however, that the policymaking or adjudicative functions of the Employment Security Commission related to the Unemployment Insurance Division shall not be transferred to the Department of Commerce, but shall remain with the Employment Security Commission.

- b. The Employment Service Division, the Labor Market Information Division, and all other divisions or subunits of the Employment Security Commission, established or operated pursuant to N.C. Gen. Stat. § 96-3(b) and N.C. Gen. Stat. Chapter 96, Articles 1, 3 and 4, except for the Office of Chief Counsel and all attorneys and support staff housed under that office, are hereby transferred to the Department of Commerce by a Type I transfer. All powers, duties and functions of these divisions as specified in N.C. Gen. Stat. Chapter 96 and as specified elsewhere in the laws of this State are transferred to the Department of Commerce. Such changes shall not be reflected in the General Statutes, except for those instances where the General Statutes specifically address a division or office that is modified by this Executive Order.
- c. All references in the General Statutes and laws of the State to the "Employment Security Commission" regarding the aforementioned divisions and subunits are hereby deleted and replaced with the "Department of Commerce," except if such references address the policymaking or adjudicative duties of the Employment Security Commission. All references in the General Statutes and laws of the State to the "Chair of the Employment Security Commission" regarding the aforementioned divisions and subunits are hereby deleted and replaced with the "Secretary of Commerce or the Secretary's designee," except if such references address the policymaking or adjudicative duties of the Chair of the Employment Security Commission. State employees currently employed by and under the supervision of the Employment Security Commission, except those attorneys and support staff in the Office of Chief Counsel, are hereby transferred to the supervision of the Secretary of Commerce. Transfers of positions pursuant to this Order shall not affect any individual employee's current compensation or benefits.
- d. The Employment Security Commission, as established by N.C. Gen. Stat. § 96-3, and the Office of Chief Counsel, including all attorneys and support staff housed under that office, are hereby transferred to the Department of Commerce by a Type II transfer with all the elements of a Type II transfer. Except as otherwise provided in Sections 6.a, 6.b, and 6.c of this Executive Order and except for those management functions that shall be performed under the direction and supervision of the Secretary of Commerce pursuant to N.C. Gen. Stat. § 143A-6, the Commission shall exercise all its prescribed statutory powers independently of the Secretary of Commerce.
- e. This Executive Order shall not affect any contract, agreement or other obligation of the Employment Security Commission. In any contract, agreement or other obligation of the Unemployment Insurance Division, the Employment Service Division, the Labor Market Information Division or any other division or subunit of the Employment Security Commission, except the Office of Chief Counsel, any references to the Employment Security Commission are hereby deemed to apply to the Department of Commerce.

- f. The Employment Security Commission shall review its regulations and shall make changes in the text of any regulations to reflect changes in the organizational structure of the Employment Security Commission as provided in this Executive Order.

Section 7. Department of Health and Human Services

I hereby direct the Secretary of Health and Human Services to consolidate and reorganize the divisions of the Department of Health and Human Services. Such changes shall not be reflected in the General Statutes, except for those instances where the General Statutes specifically address a division or office that is modified by the consolidation and reorganization.

- a. The Division of Public Health and the Office of Rural Health and Community Care are hereby consolidated into the Division of Prevention, Access and Public Health Services. All references to the "Division of Public Health" or the "Office of Rural Health and Community Care" are hereby deleted and replaced with the "Division of Prevention, Access and Public Health Services." This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Division of Public Health or the former office of Rural Health and Community Care. Where the former Division of Public Health or the former Office of Rural Health and Community Care is referred to by law or by a contract or other document, the reference is hereby deemed to apply to the Division of Prevention, Access and Public Health Services.
- b. The Division of Vocational Rehabilitation, the Division of Services for the Blind, and the Division of Services for the Deaf and Hard of Hearing are hereby consolidated into the Division of Blind, Deaf/Hard of Hearing and Rehabilitation Services. All references to the "Division of Vocational Rehabilitation," the "Division of Services for the Blind," or the "Division of Services for the Deaf and Hard of Hearing" are hereby deleted and replaced with the "Division of Blind, Deaf/Hard of Hearing and Rehabilitation Services." This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Division of Vocational Rehabilitation, the former Division of Services for the Blind, or the former Division of Services for the Deaf and Hard of Hearing. Where the former Division of Vocational Rehabilitation, the former Division of Services for the Blind, or the former Division of Services for the Deaf and Hard of Hearing is referred to by law or by a contract or other document, the reference is hereby deemed to apply to the Division of Blind, Deaf/Hard of Hearing and Rehabilitation Services.
- c. The Office of Long-Term Care Services and Supports and the Office of Housing and Homelessness are hereby consolidated into the Division of Aging and Adult Services. All references to the "Office of Long-Term Care Services and Supports" or the "Office of Housing and Homelessness" are hereby deleted and replaced with the "Division of Aging and Adult Services." This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Office of Long-Term Care Services and Supports or the former Office of Housing and Homelessness. Where the former Office of Long-Term Care Services and Supports or the former Office of Housing and

Homelessness is referred to by law or by a contract or other document, the reference is hereby deemed to apply to the Division of Aging and Adult Services.

- d. The Codifier of Rules shall reorganize the North Carolina Administrative Code, including specifically Title 10A, to reflect the reorganization of the Department of Health and Human Services. The Codifier of Rules shall make changes in the text of any affected rules to reflect changes in the organizational structure of the Department of Health and Human Services. The changes by the Codifier are exempt from the requirements of Chapter 150B of the General Statutes and do not require the review or approval of the Rules Review Commission.

Section 8. Department of Transportation

- a. The North Carolina State Ports Authority, as established by N.C. Gen. Stat. § 143B-452, is hereby transferred from the Department of Commerce to the Department of Transportation by a Type II transfer. Except for those management functions that shall be performed under the direction and supervision of the Secretary of Transportation pursuant to N.C. Gen. Stat. § 143A-6, the Ports Authority shall exercise all its prescribed statutory powers independently of the Secretary of Transportation. All references in Chapter 143B, Article 10, Part 10 of the General Statutes to the "Department of Commerce" are hereby deleted and replaced with the "Department of Transportation." All references in Chapter 143B, Article 10, Part 10 of the General Statutes to the "Secretary of Commerce" are hereby deleted and replaced with the "Secretary of Transportation." This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the North Carolina State Ports Authority. Where the Department of Commerce is referred to by law or by a contract or other document related to the North Carolina State Ports Authority, the reference is hereby deemed to apply to the Department of Transportation.
- b. The State Transportation Logistics Coordinating Council is hereby established. The Council shall be located administratively within, and shall exercise its powers within existing resources of, the Department of Transportation. The Council shall consist of the Secretary of Transportation, who shall serve as Chair, the Executive Director of the North Carolina Global TransPark, the Chief Executive Director of the North Carolina State Ports Authority, the President of the North Carolina Railroad Company, and other persons as determined necessary by the Secretary. The Council shall identify areas for cooperation among the State's transportation logistics entities, including improving the State's transportation services, coordinating on projects to create or expand companies in North Carolina or to attract companies to the State, and sharing of personnel and resources to the maximum extent practicable.

Section 9. Authority of Secretaries of Departments

Nothing in this Executive Order is intended to limit the ability of the department secretaries to organize and manage their departments as authorized by law. To the extent that any function of

a former entity requires the exercise of exclusive or independent authority, the Secretary of the new entity shall ensure that such exclusive or independent authority is maintained.

Section 10. Implementation Flexibility and Resolution of Conflicts

This Order initiates a comprehensive, extended process requiring careful and well-managed implementation, evaluation, and assessment of the affected State departments and agencies and the services they provide to citizens. If the Governor or the Governor's designee determines that additional reorganization, consolidation, or elimination of State agencies not set forth in this Order is needed, the Governor or the Governor's designee shall have the flexibility to make such changes to the consolidation and reorganization of State Government that are beyond the scope of changes set forth in this Order, consistent with the Constitutional powers of the Governor.

Where a conflict or ambiguity arises regarding any transfer or action authorized by this Executive Order, the Governor or the Governor's designee shall resolve the matter, and the decision of the Governor or the Governor's designee shall be final.

Section 11. Effect

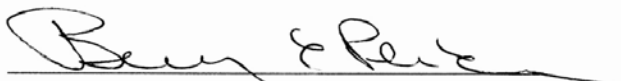
This Order will become effective and have the force of law unless specifically disapproved by either the House or Senate or specifically modified by joint resolution of the House and Senate prior to adjournment *sine die*.

Section 12. Distribution of Order

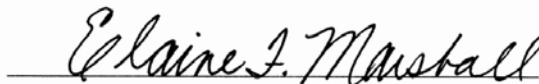
An original of this Executive Order will be delivered by hand on the day it is issued to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Clerk of the Senate, and the Clerk of the House of Representatives.

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




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

PUBLIC NOTICE

**STATE OF NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION**

The Division of Water Quality (DWQ) invites public comment on, or objections to, the water quality permitting actions listed below.

DWQ intends to renew General Permit NCG140000 for the discharge of stormwaters and wastewaters from ready-mixed concrete operations. The Fact Sheet and the draft General Permit may be viewed at: [http://portal.ncdenr.org/web/wq/ws/su/public-notices](http://portal.ncdenr.org/web/wq/ws/su/public-<u>notices</u>).

Persons wishing to comment are invited to submit their comments in writing to the listed address no later than **May 15, 2011** in order to be considered in the final determination. Comments should reference the permit and permit number. DWQ is considering requiring owners of ready-mixed concrete facilities that discharge to SA waters to apply for an individual permit.

Please direct questions or comments to:

Jennifer Jones

NC Division of Water Quality

1617 Mail Service Center

Raleigh, NC 27699-1617

Telephone Number: (919) 807-6379

jennifer.jones@ncdenr.gov

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

Statutory reference: G.S. 150B-21.2.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Structural Pest Control Committee intends to amend the rule cited as 02 NCAC 34 .1102.

Proposed Effective Date: August 1, 2011

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rule by submitting a request in writing no later than April 30, 2011 to James W. Burnette, Jr., Secretary, NC Structural Pest Control Committee, 1090 Mail Service Center, Raleigh, NC 27699-1090.*

Reason for Proposed Action: *Clarifies that a building is deemed to have an active termite infestation if termites are found in any material in contact with the building as well as the building itself.*

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

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

Comment period ends: June 14, 2011

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

Fiscal Impact:

- ☐ State
- ☐ Local
- ☐ Substantial Economic Impact (≥\$3,000,000)
- ☒ None

**CHAPTER 34 - STRUCTURAL PEST CONTROL
DIVISION**

SECTION .1100 - INSPECTION FEES

**02 NCAC 34 .1102 DESIGNATION OF
DEVIATIONS**

(a) The committee shall designate all deviations as either primary or secondary and shall notify each licensee and certified applicator of the designations.

(b) If a deviation is found by the Division, the Division shall notify the licensee or certified applicator responsible for the deviation on an inspection report or other form(s) prescribed by the committee. All deviations shall be corrected within 30 days of written notice from the Division and the Division notified, in writing, when this has been accomplished. Failure of the licensee or certified applicator to correct all deviations within this 30-day period, is a ground for disciplinary action by the committee. The committee secretary may, upon written request and for good cause shown, extend the period for correcting such deviations.

(c) The following violations shall be considered primary deviations:

- (1) Wood Destroying Organism control.
 - (A) Property owner or authorized agent not furnished a written agreement signed by licensee or his authorized agent before treatment is started and licensee does not have copy of said agreement. See Rule .0601 and .0605;
 - (B) Active subterranean termites present in any part of the building(s) or on anything in contact with the building when the building(s) was treated for subterranean termites using a conventional soil-applied termiticide and the treatment is covered by an agreement. This shall not include active subterranean termites found before the end of the 30 day period starting from the original treatment date. An infestation shall be considered a secondary deviation if no other deviation caused or was a

- contributing factor to the infestation. See Rule .0101(a)(2) and (3);
- (C) Active subterranean termites present in any part of the building(s) or on anything in contact with the building(s) when the building(s) was pre-treated for subterranean termites using a conventional soil-applied termiticide and the treatment is covered by an agreement. This shall not include active subterranean termites found before the end of the 30 day period starting from the final treatment date. An infestation shall be considered a secondary deviation if no other deviation caused or was a contributing factor to the infestation. See Rule .0101(a)(2) and (3);
- (D) Active subterranean termites present in any part of the building(s) or on anything in contact with the building(s) when the building(s) was treated using termite baits labeled for the protection of the entire structure and is covered by an agreement. This shall not include active subterranean termites found before the end of the one-year period starting from the original treatment date (the date the bait was installed). An infestation shall be considered a secondary deviation if no other deviation caused or was a contributing factor to the infestation. See Rule .0101(a)(2) and (3);
- (E) The building provides no access opening to permit inspection of the basement or crawl space area, and the licensee has not furnished the property owner a waiver of this condition. See Rule .0503(a)(6), .0503(b)(3), and .0603(a).
- (F) Multiple masonry foundation or bearing wall not drilled and property owner not furnished waiver of this condition. See Rule .0503(a)(6), .0503(b)(3) and .0603(a); and
- (G) Concrete slab over dirt-filled area not drilled (through slab or through foundation wall of slab) and property owner not furnished waiver of this condition. See Rule .0503(a)(8), .0503(b)(3) and .0603(a).
- (2) Household Pest Control. Covered bait station used for acutely toxic rodenticidal bait not locked and marked as required by Rule .0701(b).
- (3) Fumigation.
- (A) Warning signs not installed as required by Rule .0801(d) and (e), and .0810(b), and .0812(d);
- (B) Guards not posted as required by Rule .0810(c)(1) through (5).
- (4) Applicable To All Inspection Types.
- (A) Any violation of Rule .0401 Public Safety: Storage and Handling of containers;
- (B) Pesticide container not labeled. See Rule .0402(a) and (b);
- (C) Failure to follow directions on pesticide label. See Rule .0101(b)(1) and (2); .0405(a) and (b); and
- (D) All secondary deviations that the licensee fails to correct before the first reinspection. See Rule .1103(b).
- (d) All other violations of the rules in this Chapter or violations of the Structural Pest Control Act (Article 4C, Chapter 106, North Carolina General Statutes) shall be considered secondary deviations.

Authority G.S. 106-65.29.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to amend the rule cited as 02 NCAC 38 .0701.

Proposed Effective Date: *August 1, 2011*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rule by submitting a request in writing no later than April 30, 2011 to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.*

Reason for Proposed Action: *These amendments update the names of referenced documents to more accurately reflect the proper names as well as the updates the information for obtaining these documents. In addition, the term "concrete pads" is clarified to provide better direction for the LP-Gas industry and inspectors.*

Procedure by which a person can object to the agency on a proposed rule: *Any person may object to the proposed rule by submitting a written statement of objection(s) to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.*

Comments may be submitted to: *David S. McLeod, 1001 Mail Service Center, Raleigh, NC 27699-1001, phone (919)707-3010, fax (919)716-0090, email david.mcleod@ncagr.gov*

Comment period ends: *June 14, 2011*

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

Fiscal Impact:

- ☐ State
☐ Local
☐ Substantial Economic Impact (\geq \$3,000,000)
☒ None

CHAPTER 38 - STANDARDS DIVISION

**SECTION .0700 - STANDARDS FOR STORAGE,
HANDLING AND INSTALLATION OF LP GAS**

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) "Concrete pads" as used in section 6.6.3.1(G) (2008 Edition) means a foundation of solid concrete blocks, placed concrete pad, or poured concrete foundation sufficient to support the container or container-pump assembly mounted on a common base without breaking or settling that is detrimental to the integrity or safe operation of the

installation under anticipated weather and ground moisture conditions.

- ~~(e)~~(d) 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)~~(e) Piping, tubing or regulators shall be considered well supported when they are rigidly fastened in their intended position;
- ~~(e)~~(f) 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)~~(g) 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)(h) 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)(i) 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)(j) 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. NFPA ® 54, Pamphlet No. NFPA ® 58 and Pamphlet No. NFPA ® 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)~~ forty-eight dollars and fifty cents (\$48.50) each for Pamphlet Nos. 54 and 58 and for ~~thirty-four dollars and fifty cents (\$34.50)~~ thirty-seven dollars and fifty cents (\$37.50) for Pamphlet 30A (~~August 2008 price~~), February 2011 prices), plus shipping, by contacting National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy, Massachusetts 02269, by calling them at 617-770-3000 or 800-344-3555, or by accessing them on the Internet at www.nfpcatalog.org.

Authority G.S. 119-55.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to amend the rule cited as 02 NCAC 43L .0309.

Proposed Effective Date: August 1, 2011

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rule by submitting a request in writing no later than April 30, 2011, to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.*

Reason for Proposed Action: *These changes delete portions of the rule which are no longer necessary, since the admission fees are included in a schedule of rental rates and other fees approved by the Board of Agriculture.*

Procedure by which a person can object to the agency on a proposed rule: *Any person may object to the proposed rule by submitting a written statement of objection(s) to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.*

Comments may be submitted to: *David S. McLeod, 1001 Mail Service Center, Raleigh, NC 27699-1001, phone (919)707-3010, fax (919)716-0090, email david.mcleod@ncagr.gov*

Comment period ends: June 14, 2011

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

approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

- ☐ **State**
☐ **Local**
☐ **Substantial Economic Impact ($\geq \$3,000,000$)**
☒ **None**

CHAPTER 43 – MARKETS

SUBCHAPTER 43L – MARKETS

**SECTION .0300 – WESTERN NORTH CAROLINA
HORSE AND LIVESTOCK FACILITY FEE SCHEDULE**

02 NCAC 43L .0309 ADMISSION REGULATIONS

- (a) All persons entering the Western North Carolina Agricultural Center grounds during the North Carolina Mountain State Fair must pay the established admission fee, except persons holding worker's permits. One-time-only admissions may be issued to those persons who are employed by the fair or are asked to appear on the grounds by the fair management for a specific purpose relative to the operation of the fair.
- (b) The gates of the Western North Carolina Agricultural Center shall open one hour prior to fair time and close one hour after closing of the fair midway each day of the fair. Opening of the fair midway and exhibit building may vary each day of the fair.
- (c) The Western North Carolina Agricultural Center Manager may operate a pass-out system at one or more of the outside gates during the fair. Persons exiting through these gates may, upon request, have their hand or vehicle stamped for readmittance through the same gate without additional charge. Readmittance must occur before 10:00 p.m. on the same day as pass-out or the hand stamp will not be honored.

~~(d) Outside gate admission prices are as follows:~~

- ~~(1) adult/child, 13 years of age and over \$5.00~~
~~(2) child, 6 through 12 years of age \$2.00~~
~~(3) child, under 6 years of age Free~~
~~(4) senior citizen (age 65 and over) \$2.00~~

~~(e) Outside gate admission prices for advance ticket sales are as follows:~~

- ~~(1) adult/child, 13 years of age and over \$4.00~~
~~(2) child, 6 through 12 years of age \$1.50~~
~~(3) child, under 6 years of age Free~~
~~(4) adult group sales purchasing a minimum of 40 tickets \$3.50~~
~~(5) senior citizen (age 65 and over) \$1.50~~

Authority G.S. 106-6.1.

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Home Inspector Licensure Board intends to adopt the rules cited as 11 NCAC 08 .1020-.1028 and amend the rules cited as 11 NCAC 08 .1006, .1103.

Proposed Effective Date: *October 1, 2011*

Public Hearing:

Date: *May 13, 2011*

Time: *9:00 a.m.*

Location: *322 Chapanoke Road, Suite 115, Raleigh, NC 27603*

Reason for Proposed Action:

11 NCAC 08 .1020-.1028 – Proposed rules to establish preclicensing education requirements in response to SL 2009-509.

11 NCAC 08 .1006 – Adds General Liability and Errors & Omissions Insurance as required by SL 2009-509.

11 NCAC 08 .1103 – This rule is being amended to remove a requirement that requires home inspectors to report they did not inspect something they were required to by the Standard Operating Procedures because it was not part of the home or it was not existent.

Procedure by which a person can object to the agency on a proposed rule: *The Home Inspector Licensure Board will accept written objections to these rules until the expiration of the comment period on June 14, 2011.*

Comments may be submitted to: *Karen E. Waddell, 1201 Mail Service Center, Raleigh, NC 27699-1201; phone (919) 733-4529; fax (919) 733-6495; email karen.waddell@ncdoi.gov*

Comment period ends: *June 14, 2011*

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

Fiscal Impact:

- ☐ **State**
☐ **Local**
☐ **Substantial Economic Impact ($\geq \$3,000,000$)**
☒ **None**

**CHAPTER 08 - CHAPTER 8 - ENGINEERING AND
BUILDING CODES DIVISION****SECTION .1000 - N.C. HOME INSPECTOR LICENSURE
BOARD****11 NCAC 08 .1006 INSURANCE REQUIREMENTS**

~~To be licensed as a home inspector, an applicant shall provide proof to the Board that he or she has personal net assets of five thousand dollars (\$5,000) or more. In the alternative, the applicant shall provide the Board with a cash bond or a surety bond in the amount of five thousand dollars (\$5,000) or more. Any surety bond shall be written by a surety company that is authorized by the Commissioner of Insurance to do business in this State.~~

(a) To be licensed as a home inspector, an applicant must meet the requirements set forth in G.S. 143-151.51(b) including general liability insurance that meets the following requirements:

- (1) The general liability insurance policy must cover the licensee's activities performed during the course of a home inspection on the premises of the home inspection; and
- (2) The general liability insurance policy must include coverage for both property damage and bodily injury coverage.

(b) To be licensed as a home inspector, an applicant must meet one of the following requirements:

- (1) Minimum net assets of five thousand dollars (\$5,000);
- (2) A cash bond or surety bond in the amount of five thousand dollars (\$5,000) or more. Any surety bond shall be written by a surety company that is authorized by the Commissioner of Insurance to do business in this State; or
- (3) Errors and omissions insurance pursuant to G.S. 143-151.51(b)(2)(c).

Authority G.S. 143-151.49(a)(13); 143-151.51.

11 NCAC 08 .1020 DEFINITIONS

(a) As used in Rules .1020 through .1028 of this Section:

- (1) "Course Sponsor" means a person approved by the Board to conduct home inspection preclicensing courses.
- (2) "Credit hour" means one continuing education course hour, comprising at least 50 minutes of instruction.
- (3) "License period" means October 1 through the following September 30.
- (4) "Licensee" means a home inspector or associate home inspector licensed by the Board under G.S. 143, Article 9F.
- (5) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert.

(b) The definitions contained in G.S. 143-151.45 apply to this Section.

Authority G.S. 143-151.45; 143-151.49; 143-151.51.

**11 NCAC 08 .1021 PROGRAM STRUCTURING
AND ADMISSION REQUIREMENTS**

The home inspection preclicensing education program shall consist of a minimum total of 200 hours consisting of classroom and field training as follows:

- (1) Academic education consisting of at least 120 hours classroom instruction; and
- (2) Training consisting of at least 80 hours of field instruction with at least 10 site visits.

Authority G.S. 143-151.49; 143-151.51.

11 NCAC 08 .1022 PROGRAM SPONSORS

The course sponsor of a home inspection preclicensing program shall obtain approval of the Board for its educational program.

Authority G.S. 143-151.49; 143-151.51; 143-151.64.

**11 NCAC 08 .1023 APPLICATION FOR PROGRAM
SPONSOR APPROVAL**

(a) An entity seeking approval to sponsor a home inspection preclicensing education program must make written applications to the Board upon a form provided by the Board.

(b) An applying entity that is not a resident of North Carolina shall also file with the application a consent to service of process and pleading.

(c) The applicant shall submit separate applications to sponsor the academic classroom and practical training portions of the program.

(d) The applicant shall submit a nonrefundable fee of one hundred fifty dollars (\$150.00) per program payable to the Home Inspector Licensure Board.

(e) The application shall be accompanied by a program plan outline, course description, and materials, instructor's guides text book, North Carolina Standards Of Practice and Code Of Ethics (Section .1100 of Chapter 8), sample exams, and report formats.

(f) The sponsor must obtain approval by the Board 45 days prior to the commencement of any courses or training.

Authority G.S. 143-151.49; 143-151.51; 143-151.57.

11 NCAC 08 .1024 COURSE REQUIREMENTS

(a) Preclicensing programs shall be comprised of the following subject areas:

- (1) Introduction to Home Inspection N.C. General Statutes, Standards of Practice and Code of Ethics, and
- (2) Inspection defect and report writing including:
 - (a) Structural Components;
 - (b) Exteriors;
 - (c) Roofing;
 - (d) Plumbing;
 - (e) Electrical;
 - (f) Electrical;
 - (g) Heating;
 - (h) Air Conditioning;
 - (i) Insulation and Ventilation;

- (j) Interiors; and
- (k) Built in Kitchen Appliances.

(b) Courses may include coverage of additional related subject areas not prescribed by the Board; however, any such course shall provide additional class time above the minimum requirement for the coverage of such additional subject areas.

(c) Classroom time and instructional materials shall be utilized for instructional purposes only and not for promoting the interests of or recruiting employees or members for any particular home inspector, home inspection firm or franchise.

(d) Practical training time and instructional materials shall be utilized for instructional purposes only and not for promoting the interests of or recruiting employees or members for any particular home inspector, home inspection firm or franchise.

Authority G.S. 143-151.49; 143-151.51.

11 NCAC 08 .1025 COURSE COMPLETION STANDARDS

(a) An applicant must attend at least 90 percent of all scheduled classroom hours.

(b) A student's grade shall be based solely on his performance on examinations, on graded homework and class work assignments.

(c) An applicant for licensure shall obtain a grade of at least 75 percent on a comprehensive final course examination that covers all prescribed subject areas. Take home or open book final course examinations are prohibited. Sponsors and instructors may utilize other course quizzes and tests in addition to the final course examination provided that a student's grade on the final course examination accounts for at least 75 percent of the student's grade for the course.

(d) Prelicensing course final examinations may be provided by the Board for use by approved sponsors and instructors. If the Board does not provide such examinations, or if a sponsor or instructor elects not to use Board-provided examinations, the sponsor or instructor shall use a comprehensive examination which tests student's knowledge and mastery of the course subject matter. The examination is subject to review and approval by the Board. Sponsors may, within 90 days of the course ending date, allow a prelicensing course student one opportunity to make up any missed course final examination or to retake any failed course final examination without repeating the course. If examinations provided by the Board are used, any makeup or repeat examination shall consist of a different form of the examination than the one previously administered in the student's course. If examinations not provided by the Board are used, any makeup or repeat examination shall be comparable to the initial examination with regard to the number of questions, subject areas tested and overall difficulty, and at least 75 percent of the questions shall be different from those used on the initial examination.

(e) Sponsors shall protect the security and integrity of course examinations at all times. This includes:

- (1) Maintaining examinations and answer keys in a secure place accessible only to the instructor or sponsor;
- (2) Prohibiting students from retaining copies of examinations, answer sheets, scratch paper

containing notes or calculations that jeopardize examination security; and

- (3) Monitoring students at all times when examinations are being administered.

(f) Any student who gives or receives assistance during the examination shall turn in all exam materials and leave the room. Under these circumstances, the student's answer sheet shall not be scored and information regarding the giving of assistance shall be reported by the Course Sponsor to the Board within 10 days of the incident.

Authority G.S. 143-151.49; 143-151.51.

11 NCAC 08 .1026 COURSE SCHEDULING

(a) All courses must have fixed beginning and ending dates.

(b) Sponsors may not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course.

(c) Late enrollment is permitted only if the enrolling student can satisfy the minimum attendance requirements set forth in Rule .1025 of this Section.

(d) Courses shall not have practical training field exercises that exceed a total of eight hours in any given day.

Authority G.S. 143-151.49; 143-151.51.

11 NCAC 08 .1027 TEXTBOOKS

(a) Each course shall utilize a textbook or course materials which are approved by the Board

(b) A request for Board approval of a proposed textbook or similar course materials shall be submitted in writing to the Board and accompanied by two copies of the proposed textbook or course materials. If the request is for approval of a new edition of a previously approved textbook, the request shall include a list of all changes to the old edition and such list of changes shall be referenced to specific pages in the manuscript for the new edition. Approval of a textbook or other course materials applies only to the edition reviewed by the Board. Additional approval is required for each subsequent edition. Approval is for an indefinite period; however, such approval may be terminated by the Board at any time upon determining that the approved edition no longer complies with the criteria for approval. The criteria for approval is:

- (1) The textbook or materials shall provide accurate, current and complete coverage of the subject matter required by the Board for the course for which approval of the textbook or materials is sought, including coverage of unique North Carolina home inspection related laws, rules and practices that are integrated into the basic coverage; and
- (2) The information provided shall be logically organized.

Authority G.S. 143-151.49; 143-151.51.

11 NCAC 08 .1028 COURSE COMPLETION REPORTING

(a) Program sponsors shall submit to the Board verification of each student who completes a prelicensing course that is in compliance with Board rules.

(b) Sponsors shall provide students a certificate of course completion upon completing a prelicensing course that is in compliance with the Board rules.

(c) A course completion certificate shall be prepared in the following format:

- (1) the certificate shall be printed on the official sponsor letterhead offering the prelicensing course;
- (2) the title of the completed prelicensing course;
- (3) the student's first and last name who completed the prelicensing course;
- (4) the instructor's name; and
- (5) the signature certifying the completion of the course program shall be either an original signature, an electronic signature or stamped signature of the director, dean or other official and shall be in a color other than black ink.

Authority G.S. 143-151.49; 143-151.51.

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

11 NCAC 08 .1103 PURPOSE AND SCOPE

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

(b) Home inspectors shall:

- (1) Provide a written contract, signed by the client, before the home inspection is performed that shall:
 - (A) State that the home inspection is in accordance with the Standards of Practice of the North Carolina Home Inspector Licensure Board;
 - (B) Describe what services shall be provided and their cost; and
 - (C) State, when an inspection is for only one or a limited number of systems or components, that the inspection is limited to only those systems or components;
- (2) Inspect readily visible and readily accessible installed systems and components listed in this Section; and
- (3) Submit a written report to the client that shall:
 - (A) Describe those systems and components required to be described in Rules .1106 through .1115 of this Section;
 - (B) State which systems and components present at the home and designated for inspection in this Section ~~have been inspected, and state any systems~~

~~or components designated for inspection that~~ were not inspected, and the reason for not inspecting;

- (C) State any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling;
- (D) State whether the condition reported requires repair or subsequent observation, or warrants further investigation by a specialist. The statements shall describe the component or system and how the condition is defective, explain the consequences of the condition, and direct the recipient to a course of action with regard to the condition or refer the recipient to a specialist; and
- (E) State the name, license number, and signature of the person supervising the inspection and the name, license number, and signature of the person conducting the inspection.

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

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

Authority G.S. 143-151.49; 143-151.58.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10F .0365.

Proposed Effective Date: *September 1, 2011*

Public Hearing:

Date: *May 5, 2011*

Time: *10:00 a.m.*

Location: *NC WRC, 5th Floor Meeting Room, 1751 Varsity Dr., Raleigh, NC*

Reason for Proposed Action: *This proposed no-wake zone is required to insure boater safety in the area surrounding the marina near Taylor's Beach in Columbia, NC, and is being proposed at the request of Tyrell County.*

Procedure by which a person can object to the agency on a proposed rule: *Objections may be submitted in writing or electronic mail during the comment period to C. Norman Young,*

Jr., 9001 Mail Service Center, Raleigh, NC 27699-9001, fax (919)716-6813, email nyoung@ncdoj.gov.

Comments may be submitted to: Betsy Foard, North Carolina Wildlife Resources Commission, 1701 Mail Service Center, Raleigh, NC 27699-1721, phone (919)707-0013, email betsy.foard@ncwildlife.org

Comment period ends: June 14, 2011

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

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

- ☐ State
☒ Local
☐ Substantial Economic Impact (\geq \$3,000,000)
☐ None

Fiscal Note posted at

http://www.osbm.state.nc.us/files/pdf_files/WRC03032011.pdf

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0365 TYRRELL COUNTY

(a) Regulated Area. This Rule applies to the following waters in Tyrrell County:

- (1) That portion of the Scuppernong River from 300 yards west of the Highway 64 bridge to 100 yards east of the Highway 64 bridge as designated by the appropriate markers.
- (2) That portion of the Scuppernong River from the Columbia Boat Ramp extending 200 feet into the river as designated by the appropriate markers.
- (3) The entire waters of the canal that leads to the marina at Taylor's Beach on Albemarle Sound

in Columbia beginning at a point at 35.95559, -76.30219.

(b) Speed Limit. It is unlawful to operate a vessel at greater than no-wake speed in the regulated areas described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Tyrrell County is designated as the suitable agency for the placement and maintenance of the markers implementing this Rule.

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

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 56 – BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Examiners for Engineers and Surveyors intends to adopt the rules cited as 21 NCAC 56 .0506, .0607 and amend the rules cited as 21 NCAC 56 .0401, .0501, .0505, .0606, .0701, .0804, .1103, .1301-.1302, 1602, .1605-.1608, .1703, .1705, .1707, .1713.

Proposed Effective Date: August 1, 2011

Public Hearing:

Date: May 19, 2011

Time: 9:00 a.m.

Location: 4601 Six Forks Road, Suite 310, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 56 .0506, .0607 – To provide for waiver of renewal fees and continuing education for licensees serving on active duty in the Armed Forces of the U.S. as required by G.S. 93B-15.
21 NCAC 56 .0401 – To align with records retention requirements.

21 NCAC 56 .0501, .0505, .0606 – To make address be the physical location to conform to "place" in G.S. 89C-12; require reporting criminal conviction or disciplinary action to the Board within 30 days of conviction; and provide rules for "retired status."

21 NCAC 56 .0701 – To add successor licensee requirements, revisions to education and experience requirements for engineering licensure, and add grounds for disciplinary action based on action by another jurisdiction.

21 NCAC 56 .0804 – To make address be the physical location to conform to "place" in G.S. 89C-12; require reporting disciplinary action to the Board within 30 days; and to provide for waiver of renewal fees for business entity that ceases business while licensee is serving on active duty in the Armed Forces of the U.S.

21 NCAC 56 .1103 – To clarify license number to be used for exempt sole proprietorship.

21 NCAC 56 .1301, .1302 – To allow for Assistant Executive Director to serve in lieu of Executive Director in Review Committees and Settlement Conferences.

21 NCAC 56 .1602 – Technical change.

21 NCAC 56 .1605, .1606 – To revise vertical accuracy standards and certification statements.

21 NCAC 56 .1607 – To correct omitted item.

21 NCAC 56 .1608 – To add GIS accuracy classification and certification statement.

21 NCAC 56 .1703, .1705 – To eliminate exam for webinar.

21 NCAC 56 .1707 – To waive continuing education for licensees serving on active duty in the Armed Forces of the U.S. as required by G.S. 93B-15.

21 NCAC 56 .1713 – To eliminate sponsor quarterly reporting.

Procedure by which a person can object to the agency on a proposed rule: Objections to the proposed rule adoptions and rule amendments may be submitted in writing, to David S. Tuttle, Board Counsel, NC Board of Examiners for Engineers and Surveyors, 4601 Six Forks Road, Suite 310, Raleigh, NC 27609. Objections may also be submitted during the public hearing. Objections shall include the specific rule citation(s), the nature of the objection(s), and the complete name(s) and contact information for the individual(s) submitting the objection(s). Objections must be received by the end of the comment period at 5:00 p.m. on June 14, 2011.

Comments may be submitted to: David S. Tuttle, Board Counsel, NC Board of Examiners for Engineers and Surveyors, 4601 Six Forks Road, Suite 310, Raleigh, NC 27609; phone (919) 791-2000 Ext. 111; email dstuttle@ncbels.org

Comment period ends: June 14, 2011

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

Fiscal Impact:

- ☐ State
☐ Local
☐ Substantial Economic Impact (≥\$3,000,000)
☒ None

**SECTION .0400 - RECORDS AND REPORTS OF BOARD:
RETENTION AND DISPOSITION**

**21 NCAC 56 .0401 RECORDS OF BOARD
PROCEEDINGS**

Records of all proceedings of the Board such as rule-making proceedings, declaratory rulings and contested cases and all other ~~permanent~~ records are retained at the office of the Board ~~and or are not disposed of or may be transferred to in accordance with the records retention and disposition schedule filed with the~~ Department of Cultural Resources.

Authority G.S. 89C-10(a); 89C-12.

SECTION .0500 - PROFESSIONAL ENGINEER

**21 NCAC 56 .0501 REQUIREMENTS FOR
LICENSING**

(a) Education. The education of an applicant shall be considered in determining eligibility for licensing as a Professional Engineer. The following terms used by the Board for the specific educational requirements to be eligible to be licensed as a Professional Engineer are defined by the Board as follows:

- (1) Engineering Curriculum of Four or More Years Approved by the Board is defined as a program that has been accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET). This program is incorporated by reference including subsequent amendments and editions. This material is available for inspection at the office of the North Carolina Board of Examiners for Engineers and Surveyors. Copies may be obtained at the Board office at a cost of five dollars (\$5.00) per copy.
- (2) Engineering or Related Science Curriculum of Four or More Years Other than Ones Approved by the Board is defined as a curriculum, although not accredited by ABET, of technical courses which contains engineering or scientific principles.
- (3) Equivalent Education Satisfactory to the Board:
 - (A) A graduate degree in Engineering from an institution in which the same discipline undergraduate engineering program has been accredited by ABET (EAC) is considered equivalent to an engineering curriculum of four or more years approved by the Board.
 - (B) A bachelor's degree in Engineering Technology, whether or not accredited by the Technology Accreditation Commission (TAC) of ABET, is considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board.

(C) ~~An~~ Until June 30, 2016, an associate degree in an engineering related curriculum with an additional two years of progressive engineering experience is considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board. Effective July 1, 2016, only those persons who have been admitted to the principles and practice of engineering examination can take the exam, continuing until required to re-apply. An associate degree becomes no longer available as a basis for taking the exam.

~~(D) A high school diploma with an additional four years of progressive engineering experience is considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board.~~

~~(E)~~(D) Foreign degrees are considered equivalent only after receipt of an equivalency report that the degree is substantially equivalent to an EAC/ABET accredited engineering curriculum from the Center for Professional Engineering Education Services, an affiliate of the National Council of Examiners for Engineering and Surveying (NCEES), or from the American Association of Collegiate Registrars and Admissions Officers (AACRAO). The Board shall equate the degree to ~~one of the education categories~~ an EAC/ABET accredited engineering curriculum of four or more years approved by the Board in Subparagraphs Subparagraph (a)(1) through (3) of this Rule. Rule if it receives a substantially equivalent evaluation.

(b) Experience:

- (1) General. The experience of an applicant shall be considered in determining whether an applicant is eligible to be licensed as a Professional Engineer.
- (2) Required Experience. In evaluating the work experience required, the Board shall consider the total experience record and the progressive nature of the record. ~~Not~~ Not less than half of required engineering experience shall be of a professional grade and character, and shall be performed under the responsible charge of a licensed Professional Engineer, or if not, a written explanation shall be submitted showing why the experience should be

considered acceptable and the Board shall approve if satisfied of the grade and character of the progressive ~~experience.~~ experience. Experience gained under the technical supervision of an unlicensed individual shall be considered if the appropriate credentials of the unlicensed supervisor are submitted to the Board. Experience gained in the armed services, usually while serving in an engineering or engineering related group, shall be considered if of a character equivalent to that which would have been gained in the civilian sector doing similar work.

(3) Definition. The terms "progressive engineering experience" or "progressive experience on engineering projects" mean that during the period of time in which an applicant has made a practical utilization of acquired knowledge, continuous improvement, growth and development have been shown in the utilization of that knowledge as revealed in the complexity and technical detail of the work product or work record. The applicant must show continuous assumption of greater individual responsibility for the work product over that period of time. The progressive experience on engineering projects shall be of a grade and a character which indicates to the Board that the applicant is competent to practice engineering.

(4) Specific Credit for Experience. In evaluating progressive engineering experience, the Board shall give credit for experience in the following areas of work:

(A) Graduate schooling or research in an ~~approved~~ engineering program resulting in award of ~~an advanced engineering degree, one year for each such degree maximum two years a~~ master's degree from an institution that offers EAC/ABET-accredited programs – one year;

(B) Graduate schooling or research in an engineering program resulting in award of an earned doctoral degree in engineering from an institution that offers EAC/ABET-accredited programs – two years, with or without a master's degree, but includes the one year for the master's degree, if obtained;

~~(B)~~(C) Progressive land surveying - maximum two years; and

~~(C)~~(D) Teaching of engineering subjects at the university level in an ~~approved~~ engineering program offering a four year or more degree approved by the ~~Board~~ maximum two years. Board.

The Board, however, shall not accept combinations, ~~restricted only to in the categories noted above, in this Subparagraph,~~ as fulfilling all the necessary statutory experience requirements. Every applicant for licensure as a Professional Engineer, as part of the total experience requirement, shall show a minimum of one year experience of a progressive engineering nature in industry, or government, or under a licensed Professional Engineer offering service to the public.

Full-time engineering faculty members who teach in an ~~approved~~ engineering program offering a four year or more degree approved by the Board, may request and be granted waiver of the minimum one year experience in industry, government, or private practice if they demonstrate consulting or research work of at least one year's duration, which was pursued to fruition, and which is of a progressive engineering nature. The faculty applicant shall document the work and demonstrate that the work meets the Board's requirement.

- (5) Other Experience is Considered if it is:
- (A) Experience obtained prior to graduation as part of an ABET accredited engineering program which must be shown on the transcript, with a maximum credit of one year; or
 - (B) Experience obtained in a foreign country that is performed under direct supervision of a Professional Engineer licensed with a member Board of the National Council of Examiners for Engineering and Surveying (NCEES).

Authority G.S. 89C-10; 89C-13.

21 NCAC 56 .0505 EXPIRATIONS AND RENEWALS OF CERTIFICATES

(a) Professional Engineer Licensure. An annual renewal fee of seventy-five dollars (\$75.00) for certificates of licensure for Professional Engineers shall be payable to the Board. The Board shall ~~send to provide~~ each licensed Professional Engineer a form ~~which that~~ requires the licensee to provide the Board the physical places of business and residential addresses, and the professional development hours (PDH) obtained during the previous year report compliance with continuing education requirements, and report criminal convictions or disciplinary actions. The licensee shall give notice to the Board of a change of business or residential address within 30 days of the change. The licensee shall give notice to the Board of any criminal convictions, including DWI but not including minor traffic offenses that are not a misdemeanor or felony, or of any disciplinary actions in any jurisdiction on any license, within 30 days of the conviction or disciplinary action. A nolo contendere plea is equated to a conviction for reporting purposes.

(b) Engineering Intern Certificate. The Engineering Intern certificate does not expire and, therefore, does not have to be renewed.

(c) "Professional Engineer, Retired." The Board shall approve the application for use of the title for a person who has been duly licensed as a professional engineer by the Board, who chooses to relinquish or not to renew a license and has had no disciplinary action or criminal conviction that would support a determination that the licensee is not of good character and reputation.

Authority G.S. 89C-3(8a); 89C-10; 89C-17.

21 NCAC 56 .0506 WAIVER FOR LICENSEES SERVING ON ACTIVE DUTY IN THE ARMED FORCES OF THE US

(a) All Professional Engineers currently licensed by and in good standing with the Board (whose license is not suspended or revoked) who are serving in the armed forces of the United States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 are granted a waiver of their mandatory continuing education requirements and annual renewal fee for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508.

(b) Request for waiver by an eligible licensee, meeting requirements in Paragraph (a) of this Rule, of renewal fee and waiver of continuing education requirements:

- (1) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
- (2) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
- (3) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
- (4) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.
- (5) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.

Authority G.S. 89C-10; 89C-17; 93B-15.

SECTION .0600 - PROFESSIONAL LAND SURVEYOR

21 NCAC 56 .0606 EXPIRATIONS AND RENEWALS OF CERTIFICATES

(a) Professional Land Surveyor Licensure. An annual renewal fee of seventy-five dollars (\$75.00) for certificates of licensure for Professional Land Surveyors is payable to the Board. The Board shall provide each Professional Land Surveyor a form

~~which that requires the licensee to provide to the Board the physical places of business and residential addresses, and the professional development hours (PDH) obtained during the previous year report compliance with continuing education requirements, and report criminal convictions or disciplinary actions. The licensee shall give notice to the Board of a change of business or residential address within 30 days of the change. The licensee shall give notice to the Board of any criminal convictions, including DWI but not including minor traffic offenses that are not a misdemeanor or felony, or of any disciplinary actions in any jurisdiction on any license, within 30 days of the conviction or disciplinary action. A nolo contendere plea is equated to a conviction for reporting purposes.~~

(b) Surveyor Intern Certificate. The surveyor intern certificate does not expire and, therefore, does not have to be renewed.

(c) "Professional Land Surveyor, Retired." The Board shall approve the application for use of the title for a person who has been duly licensed as a professional land surveyor by the Board, who chooses to relinquish or not to renew a license and has had no disciplinary action that would support a determination that the licensee is not of good character and reputation.

Authority G.S. 89C-3(9a); 89C-17.

21 NCAC 56 .0607 WAIVER FOR LICENSEES SERVING ON ACTIVE DUTY IN THE ARMED FORCES OF THE US

(a) All Professional Land Surveyors currently licensed by and in good standing with the Board (whose license is not suspended or revoked) who are serving in the armed forces of the United States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 are granted a waiver of their mandatory continuing education requirements and annual renewal fee for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508.

(b) Request for waiver by an eligible licensee, meeting requirements in Paragraph (a) of this Rule, of renewal fee and waiver of continuing education requirements:

- (1) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
- (2) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
- (3) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
- (4) The licensee may renew the license within the extension period despite failing to complete

the specified continuing education requirements.

- (5) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.

Authority G.S. 89C-10; 89C-17; 93B-15.

SECTION .0700 - RULES OF PROFESSIONAL CONDUCT

21 NCAC 56 .0701 RULES OF PROFESSIONAL CONDUCT

(a) In order to safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the Rules of professional conduct in this Rule are adopted in accordance with G.S. 89C-20 and are binding upon every person holding a certificate of licensure as a Professional Engineer or Professional Land Surveyor (licensee), and on all business entities authorized to offer or perform engineering or land surveying services in this state. All persons licensed under the provisions of Chapter 89C of the General Statutes are charged with having knowledge of the Board Rules, including the Rules of professional conduct, and are deemed to be familiar with their provisions and to understand them.

(b) ~~The licensee~~ A licensee shall conduct the practice in order to protect the public health, safety and welfare. The licensee shall at all times recognize the primary obligation to protect the public in the performance of the professional duties. If the licensee's engineering or land surveying judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the licensee shall inform the employer, the client, the contractor, other affected parties and any appropriate regulatory agency of the possible consequences of the situation.

(c) ~~The licensee~~ A licensee shall perform services only in areas of the licensee's competence and:

- (1) Shall undertake to perform engineering and land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or land surveying involved.
- (2) May accept an assignment or project requiring education or experience outside of the licensee's own field of competence, but only to the extent that the services are restricted to those portions or disciplines of the project in which the licensee is qualified. All other portions or disciplines of such project shall be performed by associates, consultants, or employees who are licensed and competent in those portions or disciplines.
- (3) Shall not affix the signature or seal to any engineering or land surveying plan or document dealing with subject matter for which the licensee lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the licensee's direct supervisory control. Direct

supervisory control (responsible charge) requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. Direct supervisory control may be accomplished face to face or by other means of communication. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided that individual is qualified or licensed to provide such service and provided the licensee reviews the work. The licensee may affix the seal and signature to drawings and documents depicting the work of two or more professionals provided it is designated by a note under the seal the specific subject matter for which each is responsible.

- (4) In circumstances where a licensee in responsible charge of the work is unavailable to complete the work, or the work is a design plan signed and sealed by an out-of-jurisdiction licensee (not a site adaptation of a standard design plan under 21 NCAC 56 .1106, a successor licensee may take responsible charge by performing all professional services to include developing a complete design file with work or design criteria, calculations, code research, and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor licensee but must clearly and accurately reflect the successor licensee's work. The burden is on the successor licensee to show such compliance. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all documents.

(d) ~~The licensee~~ A licensee shall issue public statements only in an objective and truthful manner and:

- (1) Shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include all relevant and pertinent information in such reports, statements or testimony.
- (2) When serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony.

(3) Shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's name, by disclosing the identities of the party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the matters.

(4) Shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. Indiscriminate criticism includes statements without valid basis or cause or that are not objective and truthful or that fail to include all relevant and pertinent information. If the licensee believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such information shall be presented to the North Carolina Board of Examiners in the form of a complaint.

(e) ~~The licensee~~ A licensee shall avoid conflicts of interest and:

- (1) Shall promptly inform the employer or client, and any reviewing agency, of any business association, interests, or circumstances which could influence judgment or the quality of services.
- (2) Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties.
- (3) Shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- (4) Shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the client or employer in connection with work for which the licensee is responsible.
- (5) When in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or the licensee's organization in private engineering and land surveying practices.
- (6) Shall not solicit or accept an engineering or land surveying contract from a governmental body on which a principal or officer of the licensee's organization serves as a member.

- (7) Shall not attempt to supplant another engineer or land surveyor in a particular employment after becoming aware that the other has been selected for the employment.
- (f) ~~The licensee~~ A licensee shall solicit or accept work only on the basis of qualifications and:
- (1) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.
 - (2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered.
 - (3) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.)
 - (4) Shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded, unless it is stated that no degree or certificate was awarded. The licensee shall not misrepresent degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing qualifications and work.
- (g) ~~The Licensee~~ A licensee shall perform services in an ethical and lawful manner and:
- (1) Shall not knowingly associate with or permit the use of the licensee's name or firm name in a business venture by any person or firm which the licensee knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not properly licensed.
 - (2) If the licensee has knowledge or reason to believe that another person or firm may be in violation of the Board Rules (21 NCAC 56) or of the North Carolina Engineering and Land Surveying Act (G.S. 89C), shall present such information to the Board in writing in the form of a complaint and shall cooperate with the Board in furnishing such further information

or assistance as may be required by the Board. The licensee shall timely respond to all inquiries and correspondence from the Board and shall timely claim correspondence from the U.S. Postal Service, or other delivery service, sent to the licensee from the Board. Timely is defined as within the time specified in the correspondence, or if no time is specified, within 30 days of receipt. Certified mail is timely claimed if prior to being returned by the Post Office to the Board office.

(h) A Professional Engineer or Professional Land Surveyor who has received a reprimand or civil penalty or whose professional license is revoked, suspended, denied, refused renewal, refused reinstatement, put on probation, restricted, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's action constitutes a violation of G.S. 89C or the rules adopted by the Board.

Authority G.S. 89C-17; 89C-20.

SECTION .0800 - FIRM REGISTRATION

21 NCAC 56 .0804 ANNUAL RENEWAL

(a) Renewal. The certificate of licensure for a business entity, including a professional corporation, limited liability company, Chapter 87 corporation, or business firm shall be renewed annually.

(b) Expiration. The certificate of licensure expires on the last day of June following its issuance by the Board and becomes invalid on that date unless renewed.

(c) Written Application. Upon written application on a renewal form prescribed by the Board that requires the physical place of business address and report of disciplinary actions accompanied by the prescribed fee of seventy-five dollars (\$75.00) the Board shall renew the certificate of licensure providing that the firm has complied with all Rules of the Board and applicable General Statutes of North Carolina. The form shall be ~~mailed~~ provided to all licensees in good standing no later than June 1st. The licensed entity shall give notice to the Board of a change of business address within 30 days of the change. The firm shall give notice to the Board of any disciplinary actions in any jurisdiction on any license within 30 days of the disciplinary action.

(d) If a firm fails to renew its certificate of licensure within one year of the expiration date, the firm shall submit a new application for a new certificate of licensure in accordance with all requirements of 21 NCAC 56 .0802.

(e) If any business entity that holds a current certificate of licensure ceases business because the professional licensee receives a waiver from paying the individual renewal fee under 21 NCAC 56 .0506 or 21 NCAC 56 .0607 the annual renewal fee for the business shall be waived for the same time period.

Authority G.S. 55B-11; 57C-2-01; 89C-10; 89C-14; 89C-17; 89C-24.

SECTION .1100 - SEAL

21 NCAC 56 .1103 STANDARD CERTIFICATION REQUIREMENTS

(a) Certification of Final Drawings. Drawings or maps not conforming to Paragraph (c) of this Rule shall conform to the following:

- (1) Certification is required on reproducibles or original drawings;
- (2) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to a plan sheet or map;
- (3) The licensee's written signature must be placed over, or adjacent to, the seal on the original document. A facsimile signature is not acceptable;
- (4) The date of signing must be annotated on the original document;
- (5) All sheets of engineering and surveying drawings must be certified;
- (6) The name, address and license number of the licensee's firm shall be included on each sheet of engineering drawings. For surveys, the name, address and license number of the licensee's firm shall be included on the first sheet of the survey or title ~~sheet; and sheet.~~ The individual license number of the sole proprietor shall be used as the license number for an exempt sole proprietorship that meets the requirements of 21 NCAC 56 .0802(b)(1); and
- (7) Any revision on a drawing after a licensee's certification is affixed shall be described and dated and if not done under the responsible charge of the same licensee shall be separately certified.

(b) Certification of Specifications and Reports. All specifications, reports, or other documents, including letter reports and calculations, not conforming to Paragraph (c) of this Rule shall conform to the following:

- (1) Certification is required on original specifications, reports, or other documents, including letter reports and calculations;
- (2) The seal may be a rubber stamp, or other facsimile;
- (3) The licensee's written signature must be placed over, or adjacent to, the seal on the original document. A facsimile signature is not acceptable;
- (4) The date of signing must be annotated on the original document;
- (5) The title sheet of engineering specifications or other reports must be certified and bear the name, address and license number of the licensee's firm. The title sheet of any survey report or written description of property shall include the name, address and license number of the licensee's ~~firm; and firm.~~ The individual license number of the sole proprietor shall be used as the license number for an exempt sole

proprietorship that meets the requirements of 21 NCAC 56 .0802(b)(1); and

- (6) Any revision in the document after a licensee's certification is affixed shall be described and dated and if not done under the responsible charge of the same licensee shall be separately certified.

(c) Exceptions to Required Certification. The certification of a licensee on a map, drawing, plan, specification, plat, document, or report shall signify that it is the final work of the licensee unless the work is stamped or marked substantially as follows so as to put the public on notice not to use as a final product, in which case certification is optional:

- (1) "Preliminary - Do not use for construction";
- (2) "Progress Drawings - Do not use for construction";
- (3) "Preliminary Plat - Not for recordation, conveyances, or sales";
- (4) "Final Drawing - Not released for construction";
- (5) "Final Drawing - For Review Purposes Only";
- (6) "Not a Certified Document - This document originally issued and sealed by (name of licensee), (license number), on (date of sealing). This document shall not be considered a certified document";
- (7) "Not a Certified Document as to the Original Document but Only as to the Revisions - This document originally issued and sealed by (name of licensee), (license number), on (date of sealing). This document is only certified as to the revisions".

(d) Electronically Transmitted Documents. Documents, including drawings, specifications and reports, that are transmitted electronically beyond the direct control of the licensee shall have the computer-generated seal removed from the original file, unless signed with a digital signature as defined in Paragraph (e) of this Rule. After removal of the seal the electronic media shall have the following inserted in lieu of the signature and date: "This document originally issued and sealed by (name of sealer), (license number), on (Date of sealing). This medium shall not be considered a certified document." Hardcopy documents containing the original seal, signature and date of the licensee may be duplicated by photocopy or electronic scanning processes and distributed either in hardcopy or electronic medium. The scanned digital files of certified documents are not subject to the requirements of this Paragraph. The electronic transmission beyond the direct control of the licensee of CAD, vector or other files subject to easy editing are subject to the requirements of this paragraph. Easy editing is based on the file consisting of separate elements that can be individually modified or deleted. Documents that are excepted from certification by a statement meeting the requirements of Subparagraphs (c)(1) through (c)(5) of this Rule are not subject to the requirements of this Paragraph.

(e) Documents to be electronically transmitted beyond the direct control of the licensee that are signed using a digital signature, shall contain the authentication procedure in a secure mode and a list of the hardware, software and parameters used to prepare

the document(s). Secure mode means that the authentication procedure has protective measures to prevent alteration or overriding of the authentication procedure. The term "digital signature" shall be an electronic authentication process that is attached to or logically associated with an electronic document. The digital signature shall be:

- (1) Unique to the licensee using it;
- (2) Capable of verification;
- (3) Under the sole control of the licensee; and
- (4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(f) A digital signature process may be submitted to the Board for approval that it meets the criteria set forth in Subparagraphs (e)(1) through (4) of this Rule. The licensee shall confirm that if another process is used, that it meets the criteria.

Authority G.S. 89C-10; 89C-16.

SECTION .1300 - BOARD DISCIPLINARY PROCEDURES

21 NCAC 56 .1301 IMPROPER PRACTICE BY A LICENSEE

(a) General. Alleged practice that may violate the ~~Board Rules 21 NCAC 56 rules in this Chapter~~ or G.S. 89C by a licensee is subject to Board investigation and disciplinary action by the Board if necessary.

(b) Preferring Charges. Any person who believes that any licensed Professional Engineer, Professional Land Surveyor or firm holding a certificate of authorization is in violation of the provisions of G.S. 89C or the rules in this Chapter may prefer charges against that person or firm by setting forth in writing those charges and swearing to their authenticity, along with providing corroborative evidence. The charges shall be filed with the Board's office in Raleigh, North Carolina.

(c) Preliminary Review:

- (1) Upon receipt of a properly filed charge, a case shall be opened.
- (2) A field investigation may be performed if determined necessary by the Executive Director.
- (3) If the Executive Director determines that the charges are corroborated by evidence, a written notice and explanation of the charge shall be forwarded to the person or firm against whom the charge is made and a response is requested of the person or firm so charged to show compliance with all lawful requirements for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt request.
- (4) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee which is made up of the following individuals:
 - (A) one member of the Board who is licensed in the respective profession,

- (B) the legal counsel of the Board, and
- (C) the Executive Director of the ~~Board~~ Board or Assistant Executive Director if designated by the Executive Director.

(5) Upon review of the available evidence, the review committee shall present to the Board a written recommendation that:

- (A) the charge be dismissed as unfounded or trivial;
- (B) when the charge is admitted as true, the Board accept the admission of guilt by the person charged and order that person not to commit in the future the specific act or acts admitted and also not to violate any of the provisions of the Board Rules or the statutes at any time in the future;
- (C) the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this Chapter and the provisions of G.S. 150B; or
- (D) whether the charge is admitted or denied, the Board give notice to the licensee of a contemplated action as set out in Rule .1403(b) of this Chapter.

(d) Consultant. A consultant to the review committee shall be designated by the Board Chair if a board member is a complainant, witness or respondent in a case. The consultant shall be a licensed professional engineer or professional land surveyor, depending on the nature of the case, and selected from a list provided by the Executive Director of former Board members or other licensed professionals who are knowledgeable with the Board's processes. The consultant shall review all case materials and make a recommendation for consideration by the review committee as to the merits of the case. The consultant shall review any new information presented in the event of a settlement conference and make a recommendation to the settlement conference committee.

(e) Board Decision. Notice of the decision by the Board on recommendations of the review committee shall be given to the party against whom the charges have been brought and the party submitting the charge. Though it is not forbidden to do so, the Board is not required to notify the parties of the reasons of the Board in making its determination.

(f) Settlement Conference. When the Board issues a citation for hearing or notice of a contemplated action, the licensee may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the completion of a settlement conference, the licensee and Board's settlement committee do not agree to a resolution of the dispute for the full Board's consideration, the original administrative proceeding shall commence. During the course of the settlement

conference, no sworn testimony shall be taken nor shall any witnesses be cross-examined.

- (1) The Board's settlement committee shall be made up of the following individuals:
 - (A) the member of the Board who served on the review committee or the replacement if the member is not available,
 - (B) one public member from the Board,
 - (C) the legal counsel of the Board, and
 - (D) the Executive Director of the ~~Board~~ Board or Assistant Executive Director if designated by the Executive Director.
- (2) Upon review of the available evidence, the settlement committee shall present to the Board a written recommendation that:
 - (A) the charge be dismissed as unfounded or trivial;
 - (B) when the charge is admitted as true, the Board accept the admission of guilt by the person charged and order the person not to commit in the future the specific act or acts admitted and, also, not to violate any provisions of the Board Rules or the statutes at any time in the future;
 - (C) the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this Chapter and the provisions of G.S. 150B; or
 - (D) whether the charge is admitted or denied, the Board give notice to the licensee of a contemplated action as set out in Rule .1403(b) of this Chapter.

Authority G.S. 89C-10; 89C-21; 89C-22.

21 NCAC 56 .1302 UNLAWFUL PRACTICE BY AN UNLICENSED PERSON

- (a) General. Alleged unlawful practice by an unlicensed person shall be subject to Board investigation and referral to an agency of the state for appropriate legal action.
- (b) Preferring Charges. Any person who believes that any person or firm is in violation of the acts specified in G.S. 89C may prefer charges against that person or firm by setting forth in writing those charges and swearing to their authenticity. The charges shall be filed at the Board's office in Raleigh, North Carolina.
- (c) Preliminary or Threshold Determination:
 - (1) Upon receipt of a properly filed charge, an investigation shall be initiated,

- (2) At the discretion of the executive director, a field investigation may be performed without notifying any of the parties involved,
- (3) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee which is made up of the following individuals:
 - (A) one member of the Board;
 - (B) the legal counsel of the Board; and
 - (C) the ~~executive director.~~ Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.
- (4) The review committee shall recommend to the Board whether there is probable cause to believe that a party against whom a charge has been brought in fact has violated the provisions of G.S. 89C.
- (5) Upon review of the available evidence, the review committee shall make a threshold determination of the charges brought. The review committee shall then present to the Board written recommendations that:
 - (A) The investigation be continued;
 - (B) The charge be dismissed as unfounded or trivial; or
 - (C) The matter be referred to an appropriate agency for necessary legal action.
- (d) Board Decision. Notice of decision by the Board on recommendations of the review committee shall be given to the party submitting the charge.

Authority G.S. 89C-10; 89C-23.

SECTION .1600 - STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA

21 NCAC 56 .1602 SURVEYING PROCEDURES

- (a) A Professional Land Surveyor shall spend the necessary time and effort to make adequate investigation to determine if there are encroachments, gaps, lappages, or other irregularities along each line surveyed. Points may be placed on the line from nearby closed or verified traverses and the necessary investigations made from these points. If these investigations are not made, then the surveyor shall not certify to an actual survey of that line and the plat must contain the appropriate qualifications in accordance with the rules in this Section.
- (b) Any and all visible or determined encroachments or easements on the property being surveyed shall be accurately located and indicated.
- (c) With respect to investigation of property boundaries and recorded easements, the surveyor shall examine the most recent deeds and recorded plats adjacent to the subject property as well as all deeds and plats recorded after the date of the deed or plat upon which the survey is being based (the survey reference deed or plat).

(d) Except as provided in Paragraph (e) of the Rule, metal stakes or materials of comparable permanence shall be placed at all corners.

(e) Where a corner falls in a right-of-way, in a tree, in a stream, or on a fence post, boulder, stone, or similar object, one or more monuments or metal stakes shall be placed in the boundary so that the inaccessible point may be located accurately on the ground and the map.

(f) The results of a survey shall be reported to the user of that survey as a map or report of survey and, whether in written or graphic form, shall be prepared in a clear and factual manner. All reference sources shall be identified. Artificial monuments called for in such reports shall be described as found or set. When no monument is found or set for points described in Paragraph (e) of this Rule, that fact shall be noted.

(g) Where the results of a survey are reported in the form of a plat or a written description, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a horizontal control monument of some United States or State Agency survey system, such as the North Carolina Geodetic Survey, where such monument is within 2000 feet of the subject property, right-of-way, easement or other surveyed entity. Where the North Carolina grid system coordinates of said monument are on file in the North Carolina Office of State Planning, North Carolina Geodetic Survey Section in the Division of Land Resources of the Department of Environment and Natural Resources, the coordinates of both the referenced corner or point and the monument(s) shall be shown in X (easting) and Y (northing) coordinates on the plat or in the written description or document. The coordinates shall be identified as based on 'NAD 83', indicating North American Datum of 1983 or as 'NAD 27' indicating North American Datum of 1927. The tie lines to the monuments must be sufficient to establish true north or grid north bearings for the plat or description if the monuments exist in pairs. Control monuments within a previously recorded subdivision may be used in lieu of grid control. In the interest of bearing consistency with previously recorded plats, existing bearing control may be used where practical. In the absence of Grid Control, other natural or artificial monuments or landmarks shall be used. In all cases, the tie lines shall be sufficient to accurately reproduce the subject lands from the control or reference points used.

(h) Area is to be computed by double meridian distance or equally accurate method and shown on the face of the plat, written description or other document. Area computations by estimation, by planimeter, by scale, or by copying from another source are not acceptable methods, except in the case of tracts containing inaccessible areas and in these areas the method of computation shall be stated.

Authority G.S. 89C-10; 89C-20.

21 NCAC 56 .1605 CLASSIFICATION OF VERTICAL CONTROL SURVEYS

(a) General. Vertical control surveys are defined as measurements taken by surveying methods (differential leveling, trigonometric leveling, and global positioning surveys) to determine elevation with respect to vertical datum, usually

National Geodetic Vertical Datum of 1929 (NGVD29) or North American Vertical Datum of 1988 (NAVD88). Global Position Surveys shall only be used to obtain Class C surveys. For the purpose of specifying minimum allowable surveying standards, the following three general classifications of vertical control surveys are established.

- (1) ~~Urban and suburban vertical control surveys. (Class A). Urban and suburban vertical control surveys include lands which lie within or adjoining a town or city.~~ For Class A vertical control surveys in North Carolina, the vertical error in feet shall not exceed 0.10 times the square root of the number of miles run from the reference datum.
- (2) ~~Other vertical control surveys (Class B). Other vertical control surveys include all lands which are not covered by Class A as described in Item (1) of this Rule.~~ For Class B vertical control surveys in North Carolina, the vertical error in feet shall not exceed 0.20 times the square root of the number of miles run from the reference datum.
- (3) ~~Trigonometric vertical control surveys (Class C). Trigonometric vertical control surveys can be used for vertical control for aerial and topographic mapping.~~ For Class C vertical control surveys in North Carolina, the vertical error in feet shall not exceed 0.30 times the square root of the number of miles run from the reference datum. The vertical error in global position surveys shall not exceed five centimeters relative to the referenced benchmark(s) at the 95 percent confidence level (2 sigma) accuracy as defined in Federal Geographic Data Committee Standards.

(b) A certificate, substantially in the following form, shall be affixed to all maps or reports:

"I, _____, certify that this vertical control survey was completed to the Class _____ standard [(21 NCAC 56 .1605(a)] under my direct and responsible charge from an actual survey made under my supervision."

Authority G.S. 89C-10; 89C-20.

21 NCAC 56 .1606 SPECIFICATIONS FOR TOPOGRAPHIC AND PLANIMETRIC MAPPING, INCLUDING GROUND, AIRBORNE, AND SPACEBORNE SURVEYS

(a) General.

- (1) Topographic surveys are defined as surveys that have as their major purpose the determination of the configuration (relief) of the earth (ground) and the location of natural or artificial objects thereon.
- (2) Planimetric mapping is defined as producing a map that presents the horizontal positions only for the features represented; distinguished

from a topographic map by the omission of relief in measurable form.

- (3) Airborne and spaceborne surveys are defined as the use of photogrammetry, LIDAR, IFSAR, or other similar measurement technologies for obtaining reliable information about physical objects and the environment, including terrain surface, through the process of recording, measuring, and interpreting images and patterns of electromagnetic radiant energy and other phenomena. This Rule establishes minimum allowable photogrammetric production procedures and standards for photogrammetric mapping and digital data production.

(b) Production procedures for topographic and planimetric mapping surveys shall be in accordance with the standards established by Part 3 of the Federal Geographic Data Committee (FGDC) Geospatial Positioning Accuracy Standard and applicable extensions and revisions. These standards are incorporated by reference including subsequent amendments and editions. The material is available from the Board office at the cost of reproduction as a public record or from the FGDC at www.fgdc.gov at no cost. Reporting accuracy shall be in accordance with Part 1 of the FGDC geospatial standards.

(c) Topographic or planimetric maps, orthophotos, and related electronic data, unless marked as "Preliminary Map," shall meet contractually specified FGDC Standards for horizontal and vertical accuracies (in the absence of specified standards, the National Map Accuracy Standards apply) and shall be certified by the licensee.

(d) When the resulting product is a digital (electronic) data set, or a map or document consists of more than one sheet or otherwise cannot be certified, a project report shall be certified. The report shall be marked "Preliminary" if applicable.

(e) Ground control for topographic and planimetric mapping projects shall be in North Carolina State Plane Coordinate System grid coordinates and distances when the project is tied to Grid. A minimum of one permanent project vertical control point shall be shown.

(f) The project map or report shall contain the applicable following information:

- (1) Date of original data acquisition.
- (2) Altitude of sensor and sensor focal length, as applicable.
- (3) Date of document or data set compilation.
- (4) If hard copy product is produced, the maps shall contain a north arrow, map legend, final document scale, including bargraph, and contour interval, as applicable.
- (5) Coordinate system for horizontal and vertical denoting SI or English units (i.e., NAD83, assumed, or other coordinate system).
- (6) A list or note showing the control points used for the project. The minimum data shown for each point shall include: physical attributes e.g. iron rod, railroad spike), latitude and longitude (or X and Y Grid coordinates), and elevation, as applicable.

- (7) If other data is included, the source and accuracy of those items must be indicated.
- (8) A statement of horizontal and vertical accuracy at the 95 percent confidence level (2 sigma) complying with contractually specified FGDC standards consistent with Paragraph (c) of this Rule.
- (9) For topographic maps or data sets, contours in areas obscured by man-made or natural features shall be uniquely identified or enclosed by a polygon identifying the obscured area. The accuracies of the contours or of features in this obscured area shall be noted "No reliance is to be placed on the accuracy of these contours."
- (10) A vicinity map depicting the project location on the first sheet of all hard copy maps or in the report accompanying digital files.
- (11) The name of the client for whom the project was conducted.

(g) Nothing in this Section shall be construed to negate or replace the relative accuracy standards found in Rules .1601 through .1608.

(h) A certificate, substantially in the following form, shall be affixed to all maps or reports:

"I, _____, certify that this project was completed under my direct and responsible charge from an actual ~~(insert as appropriate: ground or airborne)~~ survey made under my supervision; that this _____ (insert as appropriate: ground, airborne or spaceborne) photogrammetric survey was performed at the 95 percent confidence level (2 sigma) to meet Federal Geographic Data Committee ~~Standards as applicable;~~ Standards; that the horizontal accuracy is _____, that the vertical accuracy is _____ and that the ~~imagery and/or~~ original data was obtained on _____ (date) _____; that the survey was completed on _____ (date) _____; that contours shown as [broken lines] may not meet the stated standard; and all coordinates are based on _____ (NAD 83 (NSRS 2007), NAD 83/2001, or other); and all elevations are based on _____ (NGV 29, NAVD 88, or other)."

(i) Documents transmitted electronically shall have the computer-generated seal removed from the original file and a copy of the project report shall be certified and sent to the client. The electronic data shall have the following inserted in lieu of the signature and date:

"This document originally issued and sealed by (name of sealer), (license number), on (date of sealing). This electronic media shall not be considered a certified document. See the project report for certificate and seal."

Authority G.S. 89C-10; 89C-20.

21 NCAC 56 .1607 GLOBAL POSITIONING SYSTEMS SURVEYS

(a) General. Global Positioning Systems (GPS) are defined as the navigation and positioning systems that comprise the Global Navigation Satellite System (GNSS), which includes NAVSTAR, GLONASS, GALILEO, COMPASS, and any other

satellite-based navigation and positioning systems. ~~All surveys as defined in G.S. 89C-3(7) performed in North Carolina shall be performed by a Professional Land Surveyor licensed in North Carolina.~~

(b) The Professional Land Surveyor in responsible charge of the GPS survey shall certify all prepared documents. When a map or document consists of more than one sheet, only one sheet must contain the certificate and all others must be certified. The certificate or metadata notes shall contain the following information:

- (1) Class of GPS survey as defined in the Standards of Practice (or list the sections).
- (2) Type of GPS field procedure, such as Static, Kinematic, Pseudo-Kinematic, Real-time Kinematic, Real-time Kinematic networks, and Online Position User Service.
- (3) Positional accuracy.
- (4) Dates of survey.
- (5) What datum and epoch coordinates or geographic positions are based on.
- (6) Designation of fixed-control stations and their positional data.
- (7) ~~Geoid~~ Geoid model used.
- (8) Combined grid factor(s).
- (9) Units.

The certificate shall be substantially in the following form:

"I, _____, certify that this map was drawn under my supervision from an actual GPS survey made under my supervision and the following information was used to perform the survey:"

- | | | | |
|-----|-------------------------|--------------|----------------------|
| (1) | Class | of | survey: |
| (2) | Positional | | accuracy: |
| (3) | Type | of | GPS field procedure: |
| (4) | Dates | of | survey: |
| (5) | Datum/Epoch: | | |
| (6) | Published/Fixed-control | | use: |
| (7) | Geoid | <u>Geoid</u> | model: |
| (8) | Combined | grid | factor(s): |
| (9) | Units: | | |

(c) GPS surveys performed to provide control networks shall be performed in such a manner that a 95 percent confidence level of the positional accuracy of each point relative to the published positions of the control points used and shall meet the accuracy standards of a Class AA survey as set out in Rule .1603.

(d) GPS surveys performed to provide local horizontal or vertical Grid control on a parcel of land where the boundary or topography of that parcel will be shown relative to NC Grid horizontal or vertical datum shall be performed using techniques that will provide the standards of accuracy for the class of survey being performed while determining the horizontal or vertical

positions of objects as set out in Rule .1603 or Rule .1606 as applicable.

(e) Fixed station(s) used for the project shall appear on the map, plat, or report. The minimum data shown for each fixed station shall be station name, horizontal position (northing and easting) or latitude, longitude, elevation (ellipsoid or orthometric), and datum and epoch.

Authority G.S. 89C-10; 89C-20.

21 NCAC 56 .1608 CLASSIFICATION/LAND INFORMATION SYSTEM/GEOGRAPHIC INFORMATION SYSTEM SURVEYS

(a) General: Land Information System/Geographic Information System (LIS/GIS) surveys are defined as the measurement of existing surface and subsurface features for the purpose of determining their accurate geospatial location for inclusion in an LIS/GIS database. All LIS/GIS surveys as they relate to property lines, rights-of-way, easements, subdivisions of land, the position for any survey monument or reference point, the determination of the configuration or contour of the earth's surface or the position of fixed objects thereon, and geodetic surveying which includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry, shall be performed by a Land Surveyor who is a licensee of this Board unless exempt by G.S. 89C-25. For the purpose of specifying minimum allowable surveying standards, ~~four~~ five general classifications of LIS/GIS surveys are established, any of which may be specified by the client. In the absence of a specified standard, the surveyor shall conform the survey to the requirements for a Class B survey. The ~~four~~ five general classifications are:

- (1) Class AA LIS/GIS Surveys. For Class AA LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or no less than 0.033 meter (0.10 feet).
- ~~(1)(2)~~ Class A LIS/GIS surveys. For Class A LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 0.5 meter (1.64 feet);
- ~~(2)(3)~~ Class B LIS/GIS surveys. For Class B LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 1.0 meter (3.28 feet);
- ~~(3)(4)~~ Class C LIS/GIS surveys. For Class C LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 2 meters (6.56 feet); and
- ~~(4)(5)~~ Class D LIS/GIS surveys. For Class D LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 5 meters (16.40 feet).

(b) Nothing in this Rule negates or replaces the relative accuracy standards found in Rules .1601 through .1607 of this Chapter.

(c) The Professional Land Surveyor in responsible charge of the LIS/GIS boundary or geodetic control survey shall certify to all of the following in either written or digital form:

- (1) Class of LIS/GIS survey. Method used to evaluate the accuracy shall be described as either statistical testing or least squares adjustment results, comparison with values of higher accuracy, and repeat measurements. The reporting standard in the horizontal component is the radius of a circle of uncertainty, such that the true or theoretical location of the point falls within that circle 95 percent of the time. For vertical accuracy requirements, see Rule ~~1606~~, 1605.
- (2) Method of measurement (i.e. global navigation satellite systems, electronic scanners, positioning system, theodolite and electronic distance meter, transit and tape),
- (3) Date(s) of the survey, and
- (4) Datum used for the survey.

(d) A certificate, substantially in the following form, shall be affixed to all maps or reports:

"I, _____, certify that this project was completed under my direct and responsible charge from an actual survey made under my supervision; that this survey was performed to meet the requirements for an LIS/GIS survey [21 NCAC 56 .1608] to the accuracy of Class _____ and vertical accuracy; when applicable to the Class _____ standard [(21 NCAC 56 .1605(a)); method used to evaluate the accuracy was _____; method of measurement _____; date(s) of survey _____; datum used for survey _____; and all coordinates are based on _____ (NAD 83 (NSRS 2007), NAD 83/2001, or other); and all elevations are based on _____ (NGV 29, NAVD 88, or other)."

Authority G.S. 89C-10; 89C-20.

SECTION .1700 - CONTINUING PROFESSIONAL COMPETENCY

21 NCAC 56 .1703 REQUIREMENTS

Every licensee shall obtain 15 PDH units during the renewal period. If a licensee exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. Selection of courses and activities which meet the requirements of Rule .1702(4) of this Section is the responsibility of the licensee. Licensees may select courses other than those offered by sponsors. Post evaluation of courses may result in non-acceptance. PDH units may be earned as follows:

- (1) Completion of college courses;
- (2) Completion of continuing education courses, seminars, or workshops;
- (3) Completion of correspondence, televised, internet, videotaped, audiotaped, and other courses/tutorials courses or tutorials provided an exam is required for completion. No exam

is required for attendance at a webinar presentation if attendance is documented;

- (4) Presenting or attending seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences;
- (5) Teaching or instructing in Items (1) through (4) of this Rule;
- (6) Authoring published papers, articles, or books;
- (7) Active participation in professional or technical societies as defined in Rule .1705(f) of this Section;
- (8) Patents; and
- (9) Authoring exam questions accepted for use in the engineering or land surveying exams.

Authority G.S. 89C-10(a); 89C-17.

21 NCAC 56 .1705 DETERMINATION OF CREDIT

(a) The Board of Examiners has final authority with respect to approval of courses, sponsors, credit, PDH value for courses, and other methods of earning credit.

(b) Credit for college or community college courses shall be based upon course credit established by the college.

(c) Credit for continuing education courses, seminars and workshops shall be based on one PDH unit for each hour of attendance. Attendance at programs presented at professional and technical society meetings shall earn PDH units for the actual time of each program.

(d) Credit for correspondence, televised, internet, videotaped, audiotaped, and other ~~courses/tutorials~~, courses or tutorials, provided an exam is required for completion, shall be based upon one PDH unit for each hour assigned to the course, provided such hours are a reasonably estimated time for an average professional to complete the course.

(e) Credit determination, as allowed in 21 NCAC 56 .1704(6), for published papers, articles and books and obtaining patents is the responsibility of the licensee.

(f) Credit for active participation in professional and technical societies (limited to 2 PDH per organization), requires that a licensee serve as an officer or participate in a committee of the organization. PDH credits are not earned until the end of each year of service is completed. No exam is required for attendance at a webinar presentation if attendance is documented.

Authority G.S. 89C-10(a); 89C-17.

21 NCAC 56 .1707 EXEMPTIONS

A licensee ~~may be~~ is exempt from the professional development educational requirements for ~~one of~~ the following reasons:

- (1) New licensees by way of examination or comity are exempt for their first renewal period.
- (2) ~~A licensee serving on temporary active duty in the uniformed services of the United States for a period of time exceeding 120 consecutive days in a year is exempt from obtaining the professional development hours required during that year. If currently licensed by and in~~

good standing with the Board a licensee (whose license is not suspended or revoked) who is serving in the armed forces of the United States and who is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 is granted a waiver of the mandatory continuing education requirements for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508. Request must be made as required in Item (3) of this Rule.

The licensee shall request the waiver as follows:

- (a) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
 - (b) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
 - (c) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
 - (d) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.
 - (e) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.
- (3) The Board shall exempt a licensee if the Board determines that the licensee is experiencing physical disability, illness, or other extenuating circumstances that prevent the licensee from obtaining professional development hours. Supporting documentation must be furnished to the Board.
- (4) Licensees who list their occupation as "Inactive" on the Board approved renewal form and who are no longer providing professional engineering or land surveying services are exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or land surveying, professional development hours must be

earned in accordance with the requirements of Rule .1708 in this Section before returning to active practice for each year exempted not to exceed the annual requirement for two years.

Authority G.S. 89C-10(a); 89C-17; 93B-15.

21 NCAC 56 .1713 SPONSORS

(a) The Board shall approve sponsors of Continuing Professional Competency (CPC) activities. The Board shall maintain a list of sponsors which have agreed to conduct programs in accordance with the standards of CPC activities set forth in 21 NCAC 56. 1700. Such sponsors shall indicate their agreement with the requirements by executing a Sponsor Agreement on a form provided by the Board. These sponsors shall be designated as "Approved Sponsors" based upon approval by the Board of the sponsor application and payment of a one hundred fifty dollar (\$150.00) application fee.

(b) By entering into an agreement with the Board to be designated as an "Approved Sponsor," the sponsor shall agree to:

- (1) Allow persons designated by this Board to attend any or all courses, without fee or charge, for the purpose of determining that said course meets the standards of the Board.
- (2) Allow persons designated by this Board to review course material for the purpose of determining that the course meets the standards of the Board.
- (3) State in every brochure, publication or announcement concerning the course, the general content of the course and the specific knowledge or skill to be taught or addressed, as well as the credit to be earned in Professional Development Hours (PDH).
- (4) Ensure that the instructors or presenters of the course or program are qualified to teach the subject matter.
- (5) Provide persons completing the course with written documentation attesting to that person's attendance to the course, as well as the name of the course, the date and location held, the instructor's name and the number of PDHs earned.
- (6) Provide attendees an evaluation form as provided by the Board that is to be collected and retained for audit by the Board.
- ~~(7) Submit quarterly reports to the Board (whether, or not, a course was offered in that quarter) which shall include the sponsor's name, the name of the course, the date and location held, the instructor's name, the number of PDHs earned and a list of attendees.~~
- ~~(8)~~(7) Have a visible, continuous and identifiable contact person who is charged with the administration of the sponsor's CPC program and who has the responsibility for assuring and demonstrating to the Board compliance with this Rule, as well as for any other organization working with the sponsor for the development,

distribution or presentation of CPC courses or activities.

~~(9)~~(8) Retain for a period of three years a copy of the documentation required by this Paragraph.

(c) Sponsors shall renew annually on a form provided by the Board.

(d) Failure of an approved sponsor to comply with the terms of the CPC sponsor agreement is grounds for the Board to revoke, suspend or terminate the agreement, to remove the sponsor's name from the list of approved sponsors and to notify the public

of such action. A sponsor that is given notice of revocation, suspension or termination may request an administrative hearing to be conducted as provided in 21 NCAC 56 .1400 Contested Cases.

(e) Approval of a sponsor is equivalent to the language of licensing a sponsor in G.S. 89C-10(h).

Authority G.S. 89C-10; 89C-17.

This Section contains information for the meeting of the Rules Review Commission on Thursday April 21, 2011 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. Funderburk - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Ralph A. Walker
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
Daniel F. McLawhorn
Curtis Venable
Ann Reed
George Lucier

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

April 21, 2011 May 19, 2011
June 16, 2011 April 21, 2011

RULES REVIEW COMMISSION**March 17, 2011****MINUTES**

The Rules Review Commission met on Thursday, March 17, 2011, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jim Funderburk, Jennie Hayman, George Lucier, Dan McLawhorn, Ann Reed, David Twiddy and Ralph Walker.

Staff members present were: Joe DeLuca and Bobby Bryan, Commission Counsel; Tammara Chalmers, and Dana Vojtko.

The following people were among those attending the meeting:

John Leskovec	Office of State Budget and Management
Bob Hamilton	ABC Commission
Mary Boone	Department of Cultural Resources
Barry Guppton	Building Code Council
Anna Baird Choi	Allen & Pinnix
Nancy Pate	Department of Environment and Natural Resources
Deborah Gore	DENR/Division of Water Quality
Sarah Morrison	DENR/Division of Water Quality
Laura O'Donoghue	Department of Cultural Resources
Dana Folley	DENR/Division of Water Quality
Bill Scoggin	Troutman Sanders
Robert Privott	North Carolina Homebuilders Association
Joanne Rutkofske	DENR/Well Contractors Certification Commission
Anca Grozav	Office of State Budget and Management
Mark Selph	Licensing Board for General Contractors
Ellen Lorscheider	DENR/Division of Waste Management
Sue Kornegay	State Board of Opticians
Christina Apperson	Medical Board
Paul Stock	North Carolina Bankers Association
Ann Christian	Substance Abuse Professional Practice Board

Bert Bennett	Substance Abuse Professional Practice Board
David McGowan	NC Realtors
Jessica Delaney	Office of Administrative Hearings/Intern
Zack Moore	DHHS/Division of Public Health
Barden Culbreth	Substance Abuse Professional Practice Board
Roberta Ouellette	Appraisal Board
Nancy Scott	Solid Waste Management/Attorney General's Office
Q. Shanté Martin	Community Colleges
Bob Martin	DHHS/Division of Public Health
Jean Stanley	Board of Nursing
Chris Hoke	Department of Health and Human Services
Joshua Davis	Department of Cultural Resources
Michael Hill	Department of Cultural Resources
Whitney Waldenberg	Troutman Sanders

The meeting was called to order at 9:03 a.m. with Ms. Hayman presiding. She reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e).

APPROVAL OF MINUTES

Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the February 17, 2011 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

15A NCAC 02H .0903, .0907, .0908, .0922 – Environmental Management Commission. The Commission approved the rewritten rules submitted by the agency.

21 NCAC 32F .0103 – Medical Board. No rewritten rule was submitted by the agency and no action was taken.

21 NCAC 32X .0104 – Medical Board. Christina Apperson from the Medical Board who had been unable to attend the February meeting explained the justification for the language in the rule. The Commission approved the rule as originally submitted with technical changes. Commissioners Crisp, Funderburk, Walker, Reed and Lucier voted for the motion to approve the rule. Commissioners Twiddy and McLawhorn voted against the motion.

21 NCAC 42B .0302 – Board of Optometry. The Commission approved the rewritten rule submitted by the agency.

Building Code Council – 2012 NC Energy Conservation Code 103.11, 105.1. The Commission approved the rewritten rules submitted by the agency.

Building Code Council – 2012 NC Energy Conservation Code 503.2.9. The agency withdrew the Section included in the 2012 NC Energy Conservation Code and replaced it with the separate version of the Section. The Commission approved the rule since there was no longer conflicting language.

Building Code Council – NC Residential Code R302.2, R313.1. The Commission approved the rules with the requested technical changes. The Commission also determined based on communications from the agency that these rules are intended to be NC amendments to the 2012 Residential Code as well.

Building Code Council – 2012 NC Residential Code – 2009 IRC with NC Amendments. The Commission approved the 2012 Residential Code with the NC amendments and technical changes.

The Commission received more than 10 written letters of objection to the 2012 Energy Conservation Code and the 2012 Residential Code. These are now subject to legislative review and a delayed effective date.

LOG OF FILINGS

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

Alcoholic Beverage Control Commission

All permanent rules were approved unanimously with the following exceptions:

04 NCAC 02S .0512 – The Commission objected to this rule based on lack of statutory authority. There was no authority cited for much of what was in the rule. The agency cited general authority to adopt rules to implement G.S. Chapter 18B, authority to inspect licensed premises, and authority to approve a hotel's policies and procedures for dispersing alcoholic beverages from a guest room cabinet. There was no authority cited to adopt rules about storage of spirituous liquor containers.

04 NCAC 02T .0713 – The Commission objected to this rule based on ambiguity. In (c), it was not clear what would constitute "substantial" advertising matter.

The Commission granted the Agency's Request for Waiver of Rule 26 NCAC 05 .0108(a) and approved re-written rules 04 NCAC 02S .0512 and 02T .0713.

Department of Cultural Resources

The rules being repealed in 07 NCAC 02A, 02B, 02C, 02D and 02E were approved unanimously.

The rules in 07 NCAC 02F were withdrawn by the agency.

The rules in 07 NCAC 02H and 02I were approved with the following exceptions:

07 NCAC 02H .0102 – 07 NCAC 02H .0102 –The Commission objected to this rule based on lack of statutory authority and ambiguity. In (a), it is not clear what are the "Library collection management procedures." There is no authority cited to require compliance with procedures that have not been adopted as rules.

07 NCAC 02H .0203 – The Commission objected to this rule based on lack of statutory authority and ambiguity. It is not clear what standards are in the State Library's *Handbook for State Agencies*. There is no authority cited to set requirements outside rulemaking.

07 NCAC 02H .0305 – The Commission objected to this rule based on lack of statutory authority and ambiguity. In (a) and (b), it is not clear what the Library's circulation procedures and policy are. There is no authority cited for establishing procedures and policy affecting the public outside rulemaking.

The rules in 07 NCAC 02J were withdrawn by the agency.

Department of Cultural Resources and Historical Commission

The rules being repealed in 07 NCAC 04R were withdrawn by the agency.

07 NCAC 04S .0103 was approved unanimously.

The rules in 07 NCAC 13 were withdrawn by the agency.

Commission for Public Health

10A NCAC 41A .0101 was approved unanimously.

Commission for Public Health

Prior to the review of the rules from the Commission for Public Health, Commissioner McLawhorn recused himself and did not participate in any discussion or vote concerning these rules because of the financial interest of his employer, City of Raleigh as an owner of a closed, regulated landfill.

All permanent rules were approved unanimously with the following exceptions:

15A NCAC 13B .1604 was withdrawn by the agency and refiled for next month's meeting.

15A NCAC 13B .1626 was withdrawn by the agency and refiled for next month's meeting.

15A NCAC 13B .1635 – The Commission objected to this rule based on lack of statutory authority and ambiguity. In (a), it is not clear what standards the Division will use in approving an alternative timeline. This is a modification provision without specific guidelines as prohibited by G.S. 150B-19(6).

Well Contractors Certification Commission

All permanent rules were approved unanimously with the following exceptions:

15A NCAC 27 .0301 – The Commission objected to this rule based on lack of statutory authority and ambiguity. (1) There is no authority cited for the provision in (a) line 5 that requires that a person be a citizen or legal resident in order to be licensed as a well contractor. The authority that is cited (G.S. 87-98.6) is limited to establishing “minimum requirements of education, experience, and knowledge” for the type of certification the applicant is seeking.

It may be that there is other state or federal authority to deny licensure to a person who is not a citizen or legal resident but that is not cited. There may also be other state or federal law which would deny someone, whether or not licensed, the legal authority to work. At the same time that authority is not be sufficient for this state agency to deny licensure to such a person.

It is also interesting to note that while a person might be a legal resident of the United States, that does not mean that they are necessarily entitled to work in the United States. For example a person holding a student visa is not automatically entitled to engage in work as well.

(2) It is unclear what constitutes the “level specific” well contractor activities referred to in (d) lines 30 and 31 of this rule. There are four levels of well certification provided for in these rules, Levels A through D. Paragraph (d) of this rule requires the applicant to meet “the requirements specified in Rule .0702 ... in level specific well contractor activities.” However that Rule .0702 in each of the paragraphs applicable to each of the levels requires the applicant to “submit proof of ... experience in [the appropriate] level specific well contractor activities specified in Rule .0301” thus setting up a circular situation that never does specify what the level specific activities or requirements actually are.

15A NCAC 27 .0702 – The Commission objected to this rule based on ambiguity. It is unclear what constitutes the “level specific well contractor activities as specified in Rule .0301” referred to in (d) lines 30 and 31 of this rule. There are four levels of well certification provided for in these rules, Levels A through D in (a) through (d). Each paragraph of this rule requires the applicant to meet “level specific well contractor activities specified in Rule .0301 of this Chapter....” However that Rule .0301 in each of the paragraphs applicable to each of the levels requires the applicant to submit “proof of ... experience meeting the requirements specified in Rule .0702” thus setting up a circular situation that never does specify what the level specific activities or requirements actually are.

Licensing Board for General Contractors

All permanent rules were approved unanimously.

Board of Cosmetic Art Examiners

All permanent rules were approved unanimously with the following exception:

21 NCAC 14N .0113 – The Commission objected to this rule based on ambiguity. It is unclear what this rule requires now that “reapplication for” in (a) line 7 is being deleted.

Prior to this proposed change an applicant who had failed either portion of the examination had to reapply for the examination. Presumably in reapplying to take the examination the applicant would be reapplying to take the entire examination. And it was the “reapplication” that required the additional study in order for it to be accepted by the board. Now it is simply “examination” that “shall be accepted by the Board” and it is unclear what that (the examination? an examination? permission to retake examination? successfully completed portion of an/the examination?) is.

Interpreter and Transliterator Licensing Board

All permanent rules were approved unanimously.

Medical Board

21 NCAC 32M .0109 was approved unanimously.

Board of Nursing

21 NCAC 36 .0809 was approved unanimously.

State Board of Opticians

All permanent rules were approved with the following exception:

21 NCAC 40 .0214 – The Commission objected to this rule based on ambiguity. This rule is poorly written. It is not in chronological order and lacks cohesiveness and clarity. There are four different times and circumstances when the rule refers to dismissing a complaint as “unfounded or trivial.” It would seem that at some point early in the process after a complaint has survived one or even two of the times when it could be dismissed as “unfounded or trivial” that it would or could no longer be considered and dismissed as “unfounded or trivial.” The RRC objected to the rule on the basis of ambiguity and the agency should rewrite the rule in its entirety.

The Commission received more than 10 written letters of objection to 21 NCAC 40 .0104, 0109, .0206-.0207, .0209, .0214, .0302-.0303, .0323, .0422. These rules are now subject to legislative review and a delayed effective date.

Appraisal Board

21 NCAC 57D .0402 – The Commission objected to this rule based on lack of statutory authority and ambiguity. There is no authority cited that allows the Appraisal Board to require an appraisal management company to pay appraisers a certain compensation, in this case compensation “at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised” as set in (a). There also is no authority cited for the provision in (b) that allows the board to prohibit an appraisal company from charging a fee that would “exceed what is customary and reasonable ... in the market area.” There is nothing in the cited authority that authorizes the Appraisal Board to be involved in the compensation between an appraiser and a management company other than requiring the management company to make a “timely payment.” Even if there were authority to require a certain level of payment as in (a) or forbid fees above a certain amount as in (b) it is not clear how the “customary and reasonable” level of payment or fee is determined. The agency cites as the reason for this rule that “[s]ome management companies will not pay sufficient fees to appraisers, and as a result, more experienced ... appraisers will not accept these assignments.” Presumably whatever payments are accepted or fees agreed to would be determined by the marketplace, which would seem to make those less “sufficient fees” “customary and reasonable” at least for less experienced appraisers. If the problem is that management companies are hiring incompetent appraisers then it seems the solution is to prohibit the companies from using incompetent appraisers and revoking their licenses when they do. They could also discipline appraisers from accepting assignments that exceed their competencies.

Substance Abuse Professional Practice Board

All permanent rules were approved unanimously.

Board of Community Colleges

Prior to the review of the rules from the Board of Community Colleges, Commissioner Lucier recused himself and did not participate in any discussion or vote concerning these rules because he is a member of the Central Carolina Community College Board of Trustees.

All permanent rules were approved unanimously.

The Commission received more than 10 written letters of objection to 23 NCAC 02C .0301. This rule is now subject to legislative review and a delayed effective date.

TEMPORARY RULES

There were no temporary rules filed for review.

COMMISSION PROCEDURES AND OTHER BUSINESS

The staff informed the Commission about the status of Senate Bills 22 and 284.

The meeting adjourned at 10:28 a.m.

The next scheduled meeting of the Commission is Thursday, April 21 at 9:00 a.m.

Respectfully Submitted,

Julie Edwards
Editorial Assistant

LIST OF APPROVED PERMANENT RULES
March 17, 2011 Meeting

ALCOHOLIC BEVERAGE CONTROL COMMISSION

<u>Storage and Disposal of Spirituous Liquor Containers</u>	04	NCAC	02S	.0512
<u>Private Clubs: Financial Statements: Record Keeping</u>	04	NCAC	02S	.0518
<u>Restaurants: Income from Sales</u>	04	NCAC	02S	.0519
<u>Restaurants, Hotels, and Tour Boats: Record Keeping</u>	04	NCAC	02S	.0520

<u>Record Keeping</u>	04	NCAC	02S	.0612
<u>Sports Clubs: Record Keeping Requirements</u>	04	NCAC	02S	.0616
<u>Tastings Held by Industry Members for ABC Boards</u>	04	NCAC	02S	.0904
<u>Definitions</u>	04	NCAC	02T	.0101
<u>Beer Franchise Law; "Brand" Defined</u>	04	NCAC	02T	.0103
<u>Wine Product Brand</u>	04	NCAC	02T	.0104
<u>Malt Beverage Product Approval: Listing in State</u>	04	NCAC	02T	.0201
<u>Wine Approvals: Listing in State</u>	04	NCAC	02T	.0202
<u>New Filing Required Upon Transfer of Brand</u>	04	NCAC	02T	.0206
<u>Label Contents: Malt Beverages</u>	04	NCAC	02T	.0303
<u>Growlers</u>	04	NCAC	02T	.0308
<u>Application of Standards</u>	04	NCAC	02T	.0401
<u>Record Keeping Requirements: Sales Tickets</u>	04	NCAC	02T	.0502
<u>Commercial Bribery</u>	04	NCAC	02T	.0708
<u>Consignment Sales: Conditional Sales: Returns</u>	04	NCAC	02T	.0709
<u>Prohibited Trade Practices</u>	04	NCAC	02T	.0711
<u>Accepted Trade Practices; Services</u>	04	NCAC	02T	.0712
<u>Accepted Trade Practices; Things of Value; Retail Permittees</u>	04	NCAC	02T	.0713
<u>Transactions with Government and Special One-Time Permittees</u>	04	NCAC	02T	.0714
<u>Consumer Contests; Sweepstakes</u>	04	NCAC	02T	.0716
<u>Conditions When Commission Approval Required for Promotions</u>	04	NCAC	02T	.0717
<u>Distiller Representatives: Prohibited Acts</u>	04	NCAC	02T	.0901
<u>Application for Permit</u>	04	NCAC	02T	.1001

CULTURAL RESOURCES, DEPARTMENT OF

<u>Division of State Library</u>	07	NCAC	02A	.0101
<u>Library Services and Construction Act Advisory Council</u>	07	NCAC	02A	.0102
<u>Purchase and Contract</u>	07	NCAC	02A	.0201
<u>Services</u>	07	NCAC	02B	.0101
<u>Documents Checklist</u>	07	NCAC	02B	.0102
<u>Requests for Services</u>	07	NCAC	02B	.0201
<u>Services</u>	07	NCAC	02B	.0203
<u>Reading Room</u>	07	NCAC	02C	.0101
<u>Circulation of Library Materials</u>	07	NCAC	02C	.0102
<u>Photocopying</u>	07	NCAC	02C	.0103
<u>Reference Services</u>	07	NCAC	02C	.0104
<u>Bibliographies</u>	07	NCAC	02C	.0105
<u>Selection Policy</u>	07	NCAC	02C	.0201
<u>Recommendations</u>	07	NCAC	02C	.0202
<u>Gifts</u>	07	NCAC	02C	.0204
<u>Complaints Concerning a Title in the Collection</u>	07	NCAC	02C	.0205
<u>The Collection</u>	07	NCAC	02C	.0301
<u>Services to Individuals</u>	07	NCAC	02C	.0302
<u>Interlibrary Loans</u>	07	NCAC	02C	.0501
<u>In-Wats Services</u>	07	NCAC	02C	.0502
<u>Eligibility for In-Wats</u>	07	NCAC	02C	.0503
<u>In-Wats Procedure Manual</u>	07	NCAC	02C	.0504

<u>Eligibility</u>	07	NCAC	02D	.0101
<u>Application</u>	07	NCAC	02D	.0102
<u>New Readers</u>	07	NCAC	02D	.0103
<u>Selection</u>	07	NCAC	02D	.0104
<u>Circulation of Materials</u>	07	NCAC	02D	.0105
<u>Suspension of Services</u>	07	NCAC	02D	.0106
<u>Braillist</u>	07	NCAC	02D	.0107
<u>Taping Volunteers</u>	07	NCAC	02D	.0108
<u>Copyright</u>	07	NCAC	02D	.0109
<u>Request/Library Patrons/Reproduce Materials: Special Formats</u>	07	NCAC	02D	.0110
<u>Small Collections</u>	07	NCAC	02D	.0111
<u>Catalogs</u>	07	NCAC	02D	.0112
<u>Scope of the Collection</u>	07	NCAC	02D	.0113
<u>Materials Selection Policy</u>	07	NCAC	02D	.0114
<u>Recommendations</u>	07	NCAC	02D	.0115
<u>Loan of Materials</u>	07	NCAC	02D	.0301
<u>Requests and Scheduling</u>	07	NCAC	02D	.0302
<u>Return of Materials</u>	07	NCAC	02D	.0303
<u>Late or Damaged Film</u>	07	NCAC	02D	.0304
<u>Film Service Agreement</u>	07	NCAC	02D	.0305
<u>Materials Selection Policy</u>	07	NCAC	02D	.0306
<u>Recommendations</u>	07	NCAC	02D	.0307
<u>Consultants</u>	07	NCAC	02E	.0101
<u>Regional Libraries</u>	07	NCAC	02E	.0201
<u>Board of Trustees</u>	07	NCAC	02E	.0202
<u>Power of Board</u>	07	NCAC	02E	.0203
<u>Director</u>	07	NCAC	02E	.0204
<u>Termination</u>	07	NCAC	02E	.0205
<u>Finance</u>	07	NCAC	02E	.0206
<u>Property</u>	07	NCAC	02E	.0207
<u>Other Provisions/Agreement Establishing/Regional Library</u>	07	NCAC	02E	.0208
<u>Qualifications for Grant Eligibility</u>	07	NCAC	02E	.0301
<u>State Aid Grants</u>	07	NCAC	02E	.0302
<u>Limitations on Aid</u>	07	NCAC	02E	.0304
<u>State Institution Defined</u>	07	NCAC	02E	.0401
<u>Funds for Institutions</u>	07	NCAC	02E	.0402
<u>Eligibility</u>	07	NCAC	02E	.0403
<u>Scope of Rules</u>	07	NCAC	02G	.0101
<u>Eligibility for State Library Services</u>	07	NCAC	02G	.0102
<u>Scope of Rules Collections</u>	07	NCAC	02H	.0101
<u>Access and Circulation</u>	07	NCAC	02H	.0103
<u>Reproduction Services</u>	07	NCAC	02H	.0104
<u>Information, Reference and Research Services</u>	07	NCAC	02H	.0105
<u>Services for State Agencies</u>	07	NCAC	02H	.0106
<u>Scope of Rules</u>	07	NCAC	02H	.0201
<u>Printed Document Formats Defined</u>	07	NCAC	02H	.0202

<u>Scope of Rules</u>	07	NCAC	02H	.0301
<u>Eligibility</u>	07	NCAC	02H	.0302
<u>Application</u>	07	NCAC	02H	.0303
<u>Library Collections</u>	07	NCAC	02H	.0304
<u>Reproduction Services</u>	07	NCAC	02H	.0306
<u>Volunteers</u>	07	NCAC	02H	.0307
<u>Scope of Rules</u>	07	NCAC	02I	.0101
<u>Qualifications for Grant Eligibility</u>	07	NCAC	02I	.0201
<u>State Aid Grants</u>	07	NCAC	02I	.0202
<u>Regional Libraries</u>	07	NCAC	02I	.0301
<u>Regional Agreement</u>	07	NCAC	02I	.0302
<u>Regional Library Board of Trustees</u>	07	NCAC	02I	.0303
<u>Powers and Duties of the Regional Library Board</u>	07	NCAC	02I	.0304
<u>Director</u>	07	NCAC	02I	.0305
<u>Finance</u>	07	NCAC	02I	.0306
<u>Establishment of a Regional Library</u>	07	NCAC	02I	.0307
<u>Withdrawal from or Dissolution of a Regional Library</u>	07	NCAC	02I	.0308
<u>Admission Prices</u>	07	NCAC	04S	.0103

PUBLIC HEALTH, COMMISSION FOR

<u>Reportable Diseases and Conditions</u>	10A	NCAC	41A	.0101
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ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Definition of Terms</u>	15A	NCAC	02H	.0903
<u>Procedures for Program Approval, Revision and Withdrawal</u>	15A	NCAC	02H	.0907
<u>Reporting/Record Keeping Requirements for POTWS/Industria...</u>	15A	NCAC	02H	.0908
<u>Hearings</u>	15A	NCAC	02H	.0922

PUBLIC HEALTH, COMMISSION FOR

<u>Ground-Water Sampling and Analysis Requirements</u>	15A	NCAC	13B	.1632
<u>Detection Monitoring Program</u>	15A	NCAC	13B	.1633
<u>Assessment Monitoring Program</u>	15A	NCAC	13B	.1634
<u>Implementation of the Corrective Action Program</u>	15A	NCAC	13B	.1637

WELL CONTRACTORS CERTIFICATION COMMISSION

<u>Definitions</u>	15A	NCAC	27	.0101
<u>Types of Certification</u>	15A	NCAC	27	.0110
<u>Submittal and Processing of Applications for Examinations</u>	15A	NCAC	27	.0401
<u>Well Contractor Examinations</u>	15A	NCAC	27	.0410
<u>Time and Place of Examinations</u>	15A	NCAC	27	.0420
<u>Conducting and Grading Examinations</u>	15A	NCAC	27	.0430
<u>Examination Results and Issuance of Certificates</u>	15A	NCAC	27	.0440
<u>Reciprocal Waiver of Examination for Certification</u>	15A	NCAC	27	.0510
<u>Conditions and Limitations for Renewal of Certification</u>	15A	NCAC	27	.0601
<u>Level D Certification Without Examination</u>	15A	NCAC	27	.0703
<u>Certification Without Examination in 2008</u>	15A	NCAC	27	.0704
<u>Requirements</u>	15A	NCAC	27	.0801

<u>Approval of Continuing Education Courses</u>	15A	NCAC	27	.0810
<u>Determination of Credit</u>	15A	NCAC	27	.0820
<u>Recordkeeping</u>	15A	NCAC	27	.0830
<u>Special Provisions for Continuing Education</u>	15A	NCAC	27	.0840
<u>Revocation, Relinquishment or Expiration of Certification</u>	15A	NCAC	27	.0901
<u>Recertification Following Revocation or Relinquishment</u>	15A	NCAC	27	.0910

GENERAL CONTRACTORS, LICENSING BOARD FOR

<u>Classification</u>	21	NCAC	12	.0202
<u>Renewal of License</u>	21	NCAC	12	.0503
<u>Fund Suspension</u>	21	NCAC	12	.0507
<u>Improper Practice</u>	21	NCAC	12	.0701
<u>Unlawful Practice</u>	21	NCAC	12	.0702
<u>Request for Hearing</u>	21	NCAC	12	.0818

COSMETIC ART EXAMINERS, BOARD OF

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<u>Teacher/Student Ratio</u>	21	NCAC	14G	.0113
<u>School Affiliation with Cosmetic Art Shops and Other Busi...</u>	21	NCAC	14G	.0114
<u>School Curriculum Approval (A) No Cosmetic Art Shop or an...</u>	21	NCAC	14G	.0118
<u>Cleanliness of Scissors, Shears, Razors and Other Equipment</u>	21	NCAC	14H	.0113
<u>Permanent Files</u>	21	NCAC	14I	.0101
<u>Summary of Cosmetic Art Education</u>	21	NCAC	14I	.0109
<u>Uniform</u>	21	NCAC	14I	.0110
<u>Live Model/Mannequin Performance Requirements</u>	21	NCAC	14J	.0207
<u>Approval of Credit for Cosmetology Instruction/Another State</u>	21	NCAC	14J	.0501
<u>Licenses Required</u>	21	NCAC	14P	.0106
<u>Performances</u>	21	NCAC	14S	.0107

INTERPRETER AND TRANSLITERATOR LICENSING BOARD

<u>Application Fees</u>	21	NCAC	25	.0203
<u>Renewal of a Full License</u>	21	NCAC	25	.0204
<u>Renewal of a Provisional License</u>	21	NCAC	25	.0205
<u>Suspension of Authority to Expend Funds</u>	21	NCAC	25	.0211
<u>Extension of Reporting Deadlines</u>	21	NCAC	25	.0406
<u>Continuing Education Requirements</u>	21	NCAC	25	.0501

MEDICAL BOARD

<u>Prescribing Authority</u>	21	NCAC	32M	.0109
<u>Publishing Certain Misdemeanor Convictions</u>	21	NCAC	32X	.0104

NURSING, BOARD OF

<u>Prescribing Authority</u>	21	NCAC	36	.0809
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OPTICIANS, STATE BOARD OF

<u>Information and Application</u>	21	NCAC	40	.0104
<u>Election of Members</u>	21	NCAC	40	.0109

<u>Forms</u>	21	NCAC	40	.0112
<u>Professional Responsibility; Continuing Education</u>	21	NCAC	40	.0206
<u>Location of Licensee, Intern or Apprentice</u>	21	NCAC	40	.0207
<u>Display of Registration and License</u>	21	NCAC	40	.0209
<u>Negligence in Dispensing Contact Lenses</u>	21	NCAC	40	.0213
<u>Application Photograph Requirement</u>	21	NCAC	40	.0301
<u>Licensure Examination Fees</u>	21	NCAC	40	.0302
<u>Licensure Examination and Re-Examination</u>	21	NCAC	40	.0303
<u>Time and Place of Examination</u>	21	NCAC	40	.0307
<u>Terms of Examination and Re-Examination</u>	21	NCAC	40	.0318
<u>Affidavit of Applicant</u>	21	NCAC	40	.0323
<u>Motion for Continuance</u>	21	NCAC	40	.0422

OPTOMETRY, BOARD OF EXAMINERS IN

<u>Continuing Education</u>	21	NCAC	42B	.0302
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SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

<u>Definitions</u>	21	NCAC	68	.0101
<u>Supervised Practicum for Certified Substance Abuse Course...</u>	21	NCAC	68	.0204
<u>Continuing Education Required for Counselor, Criminal Jus...</u>	21	NCAC	68	.0208
<u>University Substance Abuse Specialty Curricula</u>	21	NCAC	68	.0214
<u>Supervised Practicum for Criminal Justice Addictions Prof...</u>	21	NCAC	68	.0217
<u>Suspension of Authority and Escrow of Funds</u>	21	NCAC	68	.0225
<u>Armed Services Credential</u>	21	NCAC	68	.0226
<u>Grounds for Professional Discipline</u>	21	NCAC	68	.0601
<u>Complain Procedures</u>	21	NCAC	68	.0602
<u>Investigation of Complaint</u>	21	NCAC	68	.0603
<u>Hearing Before Board</u>	21	NCAC	68	.0604
<u>Method of Discipline</u>	21	NCAC	68	.0605
<u>Effect of Court or of Other Professional Groups</u>	21	NCAC	68	.0606
<u>Awarding the Credential Following Denial</u>	21	NCAC	68	.0610
<u>Proof of Rehabilitation</u>	21	NCAC	68	.0611
<u>Informal Proceedings</u>	21	NCAC	68	.0615
<u>Publication of Ethics Sanctions</u>	21	NCAC	68	.0620

COMMUNITY COLLEGES, BOARD OF

<u>School Absence for Religious Observances</u>	23	NCAC	02C	.0213
<u>Admission to Colleges</u>	23	NCAC	02C	.0301
<u>Tuition and Fees for Curriculum Programs</u>	23	NCAC	02D	.0202

BUILDING CODE COUNCIL

<u>2012 NC Residential Code</u>	2009 IRC with NC Amendments			
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CONTESTED CASE DECISIONS

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

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray
Selina Brooks
Melissa Owens Lassiter
Don Overby

Randall May
A. B. Elkins II
Joe Webster

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>			
ABC Commission v. Fusion Foods, Inc., T/A Coastal Blue	09 ABC 4672	11/08/10	
ABC Commission v. Quickstops of Guilford County, Inc., T/A Road Runner Express (Regional Road)	09 ABC 5421	04/19/10	
ABC Commission v. Ghulam Khan v. T/A West Green Market	09 ABC 4303	04/19/10	
ABC Commission v. Sarabjit Kaur v. T/A G&S Food Market	09 ABC 5257	04/19/10	
ABC Commission v. Quickstops of Guilford County, Inc., T/A Road Runner Express (Lee Street)	09 ABC 5422	06/09/10	
ABC Commission v. Boulos 2, Inc., T/A Akron Texaco	10 ABC 0027	04/21/10	
ABC Commission v. Startown Lounge, Inc. T/A 5 O'clock Somewhere	10 ABC 0153	06/25/10	
ABC Commission v. Diversified Investments and Growth, LLC, T/A Petro Mart 6	10 ABC 0576	07/09/10	
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