

NORTH CAROLINA REGISTER

VOLUME 26 • ISSUE 19 • Pages 1476 - 1532

April 2, 2012

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Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings
Rules Division
1711 New Hope Church Road (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 and Governor's Review

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: 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

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 2012 – December 2012

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
26:13	01/03/12	12/08/11	01/18/12	03/05/12	03/20/12	05/01/12	05/16/12	09/29/12
26:14	01/17/12	12/21/11	02/01/12	03/19/12	03/20/12	05/01/12	05/16/12	10/13/12
26:15	02/01/12	01/10/12	02/16/12	04/02/12	04/20/12	06/01/12	01/30/13	10/28/12
26:16	02/15/12	01/25/12	03/01/12	04/16/12	04/20/12	06/01/12	01/30/13	11/11/12
26:17	03/01/12	02/09/12	03/16/12	04/30/12	05/21/12	07/01/12	01/30/13	11/26/12
26:18	03/15/12	02/23/12	03/30/12	05/14/12	05/21/12	07/01/12	01/30/13	12/10/12
26:19	04/02/12	03/12/12	04/17/12	06/01/12	06/20/12	08/01/12	01/30/13	12/28/12
26:20	04/16/12	03/23/12	05/01/12	06/15/12	06/20/12	08/01/12	01/30/13	01/11/13
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27:07	10/01/12	09/10/12	10/16/12	11/30/12	12/20/12	02/01/13	05/2014	06/28/13
27:08	10/15/12	09/24/12	10/30/12	12/14/12	12/20/12	02/01/13	05/2014	07/12/13
27:09	11/01/12	10/11/12	11/16/12	12/31/12	01/22/13	03/01/13	05/2014	07/29/13
27:10	11/15/12	10/24/12	11/30/12	01/14/13	01/22/13	03/01/13	05/2014	08/12/13
27:11	12/03/12	11/07/12	12/18/12	02/01/13	02/20/13	04/01/13	05/2014	08/30/13
27:12	12/17/12	11/26/12	01/01/13	02/15/13	02/20/13	04/01/13	05/2014	09/13/13

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.



EXECUTIVE ORDER NO. 117

PROCLAMATION OF A STATE OF DISASTER FOR CHEROKEE COUNTY

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a proclamation declaring an area to be a disaster area as defined in N.C.G.S. § 166A-6 and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on March 3, 2012, Cherokee County, North Carolina was impacted by severe weather, including severe thunderstorms, high winds, and tornadoes; and

WHEREAS, as a result of the damage from the severe weather and tornadoes, Cherokee County proclaimed a local state of emergency on March 3, 2012; and

WHEREAS, a joint preliminary damage assessment was done by local, state and federal emergency management officials on March 5, 2012; and

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. §166A-6, exists in the State of North Carolina, specifically in Cherokee County; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Cherokee County declared a local state of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-6.01, if a State of Disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

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

Section 1. Pursuant to N.C.G.S. § 166A-6, a Type I State of Disaster is hereby declared for Cherokee County.


Section 2. I authorize state disaster assistance in the form of individual assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01(b)(1).

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

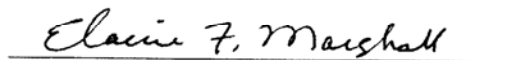
Section 4. This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

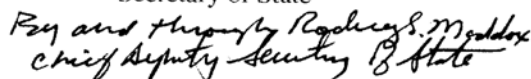
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twelfth day of March in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State


Roy and Thelma Rodgers
Chief Deputy Secretary of State



U.S. Department of Justice
Civil Rights Division

TCH:RSB:MSR:SMC:tst
DJ 166-012-3
2012-0425

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

February 23, 2012

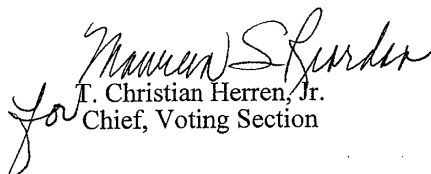
David A. Holec, Esq.
City Attorney
P.O. Box 7207
Greenville, North Carolina 27835-7207

Dear Mr. Holec:

This refers to five annexations (Ordinance Nos. 11-062, 11-063, 11-074, 11-075 and 11-079), and their designation to districts of the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on January 30, 2012.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41 and 51.43.

Sincerely,


T. Christian Herren, Jr.
Chief, Voting Section



STATE BOARD OF ELECTIONS
6400 Mail Service Center • Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

MAILING ADDRESS:
P.O. BOX 27255
RALEIGH, NC 27611-7255

February 21, 2012

Mr. William Gilkeson, Jr.
Mr. Michael Weisel
Post Office Box 1351
Raleigh, North Carolina 27602

Re: Request for Advisory Opinion pursuant to N.C.G.S. § 163-278.23

Gentleman:

I am in receipt of your January 19, 2012 request for an advisory opinion pursuant to N.C.G.S. § 163-278.23. The following advisory opinion is based upon the information provided in your letter.

You asked whether a referendum committee may enter into an agreement with a candidate campaign committee, political party committee, or other political committee in which the referendum committee receives access to the committee's mailing list under conditions that you describe in scenarios A, B and C (reprinted verbatim below). This response will address each scenario separately.

- A. The referendum committee would make a monetary payment to the other committee for the use of the list.

Your letter indicates that it should be assumed that "the referendum committee has received corporate, union, or other contributions prohibited being made directly to a candidate-benefitting committee." Therefore, pursuant to N.C.G.S. § 163-278.13(e1), "No referendum committee which received any contribution from a corporation, labor union, insurance company, business entity, or professional association may make any contribution to another referendum committee, to a candidate or to a political committee." A monetary payment would be considered a contribution as provided in N.C.G.S. § 163-278.6(6). As you've noted, the definition does not provide an exception to this payment being

LOCATION: 506 NORTH HARRINGTON STREET • RALEIGH, NORTH CAROLINA 27603 • (919) 733-7173

deemed a contribution, even if something of value is received by the entity making payment.

- B. The referendum committee would not make a monetary payment to the other committee for the list, but would agree to perform "clean-up work" on the list (updating addresses, identifying names that should be removed or added, etc.) and to share the finished "clean-up work" with the other committee.

If the candidate committee provided the list to the referendum committee without payment it would be considered an in-kind contribution. The candidate committee would need to determine whether the in-kind contribution would meet one of the permissible expenditure purposes found in N.C.G.S. § 163-278.16B. It would appear that among these nine purposes, the in-kind contribution would have to be considered either as a result of the campaign for office or as a result of holding public office.

If the "clean-up work" resulted in an additional value to the mailing list, then the referendum committee could not give the additional value to the candidate committee, since such a value would constitute a violation under N.C.G.S. § 163-278.13(e1).

- C. The referendum committee would not make a monetary payment to the other committee for the list, but perform "clean-up work" on the list, and the other committee would pay the referendum committee fair market value for the clean-up work.

In this scenario, the candidate committee would make an in-kind contribution of the mailing list to the referendum committee. As discussed in scenario B, this would be permissible if providing the list to the referendum committee were a permissible expenditure as defined by N.C.G.S. § 163-278.16B. Additionally, it would also not only be permissible but the candidate committee would be required to make payment to the referendum committee for the increased value of the mailing list due to the "clean-up work" performed.

The third-party marketplace would be appropriate to determine the fair market value of the "improved" list. The information used to substantiate the fair market value to be paid by the candidate committee should be submitted to the candidate committee for its records. If the candidate committee or the referendum committee would like guidance on whether the documentation is sufficient to satisfy a fair market value payment, either committee should consult our office.

This opinion is based upon the information provided in your January 19, 2012 letter. If any information in that letter should change, you should consult with our office to ensure that this opinion would still be binding. Finally, this opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

Sincerely,

Gary O. Bartlett

Gary O. Bartlett

cc: Julian Mann, Codifier of Rules

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 07 – DEPARTMENT OF CULTURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Cultural Resources intends to amend the rule cited as 07 NCAC 04N .0202.

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

Proposed Effective Date: August 1, 2012

Public Hearing:

Date: May 16, 2012

Time: 10:30 a.m.-11:00 a.m.

Location: Historic Sites Conference Room, Dobbs Building, 2nd floor, 430 N. Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action:

NC Transportation Museum Fees

State Historic sites needs to amend the rule to add admission charges to offset the loss of revenue from fiscal year 2011-12 budget cuts. Session Law 2011-145, Section 21.1 established the Transportation Museum special fund. The special fund consists of all receipts derived at the NC Transportation Museum. The special fund will cover all costs associated with the operation and maintenance of the NC Transportation Museum. Senate Appropriations Committee Report on the Continuation, Expansion and Capital Budgets (2011 Budget Technical Corrections) transfers the Transportation Museum to 50 percent receipts-support in FY 2011-12 and total receipts-support in FY 2012-13. A temporary rule is currently in place for the amended rule change.

Sources:

<http://www.ncleg.net/Sessions/2011/Bills/House/PDF/H200v9.pdf>

<http://www.ncleg.net/Sessions/2011budget/2011/HB22MoneyReport-6-16-11.pdf>

Fees at other State Historic Sites

The proposed amended rule also includes fee increases at three other historic sites: Thomas Wolf Memorial, Reed Gold Mine, and Historic Bath. Thomas Wolf Memorial and Historic Bath have not had fee increases since 1990. From fiscal year 2008-09 to fiscal year 2011-12, State Historic Sites has had total budget cuts to its appropriation of over 17 percent. Of the 17 percent, 6 percent of the cuts applied directly to the NC Transportation Museum.

To mitigate the budget cuts, Session Law 2011-213 established a special revenue fund for State Historic Sites to help support operations. The special revenue fund consists of all receipts derived from the lease or rental of property or facilities, disposition of structures or products of the land, and admissions

and fees collected at the State Historic Sites. The revenues in the Fund may be used only for the operation, interpretation, maintenance, preservation, development, and expansion of the individual State Historic Site where the receipts are generated.

The Division of Historic Sites has identified Thomas Wolf Memorial, Reed Gold Mine, and Historic Bath as popular historic sites where fee increases would best generate additional revenue for the special fund.

Sources:

<http://www.ncleg.net/Sessions/2011/Bills/Senate/PDF/S340v4.pdf>

BD 701-Certified Budget Report

Procedure by which a person can object to the agency on a

proposed rule: Objections must be submitted in writing by mail. The objection must identify the specific reason for the objection including the negative impact(s) the amended rule change could have to stakeholders.

Comments may be submitted to: Keith Hardison, Director, Division of State Historic Sites and Properties, 4620 Mail Service Center, Raleigh, NC 27699-4620

Comment period ends: June 1, 2012

Procedure for Subjecting a Proposed Rule to Legislative

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

Fiscal impact (check all that apply).

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Date submitted to OSBM:
- ☐ Substantial economic impact (≥\$500,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 04 - DIVISION OF ARCHIVES AND HISTORY

SUBCHAPTER 04N - HISTORIC SITES REGULATIONS

SECTION .0200 - SITE HOURS: ADMISSION FEES

07 NCAC 04N .0202 FEES

(a) The following sites do not charge an admission fee:

- (1) Alamance Battleground,
- (2) Aycock Birthplace,
- (3) Bennett Place,
- (4) Bentonville Battleground,
- (5) Brunswick Town,
- (6) Caswell-Neuse,
- (7) Duke Homestead,
- (8) Fort Dobbs,
- (9) Fort Fisher,
- (10) Historic Halifax,
- (11) House in the Horseshoe,
- (12) Polk Memorial,
- (13) Reed Gold Mine,
- (14) Somerset Place,
- (15) ~~Spencer Shops,~~
- (16)(15) Town Creek Indian Mound,
- (17)(16) Vance Birthplace,
- (18)(17) Charlotte Hawkins Brown Memorial,
- (19)(18) Horne Creek Living History Farm.

(b) The following site charges an admission fee of ~~one dollar (\$1.00)~~ five dollars (\$5.00) for adults, ~~fifty cents (\$0.50)~~ two dollars (\$2.00) for children, and one half off the regular admission price for groups of ten or more: ~~Wolfe Memorial~~ Thomas Wolfe Memorial.

(c) The following site charges an admission fee of one dollar (\$1.00) for adults, twenty-five cents (\$0.25) for children: James Iredell House.

(d) The following site charges an admission fee of ~~one dollar (\$1.00)~~ two dollars (\$2.00) for adults, ~~fifty cents (\$0.50)~~ one dollar (\$1.00) for children and one half off the regular admission price for groups of ten or more to each ~~major~~ historic structure:

- (1) Historic Bath, Bonner House;
- (2) Historic Bath, Palmer-Marsh House.

(e) The following site charges an admission fee of three dollars (\$3.00) for adults, one dollar and fifty cents (\$1.50) for students, two dollars (\$2.00) for senior citizens, and fifty cents (\$0.50) off the regular admission price for groups of ten or more: Elizabeth II.

(f) The North Carolina Transportation Museum at Spencer charges admission fees as follows:

- (1) General Admission: Five dollars (\$5.00) for adults; four dollars (\$4.00) for seniors and active military; three dollars (\$3.00) students (ages 3 to 12); and free for children (ages 0 to 2).
- (2) Group Admission (15 or more visitors): Four dollars (\$4.00) for adults; three dollars and fifty cents (\$3.50) for seniors and active military; one dollar and fifty cents (\$1.50) for students (ages 3 to 12); and free for children (ages 0 to 2).

(g) The following site charges a gold panning fee of three dollars (\$3.00) per person and two dollars (\$2.00) for groups of ten or more: Reed Gold Mine.

Authority G.S. 121-4(8); 121-4(9).

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Private Protective Services Board intends to adopt the rules cited as 12 NCAC 07D .0912, .1401-.1407, .1501-.1507; amend the rules cited as 12 NCAC 07D .0105, .0902, .0904, .0909-.0911, .1106; and repeal the rule cited as 12 NCAC 07D .1108.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncdoj.gov>

Proposed Effective Date: *August 1, 2012*

Public Hearing:

Date: *April 17, 2012*

Time: *2:00 p.m.*

Location: *4901 Glenwood Avenue, Suite 200, Raleigh, NC 27612*

Reason for Proposed Action: *The reason for the proposed rule changes is to establish requirements for two additional types of registration, armed and unarmed armored car service guard registrations. The amendments to the rules will allow current trainers to train for armed and unarmed armored car service registration as specified in the rule amendments and to update the photograph requirements for trainers. The amendment to 12 NCAC 07D .0105 is to delete OC spray from the rule because the Board does not regulate OC spray.*

Procedure by which a person can object to the agency on a proposed rule: *Objections to the proposed rule changes shall be submitted by the end of the comment period in writing to Anthony Bonapart, Deputy Director, Private Protective Services Board, 4901 Glenwood Avenue, Suite 200, Raleigh, NC 27612.*

Comments may be submitted to: *Anthony Bonapart, PPSB Deputy Director, 4901 Glenwood Avenue, Suite 200, Raleigh, NC 27612*

Comment period ends: *June 1, 2012*

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

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

Fiscal impact (check all that apply).

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Date submitted to OSBM:
- ☐ Substantial economic impact (≥\$500,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 07 - PRIVATE PROTECTIVE SERVICES

SUBCHAPTER 07D - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

12 NCAC 07D .0105 UNIFORMS AND EQUIPMENT

(a) No holder of a license, trainee permit, unarmed security guard registration, armed security guard registration, or firearms trainer certificate while engaged in private protective services, shall wear or display any badge, insignia, device, shield, patch or pattern which shall indicate or tend to indicate that the individual is a sworn law enforcement officer or which contains or includes the word "police" or the equivalent thereof, or is similar in wording to any law enforcement agency in the local area of the licensee's operations.

(b) No holder, while performing any private security service, shall have or utilize any vehicle or equipment displaying the words "law enforcement officer," "police," or the equivalent thereof, or have any sign, shield, marking, accessory or insignia that may indicate that such vehicle is a vehicle of a law enforcement agency.

(c) A holder who is required to wear a military style uniform while in the performance of private security services shall have:

- (1) affixed over the left breast pocket of the uniform and on all caps or hats worn by such individual, badges or patches, distinct in design from those used by law enforcement agencies within the local area of the licensee's operations;
- (2) affixed over the right breast pocket of the uniform a metal, plastic, or cloth tag not less than three inches nor more than five inches in length and not less than three-fourths inch nor more than one inch in height containing the words "Security Guard" or "Security Officer" in capital letters approximately one-half inch in height; and

(3) affixed over the "Security Guard" or "Security Officer" tag, a metal, plastic, or cloth tag bearing the name of the wearer. The name tag may be smaller than the "Security Guard" or "Security Officer" tag if the same is displayed in capital letters five-sixteenth inch to one-half inch in height.

(4) The wearing of the armed or unarmed private protective services card clearly visible on the outermost garment (except foul weather clothing) shall satisfy the requirements of Subparagraphs (c)(1), (2) and (3) of this Rule.

(d) All other holders who perform the duties of a security guard or security officer and who are not required to wear a military style uniform shall have affixed over the right or left breast pocket of the outermost garment (except for rainwear or other foul weather clothing) a tag as described in (c)(2) of this Rule, unless exempted by the Administrator.

~~(e) It shall be lawful for any person licensed or registered pursuant to the provisions of this Chapter to possess and use oleoresin capsicum spray, provided they are on duty and have received a four hour training course that has been approved by the Board and is consistent with the training standards prescribed by the Board.~~

Authority G.S. 74C-5; 74C-15.

SECTION .0900 - TRAINER CERTIFICATE

Note: The text in italics has been submitted to the Rules Review Commission for consideration at its April meeting.

12 NCAC 07D .0902 APPLICATION FOR FIREARMS TRAINER CERTIFICATE

Each applicant for a firearms trainer certificate shall submit an original and one copy of the application to the Board. The application shall be accompanied by:

- (1) ~~two sets~~ one set of classifiable fingerprints on an applicant fingerprint card;
- (2) one ~~recent~~—head and shoulders color photograph of the applicant ~~of adequate quality for identification, one inch by one inch in size; in JPG format of acceptable quality for identification, taken within six months prior to submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov or by compact disc;~~
- (3) certified statement of the result of a criminal history records search ~~by~~ from the appropriate governmental authority housing criminal record information or clerk of superior court in each county where the applicant has resided within the immediate preceding 60 ~~months;~~ months, and if any address history contains an out of state address, a criminal record check from the current Board approved criminal record check provider;
- (4) actual cost charged to the Private Protective Services Board by the State Bureau of

- Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board;
- (5) the applicant's non-refundable registration fee;
- (6) a certificate of successful completion of the training required by 12 NCAC 07D .0901(3) and (4). This training shall have been completed within 60 days of the submission of the application; and
- (7) actual cost charged to the Private Protective Services Board by the North Carolina Justice Academy to cover the cost of the firearms training course given by the N.C. Justice Academy and collected by the Private Protective Services Board.

Authority G.S. 74C-5; 74C-13.

12 NCAC 07D .0904 RENEWAL OF A FIREARMS TRAINER CERTIFICATE

Each applicant for renewal of a firearms trainer certificate shall complete a renewal form provided by the Board. This form shall be submitted not less than 30 days prior to the expiration of the applicant's current certificate and shall be accompanied by:

- (1) certification of the successful completion of a firearms trainer refresher course approved by the Board and the Attorney General consisting of a minimum of eight hours of classroom and practical range training in handgun and shotgun safety and maintenance, range operations, control and safety procedures, and methods of handgun and shotgun firing. This training shall be completed within 180 days of the submission of the renewal application;
- (2) a certified statement of the result of a criminal records search from the appropriate governmental authority housing criminal record information or clerk of superior court in each ~~area~~ county where the applicant has resided within the ~~immediate~~ immediately preceding 48 months ~~or a criminal record check from a third party~~ and if any address history contains an out of state address, a criminal record check from the current Board approved criminal record check provider;
- (3) the applicant's renewal fee;
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board; and
- (5) Members of the armed forces whose certification is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the certification renewal fee and to complete any continuing

education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

Authority G.S. 74C-5; 74C-13.

12 NCAC 07D .0909 UNARMED TRAINER CERTIFICATE

(a) To receive an unarmed ~~guard~~ trainer certificate, an applicant shall meet the following requirements:

- (1) comply with the requirements of 12 NCAC 07D .0703;
- (2) have a minimum of one year experience in security with contract security company or proprietary security organization, or one year experience with any federal, U.S. military, state, county or municipal law enforcement agency;
- (3) successfully complete a training course approved by the Board and the Attorney General which shall consist of a minimum of 24 hours classroom instruction to include the following topic areas:
 - (A) civil liability for the security trainer - two hours;
 - (B) interpersonal communications in instruction - three hours;
 - (C) teaching adults - four hours;
 - (D) principles of instruction - one hour;
 - (E) methods and strategies of instruction - one hour;
 - (F) principles of instruction: audio-visual aids - three hours; and
 - (G) student performance: 45 minute presentation.
- (4) favorable recommendation from the employing or contracting licensee; and
- (5) comply with the application process for an Unarmed Trainer Certificate as set forth in 12 NCAC 07D .0910.

(b) In lieu of completing the training course set forth in Subparagraph (a)(3) of this Rule, an applicant may submit to the Board a Criminal Justice General Instructor Certificate from North Carolina Criminal Justice Education and Training Standards Commission or any training certification that meets or exceeds the requirements of Subparagraph (a)(3) of this Rule and is approved by the Director of PPS.

(c) An Unarmed ~~Guard~~ Trainer Certificate shall expire two years after the date of issuance.

Authority G.S. 74C-8; 74C-9; 74C-11; 74C-13.

12 NCAC 07D .0910 APPLICATION FOR AN UNARMED TRAINER CERTIFICATE

Each applicant for an Unarmed ~~Guard~~-Trainer certificate shall submit an application to the Board. The application shall be accompanied by:

- (1) the certified trainer application fee established in 12 NCAC 07D .0903(a)(2); and
- (2) a certificate of successful completion of the training required. This training shall have been completed within 120 days of the submission of the application or current certificate of other acceptable certification as set forth in 12 NCAC 07D .0909(b).

Authority G.S. 74C-8; 74C-9; 74C-11; 74C-13.

12 NCAC 07D .0911 RENEWAL OF AN UNARMED TRAINER CERTIFICATE

Each applicant for renewal of an unarmed ~~guard~~-trainer certificate shall complete a board renewal form. This form shall be submitted not less than 30 days prior to the expiration of the applicant's current certificate. In addition, the applicant shall include the following:

- (1) the renewal fee set forth in 12 NCAC 07D .0903(a)(3);
- (2) certification of a minimum of 16 hours of Board approved armed or unarmed instruction performed during the current unarmed ~~guard~~ trainer certification period;
- (3) statement verifying the classes taught during the current unarmed ~~guard~~ trainer certification period on a form prescribed by the Board; and
- (4) Members of the armed forces whose certification is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the certification renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

Authority G.S. 74C-8; 74C-9; 74C-11; 74C-13.

12 NCAC 07D .0912 ROSTERS OF UNARMED TRAINER CLASSES

Each unarmed trainer shall send to the Board training officer, preferably by e-mail, all rosters of classes taught during the current unarmed trainer certification period by June 30 and by December 31 of each year.

Authority G.S. 74C-5; 74C-13.

SECTION .1100 - TRAINING AND SUPERVISION FOR PRIVATE INVESTIGATOR ASSOCIATES

12 NCAC 07D .1106 TIME LIMITS ON EXPERIENCE

(a) The Board will consider any practical experience gained ~~within 10 years of~~ prior to the application date. The Board shall not consider experience claimed by the applicant if:

- (1) gained by contracting private protective services to another person, firm, association, or corporation while not in possession of a valid private protective services license; or
- (2) gained when employed by a company contracting private protective services to another person, firm, association, or corporation while the company is not in possession of a valid private protective services license.

(b) The Board will consider any educational experience referred to in 12 NCAC 07D .1105.

Authority G.S. 74C-5(2).

12 NCAC 07D .1108 GRANDFATHER CLAUSE

~~All associates holding valid training permits at the time this section becomes effective will be grandfathered in at the level their experience dictates. All associates being grandfathered will only be required to watch and successfully complete the training test set forth in 12 NCAC 7D .1109 upon renewal of their training permit.~~

Authority G.S. 74C-5(2).

SECTION .1400 – ARMORED CAR SERVICE GUARD REGISTRATION (UNARMED)

12 NCAC 07D .1401 APPLICATION FOR UNARMED ARMORED CAR SERVICE GUARD REGISTRATION

(a) Each armored car employer or his designee shall submit and sign an application form for the registration of each employee to the Board. This form shall be accompanied by:

- (1) one set of classifiable fingerprints on an applicant fingerprint card;
- (2) two head and shoulders color digital photographs of the applicant in JPG format of acceptable quality for identification, taken within six months prior to submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov or by compact disc;
- (3) certified statement of the result of a criminal records search from the appropriate governmental authority housing criminal record information or clerk of superior court in each county where the applicant has resided within the immediately preceding 48 months, and if any address history contains an out of state address, a criminal record check from the current Board approved criminal record check provider;
- (4) the applicant's non-refundable registration fee; and
- (5) actual cost charged to the Private Protective Services Board by the State Bureau of

Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) The employer of each applicant for registration shall give the applicant a copy of the application and shall retain a copy of the application in the individual's personnel file in the employer's office.

(c) The applicant's copy of the application shall serve as a temporary registration card which shall be carried by the applicant when he is within the scope of his employment and which shall be exhibited upon the request of any law enforcement officer or authorized representative of the Board.

(d) A statement signed by a certified trainer that the applicant has successfully completed the training requirements of 12 NCAC 07D .1407 shall be submitted to the Director with the application.

(e) A copy of the statement specified in Paragraph (d) of this Rule shall be retained by the licensee in the individual applicant's personnel file in the employer's office.

Authority G.S. 74C-3; 74C-5.

12 NCAC 07D .1402 FEES FOR UNARMED ARMORED CAR SERVICE GUARD REGISTRATION

(a) Fees for unarmed armored car service guards are as follows:

- (1) thirty dollar (\$30.00) non-refundable initial registration fee;
- (2) thirty dollar (\$30.00) annual renewal, or reissue fee;
- (3) fifteen dollar (\$15.00) transfer fee; and
- (4) twenty-five dollars (\$25.00) late renewal fee to be paid within 90 days from the date the registration expires and to be paid in addition to the renewal fee.

(b) Fees shall be paid in the form of a check or money order made payable to the Private Protective Services Board.

Authority G.S. 74C-3; 74C-5; 74C-9.

12 NCAC 07D .1403 MINIMUM STANDARDS FOR UNARMED ARMORED CAR SERVICE GUARD REGISTRATION

An applicant for registration shall:

- (1) be at least 18 years of age;
- (2) be a citizen of the United States or a resident alien;
- (3) be of good moral character and temperate habits. Any of the following within the last five years shall be prima facie evidence that the applicant does not have good moral character or temperate habits: conviction by any local, state, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage, conviction of a

crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking and/or entering, burglary, larceny, any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this Item, "conviction" means and includes the entry of a plea of guilty, plea of no contest, or a verdict of guilty;

- (4) not have been declared by any court of competent jurisdiction incompetent by reason of mental disease or defect; or not have been involuntarily committed to an institution for treatment of mental disease or defect by a district court judge. When an individual has been treated and found to have been restored by a psychiatrist, the Board will consider this evidence and determine whether the applicant meets the requirements of this Paragraph; and
- (5) not have had a revocation of a registration.

Authority G.S. 74C-3; 74C-5.

12 NCAC 07D .1404 INVESTIGATION FOR UNARMED ARMORED CAR SERVICE GUARD REGISTRATION

(a) After the administrator receives a complete application for registration, the administrator may cause to be made such further investigation of the applicant as deemed necessary.

(b) Any denial of an applicant for registration by the administrator shall be subject to review by the Board.

Authority G.S. 74C-3; 74C-5.

12 NCAC 07D .1405 UNARMED ARMORED CAR SERVICE GUARD REGISTRATION IDENTIFICATION CARDS

(a) The registration identification card shall be carried by the registrant when performing the duties of a private protective services employee.

(b) The registration identification card shall be exhibited upon the request of any law enforcement officer or any other authorized representative of the Board.

(c) Registration identification card holders shall immediately notify the Board upon receipt of any information relating to the holder's eligibility to continue holding such a card.

(d) The guard transfer form and fee shall be submitted to the Board by the employer within 10 days of the beginning of employment.

(e) Upon revocation or suspension by the Board, a holder shall return the registration identification card to the administrator within 10 days of the date of the revocation or suspension.

Authority G.S. 74C-3; 74C-5.

12 NCAC 07D .1406 RENEWAL OR REISSUE OF UNARMED ARMORED CAR SERVICE GUARD REGISTRATION

(a) Each applicant for renewal of a registration identification card or his employer, shall complete a form provided by the Board. This form shall be submitted not less than 30 days prior to the expiration of the applicant's current registration and shall be accompanied by:

- (1) statements of any criminal record obtained from the appropriate authority in each area where the applicant has resided within the immediately preceding 12 months or a criminal record check from the current Board approved criminal record check provider; and
- (2) the applicant's renewal fee.

(b) Each applicant for reissue of a registration identification card shall complete, and his employer shall sign a form provided by the Board. This form shall be submitted to the Board and accompanied by:

- (1) two recent head and shoulders color digital photographs of the applicant in JPG format of acceptable quality for identification, taken within six months prior to submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov or by compact disc; and
- (2) the applicant's reissue fee.

(c) The employer of each applicant for a registration renewal or reissue shall give the applicant a copy of the application which will serve as a record of application for renewal or reissue and shall retain a copy of the application in the individual's personnel file in the employer's office.

(d) Members of the armed forces whose registration is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the registration renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

Authority G.S. 74C-3; 74C-5.

12 NCAC 07D .1407 TRAINING REQUIREMENTS FOR UNARMED ARMORED CAR SERVICE GUARDS

(a) Applicants for an unarmed armored car service guard registration shall complete a basic training course for unarmed armored car service guards within 30 days from the date of permanent hire. The course shall consist of a minimum of 16 hours of classroom instruction including:

- (1) The Security Officer in North Carolina – (minimum of one hour);
- (2) Legal Issues for Security Officers – (minimum of three hours);
- (3) Department – (minimum of one hour);
- (4) Armored Security Operations – (minimum of five hours);
- (5) Emergency Situations – (minimum of three hours);

- (6) Safe Driver Training – (minimum of three hours);

A minimum of four hours of classroom instruction shall be completed within 20 calendar days of a probationary or regular armored car service guard being placed on a duty station. These four hours shall include The Security Officer in North Carolina and Legal Issues for Security Officers. Unarmed armored car service guard training is not transferable to qualify as unarmed security guard training.

(b) Licensees shall submit the name and resume for a proposed certified unarmed trainer to the Director for Board Approval.

(c) Training shall be conducted by a Board certified unarmed trainer. A Board approved lesson plan covering the training requirements in Paragraph (a) of this Rule shall be made available to each trainer. The Board shall approve other media training materials that deliver the training requirements of Paragraph (a) of this Rule.

(d) The 16 hours of training may be delivered interactively under the following conditions:

- (1) The training is presented by a Private Protective Services Board certified unarmed trainer.
- (2) Each student is given a copy of the PPS unarmed armored car service guard training manual to use for the duration of the 16 hour training course.
- (3) The technology used allows the trainer to see the students and the students to see the trainer in real time during the training.
- (4) All students in each classroom are able to see and read the screen or monitor, and they must be able to clearly hear and understand the audio presentation. All monitors used in each classroom must be at least 32 inches wide.
- (5) The technology used is of sufficient quality so that the training audio and video is done smoothly and without interruption.
- (6) Each student is taught to use the audio and video equipment in their classroom prior to the start of the 16 hour unarmed security officer training course.
- (7) The total number of students receiving the interactive training at one time does not exceed 35 students.
- (8) All training not included in the NC Private Protective Services unarmed armored car service guard training manual is done either before or after the 16 hour unarmed armored car service guard training.
- (9) The Director of Private Protective Services is notified five days prior to training of the location of each classroom, name and location of the certified trainer, and the number of students who will be present.
- (10) The sponsoring agency allows the Director or designee access via computer of the training during the time that it is taking place.

Authority G.S. 74C-3; 74C-5.

**SECTION .1500 – ARMED ARMORED CAR SERVICE
GUARDS FIREARM REGISTRATION PERMIT**

**12 NCAC 07D .1501 APPLICATION/ARMED
ARMORED CAR SERVICE GUARD FIREARM
REGISTRATION PERMIT**

(a) Each armored car employer or his designee shall submit and sign an application form for the registration of each armed armored car service guard applicant to the Board. This form shall be accompanied by:

- (1) one set of classifiable fingerprints on an applicant fingerprint card;
- (2) two head and shoulders color digital photographs of the applicant in JPG format of acceptable quality for identification, taken within six months prior to submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov or by compact disc;
- (3) certified statement of the result of a criminal records search from the appropriate governmental authority housing criminal record information or clerk of superior court in each county where the applicant has resided within the immediately preceding 48 months, and if any address history contains an out of state address, a criminal record check from the current Board approved criminal record check provider;
- (4) the applicant's non-refundable registration fee;
- (5) a statement signed by a certified trainer that the applicant has successfully completed the training requirements of 12 NCAC 07D .1507; and
- (6) a certification by the applicant that he or she is at least 21 years of age.

(b) The employer of each applicant for registration shall give the applicant a copy of the application and shall retain a copy of the application in the individual's personnel file in the employer's office.

(c) The applicant's copy of the application shall serve as a temporary registration card which shall be carried by the applicant when he is within the scope of his employment and which shall be exhibited upon the request of any law enforcement officer or authorized representative of the Board.

(d) Applications submitted without proof of completion of a Board approved firearms training course shall not serve as temporary registration cards unless the armored car employer has obtained prior approval from the Director. The Director shall grant prior approval if the armored car employer provides proof satisfactory to the Director that the applicant has received prior firearms training.

(e) The provisions of Paragraphs (a), (b), and (c) of this Rule also apply to any employee whose employment is terminated within 30 days of employment.

Authority G.S. 74C-3; 74C-5; 74C-13.

**12 NCAC 07D .1502 FEES FOR ARMED ARMORED
CAR SERVICE GUARD FIREARM REGISTRATION
PERMIT**

(a) Fees for armed armored car service guard firearm registration permits are as follows:

- (1) thirty dollars (\$30.00) non-refundable initial registration fee;
- (2) thirty dollars (\$30.00) annual renewal, or reissue fee; and
- (3) fifteen dollar (\$15.00) application fee.

(b) Fees shall be paid in the form of a check or money order made payable to the Private Protective Services Board.

Authority G.S. 74C-3; 74C-5; 74C-9; 74C-13.

**12 NCAC 07D .1503 MINIMUM STDS/ARMED
ARMORED CAR SERVICE GUARD FIREARM
REGISTRATION PERMIT**

Applicants for an armed armored car firearms registration shall meet all the requirements of 12 NCAC 07D .1407.

Authority G.S. 74C-3; 74C-5; 74C-13.

**12 NCAC 07D .1504 INVESTIGATION/ARMED
ARMORED CAR SERVICE GUARD FIREARM
REGISTRATION PERMIT**

(a) After the administrator receives a complete application for registration, the administrator may cause to be made such further investigation of the applicant as deemed necessary.

(b) Any denial of an applicant for registration by the administrator shall be subject to review by the Board.

Authority G.S. 74C-3; 74C-5; 74C-13.

**12 NCAC 07D .1505 ARMED ARMORED CAR
SERVICE GUARD FIREARM REGISTRATION PERMIT
IDENTIFICATION CARDS**

(a) The provisions of 12 NCAC 07D .1405 are hereby made to apply to armed armored car service guards.

(b) Upon termination of employment of an armed armored car service guard, the employer shall return the employee's registration card to the Board within 15 days of the employee's termination.

Authority G.S. 74C-3; 74C-5; 74C-13.

**12 NCAC 07D .1506 RENEWAL OF ARMED
ARMORED CAR SERVICE GUARD FIREARM
REGISTRATION PERMIT**

(a) Each applicant for renewal of an armed armored car service guard firearm registration permit identification card or his employer shall complete a form provided by the Board. This form shall be submitted not more than 90 days nor less than 30 days prior to expiration of the applicant's current armed registration and shall be accompanied by:

- (1) two head and shoulders color digital photographs of the applicant in JPG format of acceptable quality for identification, taken within six months prior to submission and

submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov or by compact disc;

- (2) certified statement of the result of a criminal records search from the appropriate governmental authority housing criminal record information or clerk of superior court in each county where the applicant has resided within the immediately preceding 12 months, and if any address history contains an out of state address, a criminal record check from the current Board approved criminal record check provider;
- (3) the applicant's renewal fee; and
- (4) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) The employer of each applicant for a registration renewal shall give the applicant a copy of the application which will serve as a record of application for renewal and shall retain a copy of the application in the individual's personnel file in the employer's office.

(c) Applications for renewal shall be accompanied by a statement signed by a certified trainer that the applicant has successfully completed the training requirements of 12 NCAC 07D .1507.

(d) Members of the armed forces whose registration is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the registration renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

Authority G.S. 74C-3; 74C-5; 74C-13.

12 NCAC 07D .1507 TRAINING REQUIREMENTS FOR ARMED ARMORED CAR SERVICE GUARDS

(a) Applicants for an armed armored car service guard firearm registration permit shall first complete the basic unarmed armored car service guard training course set forth in 12 NCAC 07D .1407. Private Investigator Licensees applying for an armed armored car service guard firearm registration permit shall first complete a four hour training course consisting of blocks of instruction "The Security Officer in North Carolina" and "Legal Issues for Security Officers" as set forth in 12 NCAC 07D .1407(a). Private Investigator Licensees applying for an armed armored car service guard firearm registration permit are not required to complete the following training blocks found in the basic training course referenced in 12 NCAC 07D .1407(a): "Emergency Situations," "Department," "Armored Security Operations," and "Safe Driver Training." A Private Investigator Licensee applying for an armed armored car service guard firearm registration permit shall meet all additional training requirements set forth in 12 NCAC 07D .1407 as well as the training requirements set forth in this Rule.

(b) Applicants for an armed armored car service guard firearm registration permit shall complete a basic training course for armed security guards which consists of at least 20 hours of classroom instruction including:

- (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard, including familiarity with rules and regulations relating to armed security guards (minimum of four hours);
- (2) handgun safety, including range firing procedures (minimum of one hour);
- (3) handgun operation and maintenance (minimum of three hours);
- (4) handgun fundamentals (minimum of eight hours); and
- (5) night firing (minimum of four hours).

(c) Applicants for an armed armored service guard firearm registration permit shall attain a score of at least 80 percent accuracy on a firearms range qualification course adopted by the Board and the Attorney General, a copy of which is on file in the Director's office. Should a student fail to attain a score of 80 percent accuracy as referenced above, the student will be given an additional three attempts to qualify on the course of fire they did not pass. Failure to meet the qualification after three attempts shall require the student to repeat the entire Basic Training Course for Armed Security Guards. All additional attempts must take place within 20 days of the completion of the initial 20 hour course.

(d) All armed security guard training required by 12 NCAC 07D shall be administered by a certified trainer and shall be successfully completed no more than 90 days prior to the date of issuance of the armed armored car service guard firearm registration permit.

(e) All applicants for an armed armored car service guard firearm registration permit must obtain training under the provisions of this Section using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons.

(f) No more than six new or renewal armed armored car service guard applicants per one instructor shall be placed on the firing line at any one time during firearms range training.

(g) Applicants for re-certification of an armed armored car service guard firearm registration permit shall complete a basic recertification training course for armed security guards which consists of at least four hours of classroom instruction and is a review of the requirements set forth in Subparagraphs (b)(1) through (b)(5) of this Rule. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of an armed armored car service guard firearm registration permit shall also complete the requirements of Paragraph (c) of this Rule.

(h) To be authorized to carry a standard 12 gauge shotgun in the performance of his duties as an armed armored car service guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (b) and (c) of this Rule, four hours of classroom training which shall include the following:

- (1) legal limitations on the use of shotguns;

- (2) shotgun safety, including range firing procedures;
- (3) shotgun operation and maintenance; and
- (4) shotgun fundamentals.

An applicant may take the additional shotgun training at a time after the initial training in this Rule. If the shotgun training is completed at a later time, the shotgun certification shall run concurrent with the armed registration permit.

(i) In addition to the requirements set forth in Paragraph (h) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a shotgun range qualification course adopted by the Board and the Attorney General, a copy of which is on file in the Director's office.

(j) Applicants for shotgun recertification shall complete an additional one hour of classroom training as set forth in Subparagraphs (h)(1) through (h)(4) of this Rule and shall also complete the requirements of Paragraph (i) of this Rule.

(k) Applicants for an armed armored car service guard firearm registration permit who possess a current firearms trainer certificate shall be given, upon their written request, a firearms registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with their duty weapons as set forth in Paragraph (c) of this Rule.

(l) The armed armored car service guard is required to qualify annually both day and night. If the armed armored car service guard fails to qualify on either course of fire, the guard cannot carry a firearm until such time as he or she meets the qualification requirements. Upon failure to qualify the firearm instructor must notify the armed armored car service guard that he or she is no longer authorized to carry a firearm and the Firearm Instructor must notify the employer and the Private Protective Services staff on the next business day.

(m) Armed armored car service guard personnel may also work as armed security guards only if they hold an unarmed or armed security guard registration.

Authority G.S. 74C-3; 74C-5; 74C-13.

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commissioner of Labor intends to adopt the rules cited as 13 NCAC 12 .0901-.0906.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.nclabor.com/legal/RuleStatus.pdf>

Proposed Effective Date: *October 1, 2012*

Public Hearing:

Date: *April 18, 2012*

Time: *10:00 a.m.*

Location: *4 West Edenton Street, 2nd Floor, Raleigh, NC 27601*

Reason for Proposed Action: *On June 18, 2011, the General Assembly read three times and ratified Session Law 2011-263 and the same was approved on June 23, 2011. SL 2011-263 was*

an Act to require counties, cities, and certain employers to use the federal E-Verify program to verify the work authorization of newly hired employees. Section 3 of the Act amended Chapter 64 of the General Statutes to add "Article 2 – Verification of Work Authorization" which places the responsibility for enforcement of the Article (as it relates to private employers in North Carolina) with the Commissioner of Labor. G.S. 64-37 specifically gives the Commissioner the authority to adopt rules needed to implement the Article. Therefore, the adoption of 13 NCAC 12 .0901 – 12 .0906 as administrative rules is necessary to: clarify certain provisions of Chapter 64 for the regulated community; establish guidelines for filing complaints; and to promote ease and understanding, along with a smooth implementation, of the requirement to verify the work authorization of new employees through the federal E-Verify system.

Procedure by which a person can object to the agency on a proposed rule: *Objections to the proposed rules may be submitted, in writing, to Erin T. Gould, Assistant Rulemaking Coordinator, via United States mail at the following address: 1101 Mail Service Center, Raleigh, North Carolina 27699-1101; or via facsimile at (919) 733-4235. Objections may also be submitted during the public hearings conducted on these rules, which are noticed above. Objections shall include the specific rule citation(s) for the objectionable rule(s), the nature of the objection(s), and the complete name(s) and contact information for the individual(s) submitting the objection. Objections must be received by 5:00 p.m. on June 1, 2012.*

Comments may be submitted to: *Erin T. Gould, 1101 Mail service Center, Raleigh, NC 27699-1101; phone (919) 733-7885; fax (919) 733-4235; email erin.gould@labor.nc.gov*

Comment period ends: *June 1, 2012*

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

Fiscal impact (check all that apply).

- ☐ **State funds affected**
- ☐ **Environmental permitting of DOT affected**
- ☐ **Analysis submitted to Board of Transportation**
- ☐ **Local funds affected**
- ☐ **Date submitted to OSBM:**

- ☐ Substantial economic impact (≥\$500,000)
☐ Approved by OSBM
☒ No fiscal note required

the employer has violated the provisions of G.S. 64-26.

Authority G.S. 64-37.

CHAPTER 12 – WAGE AND HOUR

SECTION .0900 – E-VERIFY

13 NCAC 12 .0901 ADDRESS

(a) Correspondence relating to Chapter 64, Article 2 of the North Carolina General Statutes or this Section shall be addressed to:

North Carolina Department of Labor
 Attn: E-Verify Complaint Administrator
 1101 Mail Service Center
 Raleigh, North Carolina 27699-1101

(b) The Commissioner of Labor or her designee administers the provisions of Chapter 64, Article 2 of the North Carolina General Statutes and is responsible for receiving and investigating complaints, conducting hearings and issuing and enforcing orders as required by G.S. 64-27 through G.S. 64-34.

Authority G.S. 64-37.

13 NCAC 12 .0902 DEFINITIONS

In addition to the definitions contained in G.S. 64-25, the following definitions apply throughout this Section:

- (1) "Anonymous" means having an unknown or unacknowledged name or origin;
- (2) "Date of hire" means the first day that an individual meets the definition of being an "employee" of an "employer" as set forth in G.S. 64-25. When calculating an employee's "date of hire," the days between the employer's offer and the employee's first day of work performance are not counted;
- (3) "Determines that the complaint is not false and frivolous," as stated in G.S. 64-30, means the Commissioner or her designee determines there is evidence, beyond mere suspicion or allegation and not based solely on race, religion, gender, ethnicity, or national origin, that the employer has in fact violated G.S. 64-26;
- (4) "Employs 25 or more employees" in G.S. 64-25(4), means the employer employs 25 or more employees in this State as of the date of hire of the person for whom it has been alleged that E-Verify was not used for verification of work authorization. When calculating number of employees, seasonal temporary workers shall not be counted if those workers meet the requirements for exemption as set forth in G.S. 64-26(c);
- (5) "Good faith belief" means having some basis in fact or credible information to believe that

13 NCAC 12 .0903 PRESUMPTION OF COMPLIANCE

(a) The Commissioner or her designee shall presume that an employer has complied with the provisions of G.S. 64-26 and this Section if the employer verifies the work authorization of an employee using E-Verify within three business days after the employee's date of hire. A business day is any day on which a business is in operation.

(b) If the Commissioner of Labor or her designee finds that a presumption of compliance exists in accordance with Paragraph (a) of this Rule, the complaint shall be closed by the Commissioner or her designee.

Authority G.S. 64-37.

13 NCAC 12 .0904 FILING OF COMPLAINTS

(a) Complaints may be made on the form available at www.nclabor.com, or verbally by contacting the North Carolina Department of Labor at 1-800-625-2267.

(b) All verbal complaints or complaints filed on a form other than the one prescribed in this Rule shall include the following information:

- (1) Complainant's name, address, telephone number, email address (if applicable), and relationship to the employer, unless the complaint is filed anonymously;
- (2) Employer's name;
- (3) Employer's physical address, mailing address, and telephone number, if available;
- (4) Name of business owner or other contact, telephone number, and email address, if available;
- (5) Approximate number of employees employed by the employer in the State of North Carolina;
- (6) Name(s) of the employee(s) in North Carolina that the complainant is alleging the employer failed to verify the work authorization of in accordance with G.S. 64-26, if available;
- (7) Information which leads the complainant to believe that the employer failed to verify work authorization(s) in accordance with G.S. 64-26; and
- (8) Any additional information the complainant considers relevant to support the allegations set forth in the complaint.

(c) A complaint shall not be investigated if:

- (1) it is filed against an employer that employs less than 25 employees;
- (2) it is based solely on race, religion, gender, ethnicity, or national origin;
- (3) sufficient information to proceed with an investigation is not provided at the time of filing pursuant to the provisions of Chapter 64,

- Article 2 of the North Carolina General Statutes and the provisions of this Section; or
- (4) within 48 hours of being notified that a complaint has been filed, the employer provides the Commissioner or her designee with written proof of compliance with Chapter 64, Article 2 of the North Carolina General Statutes and the provisions of this Section.

Authority G.S. 64-37.

13 NCAC 12 .0905 HEARINGS

(a) If after an investigation the Commissioner or her designee determines that a complaint is not false and frivolous, the matter shall be referred to hearing before a hearing officer designated by the Commissioner. The hearing officer shall conduct a hearing to determine if a violation of G.S. 64-26 has occurred.

(b) If, after a hearing, it is determined that a violation of G.S. 64-26 has occurred, one of the following actions shall be taken:

- (1) If the employee is currently employed, or has been discharged since commencement of the investigation, and it is found that the employer verified the employee's work authorization through the use of E-Verify after initiation of the investigation, the hearing officer shall:

(A) Issue a written order setting forth the violation;

(B) Order the employer to submit documentation evidencing verification of the employee's work authorization through E-Verify;

(C) Order the employer to file the affidavit required by G.S. 64-31(a); and

(D) Order payment of any applicable civil penalty as set forth in G.S. 64-31 through G.S. 64-33.

- (2) If the employee is currently employed by the employer and the employer has not verified the employee's work authorization through the use of E-Verify since initiation of the investigation, the hearing officer shall:

(A) Issue a written order setting forth the violation;

(B) Order the employer to file the affidavit required by G.S. 64-31(a); and

(C) If applicable, order payment of any applicable civil penalty as set forth in G.S. 64-31 through G.S. 64-33.

- (3) If the employee is no longer employed by the employer and it is found during the investigation that the employer did not verify the employee's work authorization through the use of E-Verify at any time, the hearing officer shall:

(A) Issue a written order setting forth the violation;

- (B) Order the employer to file, within three business days, a signed sworn affidavit stating that the employee is no longer employed by the employer, setting forth the employee's beginning and ending dates of employment, and acknowledging that the employer did not verify the employee's work authorization through the use of E-Verify during the period of employment or otherwise; and

- (C) Order payment of any applicable civil penalty as set forth in G.S. 64-31 through G.S. 64-33.

(c) When an order is issued in accordance with Paragraph (b) of this Rule and the employer fails to submit the affidavit required by G.S. 64-31(a) or Part (b)(3)(C) of this Rule within three business days, the hearing officer shall issue a written order for the employer to pay a civil penalty in accordance with G.S. 64-31(b).

(d) If the hearing officer determines that no violation of G.S. 64-26(a) exists, the complaint shall be dismissed. Written evidence of the dismissal shall be entered into the case file, the file shall be closed, and no further action shall be taken.

(e) Hearings may be conducted in person or via telephone, at the discretion of the hearing officer.

Authority G.S. 64-37; 64-38.

13 NCAC 12 .0906 CIVIL PENALTIES

(a) In civil penalty cases, the Commissioner shall notify the employer by certified mail of the following:

(1) the nature of the violation;

(2) the amount of the civil penalty; and

(3) that the civil penalty is final, unless the employer takes exception to the penalty determination as set forth in G.S. 64-36 and Paragraph (b) of this Rule.

(b) An employer may take an exception to a civil penalty determination by filing a written petition for a contested case hearing with the Office of Administrative Hearings (OAH) under Chapter 150B, Article 3 of the North Carolina General Statutes.

(c) An employer who takes exception to a civil penalty determination in accordance with Paragraph (b) of this Rule shall serve a copy of the written petition for a contested case on the Commissioner of Labor at the following address:

N.C. Department of Labor
Attn: Commissioner of Labor/2nd Floor, Labor Building
1101 Mail Service Center
Raleigh, N.C. 27699-1101

Authority G.S. 64-37.

TITLE 19A – DEPARTMENT OF TRANSPORTATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Transportation intends to amend the rule cited as 19A NCAC 02D .0607.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncdot.gov/about/regulations/rules/>

Proposed Effective Date: August 1, 2012

Public Hearing:

Date: May 22, 2012

Time: 3:00 p.m.-4:30 p.m.

Location: Greenfield Parkway Building, 750 N. Greenfield Parkway, Room 161, Garner NC 27529

Reason for Proposed Action: *There are about 15,000 trucking companies located in NC, and most of them are considered small businesses. The proposed changes to 19A NCAC 02D .0607 would reduce some of the requirements for oversized and overweight transporters. The rule changes would provide uniformity for length and weight for all commodities that qualify for oversize/overweight permits and afford these non-divisible commodities with more restrictive regulations the same options as other non-divisible commodities.*

Procedure by which a person can object to the agency on a proposed rule: *Any person who objects to the adoption of a permanent rule may submit written comments to the agency by hard copy: NC Department of Transportation – Attn: Rule-Making Coordinator, 1501 Mail Service Center, Raleigh, NC 27699-1501; or by electronic copy: <http://www.ncdot.gov/about/regulations/rules/> and click on the following link, "To submit comments on proposed rules or for questions on NC Department of Transportation rule-making please Contact Us."*

Comments may be submitted to: *Helen Landi, Rule-making Coordinator, 1501 Mail Service Center, Raleigh, NC 27699-1501; email hlandi@ncdot.gov*

Comment period ends: June 1, 2012

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

Fiscal impact (check all that apply).

- ☒ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Date submitted to OSBM:
- ☐ Substantial economic impact (≥\$500,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 02 - DIVISION OF HIGHWAYS

SUBCHAPTER 02D - HIGHWAY OPERATIONS

SECTION .0600 - OVERSIZE-OVERWEIGHT PERMITS

19A NCAC 02D .0607 PERMITS-WEIGHT, DIMENSIONS AND LIMITATIONS

(a) ~~Vehicle/vehicle~~ The State Highway Administrator or his designee may issue a vehicle specific single trip permit for vehicle and vehicle combinations with non-divisible overwidth loads are limited to a maximum width of 15 feet under the conditions specified in this Rule. After review of documentation of variances, the ~~The State Highway Administrator or his designee may authorize the issuance of a permit for movement of loads in excess of 15 feet wide in accordance with 19A NCAC 02D .0600 after analysis of the proposed load and evaluation of the proposed route of travel. 19A NCAC 02D .0600 et seq.~~ Exception: A ~~mobile/modular mobile or modular~~ unit with maximum measurements of 16 feet wide unit and a 3 inch gutter edge may be issued a permit. ~~If blades of construction equipment or front end loader buckets cannot be angled to extend no more than 14 feet across the roadway, they shall be removed. A blade, bucket or other attachment that is an original part of the equipment as manufactured may be hauled with the equipment without being considered a divisible load. A 14 feet wide mobile/modular mobile or modular home unit with a roof overhang not to exceed exceeding a total of 12 inches may be transported with a bay window, room extension, or porch providing the protrusion does not extend beyond the maximum 12 inches of roof overhang or the total width of overhang on the appropriate side of the home. An extender shall be placed on the front and rear of the mobile home with a length to extend horizontally equal to but not beyond the extreme outermost edge of the home's extension. The extenders shall have retro-reflective sheeting, a minimum of 4 inches, which shall be Type III high intensity (encapsulated lens) or Type IV high performance (prismatic) with alternating fluorescent yellow and black diagonal stripes sloping towards the outside of the home with a minimum area of 288 square inches. The bottom of the extenders shall be 6 feet to 8 feet above the road surface with a 5 inch amber flashing beacon mounted on the top of each extender. Authorization to move commodities wider than 15 feet in width shall be denied if considered by the issuing agent to be unsafe to the traveling public or if the highway cannot accommodate the move due to width.~~

(b) ~~A single trip permit shall be issued vehicle specific not to exceed a width in excess of 15 feet for all movements unless authorized by the State Highway Administrator or his designee~~

after analysis of the proposed load and evaluation of the proposed route of travel. Exception: A mobile/modular unit with maximum measurements of 16 feet wide unit and a 3 inch gutter edge may be issued a permit. Permits for house moves may be issued as specified in G.S. 20-356 through G.S. 20-372.

(e)(b) An annual ~~oversize/overweight~~ oversize and overweight permit may be issued as follows:

- (1) for unlimited movement without the requirement of an escort on all North Carolina highways, where permitted by the posted road and bridge limits, for ~~vehicle/vehicle~~ vehicle and vehicle combinations transporting a general non-divisible ~~commodities~~ commodity which has a minimum extreme wheelbase of 51 feet and ~~which~~ does not exceed:

- (A) width of 12 feet;
- (B) height of 13 feet, 6 inches;
- (C) length of 105 feet;
- (D) gross weight of 90,000 pounds; and
- (E) axle weights of 20,000 pounds steer axle, 25,000 pounds single axle, 50,000 pounds tandem axle, 60,000 pounds tridem axle and 68,000 pounds for a four or more axle grouping.

~~width of 12 feet; height of 13 feet, 6 inches; length of 75 feet; gross weight of 90,000 pounds; and axle weights of 12,000 pounds steer axle, 25,000 pounds single axle, 50,000 pounds tandem axle, and 60,000 pounds for a three or more axle grouping.~~

- (2) for unlimited movement without the requirement of an escort on all North Carolina highways, where permitted by the posted road and bridge limits, for four or five axle self-propelled equipment or special mobile equipment, defined as a non-property hauling vehicle, which has permanently attached equipment, that is operated on the highway only for the purpose of traveling to and from a non-highway job and is licensed as special mobile equipment by the Division of Motor Vehicles, capable of traveling at a highway speed of 45 miles per hour which has a minimum wheel base of 30 feet and which does not exceed:

- (A) width of 12 feet;
- (B) height of 13 feet, 6 inches;
- (C) length of 105 feet;
- (D) gross weight of 90,000 pounds; and
- (E) axle weights of 20,000 pounds steer axle, 25,000 pounds single axle, 50,000 pounds tandem axle, 60,000 pounds tridem axle and 68,000 pounds for a four or more axle grouping.

- (3) for unlimited movement with the requirement of an escort vehicle on all North Carolina highways, where permitted by the posted

bridge and load limits, for ~~vehicles/vehicle~~ vehicles and vehicle combinations transporting farm equipment and which does not exceed:

- (A) a width of 14 feet;
- (B) a height of 13 feet 6 inches; and
- (C) a weight as set forth in G.S. 20-118(b)(3), a width of 14 feet; a height of 13 feet 6 inches; and a weight as set forth in G.S. 20-118(b)(3).

- (4) for ~~mobile/modular~~ mobile or modular homes with a maximum height of 13 feet 6 inches being transported from ~~the a~~ a manufacturer to a North Carolina ~~mobile/modular~~ mobile or modular home dealership with a unit width not to exceed ~~a~~ 14 feet unit with an allowable roof overhang not to exceed a total of 12 inches or a 16 feet wide unit with a 3 inch gutter edge. These ~~mobile/modular~~ mobile or modular homes shall be authorized to travel on designated routes approved by the Department of Transportation considering construction work zones, highway lane widths, origin and destination or other factors to ensure safe movement.

- (5) to ~~the a~~ a North Carolina licensed ~~mobile/modular~~ mobile or modular home retail dealer and the transporter for delivery of ~~mobile/modular~~ mobile or modular homes not to exceed a maximum width of a 14 feet unit with a total roof overhang not to exceed 12 inches and a height of 13 feet 6 inches. The annual permit shall be valid for delivery of ~~mobile/modular~~ mobile or modular homes within a maximum 25-mile radius of the dealer location. Confirmation of destination for delivery shall be carried in the permitted towing unit readily available for law enforcement inspection.

- (6) for unlimited movement without the requirement of an escort on all North Carolina highways, where permitted by the posted road and bridge limits, for vehicle and vehicle combinations transporting non-divisible commodities which does not exceed:

- (A) width of 12 feet;
- (B) length as set forth in G.S. 20-115.1(b) and G.S. 20-116(e) but not to exceed 105 feet;
- (C) height of 13 feet 6 inches;
- (D) gross weight and axle weights as set forth in G.S. 20-118(b)(1)(2)(3).

(c) A 14 feet wide mobile or modular home unit with a roof overhang not exceeding a total of 12 inches may be transported with a bay window, room extension, or porch providing the protrusion does not extend beyond the maximum 12 inches of roof overhang or the total width of overhang on the appropriate side of the home. An extender shall be placed on the front and rear of the mobile or modular home with a length to extend horizontally equal to but not beyond the extreme outermost edge

of the home's extension. The extenders shall have retro-reflective sheeting, a minimum of 4 inches, which shall be Type III high intensity (encapsulated lens) or Type IV high performance (prismatic) with alternating fluorescent yellow and black diagonal stripes sloping towards the outside of the home with a minimum area of 288 square inches. The bottom of the extenders shall be 6 feet to 8 feet above the road surface with a 5 inch amber flashing beacon mounted on the top of each extender.

(d) The maximum weight permitted on a designated route is determined by the bridge capacity of bridges to be crossed during movement. The route traveled from a ~~specific~~ an origin to a ~~specific~~ destination must be included within one permitted route of travel. Moves exceeding weight limits for highways or bridge structures shall be denied if considered by the issuing agent to be unsafe or if they may cause damage to ~~such~~ the highway or structure. A surety bond shall be required if the Department determines it is necessary to cover the cost of potential damage to pavement, bridges or other damages incurred during the permitted move.

(e) ~~The standards for analysis, extreme wheelbase requirements, weight distribution and axle configuration requirements are based on a Department of Transportation engineering study with consideration of the infrastructure being crossed along the permitted route of travel.~~ The maximum permissible weights for non-divisible loads are as follows:

- (1) The maximum single trip and annual permit weight allowed for a ~~specific~~ vehicle or vehicle combination not including off highway construction equipment ~~without an engineering study~~ is:
 - Steer Axle ~~12,000 pounds~~ 20,000 pounds;
 - Single axle 25,000 pounds pounds;
 - Tandem axle ~~2 axle tandem~~ 50,000 pounds pounds;
 - Tridem axle ~~3 or more axle group axle tridem~~ 60,000 pounds pounds;
 - Four or more axle group 68,000 pounds;
 - Five or more axle group exceeding 68,000 pounds requires an engineering study;
 - ~~3~~ Three axle single vehicle may have a maximum gross weight up to 70,000 pounds; ~~pounds based on the engineering study.~~
 - ~~4~~ Four axle single vehicle may have a maximum gross weight up to 90,000 pounds; ~~pounds based on the engineering study.~~
 - ~~5~~ Five axle single vehicle may have a maximum gross weight up to 94,500 pounds; ~~pounds based on the engineering study.~~
 - ~~5~~ Five axle vehicle combination may have a maximum gross weight up to 112,000 pounds; ~~pounds based on the engineering study.~~
 - ~~6~~ Six axle single vehicle may have a maximum gross weight up to 108,000 pounds; ~~pounds based on the engineering study.~~
 - ~~6~~ Six axle vehicle combination may have a maximum gross weight up to 120,000 pounds; ~~pounds based on the engineering study.~~

~~7~~ Seven axle single vehicle may have a maximum gross weight up to 122,000 pounds; ~~pounds based on the engineering study.~~

~~7~~ Seven axle vehicle combination may have a maximum gross weight up to 132,000 pounds; ~~and pounds based on the engineering study.~~

~~7~~ Seven or more axle vehicle combination with a gross weight exceeding 132,000 pounds requires ~~the an~~ an engineering study.

- (2) The maximum permit weight allowed for self propelled off highway construction equipment with ~~low pressure/flotation~~ low pressure or low flotation tires is:

Single axle 37,000 pounds pounds;

Tandem axle 50,000 pounds pounds;

~~2~~ Two axle single vehicle may have a maximum gross weight up to 70,000 pounds; ~~pounds based on the engineering study.~~

~~3~~ Three axle single vehicle may have a maximum gross weight up to 80,000 pounds; ~~and pounds based on the engineering study.~~

~~4~~ Four axle single vehicle may have a maximum gross weight up to 90,000 pounds. ~~pounds based on the engineering study.~~

- (3) A vehicle combination consisting of a power unit and trailer hauling a sealed ship container may qualify for a specific route overweight permit ~~not to exceed 94,500 pounds~~ provided the vehicle:

(A) Is going to or from a designated seaport (to include in state and out of state) and has been or shall be transported by marine shipment;

(B) Is licensed for the maximum allowable weight for a 51 feet extreme wheelbase measurement specified in G.S. 20-118;

(C) Does not exceed maximum dimensions of width, height and length specified in ~~Chapter 20 of the General Statutes;~~ G.S. 20-116;

(D) Is a vehicle combination with at least five axles; and

(E) Has proper documentation (shippers bill of lading or trucking bill of lading) of sealed commodity being transported available for law enforcement officer inspection.

- (f) Overlength permits shall be limited as follows:

- (1) Single trip permits are limited to 105 feet inclusive of the towing vehicle. Approval may be given by the Central Permit Office for permitted loads in excess of 105 feet after review of geographic route of travel, consideration of local construction projects and other dimensions of the ~~load.~~ load;

- (2) ~~Mobile/modular~~ Mobile or modular home units shall not exceed a length of 76 feet and a total overall ~~80 feet inclusive of a 4 foot trailer~~

~~tongue. Total length inclusive of the towing vehicle is of 105 feet, feet; and~~

~~(2)(3) Annual (blanket) permits shall not be issued for lengths to exceed 75 105 feet. Mobile/modular home permits may be issued for a length not to exceed 105 feet.~~

~~(3) Front overhang may not exceed the length of 3 feet specified in Chapter 20 unless if transported otherwise would create a safety hazard. If the front overhang exceeds 3 feet, an overlength permit may be issued.~~

(g) An Overheight Permit Application for heights in excess of 14 feet must be submitted in writing to the Central Permit Office at least two working days prior to the anticipated date of movement. The issuance of the permit does not imply nor guarantee the clearance for the permitted load and all vertical clearances shall be checked by the permittee prior to movement underneath.

(h) Movement of all vehicles and vehicle combinations subject to this rule shall be made as follows:

(1) Movement shall be made between sunrise and sunset Monday through Saturday. Sunday travel may be authorized from sunrise to sunset after consideration of the overall permitted dimensions. Exception: A 16 feet wide ~~mobile/modular~~ mobile or modular home unit with a maximum 3 inch gutter edge is restricted to travel from 9:00 a.m. to 2:30 p.m. Monday through Saturday. A 16 feet wide unit is authorized to continue operation after 2:30 p.m., but not beyond sunset, when traveling on an approved route as determined by an engineering study and the unit is being exported out-of-state. Additional time restrictions may be set by the issuing office if it is in the best interest for safety or to expedite flow of traffic.

(2) No movement is permitted for a ~~vehicle/vehicle~~ vehicle and vehicle combination after noon on the weekday preceding the six holidays of New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day and no movement is permitted until noon on the weekday following a holiday. If the observed holiday falls on the weekend, travel is restricted from 12:00 noon on the preceding Friday through 12:00 noon on the following Monday.

(3) Continuous travel ~~(24 hour/7 day/365 days a year)~~ (24 hours a day, 7 days a week, 365 days per year) is authorized for any ~~vehicle/vehicle~~ vehicle and vehicle combination up to but not to exceed a permitted gross weight of 112,000 pounds provided the permitted vehicle has no other over legal dimension of width, height or length included in the permitted move. Exception: Self-propelled equipment may be authorized for continuous travel with overhang

(front or rear or both) not to exceed a total of 10 feet provided overhang is marked with high intensity glass bead retro-reflective sheeting tape measuring 2 inches by 12 inches displayed on both sides and the end of the extension and on each side of the self-propelled vehicle 24 inches from the road surface at nearest feasible center point between the steer and drive axles. Any rear overhang must display a ~~temporarily~~ mounted brake light and a flashing amber light, 8 inches in diameter with a minimum candlepower of 800 watts.

(4) Permitted vehicles owned or leased by the same company or permitted vehicles originating at the same location shall travel at a distance of not less than two miles apart. Convoy travel is not authorized except as directed by law enforcement escort.

(5) If blades of construction equipment or front end loader buckets cannot be angled to extend no more than 14 feet across the roadway, they shall be removed. A blade, bucket or other attachment that is an original part of the equipment as manufactured may be hauled with the equipment without being considered a divisible load.

~~(4)(6)~~ (6) The speed of permitted moves shall be that which is reasonable and prudent for the load, considering weight and bulk, under conditions existing at the time; however, the maximum speed shall not exceed the posted speed limit. A towing unit and ~~mobile/modular~~ mobile or modular home combination shall not exceed a maximum speed of 60 miles per hour. The driver of the permitted vehicle shall avoid creating traffic congestion by periodically relinquishing the traffic way to allow the passage of following vehicles when a build up of traffic occurs.

~~(j) Additional safety measures are as follows:~~

~~(1) A yellow banner measuring a total length of 7 feet x 18 inches high bearing the legend "Oversize Load" in 10 inches black letters 1.5 inches wide brush stroke shall be displayed in one or two pieces totaling the required length on the front and rear bumpers of a permitted vehicle/vehicle combination with a width greater than 10 feet. A towing unit mobile/modular home combination shall display banners of the size specified bearing the legend "Oversize feet Load" identifying the nominal width of the unit in transport. Escort vehicles shall display banners as previously specified in this Subparagraph with the exception of length to extend the entire width of the bumpers;~~

~~(2) Red or orange flags measuring 18 inches square shall be displayed on all sides at the~~

- widest point of load for all loads in excess of 8 feet 6 inches wide but the flags shall be so mounted as to not increase the overall width of the load;
- (3) ~~All permitted vehicles/vehicle combinations shall be equipped with tires of the size specified and the required number of axles equipped with operable brakes in good working condition as provided in North Carolina Statutes and Motor Carrier and Housing and Urban Development (HUD) regulations;~~
- (4) ~~Rear view mirrors and other safety devices on towing units attached for movement of overwidth loads shall be removed or retracted to conform with legal width when unit is not towing/hauling such vehicle or load; and~~
- (5) ~~Flashing amber lights shall be used as determined by the issuing permit office.~~
- (4)(7) The object to be transported shall not be loaded or parked, day or night, on the highway right of way without ~~specific~~ permission from the office issuing the permit after confirmation of an emergency condition.
- (4)(8) No move shall be made when weather conditions render visibility less than 500 feet for a person or vehicle. Moves shall not be made when ~~highway is covered with snow or ice or at any time~~ travel conditions are considered unsafe by the Division of Highways, State Highway Patrol or other Law Enforcement Officers having jurisdiction. Movement of a ~~mobile/modular~~ mobile or modular unit exceeding a width of 10 feet is prohibited when wind velocities exceed 25 miles per hour in gusts.
- (m)(9) All obstructions, including traffic signals, signs and utility lines shall be removed ~~immediately~~ prior to and replaced ~~immediately~~ after the move at the expense of the mover, provided arrangements for and approval from the owner is obtained. ~~In no event are trees, shrubs, or official signs to shall not be cut, trimmed or removed without personal approval from the Division of Highways District Engineer having jurisdiction over the area involved. In determining whether to grant approval, the district engineer shall consider the species, age and appearance of the tree or shrub in question and its contribution to the aesthetics of the immediate area.~~
- (n)(10) The Department of Transportation may require escort vehicles to accompany oversize or overweight loads. The weight, width of load, width of pavement, height, length of combination, length of overhang, maximum speed of vehicle, geographical route of travel, weather conditions and restricted time of travel shall be considered to determine escort requirements.
- (j)(i) Additional safety measures are as follows:
- (1) A yellow banner measuring a total length of 7 feet x 18 inches high bearing the legend "Oversize Load" in 10 inch black letters 1.5 inch wide brush stroke shall be displayed in one or two pieces totaling the required length on the front and rear bumpers of a permitted vehicle and vehicle combination with a width greater than 10 feet. A towing unit mobile or modular home combination shall display banners of the size specified bearing the legend "Oversize ----- feet Load" identifying the nominal width of the unit in transport. Escort vehicles shall display banners as specified in this Subparagraph with the exception of length to extend the entire width of the bumpers;
 - (2) Red or orange flags measuring 18 inches square shall be displayed on all sides at the widest point of load for all loads in excess of 8 feet 6 inches wide but the flags shall be so mounted as to not increase the overall width of the load;
 - (3) All permitted vehicles and vehicle combinations shall be equipped with tires of the size specified and the required number of axles equipped with operable brakes in good working condition as provided in North Carolina Statutes and Motor Carrier and Housing and Urban Development (HUD) regulations;
 - (4) Rear view mirrors and other safety devices on towing units attached for movement of overwidth loads shall be removed or retracted to conform with legal width when unit is not towing or hauling such vehicle or load; and
 - (5) Flashing amber lights shall be used as determined by the issuing permit office.

Authority G.S. 20-116; 20-118; 20-119; 136-18(5); Board of Transportation Minutes for February 16, 1977 and November 10, 1978.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on February 16, 2012.

**REGISTER CITATION TO THE
NOTICE OF TEXT****ALCOHOLIC BEVERAGE CONTROL COMMISSION**

Advertising of Malt Beverages, Wine and Beverages by
Reta...

04 NCAC 02S .1008* 26:06 NCR

SOCIAL SERVICES COMMISSION

Rates for Subsidized Child Care

10A NCAC 10 .0203* 26:01 NCR

INSURANCE, DEPARTMENT OF

Analysis of Contracts

11 NCAC 13 .0308* 26:10 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

Cape Fear River Basin

15A NCAC 02B .0311* 26:05 NCR

MEDICAL BOARD

Administration of Vaccines by Pharmacists

21 NCAC 32U .0101* 26:09 NCR

PHARMACY, BOARD OF

Administration of Vaccines by Pharmacists

21 NCAC 46 .2507* 26:09 NCR

These rules are subject to the next Legislative Session. (See G.S. 150B-21.3)

ENVIRONMENTAL MANAGEMENT COMMISSION

New River Basin

15A NCAC 02B .0307* 26:03 NCR

Open Burning Without an Air Quality Permit

15A NCAC 02D .1903* n/a S.L. 2011-394 Section 2
and G.S. 150B-21.5(a)(2)

Air Curtain Burners

15A NCAC 02D .1904 n/a S.L. 2011-394 Section 2
and G.S. 150B-21.5(a)(2)

TITLE 04 – DEPARTMENT OF COMMERCE**04 NCAC 02S .1008 ADVERTISING OF MALT
BEVERAGES, WINE AND MIXED BEVERAGES BY
RETAILERS**

(a) Interior Advertising.

- (1) Point-of-Sale. Retail malt beverage, wine and mixed beverage permittees may utilize any amount of point-of-sale advertising for malt beverage, wine and mixed beverage products offered for sale in the establishment. This advertising may be supplied by the industry member unless it constitutes a fixture or has value other than as advertising material; except that an industry member may give a retailer

- (2) brand-identified items listed in 04 NCAC 02T .0713(c) for use as point-of-sale advertising; Price Boards. Retail malt beverage, wine and mixed beverage permittees may display inside price boards showing the brand names and prices of malt beverage, wine and mixed beverage products offered for sale in the establishment;
- (3) Menus and Beverage Lists. Retail on-premise malt beverage, wine and mixed beverage permittees may place on the menu and beverage lists the brand names and prices of malt beverage, wine and mixed beverage products offered for sale in the establishment. Beverage lists may be supplied by an industry

member and may include up to six items from the retailer's food menu but shall not include the name, logo or other identifier of the retail permittee on the advertisement. A table tent is considered a beverage list for purposes of this Rule;

- (4) **Retail Advertising Specialty Items.** Retailer advertising specialty items are items such as trays, coasters, mats, meal checks, paper napkins, glassware, cups, foam scrapers, back bar mats, thermometers and other similar items that bear advertising matter. Advertising specialty items may be provided to a retailer by an industry member as provided in 04 NCAC 02T .0713(b)(8);
- (5) **Window Displays.** Retail malt beverage, wine and mixed beverage permittees may arrange unopened malt beverage, wine or spirituous liquor products in a window display;
- (6) **Location.** No point-of-sale advertising, advertising specialty item or price board shall be displayed in a manner designed or intended to advertise malt beverages, wine or mixed beverages on the outside of the establishment;
- (7) **T-shirts.** A retailer's employees shall not wear alcoholic beverage brand identified t-shirts while working on the retailer's licensed premises; and
- (8) **Removal of Signs.** A permittee shall remove any sign, display or advertisement in or about his licensed premises if the Commission finds it is contrary to public interest and orders its removal.

(b) Exterior Advertising.

- (1) **Outside signs on the premises.**

(A) **Malt Beverages.** Retail malt beverage permittees may display the term "beer", "cold beer", "draught beer", "specialty beer", "craft beer", "North Carolina beer", "local beer" or "imported beer" on a single, non-mechanical outside sign. This sign may be neon illuminated. The letters and figures on the sign shall not be more than 5 inches in height and 2 inches apart and the sign shall be attached to the building on the licensed premises. Retail malt beverage permittees may also display the term "beer", "cold beer", "draught beer", "specialty beer", "craft beer", "North Carolina beer", "local beer" or "imported beer" on a single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides. The sidewalk sign shall be displayed only during the hours of operation;

(B) **Wine.** Retail wine permittees may display the term "wine permit-off premise", "wine permit-on premise", "fine wine" or a similar term on a single non-mechanical outside sign. This sign may be neon illuminated. The letters and figures on the sign shall not be more than 5 inches in height and 2 inches apart and the sign shall be attached to the building on the licensed premises. Instead of the sign described in this Paragraph, retail wine permittees engaged in off-premise sales of wine may display the term "Wine Shop", "Wine and Cheese" or a similar term on a single non-mechanical sign. This sign may be neon illuminated. The letters and figures on the sign shall not be more than 18 inches in height and the sign shall be attached to the building on the licensed premises. Retail wine permittees may also display the term "wine permit-off premise", "wine permit-on premise", "fine wine" or a similar term on a single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides. Instead of the sidewalk sign described in this Paragraph, retail wine permittees engaged in off-premise sales of wine may display the term "Wine Shop", "Wine and Cheese", "fine wine" or a similar term on a single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides. A sidewalk sign shall be displayed only during the hours of operation;

(C) **Restriction.** Retail malt beverage, wine and mixed beverage permittees shall not allow price advertising or additional signs advertising malt beverages, wine and mixed beverages on the outside of their premises. Outside signs alluding to malt beverages, wine or mixed beverages by slang descriptions such as "brew," "suds," "six-pack," "vino" or "booze" are prohibited;

(D) **Exceptions; Menus; Trade Names.** The placement of a food menu that also contains a list of alcoholic beverages by brand and price in a window, on the exterior of the retailer's building or on a sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides

is not a violation of this Rule. A sidewalk sign shall be displayed only during the hours of operation;

- (E) **Mixed Beverages.** Retail mixed beverage permittees may display the term "mixed beverages," "all ABC permits," "mixed drinks," "cocktails," or "spirits," on a single non-mechanical, non-neon, or otherwise self-illuminated outside sign. The letters and figures on the sign shall not be more than five inches in height and two inches apart and the sign shall be attached to the building on the licensed premises; and
- (F) **Private Club.** A private club shall not display any exterior sign advertising the availability of malt beverages, wine or mixed beverages;

- (2) **Billboards.** Retail permittees shall not advertise malt beverage, wine or mixed beverage products or the availability of alcoholic beverages by means of a billboard or outdoor sign except as provided in this Section. Industry members with retail permits may advertise tastings;

- (3) **Aerial Displays.** Retail permittees shall not advertise malt beverage, wine or mixed beverage products or the availability of alcoholic beverages by means of an aerial display or an inflatable item that is tethered; and

- (4) Only exterior advertising permitted by local ordinances is authorized.

(c) **Removal of Signs.** A permittee shall remove any sign, display, or advertisement in or about his licensed premises if the Commission finds it is contrary to public interest and orders its removal.

(d) **Media Advertising.** A retail malt beverage, wine or mixed beverage permittee may advertise price and brand of malt beverage, wine and mixed beverage products offered for sale by means of circular, newspaper, magazine, radio, television and internet.

History Note: Authority G.S. 18B-100; 18B-105; 18B-1116(b);

Eff. January 1, 1982;

Amended Eff. March 1, 2012; January 1, 2011; July 1, 1992; May 1, 1984.

10A NCAC 10 .0203 RATES FOR SUBSIDIZED CHILD CARE

(a) The payment rates for child care centers, family child care homes, and nonlicensed child care homes are implemented in accordance with the annual appropriations act.

(b) Centers, as defined in G.S. 110-86(3), which are certified as developmental day centers by the Division of Child Development and Early Education and serve children who meet the definition of special needs set forth in 10A NCAC 10 .0910 are exempt from the provisions of Paragraph (a) of this Rule. The payment rates for special needs children served in developmental day centers are calculated by deducting the total revenues per child month from the total costs per child month. That rate is then multiplied by the current inflation percentage provided by the Office of State Budget and Management. For typically developing children enrolled in developmental day centers, the rates shall exclude those costs associated exclusively with serving children with special needs. The payment rates for special needs children and typically developing children served in developmental day centers are calculated every two years and are implemented as funding allows.

(c) Any Local Purchasing Agency (LPA) approved child care provider not included in Paragraph (b) of this Rule who provides care to children who meet the definition of special needs set forth in 10A NCAC 10 .0910 may be paid a supplemental rate above the provider's LPA approved rate for a particular age group. The supplemental rate shall be based on actual additional documented costs incurred by the provider in serving the child with special needs. The costs shall be determined by the early intervention specialist, the local education agency's exceptional children program specialist, the local purchasing agency, and the provider based on the plan developed to meet the child's individual needs.

(d) The reimbursement of additional fees as charged by centers is limited to registration fees. The payment rate for registration fees is determined by the annual appropriations act. Registration fees may not be paid more than twice per year per child regardless of the type of center.

(e) Purchasing agencies may negotiate with child care center providers for purchase of child care services at payment rates lower than those prescribed by this Rule, only with approval from the Division. Approval shall be granted if it can be determined that a non-negotiated payment rate would have a negative impact on the purchasing agency's ability to purchase subsidized child care services, based on the following factors:

- (1) the number of children on the waiting list for subsidized child care services;
- (2) whether the non-negotiated rates exceed the rates for services paid by private paying families in the service area; and
- (3) the amount of subsidized child care funds available.

(f) Child care services funds shall not be used to pay for services provided by the Department of Health and Human Services, Division of Public Health or the Department of Public Instruction, Division of Exceptional Children's Services for that portion of the service delivery costs which are reimbursed by the Division of Public Health or Department of Public Instruction.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

History Note: Authority G.S. 143B-153(8)a;
 Eff. January 1, 1987;
 Amended Eff. March 1, 2012; April 1, 2001; February 1, 1996;
 December 1, 1992; July 1, 1990.

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 13 .0308 ANALYSIS OF CONTRACTS

Each person licensed by the North Carolina Department of Insurance under G.S. 58-35-15 shall file a regular report entitled "Analysis of Contracts" with the Commissioner along with the annual renewal application required by G.S. 58-35-15(c). The analysis of contracts shall be a record of the premium finance company's business for the calendar year (January to December) immediately preceding the filing date. The analysis of contracts form shall be supplied by the commissioner and shall include:

- (1) the name and address of the licensee;
- (2) a list of the officers and directors of the licensee;
- (3) the number of contracts written by month;
- (4) the total premium for written contracts by month;
- (5) the total down payment on contracts by month;
- (6) the total principal balance of contracts by month; and
- (7) the total service charges pertaining to written contracts by month.

History Note: Authority G.S. 58-2-40; 58-35-15; 58-35-30(a);
 Eff. February 1, 1976;
 Readopted Eff. January 1, 1978;
 Amended Eff. March 1, 2012; May 1, 1989.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02B .0307 NEW RIVER BASIN

(a) Effective February 1, 1976, the adopted classifications assigned to the waters within the New River Basin are set forth in the New River Basin Schedule of Classifications and Water Quality Standards, which may be inspected at the following places:

- (1) the Internet at <http://portal.ncdenr.org/web/wq/ps/csu/rules>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina;
 - (B) Winston-Salem Regional Office
585 Woughtown Street
Winston-Salem, North Carolina; and
 - (C) Division of Water Quality
Central Office

512 North Salisbury Street
 Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering the State of Tennessee are classified "C."

(c) The New River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) August 10, 1980 (see Paragraph (d) of this Rule);
- (2) April 1, 1983 (see Paragraph (e) of this Rule);
- (3) February 1, 1986 (see Paragraph (f) of this Rule);
- (4) August 1, 1989 (see Paragraph (g) of this Rule);
- (5) August 1, 1990 (see Paragraph (h) of this Rule);
- (6) August 3, 1992 (see Paragraph (i) of this Rule);
- (7) February 1, 1993 (see Paragraph (j) of this Rule);
- (8) August 1, 1998 (see Paragraph (k) of this Rule);
- (9) November 1, 2007 (see Paragraph (l) of this Rule);
- (10) December 1, 2010 (see Paragraph (m) of this Rule); and
- (11) March 1, 2012 (see Paragraph (n) of this Rule).

(d) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 10, 1980 as follows:

- (1) South Fork New River [Index No. 10-1-(1)] from the confluence of the Middle Fork South Fork New River and the East Fork South Fork New River to Winkler Creek was reclassified from Class C to Class A-II;
- (2) Middle Fork South Fork New River [Index Nos. 10-1-2-(6) and 10-1-2-(14)] from Brown Branch to the South Fork New River was reclassified from Class C and C Trout to Class A-II and A-II Trout;
- (3) East Fork South Fork New River [Index Nos. 10-1-3-(1) and 10-1-3-(7)] was reclassified from Class C and C Trout to Class A-II and A-II Trout; and
- (4) Winkler Creek [Index No. 10-1-4-(2) from Boone water supply intake dam to Watauga County SR 1549 and Flannery Fork [Index No. 10-1-4-3-(2)] from the dam at Camp Sky Ranch Bathing Lake to Winkler Creek were reclassified from Class C Trout to Class A-II Trout.

(e) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective April 1, 1983 as follows: Naked Creek [Index No. 10-1-32] was reclassified from Class C Trout to Class C.

(f) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective February 1, 1986 with the reclassification of all Class A-I and A-II streams to Class WS-I and WS-III in the New River Basin.

(g) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 1, 1989 as follows: South Fork New River [Index No. 10-1-(30)] from Dog Creek to New River and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and B.

(h) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 1, 1990 as follows:

- (1) New River [Index No. 10] from the confluence of the North and South Forks New River to the last point at which the New River crosses the North Carolina/Virginia State line was reclassified from Class C to Class C HQW;
- (2) South Fork New River [Index Nos. 10-1-(14.5), 10-1-(26), 10-1-(30), and 10-1-(33.5)] from Elk Creek to the confluence of the New River and North Fork New River was reclassified from Class C, B and WS-III to Class C HQW, B HQW and WS-III HQW;
- (3) Howard Creek [Index Nos. 10-1-9-(1) and 10-1-9-(6)] from source to the South Fork New River was reclassified from Class WS-III Trout and C Trout to Class WS-III Trout HQW and C Trout HQW;
- (4) Big Horse Creek [Index No. 10-2-21-(5.5)] from North Carolina/Virginia State line to lower Ashe County SR 1361 bridge was reclassified from Class C Trout to Class C Trout HQW; and
- (5) Little River [Index No. 10-9-(11.5)] from N.C. Hwy. 18 bridge to the North Carolina/Virginia State line was reclassified from Class C to Class C HQW.

(i) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(j) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective February 1, 1993 as follows:

- (1) the South Fork New River (Index No. 10-1-33.5) from Dog Creek to the New River was reclassified from Class B HQW to Class B ORW;
- (2) the New River (Index No. 10) from the confluence of the North And South Fork New Rivers to the last point at which it crosses the North Carolina/Virginia State line was

reclassified from Class C HQW to Class C ORW; and

- (3) Old Field Creek (Index No. 10-1-22) from Call Creek to the South Fork New River, and Call Creek (Index No. 10-1-22-1) from its source to Old Field Creek were reclassified from Class WS-IV Trout to Class WS-IV Trout ORW.

(k) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 1, 1998 with the revision to the primary classification for a portion of the South Fork New River [Index No. 10-1 (20.5)] from Class WS-IV to Class WS-V.

(l) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective November 1, 2007 with the reclassification of Bluff Mountain Fen near Buffalo Creek [Index No. 10-2-20] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

(m) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective December 1, 2010 with the reclassification of the North Fork New River [Index Nos. 10-2-(1), 10-2-(12)] and its tributaries from C+, C+ Trout and C Trout HQW to C ORW and C Trout ORW with the exception of the following:

- (1) Index Nos. 10-2-21-9, 10-2-21-(8), 10-2-(11) and 10-2-20 were reclassified from C+ and C Trout + to C HQW and C Trout HQW; and
- (2) Little Buffalo Creek and Claybank Creek (Index Nos. 10-2-20-1 and 10-2-20-1-1) did not qualify for the ORW or HQW designation; however, these waters shall be managed in the same way as the downstream designated HQW areas.

(n) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective March 1, 2012 as follows:

- (1) the portion of the South Fork New River [Index No. 10-1-(14.5)] from the Town of Boone's intake, located nearly 0.5 miles upstream of SR 1100, to 875 feet downstream of SR 1351 from C HQW to WS-IV CA HQW;
- (2) the portion of the South Fork New River [Index No. 10-1-(14.5)] from 875 feet downstream of SR 1351 to Elk Creek from C HQW to WS-IV HQW; and
- (3) the portion of the South Fork New River [Index No. 10-1-(3.5)] from Elk Creek to 1.75 miles upstream of SR 1351 from C+ to WS-IV +.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;

Amended Eff. December 1, 2010; November 1, 2007; August 1, 1998; February 1, 1993; August 3, 1992; August 1, 1990; August 1, 1989;

Amended Eff. Pending Legislative Review.

15A NCAC 02B .0311 CAPE FEAR RIVER BASIN

(a) Effective February 1, 1976, the adopted classifications assigned to the waters within the Cape Fear River Basin are set forth in the Cape Fear River Basin Schedule of Classifications and Water Quality Standards, which may be inspected at the following places:

- (1) the Internet at <http://portal.ncdenr.org/web/wq/ps/csu/rules>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Winston-Salem Regional Office
585 Waughtown Street
Winston-Salem, North Carolina
 - (B) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina
 - (C) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina
 - (D) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina
 - (E) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina
 - (F) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;
- (9) December 1, 1985;
- (10) February 1, 1986;
- (11) July 1, 1987;
- (12) October 1, 1987;
- (13) March 1, 1988;
- (14) August 1, 1990.

(c) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective June 1, 1988 as follows:

- (1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
- (2) Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.

(d) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.

(e) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective January 1, 1990 as follows:

- (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
- (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
- (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.

(g) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a

water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective June 1, 1994 as follows:

- (1) The Black River from its source to the Cape Fear River [Index Nos. 18-68-(0.5), 18-68-(3.5) and 18-65-(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
- (2) The South River from Big Swamp to the Black River [Index Nos. 18-68-12-(0.5) and 18-68-12(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
- (3) Six Runs Creek from Quewhiffle Swamp to the Black River [Index No. 18-68-2] was reclassified from Class C Sw to Class C Sw ORW.

(i) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective September 1, 1994 with the reclassification of the Deep River [Index No. 17-(36.5)] from the Town of Gulf-Goldston water supply intake to US highway 421 including associated tributaries from Class C to Classes C, WS-IV and WS-IV CA.

(j) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.

(k) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective April 1, 1999 with the reclassification of Buckhorn Creek (Harris Lake)[Index No. 18-7-(3)] from the backwaters of Harris Lake to the Dam at Harris Lake from Class C to Class WS-V.

(l) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective April 1, 1999 with the reclassification of the Deep River [Index No. 17-(4)] from the dam at Oakdale-Cotton Mills, Inc. to the dam at Randleman Reservoir (located 1.6 mile upstream of U.S. Hwy 220 Business), and including tributaries from Class C and Class B to Class WS-IV and Class WS-IV & B. Streams within the Randleman Reservoir Critical Area have been reclassified to WS-IV CA. The Critical Area for a WS-IV reservoir is defined as 0.5 mile and draining to the normal pool elevation of the reservoir. All waters within the Randleman Reservoir Water Supply Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in 15A NCAC 02B .0248.

(m) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 1, 2002 as follows:

- (1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all tributaries was reclassified from Class WS-III NSW and Class WS-III B NSW to Class WS-

III NSW HQW@ and Class WS-III B NSW HQW@.

- (2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

The "@" symbol as used in this Paragraph means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule 15A NCAC 02B .0215(3)(b)(i)(E) (Fresh Surface Water Quality Standards for Class WS-III Waters), then that development is not subject to the stormwater requirements as described in rule 15A NCAC 02H .1006 (Stormwater Requirements: High Quality Waters).

(n) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective November 1, 2004 as follows:

- (1) the portion of Rocky River [Index Number 17-43-(1)] from a point 0.3 mile upstream of Town of Siler City upper reservoir dam to a point 0.3 mile downstream of Lacy Creek from WS-III to WS-III CA.
- (2) the portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) the portion of Mud Lick Creek (Index No. 17-43-6) from a point 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) the portion of Lacy Creek (17-43-7) from a point 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.

(o) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of these UWLs.

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (3) Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (4) Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

- (5) Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (6) Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (7) Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (8) The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (9) Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (10) Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (p) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective January 1, 2009 as follows:
 - (1) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from Smithfield Packing Company's intake, located approximately 2 miles upstream of County Road 1316, to a point 0.5 miles upstream of Smithfield Packing Company's intake from Class C to Class WS-IV CA.
 - (2) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from a point 0.5 miles upstream of Smithfield Packing Company's intake to a point 1 mile upstream of Grays Creek from Class C to Class WS-IV.
- (q) The schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 11, 2009 with the reclassification of all Class C NSW waters and all Class B NSW waters upstream of the dam at B. Everett Jordan Reservoir from Class C NSW and Class B NSW to Class WS-V NSW and Class WS-V & B NSW, respectively. All waters within the B. Everett Jordan Reservoir Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in 15A NCAC 02B .0262 through .0273.
- (r) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective September 1, 2009 with the reclassification of a portion of the Haw River [Index No. 16-(28.5)] from the Town of Pittsboro water supply intake, which is located approximately 0.15 mile west of U.S. 15/501, to a point 0.5 mile upstream of the Town of Pittsboro water supply intake from Class WS-IV to Class WS-IV CA.
- (s) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective March 1, 2012 with the reclassification of the portion of the Haw River [Index No. 16-(1)] from the City of Greensboro's intake, located approximately 650 feet upstream of Guilford County 2712, to a point 0.5 miles upstream of the intake from Class WS-V NSW to Class WS-IV CA NSW, and the portion of the Haw River [Index No. 16-(1)] from a point 0.5 miles upstream of the intake to a

point 0.6 miles downstream of U.S. Route 29 from Class WS-V NSW to Class WS-IV NSW.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. March 1, 2012; September 1, 2009; August 11, 2009; January 1, 2009; November 1, 2007; November 1, 2004; August 1, 2002; April 1, 1999; August 1, 1998; September 1, 1994; June 1, 1994; August 3, 1992; August 1, 1990.

15A NCAC 02D .1903 OPEN BURNING WITHOUT AN AIR QUALITY PERMIT

(a) All open burning is prohibited except open burning allowed under Paragraph (b) of this Rule or Rule .1904 of this Section. Except as allowed under Paragraphs (b)(3) through (b)(9) of this Rule, open burning shall not be initiated in an air quality forecast area that the Department, or the Forsyth County Environmental Affairs Department for the Triad air quality forecast area, has forecasted to be in an Air Quality Action Day Code "Orange" or above during the time period covered by that forecast.

(b) The following types of open burning are permissible without an air quality permit:

- (1) open burning of leaves, tree branches or yard trimmings, excluding logs and stumps, if the following conditions are met:
 - (A) The material burned originates on the premises of private residences and is burned on those premises;
 - (B) There are no public pickup services available;
 - (C) Non-vegetative materials, such as household garbage, lumber, or any other synthetic materials are not burned;
 - (D) The burning is initiated no earlier than 8:00 a.m. and no additional combustible material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;
 - (E) The burning does not create a nuisance; and
 - (F) Material is not burned when the North Carolina Forest Service has banned burning for that area.
- (2) open burning for land clearing or right-of-way maintenance if the following conditions are met:
 - (A) The wind direction at the time that the burning is initiated and the wind direction as forecasted by the National Weather Service at the time that the burning is initiated are away from any area, including public roads within 250 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be affected by smoke, ash,

- or other air pollutants from the burning;
- (B) The location of the burning is at least 500 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted. The regional office supervisor may grant exceptions to the setback requirements if:
- (i) a signed, written statement waiving objections to the open burning associated with the land clearing operation is obtained and submitted to, and the exception granted by, the regional office supervisor before the burning begins from a resident or an owner of each dwelling, commercial or institutional establishment, or other occupied structure within 500 feet of the open burning site. In the case of a lease or rental agreement, the lessee or renter shall be the person from whom permission shall be gained prior to any burning; or
 - (ii) an air curtain burner that complies with Rule .1904 of this Section, is utilized at the open burning site.
- Factors that the regional supervisor shall consider in deciding to grant the exception include: all the persons who need to sign the statement waiving the objection have signed it; the location of the burn; and the type, amount, and nature of the combustible substances. The regional supervisor shall not grant a waiver if a college, school, licensed day care, hospital, licensed rest home, or other similar institution is less than 500 feet from the proposed burn site when such institution is occupied.
- (C) Only land-cleared plant growth is burned. Heavy oils, asphaltic materials such as shingles and other roofing materials, items containing natural or synthetic rubber, or any materials other than plant growth shall not be burned; however, kerosene, distillate oil, or diesel fuel may be used to start the fire;
- (D) Initial burning begins only between the hours of 8:00 a.m. and 6:00 p.m., and no combustible material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;
- (E) No fires are initiated or vegetation added to existing fires when the North Carolina Forest Service has banned burning for that area; and
- (F) Materials are not carried off-site or transported over public roads for open burning unless the materials are carried off-site or transported over public roads to facilities permitted according to Rule .1904 of this Section for the operation of an air curtain burner at a permanent site;
- (3) camp fires and fires used solely for outdoor cooking and other recreational purposes, or for ceremonial occasions, or for human warmth and comfort and which do not create a nuisance and do not use synthetic materials or refuse or salvageable materials for fuel;
 - (4) fires purposely set to public or private forest land for forest management practices for which burning is acceptable to the North Carolina Forest Service and which follow the smoke management plan as outlined in the North Carolina Forest Service's smoke management program;
 - (5) fires purposely set to agricultural lands for disease and pest control and fires set for other agricultural or apicultural practices for which burning is currently acceptable to the Department of Agriculture;
 - (6) fires purposely set for wildlife management practices for which burning is currently acceptable to the Wildlife Resource Commission;
 - (7) fires for the disposal of dangerous materials when it is the safest and most practical method of disposal;
 - (8) fires purposely set by manufacturers of fire-extinguishing materials or equipment, testing laboratories, or other persons, for the purpose of testing or developing these materials or equipment in accordance with a standard qualification program;
 - (9) fires purposely set for the instruction and training of fire-fighting personnel at permanent fire-fighting training facilities;
 - (10) fires purposely set for the instruction and training of fire-fighting personnel when conducted under the supervision of or with the cooperation of one or more of the following agencies:
 - (A) the North Carolina Forest Service;

- (B) the North Carolina Insurance Department;
- (C) North Carolina technical institutes; or
- (D) North Carolina community colleges, including:
 - (i) the North Carolina Fire College; or
 - (ii) the North Carolina Rescue College;
- (11) fires not described in Subparagraphs (9) or (10) of this Paragraph, purposely set for the instruction and training of fire-fighting personnel, provided that:
 - (A) The regional office supervisor of the appropriate regional office and the HHCB have been notified according to the procedures and deadlines contained in the appropriate regional notification form. This form may be obtained by writing the appropriate regional office at the address in Rule .1905 of this Section and requesting it, and
 - (B) The regional office supervisor has granted permission for the burning. Factors that the regional office supervisor shall consider in granting permission for the burning include type, amount, and nature of combustible substances. The regional office supervisor shall not grant permission for the burning of salvageable items, such as insulated wire and electric motors or if the primary purpose of the fire is to dispose of synthetic materials or refuse. The regional office supervisor of the appropriate regional office shall not consider previously demolished structures as having training value. However, the regional office supervisor of the appropriate regional office may allow an exercise involving the burning of motor vehicles burned over a period of time by a training unit or by several related training units. Any deviations from the dates and times of exercises, including additions, postponements, and deletions, submitted in the schedule in the approved plan shall be communicated verbally to the regional office supervisor of the appropriate regional office at least one hour before the burn is scheduled; and
- (12) fires for the disposal of material generated as a result of a natural disaster, such as tornado, hurricane, or flood, if the regional office

supervisor grants permission for the burning. The person desiring to do the burning shall document and provide written notification to the regional office supervisor of the appropriate regional office that there is no other practical method of disposal of the waste. Factors that the regional office supervisor shall consider in granting permission for the burning include type, amount, location of the burning, and nature of combustible substances. The regional office supervisor shall not grant permission for the burning if the primary purpose of the fire is to dispose of synthetic materials or refuse or recovery of salvageable materials. Fires authorized under this Subparagraph shall comply with the conditions of Subparagraph (b)(2) of this Rule.

- (c) The authority to conduct open burning under this Section does not exempt or excuse any person from the consequences, damages or injuries that may result from this conduct. It does not excuse or exempt any person from complying with all applicable laws, ordinances, rules or orders of any other governmental entity having jurisdiction even though the open burning is conducted in compliance with this Section.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); S.L. 2011-394, s.2;

Eff. July 1, 1996;

Amended Eff. Pending Legislative Review; July 1, 2007; December 1, 2005; June 1, 2004; July 1, 1998.

15A NCAC 02D .1904 AIR CURTAIN BURNERS

(a) Air quality permits are required for air curtain burners subject to 40 CFR 60.2245 through 60.2265, 60.2810 through 60.2870, 60.2970 through 60.2975, or 60.3062 through 60.3069 or located at permanent sites or where materials are transported in from another site. Air quality permits are not required for air curtain burners located at temporary land clearing or right-of-way maintenance sites for less than nine months unless they are subject to 40 CFR 60.2245 through 60.2265, 60.2810 through 60.2870, 60.2970 through 60.2975, or 60.3062 through 60.3069. The operation of air curtain burners in particulate and ozone nonattainment areas shall cease in any area that has been forecasted by the Department, or the Forsyth County Environmental Affairs Department for the Triad air quality forecast area, to be in an Air Quality Action Day Code "Orange" or above during the time period covered by that forecast.

(b) Air curtain burners shall comply with the following conditions and stipulations:

- (1) The wind direction at the time that the burning is initiated and the wind direction as forecasted by the National Weather Service during the time of the burning shall be away from any area, including public roads within 250 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be affected by smoke, ash, or other air pollutants from the burning;

- (2) Only collected land clearing and yard waste materials may be burned. Heavy oils, asphaltic materials, items containing natural or synthetic rubber, tires, grass clippings, collected leaves, paper products, plastics, general trash, garbage, or any materials containing painted or treated wood materials shall not be burned. Leaves still on trees or brush may be burned;
- (3) No fires shall be started or material added to existing fires when the North Carolina Forest Service has banned burning for that area;
- (4) Burning shall be conducted only between the hours of 8:00 a.m. and 6:00 p.m.;
- (5) The air curtain burner shall not be operated more than the maximum source operating hours-per-day and days-per-week. The maximum source operating hours-per-day and days-per-week shall be set to protect the ambient air quality standard and prevention of significant deterioration (PSD) increment for particulate. The maximum source operating hours-per-day and days-per-week shall be determined using the modeling procedures in Rule .1106(b), (c), and (f) of this Subchapter. This Subparagraph shall not apply to temporary air curtain burners;
- (6) An air curtain burner with an air quality permit shall have onsite at all times during operation of the burner a visible emissions reader certified according to 40 CFR Part 60, Method 9 to read visible emissions, and the facility shall test for visible emissions within five days after initial operation and within 90 days before permit expiration;
- (7) Air curtain burners shall meet manufacturer's specifications for operation and upkeep to ensure complete burning of material charged into the pit. Manufacturer's specifications shall be kept on site and be available for inspection by Division staff;
- (8) Except during start-up, visible emissions shall not exceed ten percent opacity when averaged over a six-minute period except that one six-minute period with an average opacity of more than ten percent but no more than 35 percent shall be allowed for any one-hour period. During start-up, the visible emissions shall not exceed 35 percent opacity when averaged over a six-minute period. Start-up shall not last for more than 45 minutes, and there shall be no more than one start-up per day. Instead of complying with the opacity standards in this Subparagraph, air curtain burners subject to:
 - (A) 40 CFR 60.2245 through 60.2265 shall comply with the opacity standards in 40 CFR 60.2250;
 - (B) 40 CFR 60.2810 through 60.2870 shall comply with the opacity standards in 40 CFR 60.2860;
 - (C) 40 CFR 60.2970 through 60.2975 shall comply with the opacity standards in 40 CFR 60.2971; or
 - (D) 40 CFR 60.3062 through 60.3069 shall comply with the opacity standards in 40 CFR 60.3066;
- (9) The owner or operator of an air curtain burner shall not allow ash to build up in the pit to a depth higher than one-third of the depth of the pit or to the point where the ash begins to impede combustion, whichever occurs first. The owner or operator of an air curtain burner shall allow the ashes to cool and water the ash prior to its removal to prevent the ash from becoming airborne;
- (10) The owner or operator of an air curtain burner shall not load material into the air curtain burner such that it will protrude above the air curtain;
- (11) Only distillate oil, kerosene, diesel fuel, natural gas, or liquefied petroleum gas may be used to start the fire; and
- (12) The location of the burning shall be at least 300 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted. The regional office supervisor may grant exceptions to the setback requirements if a signed, written statement waiving objections to the air curtain burning is obtained from a resident or an owner of each dwelling, commercial or institutional establishment, or other occupied structure within 300 feet of the burning site. In case of a lease or rental agreement, the lessee or renter, and the property owner shall sign the statement waiving objections to the burning. The statement shall be submitted to and approved by the regional office supervisor before initiation of the burn. Factors that the regional supervisor shall consider in deciding to grant the exception include: all the persons who need to sign the statement waiving the objection have signed it; the location of the burn; and the type, amount, and nature of the combustible substances.

Compliance with this Rule does not relieve any owner or operator of an air curtain burner from the necessity of complying with other rules in this Section or any other air quality rules.

(c) Recordkeeping Requirements. The owner or operator of an air curtain burner at a permanent site shall keep a daily log of specific materials burned and amounts of material burned in pounds per hour and tons per year. The logs at a permanent air curtain burner site shall be maintained on site for a minimum of two years and shall be available at all times for inspection by the Division of Air Quality. The owner or operator of an air curtain burner at a temporary site shall keep a log of total number of

tons burned per temporary site. Additionally, the owner or operator of air curtain burner subject to:

- (1) 40 CFR 60.2245 through 60.2265 shall comply with the monitoring, recordkeeping, and reporting requirements in 40 CFR 60.2245 through 60.2265;
- (2) 40 CFR 60.2810 through 60.2870 shall comply with the monitoring, recordkeeping, and reporting requirements in 40 CFR 60.2810 through 60.2870;
- (3) 40 CFR 60.2970 through 60.2975 shall comply with the monitoring, recordkeeping, and reporting requirements in 40 CFR 60.2970 through 60.2975; or
- (4) 40 CFR 60.3062 through 60.3069 shall comply with the monitoring, recordkeeping, and reporting requirements in 40 CFR 60.3062 through 60.3069.

(d) Title V Considerations. Burners that have the potential to burn 8,100 tons of material or more per year may be subject to Section 15A NCAC 02Q .0500, Title V Procedures.

(e) Prevention of Significant Deterioration Consideration. Burners that burn 16,200 tons per year or more may be subject to 15A NCAC 02D .0530, Prevention of Significant Deterioration.

(f) A person may use a burner using a different technology or method of operation than an air curtain burner as defined under Rule .1902 of this Section if he demonstrates to the Director that the burner is at least as effective as an air curtain burner in reducing emissions and if the Director approves the use of the burner. The Director shall approve the burner if he finds that it is at least as effective as an air curtain burner. This burner shall comply with all the requirements of this Rule.

(g) In addition to complying with the requirements of this Rule, an air curtain burner subject to:

- (1) 40 CFR Part 60, Subpart CCCC that commenced construction after November 30, 1999, or that commenced reconstruction or modification on or after June 1, 2001, shall also comply with 40 CFR 60.2245 through 60.2265, or
- (2) 40 CFR Part 60, Subpart EEEE that commenced construction after December 9, 2004, or that commenced reconstruction or modification on or after June 16, 2006, shall also comply with 40 CFR 60.2970 through 60.2975.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10); 143-215.66; 143-215.108; 40 CFR 60.2865; S.L. 2011-394, s.2;

Eff. July 1, 1996;

Amended Eff. Pending legislative Review; July 1, 2007; December 1, 2005; August 1, 2004.

CHAPTER 32 – MEDICAL BOARD

21 NCAC 32U .0101 ADMINISTRATION OF VACCINES BY PHARMACISTS

(a) Purpose. The purpose of this Rule is to provide standards for pharmacists engaged in the administration of influenza, pneumococcal and zoster vaccines as authorized in G.S. 90-85.3(r) of the North Carolina Pharmacy Practice Act.

(b) Definitions. The following words and terms, when used in this Rule, have the following meanings, unless the context indicates otherwise.

- (1) "ACPE" means Accreditation Council for Pharmacy Education.
- (2) "Administer" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or other means by:
 - (A) a pharmacist, an authorized agent under the pharmacist's supervision, or other person authorized by law; or
 - (B) the patient at the direction of a physician or pharmacist.
- (3) "Antibody" means a protein in the blood that is produced in response to stimulation by a specific antigen. Antibodies help destroy the antigen that produced them. Antibodies against an antigen usually equate to immunity to that antigen.
- (4) "Antigen" means a substance recognized by the body as being foreign; it results in the production of specific antibodies directed against it.
- (5) "Board" means the North Carolina Board of Pharmacy.
- (6) "Confidential record" means any health-related record that contains information that identifies an individual and that is maintained by a pharmacy or pharmacist such as a patient medication record, prescription drug order, or medication order.
- (7) "Immunization" means the act of inducing antibody formation, thus leading to immunity.
- (8) "Medical Practice Act" means G.S. 90-1, et seq.
- (9) "Physician" means a currently licensed M.D. or D.O. with the North Carolina Medical Board who is responsible for the on-going, continuous supervision of the pharmacist pursuant to written protocols between the pharmacist and the physician.
- (10) "Vaccination" means the act of administering any antigen in order to induce immunity; is not synonymous with immunization since vaccination does not imply success.
- (11) "Vaccine" means a specially prepared antigen, which upon administration to a person may result in immunity.
- (12) "Written Protocol" means a physician's written order, standing medical order, or other order or protocol. A written protocol must be prepared,

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

signed and dated by the physician and pharmacist and contain the following:

- (A) the name of the individual physician authorized to prescribe drugs and responsible for authorizing the written protocol;
- (B) the name of the individual pharmacist authorized to administer vaccines;
- (C) the immunizations or vaccinations that may be administered by the pharmacist;
- (D) procedures to follow, including any drugs required by the pharmacist for treatment of the patient, in the event of an emergency or severe adverse reaction following vaccine administration;
- (E) the reporting requirements by the pharmacist to the physician issuing the written protocol, including content and time frame;
- (F) locations at which the pharmacist may administer immunizations or vaccinations; and
- (G) the requirement for annual review of the protocols by the physician and pharmacist.

(c) Policies and Procedures.

- (1) Pharmacists must follow a written protocol as specified in Subparagraph (b)(12) of this Rule for administration of influenza, pneumococcal and zoster vaccines and the treatment of severe adverse events following administration.
- (2) The pharmacist administering vaccines must maintain written policies and procedures for handling and disposal of used or contaminated equipment and supplies.
- (3) The pharmacist or pharmacist's agent must give the appropriate, most current vaccine information regarding the purpose, risks, benefits, and contraindications of the vaccine to the patient or legal representative with each dose of vaccine. The pharmacist must ensure that the patient or legal representative is available and has read, or has had read to him or her, the information provided and has had his or her questions answered prior to administering the vaccine.
- (4) The pharmacist must report adverse events to the primary care provider as identified by the patient.
- (5) The pharmacist shall not administer vaccines to patients under 18 years of age.
- (6) The pharmacist shall not administer the pneumococcal or zoster vaccines to a patient unless the pharmacist first consults with the patient's primary care provider. The pharmacist shall document in the patient's profile the primary care provider's order to

administer the pneumococcal or zoster vaccines. If the patient does not have a primary care provider, the pharmacist shall not administer the pneumococcal or zoster vaccines to the patient.

- (7) The pharmacist shall report all vaccines administered to the patient's primary care provider and report all vaccines administered to all entities as required by law, including any State registries which may be implemented in the future.

(d) Pharmacist requirements. Pharmacists who enter into a written protocol with a physician to administer vaccines shall:

- (1) hold a current provider level cardiopulmonary resuscitation (CPR) certification issued by the American Heart Association or the American Red Cross or an equivalent certification organization;
- (2) successfully complete a certificate program in the administration of vaccines accredited by the Centers for Disease Control, the ACPE or a health authority or professional body approved by the Board as having a certificate program similar to the programs accredited by either the Centers for Disease Control or the ACPE;
- (3) maintain documentation of:
 - (A) completion of the initial course specified in Subparagraph (2) of this Paragraph;
 - (B) three hours of continuing education every two years beginning January 1, 2006, which are designed to maintain competency in the disease states, drugs, and administration of vaccines;
 - (C) current certification specified in Subparagraph (1) of this Paragraph;
 - (D) original written physician protocol;
 - (E) annual review and revision of original written protocol with physician;
 - (F) any problems or complications reported; and
 - (G) items specified in Paragraph (g) of this Rule.

A pharmacist who, because of physical disability, is unable to obtain a current provider level CPR certification may administer vaccines in the presence of a pharmacy technician or pharmacist who holds a current provider level CPR certification.

(e) Supervising Physician responsibilities. Pharmacists who administer vaccines shall enter into a written protocol with a supervising physician who agrees to meet the following requirements:

- (1) be responsible for the formulation or approval and periodic review of the physician's order, standing medical order, standing delegation order, or other order or written protocol and periodically review the order or protocol and the services provided to a patient under the order or protocol;

- (2) be accessible to the pharmacist administering the vaccines or be available through direct telecommunication for consultation, assistance, direction, and provide back-up coverage;
- (3) review written protocol with pharmacist at least annually and revise if necessary; and
- (4) receive a periodic status report on the patient, including any problem or complication encountered.

(f) **Drugs.** The following requirements pertain to drugs administered by a pharmacist:

- (1) Drugs administered by a pharmacist under the provisions of this Rule shall be in the legal possession of:
 - (A) a pharmacy, which shall be the pharmacy responsible for drug accountability, including the maintenance of records of administration of the immunization or vaccination; or
 - (B) a physician, who shall be responsible for drug accountability, including the maintenance of records of administration of the immunization or vaccination;

- (2) Drugs shall be transported and stored at the proper temperatures indicated for each drug;
- (3) Pharmacists, while engaged in the administration of vaccines under written protocol, shall have in their custody and control the vaccines identified in the written protocol and any other drugs listed in the written protocol to treat adverse reactions; and
- (4) After administering vaccines at a location other than a pharmacy, the pharmacist shall return all unused prescription medications to the pharmacy or physician responsible for the drugs.

(g) **Record Keeping and Reporting.**

- (1) A pharmacist who administers any vaccine shall maintain the following information, readily retrievable, in the pharmacy records regarding each administration:
 - (A) The name, address, and date of birth of the patient;
 - (B) The date of the administration;
 - (C) The administration site of injection (e.g., right arm, left leg, right upper arm);
 - (D) Route of administration of the vaccine;
 - (E) The name, manufacturer, lot number, and expiration date of the vaccine;
 - (F) Dose administered;
 - (G) The name and address of the patient's primary health care provider, as identified by the patient; and

(H) The name or identifiable initials of the administering pharmacist.

- (2) A pharmacist who administers vaccines shall document the annual review with the physician of written protocol in the records of the pharmacy that is in possession of the vaccines administered.

(h) **Confidentiality.**

- (1) The pharmacist shall comply with the privacy provisions of the federal Health Insurance Portability and Accountability Act of 1996 and any rules adopted pursuant to this act.
- (2) The pharmacist shall comply with any other confidentiality provisions of federal or state laws.

*History Note: Authority G.S. 90-85.3(r);
Emergency Adoption Eff. September 10, 2004;
Temporary Adoption Eff. December 29, 2004;
Eff. November 1, 2005;
Amended Eff. February 1, 2008;
Emergency Amendment Eff. October 9, 2009;
Temporary Amendment Eff. December 29, 2009;
Temporary Amendment Expired on October 12, 2010.
Amended Eff. March 1, 2012.*

CHAPTER 46 – BOARD OF PHARMACY

21 NCAC 46 .2507 ADMINISTRATION OF VACCINES BY PHARMACISTS

(a) **Purpose.** The purpose of this Rule is to provide standards for pharmacists engaged in the administration of influenza, pneumococcal and zoster vaccines as authorized in G.S. 90-85.3(r) of the North Carolina Pharmacy Practice Act.

(b) **Definitions.** The following words and terms, when used in this Rule, have the following meanings, unless the context indicates otherwise.

- (1) "ACPE" means Accreditation Council for Pharmacy Education.
- (2) "Administer" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or other means by:
 - (A) a pharmacist, an authorized agent under the pharmacist's supervision, or other person authorized by law; or
 - (B) the patient at the direction of a physician or pharmacist.
- (3) "Antibody" means a protein in the blood that is produced in response to stimulation by a specific antigen. Antibodies help destroy the antigen that produced them. Antibodies against an antigen usually equate to immunity to that antigen.
- (4) "Antigen" means a substance recognized by the body as being foreign; it results in the production of specific antibodies directed against it.

- (5) "Board" means the North Carolina Board of Pharmacy.
 - (6) "Confidential record" means any health-related record that contains information that identifies an individual and that is maintained by a pharmacy or pharmacist such as a patient medication record, prescription drug order, or medication order.
 - (7) "Immunization" means the act of inducing antibody formation, thus leading to immunity.
 - (8) "Medical Practice Act" means G.S. 90-1, et seq.
 - (9) "Physician" means a currently licensed M.D. or D.O. with the North Carolina Medical Board who is responsible for the on-going, continuous supervision of the pharmacist pursuant to written protocols between the pharmacist and the physician.
 - (10) "Vaccination" means the act of administering any antigen in order to induce immunity; is not synonymous with immunization since vaccination does not imply success.
 - (11) "Vaccine" means a specially prepared antigen, which upon administration to a person may result in immunity.
 - (12) "Written protocol" means a physician's written order, standing medical order, or other order or protocol. A written protocol must be prepared, signed and dated by the physician and pharmacist and contain the following:
 - (A) the name of the individual physician authorized to prescribe drugs and responsible for authorizing the written protocol;
 - (B) the name of the individual pharmacist authorized to administer vaccines;
 - (C) the immunizations or vaccinations that may be administered by the pharmacist;
 - (D) procedures to follow, including any drugs required by the pharmacist for treatment of the patient, in the event of an emergency or severe adverse reaction following vaccine administration;
 - (E) the reporting requirements by the pharmacist to the physician issuing the written protocol, including content and time frame;
 - (F) locations at which the pharmacist may administer immunizations or vaccinations; and
 - (G) the requirement for annual review of the protocols by the physician and pharmacist.
- (c) Policies and Procedures.
- (1) Pharmacists must follow a written protocol as specified in Subparagraph (b)(12) of this Rule for administration of influenza, pneumococcal and zoster vaccines and the treatment of severe adverse events following administration.
 - (2) The pharmacist administering vaccines must maintain written policies and procedures for handling and disposal of used or contaminated equipment and supplies.
 - (3) The pharmacist or pharmacist's agent must give the appropriate, most current vaccine information regarding the purpose, risks, benefits, and contraindications of the vaccine to the patient or legal representative with each dose of vaccine. The pharmacist must ensure that the patient or legal representative is available and has read, or has had read to him or her, the information provided and has had his or her questions answered prior to administering the vaccine.
 - (4) The pharmacist must report adverse events to the primary care provider as identified by the patient.
 - (5) The pharmacist shall not administer vaccines to patients under 18 years of age.
 - (6) The pharmacist shall not administer the pneumococcal or zoster vaccines to a patient unless the pharmacist first consults with the patient's primary care provider. The pharmacist shall document in the patient's profile the primary care provider's order to administer the pneumococcal or zoster vaccines. If the patient does not have a primary care provider, the pharmacist shall not administer the pneumococcal or zoster vaccines to the patient.
 - (7) The pharmacist shall report all vaccines administered to the patient's primary care provider and report all vaccines administered to all entities as required by law, including any State registries which may be implemented in the future.
- (d) Pharmacist requirements. Pharmacists who enter into a written protocol with a physician to administer vaccines shall:
- (1) hold a current provider level cardiopulmonary resuscitation (CPR) certification issued by the American Heart Association or the American Red Cross or an equivalent certification organization;
 - (2) successfully complete a certificate program in the administration of vaccines accredited by the Centers for Disease Control, the ACPE or a health authority or professional body approved by the Board as having a certificate program similar to the programs accredited by either the Centers for Disease Control or the ACPE;
 - (3) maintain documentation of:
 - (A) completion of the initial course specified in Subparagraph (2) of this Paragraph;

- (B) three hours of continuing education every two years beginning January 1, 2006, which are designed to maintain competency in the disease states, drugs, and administration of vaccines;
- (C) current certification specified in Subparagraph (1) of this Paragraph;
- (D) original written physician protocol;
- (E) annual review and revision of original written protocol with physician;
- (F) any problems or complications reported; and
- (G) items specified in Paragraph (g) of this Rule.

A pharmacist who, because of physical disability, is unable to obtain a current provider level CPR certification may administer vaccines in the presence of a pharmacy technician or pharmacist who holds a current provider level CPR certification.

(e) Supervising Physician responsibilities. Pharmacists who administer vaccines shall enter into a written protocol with a supervising physician who agrees to meet the following requirements:

- (1) be responsible for the formulation or approval and periodic review of the physician's order, standing medical order, standing delegation order, or other order or written protocol and periodically review the order or protocol and the services provided to a patient under the order or protocol;
- (2) be accessible to the pharmacist administering the vaccines or be available through direct telecommunication for consultation, assistance, direction, and provide back-up coverage;
- (3) review written protocol with pharmacist at least annually and revise if necessary; and
- (4) receive a periodic status report on the patient, including any problem or complication encountered.

(f) Drugs. The following requirements pertain to drugs administered by a pharmacist:

- (1) Drugs administered by a pharmacist under the provisions of this Rule shall be in the legal possession of:
 - (A) a pharmacy, which shall be the pharmacy responsible for drug accountability, including the maintenance of records of administration of the immunization or vaccination; or
 - (B) a physician, who shall be responsible for drug accountability, including the maintenance of records of administration of the immunization or vaccination;
- (2) Drugs shall be transported and stored at the proper temperatures indicated for each drug;

- (3) Pharmacists, while engaged in the administration of vaccines under written protocol, shall have in their custody and control the vaccines identified in the written protocol and any other drugs listed in the written protocol to treat adverse reactions; and
- (4) After administering vaccines at a location other than a pharmacy, the pharmacist shall return all unused prescription medications to the pharmacy or physician responsible for the drugs.

(g) Record Keeping and Reporting.

- (1) A pharmacist who administers any vaccine shall maintain the following information, readily retrievable, in the pharmacy records regarding each administration:
 - (A) The name, address, and date of birth of the patient;
 - (B) The date of the administration;
 - (C) The administration site of injection (e.g., right arm, left leg, right upper arm);
 - (D) Route of administration of the vaccine;
 - (E) The name, manufacturer, lot number, and expiration date of the vaccine;
 - (F) Dose administered;
 - (G) The name and address of the patient's primary health care provider, as identified by the patient; and
 - (H) The name or identifiable initials of the administering pharmacist.
- (2) A pharmacist who administers vaccines shall document the annual review with the physician of written protocol in the records of the pharmacy that is in possession of the vaccines administered.

(h) Confidentiality.

- (1) The pharmacist shall comply with the privacy provisions of the federal Health Insurance Portability and Accountability Act of 1996 and any rules adopted pursuant to this act.
- (2) The pharmacist shall comply with any other confidentiality provisions of federal or state laws.

History Note: Authority G.S. 90-85.3; 90-85.6; Eff April 1, 2003; Emergency Amendment Eff May 11, 2004; Temporary Amendment approved by RRC October 21, 2004; Amended Eff February 1, 2008; November 1, 2005; November 1, 2004; Emergency Amendment Eff October 9, 2009; Temporary Amendment Eff December 29, 2009; Amended Eff. March 1, 2012.

This Section contains information for the meeting of the Rules Review Commission on Thursday March 15, 2012 and April 19, 2012 10:00 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 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Addison Bell
Margaret Currin
Pete Osborne
Bob Rippy
Faylene Whitaker

Appointed by House

Ralph A. Walker
Curtis Venable
George Lucier
Garth K. Dunklin
Stephanie Simpson

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

April 19, 2012 May 17, 2012
June 21, 2012 July 19, 2012

RULES REVIEW COMMISSION**March 15, 2012****MINUTES**

The Rules Review Commission met on Thursday, March 15, 2012, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Addison Bell, Margaret Currin, Garth Dunklin, George Lucier, Stephanie Simpson, Ralph Walker and Faylene Whitaker. Curtis Venable joined via Skype.

Staff members present were: Joe Deluca and Bobby Bryan, Commission Counsel; Molly Masich, Dana Vojtko, Julie Edwards and Tammara Chalmers.

The meeting was called to order at 10:02 a.m. with Judge Walker presiding. He 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 Walker asked for any discussion, comments, or corrections concerning the minutes of the February 16, 2012 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

21 NCAC 32C .0102, .0105, .0106, .0109 – Medical Board. No action was taken.

LOG OF FILINGS

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

Division of Health Services Regulation

All rules were approved unanimously.

Commission for Public Health

10A NCAC 41A .0214 was approved unanimously.

Board of Cosmetic Art Examiners

Lynda Elliot addressed the Commission to answer questions including questions concerning inspections of cosmetic arts schools and shops. The Commission requested a technical change to Rule 14H .0503 to confirm that the operator of the school or shop would receive a copy of the inspection report.

All other rules were approved unanimously.

21 NCAC 14H .0503 was approved unanimously contingent on receiving a technical change. The technical change was received after the meeting.

Locksmith Licensing Board

All rules were approved unanimously.

TEMPORARY RULES

There were no temporary rules filed for review.

COMMISSION PROCEDURES AND OTHER BUSINESS

Commissioner Bell updated the Commission on the progress on the committee work with the sunset provision for the rules in the Administrative Procedure Act.

The commission and staff discussed the staff providing the Commission with the text of rules being repealed.

The meeting adjourned at 10:49 a.m.

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

Respectfully Submitted,

Julie Edwards
Editorial Assistant

Minutes approved by the Rules Review Commission.

Judge Ralph A. Walker/Chair

Date

Rules Review Commission

Meeting

Please Print Legibly

MARCH 15, 2012

Name	Agency
Debbie Atkinson	Marshall's Locksmith
Henrietta McKnight	DHHS/DSS
Glenda Perrie	DHHS/DSS
Barden Culbreth	NCLLB
Lynda Elliott	Bd of Cosmetic Arts
Megan Lamphere	DHHS/DHSR
Erin Glendening	DHHS/DHSR
Bob Martin	DHHS/DAH
Zack Moore	10
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**LIST OF APPROVED PERMANENT RULES
March 15, 2012 Meeting**

HHS - HEALTH SERVICE REGULATION, DIVISION OF

<u>Applicability of Rules Related to the 1999 State Medical ...</u>	10A	NCAC	14B	.0101
<u>Certificate of Need Review</u>	10A	NCAC	14B	.0102
<u>Certificate of Need Review Schedule</u>	10A	NCAC	14B	.0103
<u>Multi-County Groupings</u>	10A	NCAC	14B	.0104
<u>Service Areas and Planning Areas</u>	10A	NCAC	14B	.0105
<u>Reallocations and Adjustments</u>	10A	NCAC	14B	.0106
<u>Acute Care Bed Need Determination (Review Category A)</u>	10A	NCAC	14B	.0107
<u>Rehabilitation Bed Need Determination (Review Category E)</u>	10A	NCAC	14B	.0108
<u>Ambulatory Surgical Facilities Need Determination (Review...</u>	10A	NCAC	14B	.0109
<u>Open Heart Surgery Services Need Determinations (Review C...</u>	10A	NCAC	14B	.0110
<u>Heart-Lung Bypass Machines Need Determination (Review Cat...</u>	10A	NCAC	14B	.0111
<u>Fixed Cardiac Catheterization Equipment and Fixed Cardiac...</u>	10A	NCAC	14B	.0112
<u>Mobile Cardiac Catheterization Equipment and Mobile Cardi...</u>	10A	NCAC	14B	.0113
<u>Burn Intensive Care Services Need Determination (Review C...</u>	10A	NCAC	14B	.0114
<u>Positron Emission Tomography Scanners Need Determination ...</u>	10A	NCAC	14B	.0115
<u>Bone Marrow Transplantation Services Need Determination (...)</u>	10A	NCAC	14B	.0116
<u>Solid Organ Transplantation Services Need Determination (...)</u>	10A	NCAC	14B	.0117
<u>Gamma Knife Need Determination (Review Category H)</u>	10A	NCAC	14B	.0118
<u>Lithotripter Need Determination (Review Category H)</u>	10A	NCAC	14B	.0119
<u>Radiation Oncology Treatment Centers Need Determination (...)</u>	10A	NCAC	14B	.0120
<u>Magnetic Resonance Imaging Scanners Need Determination (R...</u>	10A	NCAC	14B	.0121
<u>Nursing Care Bed Need Determination (Review Category B)</u>	10A	NCAC	14B	.0122
<u>Home Health Agency Office Need Determination (Review Cate...</u>	10A	NCAC	14B	.0123
<u>Dialysis Station Need Determination</u>	10A	NCAC	14B	.0124
<u>Hospice need Determination (Review Category F)</u>	10A	NCAC	14B	.0125
<u>Hospice Inpatient Facility Bed Need Determination (Review...</u>	10A	NCAC	14B	.0126
<u>Psychiatric Bed Need Determination (Review Category C)</u>	10A	NCAC	14B	.0127
<u>Chemical Dependency (Substance Abuse) Treatment Bed Need ...</u>	10A	NCAC	14B	.0128
<u>Intermediate Care Beds for the Mentally Retarded Need Det...</u>	10A	NCAC	14B	.0129
<u>Policies for General Acute Care Hospitals</u>	10A	NCAC	14B	.0130
<u>Policies for Inpatient Rehabilitation Services</u>	10A	NCAC	14B	.0131
<u>Policy for Ambulatory Surgical Facilities</u>	10A	NCAC	14B	.0132
<u>Policy for Provision of Hospital-Based Long-Term Nursing ...</u>	10A	NCAC	14B	.0133
<u>Policy for Nursing Care Beds in Continuing Care Facilities</u>	10A	NCAC	14B	.0134
<u>Policy for Determination of Need for Additional Nursing B...</u>	10A	NCAC	14B	.0135
<u>Policy for Relocation of Certain Nursing Facility Beds</u>	10A	NCAC	14B	.0136
<u>Policy for Home Health Services</u>	10A	NCAC	14B	.0137
<u>Policy for End-Stage Renal Disease Dialysis Services</u>	10A	NCAC	14B	.0138
<u>Policies for Psychiatric Inpatient Facilities</u>	10A	NCAC	14B	.0139
<u>Policy for Chemical Dependency Treatment Facilities</u>	10A	NCAC	14B	.0140
<u>Policies for Intermediate Care Facilities for Mentally Re...</u>	10A	NCAC	14B	.0141
<u>Applicability of Rules Related to the 2000 State Medical ...</u>	10A	NCAC	14B	.0150

<u>Certificate of Need Review Schedule</u>	10A	NCAC	14B	.0152
<u>Multi-County Groupings</u>	10A	NCAC	14B	.0153
<u>Service Areas and Planning Areas</u>	10A	NCAC	14B	.0154
<u>Reallocations and Adjustments</u>	10A	NCAC	14B	.0155
<u>Acute Care Bed Need Determination (Review Category E)</u>	10A	NCAC	14B	.0156
<u>Rehabilitation Bed Need Determination (Review Category E)</u>	10A	NCAC	14B	.0157
<u>Ambulatory Surgical Facilities Need Determination (Review...</u>	10A	NCAC	14B	.0158
<u>Open Heart Surgery Services Need Determinations (Review C...</u>	10A	NCAC	14B	.0159
<u>Heart-Lung Bypass Machines Need Determination (Review Cat...</u>	10A	NCAC	14B	.0160
<u>Fixed Cardiac Catheterization Equipment and Fixed Cardiac...</u>	10A	NCAC	14B	.0161
<u>Burn Intensive Care Services Need Determination (Review C...</u>	10A	NCAC	14B	.0163
<u>Positron Emission Tomography Scanners Need Determination ...</u>	10A	NCAC	14B	.0164
<u>Bone Marrow Transplantation Services Need Determination (...)</u>	10A	NCAC	14B	.0165
<u>Solid Organ Transplantation Services Need Determination (...)</u>	10A	NCAC	14B	.0166
<u>Gamma Knife Need Determination (Review Category H)</u>	10A	NCAC	14B	.0167
<u>Lithotripter Need Determination (Review Category H)</u>	10A	NCAC	14B	.0168
<u>Radiation Oncology Treatment Centers Need Determination (...)</u>	10A	NCAC	14B	.0169
<u>Magnetic Resonance Imaging Scanners Need Determination (R...</u>	10A	NCAC	14B	.0170
<u>Magnetic Resonance Imaging Scanners Need Determination fo...</u>	10A	NCAC	14B	.0171
<u>Nursing Care Bed Need Determination (Review Category B)</u>	10A	NCAC	14B	.0172
<u>Demonstration Project for Continuing Care of Adults with ...</u>	10A	NCAC	14B	.0173
<u>Home Health Agency Office Need Determination (Review Cate...</u>	10A	NCAC	14B	.0174
<u>Dialysis Station Need Determination Methodology</u>	10A	NCAC	14B	.0175
<u>Dialysis Station Adjusted Need Determination (Review Cate...</u>	10A	NCAC	14B	.0176
<u>Hospice Need Determination (Review Category F)</u>	10A	NCAC	14B	.0177
<u>Hospice Inpatient Facility Bed Need Determination (Review...</u>	10A	NCAC	14B	.0178
<u>Psychiatric Bed Need Determination (Review Category C)</u>	10A	NCAC	14B	.0179
<u>Chemical Dependency (Substance Abuse) Treatment Bed need ...</u>	10A	NCAC	14B	.0180
<u>Intermediate Care Beds for the Mentally Retarded Need Det...</u>	10A	NCAC	14B	.0181
<u>Policies for General Acute Care Hospitals</u>	10A	NCAC	14B	.0182
<u>Policies for Inpatient Rehabilitation Services</u>	10A	NCAC	14B	.0183
<u>Policy for Ambulatory Surgical Facilities</u>	10A	NCAC	14B	.0184
<u>Policy for Provision of Hospital-Based Long-Term Nursing ...</u>	10A	NCAC	14B	.0185
<u>Policy for Plan Exemption for Continuing Care Retirement ...</u>	10A	NCAC	14B	.0186
<u>Policy for Determination of Need for Additional Nursing B...</u>	10A	NCAC	14B	.0187
<u>Policy for Relocation of Certain Nursing Facility Beds</u>	10A	NCAC	14B	.0188
<u>Policies for Home Health Services</u>	10A	NCAC	14B	.0189
<u>Policy for Relocation of Dialysis Stations</u>	10A	NCAC	14B	.0190
<u>Policies for Psychiatric Inpatient Facilities</u>	10A	NCAC	14B	.0191
<u>Policy for Chemical Dependency Treatment Facilities</u>	10A	NCAC	14B	.0192
<u>Policies for Intermediate Care Facilities for Mentally Re...</u>	10A	NCAC	14B	.0193
<u>Equipment Need Determinations for 1996 SMFP (Review Categ...</u>	10A	NCAC	14B	.0194
<u>Open Heart Surgery Services Need Determinations for 1996 ...</u>	10A	NCAC	14B	.0195
<u>Applicability of Rules Related to the 2001 State medical ...</u>	10A	NCAC	14B	.0201
<u>Certificate of Need Review Schedule</u>	10A	NCAC	14B	.0202
<u>Multi-County Groupings</u>	10A	NCAC	14B	.0203

<u>Service Areas and Planning Areas</u>	10A	NCAC	14B	.0204
<u>Reallocations and Adjustments</u>	10A	NCAC	14B	.0205
<u>Acute Care Bed Need Determination (Review Category A)</u>	10A	NCAC	14B	.0206
<u>Rehabilitation Bed Need Determination (Review Category E)</u>	10A	NCAC	14B	.0207
<u>Open Heart Surgery Services Need Determinations (Review C...</u>	10A	NCAC	14B	.0209
<u>Heart-Lung Bypass Machines Need Determination (Review Cat...</u>	10A	NCAC	14B	.0210
<u>Fixed Cardiac Catheterization Equipment and Fixed Cardiac...</u>	10A	NCAC	14B	.0211
<u>Shared Fixed Cardiac Catheterization Equipment Need Deter...</u>	10A	NCAC	14B	.0212
<u>Burn Intensive Care Services Need Determination (Review C...</u>	10A	NCAC	14B	.0213
<u>Positron Emission Tomography Scanners Need Determination ...</u>	10A	NCAC	14B	.0214
<u>Bone Marrow Transplantation Services Need Determination (...)</u>	10A	NCAC	14B	.0215
<u>Solid Organ Transplantation Services need Determination (...)</u>	10A	NCAC	14B	.0216
<u>Gamma Knife Unit Need Determination (Review Category H)</u>	10A	NCAC	14B	.0217
<u>Lithotripter Need Determination (Review Category H)</u>	10A	NCAC	14B	.0218
<u>Radiation Oncology Treatment Centers Need Determination (...)</u>	10A	NCAC	14B	.0219
<u>Magnetic Resonance Imaging Scanners Need Determination</u>	10A	NCAC	14B	.0220
<u>Magnetic Resonance Imaging Scanners Need Determination Ba...</u>	10A	NCAC	14B	.0221
<u>Nursing Care Bed need Determination (Review Category B)</u>	10A	NCAC	14B	.0222
<u>Medicare-Certified Home Health Agency Office Need Determi...</u>	10A	NCAC	14B	.0223
<u>Dialysis Need Determination Methodology for Reviews Begin...</u>	10A	NCAC	14B	.0224
<u>Dialysis Station Need Determination Methodology for Revie...</u>	10A	NCAC	14B	.0225
<u>Hospice Care Need Determination (Review Category F)</u>	10A	NCAC	14B	.0226
<u>Hospice Inpatient Facility Bed Need Determination (Review...</u>	10A	NCAC	14B	.0227
<u>Psychiatric Bed Need Determination (Review Category C)</u>	10A	NCAC	14B	.0228
<u>Chemical Dependency (Substance Abuse) Treatment Bed Need ...</u>	10A	NCAC	14B	.0229
<u>Chemical Dependency (Substance Abuse) Adult Detox-Only Be...</u>	10A	NCAC	14B	.0230
<u>Intermediate Care Beds for the Mentally Retarded Need Dee...</u>	10A	NCAC	14B	.0231
<u>Policies for General Acute Care Hospitals</u>	10A	NCAC	14B	.0232
<u>Policies for Cardiac Catheterization Equipment and Services</u>	10A	NCAC	14B	.0233
<u>Policies for Transplantation Services</u>	10A	NCAC	14B	.0234
<u>Policy for MRI Scanners</u>	10A	NCAC	14B	.0235
<u>Policy for Provision of Hospital-Based Long-Term Care Nur...</u>	10A	NCAC	14B	.0236
<u>Policy for Plan Exemption for Continuing Care Retirement ...</u>	10A	NCAC	14B	.0237
<u>Policy for Determination of Need for Additional Nursing B...</u>	10A	NCAC	14B	.0238
<u>Policy for Relocation of Certain Nursing Facility Beds</u>	10A	NCAC	14B	.0239
<u>Policy for Transfer of Beds from State Psychiatric Hospit...</u>	10A	NCAC	14B	.0240
<u>Policies for Relocation of Nursing Facility Beds</u>	10A	NCAC	14B	.0241
<u>Policies for Medicare-Certified Home Health Services</u>	10A	NCAC	14B	.0242
<u>Policy for Relocation of Dialysis Stations</u>	10A	NCAC	14B	.0243
<u>Policies for Psychiatric Inpatient Facilities</u>	10A	NCAC	14B	.0244
<u>Policy for Chemical Dependency Treatment Facilities</u>	10A	NCAC	14B	.0245
<u>Policies for Intermediate Care Facilities for Mentally Re...</u>	10A	NCAC	14B	.0246
<u>Applicability of Rules Related to the 2002 State Medical ...</u>	10A	NCAC	14B	.0251
<u>Certificate of Need Review Schedule</u>	10A	NCAC	14B	.0252
<u>Multi-County Groupings</u>	10A	NCAC	14B	.0253
<u>Service Areas and Planning Areas</u>	10A	NCAC	14B	.0254

<u>Reallocations and Adjustments</u>	10A	NCAC	14B	.0255
<u>Acute Care Bed Need Determination (Review Category A)</u>	10A	NCAC	14B	.0256
<u>Inpatient Rehabilitation Bed Need Determination (Review C...</u>	10A	NCAC	14B	.0257
<u>Operating Room Need Determinations (Review Category E)</u>	10A	NCAC	14B	.0258
<u>Open Heart Surgery Services Need Determination (Review Ca...</u>	10A	NCAC	14B	.0259
<u>Heart-Lung Bypass Machines Need Determination (Review Cat...</u>	10A	NCAC	14B	.0260
<u>Fixed Cardiac Catheterization/Angioplasty Equipment Need ...</u>	10A	NCAC	14B	.0261
<u>Shared Fixed Cardiac Catheterization/Angioplasty Equipmen...</u>	10A	NCAC	14B	.0262
<u>Burn Intensive Care Services Need Determination (Review C...</u>	10A	NCAC	14B	.0263
<u>Bone Marrow Transplantation Services Need Determination (...)</u>	10A	NCAC	14B	.0264
<u>Solid Organ Transplantation Services Need Determination (...)</u>	10A	NCAC	14B	.0265
<u>Gamma Knife Need Determination (Review Category H)</u>	10A	NCAC	14B	.0266
<u>Lithotripter Need Determination (Review Category H)</u>	10A	NCAC	14B	.0267
<u>Radiation Oncology Treatment Centers Need Determination (...)</u>	10A	NCAC	14B	.0268
<u>Positron Emission Tomography Scanners Need Determination ...</u>	10A	NCAC	14B	.0269
<u>Fixed Magnetic Resonance Imaging Scanners Need Determinat...</u>	10A	NCAC	14B	.0270
<u>Magnetic Resonance Imaging Scanners Need Determination fo...</u>	10A	NCAC	14B	.0271
<u>Fixed Magnetic Resonance Imaging Scanners Need Determinat...</u>	10A	NCAC	14B	.0272
<u>Nursing Care Bed Need Determination (Review Category B)</u>	10A	NCAC	14B	.0273
<u>Adult Care Home Bed Need Determination (Review Category B)</u>	10A	NCAC	14B	.0274
<u>Medicare-Certified Home Health Agency Office Need Determi...</u>	10A	NCAC	14B	.0275
<u>Dialysis Station Need Determination Methodology for Revie...</u>	10A	NCAC	14B	.0276
<u>Dialysis Station Need Determination Methodology for Revie...</u>	10A	NCAC	14B	.0277
<u>Hospice Home Care Need Determination (Review Category F)</u>	10A	NCAC	14B	.0278
<u>Single County Hospice Inpatient Bed Need Determination (R...</u>	10A	NCAC	14B	.0279
<u>Contiguous County Hospice Inpatient Bed Need Determination</u>	10A	NCAC	14B	.0280
<u>Psychiatric Bed Need Determination (Review Category C)</u>	10A	NCAC	14B	.0281
<u>Chemical Dependency (Substance Abuse) Treatment Bed Need ...</u>	10A	NCAC	14B	.0282
<u>Chemical Dependency (Substance Abuse) Adult Detox-Only Be...</u>	10A	NCAC	14B	.0283
<u>Intermediate Care Beds for the Mentally Retarded Need Det...</u>	10A	NCAC	14B	.0284
<u>Policies for General Acute Care Hospitals</u>	10A	NCAC	14B	.0285
<u>Policies for Nursing Care Facilities</u>	10A	NCAC	14B	.0289
<u>Policies for Medicare-Certified Home Health Services</u>	10A	NCAC	14B	.0291
<u>Policy for Relocation of Dialysis Stations</u>	10A	NCAC	14B	.0292
<u>Policies for Psychiatric Inpatient Facilities</u>	10A	NCAC	14B	.0293
<u>Policy for Chemical Dependency Treatment Facilities</u>	10A	NCAC	14B	.0294
<u>Policies for Intermediate Care Facilities for Mentally Re...</u>	10A	NCAC	14B	.0295

PUBLIC HEALTH, COMMISSION FOR

<u>Control Measures - Hepatitis C</u>	10A	NCAC	41A	.0214
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<u>Control of Hearings</u>	21	NCAC	14B	.0307
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<u>Newly Established Shops</u>	21	NCAC	14H	.0203
<u>Dimensions of Cosmetic Art Shops</u>	21	NCAC	14H	.0204

<u>Water Supply</u>	21	NCAC	14H	.0301
<u>Ventilation and Light</u>	21	NCAC	14H	.0302
<u>Bathroom Facilities</u>	21	NCAC	14H	.0303
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<u>Failure to Permit Inspection</u>	21	NCAC	14H	.0502
<u>Sanitary Ratings and Posting of Ratings</u>	21	NCAC	14H	.0503
<u>Systems of Grading Beauty Establishments</u>	21	NCAC	14H	.0504
<u>Rule Compliance and Enforcement Measures</u>	21	NCAC	14H	.0505
<u>Continuing Education</u>	21	NCAC	14R	.0105

LOCKSMITH LICENSING BOARD

<u>Exemption from Examination</u>	21	NCAC	29	.0405
<u>Protection of the Public Interest</u>	21	NCAC	29	.0503
<u>Requirements</u>	21	NCAC	29	.0802

AGENDA
RULES REVIEW COMMISSION
Thursday, April 19, 2012 10:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Medical Board – 21 NCAC 32C .0102, .0105, .0106, .0109 (Bryan)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between February 21, 2012 and March 20, 2012
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days of the RRC Meeting
- VI. Commission Business
 - Next meeting: May 17, 2012

Commission Review
Log of Permanent Rule Filings
February 21, 2012 through March 20, 2012

ELECTIONS, STATE BOARD OF

The rules in Chapter 1 are departmental rules.

Agency Name, Address, and Hours
Amend/*

08 NCAC 01 .0101

CHILD CARE COMMISSION

The rules in Chapter 9 are child care rules and include definitions (.0100); general provisions related to licensing (.0200); procedures for obtaining a license (.0300); issuance of provisional and temporary licenses (.0400); age and developmentally appropriate environments for centers (.0500); safety requirements for child care centers (.0600); health and other standards for center staff (.0700); health standards for children (.0800); nutrition standards (.0900); transportation standards (.1000); building code requirements for child care centers (.1300); space requirements (.1400); temporary care requirements (.1500); requirements for voluntary enhanced program standards (.1600); family child care home requirements (.1700); discipline (.1800); special procedures concerning abuse/neglect in child care (.1900); rulemaking and contested case procedures (.2000); religious-sponsored child care center requirements (.2100); administrative actions and civil penalties (.2200); forms (.2300); child care for mildly ill children (.2400); care for school-age children (.2500); child care for children who are medically fragile (.2600); criminal records checks (.2700); voluntary rated licenses (.2800); and developmental day services (.2900).

Requirements for a Safe Indoor/Outdoor Environment
Amend/*

10A NCAC 09 .1719

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Subchapter 7D cover organization and general provisions (.0100); licenses and trainee permits (.0200); security guard patrol and guard dog service (.0300); private investigator and counterintelligence (.0400); polygraph (.0500); psychological stress evaluator (PSE) (.0600); unarmed security guard registration (.0700); armed security guard firearm registration permit (.0800); trainer certificate (.0900); recovery fund (.1000); training and supervision for private investigator associates (.1100); courier (.1200); and continuing education (.1300).

Application for Licenses and Trainee Permits
Amend/*

12 NCAC 07D .0201

Renewal or Reissue of Licenses and Trainee Permits

12 NCAC 07D .0203

Amend/*				
<u>Application for Unarmed Security Guard Registration</u>	12	NCAC	07D	.0701
Amend/*				
<u>Renewal or Reissue of Unarmed Security Guard Registration</u>	12	NCAC	07D	.0706
Amend/*				
<u>Application/Armed Security Guard Firearm Registration Permit</u>	12	NCAC	07D	.0801
Amend/*				
<u>Renewal of Armed Security Guard Firearm Registration Permit</u>	12	NCAC	07D	.0806
Amend/*				
<u>Application for Firearms Trainer Certificate</u>	12	NCAC	07D	.0902
Amend/*				

ENVIRONMENTAL MANAGEMENT COMMISSION

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

The rules in Subchapter 02C concern well construction standards including criteria and standards applicable to water-supply and certain other type wells (.0100); criteria and standards applicable to injection wells (.0200); and permitting and inspection of private drinking water wells (.0300).

<u>Purpose</u>	15A	NCAC	02C	.0201
Amend/*				
<u>Scope</u>	15A	NCAC	02C	.0202
Amend/*				
<u>Definitions</u>	15A	NCAC	02C	.0204
Amend/*				
<u>Area of Review</u>	15A	NCAC	02C	.0205
Repeal/*				
<u>Corrective Action</u>	15A	NCAC	02C	.0206
Amend/*				
<u>Mechanical Integrity</u>	15A	NCAC	02C	.0207
Amend/*				
<u>Financial Responsibility</u>	15A	NCAC	02C	.0208
Amend/*				
<u>Classification of Injection Wells</u>	15A	NCAC	02C	.0209
Amend/*				
<u>General Permitting Requirements Applicable to All Injecti...</u>	15A	NCAC	02C	.0211
Amend/*				
<u>Additional Criteria and Standards Applicable to Class 5 W...</u>	15A	NCAC	02C	.0213
Repeal/*				
<u>Abandonment and Change-of-Status</u>	15A	NCAC	02C	.0214
Repeal/*				
<u>Variance</u>	15A	NCAC	02C	.0215
Repeal/*				
<u>Delegation</u>	15A	NCAC	02C	.0216
Repeal/*				
<u>Permitting by Rule</u>	15A	NCAC	02C	.0217
Adopt/*				
<u>Aquifer Recharge Wells</u>	15A	NCAC	02C	.0218
Adopt/*				
<u>Aquifer Storage and Recovery Wells</u>	15A	NCAC	02C	.0219
Adopt/*				

RULES REVIEW COMMISSION

<u>Aquifer Test Wells</u>	15A NCAC 02C .0220
Adopt/*	
<u>Experimental Technology Wells</u>	15A NCAC 02C .0221
Adopt/*	
<u>Geothermal Aqueous Closed-Loop Wells</u>	15A NCAC 02C .0222
Adopt/*	
<u>Geothermal Direct Expansion Closed-Loop Wells</u>	15A NCAC 02C .0223
Adopt/*	
<u>Geothermal Heating/Cooling Water Return Wells</u>	15A NCAC 02C .0224
Adopt/*	
<u>Groundwater Remediation Wells</u>	15A NCAC 02C .0225
Adopt/*	
<u>Salinity Barrier Wells</u>	15A NCAC 02C .0226
Adopt/*	
<u>Stormwater Drainage Wells</u>	15A NCAC 02C .0227
Adopt/*	
<u>Subsidence Control Wells</u>	15A NCAC 02C .0228
Adopt/*	
<u>Tracer Wells</u>	15A NCAC 02C .0229
Adopt/*	
<u>Other Wells</u>	15A NCAC 02C .0230
Adopt/*	
<u>Abandonment and Change-of-Status Wells</u>	15A NCAC 02C .0240
Adopt/*	
<u>Variance</u>	15A NCAC 02C .0241
Adopt/*	
<u>Delegation</u>	15A NCAC 02C .0242
Adopt/*	

STATE PERSONNEL COMMISSION

The rules in Subchapter 1J cover employee grievances (.0500), disciplinary actions including suspensions and dismissals (.0600), Governor's Award for Excellence (.0800); internal performance pay dispute resolution procedures (.0900); state employees assistance program (.1000); unlawful workplace harassment (.1100); employee grievances (.1200); employee appeals and grievance process (.1300); and employee mediation and grievance process (.1400).

<u>Policy</u>	25 NCAC 01J .1101
Amend/**	

The rules in Subchapter 1L are the State's equal employment opportunity plans (.0100); AIDS in the workplace (.0200); and the Equal Employment Opportunity Institute (.0300).

<u>Purpose</u>	25 NCAC 01L .0102
Amend/*	
<u>Program Implementation: Agency and University Level</u>	25 NCAC 01L .0104
Amend/*	

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

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray
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>
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Elm Street Connection LLC, DBA Bella Mea Coal Fired Pizza v. ABC Commission	10 ABC 06298	11/07/11	
ABC Commission v. Universal Entertainment, LLC T/A Zoo City Saloon	11 ABC 2294	07/05/11	
ABC Commission v. Quick Quality Inc., T/A Quick Quality	11 ABC 2543	07/19/11	
ABC Commission v. Lead C. Corp v. T/A Burger King/Shell Convenience Store	11 ABC 5066	10/19/11	
ABC Commission v. GK Mart Inc., T/A GK Mart	11 ABC 02647	07/22/11	
ABC Commission v. Universal Entertainment, LLC T/A Zoo City Saloon (name changed to El Patron Night Club and Bar)	11 ABC 06892	11/04/11	
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ABC Commission v. G K Mart Inc., T/A G K Mart	11 ABC 07110	03/12/12	
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ABC Commission v. MBM of NC Inc, T/A Super Mart 3	11 ABC 10549	11/15/11	
ABC Commission v. Octobers, Inc., T/A Toxaway House Restaurant	11 ABC 10955	12/20/11	
ABC Commission v. Charles Franklin Liles, T/A Leather Pockets Billiards and Lounge	11 ABC 11584	11/15/11	
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ABC Commission v. FFM Bar Inc. T/A Drifters Country Saloon	11 ABC 11589	02/03/12	
ABC Commission v. Fat Cats Grill and Oyster Bar, Inc., T/A Fat Cats Grill and Oyster Bar	11 ABC 12674	02/28/12	
ABC Commission v. Stanley Ray Edwards, T/A Woogies	11 ABC 12968	01/04/12	
ABC Commission v. Walter Anthony Cox, T/A Dirty T's Tavern	11 ABC 13604	02/28/12	
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