

# ***NORTH CAROLINA REGISTER***

**VOLUME 27 • ISSUE 19 • Pages 1837 - 1895**

**April 1, 2013**

## **I. EXECUTIVE ORDERS**

Executive Order No. 4 .....	1837 – 1838
Executive Order No. 5 .....	1839 – 1841

## **II. IN ADDITION**

DHHS – Notice for Approval of a Wastewater System - Freed .....	1842
DHHS – Notice for Approval of a Wastewater System - King .....	1843
DHHS – Notice for Approval of a Wastewater System - Lentz .....	1844
Environmental Management Commission – Public Notice .....	1845

## **III. PROPOSED RULES**

<b>Environment and Natural Resources, Department of</b>	
Coastal Resources Commission .....	1846 – 1850
<b>Occupational Licensing Boards and Commissions</b>	
Hearing Aid Dealers and Fitters Board .....	1850 – 1852

## **IV. APPROVED RULES..... 1853– 1878**

<b>Commerce, Department of</b>	
Credit Union Division	
<b>Environment and Natural Resources, Department of</b>	
Environmental Management Commission	
<b>Health and Human Services, Department of</b>	
Child Care Commission	
Medical Care Commission	
Public Health, Commission for	
<b>Occupational Licensing Boards and Commissions</b>	
Cosmetic Art Examiners, Board of	
Hearing Aid Dealers and Fitters Board	
Pharmacy, Board of	
Speech and Language Pathologists and Audiologists, Board of Examiners for	
<b>Transportation, Department of</b>	
Department	

## **V. RULES REVIEW COMMISSION ..... 1879 – 1888**

## **VI. CONTESTED CASE DECISIONS**

Index to ALJ Decisions .....	1889 – 1895
------------------------------	-------------

## **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  
Amanda Reeder, Commission Counsel amanda.reeder@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: Amy Bason amy.bason@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 2013 – December 2013

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 <sup>th</sup> day from publication in the Register
27:13	01/02/13	12/06/12	01/17/13	03/04/13	03/20/13	05/01/13	05/2014	09/29/13
27:14	01/15/13	12/19/12	01/30/13	03/18/13	03/20/13	05/01/13	05/2014	10/12/13
27:15	02/01/13	01/10/13	02/16/13	04/02/13	04/22/13	06/01/13	05/2014	10/29/13
27:16	02/15/13	01/25/13	03/02/13	04/16/13	04/22/13	06/01/13	05/2014	11/12/13
27:17	03/01/13	02/08/13	03/16/13	04/30/13	05/20/13	07/01/13	05/2014	11/26/13
27:18	03/15/13	02/22/13	03/30/13	05/14/13	05/20/13	07/01/13	05/2014	12/10/13
27:19	04/01/13	03/08/13	04/16/13	05/31/13	06/20/13	08/01/13	05/2014	12/27/13
27:20	04/15/13	03/22/13	04/30/13	06/14/13	06/20/13	08/01/13	05/2014	01/10/14
27:21	05/01/13	04/10/13	05/16/13	07/01/13	07/22/13	09/01/13	05/2014	01/26/14
27:22	05/15/13	04/24/13	05/30/13	07/15/13	07/22/13	09/01/13	05/2014	02/09/14
27:23	06/03/13	05/10/13	06/18/13	08/02/13	08/20/13	10/01/13	05/2014	02/28/14
27:24	06/17/13	05/24/13	07/02/13	08/16/13	08/20/13	10/01/13	05/2014	03/14/14
28:01	07/01/13	06/10/13	07/16/13	08/30/13	09/20/13	11/01/13	05/2014	03/28/14
28:02	07/15/13	06/21/13	07/30/13	09/13/13	09/20/13	11/01/13	05/2014	04/11/14
28:03	08/01/13	07/11/13	08/16/13	09/30/13	10/21/13	12/01/13	05/2014	04/28/14
28:04	08/15/13	07/25/13	08/30/13	10/14/13	10/21/13	12/01/13	05/2014	05/12/14
28:05	09/03/13	08/12/13	09/18/13	11/04/13	11/20/13	01/01/14	05/2014	05/31/14
28:06	09/16/13	08/23/13	10/01/13	11/15/13	11/20/13	01/01/14	05/2014	06/13/14
28:07	10/01/13	09/10/13	10/16/13	12/02/13	12/20/13	02/01/14	05/2014	06/28/14
28:08	10/15/13	09/24/13	10/30/13	12/16/13	12/20/13	02/01/14	05/2014	07/12/14
28:09	11/01/13	10/11/13	11/16/13	12/31/13	01/21/14	03/01/14	05/2014	07/29/14
28:10	11/15/13	10/24/13	11/30/13	01/14/14	01/21/14	03/01/14	05/2014	08/12/14
28:11	12/02/13	11/06/13	12/17/13	01/31/14	02/20/14	04/01/14	05/2014	08/29/14
28:12	12/16/13	11/21/13	12/31/13	02/14/14	02/20/14	04/01/14	05/2014	09/12/14

## **EXPLANATION OF THE PUBLICATION SCHEDULE**

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

### **GENERAL**

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

### **FILING DEADLINES**

**ISSUE DATE:** The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

**LAST DAY FOR FILING:** The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

### **NOTICE OF TEXT**

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

**END OF REQUIRED COMMENT PERIOD**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

**DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:** The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

**FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:** This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.



# State of North Carolina

PAT McCrory  
GOVERNOR

FEBRUARY 27, 2013

## EXECUTIVE ORDER NO. 4

### TEMPORARY EMPLOYMENT SERVICES

**WHEREAS**, State agencies and departments have the need to obtain the services of temporary employees from time to time in order to efficiently respond to temporary or changing conditions; and

**WHEREAS**, there has been established in the Office of State Personnel a temporary employment service entitled Temporary Solutions; and

**WHEREAS**, Temporary Solutions has been and continues to be administered by the Office of State Personnel; and

**WHEREAS**, Temporary Solutions provides temporary staffing services for North Carolina State Government at a cost-effective rate; and

**WHEREAS**, the State Personnel Director, through Temporary Solutions charges the agencies, departments, and institutions which use Temporary Solutions for use of the temporary workforce, which includes the cost of maintenance of the Program and a small administrative fee; and

**WHEREAS**, the State Personnel Director is and shall continue to be responsible for the efficient operation of the Temporary Solutions program that meets the temporary employment needs of State agencies, departments, and institutions.

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

**Section 1.** All departments and agencies which utilize temporary employees shall employ them through the Temporary Solutions Program which is administered by the Office of State Personnel or a similar temporary employment service approved by the State Personnel Director.

**Section 2.** The head of each Council of State department and the University of North Carolina System, which employ temporary employees, are encouraged and invited to employ them through the Temporary Solutions Program or a similar temporary employment service administered by a specified group of agencies and universities.

**Section 3.** The hiring of any temporary employee by a department or agency shall be reported to the Office of State Personnel. The use of any entity by a department or agency to employ a temporary employee other than Temporary Solutions shall be approved prior to such use by the State Personnel Director.

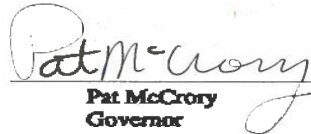
**Section 4.** The State Personnel Director shall establish monthly monitoring of the utilization of temporary employees in State Government and shall provide an annual report to the State Personnel

Commission on the compliance by all agencies, departments and institutions as a part of N.C.G.S. § 126-3(b)(8) and (9) as it relates to temporary employees.

**Section 5.** This Executive Order is effective immediately and it shall remain in effect until rescinded.

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



  
Pat McCrory  
Governor

ATTEST:

  
Elaine F. Marshall  
Secretary of State



# State of North Carolina

PAT McCrory  
GOVERNOR

March 5, 2013

## EXECUTIVE ORDER NO. 5

### EMERGENCY RELIEF FOR THE AREAS IMPACTED BY THE MID-ATLANTIC WINTER STORM

**WHEREAS**, due to the anticipated impact and disaster associated with the expected winter storm in the Mid-Atlantic region of the United States, vehicles bearing equipment, supplies and those used to restore utility services to relieve the damage to those states need to be moved on the interstate highways of North Carolina; and

**WHEREAS**, I hereby declare that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(18) exists for the purposes of responding to the anticipated impact of the Mid-Atlantic winter storm. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) is the Mid-Atlantic region of the United States.

**WHEREAS**, under the provisions of N.C.G.S. § 166A-19.30(b)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

**WHEREAS**, with the concurrence of the Council of State, I have found that vehicles bearing equipment, supplies and engaged in restoring utility services to relieve the emergency area must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118. I have further found that citizens in the emergency area may suffer losses and will likely suffer further widespread damage within the meaning of N.C.G.S. § 166A-19.3(3) and N.C.G.S. § 166A-19.21(b) and;

**WHEREAS**, the prompt restoration of utility services to citizens is essential to their safety and well-being; and

**WHEREAS**, 49 CFR § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

**WHEREAS**, under N.C.G.S. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, and medical supplies, and for the restoration of utility services.

**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.**

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Public Safety pursuant to N.C.G.S. § 20-381.

**Section 2.**

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting equipment, supplies and engaged in restoring utility services in order to relieve the emergency area as described herein.

**Section 3.**

Vehicle combinations transporting a commodity that cannot be broken down or divided to meet the requirements outlined in this section are exempt from obtaining an oversize/overweight permit:

- a. When the gross weight does not exceed 112,000 pounds, and
- b. When the steer axle weight does not exceed 20,000 pounds, the single axle weight does not exceed 25,000 pounds, the tandem axle weight does not exceed 50,000 pounds, the tridem axle weight does not exceed 60,000 pounds and the 4 or more axle group weight does not exceed 68,000 pounds, and
- c. When the overall width does not exceed 12 feet, and
- d. When the overall height does not exceed 13 feet 6 inches, and
- e. When the overall length does not exceed 105 feet from bumper to bumper, and
- f. When the vehicle combination has five or more axles, and
- g. When the vehicle combination has a minimum extreme axle spacing of 51 feet from the center of the first axle to the center of the rear most axle, and
- h. When the vehicle combination is traveling on North Carolina interstate highways only.

Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

**Section 4.**

Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

- a. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.
- b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.
- c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

**Section 5.**

The size and weight exemption for vehicles will only be allowed on all North Carolina interstate Highways.



**Section 6.**

The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) does not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

**Section 7.**

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 6 of this Executive Order in a manner, which will implement these provisions without endangering motorists in North Carolina.

**Section 8.**

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are for relief efforts associated with transporting equipment, supplies and restoring utility services.

**Section 9.**

This Order shall not apply on posted bridges pursuant to N.C.G.S. 136-72 and light traffic roads pursuant to N.C.G.S. 20-118.

**Section 10.**

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

**Section 11.**

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

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



*Pat McCrory*  
 Pat McCrory  
 Governor

ATTEST:

*Claudia F. Marshall*  
 Claudia F. Marshall  
 Secretary of State

Notice of Application to modify an existing Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Health and Human Services (DHHS) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a wastewater system, component, or device for on-site subsurface use. The following applications have been submitted to DHHS:

Application by: William G. Freed  
Aquapoint  
39 Tarkiln Place  
New Bedford, MA 02745

For: Modification of Innovative Approval for Aquapoint Bioclere Modified Trickling Filter System

DHHS Contact: Terry Pierce  
1-919-707-5875  
Fax: 919-845-3973  
[terry.pierce@dhhs.nc.gov](mailto:terry.pierce@dhhs.nc.gov)

These applications may be reviewed by contacting the applicant or at 5605 Six Forks Rd., Raleigh, NC, On-Site Water Protection Branch, Environmental Health Section, Division of Public Health. Draft proposed innovative approvals and proposed final action on the application by DHHS can be viewed on the On-Site Water Protection Branch web site: <http://ehs.ncpublichealth.com/oswp/>.

Written public comments may be submitted to DHHS within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Terry Pierce, Interim Branch Head, On-site Water Protection Branch, 1642 Mail Service Center, Raleigh, NC 27699-1642, or [terry.pierce@dhhs.nc.gov](mailto:terry.pierce@dhhs.nc.gov), or fax 919-845-3973. Written comments received by DHHS in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

Notice of Application for Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Health and Human Services (DHHS) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a wastewater system, component, or device for on-site subsurface use. The following applications have been submitted to DHHS:

Application by: Jim King  
Eljen Corporation, Inc.  
125 McKee St.  
East Hartford, CT 06108

For: Innovative Approval of Eljen Mantis 5 Wastewater Disposal technology

DHHS Contact: Terry Pierce  
1-919-707-5875  
Fax: 919-845-3973  
[terry.pierce@dhhs.nc.gov](mailto:terry.pierce@dhhs.nc.gov)

These applications may be reviewed by contacting the applicant or at 5605 Six Forks Rd., Raleigh, NC, On-Site Water Protection Branch, Environmental Health Section, Division of Public Health. Draft proposed innovative approvals and proposed final action on the application by DHHS can be viewed on the On-Site Water Protection Branch web site: <http://ehs.ncpublichealth.com/oswp/>.

Written public comments may be submitted to DHHS within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Terry Pierce, Interim Branch Head, On-site Water Protection Branch, 1642 Mail Service Center, Raleigh, NC 27699-1642, or [terry.pierce@dhhs.nc.gov](mailto:terry.pierce@dhhs.nc.gov), or fax 919-845-3973. Written comments received by DHHS in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

Notice of Application for Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Health and Human Services (DHHS) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a wastewater system, component, or device for on-site subsurface use. The following applications have been submitted to DHHS:

Application by: Dave Lentz  
Infiltrator Systems, Inc.  
PO Box 768  
Old Saybrook, CT 06475

For: Modification of Innovative Approval for Infiltrator Systems, Inc. Infiltrator Quick4 Plus Standard Low Profile Chamber

DHHS Contact: Terry Pierce  
1-919-707-5875  
Fax: 919-845-3973  
[terry.pierce@dhhs.nc.gov](mailto:terry.pierce@dhhs.nc.gov)

These applications may be reviewed by contacting the applicant or at 5605 Six Forks Rd., Raleigh, NC, On-Site Water Protection Branch, Environmental Health Section, Division of Public Health. Draft proposed innovative approvals and proposed final action on the application by DHHS can be viewed on the On-Site Water Protection Branch web site: <http://ehs.ncpublichealth.com/oswp/>.

Written public comments may be submitted to DHHS within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Terry Pierce, Interim Branch Head, On-site Water Protection Branch, 1642 Mail Service Center, Raleigh, NC 27699-1642, or [terry.pierce@dhhs.nc.gov](mailto:terry.pierce@dhhs.nc.gov), or fax 919-845-3973. Written comments received by DHHS in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

**STATE OF NORTH CAROLINA  
ENVIRONMENTAL MANAGEMENT COMMISSION  
1617 MAIL SERVICE CENTER  
RALEIGH, NORTH CAROLINA 27699-1617**

**PUBLIC NOTICE OF INTENT TO ISSUE STATE GENERAL NPDES PERMITS**

Public notice of intent to reissue expiring State National Pollutant Discharge Elimination System (NPDES) General Permits for Point Source Discharges of Stormwater for the following types of discharges:

**NPDES General Permit No. NCG050000** for stormwater point source discharges associated with activities classified as establishments primarily engaged in Apparel and Other Finished Products Made from Fabrics and Similar Materials [standard industrial classification (SIC) 23], Printing Publishing and Allied Industries [SIC 27], Converted Paper and Paperboard Products [SIC 267], Paperboard Containers and Boxes [SIC 265], Miscellaneous Manufacturing Industries [SIC 39], Leather and Leather Products [SIC 31], and Rubber and Miscellaneous Products [SIC 30]. The following activities are specifically excluded from coverage under this General Permit: Leather Tanning and Finishing [SIC 311] and Tires and Inner Tubes [SIC 301].

**NPDES General Permit No. NCG070000** for stormwater point source discharges associated with activities classified as establishments primarily engaged in Stone, Clay, Glass, and Concrete Products [standard industrial classification (SIC) 32]. The following activities are specifically excluded from coverage under this General Permit: Ready-mixed concrete [SIC 3273].

**NPDES General Permit No. NCG110000** for stormwater point source discharges associated with activities classified as Treatment Works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, with a design flow of 1.0 million gallons per day or more, or facilities which are required to have an approved pretreatment program under Title 40 CFR Part 403, including lands dedicated to the disposal of sewage sludge that is located within the confines of the facility.

**NPDES General Permit No. NCG130000** for stormwater point source discharges associated with activities classified as establishments primarily engaged in the wholesale trade of non-metal waste and scrap [a portion of standard industrial classification (SIC) 5093]. The following activities are specifically excluded from coverage under this General Permit: the wholesale trade of metal waste and scrap, iron and steel scrap, and nonferrous metal scrap; waste oil recycling; and automobile wrecking for scrap.

On the basis of preliminary staff review and application of Article 21 of Chapter 143 of the General Statutes of North Carolina, Public Law 92-500 and other lawful standards and regulations, the North Carolina Environmental Management Commission proposes to reissue State NPDES General Permits for the discharges as described above.

**INFORMATION:** The text of the draft NPDES General Permits and associated Fact Sheets are available at the Stormwater Permitting Unit website at <http://portal.ncdenr.org/web/wq/ws/su/public-notice>.

Persons wishing to comment upon or object to the proposed determinations are invited to submit their comments in writing to the address below no later than **May 2, 2013**. All comments received prior to that date will be considered in the final determination regarding permit issuance and revisions to the draft permits. A public meeting may be held where the Director of the Division of Water Quality finds a significant degree of public interest in any proposed permit issuance. The draft Permits, Fact Sheets and other information are available at the Division of Water Quality, 512 N. Salisbury Street, Room 942T, Archdale Building, Raleigh, North Carolina. They may be inspected during normal office hours. Copies of the information on file are available upon request and payment of the costs of reproduction. All such comments and requests regarding these matters should make reference to the draft Permit Numbers, NCG050000, NCG070000, NCG110000, and/or NCG130000.

**CONTACT:**

Bethany Georgoulas  
Wetlands and Stormwater Branch  
N.C. Division of Water Quality  
1617 Mail Service Center  
Raleigh, North Carolina 27699-1617  
Telephone (919) 807-6372

**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 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rule cited as 15A NCAC 07H .0312.

Agency obtained G.S. 150B-19.1 certification:

- ☒ OSBM certified on: March 2, 2013
- ☐ RRC certified on:
- ☐ Not Required

Link to agency website pursuant to G.S. 150B-19.1(c):  
<http://portal.ncdenr.org/web/cm/proposed-rules>

Proposed Effective Date: September 1, 2013

Public Hearing:

Date: May 2, 2013

Time: 5:00 p.m.

Location: NC Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557

**Reason for Proposed Action:** This action is being proposed to provide financial relief to applicants for permits for certain beach fill projects. The CRC has identified a limited set of conditions under which applicants can avoid some permit-related costs without violating the intent of the current rule or compromising environmental protection.

**Procedure by which a person can object to the agency on a proposed rule:** Objections may be filed in writing and addressed to the Director, NC Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557.

**Comments may be submitted to:** Braxton Davis, NC Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557; phone (252) 808-2808; fax (252) 247-3330

Comment period ends: June 14, 2013

**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: December 17, 2012
- ☐ Substantial economic impact (≥\$500,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required by G.S. 150B-21.4

## CHAPTER 07 – COASTAL MANAGEMENT

### SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

#### SECTION .0300 - OCEAN HAZARD AREAS

#### 15A NCAC 07H .0312 TECHNICAL STANDARDS FOR BEACH FILL PROJECTS

Emplacement of sediment along the oceanfront shoreline ~~shall~~ be is referred to in this Rule as beach fill. Beach fill projects including beach nourishment, dredged material disposal, habitat restoration, storm protection, and erosion control may be permitted under the following conditions:

- (1) The applicant shall characterize the recipient beach according to the following methodology:
  - (a) Characterization of the recipient beach ~~shall not be~~ is not required for the placement of sediment directly from and completely confined to a ~~federally or state~~ maintained navigation ~~channel~~; channel or associated sediment basins within the active nearshore, beach or inlet shoal system;
  - (b) Sediment sampling and analysis shall be used to capture the three-dimensional spatial variability of the sediment characteristics including grain size, sorting and mineralogy within the natural system;

- (c) Shore-perpendicular topographic and bathymetric surveying of the recipient beach shall be conducted to determine the beach profile. Topographic and bathymetric surveying shall occur along a minimum of five (5) shore-perpendicular transects evenly spaced throughout the entire project area. Each transect shall extend from the frontal dune crest seaward to a depth of 20 feet (6.1 meters) or to the shore-perpendicular distance 2,400 feet (732 meters) seaward of mean low water, whichever is in a more landward position. Transect spacing shall not exceed 5,000 feet (1,524 meters) in the shore-parallel direction. Elevation data for all transects shall be referenced to the North American Vertical Datum on 1988 (NAVD 88) and the North American Datum of 1983 (NAD 83);

(d) No less than 13 sediment samples shall be taken along each beach profile transect. At least one (1) sample shall be taken from each of the following morphodynamic zones where present: frontal dune, frontal dune toe, mid berm, mean high water (MHW), mid tide (MT), mean low water (MLW), trough, bar crest and at even depth increments from 6 feet (1.8 meters) to 20 feet (6.1 meters) or to a shore-perpendicular distance 2,400 feet (732 meters) seaward of mean low water, whichever is in a more landward position. The total number of samples taken landward of MLW shall equal the total number of samples taken seaward of MLW;

(e) For the purpose of this Rule, sediment grain size categories ~~shall be~~ is defined as "fine" (less than 0.0625 millimeters), "sand" (greater than or equal to 0.0625 millimeters and less than 2 millimeters), "granular" (greater than or equal to 2 millimeters and less than 4.76 millimeters) and "gravel" (greater than or equal to 4.76 millimeters and less than 76 millimeters). Each sediment sample shall report percentage by weight of each of these four (4) grain size categories;

(f) A composite of the simple arithmetic mean for each of the four (4) grain size categories defined in Sub-Item (1)(e) of this Rule shall be calculated for each transect. A grand mean shall

be established for each of the four (4) grain size categories by summing the mean for each transect and dividing by the total number of transects. The value that characterizes grain size values for the recipient beach ~~shall be~~ is the grand mean of percentage by weight for each grain size category defined in Sub-Item (1)(e) of this Rule;

(g) Percentage by weight calcium carbonate shall be calculated from a composite of all sediment samples along each transect defined in Sub-Item (1)(d) of this Rule. The value that characterizes the carbonate content of the recipient beach ~~shall be~~ is a grand mean calculated by summing the percentage by weight calcium carbonate for each transect and dividing by the total number of transects. For beaches on which fill activities have taken place prior to the effective date of this Rule, the Division of Coastal Management shall consider visual estimates of shell content as a proxy for carbonate weight percent;

(h) The total number of sediments and shell material greater than three (3) inches (76 millimeters) in diameter, observable on the surface of the beach between mean low water (MLW) and the frontal dune toe, shall be calculated for an area of 50,000 square feet (4,645 square meters) within the beach fill project boundaries. This area ~~shall be~~ is considered a representative sample of the entire project area and referred to as the "background" value;

(i) Beaches that have received sediment prior to the effective date of this Rule shall be characterized in a way that is consistent with Sub-Items (1)(a) through (1)(h) of this Rule and shall use data collected from the recipient beach prior to the addition of beach fill. If such data were not collected or are unavailable, a dataset best reflecting the sediment characteristics of the recipient beach prior to beach fill shall be developed in coordination with the Division of Coastal Management; and

(j) All data used to characterize the recipient beach shall be provided in digital and hardcopy format to the

- Division of Coastal Management  
upon request.
- (2) The applicant shall characterize the sediment to be placed on the recipient beach according to the following methodology:
- (a) The characterization of borrow areas including submarine sites, upland sites, and dredged material disposal area shall be designed to capture the three-dimensional spatial variability of the sediment characteristics including grain size, sorting and mineralogy within the natural system or dredged material disposal area;
  - (b) The characterization of borrow sites shall include sediment characterization data provided by the Division of Coastal Management;
  - (c) Seafloor surveys shall measure elevation and provide acoustic imagery of the seafloor. Measurement of seafloor elevation at each submarine borrow site shall provide 100 percent coverage and use survey-grade swath sonar in accordance with current US Army Corps of Engineers standards for navigation and dredging. Seafloor imaging without an elevation component shall also provide 100 percent US Army Corps of Engineers standards for navigation and dredging. Because shallow submarine areas can provide technical challenges and physical limitations for acoustic measurements, alternative elevation surveying methods for water depths less than 10 feet (3 meters) may be evaluated on a case-by-case basis by the Division of Coastal Management and seafloor imaging without an elevation component may not be required for water depths less than 10 feet (3 meters). Elevation data shall be tide- and motion-corrected and referenced to the North American Vertical Datum of 1988 (NAVD 88) and the North American Datum of 1983 (NAD 83). Seafloor imaging data without an elevation component shall be referenced to the NAD 83. All final seafloor survey data shall conform to standards for accuracy, quality control and quality assurance as set forth either by the US Army Corps of Engineers, the National Oceanic and Atmospheric Administration, or the International Hydrographic Organization.
  - (d) Geophysical imaging of the seafloor subsurface shall be used to characterize each borrow site and shall use survey grids with a line spacing not to exceed 1,000 feet (305 meters). Offshore dredged material disposal sites shall use a survey grid not to exceed 2,000 feet (610 meters) and only one set of geophysical imaging of the seafloor subsurface is required. Survey grids shall incorporate at least one (1) tie point per survey line. Because shallow submarine areas can pose technical challenges and physical limitations for geophysical techniques, subsurface data may not be required in water depths less than 10 feet (3 meters). Subsurface geophysical imaging ~~shall not be~~ are not required for ~~federally or state~~ borrow sites completely confined to maintained navigation channels, sediment deposition basins within the active nearshore, beach, or inlet shoal system, or upland sites. All final subsurface geophysical data shall use accurate sediment velocity models for time-depth conversions and be referenced to the North American Datum of 1983 (NAD 83);
  - (e) Sediment sampling of all borrow sites shall use a vertical sampling device no less than 3 inches (76 millimeters) in diameter. Characterization of each borrow site shall use no less than 10 evenly spaced cores or one (1) core per 23 acres (grid spacing of 1,000 feet or 305 meters), whichever is greater. Characterization of borrow sites completely confined to ~~federally or state~~ maintained navigation channels or sediment deposition basins within the active nearshore, beach or inlet shoal system shall use no less than five (5) evenly spaced vertical samples per channel or sediment basin, or sample spacing of



no more than 5,000 linear feet (1,524 meters), whichever is greater. Two sets of sampling data (with at least one dredging event in between) from maintained navigation channels or sediment deposition basins within the active nearshore, beach or inlet shoal system may be used to characterize material for subsequent nourishment events from those areas if the sampling results are found to be compatible with Sub-Item (3)(a) of this Rule. In submarine borrow sites other than ~~federally or state~~ maintained navigation channels or associated sediment deposition basins within the active nearshore, beach or inlet shoal system where water depths are no greater than 10 feet (3 meters) geophysical data of and below the seafloor are not ~~acquired~~, required, sediment sample spacing shall be no less than one (1) core per six (6) acres (grid spacing of 500 feet or 152 meters). Vertical sampling shall penetrate to a depth equal to or greater than permitted dredge or excavation depths for pending permit applications. All sediment samples shall be integrated with geophysical data to constrain the surficial, horizontal and vertical extent of lithologic units and determine excavation volumes of compatible sediment as defined in Item (3) of this Rule;

(f) For offshore dredged material disposal sites, the grid spacing shall not exceed 2,000 feet (610 meters). Characterization of material deposited at offshore dredged material disposal sites after the initial characterization are not required if all of the material deposited complies with Sub-Item (3)(a) of this Rule as demonstrated by at least two sets of sampling data with at least one dredging event in between;

(f)(g) Grain size distributions shall be reported for all sub-samples taken within each vertical sample for each of the four (4) grain size categories defined in Sub-Item (1)(e) of this Rule. Weighted averages for each core shall be calculated based on the total number of samples and the thickness of each sampled interval. A simple arithmetic mean of the

weighted averages for each grain size category shall be calculated to represent the average grain size values for each borrow site. Vertical samples shall be geo-referenced and digitally imaged using scaled, color-calibrated photography; ~~and~~

(g)(h) Percentage by weight of calcium carbonate shall be calculated from a composite sample of each core. A weighted average of calcium carbonate percentage by weight shall be calculated for each borrow site based on the composite sample thickness of each core. Carbonate analysis ~~shall not be~~ is not required for sediment confined to ~~federally or state~~ maintained navigation channels; ~~and channels or associated sediment deposition basins within the active nearshore, beach or inlet shoal system; and~~

(h)(i) All data used to characterize the borrow site shall be provided in digital and hardcopy format to the Division of Coastal Management upon request.

(3) The Division of Coastal Management shall determine sediment compatibility according to the following criteria:

(a) Sediment completely confined to the permitted dredge depth of a ~~federally or state~~ maintained navigation channel ~~shall be~~ or associated sediment deposition basins within the active nearshore, beach or inlet shoal system is considered compatible if the average percentage by weight of fine-grained (less than 0.0625 millimeters) sediment is less than 10 percent;

(b) Sediment used solely to establish or strengthen dunes ~~shall not be~~ is not considered a beach fill project under this Rule;

(c) Sediment used solely to re-establish state-maintained transportation corridors across a barrier island breach in a disaster area as declared by the Governor ~~shall not be~~ is not considered a beach fill project under this Rule;

(d) The average percentage by weight of fine-grained sediment (less than 0.0625 millimeters) in each borrow site shall not exceed the average percentage by weight of fine-grained sediment of the recipient beach characterization plus five (5) percent;

- (e) The average percentage by weight of granular sediment (greater than or equal to 2 millimeters and <less than 4.76 millimeters) in a borrow site shall not exceed the average percentage by weight of coarse-sand sediment of the recipient beach characterization plus five (5) percent; foot (4,645 square meter) section of beach.
- (f) The average percentage by weight of gravel (greater than or equal to 4.76 millimeters) in a borrow site shall not exceed the average percentage by weight of gravel-sized sediment for the recipient beach characterization plus five (5) percent;
- (g) The average percentage by weight of calcium carbonate in a borrow site shall not exceed the average percentage by weight of calcium carbonate of the recipient beach characterization plus 15 percent; and
- (h) Techniques that take incompatible sediment within a borrow site or combination of sites and make it compatible with that of the recipient beach characterization shall be evaluated on a case-by-case basis by the Division of Coastal Management.
- (4) Excavation and placement of sediment shall conform to the following criteria:
- (a) Sediment excavation depth from a ~~federally or state~~ maintained navigation channel shall not exceed the permitted dredge depth of the channel;
- (b) Sediment excavation depths for all borrow sites shall not exceed the maximum depth of recovered core at each coring location;
- (c) In order to protect threatened and endangered species, and to minimize impacts to fish, shellfish and wildlife resources, no excavation or placement of sediment shall occur within the project area during times designated by the Division of Coastal Management in consultation with other State and Federal ~~agencies, and~~ agencies; and
- (d) Sediment and shell material with a diameter greater than three (3) inches (76 millimeters) ~~shall be~~ are considered incompatible if it has been placed on the beach during the beach fill project, is observed between mean low water (MLW) and the frontal dune toe, and is in excess of twice the background value of material of the same size along any 50,000-square-

*Authority* G.S. 113A-229; 113A-102(b)(1); 113A-103(5)(a); 113A-107(a); 113A-113(b)(5) and (6); 113A-118; 113A-124.

## **TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

### **CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD**

*Notice* is hereby given in accordance with G.S. 150B-21.2 that the Hearing Aid Dealers and Fitters Board intends to amend the rules cited as 21 NCAC 22B .0603; 22F .0108 and repeal the rules cited as 21 NCAC 22K .0101-.0105.

**Agency obtained G.S. 150B-19.1 certification:**

- ☐ OSBM certified on:  
☐ RRC certified on:  
☒ Not Required

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://www.nchalb.org/regulatory/rulechange.php>

**Proposed Effective Date:** August 1, 2013

**Public Hearing:**

**Date:** June 6, 2013

**Time:** 12:45 p.m.

**Location:** Commission Room, Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, NC 27609

**Reason for Proposed Action:** The Board has done an annual review of rules, in consideration of changes in G.S. 93D, and is also eliminating unnecessary rules.

**Procedure by which a person can object to the agency on a proposed rule:** A person can object to the agency by speaking at the public hearing on June 6, 2013, or by submitting written comments to the following address no later than June 6, 2013: NC State Hearing Aid Dealers and Fitters Board, ATTN: Rulemaking, P.O. Box 97833, Raleigh, NC 27624

**Comments may be submitted to:** Catherine Jorgensen, Rulemaking Coordinator, NC State Hearing Aid Dealers and Fitters Board, P.O. Box 97833, Raleigh, NC 27624

**Comment period ends:** June 6, 2013

**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 by G.S. 150B-21.4

**SUBCHAPTER 22B - RULE MAKING PROCEDURES**

**SECTION .0600 - FEES**

**21 NCAC 22B .0603 FEE SCHEDULE**

The Board hereby establishes the following fees:

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

expiration (in addition to renewal fee). \$ 25.00

- (b) Late fee to reinstate expired license more than 60 days after license expiration (in addition to renewal fee). \$ 50.00
- (13) To reissue a suspended license more than 90 days after but not more than two years after license suspended. \$200.00
- (14) Application for a non-licensee to be a Registered Sponsor \$150.00

*Authority G.S. 12-3.1; 93D-3; 93D-5; 93D-6; 93D-8; 93D-9; 93D-11; 93D-13.*

**SUBCHAPTER 22F - GENERAL EXAMINATION AND LICENSE PROVISIONS**

**21 NCAC 22F .0108 REVIEW OF EXAMINATION**

As set forth in G.S. 93B-8 (c), each registered applicant who takes and does not pass the qualifying examination shall be granted an opportunity to review ~~his~~that portion of the examination that is controlled by the Board in the presence of a representative of the Board, upon written request from the applicant. Such written request shall be received by the Board no later than 30 consecutive days after the written notification of the examination results was issued by the Board. Such review shall be held at the Board's office unless the Board determines that the review should be held at another location.

*Authority G.S. 93B-8; 93D-3(c).*

**SUBCHAPTER 22K - FORMS**

**21 NCAC 22K .0101 DESIGNATION**

~~The forms used by the North Carolina State Hearing Aid Dealers and Fitters Board shall be known by the following titles:~~

- ~~(1) Application for License;~~
- ~~(2) Application for Apprentice Registration Certificate;~~
- ~~(3) Application for License Renewal;~~
- ~~(4) Plan for Completing the Supervision Requirements for the Apprenticeship;~~
- ~~(5) Report of the Apprenticeship Experience;~~
- ~~(6) Application for Approval of a Program for CEU Accreditation;~~
- ~~(7) Report of Program Attendance for Issuance of CEU Credit;~~
- ~~(8) Application to Become an Authorized Calibrator; and~~
- ~~(9) Application for Replacement of a Valid Printed Certificate Due to Loss or Name Change.~~

*Authority G.S. 93D-3(c); 150B-11(1).*

**21 NCAC 22K .0102      APPLICATION FOR LICENSE**

~~The Application for License form shall be used by all registered applicants, as defined in 21 NCAC 22A .0308, who are seeking issuance of a license.~~

*Authority G.S. 93D-3(c).*

**21 NCAC 22K .0103      APPLICATION FOR  
APPRENTICE REGISTRATION CERTIFICATE**

~~The Application for Apprentice Registration Certificate form shall be used on each occasion that any individual is applying for issuance of an initial apprentice registration certificate, issuance of a new certificate to replace an invalidated apprentice registration certificate, or issuance of a renewal certificate.~~

*Authority G.S. 93D-3(c).*

**21 NCAC 22K .0104      APPLICATION FOR LICENSE  
RENEWAL**

~~The Application for License Renewal form shall be used on each occasion that an individual is applying for renewal of an unexpired license.~~

*Authority G.S. 93D-3(c); 150B-11(1).*

**21 NCAC 22K .0105      ACCESS TO FORMS**

~~The forms listed in 21 NCAC 22K .0001 may be obtained from the office of the Board.~~

*Authority G.S. 93D-3(c).*

---

**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 21, 2013.*

**REGISTER CITATION TO THE  
NOTICE OF TEXT****COMMERCE, DEPARTMENT OF - CREDIT UNION DIVISION**

<u>Name and Address</u>	04	NCAC	06A	.0101*	n/a G.S. 150B-21.5(a)(4)
<u>Petition for Adoption: Amendment or Repeal of Rules</u>	04	NCAC	06B	.0301*	n/a G.S. 150B-21.5(a)(3)

**CHILD CARE COMMISSION**

<u>Formative Assessments</u>	10A	NCAC	09	.3008*	26:23 NCR
------------------------------	-----	------	----	--------	-----------

**MEDICAL CARE COMMISSION**

<u>Temporary Change in Bed Capacity</u>	10A	NCAC	13D	.2105*	27:03 NCR
---	-----	------	-----	--------	-----------

**PUBLIC HEALTH, COMMISSION FOR**

<u>Authorized Vendors</u>	10A	NCAC	43D	.0708*	27:05 NCR
---------------------------	-----	------	-----	--------	-----------

**ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>Catawba River Basin</u>	15A	NCAC	02B	.0308*	27:02 NCR
<u>Stormwater Requirements: Coastal Counties</u>	15A	NCAC	02H	.1005*	G.S. 150B-21.5(a)(5)

**TRANSPORTATION, DEPARTMENT OF**

<u>Informal Negotiations</u>	19A	NCAC	01C	.0201*	n/a G.S. 150B-21.5(a)(2)
<u>Location of Garbage Collection Containers</u>	19A	NCAC	02D	.0414*	n/a G.S. 150B-21.5(a)(2)

**COSMETIC ART EXAMINERS, BOARD OF**

<u>Licensees and Students</u>	21	NCAC	14H	.0401*	27:06 NCR
<u>Cosmetic Art Shops and Schools</u>	21	NCAC	14H	.0402*	27:06 NCR
<u>Continuing Education</u>	21	NCAC	14R	.0105*	27:06 NCR

**HEARING AID DEALERS AND FITTERS BOARD**

<u>Meetings of the Board</u>	21	NCAC	22A	.0203	27:10 NCR
<u>Appointments</u>	21	NCAC	22A	.0204	27:10 NCR
<u>Time and Place of Examinations</u>	21	NCAC	22F	.0101*	27:10 NCR

**PHARMACY, BOARD OF**

<u>Definitions</u>	21	NCAC	46	.1317*	27:09 NCR
<u>Responsibilities of the Pharmacist-Manager</u>	21	NCAC	46	.1411*	27:07 NCR
<u>Absence of Pharmacist</u>	21	NCAC	46	.1413*	27:09 NCR
<u>Drug Distribution and Control</u>	21	NCAC	46	.1414*	27:09 NCR
<u>Medication in Health Care Facility Emergency Departments</u>	21	NCAC	46	.1415*	27:09 NCR

<u>Remote Medication Order Processing Services</u>	21	NCAC	46	.1417*	27:09 NCR
<u>Automated Dispensing or Drug Supply Devices</u>	21	NCAC	46	.1814*	27:09 NCR
<u>Records of Dispensing</u>	21	NCAC	46	.2302*	27:09 NCR
<u>Records of Prescription Filling and Refilling</u>	21	NCAC	46	.2303*	27:09 NCR
<u>Automated Data Processing</u>	21	NCAC	46	.2304*	27:09 NCR
<u>Electronic Records</u>	21	NCAC	46	.2508*	27:09 NCR
<u>Anti-Neoplastic Agents</u>	21	NCAC	46	.2807*	27:09 NCR

**SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS, BOARD OF EXAMINERS FOR**

<u>Subpoenas</u>	21	NCAC	64	.0903*	27:03 NCR
------------------	----	------	----	--------	-----------

**TITLE 04 – DEPARTMENT OF COMMERCE**

**04 NCAC 06A .0101 NAME AND ADDRESS**

The Credit Union Division of the Department of Commerce is located in Raleigh, North Carolina. The mailing address for the Credit Union Division is 4314 Mail Service Center, Raleigh, North Carolina 27699-4314. The office is open to the public Monday through Friday 8:00a.m. to 5:00p.m., excluding state holidays.

*History Note: Authority G.S. 54-109; 54-109.12; 54-109.21(25);*

*Eff. February 1, 1976;*

*Readopted Eff. April 4, 1978;*

*Amended Eff. March 1, 2013; December 1, 1989.*

**04 NCAC 06B .0301 PETITION FOR ADOPTION: AMENDMENT OR REPEAL OF RULES**

(a) Right to Petition. Any interested person may petition the Administrator to promulgate, amend, or repeal an administrative rule.

(b) Form of Petition. The petition shall be in writing, signed by the petitioning party or parties and must include the address of the petitioning party. In addition, the petition shall contain the following information:

- (1) a draft of the proposed rule, amendment or repeal or a summary thereof;
- (2) the reason(s) for the proposal;
- (3) the effect on existing rules or orders or both;
- (4) any data showing the probable effect of the proposal on existing practices in the area involved, including cost; and
- (5) the names of those most likely to be affected by the proposal with addresses if reasonably known.

(c) Address for Petition. Petitions shall be addressed to the Division at its mailing address.

(d) Disposition of Petition. Upon receipt of a petition, the Administrator shall make a study of the facts stated in the petition and any additional information he deems relevant. The Administrator's disposition of the petition will be made in one of the following forms within 30 days of receipt of the petition:

- (1) a written denial of the proposal setting forth the reasons for the denial, or

- (2) a written communication to the petitioner indicating the Administrator's plan to initiate rulemaking procedures pursuant to G.S. 150B-21.2.

*History Note: Authority G.S. 54-109.12; 150B-20; 150B-21.2;*

*Eff. June 1, 1990;*

*Amended Eff. March 1, 2013.*

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**10A NCAC 09 .3008 FORMATIVE ASSESSMENTS**

Classroom staff are required to conduct formative assessments to gather information about each child's growth and skill development, as well as inform instruction. All formative assessments used by the NC Pre-K program shall be approved by the NC Child Care Commission based on the assessment tool's ability to collect information on children's behaviors, development, skills, knowledge, strengths, needs and interests across all domains of development.

*History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a),(b);*

*Eff. March 1, 2013.*

\*\*\*\*\*

**10A NCAC 13D .2105 TEMPORARY CHANGE IN BED CAPACITY**

(a) A continuing care retirement community, having an agreement to care for all residents regardless of level of care needs, may temporarily increase bed capacity by 10 percent or 10 beds, whichever is less, over the licensed bed capacity for a period up to 60 days following notification to and approval by the Division of Health Service Regulation.

(b) In an emergency situation, such as a natural disaster, a facility may exceed its licensed capacity as determined by its disaster plan and as authorized by the Division of Health Service Regulation. Emergency authorizations shall not exceed 60 days.

(c) The Division shall authorize, in writing, a temporary increase in licensed beds in accordance with Paragraphs (a) and (b) of this Rule, if it is determined that:

- (1) the increase is not associated with a capital expenditure; and
- (2) the increase would not jeopardize the health, safety and welfare of the patients.

*History Note: Authority G.S. 131E-104; 131E-112;  
Eff. January 1, 1996;  
Amended Eff. March 1, 2013.*

\*\*\*\*\*

#### **10A NCAC 43D .0708 AUTHORIZED VENDORS**

By signing the WIC Vendor Agreement, the vendor agrees to:

- (1) Process WIC program food instruments and cash-value vouchers in accordance with the terms of the Vendor Agreement and state and federal WIC program rules, regulations and applicable law;
- (2) Accept WIC program food instruments and cash-value vouchers in exchange for WIC supplemental foods. Supplemental foods are those foods which satisfy the requirements of 10A NCAC 43D .0501;
- (3) Provide only the authorized supplemental foods listed on the food instrument, or authorized fruits and vegetables with a cash-value voucher, accurately determine the charges to the WIC program, and complete the "Pay Exactly" box on the food instrument or cash-value voucher prior to obtaining the signature of the WIC customer. The WIC customer is not required to get all of the supplemental foods listed on the food instrument or the full dollar value of the cash-value voucher. However, a WIC customer may obtain more fruits and vegetables than the full dollar value of a cash-value voucher if the WIC customer pays the difference;
- (4) Enter in the "Pay Exactly" box on the food instrument or cash-value voucher only the total amount of the current shelf prices, or less than the current shelf prices, for the supplemental food actually provided and shall not charge or collect sales taxes for the supplemental food provided;
- (5) Charge no more for supplemental food provided to a WIC customer than to a non-WIC customer or no more than the current shelf price, whichever is less;
- (6) Accept payment from the state WIC Program only up to the maximum price set by the state agency for each food instrument within that vendor's peer group. The maximum price for each food instrument shall be based on the maximum prices set by the state agency for each supplemental food, as described in Sub-

item (4)(a) of Rule .0707, listed on the food instrument. A food instrument deposited by a vendor for payment which exceeds the maximum price shall be paid at the maximum price set by the state agency for that food instrument;

- (7) Accept payment from the state WIC Program only up to the full dollar value of the cash-value voucher;
- (8) Not charge the state WIC Program more than the maximum price set by the state agency under Item (4)(a) of Rule .0707 for each supplemental food within the vendor's peer group;
- (9) Provide to WIC customers infant formula, exempt infant formula, and WIC eligible medical food purchased only from the sources specified in Item (3) of Rule .0707. Providing infant formula, exempt infant formula, or WIC eligible medical food that has not been purchased from the sources specified in Item (3) of Rule .0707 shall result in termination of the WIC Vendor Agreement;
- (10) For free-standing pharmacies, provide only exempt infant formula and WIC-eligible medical foods;
- (11) Excluding free-standing pharmacies, redeem at least two thousand dollars (\$2,000) annually in WIC supplemental food sales. Failure to redeem at least two thousand dollars (\$2,000) annually in WIC supplemental food sales shall result in termination of the WIC Vendor Agreement. The store must wait 180 days to reapply for authorization;
- (12) Accept WIC program food instruments and cash-value vouchers only on or between the "Issue Date" and the "Participant Must Use By" dates;
- (13) Prior to obtaining the WIC customer's signature, enter in the "Date Transacted" box the month, day and year the WIC food instrument or cash-value voucher is exchanged for supplemental food;
- (14) Ensure that the WIC customer signs the food instrument or cash-value voucher in the presence of the cashier;
- (15) Refuse to transact any food instrument or cash-value voucher that has been altered;
- (16) Not transact food instruments or cash-value vouchers in whole or in part for cash, credit, unauthorized foods, or non-food items;
- (17) Not provide refunds or permit exchanges for authorized supplemental foods obtained with food instruments or cash-value vouchers, except for exchanges of an identical authorized supplemental food when the original authorized supplemental food is defective, spoiled, or has exceeded its "sell by," "best if used by," or other date limiting the sale or use

- of the food. An identical authorized supplemental food means the exact brand, type and size as the original authorized supplemental food obtained and returned by the WIC customer;
- (18) Imprint the authorized WIC vendor stamp in the "Pay the Authorized WIC Vendor Stamped Here" box on the face of the food instrument or cash-value voucher to enable the vendor number to be read during the Program editing process;
- (19) Imprint the vendor's bank deposit stamp or the vendor's name, address and bank account number in the "Authorized WIC Vendor Stamp" box in the endorsement;
- (20) Deposit WIC program food instruments and cash-value vouchers in the vendor's bank. All North Carolina WIC program food instruments and cash-value vouchers must be deposited in the vendor's bank within 60 days of the "Issue Date" on the food instrument or cash-value voucher;
- (21) Ensure that the authorized WIC vendor stamp is used only for the purpose and in the manner
- (22) authorized by the Agreement and be responsible for the unauthorized use of the authorized WIC vendor stamp;
- (23) Maintain storage of the authorized WIC vendor stamp so only the staff designated by the vendor owner or manager have access to the stamp and report loss of this stamp within two business days to the local WIC agency;
- (24) Notify the local WIC agency of misuse (attempted or actual) of WIC program food instruments or cash-value vouchers;
- (25) Maintain a minimum inventory of supplemental foods in the store for purchase. Supplemental foods that are outside of the manufacturer's expiration date do not count towards meeting the minimum inventory requirement. The following items and sizes constitute the minimum inventory of supplemental foods for vendors in Peer Groups I through III of Item (1) of Rule .0706, vendors in Peer Groups I through IV of Item (2) of Rule .0706 and vendors in Peer Group IV of Item (3) of Rule .0706:

Food Item	Type of Inventory	Quantities Required
Milk	Whole fluid: gallon	2 gallons
	-and- Skim/lowfat fluid: gallon	4 gallons
Cheese	1 pound package	2 pounds
Cereals	2 types: whole grain (minimum package size 12 ounce)	6 packages total
Eggs	Grade A, large, white: one dozen size carton	2 dozen
Juices	Single strength:	
	48 ounce container 64 ounce container	4 containers 4 containers
Dried Peas and Beans	one pound package	2 packages
Peanut Butter	16 to 18 ounce container	2 containers
Infant Cereal	8 ounce box	6 boxes
Infant Formula	milk-based concentrate; 12 to 13 ounce	34 cans
	-and- soy-based concentrate; 12.0 to 13 ounce	17 cans
	-and- milk-based powder; 11.0 to 14.0 ounce	10 cans
	-and- soy-based powder; 11.0 to 14.0 ounce Brands must be the primary contract infant formulas	5 cans
Fruits	14 to 16 ounce can: 2 varieties	6 cans total



Vegetables (Excludes foods in Dried Peas and Beans category)	14 to 16 ounce can: 2 varieties	6 cans total
---	---------------------------------	--------------

- All vendors in Peer Groups I through III of Item (1) of Rule .0706, Peer Groups I through IV of Item (2) of Rule .0706 and Peer Groups IV and V of Item (3) of Rule .0706 shall supply milk, soy-based or lactose-free infant formula in 32 ounce ready-to-feed or lactose-free powder within 48 hours of request by the state or local WIC agency;
- (25) Ensure that all supplemental foods in the store for purchase are within the manufacturer's expiration date;
- (26) Permit the purchase of supplemental food without requiring other purchases;
- (27) Attend, or cause a manager or other authorized store representative to attend, annual vendor training upon notification by the local WIC agency. Failure to attend annual vendor training by September 30 of each year shall result in termination of the WIC Vendor Agreement;
- (28) Inform and train vendor's cashiers and other staff on WIC Program requirements;
- (29) Be accountable for the actions of its owners, officers, managers, agents, and employees who commit vendor violations;
- (30) Allow monitoring and inspection of the store premises and procedures to ensure compliance with the agreement and state and federal WIC Program rules, regulations and applicable law. This includes providing access to all program-related records, including access to all WIC food instruments and cash-value vouchers at the store; vendor records pertinent to the purchase and sale of WIC supplemental foods, including invoices, receipts, copies of purchase orders, and any other proofs of purchase; federal and state corporate and individual income tax and sales and use tax returns and all records pertinent to these returns; and books and records of all financial and business transactions. These records must be retained by the vendor for a period of three years or until any audit pertaining to these records is resolved, whichever is later. Notwithstanding any other provision of this Rule and Rules .0707 and .0710, failure or inability to provide these records for an inventory audit or providing false records for an inventory audit shall be deemed a violation of 7 C.F.R. 246.12(l)(1)(iii)(B) and Subparagraph (a)(1) of Rule .0710. Invoices, receipts, purchase orders, and any other proofs of purchase for WIC supplemental foods shall include:
- (a) the name of the seller and be prepared entirely by the seller or on the seller's business letterhead;
  - (b) the date of purchase and the date the authorized vendor received the WIC supplemental food at the store if different from the date of purchase; and
  - (c) a description of each WIC supplemental food item purchased, including brand name, unit size, type or form, and quantity;
- (31) Maintain a record of all SNAP-eligible food sales and provide to the State agency upon request a statement of the total amount of revenue derived from SNAP-eligible food sales and written documentation to support the amount of sales claimed by the vendor, such as sales records, financial statements, reports, tax documents or other verifiable documentation;
- (32) Submit a current accurately completed WIC Price List when signing this agreement, and by April 1 and October 1 of each year. The vendor also agrees to submit a WIC Price List within one week of any written request by the state or local WIC agency;
- (33) Reimburse the state agency in full or agree to a repayment schedule with the state agency within 30 days of written notification of a claim assessed due to a vendor violation that affects payment to the vendor or a claim assessed due to the unauthorized use of the WIC vendor stamp. Failure to reimburse the state agency in full or agree to a repayment schedule within 30 days of written notification of a claim shall result in termination of the WIC Vendor Agreement. The state agency shall deny payment or assess a claim in the amount of the full purchase price of each food instrument or cash-value voucher invalid under Subparagraphs (a)(2), (a)(5), (a)(6) or (a)(7) of Rule .0704 of this Section. Denial of payment by the state agency or payment of a claim by the vendor for a vendor violation(s) shall not absolve the vendor of the violation(s). The vendor shall also be subject to any vendor sanctions authorized under Rule .0710 for the vendor violation(s);
- (34) Not seek restitution from the WIC customer for reimbursement paid by the vendor to the state agency or for WIC food instruments or cash-value vouchers not paid or partially paid by the state agency. Additionally, the vendor shall not charge the WIC customer for

- authorized supplemental foods obtained with food instruments or cash-value vouchers;
- (35) Not contact a WIC customer outside the store regarding the transaction or redemption of WIC food instruments or cash-value vouchers;
- (36) Notify the local WIC agency in writing at least 30 days prior to a change of ownership, change in store location, cessation of operations, or withdrawal from the WIC Program. Change of ownership, change in store location of more than three miles from the store's previous location, cessation of operations, withdrawal from the WIC Program or disqualification from the WIC Program shall result in termination of the WIC Vendor Agreement by the state agency. Change of ownership, change in store location, ceasing operations, withdrawal from the WIC Program or nonrenewal of the WIC Vendor Agreement shall not stop a disqualification period applicable to the store;
- (37) Return the authorized WIC vendor stamp to the local WIC agency upon termination of the Agreement or disqualification from the WIC Program;
- (38) Not discriminate on the basis of WIC participation, such as failing to offer WIC customers the same courtesies offered to other customers or requiring separate WIC lines;
- (39) Reapply to continue to be authorized beyond the period of its current WIC Vendor Agreement. Additionally, a store must reapply to become authorized following the expiration of a disqualification period or termination of the Agreement. In all cases, the vendor applicant is subject to the vendor peer group criteria of Rule .0706 and the vendor selection criteria of Rule .0707; and
- (40) Comply with all the requirements for vendor applicants of Items (3), (4) and (7) through (16) of Rule .0707 throughout the term of authorization. The state agency may reassess a vendor at any time during the vendor's period of authorization to determine compliance with these requirements. The state agency shall terminate the WIC Vendor Agreement of any vendor that fails to comply with Items (3), (4), (8), (9), (10), (11), (12), (13) or (15) of Rule .0707 during the vendor's period of authorization, and terminate the agreement of or sanction or both any vendor that fails to comply with Items (7), (14) or (16) of Rule .0707 during the vendor's period of authorization.

*History Note:* Authority G.S. 130A-361; 7 C.F.R. 246; 42 U.S.C. 1786;  
Eff. March 1, 2013.

**TITLE 15A – DEPARTMENT OF ENVIRONMENT AND  
NATURAL RESOURCES**

**15A NCAC 02B .0308 CATAWBA RIVER BASIN**

(a) Effective February 1, 1976, the adopted classifications assigned to the waters within the Catawba River Basin are set forth in the Catawba 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) Mooresville Regional Office  
610 East Center Avenue, Suite 301  
Mooresville, North Carolina;
  - (B) Asheville Regional Office  
2090 US Highway 70  
Swannanoa, North Carolina; and
  - (C) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering South Carolina are classified "C."

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

- (1) March 1, 1977 (see Paragraph (d) of this Rule);
- (2) August 12, 1979 (see Paragraph (e) of this Rule);
- (3) April 1, 1982 (see Paragraph (f) of this Rule);
- (4) January 1, 1985 (see Paragraph (g) of this Rule);
- (5) August 1, 1985 (see Paragraph (h) of this Rule);
- (6) February 1, 1986 (see Paragraph (i) of this Rule);
- (7) March 1, 1989 (see Paragraph (j) of this Rule);
- (8) May 1, 1989 (see Paragraph (k) of this Rule);
- (9) March 1, 1990 (see Paragraph (l) of this Rule);
- (10) August 1, 1990 (see Paragraph (m) of this Rule);
- (11) August 3, 1992 (see Paragraph (n) of this Rule);
- (12) April 1, 1994 (see Paragraph (o) of this Rule);
- (13) July 1, 1995 (see Paragraph (p) of this Rule);
- (14) September 1, 1996 (see Paragraph (q) of this Rule);
- (15) August 1, 1998 (see Paragraph (r) of this Rule);
- (16) April 1, 1999 (see Paragraph (s) of this Rule);
- (17) August 1, 2000 (see Paragraph (t) of this Rule);

- (18) August 1, 2004 (see Paragraph (u) of this Rule);
  - (19) May 1, 2007 (see Paragraph (v) of this Rule);
  - (20) September 1, 2010 (see Paragraph (w) of this Rule); and
  - (21) March 1, 2013 (see Paragraph (x) of this Rule).
- (d) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1977 as follows:
- (1) Torrence Branch (Index No. 11-136) from source to North Carolina-South Carolina State Line was reclassified from Class D to Class B; and
  - (2) Edwards Branch (Index No. 11-137-8-2-1) from source to Brier Creek was reclassified from Class D to Class C.
- (e) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 12, 1979 as follows: Unnamed Tributary to Lower Little River (Robinette Creek) (Index No. 11-69-1.5) from source to Lower Little River was reclassified from Class C to Class B.
- (f) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1982 as follows:
- (1) Spainhour Creek (Index No. 11-39-3) from source to Lower Creek was reclassified from Class C (1) to Class C; and
  - (2) Allen Creek (Index No. 11-129-5-7-2-4) from source to Maiden Creek was reclassified from Class C to Class A-II.
- (g) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective January 1, 1985 as follows: Catawba Creek from source to N.C. Highway 275 was reclassified from Class C(1) to Class C.
- (h) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1985 as follows:
- (1) Brier Creek (Index No. 11-137-8-2) from source to Little Sugar Creek was reclassified from Class C (1) to Class C;
  - (2) Little Hope Creek (Index No. 11-137-8-3) from source to Little Sugar Creek was reclassified from Class C (1) to Class C; and
  - (3) McMullen Creek (Index No. 11-137-9-5) from source to N.C. Highway 16 was reclassified from Class C (1) to Class C.
- (i) The Schedule of Classification and Water Quality Standards for the Catawba River Basin was amended effective February 1, 1986 with the reclassification of all A-I and A-II streams to WS-I and WS-III in the Catawba River Basin.
- (j) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1989 as follows:  
Wilson Creek (Index No. 11-38-34) and all tributary waters were reclassified from Class B-trout and Class C-trout to Class B-trout ORW and Class C-trout ORW.
- (k) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective May 1, 1989 as follows:
- (1) Henry Fork [Index Nos. 11-129-1-(1) and 11-129-1-(2)] from source to Laurel Creek, including all tributaries, were reclassified from Class WS-I, C and C trout to Class WS-I ORW, C ORW and C trout ORW, except Ivy Creek and Rock Creek which will remain Class C trout and Class C; and
  - (2) Jacob Fork [Index Nos. 11-129-2-(1) and 11-129-2-(4)] from source to Camp Creek, including all tributaries, were reclassified from Class WS-III trout and WS-III to WS-III trout ORW and WS-III ORW.
- (l) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1990 as follows:
- (1) Upper Creek [Index No. 11-35-2-(1)] from source to Timbered Branch including all tributaries except Timbered Branch (Index No. 11-35-2-9) was reclassified from Class C Trout to Class C Trout ORW; and
  - (2) Steels Creek [Index No. 11-35-2-12(1)] from source to Little Fork and all tributaries was reclassified from Class C Trout to Class C Trout ORW.
- (m) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1990 as follows:
- (1) The classification for the portion of Mackey Creek [Index No. 11-15-(2)] from Marion Water Supply Intake to Laurel Fork was reclassified from Class C to Class C HQW;
  - (2) Laurel Fork Creek [Index No. 11-15-3] from source to Mackey Creek was reclassified from Class C Tr to Class C Tr HQW;
  - (3) Armstrong Creek [Index No. 11-24-14-(1)] from source to Bee Rock Creek was reclassified from Class WS-III Tr to Class WS-III Tr HQW;
  - (4) Two segments of Linville River [Index Nos. 11-29-(16) and 11-29-(19)] were reclassified from Class B Tr and Class B to Class B Tr HQW and Class B HQW, respectively;
  - (5) Upper Creek [Index No. 11-35-2-(8.5)] and its named tributaries were reclassified from Class C Tr to Class C Tr HQW;
  - (6) Upper Creek (Clear Water Beach Lake) [Index No. 11-35-2-(10)] from Holly Spring Branch to Dam Clear Water Beach Lake was reclassified from Class B Tr to Class B Tr HQW;
  - (7) Holly Spring Branch [Index No. 11-35-2-11] from source to Upper Creek was reclassified from Class C Tr to Class Tr HQW;
  - (8) Steels Creek [Index No. 11-35-2-12-(5)] from Little Fork to a point 1.7 miles upstream from N.C. Highway 181 Bridge was reclassified

from Class B Tr to Class B Tr HQW and Steels Creek [Index No. 11-35-2-12-(7)] from a point 1.7 miles upstream from N.C. Highway 181 bridge to Clear Water Beach Lake, Upper Creek was reclassified from Class B to Class B HQW;

- (9) Upper Creek [Index No. 11-35-2-(13)] from Dam at Clear Water Beach Lake to Warrior Fork was reclassified from Class WS-III Tr to Class WS-III Tr HQW;
- (10) The portion of Johns River [Index No. 11-38-(28)] from Wilson Creek to Rhodhiss Lake, Catawba River was reclassified from Class C to Class C HQW;
- (11) Mulberry Creek [Index No. 11-38-32-(1)] from source to Boone Fork and its tributaries Left Fork Mulberry Creek [Index No. 11-38-32-2], Right Fork Mulberry Creek [Index No. 11-38-32-3], Roaring Creek [Index No. 11-38-32-8] and Clark Branch [Index No. 11-38-32-10] were reclassified from Class C Tr to Class C Tr HQW;
- (12) Amos Creek [Index No. 11-38-32-4] and Mills Creek [Index No. 11-38-32-5] and their named tributaries were reclassified from Class C to Class C HQW;
- (13) Cane Branch [Index No. 11-38-32-6], Rush Branch [11-38-32-7] and Frankum Creek [11-38-32-9] and its named tributaries were reclassified from Class C to Class C HQW;
- (14) Mulberry Creek [Index No. 11-38-32-(11)] from Boone Branch to Dam at Mulberry Beach was reclassified from Class B to Class B HQW;
- (15) Boone Branch (Fork) [Index No. 11-38-32-12] and its named tributaries from source to Mulberry Creek were reclassified from Class B to Class B HQW;
- (16) Brown Branch [Index No. 11-38-32-13] and Moore Branch [Index No. 11-38-32-14] were reclassified from Class B to Class B HQW; and
- (17) Anderson Creek [Index No. 11-38-32-16] was reclassified from Class C to Class C HQW.

(n) The Schedule of Classifications and Water Quality Standards for the Catawba 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.

(o) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1994 as follows:

- (1) Friday Lake (Index No. 11-125.5) from its source to Little Paw Creek was reclassified from Class C to Class B; and
- (2) The Linville River [Index No. 12-29-(1)] from Grandmother Creek to Linville Falls was reclassified from Class C Tr to Class B Tr.

(p) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective July 1, 1995 with the reclassification of Clark Creek from a point 0.6 mile downstream of Catawba County SR 2014 to 0.4 mile upstream of Larkard Creek [Index No. 11-129-5-(4.5)], and Howards Creek from its source to 0.7 mile upstream of Lincoln County State Road 1200 [Index No. 11-129-4], including associated tributaries from Class WS-IV to Classes C and WS-IV.

(q) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective September 1, 1996 as follows:

- (1) North Fork Catawba River [Index No. 11-24-(1)] from Laurel Branch to Armstrong Creek from Class C Tr to Class B Tr; and
- (2) Catawba River (Lake Hickory) from Rhodhiss dam to highway 321 [Index No. 11-(51)] from Class WS-IV CA to Class WS-IV B CA.

(r) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1998 as follows:

- (1) The primary classification for portions of South Fork Catawba River [Index No. 11-129-(0.5)] and Hoyle Creek [Index No. 11-129-15-(1)] was reclassified from Class WS-IV to Class WS-V;
- (2) Mill Creek [Index No. 11-7] from its source to Swannanoa Creek, including all tributaries, from Class C Tr to Class Tr HQW;
- (3) Toms Creek [Index Nos. 11-21-(1) and 11-21-(2)] from its source to Harris Creek, including all tributaries were reclassified from Class C Tr to Class Tr HQW; and
- (4) Harris Creek to McDowell County SR 1434, including all tributaries were reclassified from Class C to Class HQW.

(s) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1999 as follows:

- (1) Portion of the Catawba River [Index Nos. 11-(27.5) and 11-(31)] from Class WS-IV B and WS-IV to Class WS-V B and WS-V;
- (2) Armstrong Creek [Index Nos. 11-24-14-(1), 11-24-14-(13.5) and 11-24-14-(14)], and all tributaries from Classes WS-II Tr, WS-II, WS-II CA and C Tr to Classes C Tr HQW and C HQW;
- (3) Lookout Shoals Lake from Oxford Dam to Island Creek [Index No. 11-(67)] from Class WS-V to Class WS-IV CA, from Island Creek

to Elk Shoal Creek [Index No. 11-(70.5)] from Class WS-IV to Class WS-IV CA and from Elk Shoal Creek to a point one half mile upstream of Lookout Shoals Dam [Index No. 11-(72)] from Class WS-IV B to Class WS-IV B CA;

- (4) The classifications of tributary streams that are within five miles and draining to the normal pool elevation of Lookout Shoals Lake (Protected Area) have been revised to Class WS-IV; and
- (5) The classifications of tributary streams that are within one half mile and draining to the normal pool elevation of Lookout Shoals Lake (Critical Area) have been revised to Class WS-IV CA.

(t) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended August 1, 2000 with the reclassification of Little Grassy Creek (Index No. 11-29-2), including all tributaries, from its source to the Linville River from Class C Tr to Class C Tr ORW.

(u) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended August 1, 2004 with the reclassification of a segment of three surface waters, more specifically Henry Fork [11-129-1-(1)], Jerry Branch [11-129-1-3-(1)], and He Creek [11-129-1-4-(1)], from source to a formerly used City of Morganton Water Intake from Class WS-I ORW to Class WS-V ORW.

(v) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended May 1, 2007 with the reclassification of the Catawba River [Index No. 11-(31.5)] from a point 0.6 mile upstream of Muddy Creek to a point 1.2 miles upstream of Canoe Creek from WS-IV to WS-IV Tr and Catawba River [Index No. 11-(32.3)] from a point 1.2 miles upstream of Canoe Creek to a point 0.7 mile upstream of Canoe Creek (Morganton water supply intake) from WS-IV CA to WS-IV Tr CA. Named and unnamed tributaries to this portion of the Catawba River are not classified as Trout. Between the last day of May and the first day of November the water quality standard for dissolved oxygen shall not be less than a daily average of 5.0 mg/l with a minimum instantaneous value of not less than 4.0 mg/l.

(w) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended September 1, 2010 with the reclassification of the portion of the Catawba River [Index No. 11-(1)], from its source to the Left Prong Catawba River confluence, and its named tributaries, Chestnut Branch (Fork) [Index No. 11-2], Clover Patch Branch [Index No. 11-3], Youngs Fork Creek [Index No. 11-4], Spring Branch [Index No. 11-5], and Left Prong Catawba River [Index No. 11-6] from Class C Tr to Class C Tr HQW.

(x) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended March 1, 2013 as follows:

- (1) the portion of Maiden Creek [Index No. 11-129-5-7-2-(1)] from source to a point 0.7 mile upstream from backwaters of Maiden Reservoir, and its named tributary, Bee Branch

[Index No. 11-129-5-7-2-2], from Class WS-II HQW to WS-V;

- (2) the portion of Maiden Creek [Index No. 11-129-5-7-2-(2.5)] from a point 0.7 mile upstream from backwaters of Maiden Reservoir to dam at Maiden Reservoir from Class WS-II HQW CA to WS-V;
- (3) the portion of Allen Creek [Index No. 11-129-5-7-2-4-(1)] from source to a point 0.7 mile upstream of Maiden water supply intake from Class WS-II HQW to WS-V; and
- (4) the portion of Allen Creek [Index No. 11-129-5-7-2-4-(2)] from a point 0.7 mile upstream of Maiden water supply intake to Maiden water supply intake from Class WS-II HQW CA to WS-V.

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

*Eff.* February 1, 1976;

*Amended Eff.* March 1, 2013; December 1, 2010; September 1, 2010; May 1, 2007; August 1, 2004; August 1, 2000; April 1, 1999; August 1, 1998; September 1, 1996; July 1, 1995; April 1, 1994; August 3, 1992; August 1, 1990.

#### **15A NCAC 02H .1005 STORMWATER REQUIREMENTS: COASTAL COUNTIES**

(a) Requirements for Certain Nonresidential and Residential Development in the Coastal Counties. All nonresidential development activities that occur within the Coastal Counties that will add more than 10,000 square feet of built upon area or that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a CAMA Major Development Permit, pursuant to G.S. 113A-118 and all residential development activities within the Coastal Counties that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a CAMA Major Development Permit, pursuant to G.S. 113A-118 shall manage stormwater runoff as provided in Items (1), (2), and (3) below. A development activity or project requires a Sedimentation and Erosion Control Plan if the activity or project disturbs one acre or more of land, including an activity or project that disturbs less than one acre of land that is part of a larger common plan of development. Whether an activity or project that disturbs less than one acre of land is part of a larger common plan of development shall be determined in a manner consistent with the memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from the Director of the DWQ of the DENR to Interested Parties dated 24 July 2006.

- (1) Development Near Outstanding Resource Waters (ORW). Development activities within the Coastal Counties and located within 575 feet of the mean high waterline of areas designated by the Commission as Outstanding Resource Waters (ORW) shall meet the requirements of Rule .1007 of the Section and shall be permitted as follows:
  - (A) Low Density Option. Development shall be permitted pursuant to Rule

.1003(d)(1) of this Section if the development meets all of the following requirements:

- (i) The development has a built upon area of 12 percent or less. A development project with an overall density at or below the low density threshold, but containing areas with a density greater than the overall project density, shall be considered low density as long as the project meets or exceeds the requirements for low density development and locates the higher density development in upland areas and away from surface waters and drainageways to the maximum extent practicable.
- (ii) Stormwater runoff from the development is transported primarily by vegetated conveyances. The conveyance system shall not include a stormwater collection system as defined in Rule .1002 of this Section.
- (iii) The development contains a vegetative buffer in accordance with Paragraph (e) of this Rule.

(B) High Density Option. Development shall be permitted pursuant to Rule .1003(d)(2) of this Section if the development meets all of the following requirements:

- (i) The development has a built upon area of greater than 12 percent.
- (ii) The development has no direct outlet channels or pipes to Class SA waters unless permitted in accordance with 15A NCAC 02H .0126.
- (iii) The development utilizes control systems that are any combination of infiltration systems, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative low impact development (LID) stormwater management systems designed in accordance with

Rule .1008 of this Section to control and treat the greater of, runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and postdevelopment conditions for a one-year, 24-hour storm. Wet detention ponds may be used as a stormwater control system to meet the requirements of this Subparagraph (1)(B)(iii), provided that the stormwater control system fully complies with the requirements of Subparagraph (1)(B). If a wet detention pond is used within one-half mile of Class SA waters, installation of a stormwater best management practice in series with the wet detention pond shall be required to treat the discharge from the wet detention pond. Alternatives as described in Rule .1008(h) of this Section may also be approved if they meet the requirements of Subparagraph (1)(B).

- (iv) Stormwater runoff from the development that is in excess of the design volume must flow overland through a vegetative filter designed in accordance with Rule .1008 of this Section with a minimum length of 50 feet measured from mean high water of Class SA waters.
- (v) The development contains a vegetative buffer in accordance with Paragraph (e) of this Rule.

(C) Stormwater Discharges Prohibited. All development activities, including both low and high density projects, shall prohibit new points of stormwater discharge to Class SA waters or an increase in the volume of stormwater flow through conveyances or increase in capacity of conveyances of existing stormwater conveyance systems that

drain to Class SA waters. Any modification or redesign of a stormwater conveyance system within the contributing drainage basin must not increase the net amount or rate of stormwater discharge through existing outfalls to Class SA waters. The following shall not be considered a direct point of stormwater discharge:

- (i) Infiltration of the stormwater runoff from the design storm as described in Subparagraph (1)(B)(iii).
- (ii) Diffuse flow of stormwater at a non-erosive velocity to a vegetated buffer or other natural area, that is capable of providing effective infiltration of the runoff from the design storm as described in Subparagraph (1)(B)(iii). Notwithstanding the other requirements of this Rule, the infiltration mandated in this Subparagraph (1)(C)(ii) does not require a minimum separation from the seasonal high-water table.
- (iii) The discharge from a wet detention pond that is treated by a secondary stormwater best management practice, provided that both the wet detention pond and the secondary stormwater best management practice meet the requirements of Subparagraph (1)(C).
- (D) Limitation on the Density of Development. Development shall be limited to a built upon area of 25 percent or less.
- (2) Development Near Class SA Waters. Development activities within one-half mile of and draining to those waters classified by the Commission as Class SA waters or within one-half mile of waters classified by the Commission as Class SA waters and draining to unnamed freshwater tributaries to Class SA waters shall meet the requirements of Subparagraphs (1)(A), (B), and (C). The extent of Class SA waters is limited to those waters that are determined to be at least an intermittent stream based on a site stream determination made in accordance with the procedures that are delineated in the Division's "Identification Methods for the Origin of

Intermittent and Perennial Streams" prepared pursuant to Session Law 2001-404.

- (3) Other Coastal Development. Development activities within the Coastal Counties except those areas described in Subparagraphs (1) and (2) of this Paragraph shall meet all of the following requirements:

- (A) Low-Density Option. Development shall be permitted pursuant to Rule .1003(d)(1) of this Section if the development meets all of the following requirements:

- (i) The development has a built upon area of 24 percent or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low density as long as the project meets or exceeds the requirements for low-density development and locates the higher density in upland areas and away from surface waters and drainageways to the maximum extent practicable.
- (ii) Stormwater runoff from the development is transported primarily by vegetated conveyances. The conveyance system shall not include a stormwater collection system as defined in Rule .1002 of this Section.
- (iii) The development contains a vegetative buffer in accordance with Paragraph (e) of this Rule.

- (B) High-Density Option. Higher density developments shall be permitted pursuant to Rule .1003(d)(2) of this Section if the development meets all of the following requirements:

- (i) The development has a built upon area of greater than 24 percent.
- (ii) The development uses control systems that are any combination of infiltration systems, wet detention ponds, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative stormwater

- management systems designed in accordance with Rule .1008 of this Section.
- (iii) Control systems must be designed to store, control, and treat the stormwater runoff from all surfaces generated by one and one-half inch of rainfall.
- (iv) The development contains a vegetative buffer in accordance with Paragraph (e) of this Rule.

(b) Requirements for Limited Residential Development in Coastal Counties. For residential development activities within the 20 Coastal Counties that are located within one-half mile and draining to Class SA waters, that have a built upon area greater than 12 percent, that will add more than 10,000 square feet of built upon area, and that does not require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a CAMA Major Development Permit, pursuant to G.S. 113A-118, a one-time, nonrenewable stormwater management permit shall be obtained. The permit shall require recorded restrictions or protective covenants to be recorded on the property in the Office of the Register of Deeds in the county where the property is located prior to the issuance of a certificate of occupancy in order to ensure that the plans and specifications approved in the permit are maintained. Under this permit, stormwater runoff shall be managed using any one or combination of the following practices:

- (1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate the reuse of the collected rain water on site and shall be installed in such a manner that any overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.
- (2) Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and designed rain garden. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.
- (3) Install any other stormwater best management practice that meets the requirements of Rule .1008 of this Section to control and treat the stormwater runoff from all built upon areas of the site from the first one and one-half inches of rain.

(c) Requirements for Structural Stormwater Controls. Structural stormwater controls required under this Rule shall meet all of the following requirements:

- (1) Remove an 85 percent average annual amount of Total Suspended Solids.
- (2) For detention ponds, draw down the treatment volume no faster than 48 hours, but no slower than 120 hours.
- (3) Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.
- (4) Meet the General Engineering Design Criteria set forth in Rule .1008(c) of this Section.
- (5) For structural stormwater controls that require separation from the seasonal high water table, a minimum separation of two feet is required. Where a separation of two feet from the seasonal high water table is not practicable, the Division may grant relief from the separation requirement pursuant to the Alternative Design Criteria set out in Rule .1008(h) of this Section. No minimum separation from the seasonal high water table is required for a secondary stormwater best management practice that is used in a series with another stormwater best management practice.

(d) Wetlands. Developments regulated by this Rule that have wetlands inside of, or adjacent to, the development must meet the following requirements:

- (1) Areas defined as Coastal Wetlands under 15A NCAC 07H .0205, as measured landward from the normal high waterline, shall not be included in the overall project area to calculate impervious surface density. Wetlands that are not regulated as coastal wetlands pursuant to 15A NCAC 07H .0205 and that are located landward of the normal high waterline may be included in the overall project area to calculate impervious surface density.
- (2) Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.

(e) Vegetative Buffer. Developments permitted under Paragraph (a) shall contain a 50 foot wide vegetative buffer, as defined in Rule .1002(22) of this Section, for new development activities and a 30 foot wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with and maintained in grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within this vegetative buffer. The Division may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government



requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

(f) Exemptions From Vegetative Buffer Requirements. The following activities are exempt from the vegetative buffer requirements of Paragraph (e) of this Rule:

- (1) Development in urban waterfronts that meets the requirements of 15A NCAC 07H .0209(g),
- (2) Development in a new urban waterfront area that meets the requirements of S.L. 2004-117,
- (3) Those activities listed in 15A NCAC 07H .0209(d)(10)(A) through 15A NCAC 07H .0209(d)(10)(H),
- (4) Development of upland marinas that have received or are required to secure a CAMA Major Development Permit.

(g) Compliance with Other Rules. In addition to the requirements specified in this section, activities regulated under this section must also comply with any requirements of any other applicable law or rule.

(h) Exclusions. The requirements of this Rule shall not apply to any of the following:

- (1) Activities of the North Carolina Department of Transportation that are regulated in accordance with the provisions of the Department's National Pollutant Discharge Elimination System (NPDES) Stormwater Permit.
- (2) Development activities that are conducted pursuant to and consistent with one of the following authorizations, or any timely renewal thereof, shall be regulated by those provisions and requirements of this Rule that were effective at the time of the original issuance of the following authorizations:
  - (A) State Stormwater Permit issued under the provisions of this Rule.
  - (B) Stormwater Certification issued pursuant to Rule .1000 of this Section prior to 1 December 1995.
  - (C) A CAMA Major Development Permit.
  - (D) 401 Certification that contains an approved Stormwater Management Plan.
  - (E) A building permit pursuant to G.S. 153A-357 or G.S. 160A-417.
  - (F) A site-specific development plan as defined by G.S. 153A-344.1(b)(5) and G.S. 160A-385.1(b)(5).
  - (G) A phased development plan approved pursuant to G.S. 153A-344.1 or G.S. 160A-385.1 that shows:
    - (i) For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has

been approved pursuant to G.S. 153A-330 through G.S. 153A-335 or G.S. 160A-371 through G.S. 160A-376.

- (ii) For any subsequent phase of development, sufficient detail so that implementation of the requirements of this section to that phase of development would require a material change in that phase of the plan.

(H) A vested right to the development pursuant to common law.

- (3) Redevelopment activities that result in no net increase in built upon area and provide stormwater control equal to the previous development.
- (4) Development activities for which a complete Stormwater Permit Application has been accepted by the Division prior to October 1, 2008, shall be regulated by the provisions and requirements of this Rule that were effective at the time that this application was accepted as complete by the Division. For purposes of this Rule, a Stormwater Permit Application is deemed accepted as complete by the Division when the application is assigned a permit number in the Division's Basinwide Information Management System.
- (5) Development activities for which only a minor modification of a State Stormwater Permit is required shall be regulated by the provisions and requirements of this Rule that were effective at the time of the original issuance of the State Stormwater Permit. For purposes of this Rule, a minor modification of a State Stormwater Permit is defined as a modification that does not increase the net area of built upon area within the project site or does not increase the overall size of the stormwater controls that have been previously approved for that development activity.
- (6) Municipalities designated as a National Pollutant Discharge Elimination System (NPDES) Phase 2 municipality located within the 20 Coastal Counties until such time as the NPDES Phase 2 Stormwater Permit expires and is subject to renewal. Upon renewal of the NPDES Phase 2 Stormwater Permits for municipalities located within the 20 Coastal Counties, the Department shall review the permits to determine whether the permits should be amended to include the provisions of this Rule.

*History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a); Eff. September 1, 1995;*

*This Rule is superseded by S.L. 2008-211 Eff. October 1, 2008;  
Amended Eff. March 1, 2013; July 3, 2012.*

**TITLE 19A – DEPARTMENT OF TRANSPORTATION**

**19A NCAC 01C .0201 INFORMAL NEGOTIATIONS**

*History Note: Authority G.S. 136-29; 143B-10(j); 143B-350;  
150B-1(e)(8); 150B-22;  
Eff. July 1, 1978;  
Amended Eff. November 1, 1993;  
Repealed Eff. March 1, 2013.*

\*\*\*\*\*

**19A NCAC 02D .0414 LOCATION OF GARBAGE  
COLLECTION CONTAINERS**

Permits for the placement of garbage collection containers shall be issued only under the following circumstances:

- (1) No garbage collection container site shall be located on any State highway rights-of-way except by written authorization of the Department of Transportation upon submission of a Right of Way Encroachment Agreement For Non-Utility Encroachments on Primary and Secondary Highways (FORM R/W 16.1A (January, 1981)).
- (2) No garbage collection container shall be located within 500 feet of an occupied dwelling unless the applicant obtains written permission from the owner of the dwelling.
- (3) An application for a site permit may be obtained from and shall be submitted to the District Engineer for the county in which the garbage container is proposed to be located.
- (4) Guidelines for container sites are as follows:
  - (a) The county or municipality requesting the permit shall be responsible for any work to be performed in preparation of the site. Any work performed on the site by the Department of Transportation shall be on a reimbursable basis in accordance with rules 19A NCAC 02E .0501 and 19A NCAC 02E .0502;
  - (b) Container sites adjacent to paved roadways shall be constructed in accordance with FORM R/W 16.1A; and
  - (c) Container sites adjacent to unpaved roads shall be prepared with materials similar to those existing on the traveled portion of the roadway.
- (5) When container sites are located in areas requiring drainage, drainage shall be in accordance with FORM R/W 16.1A.

- (6) Whenever container sites are located adjacent to the roadway, sight distances shall be provided for any vehicle to safely enter the road from the container site.
- (7) Container sites shall be permitted adjacent to roadways only when lateral clearances can be provided from the edge of pavement to the container.
- (8) The county or municipality which holds a permit for the placement of garbage collection containers as provided herein shall maintain a collection schedule in order to prevent spillage or overflow from said containers and shall keep the site free from all garbage and trash other than that which is within the garbage collection containers which are authorized by the permit. The District Engineers shall give written notice to the county or municipality of any failure to comply with this requirement. If a county or municipality which is so notified does not bring the site within compliance of the requirement within 30 days of receipt of the written notice, the District Engineer shall then revoke the permit and dispose of the garbage collection containers accordingly.

Note: A booklet describing the guidelines used by the Department of Transportation in granting permits is available from the local division office free of charge.

*History Note: Authority G.S. 136-18.3; 136-18(10);  
Legislative Objection [(a)] Lodged Eff. August 19, 1980;  
Legislative Objection [(a)] Removed Eff. April 23, 1981;  
Eff. July 1, 1978;  
Amended Eff. March 1, 2013; November 1, 1993; October 1, 1991; April 3, 1981; April 11, 1980.*

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND  
COMMISSIONS**

**CHAPTER 14 – BOARD OF COSMETIC ART  
EXAMINERS**

**21 NCAC 14H .0401 LICENSEES AND STUDENTS**

- (a) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to students and licensees in practice in cosmetic art schools and shops. Each licensee and student shall wash his or her hands with soap and water or an equally effective cleansing agent immediately before and after serving each client.
- (b) Each licensee and student shall wear clean garments and shoes while serving patrons.
- (c) Licensees or students must not use or possess in a cosmetic art school or shop any of the following:
  - (1) Methyl Methacrylate Liquid Monomer a.k.a. MMA;
  - (2) Razor-type callus shavers designed and intended to cut growths of skin including skin tags, corns and calluses;

- (3) FDA rated Class III devices;
  - (4) Carbolic acid (phenol) over two percent strength;
  - (5) Animals including insects, fish, amphibians, reptiles, birds or mammals to perform any service; or
  - (6) A variable speed electrical nail file on a natural nail unless it has been designed for use on a natural nail.
- (d) A licensee or student must not:
- (1) Use any product, implement or piece of equipment in any manner other than the product's, implement's or equipment's intended use as described or detailed by the manufacturer;
  - (2) Diagnose any medical condition or treat any medical condition unless referred by a physician;
  - (3) Provide any service unless trained prior to performing the service;
  - (4) Perform services on a client if the licensee has reason to believe the client has any of the following:
    - (A) a contagious condition or disease;
    - (B) an inflamed, infected, broken, raised or swollen skin or nail tissue; or
    - (C) an open wound or sore in the area to be worked on;
  - (5) Alter or duplicate a license issued by the Board;
  - (6) Advertise or solicit clients in any form of communication in a manner that is false or misleading;
  - (7) Use any FDA rated Class II device without the documented supervision of a licensed physician;
  - (8) Use any product that will penetrate the dermis; or
  - (9) Make any statement to a member of the public either verbally or in writing stating or implying action is required or forbidden by Board rules when such action is not required or forbidden by Board rules. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation.
- (e) In using a disinfectant, the user shall wear any personal protective equipment, such as gloves, recommended by the manufacturer in the Material Safety Data Sheet.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-24; Eff. April 1, 2012; Amended Eff. March 1, 2013.*

**21 NCAC 14H .0402 COSMETIC ART SHOPS AND SCHOOLS**

- (a) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to all cosmetic art schools and shops. A cosmetic art school or shop shall be kept clean.

- (b) Waste material shall be kept in receptacles with a disposable liner. The area surrounding the waste receptacles shall be maintained in a sanitary manner.
- (c) All doors and windows shall be kept clean.
- (d) Furniture, equipment, floors, walls, ceilings and fixtures must be clean and in good repair.
- (e) Animals or birds shall not be in a cosmetic art shop or school. Fish in an enclosure and animals trained for the purpose of accompanying disabled persons are exempt from the prohibition in this Paragraph.
- (f) Cosmetic art shops and schools shall designate the entrance by a sign or lettering.
- (g) The owner of a cosmetic art shop or school shall not post any sign that states or implies that some action is required or forbidden by Board rules when such action is not required or forbidden by Board rules. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-24; Eff. April 1, 2012; Amended Eff. March 1, 2013.*

**21 NCAC 14R .0105 CONTINUING EDUCATION**

- (a) This Rule pertains to all cosmetic art licensees. Each licensee wishing to maintain his or her license shall obtain continuing education during each licensing period. The licensee shall maintain records of attendance at a continuing education course including the following information:
- (1) Course title and description;
  - (2) Date conducted;
  - (3) Address of location where the course was conducted; and
  - (4) Continuing education hours earned.
- (b) Each licensee must ensure at least 50 percent of the subject matter in a course broadens the licensee's knowledge of the cosmetic arts profession in which he or she is licensed.
- (c) Each cosmetic art teacher must ensure at least 50 percent of the subject matter in a course taken for the purpose of license renewal relates to teacher training techniques and enhances the ability to communicate.
- (d) Continuing education courses shall be approved by the board providing the courses meet the requirements above.
- (e) The Board or an agent of the Board may conduct audits of the licensee's continuing education at any time. Upon the Board's request each licensee shall provide completed records to the Board to support the last affirmation given pursuant to Subparagraph (j)(3) of this Rule. Records must be maintained until the end of the next renewal cycle after the affirmation for audit purposes.
- (f) Continuing education courses completed prior to an individual's being licensed by the Board shall not qualify for continuing education credit.
- (g) Apprentices do not need to earn continuing education for license renewal.
- (h) Licensees are exempt from the eight hours of continuing education requirement until the licensing period commencing after their initial licensure.

(i) After completion of the continuing education requirements for any licensing cycle the licensee shall forward to the Board the following:

- (1) the license renewal application;
- (2) the license renewal fee; and
- (3) A date and signature affirming the following pledge: "I hereby certify that I have obtained all continuing education hours required in accordance with the G.S. 88B-21 and board rules and regulations. I am aware that 1) false or dishonest misleading information may be grounds for disciplinary action against my license; and further that 2) false statements are punishable by law."

(j) Failure to produce documents or file a response to a request for audit from the Board within 30 days of the request shall result in a civil penalty to the licensee in the amount of two hundred fifty dollars (\$250.00).

(k) The presentation of fraudulent continuing education documentation to the Board by a licensee shall result in a civil penalty of five hundred dollars (\$500.00).

(l) Licensees in inactive status may reactivate licensure by taking no fewer than eight hours of continuing education per year of inactivity up to 24 total hours.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-21; 88B-24; 88B-29;

*Eff. April 1, 2012;*

*Amended Eff. March 1, 2013.*

\*\*\*\*\*

## CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD

### 21 NCAC 22A .0203 MEETINGS OF THE BOARD 21 NCAC 22A .0204 APPOINTMENTS

*History Note:* Authority G.S. 93D-3(b);

*Eff. April 23, 1976;*

*Amended Eff. February 1, 1996; May 1, 1988;*

*Repealed Eff. March 1, 2013.*

### 21 NCAC 22F .0101 TIME AND PLACE OF EXAMINATIONS

The Board shall publicize the time and place of each exam qualifying examination given pursuant to G.S. 93D-8 on the Board's website at least 90 days in advance of the examination.

*History Note:* Authority G.S. 93D-3(c); 93D-8;

*Eff. April 23, 1976;*

*Amended Eff. March 1, 2013; June 1, 2012; January 1, 1992; May 1, 1988.*

\*\*\*\*\*

## CHAPTER 46 – BOARD OF PHARMACY

### 21 NCAC 46 .1317 DEFINITIONS

The definitions of various terms used in this Chapter are found in G.S. 90, Article 4A, and as follows:

- (1) Ambulation Assistance Equipment. Devices that aid in walking, excluding canes, crutches, and walkers.
- (2) Approved School or College of Pharmacy. A school or college of pharmacy accredited by the American Council on Pharmaceutical Education, or a foreign school with a professional pharmacy degree program of at least five years approved by the Board pursuant to G.S. 90-85.13.
- (3) Auxiliary Drug Inventory. A secure, segregated, supplementary source for drugs to be used solely for the purpose of providing adequate drug availability when the pharmacy is closed or the pharmacist is unavailable.
- (4) Board. As defined in G.S. 90-85.3(b).
- (5) Certified technician. A technician who has passed a pharmacy technician certification board exam, or its equivalent, that has been approved by the Board according to the rules in this Chapter.
- (6) Consultant Pharmacist. A licensed pharmacist who, in collaboration with the supervising physician and nurse practitioner or assistant to the physician, develops a retrospective drug utilization review program that:
  - (a) reviews the appropriateness of the choice of medication(s) for the patient and the patient's therapeutic regimen, including choice of medication, dose, frequency, and route of administration;
  - (b) identifies and resolves therapeutic duplication in the patient's medication regimen; and
  - (c) considers patient-specific medication contraindications.

The consultant pharmacist holds himself available for consultation in person, by telephone, or by other means of direct communication at all times when drugs are dispensed.

- (7) Diagnostic equipment. Equipment used to record physiological information while a person goes about normal daily living or while asleep in order to document a disease process. Early pregnancy tests (EPTs), thermometers, glucose meters, and cholesterol equipment are not included as diagnostic equipment.
- (8) Drug review or Pharmaceutical care assessment. An onsite review of a patient's or resident's record by a licensed pharmacist that involves interpretation and evaluation of the drug therapy and other pharmaceutical care services to achieve intended medication

- outcomes and minimize negative effects of drug therapy.
- (9) Duplicate as used in G.S. 90-85.24. Any license, permit, or registration issued or reissued by the Board that is identical to a previously issued license, permit, or registration, including a permit reissued due to a change in pharmacist-manager.
- (10) Emergency Drugs. Those drugs whose prompt use and immediate availability are generally regarded by physicians as essential in the proper treatment of unforeseen adverse changes in a patient's health or well-being.
- (11) Employee. A person who is or would be considered an employee under the North Carolina Workers' Compensation Act. This definition applies to locations both within and outside of this State holding pharmacy or device and medical equipment permits and without regard to the number of persons employed by the permit holder.
- (12) Executive Director. The Secretary-Treasurer and Executive Director of the Board.
- (13) Graduate of an Approved School or College of Pharmacy. A person who has received an undergraduate professional degree in pharmacy from an approved school or college of pharmacy, or a person who has graduated from a foreign professional school of pharmacy and has successfully completed the Foreign Pharmacy Graduate Equivalency Examination offered by the National Association of Boards of Pharmacy and the Test of English as a Foreign Language.
- (14) HMES. Home medical equipment supplier.
- (15) Health Care Facility. Any organization whose primary purpose is to provide a physical environment for patients to obtain health care services. This shall include:
- (a) a hospital;
  - (b) a long-term care facility;
  - (c) a mental health facility;
  - (d) a drug abuse treatment center;
  - (e) a penal institution; or
  - (f) a hospice.
- (16) Health Care Facility Pharmacy. A pharmacy permitted by the Board that provides services to a Health Care Facility.
- (17) Indulgence in the Use of Drugs. The use of narcotic drugs or other drugs affecting the central nervous system or the use of intoxicating beverages to an extent as to deprive the user of reasonable self-control or the ability to exercise such judgment as might reasonably be expected of an average prudent person.
- (18) Internet Pharmacy.
- (a) A pharmacy that maintains an Internet web site for the purpose of selling or distributing prescription drugs; or
  - (b) A pharmacy that uses the internet, either itself, or through agreement with a third party, to communicate with or obtain information from patients; uses such communication or information, in whole or in part, to solicit, fill or refill prescriptions; or otherwise uses such communication or information, in whole or in part, to engage in the practice of pharmacy as defined in G.S. 90-85.3(r).
- Notwithstanding Sub-items (a) and (b) above, a pharmacy shall not be deemed an Internet pharmacy if it maintains an Internet web site for the following purposes only:
- (i) To post mere advertisements that do not attempt to facilitate, directly or through agreement with a third party, an actual transaction involving a prescription drug;
  - (ii) To allow a patient to communicate a request for a refill of a legitimate prescription originally filled by the pharmacy that maintains the Internet web site;
  - (iii) To allow a customer to research drug interactions and clinical pharmacology information; or
  - (iv) To allow a patient to send an electronic mail message to a pharmacist licensed in North Carolina.
- (19) Limited Service Pharmacy Permit. A pharmacy permit issued by the Board to an applicant who wishes to render in an institutional setting pharmaceutical services not limited to scope and kind but to time and conditions under which such services are rendered.
- (20) Medication Therapy Management Services and Related Functions. Services and functions included in the practice of pharmacy as part of monitoring, recording and reporting drug therapy and device usage.
- (21) Medication Administration Record. A record of drugs administered to a patient.
- (22) Medication Order. An order for a prescription drug or other medication or a device for a patient from a person authorized by law to prescribe medications.
- (23) Mobility equipment. Devices that aid a person in self-movement, other than walking,

- including manual or power wheelchairs and scooters.
- (24) Oxygen and respiratory care equipment. Equipment or devices used to administer oxygen or other legend drugs, maintain viable airways or monitor cardio-respiratory conditions or events, including the following:
  - (a) compressed medical gases;
  - (b) oxygen concentrators;
  - (c) liquid oxygen;
  - (d) nebulizers;
  - (e) compressors;
  - (f) aerosol therapy devices;
  - (g) portable suction machines;
  - (h) nasal continuous positive airway pressure (CPAP) machines;
  - (i) Bi-phasic positive pressure devices (BiPAP);
  - (j) infant monitors, such as apnea monitors and cardio-respiratory monitors;
  - (k) positive and negative pressure mechanical ventilators; and
  - (l) pulse oximeters.
- (25) Patient Medication Profile. A list of all prescribed medications for a patient.
- (26) Pharmacist. Any person within the definition set forth in G.S. 90-85.3(p), including any druggist.
- (27) Pharmacist-Manager. The person who accepts responsibility for the operation of a pharmacy in conformance with all statutes and rules pertinent to the practice of pharmacy and distribution of drugs by signing the permit application, its renewal or addenda thereto.
- (28) Pharmacy. Any place within the definition set forth in G.S. 90-85.3(q), including any apothecary or drugstore.
- (29) Pharmacy Intern. Any person who is registered with the Board under the internship program of the Board to acquire pharmacy experience or enrolled in approved academic internship programs. A pharmacy intern working under a pharmacist preceptor or supervising pharmacist may, while under supervision, perform all acts constituting the practice of pharmacy.
- (30) Place of residence. Any place used as an individual's temporary or permanent home.
- (31) President. The President of the Board.
- (32) Rehabilitation environmental control equipment. Equipment or devices that permit a person with disabilities to control his or her immediate surroundings.
- (33) Rehabilitation Services. Services and equipment required to maintain or improve functional status and general health as prescribed by the physician which are uniquely specified for each individual's lifestyle. The

people involved in this process include the patient, caregiver, physician, therapist, rehabilitation equipment supplier and others who impact on the individual's life style and endeavors.

- (34) Signature. A written or electronic signature or computerized identification code.
- (35) Two Years of College Work. Attendance at a college accredited by an accrediting agency recognized by the United States Department of Education for two academic years of not fewer than eight and one-half months each and the completion of work for credit leading to a baccalaureate degree or its equivalent and that would permit the student to advance to the next class.
- (36) Undergraduate Professional Degree in Pharmacy. A B.S. or Pharm. D. degree.
- (37) Vice-President. The Vice-President of the Board.

*History Note: Authority G.S. 90-85.3; 90-85.6; 90-85.8; 90-85.13; 90-85.14; 90-85.15; 90-85.21; 90-85.38; 90-85.40; Eff. May 1, 1989; Amended Eff. March 1, 2013; February 1, 2007; March 1, 2004; April 1, 1999; May 1, 1997; September 1, 1995; September 1, 1993; October 1, 1990; January 1, 1990.*

#### **21 NCAC 46 .1411 RESPONSIBILITIES OF THE PHARMACIST-MANAGER**

(a) The pharmacist-manager shall establish written procedures for the safe and effective distribution of pharmaceutical products. Procedures shall be reviewed annually to assure they reflect current practice in the facility. A copy of such procedures shall be available in the pharmacy.

(b) The pharmacist-manager is responsible for the safe and effective distribution of, control over and accountability for drugs, including intravenous and irrigation solutions. The pharmacist-manager may delegate responsibilities to other health care facility staff for ordering, distributing, and accounting for pharmaceutical materials to achieve this purpose. Whenever there is a violation of the rules in this Section, the facility's pharmacy permit is subject to action by the Board. In addition to the requirements of 21 NCAC 46 .2502, the pharmacist-manager is responsible for:

- (1) the development of policies and procedures for the compounding, admixture, labeling, and dispensing of parenteral medications in the health care facility, including relevant education and training of all pharmacy and nursing personnel involved in the preparation of parenteral medications;
- (2) the establishment of specifications or use of compendia specifications for procurement of all pharmaceuticals, including drugs, chemicals, and biologicals used in direct patient care, subject to approval of the appropriate committee of the health care facility;

- (3) participation in development and maintenance of a drug formulary when required by the health care facility;
- (4) participation in those aspects of pharmaceutical care that affect drug distribution and control;
- (5) preparing, packaging, compounding and labeling all drugs;
- (6) assuring that drugs are dispensed only by a pharmacist or other persons allowed by law to dispense and that supportive pharmacy personnel are directed and supervised in compliance with all applicable laws and regulations;
- (7) the development and implementation of policies and procedures to ensure that discontinued drugs; outdated drugs; drugs recalled; containers with worn, illegible, or missing labels; or products that are otherwise unusable are returned to the pharmacy for disposition in compliance with all applicable laws and regulations;
- (8) maintaining records and reports required by law to ensure patient health, safety and welfare;
- (9) developing and implementing policies and procedures that effectively address the safeguarding and handling of all drugs and devices, as defined in G.S. 90-85.3(e), throughout the health care facility, or other locations where legend drug products are transferred, including medications that originate from a source outside the facility. When discrepancies in controlled substance counts are identified:
  - (A) they shall be reviewed, and a report of this action, including steps taken to prevent recurrence, where possible, shall be provided to the pharmacist-manager within 24 hours of occurrence. This report shall be maintained by the pharmacist-manager; and
  - (B) they shall be reported to the Board and the Drug Enforcement Administration in compliance with all applicable laws and regulations;
- (10) developing and implementing policies and procedures to ensure that auxiliary medication inventories are inspected in accordance with the pharmacy's policies;
- (11) all drugs and devices dispensed by the pharmacy as defined in G.S. 90-85.3(e) that are ordered for and used within the health care facility; and
- (12) maintaining policies and procedures regarding drug samples and patient's personal medications.

*History Note:* Authority G.S. 90-85.6; 90-85.21; 90-85.32;  
*Eff. May 1, 1997;*  
*Amended Eff. March 1, 2013.*

## **21 NCAC 46 .1413 ABSENCE OF PHARMACIST**

(a) When a health care facility pharmacy is not open 24 hours a day, seven days a week, arrangements shall be made in advance by the pharmacist-manager for provision of drugs and pharmaceutical care to the medical staff, other authorized personnel, and patients of the health care facility by use of an "on call" pharmacist accessible to the facility during all absences, and auxiliary medical inventories as described in Rule .1414(d) of this Section. In addition, one or both of the options in Subparagraphs (a)(1) and (2) may be authorized by the pharmacist-manager to assure access to drugs and pharmaceutical care in the absence of a pharmacist:

- (1) a contractual arrangement with another health care facility, pharmacy, or pharmacist; or
- (2) a nurse trained and authorized by the pharmacist-manager to remove drugs or devices from the pharmacy in the absence of a pharmacist. Entry into the pharmacy in the absence of a pharmacist shall occur only if the drug needed is not in the auxiliary medication inventory. The pharmacist-manager shall maintain a current list of authorized persons and document the initial orientation, continuing education, and quality control processes on an ongoing basis. The pharmacist-manager shall maintain a list of restricted medications that shall not be taken from the pharmacy and may only be removed after contacting the "on call" pharmacist to verify the appropriateness and accuracy of the medication order and medication removed from the pharmacy at the time of removal. For medications not on the restricted list, an "on call" pharmacist must be accessible for questions by the authorized nurse. Within 24 hours, a pharmacist shall verify the accuracy and appropriateness of the medication order and the medication removed from the pharmacy.

(b) A record of drugs or devices removed from auxiliary medication inventories or from pharmacy inventory shall be maintained for three years in the health care facility in compliance with all applicable laws and regulations. The pharmacist-manager shall at least quarterly verify the accuracy of the records.

(c) Supportive personnel approved by the pharmacist-manager may be present in the pharmacy at other than regular service hours to perform clerical, repackaging and distributive functions according to written policies and procedures if the drugs so handled are not permitted to leave the pharmacy until all work performed has been checked and certified as being correct by the pharmacist.

(d) Only drugs in unit-of-use packaging shall be removed from the auxiliary medication inventory or from the pharmacy; they shall be used for administration to a specific patient only, in

amounts sufficient to meet the needs for immediate therapeutic requirements. Controlled substances may be stocked and removed from auxiliary medication inventories; controlled substances may not be removed from the pharmacy in the absence of a pharmacist. Drugs shall be pre-labeled by the pharmacist with drug name, strength, lot number and expiration date. A copy of written orders for new medications shall be provided to the pharmacy.

*History Note: Authority G.S. 90-85.6; 90-85.21; 90-85.32; 90-85.33; 90-85.34;*  
*Eff. May 1, 1997;*  
*Amended Eff. March 1, 2013; August 1, 2000.*

**21 NCAC 46 .1414 DRUG DISTRIBUTION AND CONTROL**

**(a) MEDICATION ORDERS.**

- (1) Pharmacists shall dispense medications from a health care facility pharmacy only upon receipt of a medication order. A mechanism shall be in place to verify the authenticity of the medication order. Oral orders shall be recorded immediately and signed within the time frame established by regulatory agencies and health care facility policies and procedures.
- (2) All medication orders shall be received and reviewed by a pharmacist and shall contain the:
  - (A) patient's name, location and other identifying information such as history or medical records number;
  - (B) medication name, strength, dosage form, route of and directions for administration. In the absence of a facility policy on interpretation of routes of administration, the route of administration must be specified;
  - (C) discernible quantity to be dispensed. Medical orders issued from a health care facility shall, in the absence of a different indicated quantity or facility policy, be deemed to authorize dispensing of a 30-day supply;
  - (D) date the order was written; and
  - (E) prescriber's signature as set out in Subparagraph (a)(1) of this Rule (may include electronic signature or verification).
- (3) The health care facility pharmacy and the pharmacist-manager shall ensure that medication orders for patients requiring continuous drug therapy are entered into a patient medication profile, either manual or automated. The medication profile shall contain the:
  - (A) patient's name, location, and clinical data required for safe dispensing and administration of medication orders,

such as age, height, weight, sex, and allergies;

- (B) medication name, strength, dosage form, route of, and directions for administration;
  - (C) medication start date;
  - (D) medication discontinuance date; and
  - (E) identification of pharmacist responsible for or verifying technician entry of the medication order.
- (4) Abbreviations used in medication orders shall be agreed to, jointly adopted, and published by the medical, nursing, pharmacy, and medical records staff of the health care facility.
  - (5) A method to protect the health care facility patients from indefinite, open-ended medication orders must be provided. The prescriber shall be notified that the order shall be stopped before such action takes place by one or more of the following:
    - (A) the routine monitoring of patient's drug therapy by a pharmacist;
    - (B) a health care facility-approved, drug class-specific, automatic stop order policy covering those drug orders not specifying a number of doses or duration of therapy; or
    - (C) a health care facility-approved automatic cancellation of all medication orders after a predetermined time interval unless rewritten by the prescriber.
  - (6) Health care facilities that credential practitioners for prescribing privileges within the facility shall provide the health care facility pharmacy with credentialing information annually or immediately upon discharge or when privileges are suspended or terminated.
- (b) **DISPENSING.** In health care facilities with 24 hour pharmacy services, all dispensing shall be done by a pharmacist. In health care facilities without 24 hour pharmacy services, Rules .1413 and .1417 of this Section apply in the absence of a pharmacist.
- (c) **LABELING.**
- (1) The health care facility pharmacy and the pharmacist dispensing the drug shall ensure that all drugs dispensed from within a health care facility pharmacy are labeled and identified up to the point of administration;
  - (2) When a drug is added to a parenteral admixture, it shall be labeled with a distinctive supplementary label indicating the name and amount of the drug added, expiration date, and expiration time, if applicable. For admixtures prepared outside the health care facility pharmacy, the pharmacist-manager shall



develop policies and procedures for preparation and labeling.

**(d) AUXILIARY MEDICATION INVENTORIES.**

- (1) The pharmacist-manager of the health care facility pharmacy shall, in consultation with medical staff, develop a list of drugs and devices that may be stocked in auxiliary medication inventories (which may include patient care unit medication inventories, ancillary drug cabinet inventories, and emergency kits) located at the health care facility. This list shall include those drugs and devices that may be required to meet the immediate therapeutic needs of patients, but that are not reasonably available from the health care facility pharmacy in sufficient time to prevent prolonged discomfort or risk of harm to the health care facility's patients.
- (2) The pharmacist-manager of the health care facility pharmacy shall develop, implement, and monitor compliance with policies and procedures that ensure auxiliary medication inventories are accessed only in compliance with all applicable laws and regulations and only by licensed health-care professionals or those authorized by North Carolina law to administer medications. If an auxiliary medication inventory is accessed in an unauthorized manner, the health care facility personnel who become aware of the access shall notify the health care facility pharmacy's pharmacist-manager.
- (3) An auxiliary medication inventory shall contain drugs and devices only in amounts sufficient to meet immediate therapeutic needs of patients.
- (4) Drugs and devices contained in an auxiliary medication inventory shall be labeled with the name, strength, lot number, manufacturer, and expiration date. A listing of the drugs and devices contained within an auxiliary medication inventory, including the name, strength, and quantity of each, shall be attached.
- (5) When an auxiliary medication inventory is accessed, the health care facility personnel who become aware of the access shall provide a copy of both the record of withdrawal and patient medication order to the health care facility pharmacy's pharmacist-manager. The record of withdrawal shall contain:
  - (A) the date of the removal;
  - (B) the name, strength, dosage form, and quantity of drug or device removed;
  - (C) the name of the patient for whom the drug or device was ordered; and
  - (D) the name or other identification of the authorized person who removed the drug or device.

- (6) The health care facility's pharmacist-manager shall ensure that auxiliary medication inventories are reviewed on a schedule set by the health care facility pharmacy's policies to ensure the purity, potency, and integrity of drugs and devices contained within;
- (7) An auxiliary medication inventory containing controlled substances must comply with 10A NCAC 26E .0408.

- (e) RESERVED.
- (f) RESERVED.
- (g) RESERVED.
- (h) RESERVED.
- (i) RESERVED.
- (j) RECORDS.

- (1) The pharmacist-manager shall, in addition to the requirements for preserving prescription orders as set forth in G.S. 90-85.26, develop a system of daily accountability for medication compounding and dispensing that permits the identification of the responsible pharmacists and pharmacy technicians. Readily retrievable records of accountability shall be maintained for at least 30 days. This system shall identify all personnel who perform these activities and the pharmacist responsible for:
  - (A) interpretation and appropriateness of new medication orders;
  - (B) profile entry of new medication orders;
  - (C) dispensing of new medication orders including stat doses;
  - (D) daily cart fills;
  - (E) intravenous admixtures;
  - (F) compounded medications; and
  - (G) assessing the quality of pharmacy procedures for preparation and release of drugs and devices for replenishment of auxiliary medication inventories and automated dispensing devices in locations outside the pharmacy.
- (2) Upon notification of medication errors resulting from the administration of an incorrect medication or dose, the pharmacist-manager shall document the medication error. Documentation shall include chronological information and include documentation on health care facility forms. These documents shall be archived in a readily retrievable manner, open for inspection, for a period of three years.
- (3) Upon notification of information that reasonably suggests that there is a probability a prescription drug or device dispensed from a location holding a permit has caused or contributed to the death of a patient (see 21 NCAC 46 .2502(k)), the pharmacist-manager shall retain all documents, labels, vial,

supplies, substances, and internal investigative reports relating to the event. All such items shall be maintained by the health care facility, accessible to the pharmacist-manager, and open to the Board of Pharmacy.

- (4) The pharmacist-manager shall maintain records of ordering, receiving, dispensing, or transfer of controlled substances. These records shall include the following:
  - (A) Invoices or other documents verifying the ordering and receipt of controlled substances;
  - (B) Perpetual inventories of controlled substances transferred to auxiliary medication inventories and automated dispensing devices. These inventories shall record the transfer date; the location transferred to; the identity of the drug; the strength, dosage form, and quantity transferred; and the transferring pharmacist's name;
  - (C) Records of disposition of a controlled substance prepared for a patient but not used, including documentation of the details of the destruction or other disposition and identification of the individuals involved in that destruction or other disposition;
  - (D) A record of controlled substances dispensed directly to the patient to include the patient's name; date dispensed; dispensing pharmacist's name; name, strength, dosage form, and quantity of the drug dispensed. The records shall also document drugs returned and credited; and
  - (E) A perpetual inventory on all controlled substances awaiting destruction or return to a vendor.
- (5) Automated systems may be used to collect and store information required by Subparagraph (j)(4) of this Rule provided such system allows for the immediate retrieval of original medication order information and dispensing history consistent with criteria cited in 21 CFR .1306.
- (6) With the exception of Subparagraph (j)(l) of this Rule, all records required by this Section shall be maintained for a period of three years. Such records shall be archived in a uniform manner, retrievable to the pharmacy within 48 hours, and open for review, copying, or seizure by a member or designated employee of the Board.

*Amended Eff. March 1, 2013; February 1, 2005; April 1, 2003; April 1, 1999; August 1, 1998.*

## **21 NCAC 46 .1415 MEDICATION IN HEALTH CARE FACILITY EMERGENCY DEPARTMENTS**

(a) In those health care facilities having 24 hour outpatient pharmacy service, all drugs dispensed to outpatients including emergency department patients must be dispensed by a pharmacist.

(b) When drugs are not otherwise available from a pharmacist, drugs may be dispensed for use outside the emergency department by the physician, registered nurse under physician supervision, or a person authorized to prescribe and dispense drugs pursuant to G.S. 90-18.1 or 90-18.2 subject to the following:

- (1) Drugs shall be dispensed only to a registered patient of the emergency department;
- (2) The pharmacist-manager shall develop and supervise a system of control and accountability of all drugs administered in, or dispensed from the emergency department;
- (3) The pharmacist-manager, in conjunction with the committee responsible for policy in the emergency department, shall develop an emergency department formulary which may be dispensed from the emergency department for patients receiving care in that department. This formulary shall consist of drugs of the nature and type to meet the immediate needs of emergency department patients, and quantities in each container shall be limited to not more than a 24 hour supply or the smallest commercially-available quantity;
- (4) Drugs shall be prepackaged in safety closure containers and shall be pre-labeled by the pharmacist to comply with Rule .1414(d)(4) of this Section. Prior to dispensing, the following information shall be placed on the label:
  - (A) the name, address, and telephone number of the health care facility pharmacy;
  - (B) the dispensing date;
  - (C) the full name of patient;
  - (D) the generic or trade name, or in the absence of a brand name, the established name of the product dispensed;
  - (E) directions for use to the patient;
  - (F) the name of physician prescribing and dispensing the product; and
  - (G) required precautionary or further accessory cautionary information as may be desirable for proper use and safety to the patient;
- (5) A perpetual record of dispensing of all drugs, including drug samples and starter packages, shall be maintained as part of the pharmacy's records for three years. The pharmacist-manager or designee shall verify the accuracy

*History Note: Authority G.S. 90-85.6; 90-85.21; 90-85.32; 90-85.33; 90-85.34; Eff. May 1, 1997;*

of these records at least once a month. The record shall contain the following:

- (A) the date dispensed;
- (B) the patient's name;
- (C) the physician's name; and
- (D) the name, strength, dosage form, quantity, and dose of the drug dispensed.

- (6) The physician shall sign all orders for medication within the time frame established by regulatory agencies and health care facility policies and procedures.

(c) The physician, registered nurse under physician supervision, or person who is authorized to prescribe and dispense drugs pursuant to G.S. 90-18.1 or 90-18.2 shall comply with all rules governing the dispensing of medications including patient counseling as defined in 21 NCAC 46 .2504.

*History Note: Authority G.S. 90-85.6; 90-18.1; 90-18.2; 90-85.21; 90-85.32; 90-85.33;*

*Eff. May 1, 1997;*

*Amended Eff. March 1, 2013.*

## **21 NCAC 46 .1417 REMOTE MEDICATION ORDER PROCESSING SERVICES**

(a) Purpose. The purpose of this Rule is to set out requirements under which health care facility pharmacies that are not open 24 hours a day, seven days a week, may contract for the provision of remote medication order processing services when no pharmacist is present.

(b) Definitions of terms in this Rule:

- (1) "Remote medication order processing services" consists of the following:
  - (A) receiving, interpreting, or clarifying medication orders;
  - (B) entering data and transferring medication order information;
  - (C) performing drug regimen review;
  - (D) interpreting clinical data;
  - (E) performing therapeutic interventions; and
  - (F) providing drug information concerning medication orders or drugs.
- (2) "Remote medication order processing pharmacy" is a pharmacy permitted by the Board that provides remote medication order processing services.
- (3) "Remote site" is a site located within the United States that is electronically linked to a health care facility licensed by the State of North Carolina for the purpose of providing remote medication order processing services.

(c) Outsourcing. A health care facility pharmacy may outsource medication order processing services to a remote medication order processing pharmacy provided the pharmacies have the same owner or the pharmacy has entered into a written contract or agreement with a remote medication order processing pharmacy that outlines the services to be provided and the

responsibilities and accountabilities of each pharmacy in compliance with federal and state laws and regulations. The pharmacy providing the remote processing of medication orders must notify the Board of Pharmacy prior to providing such services.

(d) Training. A pharmacy providing remote medication order processing must ensure that all pharmacists providing such services have been trained on each pharmacy's policies and procedures relating to medication order processing. The training of each pharmacist shall be documented by the pharmacist-manager to ensure competency and to ensure that performance is at least at the same level of performance as pharmacists in the outsourcing pharmacy. The training shall include policies on drug and food allergy documentation, abbreviations, administration times, automatic stop orders, substitution, and formulary compliance. The pharmacies shall jointly develop a procedure to communicate changes in the formulary and changes in policies and procedures related to medication order processing.

(e) Access.

- (1) The pharmacies must share common electronic files or have technology to allow secure access to the pharmacy's information system and to provide the remote pharmacy with access to the information necessary or required to process a medication order.
- (2) Pharmacists employed by or otherwise acting as an agent for a remote medication order processing pharmacy may provide those services from a remote site. Both the pharmacist providing those services from a remote site and the remote medication order processing pharmacy on whose behalf the pharmacist is providing such services are responsible for compliance with all statutes, rules, policies, and procedures governing the provision of remote medication order processing services.

(f) Communication. The pharmacies must jointly define the procedures for resolving problems detected during the medication order review and communicating these problems to the prescriber and the nursing staff providing direct care.

(g) Recordkeeping. A pharmacy using remote order entry processing services shall maintain records of all orders entered into their information system including orders entered from a remote location. The system shall have the ability to audit the activities of the individuals remotely processing medication orders.

(h) Licensure. All remote medication order processing pharmacies must be permitted by the Board. An out-of-state remote medication order processing pharmacy must be registered with the Board as an out-of-state pharmacy. All pharmacists located in this State or employed by an out-of-state remote medication order processing pharmacy providing services in this State shall be licensed by the Board.

(i) Policy and Procedure Manual. All remote medication order processing pharmacies shall maintain a policy and procedure manual. Each remote medication order processing pharmacy, remote site, and health care facility pharmacy shall maintain

those portions of the policy and procedure manual that relate to that pharmacy's or site's operations. The manual shall:

- (1) outline the responsibilities of each of the pharmacies;
- (2) include a list of the name, address, telephone numbers, and all permit numbers of the pharmacies involved in remote order processing; and
- (3) include policies and procedures for:
  - (A) protecting the confidentiality and integrity of patient information;
  - (B) maintaining records to identify the name(s), initials, or identification code(s) and specific activity(ies) of each pharmacist who performed any processing;
  - (C) complying with federal and state laws and regulations;
  - (D) operating a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems;
  - (E) annually reviewing the written policies and procedures and documenting such review; and
  - (F) annually reviewing the competencies of pharmacists providing the remote order review service.

(j) Nothing in this rule shall be construed to relieve a health care facility pharmacy of the need to provide on-site pharmacy services required for licensure as specified in the Pharmacy Practice Act and rules promulgated thereunder.

*History Note:* Authority G.S. 90-85.6; 90-85.21; 90-85.21A; 90-85.26; 90-85.32; 90-85.34;  
*Eff. February 1, 2006;*  
*Amended Eff. March 1, 2013.*

#### **21 NCAC 46 .1814 AUTOMATED DISPENSING OR DRUG SUPPLY DEVICES**

(a) Automated dispensing or drug supply devices may be used in health care facility pharmacies and where a pharmacy permit exists for a patient profile dispensing system, provided the utilization of the devices is under the supervision of a pharmacist. The pharmacist-manager shall develop and implement procedures to assure safe and effective use of medications and shall assure that:

- (1) only authorized personnel, as indicated by written policies and procedures, may obtain access to the drug inventories;
- (2) a system of accountability exists for all drugs contained therein and the purity, potency, and integrity of the drugs is preserved;
- (3) requirements for controlled substances security are met; and

- (4) prior to the drug being released for access by the nurse, the pharmacist enters the medication order into a computerized pharmacy profile that is interfaced to the automated dispensing unit, so that drug allergy screening, therapeutic duplication, and appropriate dose verification is done prior to the drug being administered.

(b) Notwithstanding the provisions of 21 NCAC 46 .2501, a pharmacist is required to supervise only the following activities pursuant to this Rule:

- (1) The packaging and labeling of drugs to be placed in the dispensing devices. Such packaging and labeling shall conform to all requirements pertaining to containers and label contents;
- (2) The placing of previously packaged and labeled drug units into the dispensing device; and
- (3) The restocking of automated dispensing devices.

(c) Only persons authorized by the pharmacist-manager may remove drugs from the dispensing devices and only in the quantity of doses needed to satisfy immediate patient needs. Should a violation of the foregoing occur, the pharmacist-manager shall conduct an investigation and report any violations to the entity having jurisdiction over these issues.

(d) Bar code scanning of drug packaging and storage units may be utilized as a quality control mechanism if this technology is available in the automated dispensing system.

(e) An automated dispensing or drug supply device that is used solely as an Auxiliary Medication Inventory as defined in 21 NCAC 46 .1414(d) shall be governed by the requirements of that Rule.

*History Note:* Authority G.S. 90-85.6; 90-85.32; 90-85.33;  
*Eff. April 1, 1999;*  
*Amended Eff. March 1, 2013; August 1, 2002.*

#### **21 NCAC 46 .2302 RECORDS OF DISPENSING**

(a) Records of dispensing for original and refill prescriptions shall be made and kept by pharmacies for three years and shall include:

- (1) the quantity dispensed, if the quantity of the refill is different than the quantity of the original;
- (2) the date of dispensing;
- (3) the serial number (or equivalent in an institution);
- (4) the identification of the pharmacist responsible for dispensing; and
- (5) records of refills to date.

(b) Records in institutional pharmacies may be made and kept as part of the patient's medical record.

*History Note:* Authority G.S. 90-85.6(a); 90-85.26; 90-85.30; 90-85.35; 90-106(h);  
*Eff. December 31, 1985;*  
*Amended Eff. March 1, 2013; May 1, 1989.*

**21 NCAC 46 .2303 RECORDS OF PRESCRIPTION FILLING AND REFILLING**

In a pharmacy with a manual system of recordkeeping of prescription filling and refilling, the dispensing pharmacist shall indicate by date and initial the filling or refilling of a prescription on the document. In a pharmacy with an automated data processing system as provided in Rule .2304 of this Section, a designation of the dispensing pharmacist filling or refilling each prescription is required as provided in Rule .2304 of this Section. Information must be kept for three years. This does not preclude the use of unlicensed personnel entering information in a data system provided that supervision is maintained pursuant to Board rules.

*History Note:* Authority G.S. 90-85.6(a); 90-85.26; 90-85.32;

*Eff. December 31, 1985;*

*Amended Eff. March 1, 2013; May 1, 1989.*

**21 NCAC 46 .2304 AUTOMATED DATA PROCESSING SYSTEMS**

An automated data processing system may be employed as a record-keeping system in a pharmacy if the following conditions are met:

- (1) The system has the capability of producing sight-readable documents of all original and refilled prescription information. The term "sight-readable" means that a regulatory agent is able to examine the record and read the information. In administrative proceedings before the Board, records must be provided in a readable paper printout form.
- (2) Information includes the prescription requirements and records of dispensing as indicated in Rules .2301 and .2302 of this Section.
- (3) The individual pharmacist responsible for completeness and accuracy of the entries to the system provides documentation of the fact that prescription information entered into the computer is correct.
- (4) Documentation in Item (3) of this Rule is provided in the pharmacy within 72 hours of date of dispensing.
- (5) An auxiliary recordkeeping system is established for the documentation of refills if the automated data processing system is inoperative for any reason. When the automated data processing system is restored to operation, the information regarding prescriptions filled, refilled or transferred during the inoperative period shall be entered into the automated data processing system within the time equal to the number of inoperative days times three; for example, if the system were inoperative for five days then all interim data shall be entered within 15 days of the last inoperative day. However, nothing in this Item precludes the pharmacist from

using professional judgment for the benefit of a patient's health and safety. The auxiliary record keeping system shall be backed up at least weekly.

- (6) The pharmacy makes arrangements with the supplier of data processing services or materials to assure that the pharmacy continues to have adequate and complete prescription and dispensing records if the relationship with the supplier is terminated for any reason. A pharmacy shall assure continuity in the maintenance of records.
- (7) A current version of drug interactions software is used and policies and procedures are established to address overriding the software's alerts of any drug interactions.

*History Note:* Authority G.S. 90-85.6(a); 90-85.26; 90-85.32; 90-107;

*Eff. December 31, 1985;*

*Amended Eff. March 1, 2013; April 1, 1999; May 1, 1989.*

**21 NCAC 46 .2508 ELECTRONIC RECORDS**

Unless otherwise specified in the rules in this Section or other applicable law, any documentation required by the rules in this Section may be electronically created and maintained, provided that the system that creates and maintains the electronic record:

- (1) is capable of printing the documentation so that the pharmacist-manager can provide it to the Board within 48 hours of a request;
- (2) contains security features to prevent unauthorized access to the records; and
- (3) contains daily back-up functionality to protect against record loss.

*History Note:* Authority G.S. 90-85.6; 90-85.26; 90-85.30; 90-85.32; 90-85.33; 90-85.35; 90-85.36; 90-85.47; 90-106; 90-107;

*Eff. March 1, 2013.*

**21 NCAC 46 .2807 ANTI-NEOPLASTIC AGENTS**

In addition to the requirements otherwise provided by applicable law and regulations, the following requirements are necessary for those permit-holders who prepare anti-neoplastic drugs:

- (1) All anti-neoplastic drugs shall be compounded in a vertical flow, Class II, biological safety cabinet, or similar preparation area. There must be adherence to the pharmacy's hood-cleaning procedures before preparing in the hood a product not classified as an anti-neoplastic agent.
- (2) Protective apparel shall be worn by personnel compounding anti-neoplastic drugs.
- (3) Safety and containment techniques appropriate for compounding anti-neoplastic drugs shall be used in conjunction with the aseptic techniques required for preparing sterile parenteral products.

- (4) Disposal of anti-neoplastic waste shall comply with all applicable local, state, and federal requirements.
- (5) Written procedures for handling spills of anti-neoplastic agents must be developed and must be included in the policy and procedural manual for the permit-holder.
- (6) Prepared doses of anti-neoplastic drugs must be dispensed, labeled with precautions inside and outside, and shipped in a manner to minimize the risk of accidental rupture of the primary container.

- (6) the date of issue;
- (7) the manuscript signature of the Board or other issuing officer;
- (8) a return of service.

The return of service form, as filled out, shows the name and capacity of the individual serving the subpoena, the date on which the service was made, the individual or agency on whom service was made, the location and manner in which service was made, and the manuscript signature of the individual making service.

(d) The Board or the presiding officer, upon motion by a party or witness in a proceeding, may quash a subpoena, as set out in G.S. 150B-39.

(e) Any motion to quash a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the motion with the Board.

(f) The party who requested the subpoena, in such time as may be granted by the Board or the presiding officer may file a written response to the motion. The written response shall be served by the requesting party on the moving party or witness simultaneously with filing the response with the Board.

(g) After receipt of the motion and response thereto, if any, the Board or its presiding officer shall issue a notice to the party who requested the subpoena and the party who is challenging it, and may notify all other parties, of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response, if any.

(h) As soon as the Board or the presiding officer determines whether the subpoena should be quashed, the Board or the presiding officer shall issue a written decision quashing or refusing to quash the subpoena. The decision shall be issued to all parties to the proceeding and any moving witness, and the decision shall be made a part of the record of the proceeding.

*History Note:* Authority G.S. 90-304(a)(3); 150B-38; 150B-39; 150B-40;  
*Eff.* February 15, 1977;  
*Amended Eff.* March 1, 2013; May 1, 1989.

*History Note:* Authority G.S. 90-85.6;  
*Eff.* October 1, 1990;  
*Amended Eff.* March 1, 2013; February 1, 2006.

**21 NCAC 64 .0903 SUBPOENAS**

(a) Subpoenas requiring the attendance of witnesses, or those to produce documents, evidence, or records shall be issued by the Board or the presiding officer within four business days of the receipt of a request from a party to the case for such subpoenas unless there is a motion to quash.

(b) Subpoenas shall be issued in duplicate, with a "Return of Service" form attached to each copy. The individual serving the subpoena shall fill out the "Return of Service" form for each copy and return one copy of the subpoena, with the attached "Return of Service" form completed, to the Board.

(c) Subpoenas shall contain:

- (1) the caption of the case;
- (2) the name and address of the individual or agency subpoenaed;
- (3) the date, hour and location of the hearing in which the witness is commanded to appear;
- (4) a particularized description of the books, papers, records or other objects the witness is directed to bring with him to the hearing, if any;
- (5) the identity of the party on whose application the subpoena issued;

---

## **RULES REVIEW COMMISSION**

---

*This Section contains information for the meeting of the Rules Review Commission on April 18, 2013 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 2<sup>nd</sup> 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  
Anna Baird Choi  
Jeanette Doran  
Garth K. Dunklin  
Stephanie Simpson

### **COMMISSION COUNSEL**

Joe Deluca (919)431-3081  
Amanda Reeder (919)431-3079

### **RULES REVIEW COMMISSION MEETING DATES**

April 18, 2013                      May 16, 2013  
June 20, 2013                      July 18, 2013

---

### **AGENDA**

#### **RULES REVIEW COMMISSION**

**Thursday, April 18, 2013 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. Child Care Commission – 10A NCAC 09 .3004 (DeLuca)
  - B. Home Inspector Licensure Board – 11 NCAC 08 .1116 (Reeder)
  - C. Hearing Aid Dealers and Fitters Board – 21 NCAC 22F .0120 (Reeder)
  - D. Real Estate Commission – 21 NCAC 58A .0110, .1402 (DeLuca)
  - E. Board of Recreational Therapy Licensure – 21 NCAC 65 .0601, .0602, .0901 (DeLuca)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between February 21, 2013 and March 20, 2013
- V. Commission Business
  - Next meeting: May 16, 2013

---

### **Commission Review**

#### **Log of Permanent Rule Filings**

**February 21, 2013 through March 20, 2013**

### **AGRICULTURE, BOARD OF**

The rules in Chapter 9 are from the Food and Drug Protection Division.

The rules in Subchapter 9B are the rules and standards incorporated by reference.

<u>Adoptions by Reference</u> Amend/*	02	NCAC	09B	.0116
The rules in Subchapter 9F concern internal combustion engine antifreezes including specification for ethylene glycol base engine coolants (.0100); specification for alcohol base engine coolants (.0200); and specification for methoxy propanol base engine coolants (.0300).				
<u>General</u> Amend/*	02	NCAC	09F	.0101
<u>Physical and Chemical Requirements</u> Amend/*	02	NCAC	09F	.0102
<u>Performance Requirements</u> Amend/*	02	NCAC	09F	.0103
<u>General</u> Amend/*	02	NCAC	09F	.0201
<u>Physical and Chemical Requirements</u> Amend/*	02	NCAC	09F	.0202
<u>Performance Requirements</u> Amend/*	02	NCAC	09F	.0203
<u>Methods of Testing</u> Amend/*	02	NCAC	09F	.0204
<u>Physical and Chemical Requirements</u> Amend/*	02	NCAC	09F	.0305
<u>Performance Requirements</u> Amend/*	02	NCAC	09F	.0306

**COMMERCE - EMPLOYMENT SECURITY, DIVISION OF**

The rules in Chapter 24 are from the Division of Employment Security (DES).

The rules in Subchapter 24E concern unemployment insurance documents and records.

<u>Confidentiality of Unemployment Insurance Information</u> Adopt/*	04	NCAC	24E	.0101
<u>Request for Documents and Records</u> Adopt/*	04	NCAC	24E	.0102
<u>Fees for Copies and Services</u> Adopt/*	04	NCAC	24E	.0103
<u>Payment of Fees</u> Adopt/*	04	NCAC	24E	.0104

**INFORMATION TECHNOLOGY SERVICES, OFFICE OF**

The rules in Chapter 6 are from the Office of Information Technology Services.

The rules in Subchapter 6A concern information technology procurement including forms, terms and conditions, and definitions (.0100).

<u>Forms, Terms and Conditions</u> Amend/*	09	NCAC	06A	.0101
<u>Definitions</u> Amend/*	09	NCAC	06A	.0102
<u>Benchmark and the Board of Awards</u> Amend/*	09	NCAC	06A	.0103



The rules in Subchapter 6B concern procurement requests including requisitioning (.0100); specifications (.0200); procurement authorization and procedures (.0300); rejection of offers (.0400); inspection and testing (.0500); guarantees and warranties (.0600); contracts (.0700); partial and multiple awards (.0800); waiver of competition (.0900); miscellaneous provisions (.1000); bid protest, contested case procedures (.1100); declaratory rulings, default proceedings, disqualifications and debarment (.1200); exemptions, emergencies, and special delegations (.1300); and records (.1400).

<u>Procedure</u>	09	NCAC	06B	.0101
Amend/*				
<u>Verbal Requests</u>	09	NCAC	06B	.0102
Amend/*				
<u>Confidentiality of Solicitation Documents</u>	09	NCAC	06B	.0103
Amend/*				
<u>Development of IT Solicitation Documents and Specifications</u>	09	NCAC	06B	.0201
Amend/*				
<u>Need</u>	09	NCAC	06B	.0202
Amend/*				
<u>Development of Specifications</u>	09	NCAC	06B	.0203
Repeal/*				
<u>Articles for Special Purposes</u>	09	NCAC	06B	.0204
Amend/*				
<u>Submission for Adoption</u>	09	NCAC	06B	.0205
Repeal/*				
<u>Copies of Specifications</u>	09	NCAC	06B	.0206
Repeal/*				
<u>Confidentiality</u>	09	NCAC	06B	.0207
Repeal/*				
<u>Procurement Procedures</u>	09	NCAC	06B	.0301
Amend/*				
<u>Methods of Source Selection</u>	09	NCAC	06B	.0302
Amend/*				
<u>Electronic Offers</u>	09	NCAC	06B	.0303
Amend/*				
<u>Recall of Offers</u>	09	NCAC	06B	.0304
Amend/*				
<u>Public Opening</u>	09	NCAC	06B	.0305
Amend/*				
<u>Late Offers</u>	09	NCAC	06B	.0306
Amend/*				
<u>Clerical Errors and Clarifications</u>	09	NCAC	06B	.0307
Amend/*				
<u>Extension of Offer Validity</u>	09	NCAC	06B	.0308
Amend/*				
<u>Evaluation</u>	09	NCAC	06B	.0309
Amend/*				
<u>Notification of Award</u>	09	NCAC	06B	.0310
Repeal/*				
<u>Lack of Competition</u>	09	NCAC	06B	.0311
Repeal/*				
<u>Solicitation Documents</u>	09	NCAC	06B	.0312
Repeal/*				
<u>Division of Commodities and Service Needs</u>	09	NCAC	06B	.0313

Amend/*				
<u>Advertisement and Notice</u>	09	NCAC	06B	.0314
Amend/*				
<u>Mandatory Conferences/Site Visits</u>	09	NCAC	06B	.0315
Amend/*				
<u>Negotiation</u>	09	NCAC	06B	.0316
Adopt/*				
<u>Rejection of Offers</u>	09	NCAC	06B	.0401
Amend/*				
<u>Public Record</u>	09	NCAC	06B	.0402
Repeal/*				
<u>Negotiation</u>	09	NCAC	06B	.0403
Repeal/*				
<u>Notice of Rejection</u>	09	NCAC	06B	.0404
Adopt/*				
<u>Debriefing Offerors</u>	09	NCAC	06B	.0405
Adopt/*				
<u>Responsibility</u>	09	NCAC	06B	.0501
Amend/*				
<u>Inspection</u>	09	NCAC	06B	.0502
Amend/*				
<u>Samples</u>	09	NCAC	06B	.0503
Amend/*				
<u>Modifications of Contract Specifications</u>	09	NCAC	06B	.0504
Amend/*				
<u>Report of Discrepancy</u>	09	NCAC	06B	.0505
Amend/*				
<u>Enforcement</u>	09	NCAC	06B	.0601
Amend/*				
<u>Report to ITS</u>	09	NCAC	06B	.0602
Amend/*				
<u>Responsibility of Purchasing Agency</u>	09	NCAC	06B	.0603
Amend/*				
<u>Use and Description</u>	09	NCAC	06B	.0701
Amend/*				
<u>Determining Factors</u>	09	NCAC	06B	.0702
Amend/*				
<u>Extension of Contract Termination Dates</u>	09	NCAC	06B	.0703
Amend/*				
<u>Use</u>	09	NCAC	06B	.0801
Amend/*				
<u>Conditions for Limited or Waived Competition</u>	09	NCAC	06B	.0901
Amend/*				
<u>Approval of Documentation</u>	09	NCAC	06B	.0902
Amend/*				
<u>Confidentiality</u>	09	NCAC	06B	.1001
Amend/*				
<u>Payment Plans</u>	09	NCAC	06B	.1002
Amend/*				
<u>Change in Corporate Structure or Assignment</u>	09	NCAC	06B	.1003
Amend/*				
<u>Purchasing from or through Agency Employees</u>	09	NCAC	06B	.1004

Amend/*				
<u>Anticompetitive, Deceptive, and Fraudulent Practices</u>	09	NCAC	06B	.1005
Amend/*				
<u>Cooperative Purchasing</u>	09	NCAC	06B	.1006
Amend/*				
<u>Board of Awards</u>	09	NCAC	06B	.1008
Repeal/*				
<u>Right to Hearing</u>	09	NCAC	06B	.1101
Amend/*				
<u>Protest Procedures for Award of Contracts</u>	09	NCAC	06B	.1102
Amend/*				
<u>Request for Hearing</u>	09	NCAC	06B	.1103
Amend/*				
<u>Definitions</u>	09	NCAC	06B	.1104
Amend/*				
<u>General Provisions</u>	09	NCAC	06B	.1105
Amend/*				
<u>Order for Prehearing Statements</u>	09	NCAC	06B	.1106
Amend/*				
<u>Duties of the Hearing Officer</u>	09	NCAC	06B	.1107
Amend/*				
<u>Consent Order, Settlement, Stipulation</u>	09	NCAC	06B	.1108
Amend/*				
<u>Settlement Conference</u>	09	NCAC	06B	.1109
Amend/*				
<u>Prehearing Conference</u>	09	NCAC	06B	.1110
Amend/*				
<u>Discovery</u>	09	NCAC	06B	.1111
Amend/*				
<u>Consolidation of Cases</u>	09	NCAC	06B	.1112
Amend/*				
<u>Sanctions</u>	09	NCAC	06B	.1114
Amend/*				
<u>Motions</u>	09	NCAC	06B	.1115
Amend/*				
<u>Continuances</u>	09	NCAC	06B	.1117
Amend/*				
<u>Rights and Responsibilities of Parties</u>	09	NCAC	06B	.1118
Amend/*				
<u>Evidence</u>	09	NCAC	06B	.1120
Amend/*				
<u>Final Agency Decision; Official Record</u>	09	NCAC	06B	.1121
Amend/*				
<u>Declaratory Rulings</u>	09	NCAC	06B	.1201
Adopt/*				
<u>Requests for Declaratory Rulings</u>	09	NCAC	06B	.1202
Adopt/*				
<u>Response to a Request for a Declaratory Ruling</u>	09	NCAC	06B	.1203
Adopt/*				
<u>Effect of a Declaratory Ruling</u>	09	NCAC	06B	.1204
Adopt/*				
<u>Record of Ruling</u>	09	NCAC	06B	.1205

<u>Adopt/*</u>				
<u>Default Proceedings; Disqualification; and Debarment</u>	09	NCAC	06B	.1206
<u>Amend/*</u>				
<u>Faithful Performance</u>	09	NCAC	06B	.1207
<u>Amend/*</u>				
<u>Exemptions</u>	09	NCAC	06B	.1301
<u>Amend/*</u>				
<u>Emergency Situations or Pressing Need</u>	09	NCAC	06B	.1302
<u>Amend/*</u>				
<u>Special Delegations</u>	09	NCAC	06B	.1303
<u>Amend/*</u>				
<u>General Delegations</u>	09	NCAC	06B	.1304
<u>Amend/*</u>				
<u>Compliance Reviews</u>	09	NCAC	06B	.1305
<u>Amend/*</u>				
<u>Procurement File Records</u>	09	NCAC	06B	.1402
<u>Amend/*</u>				

### **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); 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); developmental day services (.2900); and NC pre-kindergarten services (.3000).

<u>Definitions</u>	10A	NCAC	09	.0102
<u>Amend/*</u>				
<u>General Statutory Requirements</u>	10A	NCAC	09	.0703
<u>Amend/*</u>				
<u>General Provisions Related to Licensure of Homes</u>	10A	NCAC	09	.1701
<u>Amend/*</u>				
<u>Caregiving Activities for Preschool-Aged Children</u>	10A	NCAC	09	.2806
<u>Amend/*</u>				

### **ENVIRONMENTAL MANAGEMENT COMMISSION**

The rules in Subchapter 2D are air pollution control requirements including definitions and references (.0100); air pollution sources (.0200); air pollution emergencies (.0300); ambient air quality standards (.0400); emission control standards (.0500); air pollutants monitoring and reporting (.0600); complex sources (.0800); volatile organic compounds (.0900); motor vehicle emission control standards (.1000); control of toxic air pollutants (.1100); control of emissions from incinerators (.1200); oxygenated gasoline standards (.1300); nitrogen oxide standards (.1400); transportation conformity (.1500); general conformity for federal actions (.1600); emissions at existing municipal solid waste landfills (.1700); control of odors (.1800); open burning (.1900); transportation conformity (.2000); risk management program (.2100); special orders (.2200); emission reduction credits (.2300); clean air interstate rules (.2400); mercury rules for electric generators (.2500); and source testing (.2600).

<u>Applicability</u>	15A	NCAC	02D	.0902
<u>Amend/*</u>				
<u>Recordkeeping; Reporting; Monitoring</u>	15A	NCAC	02D	.0903

Amend/\*

Compliance Schedules for Sources In Ozone Nonattainment a... 15A NCAC 02D .0909

Amend/\*

RACT for Sources of Volatile Organic Compounds 15A NCAC 02D .0951

Amend/\*

Offset Lithographic Printing and Letterpress Printing 15A NCAC 02D .0961

Amend/\*

Industrial Cleaning Solvents 15A NCAC 02D .0962

Amend/\*

The rules in Subchapter 2Q are from the EMC and relate to applying for and obtaining air quality permits and include general information (.0100); fees (.0200); application requirements (.0300); acid rain program requirements (.0400); establishment of an air quality permitting program (.0500); transportation facility requirements (.0600); toxic air pollutant procedures (.0700); exempt categories (.0800); and permit exemptions (.0900).

Activities Exempted from Permit Requirements 15A NCAC 02Q .0102

Amend/\*

## **MARINE FISHERIES COMMISSION**

The rules in Subchapter 3I are general and miscellaneous rules.

Recordkeeping Requirements 15A NCAC 03I .0114

Amend/\*

The rules in Subchapter 3J concern the use of nets in general (.0100) and in specific areas (.0200); the use of pots, dredges, and other fishing devices (.0300); fishing gear (.0400); and pound nets (.0500).

Albemarle Sound/Chowan River Herring Management Areas 15A NCAC 03J .0209

Amend/\*

The rules in Subchapter 3L concern shrimp (.0100); crabs (.0200); and lobsters (.0300).

Recreational Shrimp Limits 15A NCAC 03L .0105

Amend/\*

The rules in Subchapter 3M cover harvesting of finfish including general rules (.0100); striped bass (.0200); mackerel (.0300); menhaden and Atlantic herring (.0400); and other finfish (.0500).

General 15A NCAC 03M .0201

Amend/\*

Season, Size and Harvest Limit: Internal Coastal Waters 15A NCAC 03M .0202

Amend/\*

The rules in Subchapter 3Q cover the joint and separate jurisdictions of the Marine Fisheries Commission and the Wildlife Resources Commission including general regulations (.0100); and boundary lines between inland, joint, and coastal waters (.0200).

Descriptive Boundaries for Coastal-Joint-Inland Waters 15A NCAC 03Q .0202

Amend/\*

The rules in Subchapter 3R specify boundaries for various areas (.0100); and fishery management areas (.0200).

Attended Gill Net Areas 15A NCAC 03R .0112

Amend/\*

Striped Bass Management Areas 15A NCAC 03R .0201

Amend/\*

## COASTAL RESOURCES COMMISSION

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); boat ramps along estuarine shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); replacement of structures, the reconstruction of primary or frontal dune systems, and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

<u>Specific Use Standards for Ocean Hazard Areas</u>	15A NCAC 07H .0308
Amend/*	
<u>Specific Conditions</u>	15A NCAC 07H .1705
Amend/*	

## WILDLIFE RESOURCES COMMISSION

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

<u>Granville, Vance and Warren Counties</u>	15A NCAC 10F .0311
Amend/*	
<u>Warren County</u>	15A NCAC 10F .0318
Amend/*	
<u>Chowan County</u>	15A NCAC 10F .0325
Amend/*	
<u>Chatham and Wake Counties</u>	15A NCAC 10F .0345
Amend/*	
<u>Camden County</u>	15A NCAC 10F .0352
Amend/*	

## PHYSICAL THERAPY EXAMINERS, BOARD OF

The rules in Chapter 48 are from the Board of Physical Therapy Examiners.

The rules in Subchapter 48A concern organization of the board.

<u>Executive Director</u>	21 NCAC 48A .0104
Repeal/*	
<u>Definitions</u>	21 NCAC 48A .0105
Amend/*	

<u>Suspension of Authority to Expend Funds</u> Adopt/*	21	NCAC	48A	.0106
<u>Identification Requirements</u> Adopt/*	21	NCAC	48A	.0107
The rules in Subchapter 48B concern types of licenses.				
<u>Licenses by Examination</u> Amend/*	21	NCAC	48B	.0103
The rules in Subchapter 48C concern the scope of physical therapy practice and include physical therapists (.0100); physical therapists assistants (.0200); recent graduates (.0300); physical therapy aides (.0400); physical therapy students (.0500); and other assistive personnel (.0600).				
<u>Responsibilities</u> Amend/*	21	NCAC	48C	.0102
The rules in Subchapter 48D concern examinations.				
<u>Computer Examination</u> Amend/*	21	NCAC	48D	.0112
The rules in Subchapter 48E deal with the requirements for application for licensure (.0100).				
<u>Filing Application</u> Amend/*	21	NCAC	48E	.0101
<u>Examination Scores</u> Amend/*	21	NCAC	48E	.0104
<u>Verification of Licensure</u> Amend/*	21	NCAC	48E	.0105
The rules in Subchapter 48F concern certificates, fees, investigation, and record of licensees.				
<u>Fees</u> Amend/*	21	NCAC	48F	.0102
The rules in Subchapter 48G concern retention of license including licensure renewal (.0100); lapsed licenses (.0200); refusal to renew or grant license suspension or revocation (.0300); probation or warning (.0400); contested case hearings (.0500); and disciplinary action (.0600).				
<u>Renewal</u> Amend/*	21	NCAC	48G	.0104
<u>Definitions</u> Amend/*	21	NCAC	48G	.0105
<u>Continuing Competence</u> Amend/*	21	NCAC	48G	.0106
<u>Approval of Providers and Activities</u> Amend/*	21	NCAC	48G	.0108
<u>Continuing Competence Activities</u> Amend/*	21	NCAC	48G	.0109
<u>Evidence of Compliance</u> Amend/*	21	NCAC	48G	.0110
<u>Exemptions</u> Amend/*	21	NCAC	48G	.0111
<u>Costs</u> Amend/*	21	NCAC	48G	.0112

---

***RULES REVIEW COMMISSION***

---

<u>Notification and Hearing</u>	21	NCAC	48G	.0404
Amend/*				
<u>Grounds for Reprimand</u>	21	NCAC	48G	.0405
Repeal/*				
<u>Complaints and Reprimand</u>	21	NCAC	48G	.0504
Amend/*				
<u>Prohibited Actions</u>	21	NCAC	48G	.0601
Amend/*				
<u>Sanctions; Reapplication</u>	21	NCAC	48G	.0602
Amend/*				

The rules in Subchapter 48H concern rulemaking and administrative hearing procedures including availability of rules (.0100); and adoption of rules (.0700).

<u>Inspection of Rules</u>	21	NCAC	48H	.0102
Repeal/*				



---

**CONTESTED CASE DECISIONS**

---

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

**OFFICE OF ADMINISTRATIVE HEARINGS**

**Chief Administrative Law Judge**  
**JULIAN MANN, III**

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

**ADMINISTRATIVE LAW JUDGES**

Beecher R. Gray  
Selina Brooks  
Melissa Owens Lassiter  
Don Overby

Randall May  
A. B. Elkins II  
Joe Webster

---

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u></b>			
James Ivery Smith, Ivy Lee Armstrong v. ABC Commission	11 ABC 08266	04/12/12	
Trawick Enterprises LLC v. ABC Commission	11 ABC 08901	05/11/12	27:01 NCR 39
Dawson Street Mini Mart Lovell Glover v. ABC Commission	11 ABC 12597	05/23/12	
ABC Commission v. Christian Broome Hunt T/A Ricky's Sports Bar and Grill	11 ABC 13161	05/03/12	
Alabarati Brothers, LLC T/A Day N Nite Food Mart, v. ABC Commission	11 ABC 13545	05/01/12	
Playground LLC, T/A Playground v. ABC Commission	11 ABC 14031	05/16/12	27:01 NCR 64
ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar	11 ABC 14036	07/05/12	
ABC Commission v. D's Drive Thru Inc. T/A D's Drive Thru	12 ABC 00060	05/29/12	
ABC Commission v. Choudhary, LLC T/A Speedway	12 ABC 00721	05/01/12	
ABC Commission v. Dos Perros Restaurant LLC T/A Dos Perros Restaurant	12 ABC 05312	09/25/12	
ABC Commission v. Bobby Warren Joyner T/A Hillsdale Club	12 ABC 06153	11/06/12	
ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar	12 ABC 07260	12/11/12	
ABC Commission v. Fat Cats Grill and Oyster Bar Inc, T/A Fat Cats Grill and Oyster Bar	12 ABC 08988	12/19/12	
<b><u>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</u></b>			
Brian J. Johnson v. Department of Public Safety Victim Services	12 CPS 01664	12/21/12	
George H. Jagers, III v. Crime Victims Compensation Commission	12 CPS 01693	11/01/12	
Teresa Herbin v. Department of Public Safety Victim Services	12 CPS 03680	08/10/12	
Jacqueline M Davis victim-Antonio T Davis v. Dept. of Public Safety	12 CPS 05919	11/06/12	
Demario J. Livingston v. Dept. of Public Safety Victim Services	12 CPS 06245	10/19/12	
Shirley Ann Robinson v. N.C. Crime Victims Compensation Commission	12 CPS 07601	12/07/12	
<b><u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u></b>			
Stonestrow Group Home Medicaid Provider #6603018 Owned by Alberta Professional Services Inc v. DHHS, Division of Mental Health/Development Disabilities/ Substance Abuse, and DMA	09 DHR 05790	01/11/13	
Bright Haven Residential and Community Care d/b/a New Directions Group Home v. Division of Medical Assistance, DHHS	10 DHR 00232	04/27/12	
Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home, v. DHHS/Division of Health Service Regulation, Adult Care Licensure Section	10 DHR 01666	05/18/12	
Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home v. DHHS, Division of Health Service Regulation, Adult Care Licensure and Certification Section	10 DHR 05801	05/18/12	
Gold Care Inc. Licensee Hill Forest Rest Home Warren W. Gold v. DHHS, Adult Care	10 DHR 05861	05/18/12	

---

**CONTESTED CASE DECISIONS**

---

Licensure Section			
Robert T. Wilson v. DHHS, DHSR	10 DHR 07700	01/29/13	
Mary Ann Barnes v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	11 DHR 6488	07/16/12	
Comprehensive PT Center v. DHHS, Division of Medical Assistance	11 DHR 9197	08/14/12	27:12 NCR 1204
Cherry's Group Home, Alphonso Cherry v. DHSR Michelle Elliot	11 DHR 09590	07/12/12	
Leslie Taylor v. DHHS, Division of Health Regulation	11 DHR 10404	10/19/12	
Powell's Medical Facility and Eddie N. Powell, M.D., v. DHHS, Division of Medical Assistance	11 DHR 01451	03/05/12	27:01 NCR 75
Julie Sadowski v. DHHS, Division of Health Service Regulation	11 DHR 01955	04/03/12	
Carlos Kendrick Hamilton v. DHHS, Division of Social Services	11 DHR 11161	10/16/12	27:16 NCR 1679
Teresa Diane Marsh v. DHHS, Division of Health Service Regulation	11 DHR 11456	04/27/12	
Betty Parks v. Division of Child Development, DHHS	11 DHR 11738	06/20/12	
Lorrie Ann Varner v. DHHS, Regulation Health Care Personnel Registry Section	11 DHR 11867	08/02/12	
Brenda Brewer v. DHHS, Division of Child Development	11 DHR 12064	08/03/12	27:12 NCR 1210
Timothy John Murray v. DHHS, Division of Health Service Regulation	11 DHR 12594	06/15/12	
Holly Springs Hospital II, LLC v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Harnett Health System, Inc. and WakeMed	11 DHR 12727	04/12/12	27:04 NCR 486
Rex Hospital, Inc., v. DHHS, Division of Health Service Regulation, CON Section and WakeMed, Holly Springs Hospital II, LLC, and Harnett Health System, Inc.	11 DHR 12794	04/12/12	27:04 NCR 486
Harnett Health System, Inc., v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Holly Springs Hospital II, LLC, and WakeMed	11 DHR 12795	04/12/12	27:04 NCR 486
WakeMed v. DHHS, Division of Health Service Regulation, CON Section and Holly Springs Hospital II, LLC, Rex Hospital, Inc., and Harnett Health System, Inc	11 DHR 12796	04/12/12	27:04 NCR 486
Sandra Ellis v. DHHS	11 DHR 12959	07/11/12	
Vendell Haughton v. DHHS, Division of Medical Assistance	11 DHR 13616	07/05/12	
Tarsand Denise Morrison v. DHHS, Division of Health Service Regulation	11 DHR 13906	07/11/12	
Care Well of Charlotte Inc, Joy Steele v. DHHS	11 DHR 13909	08/02/12	
Carrie's Loving Hands Inc. #MHL #040-047 Felicia McGee v. DHHS, DHSR, Mental Health Licensure and Certification	11 DHR 14172	01/22/13	
Carrie's Loving Hands Inc. #MHL #010-047 Felicia McGee v. DHHS, DHSR, Mental Health Licensure and Certification	11 DHR 14173	01/22/03	
Michael Timothy Smith, Jr. v. DHHS, Division of Health Service Regulation	11 DHR 14184	08/01/12	
John S. Won v. DHHS	11 DHR 14232	09/05/12	27:15 NCR 1547
Cynthia Tuck Champion v. DHHS, Division of Health Service Regulation	11 DHR 14283	06/15/12	
Leslie Taylor, and Octavia Carlton v. Mecklenburg County Department of Social Services Youth and Family Services Division	11 DHR 14335	10/12/12	
Lauren Stewart v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	11 DHR 14570	06/08/12	
Alice M. Oakley v. Division of Child Development, DHHS	11 DHR 14571	05/15/12	27:04 NCR 508
McWilliams Center for Counseling Inc., v. DHHS, Division of Mental Health, Developmental Disabilities, Substance Abuse Services, and agency of the State of NC	11 DHR 15098	11/13/12	
Althea L. Flythe v. Durham County Health Department	12 DHR 00242	05/17/12	
Jerri Long v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 00361	07/06/12	
Renal Advantage, Inc., v. DHHS, Division of Health Service Regulation, CON Section and DVA Healthcare Renal Care, Inc	12 DHR 00518	08/28/12	27:15 NCR 1553
Angela Moye v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 00642	08/23/12	27:12 NCR 1218
Jessica Lynn Ward v. DHHS	12 DHR 00643	05/17/12	
Trinity Child Care II & I v. DHHS, Division of Public Health, Child and Adult Care Food Program	12 DHR 00861	04/20/12	27:04 NCR 518
Dr. Karen J. Williams, LPC v. DHHS, Division of Medical Assistance	12 DHR 00926	09/18/12	
Faith Home Care of NC, Bonita Wright v. DHHS, DMA	12 DHR 00928	07/25/12	
Olar Underwood v. Division of Child Development and Early Education	12 DHR 00990	10/22/12	
Angela C Jackson v. DHHS	12 DHR 01097	06/19/12	
Paula N Umstead v. DHHS	12 DHR 01098	05/11/12	
Daniel W. Harris, Jr., v. DHHS, Division of Health Service Regulation	12 DHR 01138	10/19/12	
ACI Support Specialists Inc. Case #2009-4249 v. DHHS	12 DHR 01141	06/06/12	
AriLand Healthcare Service, LLC, NCMHL #018-092, Shawn Kuhl Director of Operations v. DHHS, Emery E. Milliken, General Counsel	12 DHR 01165	05/25/12	
Kenneth Holman v. DHHS	12 DHR 01244	06/05/12	
Hillcrest Resthome Inc. (\$2000 penalty) v. DHHS	12 DHR 01289	05/30/12	

---

**CONTESTED CASE DECISIONS**

---

Hillcrest Resthome Inc. (\$4000 penalty) v. DHHS	12 DHR 01290	05/30/12	
Vivian Barrear v. DHHS, Division of Medical Assistance DHHS	12 DHR 01296	06/06/12	
Patricia Satterwhite v. DHHS	12 DHR 01338	07/23/12	
Timothy L Durham v. DHHS, Division of Health Services Regulation	12 DHR 01396	09/04/12	
Clydetta Dickens v. Nash Co DSS	12 DHR 01625	05/15/12	
Robert Lee Raines v. DHHS	12 DHR 01736	05/30/12	
Ms. Antoinette L. Williams v. DHHS	12 DHR 01739	06/15/12	
Felicia McGee Owner of Carrie's Loving Hand Inc. and Caring Arms Inc v. DHHS, DHSR	12 DHR 01796	01/22/13	
Mental Health Licensure Certification			
Tricia Watkins v. DHHS, Division of Medical Assistance, Office of Medicaid TLW-Auditing Office	12 DHR 01807	06/01/12	
First Path Home Care Services Gregory Locklear v. DHHS	12 DHR 01878	06/22/12	
Patriotic Health Care Systems, LLC v. DHHS	12 DHR 02105	09/19/12	
John and Christina Shipman v. DHHS	12 DHR 02107	07/24/12	
Team Daniel, LLC v. DHHS, DMA	12 DHR 02162	09/11/13	27:16 NCR 1696
Leslie Taylor, Octavia Carlton, Paula Carlton	12 DHR 02217	08/31/12	
Madeline Brown v. DHHS, Division of Health Service Regulation	12 DHR 02257	06/01/12	
Evelyn Evans v. DHHS, Division of Health Service Regulation	12 DHR 02258	07/02/12	
Shannon Santimore v. DHHS, Division of Public Health, Epidemiology Section	12 DHR 02348	12/20/12	
Precious Haven Inc. Melissa McAllister v. DHHS, Program Integrity	12 DHR 02430	05/18/12	
Michael and Jamie Hart v. Davidson County, Department of Social Services	12 DHR 02542	07/03/12	
Annamae R. Smith v. DHHS, Division of Medical Assistance	12 DHR 02657	11/05/12	
Our Daily Living, Christopher OnWuka, Director v. DHHS	12 DHR 02777	10/17/12	
Jessica L Thomas v. Randolph County DSS	12 DHR 02955	07/24/12	
Moses E Shoffner v. DHHS, Division of Child Development	12 DHR 03459	08/15/12	
Marco Evans v. DHHS, Division of Health Service Regulation	12 DHR 04110	07/30/12	
James C. Bartley v. DHHS, DMA	12 DHR 04116	07/25/12	
Estate of Mary P Lipe Medicaid ID #901463645S Alvena C Heggins v. DHHS, DMS (DHHS Medicaid)	12 DHR 04260	01/16/13	
LaBrenda Jane Elliot v. DHHS, Division of Medical Assistance	12 DHR 04993	09/24/12	
James Johnson v. DHHS, Division of Health Service Regulation	12 DHR 05148	09/11/12	
Cathy Crosland v. DHHS, Division of Health Service Regulation	12 DHR 05610	08/06/12	
Southern Living Home Care Agency Inc., v. DHHS	12 DHR 05864	11/06/12	
Beverly Coleman v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	12 DHR 05961	09/05/12	
Dwight William Osborne v. Glana M Surles, DHHS (Medicaid)	12 DHR 05693	09/14/12	
Gregory Howard v. Health Care Personnel Registry	12 DHR 06157	09/07/12	
Harrison E Shell Jr v. Wake County Human Services	12 DHR 06203	08/28/12	
Valtina Bronson v. DHHS, Division of Health Service Regulation	12 DHR 06365	08/29/12	
Danny Skipper AKA Danny Skipper v. DHHS, Division of Health Services Regulation	12 DHR 06403	10/22/12	
Stalin Bailon v. Department of Social Services	12 DHR 06528	10/17/12	
Tonya Diane Warfield v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	12 DHR 06682	01/07/13	
Our Daily Living, Christopher OnWuka, Director v. DHHS	12 DHR 06683	10/17/12	
Darina Renee Ford v. DHHS	12 DHR 07166	11/19/12	
Marquis Gerade Harrell v. DHHS, Health Care Personnel Registry, Leslie Chabet	12 DHR 07170	10/23/12	
KMG Holdings Inc. – The Lighthouse II of Clayton MHL #051-138 v. DHHS, Division of Health Licensure and Certification	12 DHR 07292	11/08/12	
Denise Marie Shear v. DHHS, Division of Health Service Regulation	12 DHR 07547	11/07/12	
Terique Epps, Family Legacy Mental Health Services DBA Task Inc v. DHHS and PBH	12 DHR 07616	11/09/12	
Angela Mackey v. DHHS, Division of Health Service Regulation	12 DHR 07619	10/05/12	
Eloise Dowtin v. The Emmanuel Home IV v. Division of Health Service Regulation	12 DHR 07620	11/06/12	
Orlando Stephen Murphy v. DHHS, DHSR, Health Care Personnel	12 DHR 07640	02/05/13	
Yolanda McKinnon v. DHHS	12 DHR 07711	01/11/13	
Koffi Paul Aboagye v. DHHS, Division of Health Service Regulation	12 DHR 07731	11/20/12	
Mark Thomas v. DHHS, Division of Health Service Regulation	12 DHR 07853	01/04/13	
Daniel Saft, A+ Residential Care (MHL #092-811) v. DHHS, DHSR, Mental Health Licensure and Certification Section	12 DHR 08197	01/16/13	
Ronald Dixon v. Division of Child Development, DHHS	12 DHR 08446	11/14/12	
Jah Mary Weese v. DHHS, Division of Health Service Regulation	12 DHR 08672	01/09/13	
White Oak Homes II Inc., Lisa Atkinson v. DHHS, Mental Health Licensure and Certification Section, Division of Health Service	12 DHR 08994	02/08/13	
Carolyn Ragin v. DHHS, Division of Health Services Regulation	12 DHR 09373	12/18/12	
April Hood-Baker v. DHHS, DMA Glana M Surles	12 DHR 09489	01/15/13	
Tyshon & Shannetta Barfield v. DHHS	12 DHR 09692	02/08/13	

---

**CONTESTED CASE DECISIONS**

---

Cynthia M Rose v. Division of Child Development, DHHS	12 DHR 09846	01/23/13
Carolina Solution, Inc v DHHS	12 DHR 10668	02/08/13

**DEPARTMENT OF ADMINISTRATION**

Meherrin Indian Tribe v. Commission of Indian Affairs	12 DOA 00986	01/18/13
---	--------------	----------

**DEPARTMENT OF CORRECTIONS**

Myron Roderick Nunn v. Jennifer O'Neal, Accountant DOC	12 DOC 01022	07/12/12
--	--------------	----------

**DEPARTMENT OF JUSTICE**

Tommy Keith Lymon v. Criminal Justice Education and Training Standards Commission	09 DOJ 03751	07/30/12	27:06 NCR 649
---	--------------	----------	---------------

Greary Michael Chlebus v. Criminal Justice Education and Training Standards Commission	11 DOJ 4829	04/27/12	
Dillan Nathaniel Hymes v. Criminal Justice Education and Training Standards Commission	11 DOJ 10315	07/23/12	27:06 NCR 661
Barbara Renay Whaley v. Criminal Justice Education and Training Standards Commission	11 DOJ 10316	04/25/12	
Robert Kendrick Mewborn v. Criminal Justice Education and Training Standards Commission	11 DOJ 10318	04/23/12	

Athena Lynn Prevatte v. Sheriffs' Education and Training Standards Commission	11 DOJ 13148	05/25/12	27:04 NCR 529
Shatel Nate Coates v. Sheriffs' Education and Training Standards	11 DOJ 13151	07/05/12	
James Lee Ray v. Sheriffs' Education Training Standards	11 DOJ 13152	08/27/12	
Ko Yang v. Sheriff's Education and Training Standards Commission	11 DOJ 13153	06/14/12	
Dustin Edward Wright v. Sheriffs' Education and Training Standards Commission	11 DOJ 13154	08/08/12	
Walter Scott Thomas v. Sheriff's Education and Training Standards Commission	11 DOJ 13155	05/10/12	
Darryl Howard v. Criminal Justice Education and Training Standards Commission	11 DOJ 13157	04/12/12	
John Jay O'Neal v. Criminal Justice Education and Training Standards Commission	11 DOJ 13158	07/06/12	27:07 NCR 749
Charlesene Cotton v. Criminal Justice Education and Training Standards Commission	11 DOJ 13159	06/05/12	27:04 NCR 538
William James Becker v. Criminal Justice Education and Training Standards Commission	11 DOJ 13160	08/16/12	
Steve Michael Galloway, Jr, Private Protective Services Board	11 DOJ 14434	04/23/12	
Justin Thomas Medlin v. Alarm Systems Licensing Board	11 DOJ 14493	04/23/12	

Argentina Rojas v. Department of Justice, Campus Police Officer Commission	12 DOJ 00394	11/02/12	
Bruce Clyde Shoe v. Private Protective Services Board	12 DOJ 00556	09/26/12	
Angela Louise Giles v. Private Protective Services Board	12 DOJ 00557	04/18/12	
Marshall Todd Martin v. Sheriffs' Education	12 DOJ 00650	07/13/12	
Frances Gentry Denton v. Sheriffs' Education and Training Standards Commission	12 DOJ 00651	08/30/12	
James Philip Davenport v. Criminal Justice Education and Training Standards Commission	12 DOJ 00653	11/21/12	
Alvin Louis Daniels v. Criminal Justice Education and Training Standards Commission	12 DOJ 00654	08/17/12	
Michael Wayne McFalling v. Private Protective Services Board	12 DOJ 00814	05/21/12	
Robert John Farmer v. Alarm Systems Licensing Board	12 DOJ 00887	05/04/12	
Ricky Lee Ruhlman v. Private Protective Services Board	12 DOJ 01211	04/18/12	
Leroy Wilson Jr., Private Protective Services Board	12 DOJ 01293	04/18/12	
Clyde Eric Lovette v. Alarm Systems Licensing Board	12 DOJ 01498	05/02/12	
Vincent Tyron Griffin v. Alarm Systems Licensing Board	12 DOJ 01663	09/27/12	
Andre Carl Banks Jr., v. Alarm Systems Licensing Board	12 DOJ 01695	06/22/12	
Ryan Patrick Brooks v. Private Protective Services Board	12 DOJ 01696	06/05/12	
Dustin Lee Chavis v. Private Protective Services Board	12 DOJ 01697	06/01/12	
Jeffrey Adam Hopson v. Sheriffs' Education and Training Standards Commission	12 DOJ 01761	06/07/12	
John Henry Ceaser v. Sheriffs' Education and Training Standards Commission	12 DOJ 01762	06/18/12	
Jerome Douglas Mayfield v. Private Protective Services Board	12 DOJ 02381	06/15/12	
Elijah K. Vogel v. Private Protective Services Board	12 DOJ 02619	06/05/12	
Timmy Dean Adams v. Department of Justice, Company Police Program	12 DOJ 02778	12/21/12	
Carlito Soler v. Alarm Systems Licensing Board	12 DOJ 03457	09/26/12	
Rodney Lyndolph Bland v. Criminal Justice Education and Training Standards Commission	12 DOJ 03839	01/11/13	
Sherman Montrell Devon McQueen v. Criminal Justice Education and Training and Standards Commission	12 DOJ 03842	12/21/12	
Barry Louis Christopher, Jr v. Private Protective Services Board	12 DOJ 05041	08/27/12	27:15 NCR 1570
Raymond Louis Soulet v. Sheriffs' Education and Training Standards Commission	12 DOJ 05142	08/27/12	
Dustin Wilson Grant v. Sheriffs' Education and Training Standards Commission	12 DOJ 05145	10/25/12	
Glenn Alvin Brand v. Sheriffs' Education and Training Standards Commission	12 DOJ 05146	10/08/12	
Lawrence W. Sitgraves v. Private Protective Services	12 DOJ 06059	09/13/12	
Collin Michael Berry v. Private Protective Services Board	12 DOJ 06590	10/22/12	
Tiffany Ann Misel v. Private Protective Services Board	12 DOJ 06817	10/17/12	
John Machouis v. Alarm Systems Licensing Board	12 DOJ 07161	12/19/12	
Christopher A. Field v. Private Protective Services Board	12 DOJ 07548	12/19/12	
Porschea Renee Williams v. Private Protective Services Board	12 DOJ 07549	01/09/13	

---

**CONTESTED CASE DECISIONS**

---

Ralph R. Hines v. Criminal Justice Education and Training Standards	12 DOJ 07812	11/07/12	
Elizabeth Crooks Goode v. Criminal Justice Education and Training Standards Commission	12 DOJ 08014	12/14/12	
Sabrina Richelle Wright v. Sheriffs' Education and Training Standards Commission	12 DOJ 08048	01/16/13	
Phillip Eugene Dendy v. Sheriffs' Education and Training Standards Commission	12 DOJ 08049	01/18/13	
Reginald E. James v. Private Protective Services Board	12 DOJ 08195	12/20/12	
Omega Young v. Private Protective Services Board	12 DOJ 08261	12/17/12	
Joseph T. Ferrara v. Private Protective Services Board	12 DOJ 08309	01/11/13	
Jovan Lamont Sears v. Private Protective Services Board	12 DOJ 08447	12/20/12	

**DEPARTMENT OF STATE TREASURER**

Ella Joyner v. Department of State Treasurer Retirement System Division	11 DST 02437	07/12/12	27:07 NCR 758
William R. Tate v. Department of Treasurer, Retirement System Division	11 DST 04675	09/07/12	27:15 NCR 1574
Brenda C. Hemphill v. Department of Treasurer, Retirement System Division	11 DST 10252	09/26/12	
Russell E. Greene v. Department of State Treasurer Retirement Systems Division	11 DST 10875	06/14/12	27:04 NCR 543
James A Layton v. Department of State Treasurer	11 DST 12958	11/30/12	
Marsha W Lilly, Robert L Hinton v. Retirement System	12 DST 01108	05/22/12	

**STATE BOARD OF EDUCATION**

Louis A. Hrebar v. State Board of Education	11 EDC 01445	07/27/12	
Delene Huggins v. Department of Public Instruction	11 EDC 08899	06/28/12	
Myra F. Moore v. NC Board of Education	11 EDC 11927	05/01/12	
Dwayne White v. Department of Public Instruction, NC State Board of Education	11 EDC 11864	07/18/12	27:07 NCR 769
Lia C Long v. DPI	12 EDC 00805	10/18/13	27:16 NCR 1716
North Carolina Learns Inc. d/b/a North Carolina Virtual Academy	12 EDC 01801	05/18/12	
Katherine Kwesell Harris v. Public Schools, Board of Education	12 EDC 06520	09/05/12	

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

Pamlico-Tar River Foundation, NC Coastal Federation, Environmental Defense Fund, and Sierra Club v. DENR, Division of Water Quality and PCS Phosphate Company, Inc	09 EHR 1839	04/26/12	27:01 NCR 87
ALCHEM Inc., v. NCDENR	10 EHR 00296	02/05/13	
Don Hillebrand v. County of Watauga County Health Dept	10 EHR 00933	05/10/12	
ALCHEM Inc., v. NCDENR	10 EHR 05463	02/05/13	
House of Raeford Farms, Inc., v. DENR	10 EHR 05508	05/31/12	27:01 NCR 99
Lacy H Caple DDS v. Division of Radiation Protection Bennifer Pate	11 EHR 11454	05/09/12	
Friends of the Green Swamp and Blue Ridge Environmental Defense League, Inc v. DENR Division of Waste Management and Waste Management of the Carolinas, Inc., d/b/a Waste Management of Wilmington	11 EHR 12185	08/08/12	27:12 NCR 1224
Holmes Development & Realty, LLC, and H.L. Homes v. DENR – Land Quality Section (Re: LQS 11-018)	11 EHR 13208	06/29/12	27:07 NCR 774
Ik Kim IT and K Enterprise v. DENR	11 EHR 13910	11/06/12	
Save Mart of Duplin LLC v. DENR	12 EHR 02328	07/25/12	

**DIVISION OF EMPLOYMENT SECURITY**

Dwight Marvin Wright v. Department of Commerce, Division of Employment Security	12 ESC 05042	07/27/12	
---	--------------	----------	--

**MISCELLANEOUS**

Richard Lee Taylor v. City of Charlotte	11 MIS 14140	05/15/12	
Lloyd M Anthony v. New Hanover County Sheriff Office	12 MIS 01803	06/07/12	

**OFFICE OF STATE PERSONNEL**

Amanda Thaxton v. State Ethics Commission	09 OSP 03754	09/20/12	
Dorothy H. Williams v. DHHS, Central Regional Hospital	10 OSP 5424	03/28/12	27:01 NCR 119
Larry F. Murphy v. Employment Security Commission of North Carolina	10 OSP 03213	06/04/12	
Walter Bruce Williams v. Dept. of Crime Control and Public Safety Butner Public Safety Division	10 OSP 03551	04/23/12	27:01 NCR 148
Teresa J. Barrett v. DENR	10 OSP 04754	10/22/12	27:16 NCR 1726
Daniel Chase Parrott v. Crime Control and Public Safety, Butner Public Safety Division	10 OSP 04792	05/30/12	
Steven M Mukumgu v. DAG	10 OSP 05199	08/07/12	

Beatrice T. Jackson v. Durham County Health Department	11 OSP 3835	06/08/12	
Brenda D. Triplett v. DOC	11 OSP 4605	03/20/12	27:06 NCR 669
Tommie J. Porter v. DOC	11 OSP 5352	06/05/12	27:06 NCR 678
Fortae McWilliams v. DOC	11 OSP 06236	05/30/12	27:06 NCR 684
Kimberly F. Loflin v. DOT, DMV	11 OSP 06762	07/10/12	
John Hardin Swain v. DOC, Hyde Correctional Inst.	11 OSP 07956	04/23/12	27:06 NCR 693
John Fargher v. DOT	11 OSP 08111	04/18/12	
Tammy Cagle v. Swain County, Department of Social Services	11 OSP 10307	09/26/12	27:16 NCR 1747
Doris Wearing v. Polk Correctional Inst. Mr. Solomon Superintendent	11 OSP 11023	10/19/12	
Fredericka Florentina Demmings v. County of Durham	11 OSP 11498	06/12/12	
David B. Stone v. Department of Cultural Resources	11 OSP 11926	08/10/12	27:12 NCR 1245
William C. Spender v. Dept. of Agriculture & Consumer Services, Veterinary Division	11 OSP 12479	04/27/12	
Terrence McDonald v. NCSU	11 OSP 12682	05/21/12	
Terrence McDonald v. DHHS, Emery Milliken	11 OSP 12683	05/18/12	
Phyllis Campbell v. DOC	11 OSP 13381	08/27/12	27:15 NCR 1579
Raeform Quick v. DOC	11 OSP 14436	05/22/12	

Tawana McLaurin v. DOC	12 OSP 00116	08/21/12	
Thomas B. Warren v. DAG, Forest Services Division	12 OSP 00615	11/27/12	
Bon-Jerald Jacobs v. Pitt County Department of Social Services	12 OSP 00634	06/12/12	
Sherry Baker v. Department of Public Safety	12 OSP 00841	10/09/12	
Diane Farrington v. Chapel Hill-Carrboro City Schools	12 OSP 01300	07/12/12	
Cynthia Moats v. Harnett County Health Dept	12 OSP 01536	08/10/12	
Natalie Wallace-Gomes v. Winston-Salem State University	12 OSP 01627	05/15/12	
Clark D. Whitlow v. UNC-Chapel Hill	12 OSP 01740	06/12/12	
Jeffrey L Wardick, v. Employment Securities Commission of NC	12 OSP 02027	07/17/12	
Larry C. Goldston v. UNC-Chapel Hill	12 OSP 02222	09/26/12	27:16 NCR 1754
Sheila Bradley v. Community College System Sandhills Community College	12 OSP 02473	06/06/12	
Brenda S. Sessoms v. Department of Public Safety	12 OSP 02507	07/25/12	
Donnette J Amaro v. Onslow County Department of Social Services	12 OSP 02578	11/21/12	
Ronald Gilliard v. N.C. Alcoholic Law Enforcement	12 OSP 02618	09/26/12	
Kimberly Hinton v. DOT	12 OSP 02848	10/05/12	
Natalie Wallace-Gomes v. Winston Salem State University	12 OSP 02950	08/01/12	
Jaymar v. Department of Corrections, Central Prison	12 OSP 03381	07/20/12	
Ronald Wayne Crabtree Jr., v. Butner Public Safety	12 OSP 03846	10/09/12	
Natalie Wallace-Gomes v. Winston Salem State University	12 OSP 03910	10/22/12	
Natalie Wallace-Gomes v. Winston Salem State University	12 OSP 04107	10/22/12	
Michelle Houser v. Department of Public Safety, Division of Prisons	12 OSP 04826	09/26/12	
Audrey Melissa Tate v. Department of Public Safety, Division of Juvenile Justice	12 OSP 05182	08/03/12	
Jonathan Ashley Stephenson v. UNC-Chapel Hill	12 OSP 05223	01/15/13	
Charles E. Rouse v. DMV, Dist Sup Stacey Wooten	12 OSP 05315	09/05/12	
Edwards Robert Esslinger v. DPI	12 OSP 05459	09/12/12	
Barry L. Pruett v. DMV, Driver and Vehicle Services	12 OSP 05785	09/11/12	
Joseph Sandy v. UNC Chapel Hill	12 OSP 06152	09/05/12	
Natalie Wallace-Gomes v. Winston Salem State University	12 OSP 06309	10/22/12	
Paul Jeffrey Treadway v. Department of Public Safety, Division of Adult Supervision	12 OSP 06634	12/18/12	
Phillip W Smith v. Department of Commerce, Division of Employment Security	12 OSP 06821	09/20/12	
Christopher Rashad Pippins v. PCS BOE PCS Facility Services	12 OSP 07744	10/18/12	
Wanda Edwards v. UNC School of Dentistry	12 OSP 07851	01/09/13	
Gary C. Clement v. DHHS	12 OSP 08105	11/14/12	
Oswald Woode v. DHHS, Central Regional Hospital	12 OSP 08664	01/09/13	
Gary C. Clement v. DHHS	12 OSP 09581	01/04/13	

**DEPARTMENT OF REVENUE**

Jerry Lamont Lindsey v. Department of Revenue	11 REV 1914	07/25/12
Thomas E Gust v. Department of Revenue	11 REV 13557	08/15/12
James Cooper III Sui Juris v. Department of Revenue	11 REV 13792	11/14/12
Brian Daniel Reeves v. Department of Revenue	12 REV 01539	06/04/12
David Roser v. Department of Revenue	12 REV 01694	09/10/12
Ronnie Lee Nixon v. Department of Revenue	12 REV 01881	10/03/12
William S. Hall v. Department of Revenue	12 REV 04115	08/27/12
Noah D. Sheffield v. Department of Revenue	12 REV 07074	11/14/12
Jenny M. Sheffield v. Department of Revenue	12 REV 07075	11/14/12

---

**CONTESTED CASE DECISIONS**

---

Jesus A. Cabrera v. Department of Revenue 12 REV 08968 01/03/13

**OFFICE OF SECRETARY OF STATE**

Michael Anthony Farrow-Bey v. Department of Secretary of State 12 SOS 07865 12/14/12

Jennifer Lynn Pierce-Founder Share Our Shoes v. Secretary of State's Office 12 SOS 01653 07/11/12

**UNC HOSPITALS**

Onyedika C Nwaebube v. UNC Hospitals 12 UNC 01110 06/25/12

Nephatiya Wade v. UNC Hospitals Chapel Hill NC 12 UNC 01209 07/17/12

Fredia R Wall v. UNC Physicians & Associates 12 UNC 02256 10/04/12

Carolyn A. Green v. UNC Hospitals 12 UNC 02259 09/19/12

Annie E. Jarrett v. UNC Hospitals 12 UNC 03716 10/09/12

Vikki J Goings v. UNC Hospital 12 UNC 04109 09/18/12

Elonnie Alston v. UNC Hospitals 12 UNC 04551 09/11/12

Diara Z Andrews v. UNC Hospitals 12 UNC 04827 08/15/12

Shonte Hayes v. UNC P&A 12 UNC 05746 09/10/12

Tracy A. Spaine (Currier) v. UNC Hospitals 12 UNC 06822 11/06/12