

NORTH CAROLINA REGISTER

VOLUME 23 • ISSUE 22 • Pages 2170 - 2215

May 15, 2009

I. IN ADDITION	
Labor, Department of – Notice of Verbatim Adoption	2170
Notice of Intent to Issue NPDES Permit – Division of Water Quality	2171
II. PROPOSED RULES	
Environment and Natural Resources, Department of	
Environmental Management Commission	2172 – 2176
Justice	
Private Protective Services Board	2172
Occupational Licensing Boards and Commissions	
Barber Examiners, Board of	2176 – 2181
Chiropractic Examiners, Board of	2181 – 2182
Funeral Service, Board of	2182 – 2185
Plumbing, Heating and Fire Sprinkler Contractor, Board of Examiners for ...	2185 – 2194
Office of State Personnel	
State Personnel Commission	2194 – 2195
III. RULES REVIEW COMMISSION	2196 – 2204
IV. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	2205 – 2215

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

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

Contact List for Rulemaking Questions or Concerns

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

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

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

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

Rule Review and Legal Issues

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

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

Fiscal Notes & Economic Analysis

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

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

Governor's Review

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

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 karenc@ncleg.net
Jeff Hudson, Staff Attorney jeffreyh@ncleg.net

County and Municipality Government Questions or Notification

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

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

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

contact: Erin L. Wynia ewynia@nclm.org

NORTH CAROLINA REGISTER
 Publication Schedule for January 2009 – December 2009

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
23:13	01/02/09	12/08/08	01/17/09	03/03/09	03/20/09	05/01/09	05/2010	09/29/09
23:14	01/15/09	12/19/08	01/30/09	03/16/09	03/20/09	05/01/09	05/2010	10/12/09
23:15	02/02/09	01/09/09	02/17/09	04/03/09	04/20/09	06/01/09	05/2010	10/30/09
23:16	02/16/09	01/26/09	03/03/09	04/17/09	04/20/09	06/01/09	05/2010	11/13/09
23:17	03/02/09	02/09/09	03/17/09	05/01/09	05/20/09	07/01/09	05/2010	11/27/09
23:18	03/16/09	02/23/09	03/31/09	05/15/09	05/20/09	07/01/09	05/2010	12/11/09
23:19	04/01/09	03/11/09	04/16/09	06/01/09	06/22/09	08/01/09	05/2010	12/27/09
23:20	04/15/09	03/24/09	04/30/09	06/15/09	06/22/09	08/01/09	05/2010	01/10/10
23:21	05/01/09	04/09/09	05/16/09	06/30/09	07/20/09	09/01/09	05/2010	01/26/10
23:22	05/15/09	04/24/09	05/30/09	07/14/09	07/20/09	09/01/09	05/2010	02/09/10
23:23	06/01/09	05/08/09	06/16/09	07/31/09	08/20/09	10/01/09	05/2010	02/26/10
23:24	06/15/09	05/22/09	06/30/09	08/14/09	08/20/09	10/01/09	05/2010	03/12/10
24:01	07/01/09	06/10/09	07/16/09	08/31/09	09/21/09	11/01/09	05/2010	03/28/10
24:02	07/15/09	06/23/09	07/30/09	09/14/09	09/21/09	11/01/09	05/2010	04/11/10
24:03	08/03/09	07/13/09	08/18/09	10/02/09	10/20/09	12/01/09	05/2010	04/30/10
24:04	08/17/09	07/27/09	09/01/09	10/16/09	10/20/09	12/01/09	05/2010	05/14/10
24:05	09/01/09	08/11/09	09/16/09	11/02/09	11/20/09	01/01/10	05/2010	05/29/10
24:06	09/15/09	08/24/09	09/30/09	11/16/09	11/20/09	01/01/10	05/2010	06/12/10
24:07	10/01/09	09/10/09	10/16/09	11/30/09	12/21/09	02/01/10	05/2010	06/28/10
24:08	10/15/09	09/24/09	10/30/09	12/14/09	12/21/09	02/01/10	05/2010	07/12/10
24:09	11/02/09	10/12/09	11/17/09	01/02/10	01/20/10	03/01/10	05/2010	07/30/10
24:10	11/16/09	10/23/09	12/01/09	01/15/10	01/20/10	03/01/10	05/2010	08/13/10
24:11	12/01/09	11/05/09	12/16/09	02/01/10	02/22/10	04/01/10	05/2010	08/28/10
24:12	12/15/09	11/20/09	12/30/09	02/15/10	02/22/10	04/01/10	05/2010	09/11/10

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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

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

North Carolina Department of Labor
Division of Occupational Safety and Health
4 West Edenton Street
Raleigh, NC 27601

(919) 807-2875

NOTICE OF VERBATIM ADOPTION OF FEDERAL STANDARDS

In consideration of G.S. 150-B-21.5(c) the Occupational Safety and Health Division of the Department of Labor hereby gives notice that:

rule changes have been submitted to update the *North Carolina Administrative Code* at 13 NCAC 07F .0101, 13 NCAC 07F .0201, 13 NCAC 07F .0501, and 13 NCAC 07F .0502 to incorporate by reference the occupational safety and health related provisions of Title 29 of the *Code of Federal Regulations* Parts 1910, 1915, 1917, and 1926 promulgated as of January 9, 2009, except as specifically described, and

the *North Carolina Administrative Code* at 13 NCAC 07A .0301 automatically includes amendments to certain parts of the *Code of Federal Regulations*, including Title 29, Part 1904-Recording and Reporting Occupational Injuries and Illnesses.

This update encompasses recent verbatim adoptions that are effective April 23, 2009 concerning:

Electrical Standards; Clarifications; Corrections
(73 FR 64202 - 64205, October 29, 2008)

Longshoring and Marine Terminals; Vertical Tandem Lifts
(73 FR 75246 – 75290, December 10, 2008)

Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee
(73 FR 75568 – 75589, December 12, 2008)

Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee
(74 FR 858, January 9, 2009)

The *Federal Register* (FR), as cited above, contains both technical and economic discussions that explain the basis for each change.

For additional information, please contact:

Bureau of Education, Training and Technical Assistance
Occupational Safety and Health Division
North Carolina Department of Labor
1101 Mail Service Center
Raleigh, North Carolina 27699-1101

For additional information regarding North Carolina's process of adopting federal OSHA Standards verbatim, please contact:

A. John Hoomani, General Counsel
North Carolina Department of Labor
Legal Affairs Division
1101 Mail Service Center
Raleigh, NC 27699-1101

**NC DIVISION OF WATER QUALITY INTENT TO ISSUE NPDES GENERAL PERMITS FOR STORMWATER and
WASTEWATER DISCHARGES**

Public comments or objections to the several draft NPDES General Permits are invited. Submit written comments to DWQ at the address below. All comments received prior to the scheduled public comment period closing dates noted below will be considered in the final determination regarding permit issuance and permit provisions.

General Permit NCG010000 for stormwater only discharges from construction activities. Schedule: draft available 5/15/09; closing date 10/1/09; permit re-issuance 1/1/10. DWQ has determined to administratively extend the current expiration date through 12/31/09.

General Permit NCG020000 for stormwater and wastewater discharges from mining activities. Schedule: draft available 10/13/09; closing date 11/12/09; permit re-issuance 1/1/10.

General Permit NCG140000 for stormwater and wastewater discharges from ready-mixed concrete facilities, SIC 3273. Schedule: DWQ has determined to re-issue this permit without changes for a shortened term of 2 years; permit re-issuance 8/1/09.

General Permit NCG150000 for stormwater only discharges from general aviation airports. Schedule: draft available 5/15/09; closing date 6/15/09; permit first issuance 8/1/09.

General Permit NCG160000 for stormwater only discharges from asphalt paving plants, SIC 2951. Schedule: draft available 7/1/09; closing date 8/1/09; permit re-issuance 9/1/09. DWQ has determined to administratively extend the current NCG160000 expiration date 31 days, from 7/31/09 to 8/31/09.

General Permit NCG170000 for stormwater only discharges from textile mills, SIC 22. Schedule: draft available 5/15/09; closing date 6/15/09; permit re-issuance 8/1/09.

General Permit NCG180000 for stormwater only discharges from furniture and cabinet makers, SIC 25 and SIC 2434. Schedule: draft available 5/15/09; closing date 6/15/09; permit re-issuance 9/1/09.

General Permit NCG190000 for stormwater only discharges from marinas with vehicle maintenance activities, and from ship building facilities, SIC 4493 and SIC 373. Schedule: draft available 5/26/09; closing date 6/25/09; permit re-issuance 9/1/09.

General Permit NCG200000 for stormwater only discharges from scrap metal recycling facilities, a portion of SIC 5093. Schedule: draft available 5/15/09; closing date 10/1/09; permit re-issuance 1/1/10. DWQ has determined to administratively extend the expiration date through 12/31/09.

General Permit NCG220000 for stormwater only discharges from chip mills. Schedule: draft available 6/1/09; closing date 6/30/09; permit re-issuance 8/1/09. DWQ has determined to administratively extend this currently expired permit through 7/31/09.

INFORMATION: The text of the draft NPDES General Permits and associated Fact Sheets will be available on the schedule dates noted above at the Stormwater Permitting Unit website at

<http://h2o.enr.state.nc.us/su/index.htm>

In addition, other related information will be available at the Division of Water Quality, 512 N. Salisbury Street, Room 942T, Archdale Building, Raleigh, North Carolina. Development file documents may be inspected during normal office hours. Copies of the information on file are available upon payment of reproduction costs.

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.

CONTACT:

Ken Pickle

Stormwater Permitting Unit

N.C. Division of Water Quality

1617 Mail Service Center

Raleigh, North Carolina 27699-1617

Telephone (919) 807-6376

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 12 – DEPARTMENT OF JUSTICE

- Substantive (≥\$3,000,000)
- None

Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Private Protective Services Board intends to amend the rule cited as 12 NCAC 07D .0109.

CHAPTER 07 – PRIVATE PROTECTIVE SERVICES BOARD

Proposed Effective Date: September 1, 2009

SUBCHAPTER 07D - PRIVATE PROTECTIVE SERVICES BOARD

Public Hearing:

Date: May 30, 2009

Time: 1:00 p.m.

Location: Bailey & Dixon, LLP, Conference Room, 434 Fayetteville Street, Suite 2500, Raleigh, NC 27601

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

Reason for Proposed Action: *The Board conducts audits of licensed companies and utilizes the reports maintained by the Employment Security Commission. The Board seeks to obtain this information electronically instead of obtaining hard copies of the reports.*

12 NCAC 07D .0109 RECORDS

(a) All records pertinent to an audit or an investigation required to be maintained by G.S. Chapter 74C or 12 NCAC 07D shall be subject to inspection by the administrator or his staff upon demand between 8:00 a.m. - 5:00 p.m. Monday through Friday.

(b) All licensees having registered employees shall submit a copy of their quarterly Employment Security Commission form NCUI 101-625 to the administrator's office at the same time the form is submitted to the Employment Security Commission. The Board may request, and the licensee shall provide within 10 days of the request, the businesses' Employment Security Commission account number along with the personal identification number (PIN) so that the Board may access the data electronically.

(c) All records required to be kept by 12 NCAC 07D shall be retained for at least three years.

Procedure by which a person can object to the agency on a proposed rule: *Objections to the rule shall be submitted before the end of the comment period in writing to Terry Wright, Director, Private Protective Services Board, 1631 Midtown Place, Suite 104, Raleigh, NC 27609.*

Authority G.S. 74C-5.

Comments may be submitted to: *Terry Wright, PPSB Director, 1631 Midtown Place, Suite 104, Raleigh, NC 27609*

Comment period ends: July 14, 2009

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

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt the rules cited as 15A NCAC 02T .1310 and .1311.

Proposed Effective Date: November 1, 2009

Public Hearing:

Date: June 9, 2009

Time: 7:00 p.m.

Location: Iredell County Center, 444 Bristol Drive, Statesville, North Carolina 28677

Fiscal Impact:

- State
- Local

Date: June 11, 2009

Time: 7:00 p.m.

Location: James Sprunt Community College, Monk Auditorium, 133 James Sprunt Drive, Kenansville, North Carolina 28349

Date: June 15, 2009

Time: 7:00 p.m.

Location: Archdale Building, Ground Floor Hearing Room, 512 North Salisbury Street, Raleigh, North Carolina 27604

Date: June 18, 2009

Time: 7:00 p.m.

Location: Martin Community College, 1161 Kehukee Park Road, Williamston, North Carolina 27892

Reason for Proposed Action: These proposed rules are the result of petitions for rulemaking filed in accordance with G.S. 150B-20(a) of the Administrative Procedures Act by the Waterkeeper Alliance in September and October 2007. The EMC approved the petition in May 2008, but also directed the Division of Water Quality to develop rule language utilizing the stakeholder process. After four stakeholder meetings, a proposed rule has been developed. In November 2008, the Division received approval from the EMC to proceed to the public comment process. For additional information on these proposed rules, please visit the DWQ website at www.ncwaterquality.org and select the Hot Topics link.

Procedure by which a person can object to the agency on a proposed rule: A person may submit written objections concerning the monitoring rules for animal operations (adoption of 15A NCAC 02T .1310-.1311) to the Aquifer Protection Section of the NCDENR-Division of Water Quality. Such correspondence should be brought to the attention of: Mr. Keith Larick, NCDENR/DWQ-Aquifer Protection Section, 1636 Mail Service Center, Raleigh, NC 27699-1636, Phone: (919) 715-6697, Fax: (919) 715-6048, E-Mail: keith.larick@ncdenr.gov. Oral comments may be made during the hearings. Written copies of oral statements exceeding three minutes are requested. All written comments must be received by July 14, 2009.

Comments may be submitted to: Keith Larick, NCDENR/DWQ-Aquifer Protection Section, 1636 Mail Service Center, Raleigh, NC 27699-1636; Phone: (919) 715-6697; Fax: (919) 715-6048; and Email: keith.larick@ncdenr.gov

Comment period ends: July 14, 2009

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

concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

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

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

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02T – WASTE NOT DISCHARGED TO SURFACE WATERS

SECTION .1300 – ANIMAL WASTE MANAGEMENT SYSTEMS

15A NCAC 02T .1310 SURFACE WATER AND GROUND WATER MONITORING

(a) All facilities not permitted by regulation pursuant to Rule .1303 of this Section shall monitor any unpermitted waste discharge to surface waters.

- (1) All runoff of waste from receiver sites or discharges from storage structures shall be sampled at least once during the event. For the purposes of this provision, an event is defined as the time from the beginning of the discharge of waste until the discharge of waste is ceased regardless of the duration of discharge. The discharge shall be sampled for the parameters in Subparagraph (a)(4) of this Rule.
- (2) Facilities with known subsurface drains shall make visual observations of subsurface drains during all land application of waste events. If visual observations indicate that waste may be present in the subsurface drain discharge, the permittee shall sample the subsurface drain discharge for the parameters in Subparagraph (a)(4) of this Rule. Additional observations and sampling may be required based on violations related to land application of waste events and known discharges from subsurface drains.
- (3) Additionally, facilities with known subsurface drains shall make visual observations of subsurface drains after a land application event and after a rainfall event subsequent to a land application event for a minimum of two visual inspections per year for each field with subsurface drains. If visual observations indicate that waste may be present in the subsurface drain discharge, the permittee shall sample the subsurface drain discharge for the parameters in Subparagraph (a)(4) of this Rule. Additional observations and sampling may be required based on violations related to land application of waste events and known discharges from subsurface drains.

(4) Waste discharges shall be sampled for the following parameters: 5-day Biochemical Oxygen Demand (BOD₅), Total Kjeldahl Nitrogen (TKN), Ammonia Nitrogen (NH₃-N), Nitrate Nitrogen (NO₃-N), Fecal Coliform, and Chloride.

(b) A surface water monitoring plan, for all facilities not permitted by regulation pursuant to Rule .1303 of this Section, shall be established, in accordance with the schedule provided in Rule .1311 of this Section, to track the performance of the permitted system, verify that the system is protective of surface water standards as well as document water quality parameter concentrations in adjacent surface waters, and compliance with permit discharge limitations.

(1) The Division shall determine up to three representative sampling locations per farm site including one location that provides background conditions. The Division may consider recommendations by the permittee regarding sampling locations. Representative locations shall include waters in groundwater lowering ditches and subsurface drains when present. Representative locations shall consider soils, hydrogeology, loading rates, and application methods. Where surface water locations are not representative for the receiver sites or storage structures, monitoring ground waters adjacent to surface waters may be required. Representative surface water locations for artificially drained receiver sites include:

(A) Groundwater lowering ditches that are collectively representative of subsurface drain discharges from receiver sites or storage structure sites if the ditch is a discernible and discrete source of groundwater from receiver sites or storage structure sites.

(B) Subsurface drains may be selectively sampled (i.e., one drain sampled to be representative of multiple drains in a receiver site or storage structure site) based on uniformity of application across fields (both design and actual), soil characteristics, and hydrogeologic setting.

(2) If three surface water sampling locations cannot be identified on or adjacent to the farm site, the monitoring plan may be reduced to only those representative locations on or adjacent to the farm site such as intermittent and perennial streams, perennial waterbodies, subsurface drain outlets, groundwater lowering ditches.

(3) The plan shall include three sampling events every calendar year, except as otherwise provided for in this Paragraph, as follows:

(A) One sampling event during the months of January or February.

(B) One sampling event after a representative land application event during the months of March or April.

(C) One sampling event after a representative land application event during the months of July, August, or September.

(D) For any of the sampling events required by this Subparagraph, if flow at sampling locations is not present at the time of scheduled sampling, sampling shall occur when flow is present at the sampling location. If a representative land application event does not occur during the prescribed months, a sample shall be taken after the next land application event.

(4) Samples shall be collected and analyzed for the following constituents: Ammonia Nitrogen (NH₃-N), Nitrate Nitrogen (NO₃-N), 5-day Biochemical Oxygen Demand (BOD₅), Fecal Coliform, and Chloride.

(5) Where there is adequate documentation of functioning best management practices, features such as storage structures meeting NRCS standards, riparian buffers, or drainage control structures in artificially drained sites, contingent on the continued proper operation and maintenance of these features, a monitoring plan may be reduced in scope and frequency based on the effectiveness of those features.

(6) Requests for reduction in monitoring may be submitted to the Division. Requests for reduction in frequency, including elimination of monitoring, shall be based on the consistency of historical data, time of monitoring with respect to expected pollutant time of travel, the levels of pollutants in historical data, other criteria in this Paragraph, and the priorities in Rule .1311 of this Section.

(7) Notwithstanding the provisions in Subparagraphs (b)(1)-(b)(6) of this Rule, changes in monitoring plans established in accordance with the provisions of this Rule may be required to:

(A) determine the extent of detected pollutants beyond the area actively monitored based on data submitted;

(B) further quantify pollutants based on data submitted;

(C) further delineate fate of pollutants in surface water;

(D) document impact of an increase, or further increase, in loading rates;

(E) address changes in management practices;

- (F) assess deficiencies that may increase loadings to surface waters; or
- (G) assess deficiencies of the monitoring plan established in accordance with the provisions of this Rule.

(c) Permittees may join monitoring coalitions upon entering a Memorandum of Agreement with the Division to monitor collectively in lieu of monitoring on a permit-by-permit basis. In such cases, monitoring by the coalition shall serve in place of any monitoring required by Paragraph (b) of this Rule. If at any time a permittee terminates membership in the coalition while maintaining a permit, the permittee shall immediately notify the Division and monitor as stipulated in the permit. Monitoring by coalitions shall be based on the following criteria:

- (1) The coalition plan shall be based on the criteria in Paragraph (b) of this Rule and Rule .1311 of this Section.
- (2) Each member farm site shall have at least one representative sampling location.
- (3) Additional sampling locations not located on member farm sites may be included to document functionality or applicability of BMPs, riparian buffer efficiency, or other management practices.
- (4) The coalition plan may consider sampling locations of other coalitions, Division ambient sampling locations, and other ambient monitoring locations where the data is submitted to the Division or is publicly available.

(d) Establishment of a groundwater monitoring plan.

- (1) A monitoring plan shall be established to assess the facility's impact on ground waters when water supply wells on property not owned by the permittee are downgradient of ground water beneath receiver sites or waste storage structures and at least one of the following:
 - (A) the off site water supply has contamination of pollutants that are known or likely to be present in the waste applied or stored on the farm as well as water quality parameters related to those pollutants;
 - (B) violations for over application of waste; or
 - (C) documentation that waste storage structures do not meet NRCS standards.
- (2) The Division shall notify any facility that meets the criteria in Subparagraph (d)(1) of this Rule of the requirement to establish a monitoring plan as well as the requirements provided in 15A NCAC 02L.
- (3) The scope and type of monitoring plan as well as the parameters to be monitored shall be based on:
 - (A) permitted and actual application rates (both hydraulic and nutrient);

- (B) materials, nutrients or other waste applied to receiver sites;
- (C) adsorption and degradation of pollutants within the soil matrix;
- (D) site-specific hydrogeology and soils;
- (E) likelihood of secondary and cumulative impacts including vulnerability (proximity to, hydrogeologic setting, well construction) of water supply wells and groundwater classification; and
- (F) pollutants that are known or likely to be present in the waste stream based on source of wastewater or water quality parameters related to those pollutants.

(4) In addition, requests for reduction in monitoring may be submitted to the Division. Requests for reduction in frequency, including elimination of monitoring, shall be based on the consistency of historical data, time of monitoring with respect to expected pollutant time of travel, and the levels of pollutants in historical data, as well as the factors in Subparagraph (d)(3) of this Rule.

(5) Notwithstanding the provisions in Subparagraphs (d)(1)-(d)(4) of this Rule, changes in monitoring plans established in accordance with the provisions of this Rule may be required to:

- (A) determine the extent of detected pollutants beyond the area actively monitored based on data submitted;
- (B) develop and implement a corrective action plan in accordance with 15A NCAC 02L;
- (C) document impact of an increase in loading rates;
- (D) assess deficiencies that may further increase loadings to ground waters; or
- (E) assess deficiencies of the monitoring plan established in accordance with the provisions of this Rule.

(e) Results of all analyses and inspections required by this Rule shall be reported to the Division annually, except for waste discharges that require immediate notification or as otherwise required by Commission rules, on Division supplied forms or forms approved by the Division as providing the same information as required by the Division's forms.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.64.

15A NCAC 02T .1311 SURFACE WATER MONITORING IMPLEMENTATION

(a) New and expanding facilities shall submit with the permit application a proposed monitoring plan as provided in Rule .1310 of this Section for the entire facility to be covered by the permit.

(b) For existing facilities, provisions for monitoring plans in Paragraph (a) of Rule .1310 of this Section, not previously required in permits, shall be incorporated into permits upon renewal.

(c) For existing facilities in operation prior to July 1, 2008, the Division will provide 60 days notice prior to establishing a monitoring plan that addresses the provisions of Paragraph (b) of Rule .1310 of this Section. The Division shall implement the provisions of Paragraph (b) of Rule .1310 of this Section for the following watersheds and in the following order:

- (1) Facilities in the Neuse River Basin in subbasins 03-04-05, 03-04-07, 03-04-08, 03-04-09, and 03-04-11.
- (2) All other facilities in the Neuse River Basin not included in Subparagraph (c)(1) of this Rule.
- (3) Facilities in the Tar-Pamlico Basin.
- (4) Facilities in the White Oak Basin.
- (5) Facilities in subbasin 03-06-22 in the Cape Fear River Basin.
- (6) Facilities in subbasin 03-06-19 in the Cape Fear River Basin.
- (7) Facilities in the Cape Fear River Basin not included in Subparagraphs (c)(5)-(c)(6) of this Rule.
- (8) Facilities in the Chowan River Basin.
- (9) Facilities in the Lumber River Basin.
- (10) Facilities in the Roanoke, including and downstream of subbasin 03-02-08, and Pasquotank River Basins.

(d) Notwithstanding Paragraph (c) of this Rule, monitoring plans that address the provisions of Paragraph (b) of Rule .1310 of this Section may be required for the following:

- (1) For any additional watersheds where animal facilities have caused or contributed to impairments, or predicted to be a cause or contribution, as determined in Basinwide Management Plans or stream classifications pursuant to 15A NCAC 02B.
- (2) For watersheds in, but outside the order of, Paragraph (c) of this Rule where animal facilities have caused or contributed to impairments, or predicted to be a cause or contribution, as determined in Basinwide Management Plans or stream classifications pursuant to 15A NCAC 02B.
- (3) Additional facilities based on the criteria in Rules .1310(b)(7)(D), .1310(b)(7)(E), and .1310(b)(7)(F) of this Section.

(e) Nothing in this Rule shall limit the Director in requiring ground water monitoring where water supply wells may be impacted based on the criteria in Paragraph (d) of Rule .1310 of this Section; or where non-compliance with the rules of the Commission or a permit under this Section would increase the likelihood of ground water or surface water loadings.

Authority G.S. 143-215.1; 143-215.3(a); 143-215.64.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 06 – BOARD OF BARBER EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Barber Examiners intends to adopt the rules cited as 21 NCAC 06F .0122 -.0125; 06J .0110; 06K .0111; 06Q .0104; 06S .0101 and amend the rules cited as 21 NCAC 06F .0101, .0104, .0110 .0111; 06L .0102, .0103, .0108, .0120; 06N .0101; 06O .0104, .0112, .0115, .0116; 06R .0101.

Proposed Effective Date: *September 1, 2009*

Public Hearing:

Date: *June 15, 2009*

Time: *2:00 p.m.*

Location: *5809-102 Departure Drive, Raleigh, NC 27616*

Reason for Proposed Action:

21 NCAC 06F .0101 – Clarify distance requirements for sink or lavatory; time clock for recordation of student hours; informational sign indicating that all barbering services are performed by students; bulletin board in each classroom posting sanitation rules and other information issued by the Board which students need to know.

21 NCAC 06F .0104 – To clarify that all course work outlined by statute must be taught by a licensed barber instructor.

21 NCAC 06F .0110 – Clarify record keeping requirements for barber schools and reporting of students' progress in school and reporting of attendance.

21 NCAC 06F .0111 – Clarify record keeping requirements for barber schools.

21 NCAC 06F .0122 – Requirement for appropriate uniform and identification by barber school students.

21 NCAC 06F .0123 – Requirement of an electronic time card for recordation of students' instructional hours; maintenance of records and review by Board.

21 NCAC 06F .0124 – Definition of a student's instructional day; time card procedures for beginning and end of day and breaks; definition of meeting minimum course work requirements, including off school premises and field trips.

21 NCAC 06F .0125 – Establishment of required barber school handbooks for each barber school; enrollment agreements to be signed by students to be included in handbooks; submission of handbook to the Board of Barber Examiners.

21 NCAC 06J .0110 – Clarification of notification of change of address for apprentice barbers and student barbers with permission to work.

21 NCAC 06K .0111 – Clarification of notification of change of permanent address for all registered barbers.

21 NCAC 06L .0102 – Extend the period for exemption for barber shops permitted within the Division of Prisons.

21 NCAC 06L .0103 – Exempt Division of Prisons from certain administrative rule requirements.

21 NCAC 06L .0108 – Clarification of requirements for new application for a shop permit and inspection of a barber shop before it opens in a new location.

21 NCAC 06L .0120 – Clarification of notification of change of mailing address or physical address for all shops, except a moved shop.

21 NCAC 06N .0101 – To increase certain fees to cover actual expenses by the Board of Barber Examiners for processing applications, renewals, and examinations.

21 NCAC 06O .0104 – To increase penalty for second offense of same violation.

21 NCAC 06O .0112 – Add the presumptive civil penalties for failing to positively identify and failing to maintain identification.

21 NCAC 06O .0115 – Add the presumptive civil penalties for failing to submit required records by a barber shop.

21 NCAC 06O .0116 – Add the presumptive civil penalties for unlicensed school instructors.

21 NCAC 06Q .0104 – Clarification of effect of a Notice of Violation on license or certificate.

21 NCAC 06R .0101 – Establish a uniform method of distinguishing barber shops from other establishments that provide similar services, many of which are unregulated.

21 NCAC 06S .0101 – Establish specific instructions for students during general examinations.

Procedure by which a person can object to the agency on a proposed rule: Appearance at public hearing or written comment via U.S. mail or e-mail.

Comments may be submitted to: Kelly W. Braam, 5809-102 Departure Drive, Raleigh, NC 27616, phone (919) 981-5360, fax (919) 981-5068, email kbraam@ncbarbers.com

Comment period ends: July 14, 2009

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

Fiscal Impact:

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

SUBCHAPTER 06F - BARBER SCHOOLS

21 NCAC 06F .0101 PHYSICAL STRUCTURE

(a) The physical structure of barber schools in North Carolina shall conform to the following criteria:

- (1) be a minimum of 14 linear feet wide;
- (2) be equipped with a minimum of ten barber chairs in sanitary and safe condition sufficient for the number of students enrolled;
- (3) have a minimum of 896 square feet in the practical area for the first ten chairs;
- (4) have an additional 70 square feet in the practical area for each additional barber chair over the required ten;
- (5) have at least five linear feet of space between each chair, center to center;
- (6) have no more than two students enrolled per barber chair;
- (7) be equipped with toilet facilities with hand-washing sink or basin sufficient to serve the number of people at the school;
- (8) have concrete or wood floors covered with smooth, nonporous materials;
- (9) have instructional materials, for example, blackboard space, slide programs, sufficient to teach barbering;
- (10) have a workstand, with mirror, for each barber chair in the practical work area, constructed of material that renders it easily cleaned;
- (11) have a tool cabinet for each barber chair, with a door as nearly air tight as possible;
- (12) have a towel cabinet, or other method of storage, such that clean towels are stored separate from used towels;
- (13) have at least one fully functional sink or lavatory, with hot and cold water, ~~for each two barber chairs;~~ located within seven unobstructed linear feet of each barbering area;
- (14) have the school separate from any other place or type of business by a substantial wall of ceiling height;
- (15) have a classroom area, separate from the practical area; ~~and~~
- (16) have desk chairs sufficient to serve the number of students enrolled, and a desk and chair for the ~~instructor.~~ Instructors;
- (17) have a time clock for electronic recordation of student hours;
- (18) have an informational sign displayed in each practical area of the school indicating that all barbering services are performed by students; and
- (19) have a bulletin board hanging in each classroom area with a posting of the sanitation rules and minimum school curricula as prescribed under 21 NCAC 06F .0210, or any other memorandum, letter or rule issued by the Board which states it is to be posted for the information of students.

This Paragraph applies to barber schools permitted on or after December 1, 1994 or which undergo modifications or structural renovations after that date.

(b) Barber schools permitted prior to December 1, 1994, must have a minimum of 896 square feet for ten chairs and must have 70 square feet for each additional barber chair over the required ten, and have no more than one student enrolled per barber chair. They must be equipped with toilet facilities sufficient to serve the number of people attending the school. They must have desk chairs separate from the practical area.

(c) Barber schools permitted on or after July 1, 2008, shall have a minimum of 20 square feet per student in the classroom area.

Authority G.S. 86A-15; 86A-22.

21 NCAC 06F .0104 INSTRUCTORS

(a) Each barber school required by G.S. 86A-22(2) to employ at least two instructors shall have at least two instructors present at all times during instructional hours.

(b) At least one barber instructor shall actively monitor students engaged in barbering activities at all times.

(c) While present on the premises of the barber school, barber instructors shall not barber for compensation and shall barber only for the purpose of instruction or demonstration.

(d) All course work as outlined under 21 NCAC 06F .0120, must be taught by a licensed barber instructor.

Authority G.S. 86A-22.

21 NCAC 06F .0110 ROSTER AND STUDENT RECORDS

Each barber school shall:

- (1) maintain an up-to-date written roster system which shall be used to ensure that each student serves substantially equal numbers of patrons;
- (2) maintain a complete record of each student including a weekly record of the number of days and hours the student attended classes in practical work and theory;
- (3) maintain a separate daily record of the number of patrons the student served for haircuts, shaves and other clinical services;
- (4) maintain a weekly record of the subject matter taught the student in theory classes; ~~and~~
- (5) provide the list of students required by G.S. 86A-22(5) by the 15th day of each ~~month~~ month;
- (6) maintain a daily attendance log book with each student entering the school premises containing the time of entry and time of departure in addition to the time cards required in accordance with 21 NCAC 06F .0123; and
- (7) submit a monthly report to the Board for each student containing the total instructional hours attended, days absent, textbook subjects emphasized, the number of services and types of services performed by the student, and a copy of the student's electronic time card for the most recent month.

Authority G.S. 86A-22.

21 NCAC 06F .0111 COPIES OF BARBER SCHOOL RECORDS

Barber schools shall furnish to the Board upon request copies of all records or reports required to be kept by barber schools, either by the North Carolina General Statutes or by the rules of the Board, including time sheets for instructors to verify compliance with 21 NCAC 06F .0104, and time cards for students to verify compliance with 21 NCAC 06F .0123, shall be furnished to the Board upon request. A school shall not refuse to submit any records or reports required due to a dispute or unfulfilled obligation with a student, instructor or third party.

Authority G.S. 86A-22.

21 NCAC 06F .0122 UNIFORMS AND IDENTIFICATION

All students must wear a clean, washable uniform, smock, or similar professional attire along with a self-identifying nametag or pin at all times during instructional hours.

Authority G.S. 86A-22.

21 NCAC 06F .0123 TIME CLOCK AND RECORDATION OF STUDENT HOURS

Each student shall use an electronic time card for the recordation of instructional hours pursuant to 21 NCAC 06F .0124. The school shall maintain originals of each student time card for at least one year following graduation of the individual student. Individual student time cards shall be available for review by the Board.

Authority G.S. 86A-22.

21 NCAC 06F .0124 STUDENT HOURS

(a) No student shall be given credit for more than eight total hours during any instruction day.

(b) Students shall punch their individual time cards upon entering the school for practical or theory hours and shall clock-out for any period of break from instruction, even if remaining on school premises.

(c) In meeting the minimum course work and designated barber school curricula, no student shall be given credit for more than 40 total hours or 8 total hours per month that were obtained by instruction or demonstration off school premises or from a field trip.

Authority G.S. 86A-22.

21 NCAC 06F .0125 SCHOOL HANDBOOKS AND ENROLLMENT AGREEMENTS

(a) Every school shall provide a school handbook to its students upon enrollment containing the enrollment agreement, tuition fee schedule, reimbursement policies, school rules and regulations, tardiness and absenteeism policies, a syllabus or list of the school curricula containing the minimum hours for each subject matter to be taught in accordance with 21 NCAC 06F .0120 and the grading system for said curricula.

(b) A copy of the school handbook shall be submitted to the Board. An updated copy of the handbook shall be re-submitted to the Board should the handbook be amended or revised.

Authority G.S. 86A-22.

SUBCHAPTER 06J – APPRENTICE BARBERS

21 NCAC 06J .0110 NOTIFICATION OF ADDRESS CHANGE

All apprentice barbers and student barbers with permission to work shall notify the Board within 60 days of any change in their permanent mailing address.

Authority G.S. 86A-11; 86A-24.

SUBCHAPTER 06K – REGISTERED BARBERS

21 NCAC 06K .0111 NOTIFICATION OF CHANGE OF ADDRESS

All registered barbers shall notify the Board within 60 days of any change in their permanent mailing address.

Authority G.S. 86A-3.

SUBCHAPTER 06L – BARBER SHOPS

21 NCAC 06L .0102 MEASUREMENTS OF BARBER SHOP

(a) Each barber shop shall be a minimum of 196 square feet measured from the inside walls of the shop, not including common areas shared with other businesses or residents. In addition, each chair shall be located in an area where there is no less than 12 linear feet from front wall to back wall, measured through the center of the chair, with the back wall being the wall or plain to which the backstand is affixed. There shall be a minimum of five linear feet of space between each barber chair, from center to center of each chair and there shall be no less than three linear feet from the center of any chair to any side wall. There shall be an unobstructed aisle in front of each chair of no less than four feet. This Paragraph applies to barber shops which are permitted on or after December 1, 1994 or which undergo modification or structural renovations on or after that date.

(b) Barber shops permitted prior to February 1, 1976, must be a minimum of 12 feet in width and 14 feet in length.

(c) Barber shops permitted between February 1, 1976 and November 30, 1994, must be a minimum of 14 feet in width and 14 feet in length.

(d) Barber shops permitted within the Division of Prisons prior to ~~May 1, 2008~~, July 1, 2010, are exempt from the requirements of this Rule.

Authority G.S. 86A-15.

21 NCAC 06L .0103 EQUIPMENT

(a) Each barber shall have a cabinet for barbering equipment. The cabinets shall be constructed of material that may be easily cleaned.

(b) Each shop shall have smooth finished walls, ceilings and floors, and no exposed pipes.

(c) Each barber chair shall be covered with a smooth, non-porous surface, such as vinyl or leather, which is easily cleaned.

(d) Each shop shall have within the shop or building functioning toilet facilities for employees and patrons.

(e) Each barber shop shall have a cabinet, or other method of storage, such that clean towels are stored separate from used towels.

(f) In addition to the requirements of Paragraph (d) of this Rule, barber shops which are permitted on or after January 1, 1995 or which undergo modifications or structural renovations after that date must have within the shop or building a hand-washing sink or lavatory for patrons with hot and cold water, soap and disposable towels.

(g) Where a barber shop is located within a shop licensed by the North Carolina Board of Cosmetic Art Examiners, the toilet facility and sink may be shared with the cosmetology shop.

(h) Paragraphs ~~(a) and (a)~~, (d) and (f) of this Rule do not apply to barber shops operated by the Division of Prisons.

Authority G.S. 86A-15.

21 NCAC 06L .0108 MOVED SHOP

When a shop is moving from one location to another, the manager shall notify the Board within two weeks of the planned date for said ~~move~~: move and the anticipated new physical and mailing address of the new shop. A moved shop shall not be opened for business to the public until a new application for a shop permit and inspection are performed in accordance with 21 NCAC 06L .0104.

Authority G.S. 86A-1; 86A-15.

21 NCAC 06L .0120 NOTIFICATION OF CHANGE OF ADDRESS

In all instances where a barber shop experiences a change in its mailing address or physical address, excluding those outlined under 21 NCAC 06L .0108 for a moved shop, the barber shop owners and barber shop manager shall immediately notify the Board of any change in said address.

Authority G.S. 86A-1.

SUBCHAPTER 06N – FORMS

21 NCAC 06N .0101 FEES

The Board charges the following amounts for the fees authorized by G.S. 86A-25:

- (1) Certificate of registration or renewal as a barber ~~\$ 35.00~~ \$50.00
- (2) Certificate of registration or renewal as an apprentice barber ~~\$ 35.00~~ \$50.00
- (3) Barbershop permit or renewal ~~\$ 40.00~~ \$50.00
- (4) Examination to become a registered barber \$ 85.00
- (5) Examination to become a registered apprentice barber \$ 85.00

- (6) Late fee for restoration of an expired barber certificate within first year after expiration \$ 35.00
- (7) Late fee for restoration of an expired barber certificate after first year after expiration but within five years after expiration \$ 70.00
- (8) Late fee for restoration of an expired apprentice certificate within the first year after expiration \$ 35.00
- (9) Late fee for restoration of an expired apprentice certificate after first year after expiration but within three years of first issuance of the certificate \$ 45.00
- (10) Late fee for restoration of an expired barber shop certificate \$ 45.00
- (11) Examination to become a barber school instructor ~~\$150.00~~ \$165.00
- (12) Student permit ~~\$ 20.00~~ \$25.00
- (13) Issuance of any duplicate copy of a license, certificate or permit \$ 10.00
- (14) Barber school permit or renewal ~~\$ 85.00~~ \$130.00
- (15) Late fee for restoration of an expired barber school certificate \$ 85.00
- (16) Barber school instructor certificate or renewal ~~\$ 60.00~~ \$85.00
- (17) Late fee for restoration of an expired barber school instructor certificate within first year after expiration \$ 45.00
- (18) Late fee for restoration of an expired barber school instructor certificate after first year after expiration but within three years after expiration \$ 85.00
- (19) Inspection of newly established barbershop \$120.00
- (20) Inspection of newly established barber school \$220.00
- (21) Issuance of a registered barber or apprentice certificate by certification ~~\$ 85.00~~ \$120.00
- (22) Charge for certified copies of public documents \$10.00 for first page, \$0.25 per page thereafter
- (23) Charge for duplication services and material \$5.00 for first page, \$0.25 for each page thereafter
- (24) Certificate of registration or renewal as a barber for barbers over 70 years of age \$ 0.00
- (25) Administrative fee for paying any required fee for renewal or restoration, or a civil penalty and attorney fee, where the licensee or Registered Barber is subject to a pick-up order issued to an inspector. \$70.00

SUBCHAPTER 060 – CIVIL PENALTY

21 NCAC 060 .0104 UNSUPERVISED APPRENTICE

(a) The presumptive civil penalty for a barber shop allowing an apprentice or holder of permission to work to engage in barbering without supervision as required by G.S 86A-24(b):

- (1) 1st offense \$250.00
- (2) 2nd offense ~~\$250.00~~ \$350.00

(b) The presumptive civil penalty for an apprentice or holder of permission to work engaging in barbering without supervision as required by G.S. 86A-24(b):

- (1) 1st offense \$150.00
- (2) 2nd offense \$250.00
- (3) 3rd offense \$500.00

Authority G.S. 86A-5(a)(6); 86A-24; 86A-27.

21 NCAC 060 .0112 IDENTIFICATION

(a) The presumptive civil penalty for a barber shop owner or manager failing to positively identify a Registered Barber, apprentice or holder of permission to work:

- (1) 1st offense \$50.00
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(b) The presumptive civil penalty for a Registered Barber, apprentice or holder of permission to work failing to maintain and produce a license or permit, including identification, as defined in 21 NCAC 06P .0103(7):

- (1) 1st offense \$50.00
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(c) The presumptive civil penalty for a student failing to wear identification as defined in 21 NCAC 06F .0122:

- (1) 1st offense \$50.00
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(d) The presumptive civil penalty for a barber school instructor or barber school manager failing to positively identify a student:

- (1) 1st offense \$50.00
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

Authority G.S. 86A-1; 86A-10; 86A-11; 86A-27.

21 NCAC 060 .0115 SCHOOL FAILING TO MAINTAIN, FALSIFYING, OR FAILING TO SUBMIT RECORDS

(a) The presumptive civil penalty for failing to maintain records by a barber school:

- (1) 1st offense \$150.00
- (2) 2nd offense \$200.00
- (3) 3rd offense \$500.00

(b) The presumptive civil penalty for falsifying records by a barber school:

- (1) 1st offense \$200.00
- (2) 2nd offense \$350.00
- (3) 3rd offense \$500.00

(c) The presumptive civil penalty for failing to submit required records by a barber school:

Authority G.S. 86A-25; 86A-27(d).

- (1) 1st offense \$150.00
- (2) 2nd offense \$300.00
- (3) 3rd offense \$500.00

Authority G.S. 86A-22; 86A-27.

21 NCAC 060 .0116 UNLICENSED SCHOOL INSTRUCTORS

(a) The presumptive civil penalty for a barber school allowing an individual to instruct without a license:

- (1) 1st offense \$150.00
- (2) 2nd offense \$250.00
- (3) 3rd offense \$500.00

(b) The presumptive civil penalty for a licensed barber or apprentice barber engaging in instructing without a license:

- (1) 1st offense \$100.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$500.00

Authority G.S. 86A-22; 86A-23; 86A-27.

SUBCHAPTER 06Q – PROHIBITED PRACTICES

21 NCAC 06Q .0104 EFFECT OF NOTICE OF VIOLATION ON LICENSE OR CERTIFICATE

The Board shall refuse to issue or renew any license, certificate or permit issued pursuant to Chapter 86A of the General Statutes until any pending violation of Chapter 86A or the Board's Rules are settled or dismissed by the Board. For purposes of this Rule, a violation is not considered "settled" with the Board until the applicant or licensee has complied with all provisions contained in the Notice of Probable Cause, Settlement Agreement or Final Agency Order entered by the Board.

Authority G.S. 86A-1; 86A-10; 86A-17; 86A-18; 86A-20.

SUBCHAPTER 06R – ADVERTISING

21 NCAC 06R .0101 DISPLAY OF SIGN OR BARBER POLE

Every establishment permitted to practice barbering shall display at its main entrance a sign which is visible from the street, and whose lettering is no smaller than three inches, stating "barber shop," "barber salon," "barber styling" or similar use of the designation, "~~barber,~~" "shop, salon or styling," or shall display a "barber pole" as defined in 21 NCAC 06P ~~.0103(e).~~ .0103(e), recognizable as such from the street.

Authority G.S. 86A-1; 86A-2; 86A-13.

SUBCHAPTER 06S – EXAMINATIONS

21 NCAC 06S .0101 GENERAL EXAMINATION INSTRUCTIONS

(a) All candidates scheduled for an examination, conducted by the Board must bring:

- (1) two forms of identification, one of which must be photo bearing;
- (2) exam approval documentation;

- (3) tools and supplies as required by the Board;
and
- (4) a hygienically clean model.

(b) No briefcases, bags, books, papers or study materials are allowed in the examination room. The exam facility is not responsible for lost or misplaced items.

(c) No cell phones, calculators or other electronic devices are permitted for use during the examination.

(d) No eating, drinking, smoking or gum-chewing is permitted during the examination.

(e) No visitors, children, pets or guests are allowed at the test center.

(f) No extra time for the examination will be permitted unless mandated by State and federal law such as the Americans with Disabilities Act.

(g) No leaving the test center during the examination. Candidates may visit the restroom with the test center manager's permission, but will not receive any additional time for the examination.

(h) No giving or receiving assistance during the examination. If a candidate gives or receives assistance during the examination, the test center manager will stop the examination and the candidate will be dismissed from the test center. The Board's approved test center manager will not score the examination and will report the candidate to the Board, which will make any decisions regarding discipline.

(i) Candidates must maintain silence during the examination, and shall not mention the name of the school attended or the names of instructors. Candidates shall not wear or carry any school identification on uniforms or equipment.

Authority G.S. 86A-8; 86A-9; 86A-10; 86A-24.

CHAPTER 10 - BOARD OF CHIROPRACTIC EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Chiropractic Examiners intends to adopt the rule cited as 21 NCAC 10 .0504.

Proposed Effective Date: *October 1, 2009*

Public Hearing:

Date: *June 11, 2009*

Time: *11:00 a.m.*

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

Reason for Proposed Action: *Addiction to or severe dependency upon alcohol or drugs is a violation of the Chiropractic Practice Act. Over the last 18 months, the Board has been called upon to investigate several allegations of drug abuse by chiropractors. The proposed rule would empower the Secretary of the Board to require a chiropractor to submit to drug testing if there is reasonable suspicion that drug abuse is occurring. The rule contemplates that a positive test result*

would be used as evidence in disciplinary proceedings against the chiropractor.

Procedure by which a person can object to the agency on a proposed rule: Written objections may be fled with the Secretary of the Board at the following address: NC Board of Chiropractic Examiners, P. O. Box 312, Concord, NC 28026, Attn: Carol Hall.

Comments may be submitted to: Carol Hall, Executive Secretary, NCBCE, P. O. Box 312, Concord, NC 28026

Comment period ends: July 20, 2009

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

Fiscal Impact:

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

SECTION .0500 - INVESTIGATION OF COMPLAINTS

21 NCAC 10 .0504 DRUG TESTING

(a) Reasonable Suspicion. The Secretary of the Board may require a licentiate to submit to drug or blood alcohol testing if there is reasonable suspicion that the licentiate is consuming drugs or alcohol to such an extent or with such frequency as to impair the ability to treat patients. For purposes of this rule, reasonable suspicion exists when:

- (1) The licentiate is cited or arrested on drug-related criminal charges; or
(2) The licentiate admits to the Board or to a judicial tribunal that the licentiate has abused alcohol or prescription drugs or consumed illicit drugs; or
(3) The Secretary receives the sworn affidavit of a credible witness stating that the witness personally observed the licentiate in the licentiate's chiropractic office during business hours and the licentiate's behavior was erratic, unprofessional and apparently influenced by drug or alcohol consumption.

(b) Approved Laboratory. Any drug test required by the Secretary shall be conducted by an approved laboratory in accordance with the protocol set forth in Article 20, Chapter 95 of the General Statutes, Controlled Substance Examination Regulation.

(c) Reporting Results. The results of a licentiate's drug test shall be reported directly to the Secretary by the laboratory conducting the test and shall not be disclosed to any person other than the licentiate except for use as evidence in Board disciplinary actions or when disclosure is mandated by law.

(d) Right to Dispute Results. In any Board disciplinary proceeding in which a licentiate's drug test results are introduced into evidence, including a preliminary hearing before the Chiropractic Review Committee, the licentiate shall have the right to dispute the accuracy of the test results.

(e) Effect of Refusal. A licentiate's refusal to submit to a drug test required by the Secretary pursuant to this rule shall be considered the concealment of information about a matter affecting licensure, in violation of G.S. 90-154(b)(19).

Authority G.S. 90-142; 90-154.

CHAPTER 34 - BOARD OF FUNERAL SERVICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Funeral Service intends to adopt the rules cited as 21 NCAC 34B .0616, .0706 and amend the rules cited as 21 NCAC 34B .0413; 34C .0303; 34D .0302.

Proposed Effective Date: September 1, 2009

Public Hearing:

Date: June 17, 2009

Time: 9:00 a.m.

Location: 1033 Wade Avenue, Suite 108, Raleigh, NC 27605

Reason for Proposed Action: To amend continuing education requirements, to clarify body tag inspection standards, to establish forms and procedures for individuals embalming human remains outside a funeral establishment, to allow combination forms for crematory records, and to amend preneed annual report filing duties.

Procedure by which a person can object to the agency on a proposed rule: Interested parties may submit written comments or attend the public hearing.

Comments may be submitted to: Paul Harris, Rulemaking Coordinator, N.C. Board of Funeral Service, 1033 Wade Avenue, Suite 108, Raleigh, NC 27605, phone (919) 733-9380, fax (919) 733-8271, email wpharris@ncbfs.org

Comment period ends: July 14, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the

Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

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

SUBCHAPTER 34B – FUNERAL SERVICE

SECTION .0400 – CONTINUING EDUCATION

21 NCAC 34B .0413 ACCREDITATION OF PRERECORDED PROGRAMS AND LIVE PROGRAMS BROADCAST TO REMOTE LOCATIONS BY TELEPHONE, SATELLITE, OR VIDEO CONFERENCING EQUIPMENT

(a) A licensee may receive up to ~~one hour~~ two hours of CE credit each year for attendance at, or participation in, a presentation where prerecorded material is used.

(b) A licensee may receive credit for participation in a live presentation which is simultaneously broadcast by telephone, satellite, or video conferencing equipment. The licensee may participate in the presentation by listening to or viewing the broadcast from a location that is remote from the origin of the broadcast.

(c) A licensee attending a prerecorded presentation is entitled to credit hours ~~if~~ if:

- (1) the presentation from which the program is recorded would, if attended by an active licensee, be an accredited course; and
- (2) all other conditions imposed by the rules in this Subchapter are met.

(d) A licensee attending a presentation broadcast by telephone, satellite, or video conferencing equipment is entitled to credit if:

- (1) the live presentation of the program would, if attended by a licensee, be an accredited course;
- (2) there is a question and answer session with the presenter or presenters subject to the limitations set forth in 21 NCAC 34B .0415(b)(5); and
- (3) all other conditions imposed by the rules in this Subchapter are met.

(e) To receive approval for attendance at programs described in Paragraphs (a) and (b) of this Rule, the following conditions must be met:

- (1) Unless the entire program was produced by an accredited sponsor, the person or organization sponsoring the program must receive advance approval and accreditation from the Board;
- (2) The person or organization sponsoring the program must have a method for recording and verifying attendance. Attendance at a telephone broadcast may be verified by assigning a personal identification number to a licensee. The person or organization sponsoring the program must forward a copy of the record of attendance of active licensees to the Board within 30 days after the presentation of the program is completed. Proof of attendance may be made by the verifying person on a form provided by the Board;
- (3) Unless inappropriate for the particular course, detailed papers, manuals, study materials, or written outlines are presented to the persons attending the program which only pertain to the subject matter of the program. Any materials made available to persons attending the original or live program must be made available to those persons attending the prerecorded or broadcast program who desire to receive credit under the rules in this Section; and
- (4) A room suitable for viewing the program and taking notes must be available.
- (f) A minimum of five licensees must physically attend the presentation of a prerecorded program in the same location. This requirement does not apply to participation from a remote location in the presentation of a live broadcast by telephone, satellite, or video conferencing equipment.
- (g) **EXAMPLES:**
EXAMPLE (1): Licensee X attends a videotape seminar sponsored by an accredited sponsor. If a person attending the program from which the videotape is made would receive credit, Licensee X is also entitled to receive credit, if the additional conditions under this Rule are also met.
EXAMPLE (2): Licensee Y desires to attend a videotape program. However, the proposed videotape program (a) is not presented by an accredited sponsor, and (b) has not received individual course approval from the Board. Licensee Y shall not receive any credit hours for attending that videotape presentation.
EXAMPLE (3): Licensee Z attends a videotape program. The presentation of the program from which the videotape was made has already been held and approved by the Board for credit. However, no person is present at the videotape program to record attendance. Licensee Z shall not obtain credit for viewing the videotape program unless it is viewed in the presence of a person who is not attending the videotape program for credit and who verifies the attendance of Licensee Z and of other licensees at the program. All other conditions of this Rule must also be met.
EXAMPLE (4): Licensee A listens to a live telephone seminar using the telephone in the conference room of her funeral

establishment. To record her attendance, Licensee A was assigned a person identification number (PIN) by the seminar sponsor. Once connected, Licensee A punched in the PIN number on her touch tone phone and her attendance was recorded. The seminar received individual course approval from the Board. Licensee A shall receive credit if the additional conditions under this Rule are also met.

Authority G.S. 90-210.23(a); 90-210.25(a)(5).

SECTION .0600 – FUNERAL ESTABLISHMENTS

21 NCAC 34B .0616 BODY IDENTIFICATION TAGS
Unused body tags shall be kept on the premises of each funeral establishment at all times and subject to inspection by the Board and its authorized agents.

Authority G.S. 90-210.23(a),(e); 90-210.29A.

SECTION .0700 – PREPARATION OF DEAD BODIES

21 NCAC 34B .0706 REGISTRATION OF EMBALMING FACILITY LOCATED OUTSIDE OF A FUNERAL ESTABLISHMENT

(a) An embalming facility located outside a funeral establishment shall comply with the requirements of G.S. 90-210.27A(a)(1) through (8) and all other applicable federal, state, or local laws and regulations.

(b) An embalming facility located outside a funeral establishment shall be registered either to a funeral establishment holding a permit from the Board or to a funeral service or embalmer licensee of the Board. Each embalming facility must be managed by an embalmer or funeral service licensee. A person managing an embalming facility may also manage the funeral establishment location registering the facility.

(c) Applications to register an embalming facility located outside a funeral establishment shall be made on forms provided by the Board. The applicant shall furnish the address and telephone number of the facility; a description of the preparation room; the names and license numbers of all part-time and full-time licensees employed by the facility; the person or business entity owning the facility; the person managing the facility; a certification that the facility will not be used for any other purpose other than embalming or used for activities requiring a funeral establishment permit; and any other information the Board deems necessary as required by law. The applicant shall verify the contents of the application before a notary public.

(d) Upon Board approval of the registration, the embalming facility may be used to embalm dead human bodies and shall not be used a public accommodation. The owner of the facility must obtain a funeral establishment permit under G.S. 90-210.25(d) if the facility is to be held out to the public, used as a public accommodation, or used to engage in any other activity defined as the practice of funeral service under G.S. 90-210.20(k) other than embalming.

Authority G.S. 90-210.20(f),(h),(k); 90-210.23(a),(e); 90-210.25(d1); 90-210.27A.

SUBCHAPTER 34C – CREMATORIES

SECTION .0300 – AUTHORIZATIONS, REPORTS, RECORDS

21 NCAC 34C .0303 RECORDS OF CREMATION AND DELIVERY

(a) All crematory licensees shall complete receipts for human remains on Board forms. The crematory licensee shall furnish the name of the crematory licensee, full name of the decedent, date and time of death, date and time the human remains was delivered to the crematory licensee, any affiliation by the person delivering remains with a funeral establishment or crematory, the name and signature of the employee or agent of the crematory who received the human remains, and any other information the Board deems necessary as required by law. Every crematory licensee shall furnish this receipt to the person who delivers the human remains to the crematory licensee.

(b) All records documenting the release of human remains from a crematory licensee to the person who receives the cremated remains shall be completed on Board forms. The crematory licensee shall furnish the name of the crematory licensee, the full name of the decedent, the date and time of release, the name of the person who received the cremated remains, the place where cremated remains were received, any affiliation by the person receiving remains with a funeral establishment or other entity, the signatures of the person delivering the remains and the recipient of remains, any mailing or handling instructions, and any other information the Board deems necessary as required by law. Crematory licensees must provide evidence by signature, postal receipt or its equivalent, of the receipt of the cremated remains.

(c) All records documenting the release of human remains from a funeral establishment to the person who receives the cremated remains shall be completed on Board forms. The funeral establishment shall furnish the name of the funeral establishment, the full name of the decedent, the date and time of release, the person to whom the remains were released, the type of container in which the remains were released, the signatures of the parties delivering and receiving remains, any shipping or special handling instructions, and any other information the Board deems necessary as required by law. Funeral establishments must provide evidence by signature, postal receipt or its equivalent, of the receipt of the cremated remains.

(d) In order to track the human remains through the cremation process from the time the remains are received at the crematory until the cremated remains are delivered, all crematory licensees shall keep records on Board forms. The crematory licensee shall furnish the name of the crematory licensee, full name of the decedent, description of the cremation container used, time and date the decedent was placed into the crematory, person who placed the deceased in the crematory, time and date the cremated remains were removed from the crematory, type of container the cremated remains in which the cremated remains were placed, time and date the cremated remains were processed, the name and signature of the person who processed the cremated remains and placed them into a container, and any other information the Board deems necessary as required by law.

CHAPTER 50 – BOARD OF EXAMINERS OF PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors intends to adopt the rule cited as 21 NCAC 50 .0516.

Proposed Effective Date: April 1, 2010

Public Hearing:

Date: June 9, 2009

Time: 8:30 a.m.

Location: Office of the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors, 1109 Dresser Court, Raleigh, North Carolina 27609

Reason for Proposed Action: Conduct hearing to determine whether to adopt rule creating license classification for residential fire sprinkler system contractors.

Procedure by which a person can object to the agency on a proposed rule: Any person desiring to comment upon or object to a proposed rule may do so either by appearing at the public hearing or in writing as set out below prior to the end of the comment period.

Comments may be submitted to: Dale L. Dawson, 1109 Dresser Court, Raleigh, North Carolina 27609, phone (919) 875-3612

Comment period ends: July 14, 2009

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

Fiscal Impact:

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

SECTION .0500 - POLICY STATEMENTS AND INTERPRETATIVE RULES

(e) In lieu of the separate forms required by Paragraphs (a), (b), and (d) of this Rule, a crematory licensee may use a form prescribed by the Board that combines all information required by Paragraphs (a), (b), and (d).

(f) The crematory licensee shall retain the completed forms required by this Rule in Paragraphs (a), (b), and (d) of this Rule and shall make them available to produce all crematory forms for inspection or copying by the Board or its agents upon request. The funeral establishment shall retain the completed form in Paragraph (c) of this Rule and shall make it available to produce the form for inspection or copying to the Board or its agents upon request.

Authority G.S. 90-210.127; 90-10.134(a).

SUBCHAPTER 34D – PRENEED FUNERAL CONTRACTS

SECTION .0300 - OPERATIONS

21 NCAC 34D .0302 ANNUAL REPORT

Each preneed funeral establishment licensee shall file an annual report with the Board. The report shall include the following:

- (1) the total number of standard and inflation-proof trust-funded and insurance-funded preneed funeral contracts maintained by the licensee;
(2) the number of contracts sold in the reporting period;
(3) the number of contracts which expired, including contracts performed, revoked and transferred, in the reporting period;
(4) the total year-end balance of all preneed trust accounts maintained at each financial institution; and
(5) the total year-end balance of all insurance-funded preneed contracts written with each insurance company;
(6) for each preneed contract sold, whether the preneed contract is active, performed, cancelled, or lapsed; and
(7) for each active preneed contract, the current insurance policy value or trust account balance.

The annual report shall be verified as correct before a notary public by the location manager registered under G.S. 90-210.25(d)(2)a. or by a corporate officer of the preneed establishment licensee. The annual report shall be filed not later than March 31 each year for by each firm holding a preneed establishment license at any time during the preceding year ending December 31.

Authority G.S. 90-210.69(a); 90-210.68(a).

21 NCAC 50 .0516 RESIDENTIAL FIRE SPRINKLER INSTALLATION LICENSE

License in the Residential Fire Sprinkler Installation Contractor classification is required of persons who engage in the business of contracting to perform or performing the installation of multipurpose single family residential water-based plumbing and fire sprinkler piping systems consistent with NFPA-13D. All multipurpose single family residential plumbing and fire sprinkler piping systems are required to be hydraulically calculated and designed by a licensed North Carolina Fire Sprinkler Installation Contractor or a North Carolina Licensed Professional Engineer for each specific installation. Residential Fire Sprinkler Installation Contractors are required to perform each installation consistent with the calculation and design. The installation of single purpose single family residential water-based fire sprinkler systems shall be installed by a licensed Fire Sprinkler Installation Contractor.

Authority G.S. 87-21.

CHAPTER 50 – BOARD OF EXAMINERS OF PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors intends to amend the rules cited as 21 NCAC 50 .0202, .0301, .0306 - .0310, .0402, .0404, .0405, .0408, .0501, .0505, .0506, .0508, .0513-.0515, .1006, .1102, .1104, .1401, .1402, .1404, .1405.

Proposed Effective Date: September 1, 2009

Public Hearing:

Date: June 9, 2009
Time: 8:30 a.m.

Location: Office of the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors, 1109 Dresser Court, Raleigh, North Carolina 27609

Reason for Proposed Action: The Board is holding a hearing to solicit input on proposals which would: (a) create a licensure category for residential fire sprinkler contractor; (b) modify the experience prerequisite for examination so as to allow a broader range of activity to count as experience; (c) consider elimination of a Board requirement of permit and inspection for replacement of electric residential hot water heaters in some circumstances; (d) clarify contractor obligation during separate employment; (e) make cosmetic and grammatical changes without anticipated impact; (f) clarify the performance standard for HVAC systems installed by licensees; and (g) cost of living adjustment of fees.

Procedure by which a person can object to the agency on a proposed rule: Any person desiring to comment upon or object to a proposed rule may do so either by appearing at the public hearing or in writing as set out below prior to the end of the comment period.

Comments may be submitted to: Dale L. Dawson, 1109 Dresser Court, Raleigh, North Carolina 27609, phone (919) 875-3612

Comment period ends: July 14, 2009

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

Fiscal Impact:

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

SECTION .0200 - FORMS

21 NCAC 50 .0202 OBTAINING FORMS

All forms-Forms may be obtained on request from the Executive Director, State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors, 1109 Dresser Court, Raleigh, North Carolina, 27609-27609, or via document download from the Board's official website at http://www.nclicensing.org.

Authority G.S. 87-18.

SECTION .0300 – EXAMINATIONS

21 NCAC 50 .0301 QUALIFICATIONS DETERMINED BY EXAMINATION

(a) In order to determine the qualifications of an applicant, the Board shall provide an examination in writing or by computer in the following categories:

- Plumbing Contracting, Class I
Plumbing Contracting, Class II
Heating, Group No. 1 - Contracting, Class I
Heating, Group No. 1 - Contracting, Class II
Heating, Group No. 2 - Contracting, Class I
Heating, Group No. 3 - Contracting, Class I
Heating, Group No. 3 - Contracting, Class II
Fuel Piping Contractor
Fire Sprinkler Inspection Technician
Fire Sprinkler Installation Contractor
Fire Sprinkler Inspection Contractor
Fire Sprinkler Maintenance Technician
Residential Fire Sprinkler Installation Contractor

(b) Each person being examined by the Board for a contractor license other than a Fire Sprinkler Installation or Inspection Contractor license shall be required to read, interpret and provide answers to both the business and law part and the technical part of the examination required by G.S. 87-21(b).

(c) Applicants for licensure as a fire sprinkler installation contractor, unlimited classification, must submit evidence of current certification by the National Institute for Certification and Engineering Technology (NICET) for Fire Protection Engineering Technician, Level III, subfield of Automatic Sprinkler System Layout as the prerequisite for licensure. Current certification by NICET is in lieu of separate technical examination conducted by the Board. Applicants for licensure as a fire sprinkler installation contractor, contractor, unlimited classification, must take and pass the business and law part of the exam administered by the Board.

(d) Applicants for licensure in the Limited Fire Sprinkler Inspection Technician classification must either pass the technical examination offered by the Board or submit evidence of Level II Certification in "Inspection and Testing of Water-based Protection Systems" by NICET in lieu of examination. License without examination shall be issued beginning July 1, 2003, and ending July 1, 2004, to applicants who meet the experience requirement in Rule .0306. Technicians who obtained license without examination must either pass the technical examination offered by the Board or submit evidence of Level II Certification in "Inspection and Testing of Water-based Protection Systems" by NICET in lieu of examination no later than July 1, 2006 or Technician license shall lapse.

(e) Applicants for the Limited Fire Sprinkler Inspection Contractor classification must submit evidence of Level III certification in "Inspection and Testing of Water-based Fire Protection Systems" by NICET in lieu of technical examination. Contractors who obtain license by NICET certification must maintain such certification thereafter as a condition of license renewal. Applicants for licensure as a fire sprinkler inspection contractor must take and pass the business and law part of the examination administered by the Board in addition to demonstrating NICET certification as set out herein.

(f) Applicants for license in the Limited Fire Sprinkler Maintenance Technician classification obtain license based on maintenance experience, education and job classification set forth in Rule. 0306.

(g) Applicants for licensure as a Residential Fire Sprinkler Installation Contractor obtain licensure based on experience set forth in Rule .0306 and must take and pass the technical part of the Residential Fire Sprinkler Installation Contractor examination.

Authority G.S. 87-18; 87-21(a); 87-21(b).

21 NCAC 50 .0306 APPLICATIONS: ISSUANCE OF LICENSE

(a) All applicants for licensure or examination shall file an application in the Board office on a form provided by the Board.

(b) ~~Applicants for each plumbing or heating examination shall present evidence at the time of application on forms provided by the Board to establish the equivalent of two years on site full-time experience in the design and installation of plumbing or~~

~~heating systems related to the category for which license is sought, whether or not license was required for the work performed. One year of experience in the design or installation of fuel piping is required for fuel piping license. Practical experience shall directly involve plumbing, heating or fuel piping and may include work as a field superintendent, project manager, journeyman, mechanic or plant stationary operator directly involved in the installation, maintenance, service or repair of such systems. Service; maintenance or repair activity; work as a local government inspector of plumbing or heating systems while qualified by the Code Officials Qualification Board; or work as a field representative of this Board; or work by a graduate of an ABET accredited engineering or engineering technology program with direct on site involvement with plumbing or heating system construction, construction supervision, plant engineering or operation may be used as evidence of one half the practical experience required; provided that Board members and employees may not sit for examination during their tenure with the Board. After review, the Board may request additional evidence. No more than one half the experience may be in academic or technical training, maintenance service or repair directly related to the field of endeavor for which examination is requested. The Board shall pro rate experience which involves the kind of work set out above less than 40 hours per week or part time academic work of less than 15 semester or quarter hours. Applicants for plumbing or heating examination shall present evidence at the time of application on forms provided by the Board to establish two years of full-time experience in the installation, maintenance, service or repair of plumbing or heating systems related to the category for which license is sought, whether or not license was required for the work performed. Applicants for fuel piping examination shall present evidence at the time of application on forms provided by the Board to establish one year of experience in the installation, maintenance, service or repair of fuel piping, whether or not license was required for the work performed. Up to one-half the experience may be in academic or technical training directly related to the field of endeavor for which examination is requested. The Board will prorate part-time work of less than 40 hours per week or part-time academic work of less than 15 semester or quarter hours.~~

(c) The Board shall issue a license certificate bearing the license number assigned to the qualifying individual.

(d) Fire Sprinkler Installation Contractors ~~contractors~~ in the unlimited classification shall meet experience requirements in accordance with NICET examination criteria.

(e) Applicants for examination or licensure in the Limited Fire Sprinkler Inspection Technician classification shall submit evidence adequate to establish that the applicant has either:

- (1) 4000 hours experience involved in inspection and testing of previously installed fire sprinkler systems, consistent with NFPA-25, as a full-time employee of an ~~Unlimited~~ a Fire Sprinkler Inspection Contractor or fire insurance underwriting organization; or
- (2) 4000 hours experience involved in inspection and testing of previously installed fire sprinkler systems, consistent with NFPA-25 as a full time employee of a hospital,

manufacturing, government or university facility and under direct supervision of a Fire Sprinkler Inspection Contractor or a Fire Sprinkler Inspection Technician, which provides or arranges academic and practical training in fire sprinkler inspections consistent with NFPA 25.

- (3) 4000 hours experience involved in installation of fire sprinkler systems as a full-time employee of a Fire Sprinkler Installation Contractor, or
- (4) a combination of 4000 hours experience in any of the categories listed in this subsection.

(f) Applicants for licensure in the ~~Limited~~ Fire Sprinkler Inspection Contractor classification shall meet experience requirements in accordance with NICET certification criteria.

(g) Applicants for initial licensure in the ~~Limited~~ Fire Sprinkler Maintenance Technician classification ~~after April 1, 2005~~, must submit evidence of 4000 hours experience at the place for which license is sought as a full-time maintenance employee in facility maintenance with exposure to periodic maintenance of fire protection systems as described in 21 NCAC 50. 0515 of this Chapter or 2000 hours of such experience, together with six hours classroom instruction in courses approved by the Board consisting entirely of training in fire system maintenance, repair and restoration to service. Applicants who have held Fire Sprinkler Maintenance Technician license previously at a different facility are not required to demonstrate experience in addition to the experience at the time of initial licensure but shall ~~present evidence of two hours classroom instruction in courses approved by the Board consisting entirely of training in fire system maintenance, repair and restoration to service relevant to the systems in the new facility or place of employment.~~ submit a new application for the new location at which they wish to be licensed.

(h) Applicants for licensure in the Residential Fire Sprinkler Installation Contractor classification must hold an active Plumbing Class I or Class II Contractor license issued by this Board for a minimum of three years and must document attendance at a 16 hour course approved by the Board covering NFPA 13D Multipurpose Residential Plumbing and Residential Fire Sprinkler Systems.

Authority G.S. 87-18; 87-21(b).

21 NCAC 50 .0307 REFUND OF DEPOSIT

The application fee for license without examination, and the application and examination fee for an examination will not be refunded.

Authority G.S. 87-18; 87-21(b); 87-22; 87-22.1.

21 NCAC 50 .0308 REVIEW OF EXAMINATION

(a) Any person who fails to pass an examination may, on written request, review his or her examination at a time and place determined by the Board.

(b) In the event an applicant fails an examination for a particular qualification three times, the applicant must present evidence of six months additional practical ~~education~~ experience directly

involving both design and installation of systems of the type for which license is sought together with at least ~~3224~~ contact hours of additional classroom education approved by the ~~Board, as including all the subjects on the examination.~~ Board.

Authority G.S. 87-18; 87-21(b); 87-25; G.S. 93B-8(c).

21 NCAC 50 .0309 EXPANDING SCOPE OF LICENSE

Any licensee holding a license as an individual, or a licensee whose name appears on the certificate of license issued in the name of a corporation, partnership, or business that has a trade name, may be examined for the purpose of expansion of his license qualifications upon payment of the required application and examination ~~fee-fee.~~ providing that the individual meets the requirements for licensing in the classification sought.

Authority G.S. 87-18; 87-21(b); 87-25.

21 NCAC 50 .0310 APPLICATION FOR LICENSURE BY RECIPROCITY

The Board shall only grant license by reciprocity pursuant to reciprocal licensing agreements worked out with various states after mutual review of the applicable licensing standards and examinations.

Authority G.S. 87-18; 87-21(g).

SECTION .0400 – GENERAL PROCEDURES

21 NCAC 50 .0402 PERMITS

(a) A licensed contractor shall ensure that a permit is obtained from the local Code Enforcement official before commencing any work for which a license is required by the ~~Board.~~ Board, except that a permit and inspection is not required for the replacement of an electric water heater in single family residential dwellings, where there is no change in capacity, energy use rate, routing or sizing of piping and the installation is performed in compliance with all applicable codes. The contractor shall also ensure that a request for final inspection is made within 10 days of substantial completion of the work for which license is required, absent agreement with the owner and the local Code Enforcement official. Absent agreement with the local Code Enforcement official the licensee is not relieved by the Board of responsibility to arrange inspection until a certificate of compliance or the equivalent is obtained from the local code enforcement official or the licensee has clear and convincing evidence of his effort to obtain same.

(b) A licensed contractor shall not allow a permit to be obtained or his license number to appear upon a permit except for work which he or his employees perform, over which he will provide general supervision until the completion of the ~~work-work,~~ and for which he holds an executed contract with the licensed general contractor or property owner-owner, and for which he receives the contractual payment.

Authority G.S. 87-18; 87-21; 87-26.

21 NCAC 50 .0404 ACTIVE EMPLOYMENT

(a) In each business location, branch or facility of any kind from which work requiring a license pursuant to G.S. 87, Article 2 is solicited or proposed; or from which contracts for such work are negotiated or entered into; or from which requests for such work are received, accepted, or dispatched; and from which such work is carried out, there shall be on duty the lesser of 1500 hours annually, or all hours during which the activities described herein are carried out, at least one individual who holds license in the classification required for the work being proposed or performed, whose license is listed in the name of the particular firm or business at that location, and who is engaged in the work of the firm at the business location or at firm job sites and who has the responsibility to make, modify, terminate and set the terms of contracts, and to exercise general supervision, as defined in Rule .0505 of this Chapter, of all work falling within his license qualification. Evidence of compliance shall be required as a condition of renewal or retention of license, and falsification shall constitute fraud in obtaining license. The standards set forth in Rule 21 NCAC 50 .0512 shall be applied. If a licensee uses his/her license to qualify a firm and that licensee holds employment elsewhere, no work that requires a license can be performed by the firm based on the qualification of that licensee during the hours the licensee is committed or active in employment elsewhere.

(b) A temporary field office used solely to carry out an existing contract or contracts entered into by the main license office and from none of the other activities in Rule .0404(a) are conducted shall not be deemed a separate place of business or branch requiring compliance with Rule .0404(a).

Authority G.S. 87-18; 87-21(a)(5); 87-21(a)(6); 87-26.

21 NCAC 50 .0405 MULTIPLE LICENSES

(a) In order to maintain the identity of firms and allow effective supervision, each licensed contractor shall qualify only the business location where he is primarily located.

(b) A licensee may be listed on only one contractor license at any given time, whether the license is issued in the name of the individual or in the name of a firm; provided, however, that the fire sprinkler maintenance technician qualification may be listed separately in the name of the employer to which restricted.

(c) ~~The licensee~~ A licensee other than the holder of a Fire Sprinkler Maintenance Technician license, may, upon deletion of his name and qualifications from a firm license, reinstate his personal license, either as an individual or in the name of some other corporation, partnership, or business that has a trade name, upon compliance with G.S. 87-26.

Authority G.S. 87-18; 87-21(a)(5); 87-21(a)(6); 87-26.

21 NCAC 50 .0408 CHANGE OF TRADE NAME

(a) The trade name under which a license is issued may be changed upon request to and approval by the Board pursuant to these Rules. If the Board approves the name change, the last license issued to the licensee must be returned to the ~~executive secretary~~ Board before the new license will be sent to the licensee.

(b) A contractor license shall be issued or renewed using any corporate name, partnership name, or trade name which is not substantially similar to a name already in use according to the records of the Board.

(c) The licensee shall notify the Board of any change in ~~location~~ location, telephone number, physical address or mailing address from that shown on the last license renewal invoice within 30 days after the change takes place.

Authority G.S. 55B-5; 87-18; 87-26.

SECTION .0500 - POLICY STATEMENTS AND INTERPRETATIVE RULES

21 NCAC 50 .0501 AIR CONDITIONING FURTHER DEFINED

(a) Heating Group 2 systems are defined in G.S. 87-21(a)(3). Multiple units serving interconnected space and aggregating more than 15 tons are included in the foregoing whether or not separately ducted or controlled.

(b) ~~The installation of AH-heating and air conditioning or cooling systems or components utilizing ductwork and located in single family residences, dwellings and systems of less than 15 tons capacity in non-residential structures require Heating Group 3 license except where: and not requiring a Heating Group 1 license require a Heating Group 3 license.~~

- (1) heat is provided by hot water or steam in a Heating Group 1 system, or
- (2) cooling is provided by a unitary appliance such as a window unit.

Authority G.S. 87-18; 87-21(a)(3).

21 NCAC 50 .0505 GENERAL SUPERVISION AND STANDARD OF COMPETENCE

(a) The general supervision required by G.S. 87-26 is that degree of supervision which is necessary and sufficient to ensure that the contract is performed in a workmanlike manner and with the requisite skill and that the installation is made properly, safely and in accordance with applicable codes and rules. General supervision requires that review of the work done pursuant to the license be performed by a licensee of the firm while the work is in progress.

(b) The provisions of the North Carolina Building Code, including the provisions of codes and standards incorporated by reference, to the extent adopted by the Building Code Council of North Carolina from time to time is the minimum standard of competence applicable to contractors licensed by the Board. Licensees shall design and install systems which meet or exceed the minimum standards of the North Carolina State Building Code, manufacturer's specifications, and installation instructions and standards prevailing in the industry.

(c) ~~Work performed under Rule .0513, Rule .0514, and Rule .0515 of this Chapter Limited Fire Sprinkler Maintenance Technicians and Limited Fire Sprinkler Inspection Technicians shall be present in person at all times work is being carried out on the system performed by the licensed technician pursuant to the license held by that person.~~

(d) Every newly installed residential heating and/or air conditioning system shall be designed and installed to maintain a maximum temperature differential of four degrees Fahrenheit room-to-room and floor-to-floor. On multilevel structures, contractors are required to either provide a separate HVAC system for each floor or to install automatically controlled zoning equipment for each level with individual thermostats on each level to control the temperature for that level. The seasonal adjustment needed to maintain the four degrees Fahrenheit room-to-room and floor-to-floor maximum temperature differential cannot be accomplished through the use of manual dampers.

(e) All licensed HVAC contractors are required to perform a thorough room-by-room load calculation for all new residential structures prior to installing heating and/or air conditioning systems, which calculations shall be specific to the location and orientation where the HVAC system or equipment is to be installed. A written record of the system and equipment sizing information shall be provided to the owner or general contractor upon request and a copy shall be maintained in the job file of the licensee for a minimum of six years.

(f) When either a furnace or condenser and air handler in an existing residential heating or air conditioning system is replaced, the licensed HVAC contractor is required to perform a minimum of a whole house block load calculation. When a furnace, condenser or air handler in a residential heating or air conditioning system is replaced, it is the responsibility of the licensee to ensure that all systems and equipment is properly sized. The licensee may utilize industry standards, reference materials, evaluation of the structure, and/or load calculations. A written record of the system and equipment sizing information shall be provided to the homeowner, owner or general contractor upon request and a copy shall be maintained in the job file of the licensee for a minimum of six years. If a load calculation was not performed or if a load calculation was performed and it is later determined by the Board that the unit installed was undersized or oversized, then the installing contractor is responsible to correct the equipment sizing issue.

Authority G.S. 87-18; 87-23; 87-26.

21 NCAC 50 .0506 MINOR REPAIRS AND ALTERATIONS

(a) The connection of a factory installed and inspected mobile home drainage system to an existing approved premises sewer system, which premises sewer system extends from the septic tank or municipal sewer system, constitutes a minor repair or replacement. The connection of a factory installed mobile home water system to an existing potable water supply on the premises constitutes a minor repair or replacement.

(b) The initial installation or the subsequent replacement of ~~a~~ all hot-water heater-heaters in any structure requires a license in plumbing contracting.

(c) The installation of a water purification system which interrupts the potable water supply does not constitute a minor repair or replacement within the meaning of G.S. 87-21(c).

(d) Any connection, repair, or alteration which requires interruption of the potable water supply and if poorly performed

creates risk of contamination of the potable water supply is not a minor repair, replacement or alteration.

(e) Any connection, repair or alteration which if poorly performed creates risk of fire or exposure to carbon monoxide, open sewage or other gases is not a minor repair, replacement or alteration.

(f) The failure to enumerate above any specific type of repair, replacement or alteration shall not be construed in itself to render said repair, replacement or alteration as minor within the meaning of G.S. 87-21(c).

Authority G.S. 87-18; 87-21(a)(1); 87-21(a)(5); 87-21(c).

21 NCAC 50 .0508 HEATING: GROUP 3 LICENSE REQUIRED

(a) A license in heating, group No. 3 is required for the installation or replacement of a furnace, air handler, heat pump, package unit, ductwork or condenser in a heating, group No. 3 system.

(b) A license in heating, group No. 3 is required to install or replace a self-contained fireplace unit if the unit utilizes ducts or a blower to distribute air to areas not immediately adjacent to the fireplace itself.

(c) A license in heating, group No. 3 is required when air conditioning of less than 15 tons is added to an already installed heating, group No. 3 system.

(d) A heating, group No. 2 license is required for the installation or replacement of equipment or ductwork in a Heating Group No. 2 system, unless exempted by G.S. 87-21(a)(3).

Authority G.S. 87-18; 87-21(a)(3); 87-21(a)(5); 87-21(c).

21 NCAC 50 .0513 FIRE SPRINKLER INSPECTION TECHNICIAN LICENSE

(a) License in the ~~Limited~~ Fire Sprinkler Inspection Technician classification is required of the technician who carries out periodic inspection of fire sprinkler systems consistent with NFPA-25.

(b) Periodic observation and testing of systems other than NFPA-25 system certification may be carried out by Fire Sprinkler Maintenance Technicians licensed under Rule .0515 of this Chapter. Insurers who carry out inspections for the limited purpose of underwriting or rating for insurance purposes, in situations where the physical tasks are carried out by the on-site Fire Sprinkler Maintenance Technician licensee of the insured, are not required to be licensed pursuant to this Rule. All NFPA-25 reports and system tags must display the name and signature of the licensee who performed the actual inspection as well as the licensee number of the inspection contractor; except that where the Fire Sprinkler Inspection Technician license is issued in the name of a manufacturing, government, university or hospital facility as set out in this Rule, the NFPA-25 report and system tags must display the name, signature and license number of the Inspection Technician.

(c) Licenses shall be issued based on demonstrated experience and ~~examination,~~ examination or on demonstrated experience and certification, as described in Rules .0301 and .0306 of this Chapter and expire annually.

(d) The duties of fire sprinkler inspection technicians may be carried out as employees of fire sprinkler inspection contractors or as full-time employees at a manufacturing, government, university or hospital ~~facility which provides or arranges academic and practical training in fire sprinkler inspections consistent with NFPA-25 facility.~~ Fire Sprinkler Inspection Technician licenses shall be issued and listed either as sublicensees of fire sprinkler inspection contractors or as a fire sprinkler inspection technician license in the name of the manufacturing, government, university or hospital facility where the fire sprinkler inspection technician is employed.

Authority G.S. 87-21.

21 NCAC 50 .0514 FIRE SPRINKLER INSPECTION CONTRACTOR LICENSE

(a) License in the ~~Limited~~ Fire Sprinkler Inspection Contractor classification is required of persons who engage in the business of contracting to perform or performing independent testing and inspections of fire sprinkler systems consistent with NFPA-25. Insurers who carry out inspections for the limited purpose of underwriting or rating for insurance purposes, in situations where the physical tasks are carried out by the on-site Fire Sprinkler Maintenance technician licensee of the insured, are not required to be licensed pursuant to this Rule.

(b) Where the NFPA-25 inspection is carried out by ~~the a~~ Fire Sprinkler Inspection Contractor, the NFPA-25 report and system tags must display the name, signature and license number of the Fire Sprinkler Inspection Contractor.

(c) Licenses shall be issued based on experience and examination, as described in Rules .0301 and .0306 of this Chapter and expire annually.

Authority G.S. 87-21.

21 NCAC 50 .0515 FIRE SPRINKLER MAINTENANCE TECHNICIAN LICENSE

(a) License in the ~~Limited~~ Fire Sprinkler Maintenance Technician classification is required of the technician who carries out periodic maintenance observation or testing of water-based fire protection systems. Licenses shall be issued based on experience and training, as described in Rules .0301 and .0306 of this Chapter and expire annually. This license is limited to work on the systems at the locations of the employer of the licensee for which experience was demonstrated. Upon termination of employment at the location for which certified, the ~~Limited~~ Fire Sprinkler Maintenance Technician license shall lapse, and a new license shall be obtained for the systems at the new place of employment by compliance with the requirements of Rule .0306 of this Chapter. Insurers who carry out inspections for the limited purpose of underwriting or rating for insurance purposes, in situations where the physical tasks are carried out by the on-site Fire Sprinkler Maintenance Technician licensee of the insured, are not required to be licensed pursuant to this Rule.

(b) Persons holding ~~Limited~~ Fire Sprinkler Maintenance Technician license may only:

- (1) Operate and lubricate hydrants and control valves;

- (2) Adjust valve and pump packing glands;
- (3) Bleed moisture and condensation from air compressors, air lines and dry pipe system auxiliary drains;
- (4) Clean strainers;
- (5) Check for painted, damaged or corroded sprinklers, corroded or leaking piping and verify control valves are open;
- (6) Replace painted, corroded or damaged sprinkler head, using identical serial numbers;
- (7) Replace missing or loose hangers;
- (8) Replace gauges;
- (9) Clean water motor gong;
- (10) Perform air compressor maintenance;
- (11) Reset dry pipe valves;
- (12) Exercise fire pumps, not including conduct of a flow measurement test;
- (13) Perform periodic maintenance observation or testing, not including the annual NFPA-25 inspections; or
- (14) Perform repairs other than the foregoing on an emergency basis where necessary to restore a system to operation, provided the holder of the ~~Limited~~ Fire Sprinkler Maintenance Technician license documents his efforts and inability to obtain the services of the holder of a license as ~~an unlimited a~~ Fire Sprinkler Installation Contractor prior to performing the repairs, but obtains such services within 72 hours thereafter.

Authority G.S. 87-21.

SECTION .1000 – CONTESTED CASES

21 NCAC 50 .1006 INFORMAL PROCEDURES

(a) The Board and party or parties may agree at a pre-hearing conference to simplify the hearing by: decreasing the number of issues to be contested at the hearing; accepting the validity of proposed evidence; accepting the findings in another case with relevance to the case at hand; or agreeing to such other matters as may expedite the hearing.

(b) The Board may ~~appoint~~ establish a resolution committee consisting of ~~the Executive Director and one or two members appointed by the of Board staff, together with a third person appointed by the Board,~~ to conduct an informal conference when it appears there may not be a need for a formal hearing. ~~In the event one committee member cannot be present, the committee may proceed with two members. At least two members must be present and participate in Committee proceedings.~~ Any party who does not agree with a proposal for resolution resulting from an informal conference may notify the Board within 30 days. The matter will subsequently be heard de novo by a majority of the Board or as otherwise provided by 21 NCAC 50 .1005, or this Rule. If there is no objection to the proposed resolution within 30 days, the proposed resolution will be received and considered by a majority of the Board with a recommendation for adoption by the staff, any Board member involved and the licensee.

(c) As a part of the contested case hearing process, the Board may elect to conduct a summary proceeding in a contested case. The procedure for a summary proceeding is substantially as follows:

- (1) After issuance of a notice of hearing in accordance with 21 NCAC 50 .1004, the matter is considered by a single board member without a record. Each party may tender affidavits, documents and a closing statement. Live testimony will not be received.
- (2) Each party may present a suggestion as to the terms of a Recommended Order. The presiding board member will consider the materials and suggestions and issue a Recommended Decision in summary proceeding. If there is no objection within 30 days, the Recommended Order shall be received and considered by a majority of the Board with a recommendation for adoption by the staff, the Board member involved and the respondent.
- (3) Any party who does not agree with the recommended decision may notify the Board. The matter shall subsequently be heard de novo by a majority of the Board or as otherwise provided by 21 NCAC 50 .1005. The de novo hearing shall be conducted as other contested case hearings are conducted pursuant to 21 NCAC 50 .1000. The Board member who conducted the summary proceedings shall be disqualified from the de novo hearing.

Authority G.S. 87-18; 150B-41.

SECTION .1100 – FEES

21 NCAC 50 .1102 LICENSE FEES

- (a) Except as set out in this Rule, the annual license fee for ~~statewide plumbing, heating and fuel piping~~ licenses by this Board is ~~one hundred twenty five dollars~~ one hundred thirty dollars (\$125.00)-(\$130.00).
- (b) The annual license fee for a licensed individual who holds qualifications from the Code Officials Qualification Board, is employed full-time as a local government plumbing, heating or mechanical inspector and who is not actively employed in business requiring license from this Board is ~~fifteen dollars~~ thirty dollars (\$15.00)-(\$30.00).
- (c) The initial application fee for license without examination conducted by the Board is ~~twenty five dollars~~ thirty dollars (\$25.00)-(\$30.00).
- (d) The annual license fee for a contractor or inspection technician whose qualifications are listed as the second or subsequent individual on the license of a corporation, partnership, or business with a trade name under Paragraphs (a) or (c) of this Rule is ~~twenty five dollars~~ thirty dollars (\$25.00)-(\$30.00).

- (e) The annual license fee for fire sprinkler installation contractor and fire sprinkler inspection contractor licenses by this Board is one hundred thirty dollars (\$130.00).
- (f) The annual license fee for Fire Sprinkler Maintenance Technician is one hundred thirty dollars (\$130.00).
- (g) The annual license fee for Residential Fire Sprinkler Installation Contractor is one hundred thirty dollars (\$130.00).

Authority G.S. 87-18; 87-21; 87-22.

21 NCAC 50 .1104 FEES FOR COPIES OF RECORDS AND RETURNED CHECKS

The Board charges the following fees:

- (1) copies of license \$15.00\$20.00
- (2) abstract of license record \$15.00\$25.00 per license record search
- (3) processing fee for returned checks maximum allowed by law
- (4) copy of Board rules \$10.00
- (5) processing fee for late renewal \$25.00
- (6) Business and Project Management for Contractors \$40.00\$45.00

Authority G.S. 25-3-506; 87-18; 87-22; 150B-19.

SECTION .1400 – CONTINUING EDUCATION

21 NCAC 50 .1401 CONTINUING EDUCATION REQUIREMENTS

- (a) Beginning with renewals of license for years beginning on or after January 1, 2003, each holder of a Plumbing, Heating or Fuel Piping license, must have completed six hours of approved continuing education for each calendar year as a condition of license renewal. Prior to renewal of license for the year beginning January 1, 2008, and for renewals thereafter, each holder of a Fire Sprinkler Installation Contractors license must have completed six hours of approved classroom continuing education for each calendar year.
- (b) Beginning with renewals of license for years beginning on or after January 1, 2010, asAs part of and not in addition to the requirements set out in Paragraph (a) of this Rule, ~~at least once every three calendar years,~~ each applicant for license renewal, other than fire sprinkler licensees, must ~~complete~~ complete two hours of instruction devoted entirely to N.C. Building Code including recent changes or amendments’ to those codes annually.
 - (1) ~~four hours instruction devoted entirely to N.C. building codes including recent changes or amendments to those codes;~~
 - (2) ~~a minimum of two hours instruction in system design;~~
 - (3) ~~a minimum of two hours instruction in system installation; and~~
 - (4) ~~two hours instruction in business courses such as business ethics, taxation, payroll, cash management, bid and contract preparation, customer relations or similar subjects.~~

(c) Courses accredited for renewal of Plumbing, Heating or Fuel Piping license, must be in areas related to plumbing, heating and air conditioning contracting such as the technical and practical aspects of the analysis of plans and specifications, estimating costs, fundamentals of installation and design, equipment, duct and pipe sizing, code requirements, fire hazards and other business ethics, taxation, payroll, cash management, bid and contract preparation, customer relations subjects as those may relate to engaging in business as a plumbing, heating or fuel piping contractor or to plumbing or heating systems. ~~No more than two hours annually may be dedicated to business ethics, taxation, payroll, cash management, bid and contract preparation, customer relations or similar subjects.~~

(d) Persons holding multiple qualifications from the Board must complete at least six hours annually, but are not required to take hours each year in each ~~qualification.~~ qualification, except Plumbing Contractor licensees who also hold a Residential Fire Sprinkler Installation Contractor license must obtain six hours continuing education annually in plumbing and four hours continuing education annually in residential fire sprinkler installation. Licensees with multiple qualifications shall take instruction so as to remain current in all areas of contracting work in which actively engaged.

(e) Licenses may not be renewed without documentation of course attendance, course name, course number, content and teacher. Falsification or misstatement of continuing education information shall be grounds for failure to renew licenses and disciplinary action, including revocation or suspension of licenses.

~~(f) Holders of Fire Sprinkler Contractor's licenses, licensed pursuant to the minimum requirements of certification for NICET Level III, subfield of Automatic Sprinkler System Layout, and persons holding NICET certification in Inspection and Testing of water based Fire Protection Systems shall obtain continuing education in the process of maintaining current NICET certification. Such persons shall submit evidence of continued NICET certification to the Board. At least six hours of the continuing education shall be classroom education carried out by personal attendance at courses approved pursuant to this Section. Individuals who obtained licensure by means of the NICET certification as a Fire Sprinkler Installation Contractor, Fire Sprinkler Inspection Contractor, or Fire Sprinkler Inspection Technician, must maintain current certification with NICET as a condition of annual license renewal, and shall present evidence of same to the Board. In addition, licensees in this class must also obtain six hours of Board-approved continuing education classes for each calendar year as a condition of license renewal.~~

(g) Beginning with renewals of license on or after January 1, 2003, each holder of a Fire Sprinkler Installation Contractors or Fire Sprinkler Inspection Contractor or Technician license not required to be current on the continuing education requirements of NICET must complete six hours of approved continuing education in areas related to fire sprinkler contracting during the preceding calendar year as a condition of license renewal. Licensees in the ~~Limited~~ Fire Sprinkler ~~maintenance~~ Maintenance Technician classification shall obtain ~~six~~ four hours of approved classroom continuing education annually relevant to the systems they maintain.

Authority G.S. 87-21(b)(3); 87-22.

21 NCAC 50 .1402 EXEMPTIONS AND CREDITS

(a) Licensees may not carry over hours from one calendar year to the next.

(b) Newly licensed individuals shall have no continuing education requirements for the calendar year in which they first become licensed.

(c) Licensees who are unable to fulfill the required number of hours as the result of illness as certified by an attending physician and who will not be engaged in bidding, supervising or other activities for which license is required may petition the Board in writing for an exemption or request approval of an individualized plan tailored to their physical limitations. Such requests shall be approved within 90 days consistent with the requirements applicable to all licensees.

(d) Licensees who are over the age of 65, and who shall not be engaged in bidding, supervising or other activities for which license is required during the coming year, except as an employee of another licensee, may apply to the Board and obtain an exemption. If exemption is granted and the licensee thereafter wishes to engage in activity requiring license, the continuing education must be completed and satisfactory proof provided to the Board before any activity requiring license is undertaken.

(e) Instructors in Board-approved courses shall receive continuing education credit for lecture hours in approved courses.

(f) Members of the ~~Board~~ Board, Board Staff and Resolution Review Committee shall receive continuing education credit for hours spent in ~~hearings~~ hearings, resolution review conferences or in monitoring continuing education courses. Licensees sitting on the Resolution Review Committee or attending formal hearings other than as a Respondent shall receive credit for such hours, but are not relieved of the necessity to obtain the code hours required by 21 NCAC 50 .1401(b)(1).

(g) Licensees who have been called to active duty with any branch of the United States Military Service (Air Force, Army, Navy, Marines, Coast Guard, National Guard, Reserves, etc.) are not required to obtain continuing education credit hours during times they are deployed on active duty outside North Carolina and will not be required to obtain continuing education credit hours for the license year in which they return to North Carolina from active duty. The licensee will be required to obtain continuing education credit hours the years following return from active duty. In order to qualify for exemption from continuing education credit hours based on active military duty, the licensee must submit a copy of the military orders documenting their active duty military deployment and return.

Authority G.S. 87-21(b)(3); 87-22.

21 NCAC 50 .1404 COURSE REQUIREMENTS AND LIMITATIONS

(a) In order for course credit to be obtained, the course must be approved and consist of instruction in areas related to plumbing, heating, air conditioning and fire sprinkler contracting or inspection contracting such as the technical and practical aspects of the analysis of plans and specifications, estimating costs,

fundamentals of installation and design, equipment, duct and pipe sizing, and NFPA code requirements, fire hazards and other subjects as those may relate to engaging in business as a plumbing, heating, fuel piping or fire sprinkler contractor or to plumbing or heating or fire sprinkler systems. Business ethics, taxation, payroll, cash management, bid and contract preparation, customer relations or similar subjects related to plumbing or heating contracting shall also be approved.

(b) In order for course credit to be obtained, the course must be taught by the instructor or alternate listed when the course was approved by the Board, absent specific request and approval of the course as modified prior to the delivery of the program.

(c) Courses shall have a minimum of two hours of actual instruction and a maximum of six hours of actual instruction, per day.

(d) Courses shall be held in facilities conducive to learning. Such facilities include community colleges, technical schools, or community centers.

(e) Courses shall be open to all interested licensees that the host facility can reasonably accommodate and for audit by Board representatives; courses may not be restricted to employees, dealers or members of a particular firm or group.

(f) Once listed on the six-month course roster, a course may not be cancelled during that six month period.

(g) Though courses may have commercial sponsors, the courses shall not include promotion of products or services of a particular firm or manufacturer.

(h) Correspondence, home study, license exam preparation (cram) courses shall not be approved.

(i) For the information of all licenses, the Board shall maintain a calendar of all courses available during a six-month period.

(j) Licensees are required to bring with them to any continuing education course a current code book relevant to any particular course where building code is being taught.

(k) The maximum number of students allowed in any Board-approved continuing education class shall be 100.

Authority G.S. 87-21(b)(3); 87-22.

21 NCAC 50 .1405 APPROVAL OF COURSES

(a) To obtain approval of a course a provider or proposed provider must submit a written application to the board on or before the first day of September of each year for courses to be offered the following January through June and on or before the first day of March each year for courses to be offered the following July through December. The application must include:

- (1) two complete sets of written course materials and a detailed course outline; and
- (2) an application cover sheet on a form supplied by the Board identifying the applicant, the name, training and experience of all speakers, the proposed date(s) of the course, the host facility, the place where applications for enrollment should be sent, the cost, and the total continuing education hours being offered.

(b) Preliminary review of course applications shall be carried out by a committee appointed by the Board, that shall include some providers of approved courses. Committee

recommendations shall be presented to the Board for final approval.

(c) As a condition of course approval, providers shall agree to submit to the board, in the form provided by the Board, ~~and within 30 days of the course date set out on the application,~~ an alphabetical listing of all licensees who attended and completed the course and a copy of any course materials distributed to participants together with certification that the course was provided consistent with the application. The foregoing information shall be submitted within 15 days of the course date set out on the application.

(d) Providers who fail to provide the information set forth in Paragraph (c) of this Rule shall not thereafter be approved to conduct a course.

(e) Licensees may select courses other than those offered by pre-approved providers while attending out of state educational functions. In order to obtain approval, the licensee must submit a written application for approval on a form obtained from the Board upon completion of each such course. In lieu of such form, an advertising brochure may be submitted, provided the brochure includes the topic, content of lecture material, date, time, location, name and qualifications of speaker and the number of contact hours received upon completion of the program. The licensee must also provide independent verification of attendance. Board evaluation of courses not pre-approved may result in disapproval.

Authority G.S. 87-21(b)(3); 87-22.

TITLE 25 – OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Personnel Commission intends to amend rule cited as 25 NCAC 01C .1004.

Proposed Effective Date: *October 1, 2009*

Public Hearing:

Date: *July 8, 2009*

Time: *10:00 a.m.*

Location: *Office of State Personnel, Administration Building, 3rd Floor, 121 West Jones Street, Raleigh, NC 27603*

Reason for Proposed Action: *The amendment is being proposed because of a decision of the NC Court of Appeals that said that an issue regarding the manner in which a reduction in force is carried out is no longer considered a contested case issue. This change recognizes the impact of that decision.*

Procedure by which a person can object to the agency on a proposed rule: *A person may object to these proposed rules by one of the following methods: (1) a written letter to Peggy Oliver, HR Policy Administrator, Office of State Personnel, 1331 Mail Service Center, Raleigh, NC 27699-1331; (2) an e-mail to peggy.oliver@osp.nc.gov; or (3) a telephone call to Peggy Oliver at (919) 807-4832.*

Comments may be submitted to: Peggy Oliver, HR Policy Administrator, Office of State Personnel, 1331 Mail Service Center, Raleigh, NC 27699-1331; phone (919) 807-4832; fax (919) 715-9750; e-mail peggy.oliver@osp.nc.gov

Comment period ends: July 14, 2009

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

Fiscal Impact:

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

CHAPTER 01 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 01C - PERSONNEL ADMINISTRATION

SECTION .1000 - SEPARATION

25 NCAC 01C .1004 REDUCTION IN FORCE

(a) A State government agency may separate an employee whenever it is necessary due to shortage of funds or work, abolishment of a position or other material change in duties or organization. Retention of employees in classes affected shall, ~~as~~ at a minimum, be based on systematic consideration of all the following factors: type of appointment, relative efficiency, actual or potential adverse impact on the diversity of the workforce and length of service. However, neither temporary, probationary nor trainee employees in their initial six months of training shall be retained where an employee with a permanent appointment must be separated in the same or related class.

(b) Agency Responsibility: Responsibilities:

- (1) Each agency shall develop a written policy for reduction-in-force which meets its particular needs and provides assurance to employees that potential reductions shall be considered on a fair and systematic basis in accordance with

factors defined in the reduction-in-force policy. The policy of each ~~department/agency/institution~~ agency shall be filed with the Office of State Personnel as a public record-record; and

- (2) Each employing agency shall inform the employee of separation as soon as possible and inform the employee of the priority reemployment consideration available. The agency ~~must~~ shall provide employees with a minimum of 30 calendar days written notification of separation prior to the effective date of the reduction in force.

(c) Appeals: ~~Appeals: A career state employee who is separated due to reduction in force may appeal to the State Personnel Commission for a review to assure that systematic procedures were applied. Provisions of the agency appeal procedure shall first be followed. An employee separated through a reduction in force may appeal that separation as follows:~~

- (1) An employee may appeal the separation if it is alleged that the separation is in retaliation for the employee's opposition to alleged discrimination against the employee on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or disabling condition as defined by Chapter 168A of the General Statutes;
- (2) An employee may appeal the separation if it is alleged that the separation is a denial of the veterans' preference granted in connection with a reduction in force for an eligible veteran as provided in Chapter 126, Article 13; and
- (3) Such an appeal may be made either through the agency internal grievance procedure or may be filed directly with the Office of Administrative Hearings, at the choice of the employee.

(d) Equal Employment ~~Opportunity~~-Opportunity: In accordance with the Uniform Guidelines on Employee Selection Procedures affecting equal employment opportunity, any application of the reduction-in-force policy must be analyzed by the agency to determine its impact in this area.

(e) Severance Salary ~~Continuation~~-Continuation: Severance salary continuation shall be administered in accordance with the rules contained at 25 NCAC 01D .2700. Pursuant to G.S. ~~443-27-2,126-8.5~~, the Office of State Budget and Management is responsible for determining whether severance salary continuation is applicable. Prior approval shall be received from the Office of State Budget and Management before severance salary continuation is paid.

Authority G.S. 126-4(2).

RULES REVIEW COMMISSION

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

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

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

Appointed by House

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

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

May 21, 2009 June 18, 2009
July 16, 2009 August 20, 2009

RULES REVIEW COMMISSION

April 16, 2009

MINUTES

The Rules Review Commission met on Thursday, April 16, 2009, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Jim Funderburk, Jeff Gray, Keith Gregory, Jennie Hayman, Clarence Horton, John Lewis, David Twiddy, and Curtis Venable.

Staff members present were: Joseph DeLuca and Bobby Bryan, Commission Counsel, Tamara Chalmers, Julie Edwards and Dana Vojtko.

The following people were among those attending the meeting:

Kathy Wilmer	Duke Energy
Jane Gilchrist	Department of Justice
John Hoomani	Department of Labor
Kent Nelson	Wildlife Resources Commission
David Cobb	Wildlife Resources Commission
Tommy Kimball	NC Bowhunters Association
Ramon Bell	NC Bowhunters Association
John Aldridge	Department of Justice
Tom Savage	Department of Labor
Mickey Strader	NC Bowhunters Association
William Newton	NC Bowhunters Association
Cody L. Reed, Jr.	NC Bowhunters Association
Bobby Davis	Department of Labor
Claude N. Young, Jr.	Department of Justice/Wildlife Resources Commission
Carolyn McKenny	Professional Teaching Standards Commission
Kevin O'Barr	Department of Labor
S. Stone, Jr.	NC Bowhunters Association
Joan Troy	Wildlife Resources Commission
Bob Pendergrass	NC Falconers Guild

DRAFT

Drake Maynard	Office of State Personnel
Wayne Woodard	Department of Justice
Gordon Myers	Wildlife Resources Commission
Russell Poole	NC Bowhunters Association
Ed Strickland	Department of Revenue
Katie Cornetto	State Board of Education/Department of Public Instruction
Laura Crumpler	Department of Justice
Erin Gould	Department of Labor
Bennie Riddle	WCQDMP
Jim Phillips	WNCQDMP
Adrienne Weaver	DENR/Division of Water Quality
Jamie McNeas	DENR/Division of Water Quality
Jeff Manning	DENR/Division of Water Quality
Nancy Pate	Department of Environment and Natural Resources
Kate Pipkin	Wildlife Resources Commission
Ed Geddie	Department of Labor
Amanda Reeder	DHHS/Division of Mental Health
Andrea Jordan	DHHS/Division of Mental Health
Patrick Jones	Department of Agriculture and Consumer Services
David McLeod	Department of Agriculture and Consumer Services
Gretchen Aycock	Department of Administration
Erin Wynia	NC League of Municipalities
Donald F. Hilke, III	NC Citizen
Eddie Williams	Buckner Steel Erection
David Tuttle	Board of Examiners for Engineers and Surveyors

APPROVAL OF MINUTES

The meeting was called to order at 9:05 a.m. with Ms. Hayman presiding. She reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the March 19, 2009 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

02 NCAC 09L .1002, .1807 – Pesticide Board. The Commission approved the rewritten rules submitted by the agency.

12 NCAC 07D .0402, .0501 – Private Protective Services Board. No rewritten rules have been submitted and no action was taken.

Prior to the review of the rules from the Criminal Justice Education and Training Standards Commission, Commissioner Gray recused himself and did not participate in any discussion or vote concerning the rules in Subchapters 09B and 09H because he is the registered lobbyist for the State Lodge of Fraternal Order of Police which actively lobbied for passage of the enabling legislation for the retired law enforcement officer concealed carry (implementation of federal law).

12 NCAC 09B .0205, .0301 – Criminal Justice Education and Training Standards Commission. The rewritten rule for .0205 was approved by the Commission. The Commission continued its objection for .0301 based on lack of statutory authority. There is no authority cited for the agency to take any of the actions listed in paragraphs (e) and (f) against a person certified as an instructor. G.S. 17C-6 (a)(6) and (7) give the Commission the authority to establish minimum standards for instructors and to certify instructors who meet those standards. G.S. 17C-6(a)(8) gives the Commission the authority to investigate to determine if individuals are complying with the statutes. At no place is the Commission specifically given any authority to take any action against any person certified as an instructor. In addition G.S. 17C-11, entitled "Compliance; enforcement" only applies to criminal justice officers, not instructors. This objection applies to existing language in the Rule.

12 NCAC 09C .0306 – Criminal Justice Education and Training Standards Commission. The Commission approved the rewritten rule submitted by the agency.

12 NCAC 09H .0102 – Criminal Justice Education and Training Standards Commission. The Commission approved the rewritten rule submitted by the agency.

13 NCAC 07F .0903, .0904, .0905, .0916, .0919, .0920, .0921 – Department of Labor. The Commission approved the rewritten rules submitted by the agency.

15A NCAC 02D .1205, .1212 – Environmental Management Commission. No rewritten rules have been submitted and no action was taken. The EMC did not meet in April. Its next meeting is scheduled for May 14.

12 NCAC 12 .0202 – Licensing Board for General Contractors. No rewritten rule has been submitted and no action was taken. The Board does not meet until April 22. It is anticipated that they will have a response for the May meeting.

21 NCAC 14H .0105 – Board of Cosmetic Art Examiners. No rewritten rule has been submitted and no action was taken. The Board rescheduled its April meeting for April 27. It is anticipated that they will have a response for the May meeting.

21 NCAC 32K .0208 – Medical Board. This rule was returned to the agency at the agency's request. Since it was an unnoticed version of the current rule, the current rule will remain in the NCAC.

25 NCAC 01I .2002 – State Personnel Commission. The Commission approved the rewritten rule submitted by the agency contingent on receiving a technical change. The technical change has been received.

Prior to the review of this rule from the Office of Administrative Hearings, Commissioner Gray recused himself and did not participate in any discussion or vote concerning this rule because he served in the capacity of "Acting Legal Counsel" in the review of this rule due to the possible appearance of a conflict of interest for Commission Counsel since they are now employees of OAH.

26 NCAC 03 .0120 – Office of Administrative Hearings. The Commission approved the rewritten rule submitted by the agency.

LOG OF FILINGS

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

All permanent rules were approved unanimously with the following exceptions:

01 NCAC 44A .0202: Department of Administration - The Commission objected to this rule based on ambiguity. It is not clear what is meant by the last sentence in (b). It is not clear for what purpose the HUB office would rely on a site visit of an entity other than the one whose ownership, management, and control of daily business operations is in question. It is also not clear if this is meant to be an exception to the requirement that the HUB office conduct a site visit of the majority owners. Nor is it clear when the HUB office would, or would not, rely on the site visit of the other entity.

01 NCAC 44A .0204: Department of Administration - The Commission objected to this rule based on ambiguity. The two sentences in this rule contradict each other. The first sentence says that certification remains in effect for four years. The second sentence requires renewal of certification annually. It is not clear if certification is good for one year or for four years.

01 NCAC 44A .0301: Department of Administration - The Commission objected to this rule based ambiguity. In (1)(k), it is not clear what other certifications the agency wants proof of.

10A NCAC 28F .0101: Commission for Mental Health - The Commission objected to this rule based on lack of statutory authority and ambiguity. In (a), it is unclear what standards the Division Director will use in approving cross-regional admissions. As written, this provision allows the Division Director to waive the requirement that persons only be admitted to the institution that serves the person's region. In the absence of specific guidelines required by G.S. 150D-19(6), there is no authority for the waiver provision.

15A NCAC 02B .0304: Environmental Management Commission – The Commission approved this rule, however the Commission received more than ten written objections to this rule. Thus the rule is subject to legislative review.

15A NCAC 02C .0102, .0103, .0105, .0107-.0114, .0116-.0119: Environmental Management Commission – These rules were withdrawn by the agency.

15A NCAC 10B .0105: Wildlife Resources Commission - The Commission objected to this rule based on ambiguity and lack of statutory authority. In (b)(1)(B) lines 29 and 31 it is unclear what "specific guidelines" the WRC will use to approve or allow the use of unplugged guns. There is no authority cited for the agency to set those "specific guidelines" outside rulemaking and to use those guidelines for approving the use of unplugged guns. The same problem and analysis applies to allowing the use of electronic or recorded animal or bird calls in (b)(1)(C).

15A NCAC 10B .0106, .0116, .0201, .0203, .0404, .0409: Wildlife Resources Commission - The Commission approved these rules, however the Commission received more than ten written objections to these rules. Thus these rules are subject to legislative review.

Ramon Bell, President of the NC Bowhunters Association, Donald Hilke, Ben Graham, and Benny Riddle addressed the Commission in opposition to 15A NCAC 10B .0116 and .0203.

15A NCAC 10C .0211: Wildlife Resources Commission - The Commission objected to this rule based on ambiguity. It is unclear what the standards are for stocking triploid grass carp, the exception to the prohibition in the rule.

15A NCAC 10C .0216: Wildlife Resources Commission - The Commission objected to Rule .0216 based on ambiguity and lack of statutory authority. There is no authority cited for the provision in (a) allowing the Wildlife Resources Commission (WRC) to exempt the individuals specified in (1) – (3) “from the requirements of the state inland fishing license” (line 6). If that is not the intent or purpose of the rule, it is unclear. If the actual intent of the rule is to exempt certain people from licensure requirements set by statute – and that appears to be what the language of the rule allows – then the rule is outside the agency’s authority. It appears that this exemption in (a) is – or at least was prior to the current proposed amendment – meant to apply only to the “event” mentioned in (b) (line 20) and under the conditions set out in (b)(1) and (2). If that is the case then the rule is within their authority (although not clear). However the language and structure of the rule are open to the interpretation that the WRC claims the authority to exempt, and in fact by this rule does exempt, any individuals it designates from the requirements of the general statutes to possess a fishing license. There is no authority cited for the WRC to exempt individuals from the statutory licensure requirement. It does not appear that there is any authority to allow such an exemption for either (1) “individuals with ... limitations” or (2) “military appreciation events.” The authorizing statute, G.S. 113-276.1(n), allows the exemption for any event that “is consistent with the conservation objectives of the [WRC].” It does not provide any other event purpose, or authorize the agency to set such purposes, for which the exemption may be allowed. A “military appreciation event” does not appear to have any immediate connection with “conservation activities.” What also makes it seem as if the WRC is attempting to exempt those persons from the fishing license requirements entirely is that it is unnecessary to mention them in relation to their attendance at an exempt event. According to the statute allowing an exemption for certain events, it seems that anyone participating in the event would be exempt, not just persons singled out by the agency. There is no authority cited to single out only individual classes of persons who could be exempt if the event itself is an authorized exemption. All those attending the event should be exempt. Even if they possess the authority to do so, both as to the purpose for the events or the classes of persons subject to the exemption, or they rewrite the rule to more accurately reflect their actual authority, in (a)(1) line 11 it is unclear what constitutes a physical or mental “limitation.”

15A NCAC 10H .0102: Wildlife Resources Commission - The Commission objected to this rule based on ambiguity and lack of statutory authority. It is unclear what the “wording” and “sign size” for the signs required by (b) of this rule must be since they are not specified in this rule. To the extent that the wording and size are determined outside the rule and subject to change by the WRC without going through rulemaking, there is no authority for this provision. Such requirements must be set by rulemaking.

The meeting recessed for a short break at 10:56 a.m. The meeting reconvened at 11:11 a.m.

16 NCAC 06C .0503: Board of Education – This rule was approved by the Commission contingent on receiving a technical change. The technical change has been received.

16 NCAC 06C .0504: Board of Education – This rule was approved by the Commission with Commissioners Funderburk, Gray, Horton and Lewis voting to approve the rule. Commissioners Gregory, Twiddy and Venable voted against approving the rule.

Laura Crumpler, Katie Cornetto, and Carolyn McKenny spoke in favor of the rule and answered Commissioners' questions.

Prior to the review of the rules from the Real Estate Commission, Commissioner Twiddy recused himself and did not participate in any discussion or vote concerning these rules because he has an inactive NC Real Estate License.

21 NCAC 58C .0105: Real Estate Commission - The Commission objected to this rule based on ambiguity. In (4), it is not clear what standards the Commission will use in requesting a written improvement plan.

21 NCAC 58C .0218: Real Estate Commission - The Commission objected to this rule based on ambiguity. In (c), it is not clear what standards the Commission will use in requesting a written improvement plan.

21 NCAC 58C .0608: Real Estate Commission - The Commission objected to this rule based on ambiguity. In (a)(7), it is not clear what standards the Commission will use in requesting a written improvement plan.

Commissioners Gray, Twiddy, Funderburk, Lewis, Horton and Gregory voted for the motion to accept staff's recommendation for the rules from the Board of Community Colleges. Commissioner Venable voted against the motion.

23 NCAC 02E .0101: Board of Community Colleges - The Commission objected to this rule based on lack of statutory authority and ambiguity. In (2)(e)(i), it is not clear what Customized Training Program Guidelines have been approved by the State Board of Community Colleges. There is no authority cited to require compliance with them if they have not been adopted as rules.

23 NCAC 02E .0401: Board of Community Colleges - The Commission objected to this rule based on lack of statutory authority and ambiguity. In (a), it is not clear what standards the System Office Economic Development staff use in approving training programs. In (b), it is not clear if the State Board of Community Colleges approved Guidelines have been adopted as rules. If not there is no authority cited to require compliance with them or to allocate funds based on them. The agencies request to withdraw this rule was denied because the objection applies to existing language in the rule.

Prior to the review of the rules from the Office of Administrative Hearings, Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because he served in the capacity of "Acting Legal Counsel" in the review of these rules due to the possible appearance of a conflict of interest for Commission Counsel since they are now employees of OAH.

The Commission approved these rules.

COMMISSION PROCEDURES AND OTHER BUSINESS

John Hoomani from the Department of Labor addressed the Commission regarding 13 NCAC 07F .0901. He requested that the vote at the N.C. Rules Review Commission's March 19th meeting approving this rule be reconsidered, and that the same rule be approved with an amendment. Concurrent with this request, he also requested a waiver, pursuant to 26 NCAC 05 .0112, of 26 NCAC 05 .0107 and .0108. The Commission took no action.

The Commission discussed the Governor's restrictions on travel for the remainder of the fiscal year and its implications for meetings of the Rules Review Commission. Chief Administrative Law Judge Julian Mann addressed the Commission and answered questions.

The meeting adjourned at 12:25 p.m.

The next scheduled meeting of the Commission is Thursday, May 21, 2009 at 9:00 a.m.

Respectfully Submitted,

Dana Vojtko
Publications Coordinator

LIST OF APPROVED PERMANENT RULES April 16, 2009 Meeting

ADMINISTRATION, DEPARTMENT OF

<u>Scope</u>	01 NCAC 44A .0101
<u>Denial</u>	01 NCAC 44A .0206
<u>Challenge Initiation</u>	01 NCAC 44A .0401
<u>HUB Status During Challenge</u>	01 NCAC 44A .0404
<u>Reasons for Revocation</u>	01 NCAC 44A .0501
<u>Notice</u>	01 NCAC 44A .0502
<u>Review</u>	01 NCAC 44A .0601
<u>Status Pending Review</u>	01 NCAC 44A .0605

PESTICIDE BOARD

<u>General Requirements</u>	02 NCAC 09L .1002
<u>Specific Information About Applications</u>	02 NCAC 09L .1807

HHS - MENTAL HEALTH, DIVISION OF

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

MENTAL HEALTH, COMMISSION FOR

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

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Basic Law Enforcement Training</u>	12 NCAC 09B .0205
<u>Lateral Transfer of Law Enforcement Officers</u>	12 NCAC 09C .0306
<u>Agency Reporting of Drug Screening Results</u>	12 NCAC 09C .0310
<u>Minimum Training Specifications</u>	12 NCAC 09H .0102

LABOR, DEPARTMENT OF

<u>Toxic and Hazardous Substances</u>	13 NCAC 07F .0106
<u>Definitions</u>	13 NCAC 07F .0903
<u>Operator Qualification and Certification</u>	13 NCAC 07F .0904
<u>Signal Person Qualification</u>	13 NCAC 07F .0905
<u>Operation of Equipment</u>	13 NCAC 07F .0916
<u>Signals</u>	13 NCAC 07F .0919
<u>Hoisting Personnel</u>	13 NCAC 07F .0920
<u>Tower Cranes</u>	13 NCAC 07F .0921

ENVIRONMENTAL MANAGEMENT COMMISSION

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

WILDLIFE RESOURCES COMMISSION

<u>Wildlife Taken for Depredations or Accidentally</u>	15A NCAC 10B .0106
<u>Big Game Kill Reports</u>	15A NCAC 10B .0113
<u>Permitted Archery Equipment</u>	15A NCAC 10B .0116
<u>Wildlife Collectors</u>	15A NCAC 10B .0119
<u>Prohibited Taking and Manner of Take</u>	15A NCAC 10B .0201
<u>Bear</u>	15A NCAC 10B .0202
<u>Deer (White Tailed)</u>	15A NCAC 10B .0203
<u>Wild Boar (Both Sexes)</u>	15A NCAC 10B .0204
<u>Squirrels</u>	15A NCAC 10B .0206
<u>Wild Turkey</u>	15A NCAC 10B .0209
<u>Foxes (Gray and Red)</u>	15A NCAC 10B .0212
<u>Crow</u>	15A NCAC 10B .0215

<u>Open Seasons</u>	15A NCAC 10B .0302
<u>Bag Limits</u>	15A NCAC 10B .0303
<u>Trappers and Hunters</u>	15A NCAC 10B .0404
<u>Sale of Live Foxes and Coyotes to Controlled Fox Hunting ...</u>	15A NCAC 10B .0409
<u>Public Mountain Trout Waters</u>	15A NCAC 10C .0205
<u>Spawning Areas</u>	15A NCAC 10C .0208
<u>Open Seasons: Creel and Size Limits</u>	15A NCAC 10C .0305
<u>Manner of Taking Non-game Fishes: Purchase and Sale</u>	15A NCAC 10C .0401
<u>General Regulations Regarding Use</u>	15A NCAC 10D .0102
<u>Hunting On Game Lands</u>	15A NCAC 10D .0103
<u>Fishing on Game Lands</u>	15A NCAC 10D .0104
<u>Use of Areas Regulated</u>	15A NCAC 10E .0104
<u>Bird Feeders</u>	15A NCAC 10H .0108
<u>Quail Call-Pen Traps</u>	15A NCAC 10H .0109
<u>Quail Call-Pen Traps</u>	15A NCAC 10H .0907
<u>Possession of Reptiles and Amphibians</u>	15A NCAC 10H .1302
<u>Protection of Endangered/Threatened/Special Concern Species</u>	15A NCAC 10I .0102

EDUCATION, BOARD OF

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

REVENUE, DEPARTMENT OF

<u>Supplies and Equipment</u>	17 NCAC 07B .1202
<u>Housing Authorities</u>	17 NCAC 07B .1705
<u>Oxygen</u>	17 NCAC 07B .1804
<u>Hospital Supplies</u>	17 NCAC 07B .1805
<u>Tire Repair Materials</u>	17 NCAC 07B .1903
<u>Sales by Tire Recappers</u>	17 NCAC 07B .1904
<u>Propane Sold to Schools</u>	17 NCAC 07B .2103
<u>Aviation Fuel</u>	17 NCAC 07B .2105
<u>Food and Food Products</u>	17 NCAC 07B .2201
<u>Disposable Lunchroom Supplies</u>	17 NCAC 07B .2202
<u>Meals on Trains: Planes: Etc.</u>	17 NCAC 07B .2204
<u>Caterers</u>	17 NCAC 07B .2205
<u>Food Service Supplies</u>	17 NCAC 07B .2207
<u>Fraternity and Sorority Meals</u>	17 NCAC 07B .2208
<u>In General</u>	17 NCAC 07B .2301
<u>Sales by Veterinarians</u>	17 NCAC 07B .2402
<u>Weigh Hoppers Sold to Contractors</u>	17 NCAC 07B .2603
<u>Sand: Stone Sold to Contractors</u>	17 NCAC 07B .2604
<u>Sandblast Sand Sold to Contractors</u>	17 NCAC 07B .2605
<u>Repossessions</u>	17 NCAC 07B .3002
<u>Repair Parts for Used Property</u>	17 NCAC 07B .3005
<u>Used Property Sold for Repair Charges</u>	17 NCAC 07B .3011
<u>Trade: Grain for Flour</u>	17 NCAC 07B .3012
<u>Radio and Television: Etc. Receipts</u>	17 NCAC 07B .3101

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

ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR

<u>Requirements for Licensing</u>	21	NCAC 56 .0501
<u>Application Procedure: Individual</u>	21	NCAC 56 .0502
<u>Examinations</u>	21	NCAC 56 .0503
<u>Expirations and Renewals of Certificates</u>	21	NCAC 56 .0505
<u>Application Procedure: Individual</u>	21	NCAC 56 .0602
<u>Examinations</u>	21	NCAC 56 .0603
<u>Expirations and Renewals of Certificates</u>	21	NCAC 56 .0606
<u>Rules of Professional Conduct</u>	21	NCAC 56 .0701
<u>Procedure</u>	21	NCAC 56 .0802
<u>Annual Renewal</u>	21	NCAC 56 .0804
<u>Design</u>	21	NCAC 56 .1102
<u>Standard Certification Requirements</u>	21	NCAC 56 .1103
<u>Certification of Standard Design Plans</u>	21	NCAC 56 .1106
<u>Improper Practice by a Licensee</u>	21	NCAC 56 .1301
<u>Decision of Board</u>	21	NCAC 56 .1413
<u>Surveying Procedures</u>	21	NCAC 56 .1602
<u>Classification of Boundary Surveys</u>	21	NCAC 56 .1603
<u>Mapping Requirements for Boundary Surveys</u>	21	NCAC 56 .1604
<u>Specifications for Topographic and Planimetric Mapping, I...</u>	21	NCAC 56 .1606
<u>Global Positioning Systems Surveys</u>	21	NCAC 56 .1607
<u>Classification/Land Information System/Geographic Informa...</u>	21	NCAC 56 .1608
<u>Definitions</u>	21	NCAC 56 .1702
<u>Requirements</u>	21	NCAC 56 .1703
<u>Determination of Credit</u>	21	NCAC 56 .1705
<u>Recordkeeping</u>	21	NCAC 56 .1706
<u>Exemptions</u>	21	NCAC 56 .1707
<u>Comity/Out-of-Jurisdiction Resident</u>	21	NCAC 56 .1709
<u>Compliance</u>	21	NCAC 56 .1712

<u>Sponsors</u>	21	NCAC 56 .1713
 REAL ESTATE COMMISSION		
<u>Agency Agreements and Disclosure</u>	21	NCAC 58A .0104
<u>Advertising</u>	21	NCAC 58A .0105
<u>Broker-In-Charge</u>	21	NCAC 58A .0110
<u>Offers and Sales Contracts</u>	21	NCAC 58A .0112
<u>Reporting Criminal Convictions and Disciplinary Actions</u>	21	NCAC 58A .0113
<u>Residential Property Disclosure Statement</u>	21	NCAC 58A .0114
<u>Confidentiality of Examinations</u>	21	NCAC 58A .0405
<u>Business Entities</u>	21	NCAC 58A .0502
<u>Active and Inactive License Status</u>	21	NCAC 58A .0504
<u>Reinstatement of Expired License, Revoked, Surrendered or...</u>	21	NCAC 58A .0505
<u>Denial or Withdrawal of Postlicensing Education Credit</u>	21	NCAC 58A .1904
<u>School Name</u>	21	NCAC 58C .0203
<u>Course Completion Standards</u>	21	NCAC 58C .0304
<u>Course Scheduling</u>	21	NCAC 58C .0305
<u>Course Completion Reporting</u>	21	NCAC 58C .0309
<u>Notice of Scheduled Courses</u>	21	NCAC 58C .0313
<u>Distance Education Courses</u>	21	NCAC 58E .0310
<u>Student Participation Standards</u>	21	NCAC 58E .0511
<u>Basic Requirement</u>	21	NCAC 58F .0101
<u>Course Content</u>	21	NCAC 58F .0102
<u>Course Sponsors and Instructors</u>	21	NCAC 58F .0103
<u>Course Operational Requirements</u>	21	NCAC 58F .0104
<u>Course Completion Reporting and Per Student Fee</u>	21	NCAC 58F .0105
<u>Withdrawal of Sponsor and Instructor Approval</u>	21	NCAC 58F .0106
 COMMUNITY COLLEGES, BOARD OF		
<u>Intercollegiate Athletics</u>	23	NCAC 02C .0110
<u>Tuition and Fees for Curriculum Programs</u>	23	NCAC 02D .0202
<u>Operating Budget Requests: Distribution of Funds</u>	23	NCAC 02D .0301
<u>Budget FTE Funding</u>	23	NCAC 02D .0326
<u>Reporting Student Membership Hours to the Department</u>	23	NCAC 02D .0327
<u>Courses and Standards for Curriculum Programs</u>	23	NCAC 02E .0204
<u>Program Review</u>	23	NCAC 02E .0205
 STATE PERSONNEL COMMISSION		
<u>Types of Appointments and Duration</u>	25	NCAC 01I .2002
 ADMINISTRATIVE HEARINGS, OFFICE OF		
<u>Electronic Filing</u>	26	NCAC 02C .0308
<u>General</u>	26	NCAC 03 .0101
<u>Rights and Responsibilities of Parties</u>	26	NCAC 03 .0120

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

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

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

ADMINISTRATIVE LAW JUDGES

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

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL BEVERAGE CONTROL COMMISSION</u>				
Partnership T/A C Js Lounge v. ABC Commission	07 ABC 0201	Overby	03/11/08	
Michael Daniel Clair v. T/A Par 3 Bistro v. ABC Commission	07 ABC 1289	Lassiter	10/07/08	
ABC Commission v. Rainbow Enterprises, Inc T/A Club N Motion Benita, Inc., T/A Pantana Bob's v. ABC Commission	07 ABC 1532	Gray	06/20/08	23:05 NCR 489
Original Grad, Inc/ T/A Graduate Food and Pub	07 ABC 1584	Overby	04/21/08	23:01 NCR 141
N.C. Alcoholic Beverage Control Commission v. Feest Inc. T/A Spankys Sports Bar and Grill	07 ABC 1648	Joseph	02/25/08	
Don Mariachi Ventures, T/A EL Mariachi Gordo	07 ABC 2135	Gray	09/12/08	
	07 ABC 2155	Webster	11/05/08	
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa T/A JB Food Mart	08 ABC 0097	May	09/03/08	
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa T/A JB Food Mart	08 ABC 0351	May	09/03/08	
AM Enterprises of Fayetteville, Inc., T/A Izzy's Sports Bar v. ABC Commission	08 ABC 0371	Lassiter	06/13/08	
Bhavesh Corporation, T/A K&B Foomart v. ABC Commission	08 ABC 0508	Overby	05/19/08	
Downtown Event Center, Inc. T/A Downtown Event Center v. ABC Commission	08 ABC 0937	May	09/16/08	
<u>CRIME VICTIMS COMPENSATION</u>				
Patricia Ginyard v. Crime Victim Compensation Commission	06 CPS 1720	Gray	05/27/08	
Carrie R. McDougal v. Victims Compensation Services Division	07 CPS 1970	Elkins	05/23/08	
Hillary Holt v. Crime Victims Compensation Commission	07 CPS 2292	Brooks	09/18/08	
Taereka S Johnson v. NC Crime Victims Compensation Commission	08 CPS 0402	Morrison	08/08/08	
Rich's Towing and Service Inc. v. NC Department of Crime Control And Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 0698	May	08/13/08	
Steel Supply and Erection Co., Department of Crime Control and Public Safety, Division of State Highway Patrol and Department of Revenue	08 CPS 0777	Overby	05/29/08	
ATS Specialized, Inc, v. Dept. of Crime Control and Public Safety, Div. Of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 0864	May	09/11/08	
Willie Trucking, Inc d/b/a Allstate Transport Co v. Dept. of Crime Control & Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 0897	May	09/11/08	
Randy S. Griffin v. NC Crime Victims Compensation Commission	08 CPS 0995	May	09/11/08	
Kenneth Lee Moore v. Dept. of Crime Control and Public Safety	08 CPS 1093	Webster	10/27/08	
Interstate Crushing Inc. v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier	08 CPS 1086	Overby	09/29/08	

CONTESTED CASE DECISIONS

Enforcement Section			
Sterett Equipment Company LLC v. N.C. Dept. of Crime Control And Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1206	Overby	09/29/08
Bertrand E. Dupuis d/b/a New England Heavy Hauling v. N.C. Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1207	Overby	09/29/08
Bulldog Erectors, Inc v. N.C. Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1208	Overby	09/29/08
Continental Machinery Movers Inc. v. N.C. Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1209	Overby	09/29/08
Michael Alan Moore v. Crime Victims Compensation Commission	08 CPS 1478	Lassiter	09/08/08
TNT of York County, Inc., Tony McMillan v. State Highway Patrol Motor Carrier Enforcement	08 CPS 1508	Joseph	12/11/08
SOOF Trucking, Ray Charles Solomon v. Secretary of Crime Control And Public Safety	08 CPS 1526	Overby	09/09/08
Dickinson Hauling and Grading., Inc, Tony E. Dickinson, 3134016-9 v. Dept. of Crime Control and Public Safety, Division of State Highway Patrol	08 CPS 1800	Brooks	12/15/08
Dickinson Hauling and Grading., Inc, Tony E. Dickinson, 3134016-9 v. Dept. of Crime Control and Public Safety, Division of State Highway Patrol	08 CPS 1801	Brooks	12/15/08
Dickinson Hauling and Grading., Inc, Tony E. Dickinson, 3134016-9 v. Dept. of Crime Control and Public Safety, Division of State Highway Patrol	08 CPS 1802	Brooks	12/15/08
Kayonna Goodwin Pollard c/o Chad Lopez Pollard v. Crime Control & Victim Compensation Services	08 CPS 1850	Gray	10/24/08
John D. Lane v. Diversified Drilling Corp v. Office of Admin Svc, Sec. of Crime Control and Public Safety	08 CPS 2049	Joseph	11/06/08
Richard Pratt v. Dept. of Crime Control and Public Safety	08 CPS 2417	Lassiter	01/15/08
Robert D. Reinhold v. Dept. of Transportation, Division of Motor Vehicles	08 CPS 2501	Gray	12/10/08

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Gloria McNair Jean's Jewels v. Div. of Child Development, DHHS	06 DHR 0633	Lassiter	07/11/08
Gloria McNair Jean's Jewels v. Div. of Child Development, DHHS	06 DHR 1350	Lassiter	07/11/08
Character Builders, Inc., Clavon Leonard v. DMA, Developmental Disabilities and Substance Abuse Services	07 DHR 0124	Elkins	08/07/08
Character Builders, Inc., Clavon Leonard v. DMA, Developmental Disabilities and Substance Abuse Services	07 DHR 0125	Elkins	08/07/08
Arthur Burch and Margaret and Burch v. Department of Health and Human Services	07 DHR 0242	Brooks	04/30/08
The "M" Company LLC, v. DHHS, DMA, Program Integrity	07 DHR 0429	Webster	05/29/08
Brenda F. Ervin v. DHHS, DFS, Health Care Personnel Registry	07 DHR 0493	Gray	12/08/08
Judy E. Pettus v. Office of Chief Medical Examiner, Thomas B. Clark, Iii, Md, Pathologist	07 DHR 0535	Webster	05/05/08
Clorie Bivens Owen on Behalf of Williams Baxter Bivens – Estate of Leroy A. Bivens v. DHHS	07 DHR 0701	Elkins	12/08/08
Alterra Clare Bridge of Asheville v. DHHS, DFS, Adult Care Licensure Section	07 DHR 0914	Gray	06/06/08
Shirley Brooks Dial v. Health Care Personnel Registry	07 DHR 0931	Webster	02/27/08
Midtown Food Mart #2, Kerab Giebrehiwot, Mehreteab Wooldegehibel and Fesseha Zeru	07 DHR 1044	Webster	04/25/08
Midtown Food Mart III, Chenet Hailesslassi and Fesseha Zeru v. DHHS	07 DHR 1045	Webster	04/28/08
Kelly Schofield MD, Clinical Director, Youth Quest, Inc. v. DHHS, DFS Mental Health Licensure and Certification	07 DHR 1064	Joseph	10/17/08
Carolyn E. Reed v. DHHS, Division of Social Services Program Integrity AFDC/Work First	07 DHR 1214	Webster	07/21/08
Mrs. Elizabeth Futrell v. Value Options	07 DHR 1331	Lassiter	06/09/08
Cornell Jones v. DHHS, Division of Health Services Regulation	07 DHR 1399	Joseph	04/22/08
Dianetta Foye v. Division of Child Development, DHHS, Services	07 DHR 1440	Joseph	05/07/08
Rufus Patrick Devers v. DHHS, Division of Health Service Regulation Health Care Personnel Registry	07 DHR 1442	Joseph	05/29/08
Ray Dukes, Bright Future Learning Center v. DHHS, Division of Public Health, Child and Adult Care Food Program	07 DHR 1473	Joseph	04/08/08
William Manning c/o Thyllis Smith, A Touch From the Heart Staff v.	07 DHR 1060	Webster	10/14/08

CONTESTED CASE DECISIONS

NC Department of Health and Human Services, Division of Medical Assistance			
Hospice of the Piedmont, Inc., v. DHHS, Division of Health Service Regulation, Licensure and Certification Section and DHHS, Division of Health Service Regulation, CON Section	07 DHR 1617	Elkins	05/21/08
Janice Addison v. Value Options	07 DHR 1618	Webster	05/16/08
Donna Hicks Crocker v. DHHS/DMA	07 DHR 1629	Joseph	08/01/08
Rebecca Dehart v. DHHS, Division of Health Service Regulation Health Care Personnel Registry Section	07 DHR 1650	Elkins	05/21/08
Ellen Brown v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	07 DHR 1651	Elkins	05/21/08
Beth Suzanne Garson v. DHHS, Division of Social Services, Regulatory and Licensing Services	07 DHR 1718	Joseph	01/09/09
Life Solutions of Lumberton, NC, LLC d/b/a Timberwood and Bridgecrest	07 DHR 1758	Joseph	12/04/08
Life Solutions of Lumberton, NC, LLC d/b/a Timberwood and Bridgecrest	07 DHR 1759	Joseph	12/04/08
Joann Lennon v. Value Options Medicaid	07 DHR 1770	Webster	05/16/08
Angeline Currie v. DHHS	07 DHR 1986	Elkins	06/04/08
Tameala Jones v. OAH	07 DHR 1993	Webster	05/16/08
Dianetta Foye v. Division of Child Development, DHHS, Services	07 DHR 2020	Joseph	05/07/08
Lashauna Reid v. CCMHC (PFCS-Service Provider)	07 DHR 2039	Elkins	08/05/08
Presbyterian Diagnostic Center at Cabarrus LLC v. N.C. Department of Health and Human Services, Division of Health Service Regulation and Southern Piedmont Imaging, LLC	07 DHR 2043	Lassiter	08/18/08
			23:16 NCR 1600
Southern Piedmont Imaging, LLC v. N.C. Department of Health and Human Services, Division of Health Service Regulation and Presbyterian Diagnostic Center at Cabarrus, LLC	07 DHR 2045	Lassiter	08/18/08
			23:16 NCR 1600
Family & Youth Services, Inc. Angela Ford, President v. DHHS, Division of Medical Assistance Provider Services	07 DHR 2057	Webster	05/16/08
Yolanda Jones v. DHHS, Adult Licensure Section	07 DHR 2081	Webster	05/16/08
Tianna Troy Legal guardian Mother Traci Lookadoo v. Value Option	07 DHR 2087	Elkins	05/23/08
Gary Carlton, Sr., v. DHHS	07 DHR 2099	Brooks	07/10/08
Alexis Ford/Linda M McLaughlin v. DHHS	07 DHR 2111	Elkins	06/04/08
Roger Houston v. DHHS, Div. of Health Service Regulation	07 DHR 2176	Gray	07/08/08
Dorothy L. Davis v. OAH	07 DHR 2179	May	07/02/08
McLeod Addictive Disease Center, Inc v. Div. of Health Service Regulation	07 DHR 2202	Brooks	12/11/08
Kevin McMillian/Linda M McLaughlin v. DHHS	07 DHR 2239	Elkins	06/04/08
Maurisha Bethea/Linda McLaughlin v. DHHS	07 DHR 2240	Elkins	06/04/08
Manu Gaur v. DHHS	07 DHR 2275	Lassiter	10/01/08
			23:16 NCR 1654
Gladys Cherry v. NC Department of Health and Human Services	07 DHR 2288	Webster	10/10/08
Double Oaks Nursery, Inc., and T. Timothy Turner as Board Chairman v. DHHS, Div. of Public Health, Child and Adult Care Food Program	07 DHR 2323	Joseph	01/08/09
Anna Fields v. Value Options	07 DHR 2326	Joseph	06/02/08
Larry Hopper v. DHHS	07 DHR 2356	May	06/20/08
Shelby Davis v. DHHS	08 DHR 0014	Lassiter	05/09/08
Hellon P. Johnson v. DHHS	08 DHR 0020	May	07/03/08
Lenora King v. DHHS	08 DHR 0034	Joseph	05/01/08
Forest Mewborn v. Health Care Personnel Registry	08 DHR 0043	Elkins	05/23/08
Wilma Jackson v. Value Options	08 DHR 0082	Joseph	06/02/08
Carmelita Wiggins v. Value Options	08 DHR 0198	Webster	05/16/08
Blue Ridge Healthcare Surgery Center, Morganton LLC and Grace Hospital, Inc. v. DHHS, DHR, CON Section v. Dr. Mushtaq Bukhari, Dr. Edwin Holler, Dr. Suneel Mohammed, Carolina Digestive Care, PLLC, and Gastroenterology Specialists	08 DHR 0204	Brooks	09/18/08
Murphy's Outreach Community Developmental Services, Inc, d/b/a Outreach Home Health	08 DHR 0220	Joseph	07/22/08
Lisa Helms v. DHHS	08 DHR 0255	Overby	06/17/08
Pearlene Johnson Ivery v. DMA, Third Party Recovery (Medicaid)	08 DHR 0286	Brooks	07/07/08
Darryl A. Edwards v. DHHS	08 DHR 0320	Gray	11/05/08
Mamaue Aytch v. DHHS	08 DHR 0325	Elkins	05/23/08
Brenda McGilvary v. DHHS, Division of Social Services	08 DHR 0384	Webster	08/05/08
Fannie M. Wilson v. OAH	08 DHR 0393	Webster	06/17/08
Angela D Seabrooks/The Jabez House LLC v. DHHS/Division of Mental Health, Developmental and Substance Abuse Services, The Guilford	08 DHR 0403	Joseph	06/09/08
Angela D. Seabrooks/The Jabez House LLC v. NC Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services and The Guilford Center Center	08 DHR 0403	Joseph	09/03/08
William McCray Pretty v. DHHS, Division of Facility Services	08 DHR 0411	Webster	06/12/08
Focus Health Services, Inc. via Annette Johnson, Owner Operator v.	08 DHR 0442	Gray	06/12/08

CONTESTED CASE DECISIONS

North Carolina Department of Health and Human Services and Albemarle Mental Health Center for Developmental Disabilities and Substance Abuse Services				
Judith E. Torres v. DHHS, DHSR	08 DHR 0488	Morrison	10/07/08	
Philson's Home Health Care Inc., v. DHHS, Div. of Health Service Regulation, CON Section	08 DHR 0540	May	10/28/08	
Earline Ross (Quentin Galloway) v. DHHS (Medicaid)	08 DHR 0549	May	06/09/08	
Frances Milligan v. DHHS	08 DHR 0566	May	06/19/08	
Betty Williams v. DHHS	08 DHR 0570	Joseph	06/02/08	
Brandon McMahan v. DHHS	08 DHR 0572	Webster	11/14/08	
Susan Nelson v. Medicaid	08 DHR 0573	May	06/09/08	
Brent Morris Per Dedrea Moors (Mother) v. Priscilla Valet, DMA	08 DHR 0585	May	06/09/08	
Brenda M. Finney v. Medicaid	08 DHR 0586	Joseph	06/09/08	
Allred & Allred Day Care Center, Inc. v. N.C. Department of Health and Human Services, Division of Public Health, Child And Adult Care Food Program	08 DHR 0617	May	06/04/08	
Lakeva Robinson v. DMA/Value Options	08 DHR 0625	May	05/28/08	
Ronald Lee Young v. N.C. Department of Health and Human Services	08 DHR 0631	Joseph	07/21/08	
Steven Chestnut v. DHHS, Health Care Personnel Registry	08 DHR 0652	May	11/19/08	
Tina Miller v. OAH, DHHS	08 DHR 0661	Lassiter	06/10/08	
Doris Harris v. Division of Child Development	08 DHR 0710	May	07/02/08	
Michelle D. Mills v. DHHS, Division of Health Service Regulation	08 DHR 0712	Joseph	06/09/08	
Trena Ellis v. DHHS	08 DHR 0730	Lassiter	07/03/08	
Faith Davis v. Pride in North Carolina Value Options	08 DHR 0746	Overby	05/28/08	
Evonne Neal v. Medicaid	08 DHR 0748	May	06/20/08	
Maria Dejesus Ruiz La Vaca Ramona v. N.C. Department of Health and Human Services	08 DHR 0760	Overby	07/24/08	
Ray C. Price v. DHHS, Office of the Controller	08 DHR 0767	Brooks	07/07/08	
Miland Hanna, Lamia Hanna and Charlotte Fast Mart, v. DHHS Div. of Public Health	08 DHR 0778	Brooks	08/28/08	
Cheryl I Rice v. DHHS	08 DHR 0793	Overby	07/10/08	
Destiny A Taylor v. Division of Child Development	08 DHR 0794	Gray	07/21/08	
Shawanda Rayner v. Cherry Hospital	08 DHR 0797	Webster	10/10/08	
Mary Ada Mills, Mary M. Mills MSA FCH v. Adult Care Licensure	08 DHR 0808	May	08/26/08	
Total Renal Care of North Carolina, LLC d/b/a TRC-Lelan v. DHHS Div. of Health Service Center Regulation, CON Section and Bio- Medical Applications of NC, Inc. d/b/a Fresenius Medical Care Of Brunswick County	08 DHR 0818	Webster	12/23/08	23:16 NCR 1670
Lula Bowden v. OAH	08 DHR 0852	May	06/20/08	
Karen Denise McGinnis v. HHS, Div. of Health Service Regulation	08 DHR 0867	Brooks	01/12/09	
Donovan Harris v. Value Options	08 DHR 0894	May	06/19/08	
Gabrielle Lloyd v. DHHS, Division of Health Service Regulation	08 DHR 0905	May	09/22/08	
Janice Chavis v. DHHS	08 DHR 0923	Lassiter	05/19/08	
Frankie Nicole Carter v. DHHS, Division of Health Service Regulation	08 DHR 0929	Brooks	06/19/08	
Christine Maria Plyer v. Medicaid Reimbursement	08 DHR 0949	Mann	06/18/08	
Margaret Mubanga v. NC Department of Health and Human Services	08 DHR 0961	Gray	08/25/08	
Evangeline Ingram v. Value Options	08 DHR 0997	Gray	06/10/08	
Marcia Veronica Harris v. Department of Health and Human Services, Division of Health Service Regulation	08 DHR 0169	Lassiter	08/11/08	
Maureen Jordan parent of Destinie Jordan v. Value Options	08 DHR 1005	Gray	06/19/08	
Triangle Alternative Inc. Dorothy George v. Office of Administrative Hearings	08 DHR 1012	May	07/21/08	
Terrie P Hill dba Positive Care MHL 041-595 2203 Wanda Drive v. N.C. Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1015	Lassiter	09/12/08	
Terrie P Hill dba Positive Care II MHL 041-633 3406 Fern Place v. NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1016	Lassiter	09/12/08	
Terrie P Hill dba Positive Care II MHL 041-765 3406 Fern Place v. NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1017	Lassiter	09/12/08	
Mario Jackson v. DHHS	08 DHR 1024	Overby	06/19/08	
Adam L Powell v. NC Department of Health and Human Services	08 DHR 1030	Lassiter	09/05/08	
Edwin F Clavijo, El Exito v. NC Department of Health and Human Services, Division of Public Health, Nutrition Services Branch	08 DHR 1034	Lassiter	09/15/08	
Linda F. Ellison v. NC Department of Health and Human Services and or EDS	08 DHR 1035	Joseph	07/09/08	
Doris Smith v. Health Care Personnel Registry	08 DHR 1238	Brooks	08/08/08	
Latrish T. Perry v. Department of Health and Human Services	08 DHR 1023	Webster	08/29/08	
Martha Washington Harper v. DSS	08 DHR 1041	Brooks	06/23/08	

CONTESTED CASE DECISIONS

Martha McDonald v. DHHS, Div. of Health Service Regulation, Health Care Personnel Registry	08 DHR 1052	May	12/04/08
Mary K. Tulay v. DHHS	08 DHR 1055	Joseph	07/09/08
Gwendolyn F. Gulley v. NC Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section	08 DHR 1062	Overby	09/09/08
Rhonda Jones v. Value Options	08 DHR 1064	Webster	07/18/08
One Love Developmental Services v. Division of Health Service Regulation, Department of Health and Human Services	08 DHR 1068	Lassiter	07/25/08
Jona Turner v. Office of Administrative Hearings	08 DHR 1092	Webster	07/18/08
Tonia Chatman Davis v. N.C. Department of Health and Human Services	08 DHR 1141	Lassiter	07/28/08
Lorena Ivy Gates v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	08 DHR 1160	Joseph	01/06/09
Mary M. Branch v. North Carolina Dept of Health and Human Services, Value Options	08 DHR 1174	Elkins	08/11/08
Haywood Miller, Bobby Jean Graves Miller v. DHHS, Mental Health Licensure Certification Section	08 DHR 1181	Overby	07/01/08
Donna Armstrong v. DHHS	08 DHR 1185	Brooks	12/02/08
Jan Williams v. Value Options, DHHS	08 DHR 1231	Overby	07/09/08
Heather Peete v. OAH	08 DHR 1281	Lassiter	07/02/08
Ann Moody v. DHHS	08 DHR 1299	Webster	07/18/08
Khahada Kirby v. Value Options	08 DHR 1310	Webster	07/18/08
Eastern Carolina Internal Medicine, P.A. v. DHHS, Division of Health Services, Division of Health Service Regulation, CON Section	08 DHR 1320	Webster	02/13/09
Amir Abusamak v. N.C. Department of Health and Human Services	08 DHR 1325	Gray	07/16/08
Big Z Supermarket, Abdul Hamdan v. Cory Menees, NC Dept. of Health and Human Services	08 DHR 1343	Overby	08/27/08
Alesia Alwahishi dba Brotherhood Market	08 DHR 1356	Gray	07/22/08
Nigel Brown v. Value Options	08 DHR 1358	Gray	08/29/08
Beverly Darlene Christian v. DHHS Hearing Office	08 DHR 1422	Elkins	11/24/08
Meres El Bey v. DHHS	08 DHR 1453	Joseph	11/06/08
Forever Young Group Care LLC T/A FY Inc v. DHHS, Div. of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1455	Lassiter	01/16/09
Supported Living Youth Service, Kirk Hillian v. Div. of Health Service Regulation	08 DHR 1456	Joseph	10/22/08
Michael Grondahl v. DHHS	08 DHR 1491	Gray	08/01/08
Tyechia Jones v. Value Options/DHHS	08 DHR 1492	Mann	09/18/08
Kelly A Schofield MD – Clinical Director Youth Quest Inc. v. N.C. Department of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1505	Lassiter	09/08/08
Holly Martin Ph.D, Div. of Medical Assistance of DHHS	08 DHR 1534	Webster	01/06/09
Edward Kenneth Smith v. NC Department of Health and Human Services, Division of Health Service Regulation	08 DHR 1537	Lassiter	09/16/08
Brian C. Hargrove v. DHHS	08 DHR 1556	Webster	01/07/09
Elsie Mae Joiner v. Health Care Registry DHHS	08 DHR 1560	Lassiter	09/11/08
Margaret Brack for Elgin Brack v. Value Options Emery Milliken DHHS	08 DHR 1576	Lassiter	08/27/08
Evans Momanyi Mose v. DHHS, Division of Health Service Regulation	08 DHR 1591	Webster	10/01/08
Draughton's Supermarket, Betty Draughton v. Cumberland County Health Dept. WIC Office	08 DHR 1592	Gray	08/25/08
Brittany Brown v. Value Options	08 DHR 1599	Webster	10/10/08
Evangeline Ingram v. Value Options	08 DHR 1618	Joseph	12/05/08
Tyvonne Sheri Glenn v. Value Options	08 DHR 1628	May	09/19/08
Robert Anthony Glenn, Sr., v. EDS, SMA, DHHS, Medicaid	08 DHR 1630	Brooks	10/20/08
Thomas Woodberry v. DHHS	08 DHR 1634	Elkins	01/29/09
Levi Ruddy/Linda McLaughlin v. DHHS	08 DHR 1651	Elkins	01/14/09
Longview Childrens Day School v. Div. of Child Development	08 DHR 1676	Webster	01/06/09
Judy Grissett v. OAH, DHHS	08 DHR 1678	Webster	11/19/08
Tyrese Rogers/Linda McLaughlin v. DHHS	08 DHR 1685	Elkins	01/14/09
Shavon Maynor/Linda McLaughlin v. DHHS	08 DHR 1688	Elkins	01/14/09
William Scott Davis, Jr v. DHHS, Child Protective Services	08 DHR 1691	Webster	12/15/08
Donna Locklear v. Value Options	08 DHR 1695	Webster	11/19/08
Amanda Hennes v. N.C. Department of Health and Human Services	08 DHR 1696	Gray	09/22/08
Alexis Faulk v. DMA/Value Options	08 DHR 1701	Elkins	11/14/08
Bobbie L Cribb v. Office of Administrative Hearings	08 DHR 1714	Gray	09/08/08
Irene McLendon/Mikala McLendon v. Value Options	08 DHR 1722	Webster	10/01/08
Keyanna Byrd v. DHHS	08 DHR 1751	Webster	10/01/08
Janelle Gatewood v. Value Options	08 DHR 1763	Webster	10/10/08
Mr. and Mrs. Gregory and Martha Glenn v. HHS	08 DHR 1787	Brooks	10/27/08
Pamela Lynn Downey v. DHHS, Div. of Medical Assistance	08 DHR 1793	Gray	01/26/09
Roxanne Haughton v. Value Options/DMA	08 DHR 1799	Elkins	10/14/08
Rainbow Academy, Dorothy Johnson v. Div. of Child Development	08 DHR 1838	Brooks	11/03/08

CONTESTED CASE DECISIONS

DHHS			
Joshua Dmae Thompson (Consumer) Sebrena Yvett Thompson (Mother) v. Department of Mental Health	08 DHR 1844	Webster	10/01/08
Christie Moriea Turner v. CMC Carolines Medical Center Mental Health	08 DHR 1848	Gray	10/27/08
Sativa Shalunda Brown v. DHHS, Div. of Health Service Regulation	08 DHR 1869	Gray	12/31/08
JE Cameron DDS & Associates v. DHHS, DMA	08 DHR 1885	Gray	10/27/08
Wendy McMillian v. DHHS	08 DHR 1887	Elkins	11/05/08
Penny A. Golden v. Medicaid	08 DHR 1890	May	11/05/08
Keystone Charlotte, LLC d/b/a The Keys of Carolina (Administrative Penalty) v. DHHS, Div. of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1913 08 DHR 1914	Joseph Joseph	11/17/08 11/17/08
Karen D. Barwick DDS PA v. EDS/DHHS	08 DHR 1923	Joseph	10/27/08
Dorothy Graham v. DHHS, Div. of Public Health, Nutrition Services Branch, Child and Adult Care Food Program	08 DHR 1960	Gray	01/07/09
County of Guilford v. DHHS	08 DHR 1965	May	01/15/09
Dyquay Morris v. Value Options	08 DHR 1967	Mann	10/24/08
Chanda Stokely v. DHHS	08 DHR 2002	Brooks	12/09/08
Wanda Hager v. Value Options	08 DHR 2008	Joseph	10/27/08
Austin Cummings v. Value Options	08 DHR 2011	Joseph	01/08/09
Keith Floyd, Rosa Agyemang v. DHHS, Div. of Health Service Regulation Mental Health Licensure and Certification Section, Merita Hall	08 DHR 2032	Brooks	11/06/08
Kimberly Marie Condroski v. DHHS, Div. of Health Service Regulation	08 DHR 2045	Brooks	11/06/08
Carrie E. Crosson and Leroy J. Crosson v. Vance County Dept. of Social Services	08 DHR 2048	Joseph	10/28/08
Elizabeth Elaine Croker v. DHHS, Div. of Health Service Regulation	08 DHR 2050	Webster	12/23/09
Stephanie Craven v. Health Care Registry	08 DHR 2051	Joseph	11/25/08
Marsha Hester v. Health Care Personnel Registry	08 DHR 2056	Gray	02/11/09
Dejuan Martell Willis v. DHHS, Div. of Health Service Regulation	08 DHR 2074	Joseph	01/06/09
David Haqq v. DHHS	08 DHR 2076	Gray	11/07/08
Shane Howell v. Value Options	08 DHR 2077	Joseph	11/05/08
Towanna Yvette Patterson v. DHHS, Div. of Health Service Regulation	08 DHR 2104	Brooks	12/17/08
Forever Young Group Care LLC T/A FY Inc v. DHHS, Div. of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 2159	Lassiter	01/16/09
Shirley Hawls v. DHHS	08 DHR 2225	Joseph	01/08/09
Bennett Short v. Medicaid	08 DHR 2226	Mann	12/18/08
ReNu Life Extended, Diane Harrison CEO, v. Div. of Health Service Regulation, Licensure Division, Barbara Ryan, Chief	08 DHR 2256	Gray	02/03/09
Naomi J. Silver v. DHHS	08 DHR 2257	Gray	01/22/09
Pearline H. White v. DHHS	08 DHR 2263	Mann	01/15/09
Cynthia McMillian v. Div. of Child Development	08 DHR 2273	Overby	01/23/09
Zarie D. Wooten v. DHHS, Division of Child Development	08 DHR 2294	May	02/13/09
David McBrayer v. Value Options	08 DHR 2303	Brooks	12/01/08
Diane Harrison, ReNu Life Extended, Inc., v. Adult Care Section, Div. of Health Service Regulation	08 DHR 2304	Gray	02/03/09
Family Network Services, Inc., Ron Blake, Altrice Gales	08 DHR 2311	Joseph	12/01/08
Laverne Jones, Jeffrey's Rest Home v. DHHS	08 DHR 2343	Webster	02/23/09
Sabrina Brower v. Value Options/DHHS	08 DHR 2373	Mann	01/13/09
Emmanuel House, Erthel J. Anderson v. DHHS, Div. of Medical Asst.	08 DHR 2382	Gray	12/10/08
William P. Miller, Chapter 11 Trustee for Debtor Faiger M. Blackwell (Dogwood Forest) v. DHHS, Div. of Health Service Regulation Adult Care Licensure Section	08 DHR 2388	Gray	11/06/08
Alexandria Adelaide, dba Pine Forrest Home v. DHHS, DFS – Adult Care Licensure Section	08 DHR 2408	Webster	12/11/08
Grace K. Thomas v. DHHS	08 DHR 2450	Gray	02/17/09
Donna C. Hilemon v. Dept. of Social Services, OAH Clerks – Kim Hausen	08 DHR 2456	Brooks	02/02/09
James Pardue President and CEO Ralph Scott Lifeservice, Inc v. DHHS	08 DHR 2567	Gray	12/11/08
Debra Bolton Stamatakis DDS PA, DR. Stamatakis & Nick Stamatakis v. DHHS, Emery Milliken	08 DHR 2580	Gray	02/23/09
Regina McCall QP, Turning Pointe Group Home Inc. v. OAH, Mental Health Licensure & Certification Section	08 DHR 2703	Overby	01/30/09
Victoria J. Deranamie v. DHHS, Div. of Health Service Regulation	08 DHR 3048	May	02/23/09
Ikwuoma A. Mbonu v. DHHS, Health Care Personnel Registry	09 DHR 0447	Lassiter	02/19/09

DEPARTMENT OF CORRECTION

Robert Allen Sartori v. DOC	08 DOC 2651	Gray	12/16/08
Robert Allen Sartori v. DOC	08 DOC 2977	Gray	01/14/09

DEPARTMENT OF JUSTICE

Jamu Kimyakk Sanders v. N.C. Criminal Justice Education And Training Standards Commission	06 DOJ 1741	May	08/29/08
---	-------------	-----	----------

CONTESTED CASE DECISIONS

Dallas Ray Joyner v. Criminal Justice Education and Training Standards Commission	07 DOJ 0719	Overby	04/15/08
Richard Junior Hopper v. Private Protective Services Board	07 DOJ 1071	Webster	02/21/08
Sheldon Avery McCoy v. Criminal Justice Education and Training Standards Commission	07 DOJ 1162	Mann	04/07/08
David Steven Norris v. Private Protective Services Board	07 DOJ 1256	Elkins	04/16/08
Scott McLean Harrison v. North Carolina Criminal Justice Education And Training Standards Commission	07 DOJ 1330	Webster	06/24/08
Brian Campbell v. Department of Justice, Company Police Program	07 DOJ 1344	Webster	02/25/08
John Mark Goodin v. Alarm Systems Licensing Board	07 DOJ 1405	Lassiter	04/04/08
James Lee Rodenberg v. Depart. of Justice, Company Police Program	07 DOJ 1434	Webster	02/25/08
Michael L. Scriven v. Private Protective Services Board	07 DOJ 1483	Elkins	03/25/08
Lamuel Tommy Anderson v. North Carolina Department of Justice Campus Police Program	07 DOJ 1500	Joseph	06/03/08
Roger Wayne Mungo, Jr., Sheriffs' Education and Training Standards Commission	07 DOJ 1510	Overby	05/19/08
Steven L. Haire v. North Carolina Department of Justice, Campus Police Program	07 DOJ 1558	Joseph	05/22/08
Timothy Daniel McFalls v. N.C. Criminal Justice Education and Training Standards Commission	07 DOJ 1712	May	09/03/08
Iris Nina Bumpass v. Criminal Justice Education and Training Standards Commission	07 DOJ 2071	Webster	05/16/08
Michael Gerald Copeland v. Private Protective Services Board	07 DOJ 2286	Gray	07/17/08
Leigh Ann Branch v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0177	Gray	06/23/08
Jimmy Dean Poston v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0179	Webster	08/28/08
Katheryn Renee Johnson v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 0180	Brooks	06/18/08
Gerald Boyce Bond, Jr. v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0181	Gray	07/14/08
Lamar Krider v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0183	Gray	06/20/08
John Edward Isaacks, Jr. v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 0184	May	06/18/08
Anthony Ray Haynie v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0207	Brooks	08/06/08
Joseph Shane Johnston v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0209	Lassiter	10/07/08
Patrick Edsel Cashwell v. Criminal Justice Education and Training Standards Commission	08 DOJ 0498	Webster	10/01/08
Anthony Ray Haynie v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0532	Brooks	08/06/08
Jonathan R. Elam v. Private Protective Services Board	08 DOJ 0568	Webster	05/08/08
Wilford Odell Hamlin v. Private Protective Services Board	08 DOJ 0713	Joseph	05/01/08
Stephen Joseph Ciliberti v. N.C. Private Protective Services Board	08 DOJ 0858	Gray	07/15/08
Lawrence William Sitgraves v. Sheriffs' Education and Training Standards Commission	08 DOJ 1036	May	09/16/08
Deborah Moore Anderson v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 1038	Brooks	05/28/08
Faneal Godbold v. Criminal Justice Education and Training Standards Commission	08 DOJ 1077	Gray	12/12/08
Dustin Elvin Campbell v. Criminal Justice Education and Training Standards Commission	08 DOJ 1078	Lassiter	07/14/08
Cynthia Kay Saintsing v. Criminal Justice Education and Training Standards Commission	08 DOJ 1079	Lassiter	07/14/08
Timothy C. Darrh v. DHHS/Value Options	07 DOJ 1239	Overby	07/07/08
David Alan Moore v. North Carolina Private Protective Services Board	08 DOJ 1264	Morrison	07/21/08
Gregory Alan Hooks v. NC Alarm Systems Licensing Board	08 DOJ 1265	Morrison	07/10/08
Kimberly Blue Cameron v. Sheriffs' Education and Training Standards Commission	08 DOJ 1269	Overby	10/13/08
Jesse Adam Salmon v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 1270	Overby	09/15/08
Tina Ann Ward v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 1273	Gray	08/29/08
P.J. Shelton v. NC Sheriffs' Education and Training Standards Commission	08 DOJ 1274	Brooks	10/10/08
Stephen Matthew Crotts v. Sheriffs' Education and Training Standards Commission	08 DOJ 1275	Brooks	10/27/08
Danny Dwight Jordan v. Private Protective Services Board	08 DOJ 1594	Overby	10/14/08
Reshella Moore v. Sherriffs' Education and Training Standards Comm.	08 DOJ 1846	Joseph	09/25/08
Jamaal Ahkiem Gittens v. Private Protective Services Board	08 DOJ 1867	May	10/08/08

CONTESTED CASE DECISIONS

Ryan Ginn v. Criminal Justice Education and Training Standards Commission	08 DOJ 1927	Gray	11/12/08	
Matthew William MacDonald v. Criminal Justice Education and Training Standards Commission	08 DOJ 2033	Brooks	12/01/08	
Ronald Lewis Leak v. Private Protective Services Board	08 DOJ 2080	Overby	10/14/08	
Penny Thomas Schronce v. Sheriffs' Education and Training Standards Commission	08 DOJ 2109	Brooks	12/01/08	
Dwight Wendell Parker v. Criminal Justice Education and Training Standards Commission	08 DOJ 2110	Gray	10/27/08	
Aaron McDowell v. Company Police Program	08 DOJ 2176	Brooks	01/05/09	
Richard Bryant Honeycutt v. Criminal Justice Education and Training Standards Commission	08 DOJ 2209	May	12/31/08	
James Percy Stancil III v. Sheriffs' Education and Training Standards Commission	08 DOJ 2489	Joseph	12/31/08	
David L. Walser v. Private Protective Services Board	08 DOJ 2561	Webster	01/06/09	
<u>DEPARTMENT OF LABOR</u>				
Sandra Leroux, Leroux Entertainment Corporation d/b/a Spectacular Events! V. DOL	08 DOL 0754	May	07/08/08	
<u>DEPARTMENT OF TRANSPORTATION</u>				
Kevin Douglas v. Dept. of Justice Criminal Justice Standards, DMV License and Theft, Holly Springs Police Department	07 DOT 2221	Webster	05/12/08	
Terry J. Kyte, Pres. Kyte Construction v. DMV	08 DOT 1517	Elkins	12/03/08	
Benjamin Cartwright Simmons III, Citation #3131650-8 v. DMV	08 DOT 1774	Lassiter	11/03/08	
<u>DEPARTMENT OF STATE TREASURER</u>				
Robert A. Gabriel Sr. v. DST	05 DST 0586	Gray	12/31/08	23:16 NCR 1695
Trevor Allan Hampton v. N.C. State Retirement Systems	07 DST 1493	Overby	09/08/08	
Patricia V. Leonard v. State Treasurer/Retirement Systems Division	07 DST 1928	Lassiter	03/12/08	
William S. Greene v. DST, Retirement Systems Division	08 DST 0235	Gray	07/16/08	23:05 NCR 524
Jerry Alan Reese v. DST, State and Local Finance Division and the Local Government Commission	08 DST 0256	Morrison	07/25/08	
Charles C. Williams, Sr., v. Dept. of Treasurer	08 DST 0736	Elkins	10/27/08	
<u>ETHICS COMMISSION</u>				
Earnest Waters v. State Ethics Commission	08 EBD 2375	Gray	02/13/09	
<u>EDUCATION, STATE BOARD OF</u>				
Stephen Miller Gibson v. DPI	07 EDC 0121	May	09/17/08	
Bradford Dale Gullely v. Depart. of Education Attorney Generals Office	07 EDC 1486	Webster	05/16/08	
Lucretia Burrus v. State Board of Education	07 EDC 2210	Webster	05/16/08	
Gregory Bates v. DPI, Licensure Section	07 EDC 2238	Gray	04/30/08	
Heather S. Brame v. State Board of Education	07 EDC 2287	Joseph	05/07/08	
Nancy L. Ashburn v. NC Department of Public Instruction	07 EDC 2357	Brooks	08/19/08	
Sandra Chesser v. State Board of Education	08 EDC 0022	May	04/30/08	
Terry L Moore v. N.C. Department of Public Instruction	08 EDC 0386	Morrison	07/22/08	
Len Stevenson Smith v. North Carolina Department of Public Instruction	08 EDC 0215	May	08/26/08	
Hubert Thomas Byrum v. Office of State Superintendent	08 EDC 0619	Gray	06/04/08	
David Lynn Cox v. Dept. of Public Instruction	08 EDC 0824	Webster	11/03/08	
Gary Alan Cooper v. N.C. State Board of Education	08 EDC 0920	Gray	08/01/08	
Beulah Sowell Bolton v. DPI	08 EDC 1004	Overby	10/28/08	
Selena Blad v. NC Board of Education	08 EDC 1316	Brooks	09/17/08	
Ceretha Sherrill v. State Superintendent's Ethics Committee	08 EDC 2073	Brooks	11/05/08	
Elizabeth Ann Flow v. DPI	08 EDC 2241	Brooks	12/11/08	
Robin M C Perlman v. State Board of Education	08 EDC 2316	May	02/13/09	
<u>DEPT. OF ENVIRONMENT AND NATURAL RESOURCES</u>				
Freedman Farms v. DENR, Div. of Water Quality	05 EHR 0905	Overby	10/23/08	
Anderson Sand & Grave; LLC, Gerald L. Anderson LLC, and Gerald Anderson	05 EHR 1787	Gray	10/29/08	23:16 NCR 1701
Henry S. Cowell, III and Carolyn Dressler v. DENR, Div. of Coastal Management	06 EHR 1185	Brooks	05/30/08	23:05 NCR 501
Robin R. Moore v. DENR, Division of Waste Management	06 EHR 1479	Lassiter	03/24/08	
Ray Sael v. DENR, Div. of Water Quality	06 EHR 1671	Gray	01/22/09	
Mr. Robert W. Elmore v. Division of Environmental Health, Onside Water Protection Section	06 EHR 2232	Webster	01/07/09	
Laurel Valley Watch and Clean Water for North Carolina, Inc., v. Div.	06 EHR 2393	Gray	12/08/08	

CONTESTED CASE DECISIONS

of Water Quality, DENR and Scenic Wolf Development, LLC

NC Coastal Federation v. DENR, Division of Coastal Management and Wind over Waves, LLC	07 EHR 0345	Lassiter	04/07/08
John B. Chastain, Jr., W.B. Chastain v. N.C. Department of Environment and Natural Resources	07 EHR 0722	Brooks	06/26/08
Terry Hill DAQ 2007-015 v. DENR, Division of Air Quality	07 EHR 0937	Morrison	04/08/08
Frank Home Construction, Inc. v. Division of Water Quality	07 EHR 1061	Webster	05/12/08
Durham Land Associates LLC v. County of Durham, Engineering Department	07 EHR 1140	Overby	08/20/08
Durham Land Associates LLC v. County of Durham, Engineering Department	07 EHR 1141	Overby	08/20/08
Dennis L. Jude v. NC Department of Environment and Natural Resources	07 HER 1238	Webster	08/20/08
Martha and Charles Morton v. N.C. Department of Environment And Natural Resources	07 EHR 1297	Overby	06/02/08
Kenneth & Mary Anne Sutton v. DENR, Division of Coastal Management	07 EHR 1316	Overby	05/09/08
William Lewell Huff v. N.C. Department of Environment and Natural Resources	07 EHR 1579	Overby	06/02/08
Stridemark, LLC v. North Carolina Department of Environment and Natural Resources, Division of Air Quality	07 EHR 1564	Webster	07/17/08
Gleason James v. Appalachian District Health Department	07 EHR 2073	Brooks	09/05/08
Senia I. Parker v. Environmental Management Commission	07 EHR 2082	Webster	10/24/08
Bateman Trucking, Inc., James K. Bateman v. Cherokee County Health Department, Environmental Health Division	07 EHR 2180	Brooks	01/15/09
Frank Myers Investments, LLC v. DENR	07 EHR 2377	May	05/28/08
W Russell Overman Martin County Water & Sewer District v. DENR Public Water Supply Section	08 EHR 0345	Gray	06/10/08
Christopher E. Taylor, Jane Taylor v. DENR, Land Quality Section	08 EHR 0512	Brooks	12/09/08
Ray Poole's Park, Jean Poole v. DENR, Public Water Supply Section	08 EHR 0563	Joseph	05/16/08
Allen Johnson v. DENR, Div. of Air Quality and Teresa Tart v. DENR Div. of Air Quality	08 EHR 0567	Webster	10/28/08
Allen Johnson v. DENR, Div. of Air Quality and Teresa Tart v. DENR Div. of Air Quality	08 EHR 0587	Webster	10/28/08
Joe S. Edge Sr. v. N.C. Department of Environment and Natural Resources	08 HER 0757	Gray	09/17/08
Donald Lindsay v. Cherokee County Health Dept.	08 EHR 0764	Brooks	07/10/08
Joel M. Walker v. Division of Water Quality Well Contractors Certification Commission	08 EHR 0985	Joseph	06/11/08
George Bess, Sr., v. DENR, Div. of Air Quality	08 EHR 1000	Overby	10/28/08
Eddie Verdis Hood v. N.C. Department of Environment and Natural Resources	08 EHR 1073	Overby	07/30/08
John S. Stirewalt, Architect, Agent for B. Parker Overton, Landowner v. DENR, Div of Coastal Management	08 EHR 1090	Webster	11/24/08
Research Triangle Institute v. Division of Waste Management, Hazardous Waste Section, DENR	08 EHR 1100	Overby	07/11/08
Tracie Locklear, Ammie Brewer-James, Native Designs Hair & Tanning Salon v. DENR, Health Radiation Protection	08 EHR 1143	Gray	7/17/08
Donna C Garrett v. Cherokee County Health Dept., Environmental Health Division	08 EHR 1246	Brooks	09/09/08
Riegel Ridge Partners v. DENR, Div. of Waste Management	08 EHR 1414	Gray	12/17/08
Michael J. Campbell v. Rowan County Health Department	08 EHR 1572	Books	10/10/08
Roray Kent Mishak, Town of China Grove v. NCDENR, Public Water Supply Section	08 EHR 1573	Brooks	09/08/08
Bethel Jr. High School NC 144418, Heather Teague v. DENR Public Water Supply Section	08 EHR 1810	Brooks	10/10/08
The Village of Walnut Creek PWS ID#NC0496155 v. DENR Public Water Supply Section	08 EHR 1892	Gray	11/18/08
The Village of Walnut Creek PWS ID#NC0496155 v. DENR, Public Water Supply Section	08 EHR 1930	Gray	11/07/08
Tabernacle Week Day School Cynthia M. Doyle v. DENR, Public Water Supply Section	08 EHR 1984	Mann	10/20/08
Michael Chapman FV Productions v. Stanly County Environmental Health Dennis R. Joyner, Health Director Division of Environment Health Terry Pierce, Director	08 EHR 1986	Lassiter	11/03/08
Carl J. Peters and Color Works v. City of Raleigh	08 EHR 2005	Joseph	10/28/08
Michael J. Carnes v. DENR, Div. of Air Quality	08 EHR 2042	Brooks	01/06/09
Country Fun Land Inc., A North Carolina Corporation v. DENR, Div. of Water Quality	08 EHR 2470	Elkins	02/04/09
Pro Dev 8, LLC v. City of Raleigh, Stormwater Management Division	08 EHR 3308	Joseph	01/08/09
Gary Kelly v. Div. of Air Quality	09 EHR 0219	Gray	02/17/09

CONTESTED CASE DECISIONS

EMPLOYMENT SECURITY COMMISSION

Ronald Caleb White v. Employment Security Commission UI Division 08 ESC 2568 Joseph 12/12/08

DEPARTMENT OF INSURANCE

Sandra Vanderbeek v. Teachers' and State Employees' Comprehensive Major Medical Plan 07 INS 1130 Overby 03/12/08

Benjamin Brodey, Inger Brodey, Clara Brodey 07 INS 1139 Elkins 10/24/08

Nettie C Minshew v. North Carolina State Health Plan 07 INS 1319 Gray 09/08/08

Albert N. Whiting, by his daughter, Brooke E. Whiting v. Teachers' and State Employees' Comprehensive Major Medical Plan 07 INS 1431

Alesha D Carter v. State Health Plan 07 INS 1858 Lassiter 05/19/08

Maria Patricia Rivera v. Teachers' and State Employees' Comprehensive Major Medical Plan 08 INS 0035 Joseph 09/16/08

Esther A. Scott v. State Health Plan 08 INS 0819 Gray 10/31/08 23:16 NCR 1711

Judith Kay Klink v. State Health Plan Teachers' Comprehensive Health Plan 08 INS 0846 Overby 10/20/08

Michelle Patton v. Blue Cross Blue Shield State Health Plan 08 INS 1039 Joseph 12/04/08

David Danmyer for Nancy Danmeyer v. Teachers' and State Employees' Comprehensive Major Medical Plan 08 INS 1575 May 10/15/08

MISCELLANEOUS

Kevin Edral Douglas v. Wake County District Attorney, DMV 07 MIS 1976 Webster 05/12/08

Jeannie L Day v. City of Asheville Control, Brenda Sears Officer White 08 MIS 0895 Brooks 08/18/08

Promise Land Ministries Inc., Joel K. Wilson v. Mitchell County Tax Assessor and Board of Equalization 08 MIS 1447 May 09/17/08

Catherine Seay v. Judge Debra Sasser, Wake County District Court Civil Division 08 MIS 2295 Elkins 11/24/08

OFFICE OF STATE PERSONNEL

Marsha A Early v. Durham County Department of Social Services 01 OSP 0279 Lassiter 04/02/08

Cheryl Best v. Columbus County Department of Social Services 06 OSP 2206 Lassiter 09/10/08

Scott Burgess v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol 07 OSP 0052 Gray 07/16/08

Ralph Mitchell Foard v. Highway Patrol 07 OSP 0135 Webster 11/06/08

Divina P. Shields v. North Carolina State University 07 OSP 0317 Lassiter 07/11/08

Milton R. Perry v. DOT 07 OSP 0362 Lassiter 12/16/08

Jacqueline B. Maynard v. UNC 07 OSP 0575 Webster 04/08/08

Warren R. Follum v. NCSU 07 OSP 0577 Webster 03/21/08

Sharon P. House v. UNC 07 OSP 0630 Webster 04/08/08

Marcus Guy v. A&T University 07 OSP 0760 Webster 09/16/08

Michael Phillips v. A&T State University 07 OSP 0833 Overby 11/12/08

Pam Moses v. Macon County Health Department 07 OSP 0945 Overby 06/30/08

Cassandra F. Barner v. Halifax County Department of Social Serv. 07 OSP 1186 Joseph 05/16/08 23:05 NCR 528

Michael Shelton Woody v. DENR, Division of Forest Resources 07 OSP 1255 Brooks 05/13/08

Kellee M. Buck v. Dare County Department of Social Services 07 OSP 1385 Overby 05/27/08

Dennis E. Hrynkow v. Dept. of Insurance 07 OSP 1400 Joseph 04/03/08

Stacey M. Gague v. N.C. Department of Corrections 07 OSP 1479 Overby 06/09/08

Betty J. LaBombard v. Hoke County Department of Social Services 07 OSP 1860 Joseph 10/01/08

James Dobaly v. North Carolina Department of Health and Human Services 07 OSP 1873 Lassiter 07/02/08

Adley K. Prager v. Dept. of Crime Control and Public Safety and Butner Public Safety 07 OSP 2011 Webster 05/29/08

Charlene J. Shaw v. Peter Bucholz, Hoke Correctional Institution 07 OSP 2012 Joseph 04/07/08

Jacqueline Burkes v. DOC, Hoke 4320, Mr. Peter Bucholz 07 OSP 2047 Joseph 04/07/08

Charles Jones v. Bryan Beatty, Secretary of Crime Control & Public Safety and The Dept. of Crime Control & Public Safety (NC Highway Patrol) 07 OSP 2222 Morrison 06/05/08 23:01 NCR 147

Norman K. Goering v. Crime Control and Public Safety, Highway Patrol 07 OSP 2256 Joseph 07/29/08 23:05 NCR 547

Brenda S. Williamson v. DHHS 08 OSP 0058 Gray 10/15/08

Kimberly James v. UNC-Charlotte 08 OSP 0146 Webster 05/08/08

Nancy Hester v. Guilford County AOC Pretrial Services 08 OSP 0224 Overby 06/19/08

Elizabeth Frazier v. Western Carolina University 08 OSP 0246 Brooks 12/09/08 23:16 NCR 1722

Ray Stanford Williams Jr. v. NC Department of Cultural Resources 08 OSP 0529 Morrison 08/19/08

Jacqueline Yvette Lowry v. Durham County, Department of Social Services 08 OSP 0552 May 10/08/08

Laura L. Holliman v. Caledonia Correctional Inst. 08 OSP 0591 Gray 07/08/08

CONTESTED CASE DECISIONS

Ashley K. Severson v. Greene County	08 OSP 0611	Joseph	07/29/08
Sharon V Blackmon v. Office of Administrative Hearings	08 OSP 0624	Gray	09/19/08
Richard D. Lincoln v. DOT	08 OSP 0801	Gray	05/27/08
Robert M. Hewitt v. Morrison Correctional Institute	08 OSP 0971	Gray	06/26/08
Kenyatta Burrus v. Craven County Clerk of Superior Court	08 OSP 1089	Overby	06/12/08
Dexter J. Hill v. Department of Agriculture and Consumer Services	08 OSP 1167	Overby	07/08/08
Rita McKeithan v. Stanly County Department of Social Services	08 OSP 1240	May	08/26/08
Dianna Humphrey v. Caswell Center	08 OSP 1327	Lassiter	07/02/08
Charles Godwin v. NC Department of Crime Control and Public Safety	08 OSP 1463	Lassiter	07/28/08
Reid DuBose III v. Dept. of Commerce	08 OSP 1476	Lassiter	10/31/08
Vincent Morton v. Cherry Hospital	08 OSP 1497	Webster	09/16/08
Kyla Solomon v. Office of Citizen Services	08 OSP 1547	Lassiter	07/22/08
Larry Campbell v. OSP	08 OSP 1558	Webster	01/06/09
Richard Manson v. NC A&T State University	08 OSP 1561	Brooks	09/25/08
Kenneth L. Cassidy v. DOT, DMV	08 OSP 1584	Morrison	10/31/08
Richard T Ward v. NC DOT Ferry Division	08 OSP 1617	Lassiter	08/27/08
Patrice A Bernard v. NC A&T	08 OSP 1724	Gray	09/18/08
Karen E. Browder v. Forsyth County Department of Social Services	08 OSP 1771	Gray	11/17/08
Robert Sanchez-Langston or Joe Raymond			
JoAnn C. Walker v. DOA	08 OSP 1976	Brooks	12/23/08
Lakeshia A. Jones v. DOC	08 OSP 2229	Webster	01/07/09
Prudentia Ngwainmbi v. Elizabeth Sate University	08 OSP 2240	Joseph	12/08/08
Darryl R. McCathan v. DOC	08 OSP 2274	Gray	01/03/09
Josephine Hood v. Dorothea Dix Hospital Food and Nutrition	08 OSP 2276	Webster	12/23/08
Garland Morman v. Dorothea Dix Hospital Food and Nutrition	08 OSP 2277	Webster	01/06/09
Jackie L. Eley v. DHHS, Hearing Office	08 OSP 2286	Gray	01/06/09
Charles V. Nichols v. DOC	08 OSP 2314	Brooks	01/08/09
James C. Bailey, Jr v. Cherry Hospital, DHHS	08 OSP 2432	Gray	01/16/09
Tony Chambers v. Dept. of Juvenile Justice and Delinquency Prevention	08 OSP 2692	Brooks	01/05/09

RESPIRATORY CARE BOARD

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

OFFICE OF SECRETARY OF STATE

Richard C Garrard Jr. v. NC Department of Secretary of State	07 SOS 2080	Brooks	09/12/08
Bennett Jeffrey Packer v. North Carolina Department of The Secretary of State	07 SOS 2241	May	06/09/08
Hope Taylor (formerly Taylor-Guevara) v. North Carolina Department of The Secretary of State	07 SOS 2280	Joseph	05/21/08
Lisa F. Jarvis v. SOS, Notary Division	08 SOS 0074	Webster	11/06/08
Robert C Garrard Jr. v. NC Department of Secretary of State	08 SOS 0523	Brooks	09/12/08
Wendy Branch Miller v. SOS	08 SOS 1018	Lassiter	07/14/08
Helen R. Carpenter v. SOS	08 SOS 1326	May	10/08/08
Vickie M. Jackson v. SOS	08 SOS 1784	Gray	10/27/08

UNC HOSPITALS

Deborah A. Fearington v. UNC Hospitals, Patient Account Services	07 UNC 2248	Webster	11/05/08
Charity Smith v. UNC Hospitals	08 UNC 0533	Gray	07/28/08
Jimmy L. Holder v. UNC Hospitals	08 UNC 0589	May	07/29/08
Bobby and Robin Wilson v. UNC Hospitals	08 UNC 0595	May	09/11/08
Christine Gwyn v. UNC Hospitals	08 UNC 0734	May	09/11/08
Barbara C. King v. UNC Hospitals	08 UNC 0805	May	07/29/08
Eva Kali Green v. UNC Hospitals	08 UNC 0841	May	09/22/08
Kaprina Wells v. UNC Hospitals	08 UNC 0860	Gray	07/28/08
Rolie Adrienne Webb "Andi" v. UNC Hospitals	08 UNC 0881	Gray	06/11/08
Marcus M. McCullers v. UNC Hospitals	08 UNC 0928	Gray	07/30/08
Satarah K. Latiker v. UNC Hospitals	08 UNC 0952	May	08/21/08
Mary C. Gessell v. UNC Hospitals	08 UNC 0981	Joseph	09/18/08
Richard and Amy Whitt v. UNC Hospitals	08 UNC 1048	May	08/15/08
John G Sell v. UNC Hospitals	08 UNC 1334	Joseph	08/26/08

WELL CONTRACTORS CERTIFICATION COMMISSION

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

WILDLIFE RESOURCES COMMISSION

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