

NORTH CAROLINA REGISTER

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January 2, 2013

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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.

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Raleigh, North Carolina 27603
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Joint Legislative Administrative Procedure Oversight Committee
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300 North Salisbury Street (919) 733-2578
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NORTH CAROLINA REGISTER
 Publication Schedule for January 2013 – December 2013

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
27:13	01/02/13	12/06/12	01/17/13	03/04/13	03/20/13	05/01/13	05/2014	09/29/13
27:14	01/15/13	12/19/12	01/30/13	03/18/13	03/20/13	05/01/13	05/2014	10/12/13
27:15	02/01/13	01/10/13	02/16/13	04/02/13	04/22/13	06/01/13	05/2014	10/29/13
27:16	02/15/13	01/25/13	03/02/13	04/16/13	04/22/13	06/01/13	05/2014	11/12/13
27:17	03/01/13	02/08/13	03/16/13	04/30/13	05/20/13	07/01/13	05/2014	11/26/13
27:18	03/15/13	02/22/13	03/30/13	05/14/13	05/20/13	07/01/13	05/2014	12/10/13
27:19	04/01/13	03/08/13	04/16/13	05/31/13	06/20/13	08/01/13	05/2014	12/27/13
27:20	04/15/13	03/22/13	04/30/13	06/14/13	06/20/13	08/01/13	05/2014	01/10/14
27:21	05/01/13	04/10/13	05/16/13	07/01/13	07/22/13	09/01/13	05/2014	01/26/14
27:22	05/15/13	04/24/13	05/30/13	07/15/13	07/22/13	09/01/13	05/2014	02/09/14
27:23	06/03/13	05/10/13	06/18/13	08/02/13	08/20/13	10/01/13	05/2014	02/28/14
27:24	06/17/13	05/24/13	07/02/13	08/16/13	08/20/13	10/01/13	05/2014	03/14/14
28:01	07/01/13	06/10/13	07/16/13	08/30/13	09/20/13	11/01/13	05/2014	03/28/14
28:02	07/15/13	06/21/13	07/30/13	09/13/13	09/20/13	11/01/13	05/2014	04/11/14
28:03	08/01/13	07/11/13	08/16/13	09/30/13	10/21/13	12/01/13	05/2014	04/28/14
28:04	08/15/13	07/25/13	08/30/13	10/14/13	10/21/13	12/01/13	05/2014	05/12/14
28:05	09/03/13	08/12/13	09/18/13	11/04/13	11/20/13	01/01/14	05/2014	05/31/14
28:06	09/16/13	08/23/13	10/01/13	11/15/13	11/20/13	01/01/14	05/2014	06/13/14
28:07	10/01/13	09/10/13	10/16/13	12/02/13	12/20/13	02/01/14	05/2014	06/28/14
28:08	10/15/13	09/24/13	10/30/13	12/16/13	12/20/13	02/01/14	05/2014	07/12/14
28:09	11/01/13	10/11/13	11/16/13	12/31/13	01/21/14	03/01/14	05/2014	07/29/14
28:10	11/15/13	10/24/13	11/30/13	01/14/14	01/21/14	03/01/14	05/2014	08/12/14
28:11	12/02/13	11/06/13	12/17/13	01/31/14	02/20/14	04/01/14	05/2014	08/29/14
28:12	12/16/13	11/21/13	12/31/13	02/14/14	02/20/14	04/01/14	05/2014	09/12/14

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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

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

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 137

TEMPORARILY MODIFYING THE JUDICIAL SELECTION PROCESS
ESTABLISHED IN EXECUTIVE ORDER NO. 86

WHEREAS, the Constitution and the Laws of the State of North Carolina entrust the Governor with the duty of appointing Justices and Judges of the General Court of Justice when vacancies occur; and

WHEREAS, on April 5, 2011, I issued Executive Order No. 86 establishing the Judicial Nominating Commission (“the Commission”) to assist me in the appointment of Justices and Judges in North Carolina; and

WHEREAS, the Commission has been very helpful to me in exercising my duty to make judicial appointments, as has been the opportunity to receive public input on the qualities citizens believe are most characteristic of an able judiciary; and

WHEREAS, the members of the Commission have performed a valuable public service through their work on the Commission, and I am grateful to them for their diligent efforts; and

WHEREAS, based on information communicated to me by members of the Commission, it is apparent that time constraints will make it difficult, if not impossible (1) for the Commission to perform in a timely fashion its role of evaluating and nominating candidates to fill judicial vacancies that currently exist or that arise between now and the end of my term as Governor; and (2) for me to then properly perform my duty to fully consider the qualifications of the candidates nominated by the Commission to fill those vacancies; and

WHEREAS, a temporary modification of the judicial selection process established in Executive Order No. 86 will enable me to best perform my constitutional and statutory duty to fully and thoroughly consider the qualifications of candidates before filling judicial vacancies that currently exist or that arise between now and the end of my term as Governor, so that the most qualified candidate for each vacancy can be appointed.

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

Section 1. With respect to all judicial vacancies that currently exist or that may arise between the present date and the end of my term as Governor, the process contained in Executive Order No. 86 shall be modified as set out herein. For such vacancies, I will exercise my constitutional and statutory authority to fill the vacancies without first receiving nominations from the Commission. However, I plan to consult with individual members of the Commission as I deem appropriate to seek their input regarding the qualifications of specific candidates for appointment.

Section 2. I urge future Governors to continue utilizing the Commission to assist them in filling judicial vacancies for all of the reasons set forth in Executive Order No. 86.

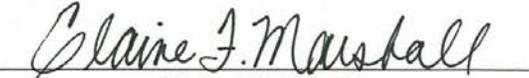
Section 3. This Executive Order is effective immediately and supersedes all other Executive Orders on this subject. It shall remain in effect until the end of my term as Governor.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 5th day of December in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.




Beverly Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 138

RESCINDING OR TERMINATING CERTAIN EXECUTIVE ORDERS

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

Section 1. Covered Executive Orders

The following Executive Orders are hereby rescinded or terminated as set out below:

- a. Executive Order No. 16, *Designating the Office of Economic Recovery and Investment as the Authorized Entity Under the American Recovery and Reinvestment Act Strengthening Communities Fund*, adopted July 6, 2009, is hereby rescinded.
- b. Executive Order No. 26, *Reestablishing the Governor's Task Force for Healthy Carolinians*, adopted October 8, 2009, is hereby rescinded.
- c. Executive Order No. 27, *Proclamation of a State of Emergency by the Governor of the State of North Carolina*, adopted October 28, 2009, is hereby terminated.
- d. Executive Order No. 30, *Proclamation of a State of Emergency by the Governor of the State of North Carolina*, adopted November 16, 2009, is hereby terminated.
- e. Executive Order No. 36, *Designation of Certain State Employees and Appointees as Covered Public Servants under the State Government Ethics Act*, adopted December 9, 2009, is hereby rescinded.
- f. Executive Order No. 95, *Organization of the Employment Security Commission within the Department of Commerce*, adopted June 30, 2011, is hereby rescinded.
- g. Executive Order No. 96, *Offshore Wind Economic Development Task Force*, adopted June 30, 2011, is hereby rescinded.

- h. Executive Order No. 97, *Reauthorize and Expand the Governor's Scientific Advisory Panel on Energy and Rescinding Executive Order No. 23*, adopted June 30, 2011, is hereby rescinded.

Section 2. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 5th day of December in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

**NARROW THERAPEUTIC INDEX DRUGS DESIGNATED BY THE NORTH
CAROLINA SECRETARY OF HUMAN RESOURCES**

Pursuant to N.C.G.S. §90-85.27(4a), this is a revised publication from the North Carolina Board of Pharmacy of narrow therapeutic index drugs designated by the North Carolina Secretary of Human Resources upon the advice of the State Health Director, North Carolina Board of Pharmacy, and North Carolina Medical Board.

Carbamazepine: all oral dosage forms

Cyclosporine: all oral dosage forms

Digoxin: all oral dosage forms

Ethosuximide

Levothyroxine sodium tablets

Lithium (including all salts): all oral dosage forms

Phenytoin (including all salts): all oral dosage forms

Procainamide

Theophylline (including all salts): all oral dosage forms

Warfarin sodium tablets

Tacrolimus: all oral dosage forms

Notice of Intent to Adopt the North Carolina Technical Specifications for Light Detection And Ranging Base Mapping and Request for Comments

Subject: N.C. Secretary of State, Improvement of Land Records

The N.C. Department of the Secretary of State seeks public comments on the proposed adoption of the North Carolina Technical Specifications for **Light Detection And Ranging (LiDAR) Base Mapping**. The Department is required by G.S. §147-54.3(c) to adopt technical standards and detailed specifications to be used to achieve a greater degree of statewide standardization of land mapping for use in land records. Over the past year, the Department has worked with stakeholders across North Carolina and has produced a set of Technical Specifications for LiDAR Base Mapping. Additionally, the North Carolina Land Records Advisory Committee and the North Carolina Geographic Information Coordinating Council have passed motions recommending that the Secretary of State adopt the proposed specifications. A draft copy of the North Carolina Technical Specifications for LiDAR Base Mapping may be found at <https://www.secretary.state.nc.us/land/ThePage.aspx> or may be obtained by contacting Thomas W. Morgan PLS, Land Records Manager, N.C. Department of the Secretary of State, as follows:

By Mail:P.O. Box 29626
Raleigh, NC 27626-0626

By Facsimile: (919) 807-2285 Fax

By Email: tmorgan@sosnc.com

The Department's deadline for receiving these comments is Wednesday, January 16, 2013.

Comments must be received by the Department by the close of the business day at 5 p.m. on Wednesday, January 16, 2013. Comments may be submitted by mail, facsimile, or email to Thomas W. Morgan PLS, Land Records Manager, N.C. Department of the Secretary of State as set out above.

For further information, contact: Thomas W. Morgan PLS, Land Records Manager, N.C. Department of the Secretary of State at 919-807-2268.

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

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

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 02H .0152 and .1016.

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

- OSBM certified on:** October 3, 2012
- RRC certified on:**
- Not Required**

Link to agency website pursuant to G.S. 150B-19.1(c):

- <http://portal.ncdenr.org/web/guest/rules>
- <http://portal.ncdenr.org/web/wq/ws/su/current-notice>
- http://www.osbm.state.nc.us/files/pdf_files/DENR10032012.pdf

Proposed Effective Date: August 1, 2013

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): As per G.S. 150B-21.2(c) and (e), send written requests to: NCDENR-DWQ-SPU, Attn: Robert Patterson, 1617 Mail Service Center, Raleigh, NC 27699-1617. Requests must be received by January 17, 2013.

Reason for Proposed Action: These rules are being proposed for amendment as required per Session Law 2011-220. That SL modified the criteria of whether whole counties would be required to implement the Phase II stormwater requirements county-wide. This led to one county no longer meeting the requirements to implement county-wide Phase II stormwater. SL 2011-220 amended SL 2006-246, of which those requirements have since been placed in 15A NCAC 02H .0100 and 15A NCAC 02H .1000 (eff. 7/3/2012). Therefore the NCAC must be amended per the direction of SL 2011-220. There is no change to the current requirements being implemented by adopting these rules.

Procedure by which a person can object to the agency on a proposed rule: A person can submit written comments to the contact below, objecting to the proposed rules. However, SL 2011-220 does not allow for the EMC to make changes to the current requirements being implemented in the session law.

Comments may be submitted to: Robert Patterson, NCDENR-DWQ-SPU, 1617 Mail Service Center, Raleigh, NC 27699-1617; phone (919) 807-6375; fax (919) 807-6494; email robert.patterson@ncdenr.gov

Comment period ends: March 4, 2013

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

Fiscal impact (check all that apply).

- State funds affected**
- Environmental permitting of DOT affected**
- Analysis submitted to Board of Transportation**
- Local funds affected**
- Date submitted to OSBM:**
- Substantial economic impact (≥\$500,000)**
- Approved by OSBM**
- http://www.osbm.state.nc.us/files/pdf_files/DENR10032012.pdf
- No fiscal note required by G.S. 150B-21.4**

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02H - PROCEDURES FOR PERMITS: APPROVALS

SECTION .0100 - POINT SOURCE DISCHARGES TO THE SURFACE WATERS

15A NCAC 02H .0152 DEVELOPMENT IN URBANIZING AREAS

- (a) Development in Unincorporated Areas of Counties.
 - (1) Development that cumulatively disturbs one acre or more of land located in the unincorporated area of a county shall comply with the standards set forth in Rule 02H .0154 of this Section beginning 1 July 2007 if the development is located in:
 - (A) An area that is designated as an urbanized area under the most recent federal decennial census.

- (B) The unincorporated area of a county outside of a municipality designated as an urbanized area under the most recent federal decennial census that extends:
 - (i) One mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals;
 - (ii) Two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals; and
 - (iii) Three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
 - (C) An area delineated pursuant to Item (2) of this Paragraph.
 - (D) A county that contains an area that is designated as an urbanized area under the most recent federal decennial census in which the unduplicated sum of: (i) the area that is designated as an urbanized area under the most recent federal decennial census; (ii) the area described in Subparagraph (1)(B) of this Paragraph; (iii) the area delineated pursuant to Item (2) of this Paragraph; (iv) the jurisdiction of a regulated entity designated pursuant to Rule 02H .0151(a) of this Section; (v) the area that is regulated by a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management required pursuant to Rule 02H .0151(b) of this Section; and (vi) areas in the county that are subject to any of the stormwater management programs administered by the Division equal or exceed 75 percent of the total geographic area of the county. For purposes of this Paragraph, the stormwater programs administered by the Division are:
 - (i) Water Supply Watershed I (WS-I) – 15A NCAC 02B .0212;
 - (ii) Water Supply Watershed II (WS-II) – 15A NCAC 02B .0214;
 - (iii) Water Supply Watershed III (WS-III) – 15A NCAC 02B .0215;
 - (iv) Water Supply Watershed IV (WS-IV) – 15A NCAC 02B .0216;
 - (v) High Quality Waters (HQW) – 15A NCAC 02H .1006;
 - (vi) Outstanding Resource Waters (ORW) – 15A NCAC 02H .1007;
 - (vii) The Coastal Stormwater Program – 15A NCAC 02H .1005;
 - (viii) The Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 02B .0235;
 - (ix) The Tar-Pamlico River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 02B .0258;
 - (x) The Randleman Lake Water Supply Watershed Nutrient Management Strategy – 15A NCAC 02B .0251; and
 - (xi) Other Environmental Management Commission Nutrient Sensitive Waters (NSW) Classifications – 15A NCAC 02B .0223.
 - (E) A Subject to Subparagraph (4) of this Paragraph, a county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004.
- (2) Delineation Process. The Commission shall delineate regulated coverage areas as provided in Subparagraphs (2)(A) through (F) below:
- (A) Schedule. The Commission shall implement the delineation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).
 - (B) Potential candidate coverage areas. A potential candidate coverage area is the unincorporated area of a county that is outside a municipality designated as a regulated entity pursuant to Rule 02H .0151(a) of this Section that:
 - (i) Extends one mile beyond the corporate limits of a municipality with a

- population of less than 10,000 individuals;
 - (ii) Extends two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals; and
 - (iii) Extends three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
 - (C) Identification of candidate coverage areas. The Commission shall identify an area within a potential candidate coverage area described in Subparagraph (2)(B)(ii) of this Paragraph as a candidate coverage area if the discharge of stormwater within or from the unincorporated area has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that violates water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.
 - (D) Notice and comment on candidacy. The Commission shall notify each public entity that is located in whole or in part in a candidate coverage area. After notification of each public entity, the Commission shall publish a map of the unincorporated areas within the river basin that have been identified as candidates for delineation as regulated coverage areas. The Commission shall accept public comment on the proposed delineation of a candidate coverage area as a regulated coverage area for a period of not less than 30 days.
 - (E) Delineation of regulated coverage areas. After review of public comment, the Commission shall delineate regulated coverage areas. The Commission shall delineate a candidate coverage area as a regulated coverage area only if the Commission determines that the discharge of stormwater within or from the candidate coverage area either:
 - (i) Adversely impacts water quality; or
 - (ii) Results in a significant contribution of pollutants to sensitive receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in Paragraphs (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 02B .0300, et seq. (Assignment of Stream Classifications).
 - (F) Notice of delineation. The Commission shall provide written notice to each public entity that is located in whole or in part in a candidate coverage area of its delineation determination. The notice shall state the basis for the determination.
- (3) Except as provided in this Paragraph and 15A NCAC 02H .1016(d), the Commission shall administer and enforce the standards for development in the regulated coverage areas. To the extent authorized by law, where the development is located in a municipal planning jurisdiction, the municipality shall administer and enforce the standards. A public entity may request that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in 15A NCAC 02H .1016(d).
- (4) A county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004 is not a county under Subparagraph (1)(E) of this Paragraph and is not a county that is subject under this section to the requirements for development in the unincorporated areas of the county when that actual population growth rate occurred in an area within the county that consists of less

than five percent of the total land area of the county.

(b) Development in Non-Phase II Incorporated Areas in Certain Counties. Development that cumulatively disturbs one acre or more of land located in the incorporated areas of a county described in Subparagraphs (1)(D) and (E) of Paragraph (a), that are not designated as an urbanized area under the most recent federal decennial census, shall comply with the standards set forth in Rule 02H .0151(a) of this Section of this act beginning 1 July 2007. The Commission shall administer and enforce the standards for development unless the public entity requests that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in 15A NCAC 02H .1016(d).

Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); S.L. 2011-220.

SECTION .1000 - STORMWATER MANAGEMENT

15A NCAC 02H .1016 DEVELOPMENT IN URBANIZING AREAS

(a) Development in Unincorporated Areas of Counties.

(1) Development that cumulatively disturbs one acre or more of land located in the unincorporated area of a county shall comply with the standards set forth in Rule .1018 of this Section beginning 1 July 2007 if the development is located in:

(A) An area that is designated as an urbanized area under the most recent federal decennial census.

(B) The unincorporated area of a county outside of a municipality designated as an urbanized area under the most recent federal decennial census that extends:

(i) One mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals.

(ii) Two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals.

(iii) Three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.

(C) An area delineated pursuant to Item (2) of this Paragraph.

(D) A county that contains an area that is designated as an urbanized area under the most recent federal decennial census in which the unduplicated sum

of: (i) the area that is designated as an urbanized area under the most recent federal decennial census; (ii) the area described in Subparagraph (1)(B) of this Paragraph; (iii) the area delineated pursuant to Item (2) of this Paragraph; (iv) the jurisdiction of a regulated entity designated pursuant to Paragraph (c) of this Rule; (v) the area that is regulated by a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management required pursuant to 15A NCAC 02H .0151(b); and (vi) areas in the county that are subject to any of the stormwater management programs administered by the Division equal or exceed 75 percent of the total geographic area of the county. For purposes of this subdivision, the stormwater programs administered by the Division are:

(i) Water Supply Watershed I (WS-I) – 15A NCAC 02B .0212;

(ii) Water Supply Watershed II (WS-II) – 15A NCAC 02B .0214;

(iii) Water Supply Watershed III (WS-III) – 15A NCAC 02B .0215;

(iv) Water Supply Watershed IV (WS-IV) – 15A NCAC 02B .0216;

(v) High Quality Waters (HQW) – Rule .1006 of this Section;

(vi) Outstanding Resource Waters (ORW) – Rule .1007 of this Section;

(vii) The Coastal Stormwater Program – Rule .1005 of this Section;

(viii) The Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 02B .0235;

(ix) The Tar-Pamlico River Basin Nutrient Sensitive (NSW) Management Strategy – 15A NCAC 02B .0258;

(x) The Randleman Lake Water Supply Watershed Nutrient Management Strategy – 15A NCAC 02B .0251; and

(xi) Other Environmental Management Commission

Nutrient Sensitive Waters (NSW) Classifications – 15A NCAC 02B .0223.

- (E) A Subject to Subparagraph (4) of this Paragraph, a county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004.
- (2) Delineation Process. The Commission shall delineate regulated coverage areas as follows:
 - (A) Schedule: The Commission shall implement the delineation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).
 - (B) Potential candidate coverage areas. A potential candidate coverage area is the unincorporated area of a county that is outside a municipality designated as a regulated entity pursuant to Items (2) and (3) of Paragraph (c) that:
 - (i) Extends one mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals;
 - (ii) Extends two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals; and
 - (iii) Extends three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
 - (C) Identification of candidate coverage areas. The Commission shall identify an area within a potential candidate coverage area described in Subparagraph (2)(B) of this Paragraph as a candidate coverage area if the discharge of stormwater within or from the unincorporated area has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that violates water quality standards, including, but not limited to, any activity that impairs designated uses or that has a

significant biological or habitat impact.

- (D) Notice and comment on candidacy. The Commission shall notify each public entity that is located in whole or in part in a candidate coverage area. After notification of each public entity, the Commission shall publish a map of the unincorporated areas within the river basin that have been identified as candidates for delineation as regulated coverage areas. The Commission shall accept public comment on the proposed delineation of a candidate coverage area as a regulated coverage area for a period of not less than 30 days.
- (E) Delineation of regulated coverage areas. After review of public comment, the Commission shall delineate regulated coverage areas. The Commission shall delineate a candidate coverage area as a regulated coverage area only if the Commission determines that the discharge of stormwater within or from the candidate coverage area either:
 - (i) Adversely impacts water quality.
 - (ii) Results in a significant contribution of pollutants to sensitive receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in Paragraphs (c), (d), and (e) of 15A NCAC 02B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 02B .0300, et seq. (Assignment of Stream Classifications).
- (F) Notice of delineation. The Commission shall provide written notice to each public entity that is located in whole or in part in a

candidate coverage area of its delineation determination. The notice shall state the basis for the determination.

(3) Except as provided in this Item (3) of this Paragraph and Paragraph (d) of this Rule, the Commission shall administer and enforce the standards for development in the regulated coverage areas. To the extent authorized by law, where the development is located in a municipal planning jurisdiction, the municipality shall administer and enforce the standards. A public entity may request that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in Paragraph (d) of this Rule.

(4) A county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004 is not a county under Subparagraph (1)(E) of this Paragraph and is not a county that is subject under this section to the requirements for development in the unincorporated areas of the county when that actual population growth rate occurred in an area within the county that consists of less than five percent of the total land area of the county.

(b) Development in Non-Phase II Incorporated Areas in Certain Counties. Development that cumulatively disturbs one acre or more of land located in the incorporated areas of a county described in Subparagraphs (2)(D) and (E) of Paragraph (a), that are not designated as an urbanized area under the most recent federal decennial census, shall comply with the standards set forth in Rule .1018 of this Section beginning 1 July 2007. The Commission shall administer and enforce the standards for development unless the public entity requests that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in Paragraph (d) of this Rule.

(c) Designation of Regulated Entities. A public entity that owns or operates a municipal separate storm sewer system (MS4) may be designated as a regulated entity through federal designation, through a State designation process, or under a total maximum daily load (TMDL) implementation plan as provided in this section.

(1) Federal designation. A public entity that owns or operates a municipal separate storm sewer system (MS4) may be designated as a regulated entity pursuant to 40 Code of Federal Regulations § 122.32 (1 July 2003 Edition).

(2) State designation process. The Commission shall designate a public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated entity as follows:

(A) Designation schedule. The Commission shall implement the designation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).

(B) Identification of candidate regulated entities. The Commission shall identify a public entity as a candidate for designation as a regulated entity if the municipal separate storm sewer system (MS4) either:

(i) Discharges stormwater that has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that causes or contributes to a violation of water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.

(ii) Serves a public entity that has not been designated pursuant to Item (1) of this Paragraph and that has either a population of more than 10,000 or more than 4,000 housing units and either a population density of 1,000 people per square mile or more or more than 400 housing units per square mile.

(C) Notice and comment on candidacy. The Commission shall notify each public entity identified as a candidate for designation as a regulated entity. After notification of each public entity, the Commission shall publish a list of all public entities within a river basin that have been identified as candidates for designation. The Commission shall accept public comment on the proposed designation of a public entity as a regulated entity for a period of not less than 30 days.

(D) Designation of regulated entities. After review of the public comment, the Commission shall make a determination on designation for each of the candidate public entities. The Commission shall designate a candidate public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated

public entity only if the Commission determines either that:

- (i) The public entity has an actual population growth rate that exceeds 1.3 times the State population growth rate for the previous 10 years.
- (ii) The public entity has a projected population growth rate that exceeds 1.3 times the projected State population growth rate for the next 10 years.
- (iii) The public entity has an actual population increase that exceeds 15 percent of its previous population for the previous two years.
- (iv) The municipal separate storm sewer system (MS4) discharges stormwater that adversely impacts water quality.
- (v) The municipal separate storm sewer system (MS4) discharges stormwater that results in a significant contribution of pollutants to receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in Paragraphs (c), (d), and (e) of 15A NCAC 02B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 02B .0300, et seq. (Assignment of Stream Classifications).

(E) Notice of designation. The Commission shall provide written notice to each public entity of its designation determination. For a public entity designated as a regulated entity, the notice shall state the basis for the designation and the

date on which an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management must be submitted to the Commission.

(F) Application schedule. A public entity that has been designated as a regulated entity pursuant to this subdivision must submit its application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management within 18 months of the date of notification.

(3) Designation under a total maximum daily load (TMDL) implementation plan. The Commission shall designate an owner or operator of a small municipal separate storm sewer system (MS4) as a regulated entity if the municipal separate storm sewer system (MS4) is specifically listed by name as a source of pollutants for urban stormwater in a total maximum daily load (TMDL) implementation plan developed in accordance with subsections (d) and (e) of 33 U.S.C. § 1313. The Commission shall provide written notice to each public entity of its designation determination. For a public entity designated as a regulated entity, the notice shall state the basis for the designation and the date on which an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management must be submitted to the Commission. A public entity that has been designated as a regulated entity pursuant to this subdivision must submit its application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management within 18 months of the date of notification.

(d) Delegation. A public entity that does not administer a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management throughout the entirety of its planning jurisdiction and whose planning jurisdiction includes a regulated coverage area under Paragraphs (a) and (b) of this Rule may submit a stormwater management program for its regulated coverage area or a portion of its regulated coverage area to the Commission for approval pursuant to G.S. 143-214.7(c). An ordinance or regulation adopted by a public entity shall at least meet and may exceed the minimum requirements of Rule .1018 of this Section. Two or more public entities are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolution, memorandum of agreement, or other document that establishes any joint program must be duly recorded in the minutes of the governing body of each public entity participating in the program, and a certified copy of each resolution must be filed with the Commission. The Commission shall review each proposed program submitted to it to determine

whether the submission is complete. Within 90 days after the receipt of a complete submission, the Commission shall notify the public entity submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of Rule .1018 of this Section. If the Commission determines that any public entity is failing to administer or enforce an approved stormwater management program, it shall notify the public entity in writing and shall specify the deficiencies of administration and enforcement. If the public entity has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the public entity indicates its willingness and ability to resume administration and enforcement of the program.

Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); S.L. 2011-220.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to adopt the rule cited as 15A NCAC 13B .0206 and amend the rule cited as 15A NCAC 13B .0504.

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

- [X] OSBM certified on: November 26, 2012
[] RRC certified on:
[] Not Required

Link to agency website pursuant to G.S. 150B-19.1(c): http://portal.ncdenr.org/web/wm/sw/rules

Proposed Effective Date: July 1, 2013

Public Hearing:

Date: January 17, 2013
Time: 10:00 a.m.

Location: Archdale Building, 512 N. Salisbury Street, Ground Floor Hearing Room, Raleigh, NC 27604

Reason for Proposed Action: The Division of Waste Management seeks to change rules related to the duration of sanitary landfill or transfer station permits to comply with recent changes in state law. The current rule and statutory requirements are based on five-year permit durations. The proposed rule change is necessary to comply with new state laws and is in the public interest because it provides the regulated community with opportunities for cost savings and greater permit length flexibility.

Procedure by which a person can object to the agency on a proposed rule: Persons may submit written objections to the proposed rule sby contacting: Ellen Lorscheider, DENR-Division of Waste Management, Solid Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646; fax (919) 707-8245; or email ellen.lorscheider@ncdenr.gov.

Comments may be submitted to: Ellen Lorscheider, Division of Waste Management, 1646 Mail Service Center, Raleigh, NC 27699-1646; phone (919) 707-8245; fax (919) 707-8245; email ellen.lorscheider@ncdenr.gov

Comment period ends: March 4, 2013

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

Fiscal impact (check all that apply).

- [] State funds affected
[] Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
[X] Local funds affected
Date submitted to OSBM: October 7, 2012
[X] Substantial economic impact (≥\$500,000)
[X] Approved by OSBM
[] No fiscal note required by G.S. 150B-21.4

CHAPTER 13 - SOLID WASTE MANAGEMENT

SUBCHAPTER 13B - SOLID WASTE MANAGEMENT

SECTION .0200 - PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES

15A NCAC 13B .0206 OPTION TO APPLY FOR ISSUANCE OF 10-YEAR PERMIT FOR SANITARY LANDFILL OR TRANSFER STATION

(a) An applicant for a sanitary landfill or transfer station permit subject to Section .0400, .0500 or .1600 of these Rules may apply for a permit for a design, construction and operation phase of five years or a design, construction and operation phase of ten years. A permit for a ten-year phase of construction and operation of a sanitary landfill shall meet the five-year phase requirements contained in Section .0500 and .1600, applied in two five-year increments.

(b) A permit issued for a designed phase of ten years shall be subject to review within five years of the issuance date, as provided in Rule .0201(g). Permit modifications issued for a ten-year phase of construction or operation of a sanitary landfill or transfer station shall be made in accordance with rules in effect at the time of review and include an updated operations

plan for the facility, revisions to the closure and post-closure plans and costs, and updates to the environmental monitoring plans.

Authority G.S.130A-294.

SECTION .0500 - DISPOSAL SITES

15A NCAC 13B .0504 APPLICATION REQUIREMENTS FOR SANITARY LANDFILLS

A permit for a sanitary landfill shall be based upon a particular stream of identified waste, as set forth in Rule .0504 (g)(i) .0504(1)(g)(i) and (ii) of this Section. Any substantial change in the population or area to be served, or in the type, quantity or source of waste shall require a new permit and operation plan, including waste determination procedures where appropriate. Five sets of plans shall be required with each application.

- (1) The following information shall be required for reviewing a site application for a proposed sanitary landfill:
(a) An aerial photograph on a scale of at least 1 inch equals 400 feet and a blueprint of the photograph accurately showing the area within one-fourth mile of the proposed site's boundaries with the following specifically identified:
(i) Entire property owned or leased by the person proposing the disposal site;
(ii) Land use and zoning;
(iii) Location of all homes, industrial buildings, public or private utilities, and roads;
(iv) Location of wells, watercourses, dry runs, and other applicable details regarding the general topography; and
(v) Flood plains.
(b) A map on a scale of at least 1 inch equals 1000 feet showing the area within two miles of the proposed site's boundaries with the following specifically identified:
(i) Significant ground water users;
(ii) Potential or existing sources of ground water and surface water pollution;
(iii) Water intakes;
(iv) Airport and runways; and
(v) Subdivisions.
(c) A geological and hydrological study of the site which provides:
(i) Soil borings for which the numbers and depths have been confirmed by the

Division and lab testing of selected soil samples that provide:

- (A) standard penetration resistance;
(B) particle size analysis;
(C) soil classification USCS; Unified Soil Classification System;
(D) geologic considerations (slopes, solution features, etc.);
(E) undisturbed representative geologic samples of the unconfined or confined or semiconfined hydrological units within a depth of 50 feet that provide the following information for each major lithologic units:
(I) saturated hydraulic conductivity (or by in situ);
(II) volume percent water; and
(III) porosity;
(F) remolded sample of cover soils that provide:
(I) saturated hydraulic conductivity,
(II) total porosity,
(III) atterberg limits;
(G) stratigraphic cross sections identifying hydrogeological units including lithology;
(H) tabulation of water table elevations at time of boring, 24 hours, and seven days (The number of cased borings to

- provide this information shall be confirmed by the Division.); and
- (I) boring logs;
 - (ii) A boundary plat locating soil borings with accurate horizontal and vertical control which are tied to a permanent onsite bench mark;
 - (iii) A potentiometric map of the ~~surficial~~ surficial aquifer based on stabilized water table elevations; and
 - (iv) A report summarizing the geological and hydrological evaluation.
- (d) A conceptual design plan presenting special engineering features or considerations which must be included or maintained in site construction, operation, maintenance and closure.
- (e) Local government approvals:
- (i) If the site is located within an incorporated city or town, or within the extra-territorial jurisdiction of an incorporated city or town, the approval of the governing board of the city or town shall be required. Otherwise, the approval of the Board of Commissioners of the county in which the site is located shall be required. Approval may be in the form of either a resolution or a vote on a motion. A copy of the resolution, or the minutes of the meeting where the vote was taken, shall be forwarded to the Division.
 - (ii) A letter from the unit of government having zoning jurisdiction over the site which states that the proposal meets all of the requirements of the local zoning ordinance, or that the site is not zoned.
- (f) A discussion of compliance with siting standards in Rule .0503(1) of this Subchapter.
- (g) A report indicating the following:
- (i) population and area to be served;
 - (ii) type, quantity and source of waste;
 - (iii) the equipment that will be used for operating the site;
 - (iv) a proposed groundwater monitoring plan including well location and schematics showing proposed screened interval, depth and construction; and
 - (v) a more detailed geologic report may be required depending on specifics of the site. This report may be based on physical evidence, initially, or due to information obtained from the site plan application.
- (h) Any other information pertinent to the suitability of the proposed site.
- (2) The following information shall be ~~is~~ required for reviewing a construction plan application for a proposed sanitary landfill:
- (a) A map showing existing features to include:
 - (i) existing topography of the site on a scale of at least 1 inch equals 200 feet with five foot contours;
 - (ii) bench marks;
 - (iii) springs;
 - (iv) streams;
 - (v) potential ground water monitoring sites;
 - (vi) pertinent geological features; and
 - (vii) soil boring locations.
 - (b) A grading plan that provides:
 - (i) proposed excavated contours;
 - (ii) soil boring locations;
 - (iii) locations and elevations of dikes or trenches;
 - (iv) designated buffer zones;
 - (v) diversion and controlled removal of surface water from the work areas; and
 - (vi) proposed utilities and structures.
 - (c) A construction plan that provides:
 - (i) engineering design for liners, leachate collections systems;
 - (ii) proposed final contours showing removal of surface water runoff; and
 - (iii) locations of slope drains or other drop structures.

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| <p>(d) An erosion control plan that identifies the following:</p> <ul style="list-style-type: none"> (i) locations of temporary erosion control measures (sediment basins, stone filters, terraces, silt fences, etc.); (ii) locations of permanent erosion control measures (rip rap, energy dissipators, ditch stabilization, pipe drain, etc.); and (iii) seeding specifications and schedules. <p>(e) Detailed diagrams showing typical sections of:</p> <ul style="list-style-type: none"> (i) dikes, (ii) trenches, (iii) diversions, (iv) sediment basins, and (v) other pertinent details. <p>(f) A minimum of two cross sections per operational area showing:</p> <ul style="list-style-type: none"> (i) original elevations, (ii) proposed excavated depths, (iii) proposed final elevations, (iv) ground water elevation, and (v) soil borings. <p>(g) Site development showing phases or progression of operation <u>operation in five-year or ten-year phases of construction and operation.</u></p> <p>(h) A written report that contains the following:</p> <ul style="list-style-type: none"> (i) A copy of the deed or other legal description of the landfill site that would be | <ul style="list-style-type: none"> (ii) sufficient as a description in an instrument of conveyance and property owner's name; (iii) Name of individual responsible for operation and maintenance of the site; (iv) Projected use of land after completion of the sanitary landfill; (v) Anticipated lifetime of the project; (vi) Description of systematic usage of area, operation, orderly development and completion of the sanitary landfill; (vii) Earthwork calculations; (viii) Seeding specifications and schedules; (ix) Calculations for temporary and permanent erosion control measures; (x) Any narrative necessary to describe compliance with the Sedimentation Pollution Control Act of 1973 (15A NCAC 4); (xi) A discussion of compliance with design requirements in Rule .0503(2) of this Section; and (xii) Any other information pertinent to the proposed construction plan. |
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Authority G.S. 130A 294.

Note from the Codifier: The rules published in this Section of the NC Register are emergency rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code. The agency must subsequently publish a proposed temporary rule on the OAH website (www.ncoah.com/rules) and submit that adopted temporary rule to the Rules Review Commission within 60 days from publication of the emergency rule or the emergency rule will expire on the 60th day from publication. This section of the Register may also include, from time to time, a listing of emergency rules that have expired. See G.S. 150B-21.1A and 26 NCAC 02C .0600 for adoption and filing requirements.

TITLE 07 – DEPARTMENT OF CULTURAL RESOURCES

Rule-making Agency: Department of Cultural Resources

Rule Citation: 07 NCAC 04N .0202

Effective Date: December 10, 2012

Findings Reviewed and Approved by the Codifier: November 30, 2012, Codifier of Rules determined findings of need does not meet criteria for emergency rulemaking.

Reason for Action: The purpose of this emergency rule is to increase an admission fee to the North Carolina Transportation Museum, which is an enterprise fund. An enterprise fund is a fund that provides goods or services to the public for a fee that makes the entity self-supporting. Session Law 2011-145 Section 21.1 established the North Carolina Transportation Museum special fund (enterprise fund), which is used to pay costs associated with the operation and maintenance of the Transportation Museum. All receipts derived from admissions and fees are credited to the fund. Notwithstanding the creation of the special fund, the Legislature has continued to appropriate funds to the Transportation Museum. Those funds, however, have varied in amounts. The Department did not have control over how much was actually appropriated for the Museum and it was difficult to predict how much the appropriation would be. The Legislature appropriated \$576,285 (a \$576,285 or 50 percent cut in appropriation) to the Museum in fiscal year 2012. In fiscal year 2013, the Museum is receiving a \$300,000 recurring appropriation (an \$852,570 or 74 percent cut in appropriation) effective with Session Law 2012-142. A fee increase, therefore, is necessary to maintain current positions and operation levels at the Museum. The Department must balance the reduced recurring annual appropriation against an admission fee capable of sustaining visitation and maximizing accessibility, attractions, and services to the public. To decrease the impact to the public, the Department has sought to avoid a drastic increase in entrance fees. Rather, the Department is seeking to increase revenue at the site, through special events and by leasing some of its property. That lease has taken months to go through the State approval process and is awaiting approval.

CHAPTER 04 - DIVISION OF ARCHIVES AND HISTORY
SUBCHAPTER 04N - HISTORIC SITES REGULATIONS
SECTION .0200 - SITE HOURS: ADMISSION FEES

07 NCAC 04N .0202 STATE HISTORIC SITES FEES

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

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

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

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

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

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

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

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

- (1) General Admission: ~~Five dollars (\$5.00)~~ Six dollars (\$6.00) for adults; ~~four dollars (\$4.00)~~ five dollars (\$5.00) for seniors and active military; ~~three dollars (\$3.00)~~ four dollars (\$4.00) for students (ages 3 to 12); and free for children (ages 0 to 2).
- (2) Group Admission (15 or more visitors): ~~Four dollars (\$4.00)~~ Five dollars (\$5.00) for adults; ~~three dollars and fifty cents (\$3.50)~~ four dollars and fifty cents (\$4.50) for seniors and active military; ~~one dollar and fifty cents~~

~~(\$1.50)~~ two dollars and fifty cents (\$2.50) for students (ages 3 to 12); and free for children (ages 0 to 2).

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

History Note: Authority G.S. 121-4(8); 121-4(9);
Eff. February 1, 1985;
Amended Eff. January 1, 1990; June 1, 1989;
Emergency Amendment Eff. July 14, 2011;

Temporary Amendment Eff. September 23, 2011;
Amended Eff. August 1, 2012;
Emergency Amendment Eff. August 10, 2012;
Codifier determined that findings of need did not meet the criteria for emergency rule on August 2, 2012;
Emergency Amendment Eff. December 10, 2012.

This Section contains information for the meeting of the Rules Review Commission on November 15, 2012 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Addison Bell
Margaret Currin
Pete Osborne
Bob Rippy
Faylene Whitaker

Appointed by House

Ralph A. Walker
Anna Baird Choi
Jeanette Doran
Garth K. Dunklin
Stephanie Simpson

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

January 17, 2013 February 17, 2013
March 21, 2013 April 18, 2013

RULES REVIEW COMMISSION

November 15, 2012

MINUTES

The Rules Review Commission met on Thursday, November 15, 2012, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Anna Baird Choi, Margaret Currin, Garth Dunklin, Pete Osborne, Stephanie Simpson, Ralph Walker, Faylene Whitaker, Jeanette Doran joined via Skype.

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

The meeting was called to order at 10:08 a.m. with Chairman Walker presiding. He reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e).

APPROVAL OF MINUTES

Chairman Walker asked for any discussion, comments, or corrections concerning the minutes of the October 18, 2012 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

Industrial Commission

Larry Baker with the NC Association of Defense Attorneys addressed the Commission about the rules from the Industrial Commission.

Staci Meyer with the Industrial Commission addressed the Commission about the rules from the Industrial Commission.

04 NCAC 10A .0301 – Industrial Commission – This rule was approved unanimously.

04 NCAC 10A .0404, .0502, .0617, .0801, .0802 – All rules were approved unanimously. Rule .0801 was approved contingent on receiving a technical change. The change was subsequently received.

04 NCAC 10B .0201, .0203, .0501 – All rules were approved unanimously with the following exception: Rule .0501 was approved contingent on receiving a technical change. with Commissioners Walker, Currin, Choi and Osborne voting to approve the rule. Commissioners Doran, Simpson, Dunklin voted against approving the rule. The technical change was subsequently received.

04 NCAC 10C .0108, .0201, .0202 – All rules were approved unanimously with the following exception: Rule .0201 was approved contingent on receiving a technical change with Commissioners Walker, Currin, Choi, Osborne and Simpson voting to approved the rule. Commissioners Dunklin and Doran voted against approving the rule. The technical change was subsequently received.

04 NCAC 10D .0104, .0110, .0111 – All rules were approved unanimously with the following exception: Rule .0110 was approved contingent on receiving a technical change with Commissioners Walker, Currin, Choi and Osborne voting to approve the rule. Commissioners Doran, Simpson and Dunklin voted against approving the rule. The technical change was subsequently received.

04 NCAC 10E .0101, .0301, .0302 – The Commission approved Rule .0101 contingent on receiving a technical change. Rule .0301 was approved contingent on receiving a technical change with Commissioners Choi, Currin, Walker and Osborne voting to approve the rule. Commissioners Simpson, Doran and Dunklin voted against approving the rule. Rule .0302 was returned to the agency at the agency's request. The technical changes were subsequently received.

04 NCAC 10F .0105, .0108 – Rule .0105 was approved unanimously. Rule .0108 was returned to the agency at the agency's request.

04 NCAC 10G .0105, .0107, .0108, .0110 – All rules were approved unanimously with the following exceptions: Rules .0105 and .0110 were approved contingent on receiving technical changes with Commissioners Choi, Currin, Walker and Osborne voting to approve the rules. Commissioners Simpson, Doran and Dunklin voted against approving the rules. Rule .0107 was approved contingent on receiving a technical change. All technical changes were subsequently received.

04 NCAC 10H .0201, .0202, .0206, .0207 – All rules were approved unanimously with the following exceptions: Rule .0201 was approved contingent on receiving a technical change. Rule .0206 was approved contingent on receiving a technical change with Commissioners Choi, Currin, Walker and Osborne voting to approve the rule. Commissioners Dunklin, Simpson and Doran voted against approving the rule. Rule .0207 was returned to the agency at the agency's request. All technical changes were subsequently received.

04 NCAC 10I .0201, .0204 – Rule .0204 was approved unanimously contingent on receiving a technical change. The technical change was subsequently received. Rule .0201 was returned to the agency at the agency's request.

04 NCAC 10J .0101 – The agency has not responded to the objection and no action was taken.

Child Care Commission

10A NCAC 09 .0901, .0902, .1702, .1706, .1718 – All rules were approved unanimously.

10A NCAC 09 .3004, .3007, .3008 – The Commission spent a considerable amount of time discussing these rules including Commissioner Dunklin's intention and Mr DeLuca's recommendation to vote against Rule .3004 based on lack of authority. There was also discussion about the other two rules including Commissioner Simpson's concerns about ambiguity. At the request of the agency no action was taken on Rule .3004. No action was taken on Rules .3007 and .3008 with the concurrence of the agency.

Department of Transportation

19A NCAC 02E .0609, .0610 – No action was taken on these rules.

Board of Podiatry Examiners

21 NCAC 52 .0205 – Rule .0205 was approved unanimously.

LOG OF FILINGS

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

Department of Administration

All rules were approved unanimously with the following exceptions.

01 NCAC 09 .0401, .0402, .0403, .0404, .0405, .0406 – The Commission objected to these rules based on lack of statutory authority. There is no authority cited for the Department of Administration to repeal these rules. It appears from the cited authority that the Governor's Office is the agency with rulemaking authority and nothing in the published notice implied that the Governor was repealing these rules.

01 NCAC 11 .2102, .2102, .2103, .2104, .2105, .2111, .2116, .2201, .2202, .2203, .2204 - The Commission objected to these rules based on lack of statutory authority. There is no authority cited for the Department of Administration to repeal these rules. It appears from the cited authority that the Human Relations Commission is the agency with rulemaking authority and nothing in the published notice implied that the Human Relations Commission was repealing these rules.

01 NCAC 19A .0103 – The Commission objected to this rule based on lack of statutory. There is no authority cited for the Department of Administration to repeal this rule. It appears from the cited authority that the Youth Advisory Council is the agency with rulemaking authority and nothing in the published notice implied that the Youth Advisory Council was repealing this rule.

01 NCAC 22 – All Repeals - The Commission objected to these rules based on lack of statutory authority. The authority for these rules, S.L. 1977-677, gives the Department the authority to adopt these rules but also authorizes joint adoption with the Commission for Health Services (now Commission for Public Health) and the Environmental Management Commission. Jointly adopted rules may only be revoked upon the concurrence of all three agencies. There is some evidence that these rules were originally jointly adopted. There is no authority cited for the Department to repeal these rules without the concurrence of the other agencies. Nothing in the published notice implied that the other agencies were concurring in the repeal of these rules.

Alcoholic Beverage Control Commission

Commissioner Choi was not present during the vote on these rules.

All rules were approved unanimously.

Private Protective Services Board

These rules were withdrawn and have been refiled for the December meeting.

Sheriffs' Education and Training Standards Commission

All rules were approved unanimously with the following exceptions:

12 NCAC 10B .2004, .2102 - The Commission objected to these rules based on ambiguity in accordance with G.S. 150B-21.10. In Rule .2004(1)(d)(i), is not clear what is meant by "possessing a law degree under [one of the Commissions]." In Rule .2102(1), is not clear what is meant by "possessing a law degree under [one of the Commissions]."

Alarm Systems Licensing Board

All rules were approved unanimously.

Department of Transportation

Betsy Strickland from the agency addressed the Commission.

Commissioner Osborne was not present during the vote on these rules.

All rules were approved unanimously with the following exceptions:

19A NCAC 01C .0201 – The Commission objected to this rule based on lack of statutory authority. There are several places in this rule where the department is requiring things to be done based on standards "required by the District Engineer" or similar language. There is no authority cited to set these standards outside rulemaking.

19A NCAC 02D .0414 – The Commission objected to this rule based on lack of statutory authority. There is no authority cited for the requirement that a contractor with a ["valid"] claim against the Department of Transportation (DOT) for any amount he claims is due to "exhaust whatever informal negotiation steps the Chief Engineer has established" before resorting to any other options allowed him by law.

Medical Board

All rules were approved unanimously.

Commissioner Whitaker was not present for the vote on these rules.

Prior to the discussion of these rules, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning these rules because her husband's law firm may represent clients with a position on these rules.

Nursing Board

21 NCAC 36 .0809 was approved unanimously.

Commissioner Whitaker was not present for the vote on these rules.

Prior to the discussion of these rules, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning these rules because her husband's law firm may represent clients with a position on these rules.

Prior to the discussion of these rules, Commissioner Choi recused herself and did not participate in any discussion or vote concerning these rules because her law firm represents the Board of Nursing.

Building Code Council

All rules were approved unanimously.

TEMPORARY RULES

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

Department of Cultural Resources

The Commission declined to approve Rule 07 NCAC 04N .0202 because the findings of need statement did not comply with G.S. 150B-21.1(b1). The findings of need statement for the rule stated that the temporary rule was required by the effective date of a recent act of the General Assembly. There is nothing in the cited Session Law, S.L. 2012-142, that requires an increase in fees. If anything, the inclusion of an additional appropriation would have been justification for reduced fees rather than increased fees.

RRC CERTIFICATION

Board of Agriculture

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rule 02 NCAC 09B .0116.

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rule 02 NCAC 09F .0101, .0102, .0103, .0201, .0202, .0203, .0204, .0305, .0306.

Home Inspector Licensure Board

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 11 NCAC 08 .1012 and .1116.

The Commission did not certify 11 NCAC 08 .1023 for publication. There is no authority cited for the provision in (f)(3) setting qualifications for pre-licensing programs' course instructors. The agency may not publish a notice a text for this rule or schedule this rule for a public hearing until it has either modified the rule or cited additional and sufficient authority for the rule.

The Commission voted on a motion to accept staff's recommendation to certify 11 NCAC 08 .1012 and .1116 and not certify Rule .1023 for publication. Commissioner Choi voted against the motion.

The meeting adjourned at 1:43 p.m.

The next scheduled meeting of the Commission is Thursday, December 20th at 10:00 a.m.

There is a digital recording of the entire meeting available from the Office of Administrative Hearings / Rules Division.

Respectfully Submitted,

Julie Edwards
Editorial Assistant

Minutes approved by the Rules Review Commission.

Judge Ralph A. Walker/Chair

Rules Review Commission
Meeting
Please Print Legibly

NOVEMBER 15, 2012

Name	Agency
Gina Cammarano	N/A
Betsy Sheekland	DOJ - DOT
Vernon Sumwalt	Sumwalt law firm
WANDA LONG	NC MEDICAL BOARD
Elizabeth Suttles	NC Medical Board
Conor Brockett	NC medical society
Karen Waddell	NC DOJ
Eileen Kugler	nc Board of Nursing
Angela Ellis	NC Board of Nursing
Julia Lohman	NC Sheriff's Commission
Nancy Heywill	NCMIB
Allyson M. Hammond	NC IC
Lawrence Bek	CSF
Denise Stanford	NCHILB
Helin Landri	NC DOT
Phyllis Sanchez	DOJ - DOT
BARRY SUTTON	NC DOJ NC BEC
Thom Rhodes	NC DER
Josh Davis	NC DER
Pamela Young	NC IC
Janice Davidson	NC DOR

RULES REVIEW COMMISSION

Rules Review Commission
Meeting
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Name	Agency
Coker Drenth	NCDA+CS
Chrissy Waggett	NCDA+CS
Bob Hamilton	ABC Commission
Tammy Nance	NCIC
Debra Alm	DCDEE
Ally Smith	DOJ/DCDEE
Jan Forlowski	DCDEE
Jennifer Everett	NCDENR
Penney DePas	NC Board of Podiatry Examiners
Mike Haddish	NC Home Eqpt. Transp. Boards
Staci Meyer	NCIC
Amber Cronk	NCIC
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CONTESTED CASE DECISIONS

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

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

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

ADMINISTRATIVE LAW JUDGES

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

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>			
James Ivery Smith, Ivy Lee Armstrong v. ABC Commission	11 ABC 08266	04/12/12	
Trawick Enterprises LLC v. ABC Commission	11 ABC 08901	05/11/12	27:01 NCR 39
Dawson Street Mini Mart Lovell Glover v. ABC Commission	11 ABC 12597	05/23/12	
ABC Commission v. Christian Broome Hunt T/A Ricky's Sports Bar and Grill	11 ABC 13161	05/03/12	
Alabarati Brothers, LLC T/A Day N Nite Food Mart, v. ABC Commission	11 ABC 13545	05/01/12	
Playground LLC, T/A Playground v. ABC Commission	11 ABC 14031	05/16/12	27:01 NCR 64
ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar	11 ABC 14036	07/05/12	
ABC Commission v. D's Drive Thru Inc. T/A D's Drive Thru	12 ABC 00060	05/29/12	
ABC Commission v. Choudhary, LLC T/A Speedway	12 ABC 00721	05/01/12	
ABC Commission v. Dos Perros Restaurant LLC T/A Dos Perros Restaurant	12 ABC 05312	09/25/12	
ABC Commission v. Bobby Warren Joyner T/A Hillsdale Club	12 ABC 06153	11/06/12	
ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar	12 ABC 07260	12/11/12	
ABC Commission v. Fat Cats Grill and Oyster Bar Inc, T/A Fat Cats Grill and Oyster Bar	12 ABC 08988	12/19/12	
<u>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</u>			
George H. Jagers, III v. Crime Victims Compensation Commission	12 CPS 01693	11/01/12	
Teresa Herbin v. Department of Public Safety Victim Services	12 CPS 03680	08/10/12	
Jacqueline M Davis victim-Antonio T Davis v. Dept. of Public Safety	12 CPS 05919	11/06/12	
Demario J. Livingston v. Dept. of Public Safety Victim Services	12 CPS 06245	10/19/12	
<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>			
Bright Haven Residential and Community Care d/b/a New Directions Group Home v. Division of Medical Assistance, DHHS	10 DHR 00232	04/27/12	
Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home, v. DHHS/Division of Health Service Regulation, Adult Care Licensure Section	10 DHR 01666	05/18/12	
Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home v. DHHS, Division of Health Service Regulation, Adult Care Licensure and Certification Section	10 DHR 05801	05/18/12	
Gold Care Inc. Licensee Hill Forest Rest Home Warren W. Gold v. DHHS, Adult Care Licensure Section	10 DHR 05861	05/18/12	
Mary Ann Barnes v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	11 DHR 6488	07/16/12	
Comprehensive PT Center v. DHHS, Division of Medical Assistance	11 DHR 9197	08/14/12	27:12 NCR 1204
Cherry's Group Home, Alphonso Cherry v. DHSR Michelle Elliot	11 DHR 09590	07/12/12	

CONTESTED CASE DECISIONS

Leslie Taylor v. DHHS, Division of Health Regulation	11 DHR 10404	10/19/12	
Powell's Medical Facility and Eddie N. Powell, M.D., v. DHHS, Division of Medical Assistance	11 DHR 01451	03/05/12	27:01 NCR 75
Julie Sadowski v. DHHS, Division of Health Service Regulation	11 DHR 01955	04/03/12	
Teresa Diane Marsh v. DHHS, Division of Health Service Regulation	11 DHR 11456	04/27/12	
Betty Parks v. Division of Child Development, DHHS	11 DHR 11738	06/20/12	
Lorrie Ann Varner v. DHHS, Regulation Health Care Personnel Registry Section	11 DHR 11867	08/02/12	
Brenda Brewer v. DHHS, Division of Child Development	11 DHR 12064	08/03/12	27:12 NCR 1210
Timothy John Murray v. DHHS, Division of Health Service Regulation	11 DHR 12594	06/15/12	
Holly Springs Hospital II, LLC v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Harnett Health System, Inc. and WakeMed	11 DHR 12727	04/12/12	27:04 NCR 486
Rex Hospital, Inc., v. DHHS, Division of Health Service Regulation, CON Section and WakeMed, Holly Springs Hospital II, LLC, and Harnett Health System, Inc.	11 DHR 12794	04/12/12	27:04 NCR 486
Harnett Health System, Inc., v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Holly Springs Hospital II, LLC, and WakeMed	11 DHR 12795	04/12/12	27:04 NCR 486
WakeMed v. DHHS, Division of Health Service Regulation, CON Section and Holly Springs Hospital II, LLC, Rex Hospital, Inc., and Harnett Health System, Inc	11 DHR 12796	04/12/12	27:04 NCR 486
Sandra Ellis v. DHHS	11 DHR 12959	07/11/12	
Vendell Haughton v. DHHS, Division of Medical Assistance	11 DHR 13616	07/05/12	
Tarsand Denise Morrison v. DHHS, Division of Health Service Regulation	11 DHR 13906	07/11/12	
Care Well of Charlotte Inc, Joy Steele v. DHHS	11 DHR 13909	08/02/12	
Michael Timothy Smith, Jr. v. DHHS, Division of Health Service Regulation	11 DHR 14184	08/01/12	
Cynthia Tuck Champion v. DHHS, Division of Health Service Regulation	11 DHR 14283	06/15/12	
Leslie Taylor, and Octavia Carlton v. Mecklenburg County Department of Social Services Youth and Family Services Division	11 DHR 14335	10/12/12	
Lauren Stewart v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	11 DHR 14570	06/08/12	
Alice M. Oakley v. Division of Child Development, DHHS	11 DHR 14571	05/15/12	27:04 NCR 508
McWilliams Center for Counseling Inc., v. DHHS, Division of Mental Health, Developmental Disabilities, Substance Abuse Services, and agency of the State of NC	11 DHR 15098	11/13/12	
Althea L. Flythe v. Durham County Health Department	12 DHR 00242	05/17/12	
Jerri Long v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 00361	07/06/12	
Angela Moya v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 00642	08/23/12	27:12 NCR 1218
Jessica Lynn Ward v. DHHS	12 DHR 00643	05/17/12	
Trinity Child Care II & I v. DHHS, Division of Public Health, Child and Adult Care Food Program	12 DHR 00861	04/20/12	27:04 NCR 518
Dr. Karen J. Williams, LPC v. DHHS, Division of Medical Assistance	12 DHR 00926	09/18/12	
Faith Home Care of NC, Bonita Wright v. DHHS, DMA	12 DHR 00928	07/25/12	
Olar Underwood v. Division of Child Development and Early Education	12 DHR 00990	10/22/12	
Angela C Jackson v. DHHS	12 DHR 01097	06/19/12	
Paula N Umstead v. DHHS	12 DHR 01098	05/11/12	
Daniel W. Harris, Jr., v. DHHS, Division of Health Service Regulation	12 DHR 01138	10/19/12	
ACI Support Specialists Inc. Case #2009-4249 v. DHHS	12 DHR 01141	06/06/12	
AriLand Healthcare Service, LLC, NCMHL #018-092, Shawn Kuhl Director of Operations v. DHHS, Emery E. Milliken, General Counsel	12 DHR 01165	05/25/12	
Kenneth Holman v. DHHS	12 DHR 01244	06/05/12	
Hillcrest Resthome Inc. (\$2000 penalty) v. DHHS	12 DHR 01289	05/30/12	
Hillcrest Resthome Inc. (\$4000 penalty) v. DHHS	12 DHR 01290	05/30/12	
Vivian Barrear v. DHHS, Division of Medical Assistance DHHS	12 DHR 01296	06/06/12	
Patricia Satterwhite v. DHHS	12 DHR 01338	07/23/12	
Timothy L Durham v. DHHS, Division of Health Services Regulation	12 DHR 01396	09/04/12	
Clydette Dickens v. Nash Co DSS	12 DHR 01625	05/15/12	
Robert Lee Raines v. DHHS	12 DHR 01736	05/30/12	
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Tricia Watkins v. DHHS, Division of Medical Assistance, Office of Medicaid TLW-Auditing Office	12 DHR 01807	06/01/12	
First Path Home Care Services Gregory Locklear v. DHHS	12 DHR 01878	06/22/12	
Patriotic Health Care Systems, LLC v. DHHS	12 DHR 02105	09/19/12	
John and Christina Shipman v. DHHS	12 DHR 02107	07/24/12	
Leslie Taylor, Octavia Carlton, Paula Carlton	12 DHR 02217	08/31/12	
Madeline Brown v. DHHS, Division of Health Service Regulation	12 DHR 02257	06/01/12	
Evelyn Evans v. DHHS, Division of Health Service Regulation	12 DHR 02258	07/02/12	

CONTESTED CASE DECISIONS

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Michael and Jamie Hart v. Davidson County, Department of Social Services	12 DHR 02542	07/03/12
Annamae R. Smith v. DHHS, Division of Medical Assistance	12 DHR 02657	11/05/12
Our Daily Living, Christopher OnWuka, Director v. DHHS	12 DHR 02777	10/17/12
Jessica L Thomas v. Randolph County DSS	12 DHR 02955	07/24/12
Moses E Shoffner v. DHHS, Division of Child Development	12 DHR 03459	08/15/12
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James C. Bartley v. DHHS, DMA	12 DHR 04116	07/25/12
LaBrenda Jane Elliot v. DHHS, Division of Medical Assistance	12 DHR 04993	09/24/12
James Johnson v. DHHS, Division of Health Service Regulation	12 DHR 05148	09/11/12
Cathy Crosland v. DHHS, Division of Health Service Regulation	12 DHR 05610	08/06/12
Southern Living Home Care Agency Inc., v. DHHS	12 DHR 05864	11/06/12
Beverly Coleman v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	12 DHR 05961	09/05/12
Dwight William Osborne v. Glana M Surles, DHHS (Medicaid)	12 DHR 05693	09/14/12
Gregory Howard v. Health Care Personnel Registry	12 DHR 06157	09/07/12
Harrison E Shell Jr v. Wake County Human Services	12 DHR 06203	08/28/12
Valtina Bronson v. DHHS, Division of Health Service Regulation	12 DHR 06365	08/29/12
Danny Skipper AKA Danny Skipper v. DHHS, Division of Health Services Regulation	12 DHR 06403	10/22/12
Stalin Bailon v. Department of Social Services	12 DHR 06528	10/17/12
Our Daily Living, Christopher OnWuka, Director v. DHHS	12 DHR 06683	10/17/12
Darina Renee Ford v. DHHS	12 DHR 07166	11/19/12
Marquis Gerade Harrell v. DHHS, Health Care Personnel Registry, Leslie Chabet	12 DHR 07170	10/23/12
KMG Holdings Inc. – The Lighthouse II of Clayton MHL #051-138 v. DHHS, Division of Health Licensure and Certification	12 DHR 07292	11/08/12
Denise Marie Shear v. DHHS, Division of Health Service Regulation	12 DHR 07547	11/07/12
Terique Epps, Family Legacy Mental Health Services DBA Task Inc v. DHHS and PBH	12 DHR 07616	11/09/12
Angela Mackey v. DHHS, Division of Health Service Regulation	12 DHR 07619	10/05/12
Eloise Dowtin v. The Emmanuel Home IV v. Division of Health Service Regulation	12 DHR 07620	11/06/12
Koffi Paul Aboagye v. DHHS, Division of Health Service Regulation	12 DHR 07731	11/20/12
Ronald Dixon v. Division of Child Development, DHHS	12 DHR 08446	11/14/12
Carolyn Ragin v. DHHS, Division of Health Services Regulation	12 DHR 09373	12/18/12

DEPARTMENT OF CORRECTIONS

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

Tommy Keith Lymon v. Criminal Justice Education and Training Standards Commission	09 DOJ 03751	07/30/12	27:06 NCR 649
Greary Michael Chlebus v. Criminal Justice Education and Training Standards Commission	11 DOJ 4829	04/27/12	
Dillan Nathanael Hymes v. Criminal Justice Education and Training Standards Commission	11 DOJ 10315	07/23/12	27:06 NCR 661
Barbara Renay Whaley v. Criminal Justice Education and Training Standards Commission	11 DOJ 10316	04/25/12	
Robert Kendrick Mewborn v. Criminal Justice Education and Training Standards Commission	11 DOJ 10318	04/23/12	
Athena Lynn Prevatte v. Sheriffs' Education and Training Standards Commission	11 DOJ 13148	05/25/12	27:04 NCR 529
Shatel Nate Coates v. Sheriffs' Education and Training Standards	11 DOJ 13151	07/05/12	
James Lee Ray v. Sheriffs' Education Training Standards	11 DOJ 13152	08/27/12	
Ko Yang v. Sheriff's Education and Training Standards Commission	11 DOJ 13153	06/14/12	
Dustin Edward Wright v. Sheriffs' Education and Training Standards Commission	11 DOJ 13154	08/08/12	
Walter Scott Thomas v. Sheriff's Education and Training Standards Commission	11 DOJ 13155	05/10/12	
Darryl Howard v. Criminal Justice Education and Training Standards Commission	11 DOJ 13157	04/12/12	
John Jay O'Neal v. Criminal Justice Education and Training Standards Commission	11 DOJ 13158	07/06/12	27:07 NCR 749
Charlesene Cotton v. Criminal Justice Education and Training Standards Commission	11 DOJ 13159	06/05/12	27:04 NCR 538
William James Becker v. Criminal Justice Education and Training Standards Commission	11 DOJ 13160	08/16/12	
Steve Michael Galloway, Jr, Private Protective Services Board	11 DOJ 14434	04/23/12	
Justin Thomas Medlin v. Alarm Systems Licensing Board	11 DOJ 14493	04/23/12	
Argentina Rojas v. Department of Justice, Campus Police Officer Commission	12 DOJ 00394	11/02/12	
Bruce Clyde Shoe v. Private Protective Services Board	12 DOJ 00556	09/26/12	
Angela Louise Giles v. Private Protective Services Board	12 DOJ 00557	04/18/12	
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Don Hillebrand v. County of Watauga County Health Dept	10 EHR 00933	05/10/12	
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Holmes Development & Realty, LLC, and H.L. Homes v. DENR – Land Quality Section (Re: LQS 11-018)	11 EHR 13208	06/29/12	27:07 NCR 774
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Nephatiya Wade v. UNC Hospitals Chapel Hill NC	12 UNC 01209	07/17/12
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