

NORTH CAROLINA REGISTER

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December 15, 2010

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NORTH CAROLINA REGISTER
 Publication Schedule for January 2011 – December 2011

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
25:13	01/03/11	12/08/10	01/18/11	03/04/11	03/21/11	05/01/11	05/2012	09/30/11
25:14	01/18/11	12/22/10	02/02/11	03/21/11	03/21/11	05/01/11	05/2012	10/15/11
25:15	02/01/11	01/10/11	02/16/11	04/04/11	04/20/11	06/01/11	05/2012	10/29/11
25:16	02/15/11	01/25/11	03/02/11	04/18/11	04/20/11	06/01/11	05/2012	11/12/11
25:17	03/01/11	02/08/11	03/16/11	05/02/11	05/20/11	07/01/11	05/2012	11/26/11
25:18	03/15/11	02/22/11	03/30/11	05/16/11	05/20/11	07/01/11	05/2012	12/10/11
25:19	04/01/11	03/11/11	04/16/11	05/31/11	06/20/11	08/01/11	05/2012	12/27/11
25:20	04/15/11	03/25/11	04/30/11	06/14/11	06/20/11	08/01/11	05/2012	01/10/12
25:21	05/02/11	04/08/11	05/17/11	07/01/11	07/20/11	09/01/11	05/2012	01/27/12
25:22	05/16/11	04/25/11	05/31/11	07/15/11	07/20/11	09/01/11	05/2012	02/10/12
25:23	06/01/11	05/10/11	06/16/11	08/01/11	08/22/11	10/01/11	05/2012	02/26/12
25:24	06/15/11	05/24/11	06/30/11	08/15/11	08/22/11	10/01/11	05/2012	03/11/12
26:01	07/01/11	06/10/11	07/16/11	08/30/11	09/20/11	11/01/11	05/2012	03/27/12
26:02	07/15/11	06/23/11	07/30/11	09/13/11	09/20/11	11/01/11	05/2012	04/10/12
26:03	08/01/11	07/11/11	08/16/11	09/30/11	10/20/11	12/01/11	05/2012	04/27/12
26:04	08/15/11	07/25/11	08/30/11	10/14/11	10/20/11	12/01/11	05/2012	05/11/12
26:05	09/01/11	08/11/11	09/16/11	10/31/11	11/21/11	01/01/12	05/2012	05/28/12
26:06	09/15/11	08/24/11	09/30/11	11/14/11	11/21/11	01/01/12	05/2012	06/11/12
26:07	10/03/11	09/12/11	10/18/11	12/02/11	12/20/11	02/01/12	05/2012	06/29/12
26:08	10/17/11	09/26/11	11/01/11	12/16/11	12/20/11	02/01/12	05/2012	07/13/12
26:09	11/01/11	10/11/11	11/16/11	01/03/12	01/20/12	03/01/12	05/2012	07/28/12
26:10	11/15/11	10/24/11	11/30/11	01/17/12	01/20/12	03/01/12	05/2012	08/11/12
26:11	12/01/11	11/07/11	12/16/11	01/30/12	02/20/12	04/01/12	05/2012	08/27/12
26:12	12/15/11	11/22/11	12/30/11	02/13/12	02/20/12	04/01/12	05/2012	09/10/12

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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

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

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 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Alcoholic Beverage Control Commission intends to adopt the rules cited as 04 NCAC 02S .0904; 02T .0104, .0308 and amend the rules cited as 04 NCAC 02S .0512, .0518-.0520, .0612, .0616; 02T .0101, .0103, .0201-.0202, .0206, .0303, .0401, .0502, .0708-.0709, .0711-.0714, .0716-.0717, .0901, .1001.

Proposed Effective Date: April 1, 2011

Public Hearing:

Date: January 13, 2011

Time: 10:00 a.m.

Location: NC ABC Commission's Office, 400 East Tryon Road, Raleigh, NC 27610

Reason for Proposed Action: The NC Alcoholic Beverage Control Commission proposes this action will address both the Legislation that has been enacted by the General Assembly previously and needed technical changes.

Procedure by which a person can object to the agency on a proposed rule: Interested persons may present oral or written comments at the Rule-Making Hearing. In addition, the record will be open for receipt of written comments from December 15, 2010, to February 14, 2011. Written comments not presented at the hearing should be directed to Robert Hamilton. The proposed rules are available for public inspection and copies may be obtained at the Commission's office at: 400 East Tryon Road, Raleigh, NC 27610.

Comments may be submitted to: Robert A. Hamilton, 4307 Mail Service Center, Raleigh, NC 27699-4307; phone (919) 779-0700 ext. 436; fax (919) 661-6165; email bob@adminrule.com

Comment period ends: February 14, 2011

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

Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

State – 04 NCAC 02T .0401

Local

Substantial Economic Impact (≥\$3,000,000)

None – 04 NCAC 02S .0512, .0518-.0520, .0612, .0616; 02T .0101, .0103, .0201-.0202, .0206, .0303, .0502, .0708-.0709, .0711-.0714, .0716-.0717, .0901, .0904, .1001; 02T .0104, .0308.

Fiscal Note posted at

http://www.osbm.state.nc.us/files/pdf_files/ABC12092010.pdf

CHAPTER 02 - ALCOHOLIC BEVERAGE CONTROL COMMISSION

SUBCHAPTER 02S - RETAIL BEER: WINE: MIXED BEVERAGES: BROWNBAGGING: ADVERTISING: SPECIAL PERMITS

SECTION .0500 - ADDITIONAL REQUIREMENTS FOR MIXED BEVERAGES PERMITTEES

04 NCAC 02S .0512 STORAGE AND DISPOSAL OF SPIRITUOUS LIQUOR CONTAINERS

(a) Storage. All containers of alcoholic beverages possessed by a permittee for resale in mixed beverages shall be stored on the licensed premises in a separate area out of view of the patrons of the establishment, except as provided in Paragraph (b) of this Rule.

(b) Container Display. A permittee may keep at each mixing station on the premises a reasonable number of containers of each brand of spirituous liquor likely to be used at that station, but no more than one container of each brand shall be open at one station at one time. A mixing station is a counter or other place where a bartender mixes drinks to be served to patrons. Generally, each bar counter is considered a single mixing station, but a counter may contain more than one mixing station if it is so long that more than one bartender is needed to serve the patrons at that counter. In that case the counter is normally considered to have as many mixing stations as there are bartenders at that counter. Each portable bar is considered a single mixing station.

(c) Keys Required. Any lock used to secure the designated storage area shall be capable of being unlocked with a key that is available on the premises at all times.

(d) Official Inspections. The designated storage area shall be open to inspection by the Commission or law enforcement officers pursuant to G.S. 18B-502.

(e) Empty Containers. As soon as a container of spirituous liquor is empty, the permittee or his employee shall immediately and permanently deface the mixed beverages tax stamp and dispose of the bottle.

~~(f) Inventory Records. During the first year of operation, the permittee shall maintain on a daily basis, an accurate inventory reflecting additions to and withdrawals from stock that specifies:~~

- ~~(1) brand and container size of each item withdrawn;~~
- ~~(2) date of withdrawal; and~~
- ~~(3) date partially used containers are returned to storage.~~

~~This inventory shall be kept on a form approved by the Commission.~~

~~(g)~~(f) Guest Room Cabinet Permittees. A hotel that has been issued a Guest Room Cabinet Permit may store spirituous liquor and premixed cocktails purchased for resale from guest room cabinets in the same storage area with alcoholic beverages purchased for resale in mixed beverages, as provided in Paragraph (a) of this Rule. A hotel shall not, however, place on display at mixing stations any 50 milliliter containers of liquor that were purchased for resale from cabinets. Empty or partially empty containers of alcoholic beverages purchased by a room guest from a cabinet shall be disposed of by the permittee after the room guest has checked out of the hotel.

Authority G.S. 18B-207; 18B-502; 18B-1001(13).

04 NCAC 02S .0518 PRIVATE CLUBS: FINANCIAL STATEMENTS: RECORD KEEPING

(a) A private club holding a Mixed Beverages Permit shall maintain full and accurate monthly records of its finances, separately indicating each of the following:

- (1) amounts expended for the purchase of spirituous liquor from ABC stores and the quantity of spirituous liquor purchased;
- (2) amounts collected from the sale of mixed beverages and, by brand and container size, the quantity of spirituous liquor sold;
- (3) amounts received in payment of members' dues;
- (4) amounts received from charges to members and guests of members; and
- (5) quantity of spirituous liquor, by brand and container size, that was not sold but is no longer on the licensed premises due to stated reasons, such as breakage or theft.

(b) Records of purchases of spirituous liquor and sales of mixed beverages shall be filed separate and apart from all other records maintained on the premises.

(c) Records, including original invoices for the items in Paragraph (a) of this Rule, shall be maintained on the premises for three years and shall be open for inspection or audit pursuant to G.S. 18B-502.

(d) A private club holding a Mixed Beverages Permit shall submit to the Commission for its review, ~~on forms provided by~~

~~the Commission,~~ regular reports summarizing the information required to be maintained by this Rule. These reports shall be submitted ~~on a quarterly basis during the first year of operation as a licensed premises and, thereafter,~~ on an annual basis or ~~on a schedule set upon request~~ by the Commission.

Authority G.S. 18B-207; 18B-1008.

04 NCAC 02S .0519 RESTAURANTS: INCOME FROM SALES

~~(a) For the purposes of further defining a restaurant, as provided in G.S. 18B-1000(6), the term "substantially engaged in the business of preparing and serving meals" means that more than fifty percent of the establishment's food and beverage sales are from the sale of food and non-alcoholic beverages.~~

~~(b)~~(a) ~~In~~ For the purposes of G.S. 18B-1000(6), in determining what portions of sales can be attributed to the sale of food and non-alcoholic beverages, the following sales may be included:

- (1) food prepared in the permittee's kitchen and served as a meal to be consumed on the premises or as a "take-out" order;
- (2) prepackaged food sold to accompany the meal; and
- (3) non-alcoholic beverages sold to accompany the meal.

~~(e)~~(b) ~~In~~ For the purposes of G.S. 18B-1000(6), in determining what portions of sales can be attributed to the sale of food and non-alcoholic beverages, the following items may not be included:

- (1) mixed beverages, including the mixer;
- (2) any other alcoholic beverages;
- (3) grocery items not ordered and purchased with meals; and
- (4) cover charges.

Authority G.S. 18B-207; 18B-1000(6); 18B-1008.

04 NCAC 02S .0520 RESTAURANTS, HOTELS, AND TOUR BOATS: RECORD KEEPING

(a) Monthly Records. Restaurants, hotels and tour boats holding Mixed Beverages Permits shall maintain full and accurate monthly records of their finances, separately indicating each of the following:

- (1) amounts expended for the purchase of spirituous liquor from ABC stores and the quantity of spirituous liquor purchased;
- (2) amounts collected from the sale of mixed beverages and, by brand and container size, the quantity of spirituous liquor sold;
- (3) if a guest room cabinet permittee, the amounts collected from the sale of liquor from guest room cabinets, and by container size, the quantity of liquor sold from cabinets;
- (4) the quantity of spirituous liquor, by brand and container size, that was not sold but is no longer on the premises due to stated reasons, such as breakage or theft;
- (5) if a restaurant or tour boat, amounts collected from the sale of:
 - (A) food and non-alcoholic beverages;

- (B) items other than food and beverages of all kinds; and
- (C) malt beverages, unfortified wine and fortified wine;
- (6) if a hotel, amounts collected from:
 - (A) furnishing lodging;
 - (B) sale of meals;
 - (C) sale of malt beverages, unfortified wine and fortified wine; and
 - (D) all other sources.

(b) Segregation of Records. Records of purchases of spirituous liquor and sales of alcoholic beverages shall be filed separate and apart from all other records maintained on the premises.

(c) Retention and Inspection of Records. Records, including original invoices related to alcoholic beverages and mixed beverages, shall be maintained on the premises for three years and shall be open for inspection or audit pursuant to G.S. 18B-502.

(d) Submission of Financial Records. A restaurant, tour boat, or hotel holding a Mixed Beverages Permit shall submit to the Commission for its review, ~~on forms provided by the Commission,~~ regular reports summarizing the information required to be maintained by this Rule. These reports shall be submitted ~~on a quarterly basis during the first year of operation as a licensed premises, and thereafter,~~ on an annual basis or ~~on a schedule set upon request~~ by the Commission.

Authority G.S. 18B-207; 18B-1006(i); 18B-1008.

SECTION .0600 - SPECIAL REQUIREMENTS FOR CONVENTION CENTERS, COMMUNITY THEATRES, SPORTS CLUBS, AND NONPROFIT AND POLITICAL ORGANIZATIONS

04 NCAC 02S .0612 RECORD KEEPING

(a) Convention centers, community theatres, nonprofit and political organizations holding Mixed Beverages permits shall maintain full and accurate monthly records of their finances, separately indicating each of the following:

- (1) amounts expended for the purchase of spirituous liquor from ABC stores and the quantity of spirituous liquor purchased;
- (2) amounts collected from the sale of mixed beverages and, by brand and container size, the quantity of spirituous liquor sold; and
- (3) the quantity of spirituous liquor, by brand and container size, that was not sold but is no longer on the premises due to stated reasons, such as breakage or theft.

(b) Segregation of Records. Records of purchases of spirituous liquor and sales of alcoholic beverages shall be filed separate and apart from all other records maintained on the premises.

(c) Retention and Inspection of Records. Records, including original invoices related to alcoholic beverages and mixed beverages, shall be maintained on the premises for three years and shall be open for inspection or audit pursuant to G.S. 18B-502.

(d) Submission of Financial Records. A permittee holding a Mixed Beverages permit under this Rule shall submit to the

Commission for its review, ~~on forms provided by the Commission,~~ regular reports summarizing the information required to be maintained by the rule. These reports shall be submitted ~~on a quarterly basis during the first year of operation as a licensed premises, and thereafter,~~ on an annual basis or ~~on a schedule set upon request~~ by the Commission.

Authority G.S. 18B-207; 18B-1007.

04 NCAC 02S .0616 SPORTS CLUB: RECORD KEEPING REQUIREMENTS

(a) Monthly Records. A sports club holding ABC permits issued by the Commission shall maintain full and accurate monthly records of the following:

- (1) amounts expended for the purchase of spirituous liquor from ABC stores and the quantity of spirituous liquor purchased;
- (2) amounts collected from the sale of mixed beverages and, by brand and container size, the quantity of spirituous liquor sold;
- (3) the quantity of spirituous liquor, by brand and container size, that was not sold but is no longer on the premises due to stated reasons, such as breakage or theft;
- (4) amounts collected from the sale of malt beverages, fortified wine, and unfortified wine;
- (5) amounts collected from club activity fees, excluding receipts for food; and
- (6) receipts for food.

(b) The records required to be kept by this Rule shall be kept separate and apart from all other records maintained on the premises.

(c) Records, including original invoices related to alcoholic beverages and mixed beverages, shall be maintained on the premises for three years and shall be open to inspection or audit pursuant to G.S. 18B-502.

(d) A sports club holding ABC permits shall submit to the Commission for its review, ~~on forms provided by the Commission,~~ regular reports summarizing the information required by this Rule. These reports shall be submitted ~~on a quarterly basis during the first year of operation with sports club ABC permits, and thereafter,~~ on an annual basis or ~~on a schedule set upon request~~ by the Commission.

Authority G.S. 18B-207; 18B-1000(5a); 18B-1008.

SECTION .0900 - WINE AND BEER TASTINGS

04 NCAC 02S .0904 TASTINGS HELD BY INDUSTRY MEMBERS FOR ABC BOARDS

(a) Distiller representatives may conduct educational tastings for ABC board members, general managers and employees, whose duties include product selection, upon notification by the distiller representative to the Commission and the distiller representative has obtained a permit under G.S. 18B-1001(9).

(b) A tasting held under this Rule shall not be conducted in conjunction with a meal, a party or any other social event, but shall be for business purposes only.

(c) No tasting shall be held on ABC board property.

Authority G.S. 18B-203(a)(9); 18B-207; 18B-1116.

**SUBCHAPTER 02T - INDUSTRY MEMBERS:
RETAIL/INDUSTRY MEMBER RELATIONSHIPS: SHIP
CHANDLERS: AIR CARRIERS: FUEL ALCOHOL**

**SECTION .0100 - DEFINITIONS: APPLICATION
PROCEDURES**

04 NCAC 02T .0101 DEFINITIONS

The following terms shall have the following meanings when used in this Chapter:

- (1) "Brand," in relation to wines, means the name under which a wine is produced and ~~shall include~~ includes trade names or trademarks. A brand shall not be construed to mean a class or type of wine, but all classes and types of wines sold under the same brand label ~~shall be~~ are considered a single brand. Differences in packaging such as a different style, type or size of container are not considered different brands.
- (2) "Industry member" means any wholesaler, salesman, brewery, winery, bottler, importer, distiller, distiller representative, rectifier, nonresident vendor, vendor representative, or affiliate thereof, that sells or solicits orders for alcoholic beverages, whether or not licensed in this state.
- (3) "Retail permittee" or "retailer" means any permittee holding a retail alcoholic beverage permit issued pursuant to the authority of G.S. 18B-1001, but ~~shall~~ does not include a non-profit or political organization that has been issued a Special One-Time permit pursuant to the provisions of G.S. 18B-1002(a)(2) or (5).
- (4) "Representative" means any vendor representative, as that term is ~~defined~~ used in G. S. 18B-1112, or any other person selling or soliciting orders for alcoholic beverages on behalf of a manufacturer, bottler, vendor, or importer.
- (5) "Vendor" means any nonresident malt beverage vendor or nonresident wine vendor, as those terms are ~~defined~~ used in G.S. 18B-1113 and 18B-1114.
- (6) "Wine" means both fortified wine and unfortified wine, as those terms are defined in G.S. 18B-101(7) and (15).

Authority G.S. 18B-101; 18B-207; 18B-1112; 18B-1113; 18B-1114; 18B-1116.

**04 NCAC 02T .0103 BEER FRANCHISE LAW;
"BRAND" DEFINED**

For purposes of Article 13 of Chapter 18B, the Beer Franchise Law, a distribution agreement between a supplier and wholesaler

applies to all products distributed by the supplier under the same brand name. Different categories of products manufactured and marketed under a common identifying trade name are considered to be the same brand; e.g., the "Old Faithful" brand manufactured by Yellowstone Brewery Co. would include "Old Faithful", "Old Faithful Light", "Old Faithful Draft", "Old Faithful Dry" and other products identified principally by and relying upon the "Old Faithful" name, but would not include "Old Teton" which was also manufactured by Yellowstone Brewery Co. Determination of a product's brand shall be made by the Commission at the time the product is approved for sale in North Carolina and shall not be affected by later changes in the manufacturer's advertising strategy or labeling. Differences in packaging, such as different style, type or size of container, do not establish different brands.

Authority G.S. 18B-207; 18B-1303(a).

04 NCAC 02T .0104 WINE PRODUCT BRAND

Determination of a product's brand shall be made by the Commission at the time the product is approved for sale in North Carolina and shall not be affected by later changes in the manufacturer's advertising strategy or labeling. Differences in packaging, such as different style, type or sized of container, do not establish different brands.

Authority G.S. 18B-207; 18B-1203.

**SECTION .0200 - PRODUCT APPROVALS: LISTING
PROCEDURES: PRODUCT LISTS**

**04 NCAC 02T .0201 MALT BEVERAGE PRODUCT
APPROVAL: LISTING IN STATE**

(a) All malt beverage products offered for sale in this State shall first be approved by the Commission. The Commission shall provide blank Label/Product Application Forms upon request. Thereafter, any approved malt beverage product sold in this State shall conform to the analysis of the samples submitted.

~~(b) Samples. Any industry member who submits to the Commission a malt beverage product for approval for sale in the State shall furnish, without cost to the Commission, a sample of the product in a marketable container.~~

- (b) The Commission shall approve malt beverage products if:
 - (1) the procedure for approval is complied with as required in Paragraph (c) of this Rule;
 - (2) the analysis is within the limits as required in Paragraph (d) of this Rule;
 - (3) the malt beverage product meets or exceeds the packaging requirements as required in 04 NCAC 02T .0301; and
 - (4) at the time of consideration, the Commission does not have evidence to suspect that the product:
 - (A) contains harmful or impure substances;
 - (B) contains an improper balance of substances, based on studies by universities, laboratories, the

Commission or other scientific studies;

(C) is a spurious or imitation product; or

(D) is unfit for human consumption.

(c) Procedure for Listing- Approval. To receive consideration for approval by the Commission for a new malt beverage product, an industry member shall comply with the following procedures:

(1) ~~All items shall be submitted in duplicate submit a completed Label/Product Approval Form with a list of all container sizes being offered;~~

(2) ~~All labels shall be submitted in duplicate and attached to the application form; attach all malt beverage product labels that are specified on the Label/Product Approval Form to the Label/Product Approval Form;~~

(3) ~~upon request from the Commission, submit a sample of the product in a marketable container;~~

~~(3)(4) A attach a copy of the Federal Label Approval Form shall be submitted; (COLA) to the Label/Product Approval Form;~~

~~(4)(5) Payment of submit a non-refundable analysis fee in the form of a certified check, cashier's check or money order in the amount of twenty-five dollars (\$25.00) shall accompany the application of for each new item malt beverage product submitted; submitted, except if the industry member submits a certified laboratory analysis an analysis certified by a laboratory of the product, product is submitted, submit payment of a non-refundable administrative fee in the amount of ten dollars (\$10.00) as set out in G.S. 18B-206(c) shall be submitted. in the form of a certified check, cashier's check or money order; and~~

~~(6) forward all required items to the North Carolina Alcoholic Beverage Control Commission, 4307 Mail Service Center, Raleigh, North Carolina 27699-4307.~~

~~(d) If an analysis of a product is submitted it shall provide at least the following information in English: All malt beverage analyses shall be within the following limits:~~

~~(1) alcohol by volume (maximum six percent), a maximum 15 percent alcohol by volume;~~

~~(2) total sulphur dioxide content (maximum 25 ppm), a maximum 25 parts per million of total sulphur dioxide content; and~~

~~(3) gallo tannins (maximum 100 ppm), a maximum 100 parts per million of gallo tannins.~~

~~(4) calories per 360 milliliters (12 ounces), and~~

~~(5) specific gravity.~~

~~(e) All forms required for the listing, analysis and approval of any malt beverage product shall be stapled together and forwarded to the ABC Commission, 3322 Garner Road, P.O. Box 26687, Raleigh, North Carolina 27611-6687.~~

(e) All analyses of products submitted by industry members shall provide the following information in English:

(1) the measured amounts listed in Paragraph (d) of this Rule;

(2) the calories per 360 milliliters (12 ounces);

(3) the specific gravity; and

(4) the amount of any fortified stimulant per 360 milliliters (12 ounces).

(f) The Commission shall withdraw approval of a malt beverage product when the Commission has evidence to suspect that the product:

(1) contains harmful or impure substances;

(2) contains an improper balance of substances;

(3) is a spurious or imitation product; or

(4) is unfit for human consumption.

The malt beverage product shall not be reapproved until the Commission has evidence that proves otherwise.

(g) A person possessing malt beverage products that have had the approval withdrawn by the Commission shall have 60 days after notice of the withdrawal to sell or otherwise dispose of the malt beverage products.

Authority G.S. 18B-203(a)(5); 18B-206; 18B-207.

04 NCAC 02T .0202 WINE APPROVALS; LISTING IN STATE

(a) Except as provided in 04 NCAC 02S .0223, for special orders, before any wine is offered for sale in this State, it and the label used upon the container all wine products offered for sale in this State shall first be approved by the Commission. The Commission shall provide blank Wine Analysis forms Label/Product Application Forms upon request. Thereafter, any approved wine product sold in this State shall conform to the analysis of the samples submitted.

~~(b) Sample of Wine Required. An industry member shall submit, without cost to the Commission, a sample of any wine that is the subject of application for listing for inspection and analysis.~~

(b) The Commission shall approve a wine product if:

(1) the procedure for approval is complied with as required in Paragraph (d) of this Rule;

(2) it is a fortified wine product that the alcohol by volume is above 16 percent and no more than 24 percent;

(3) it is a unfortified wine product that the alcohol by volume is 16 percent or less;

(4) the wine product meets or exceeds the packaging requirements as required in 04 NCAC 02T .0301, and

(5) at the time of consideration, the Commission does not have evidence to suspect that the product:

(A) contains harmful or impure substances;

(B) contains an improper balance of substances, based on studies by universities, laboratories, the Commission or other scientific studies;

- (C) is a spurious or imitation product; or
 (D) is unfit for human consumption.

(c) Procedure for Approval. The steps required to receive consideration by the Commission for a new wine listing are: To receive consideration for approval by the Commission for a new wine product, an industry member shall comply with the following procedures:

- (1) submit a completed Label/Product Application Form; all items on the form in duplicate, fortified and unfortified wines listed on separate forms;
- (2) submit separate Label/Product Application Forms for fortified and unfortified wine products;
- ~~(2)(3)~~ submit all labels in duplicate attached to the form; attach all wine product labels that are specified on the Label/Product Application Form to the Label/Product Application Form;
- ~~(3)(4)~~ upon request from the Commission, submit a 500 milliliter (or a larger size if 500 milliliter is not available) bottle of each product offered for examination; offered;
- ~~(4)~~ list all sizes being offered on the form;
- (5) submit attach a copy of the Federal Label Approval; Approval Form (COLA) to the Label/Product Application Form;
- (6) submit a non-refundable analysis fee in the form of a certified check, cashier's check or money order in the amount of twenty-five dollars (\$25.00) for each new item wine product submitted, except if a verified laboratory analysis an analysis certified by a laboratory of the product is submitted, submit a non-refundable administrative fee as set out in G.S. 18B-206(c) in the form of a certified check, cashier's check in the amount of ten dollars (\$10.00); or money order; and
- (7) staple together all forms submitted with each item and forward forward all required items to the North Carolina Alcoholic Beverage Control Commission, 3322 Garner Road, P.O. Box 26687, 4307 Mail Service Center, Raleigh, North Carolina 27611-6687. 27699-4307.

(d) If an analysis of a product is submitted, it shall provide at least the following information in English:

- (1) alcohol by volume (percent);
- (2) total acidity (g/100 cc as tartaric acid);
- (3) total sulphur dioxide content (ppm);
- (4) volatile acidity, exclusive of sulphur dioxide (g/100 cc as acetic acid);
- (5) alcohol-free soluble solids (degrees/Brix degrees/Balling); ~~and~~
- (6) identity and quantity of any added chemical ~~preservative.~~ preservative; ~~and~~
- (7) the amount of any fortified stimulant per container.

(e) The Commission shall withdraw approval of a wine product when the Commission has evidence to suspect that the product:

- (1) contains harmful or impure substances;
- (2) contains an improper balance of substances;
- (3) is a spurious or imitation product; or
- (4) is unfit for human consumption.

The wine product shall not be reapproved until the Commission has evidence that proves otherwise.

(f) A person possessing wine products that have had the approval withdrawn by the Commission shall have 60 days after notice of the withdrawal to sell or otherwise dispose of the wine products.

Authority G.S. 18B-203(a)(5); 18B-206; 18B-207.

04 NCAC 02T .0206 NEW FILING REQUIRED UPON TRANSFER OF BRAND

When any malt beverage or wine brand or product is transferred from one nonresident vendor, manufacturer or importer to another, the new vendor, manufacturer or importer shall, within 30 days of the acquisition of the brand or product, submit the following items to the Commission:

- (1) label approval application forms ~~(BWL008) in duplicate, (BWL008),~~ with labels attached;
- (2) copies of Federal Label Approval ~~forms in duplicate; forms;~~
- (3) a certified laboratory analysis of the product, in English, showing alcohol content by volume, with a ~~check in the amount of ten dollars (\$10.00); and non-refundable administrative fee as set out in G.S. 18B-206(c) in the form of a certified check, cashier's check or money order; and~~
- (4) the wholesaler territorial designations for the brand and product that were in effect on the date the product was acquired by the vendor, manufacturer or importer.

Compliance with this Rule is mandatory notwithstanding the fact that the product has been previously approved by the Commission.

Authority G.S. 18B-203(a); 18B-206; 18B-1203; 18B-1303(a); 18B-1305(d).

SECTION .0300 - PACKAGING AND LABELING OF MALT BEVERAGES AND WINE

04 NCAC 02T .0303 LABEL CONTENTS: MALT BEVERAGES

Malt beverage labels shall contain the following information in a legible form:

- (1) ~~Brand brand~~ name of product;
- (2) ~~Name name~~ and address of brewer or bottler;
- (3) ~~Class class~~ of product (e.g., beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage); ~~and~~
- (4) ~~Net Contents.net~~ contents; ~~and~~
- (5) if the malt beverage is fortified with any stimulants, the amount of each (milligrams) per container.

Authority G.S. 18B-206(a); 18B-207.

04 NCAC 02T .0308 GROWLERS

- (a) A growler is a refillable container no larger than 2 liters (0.5283 gallons) into which a malt beverage is poured for off-premises consumption.
- (b) Holders of a brewery permit that have retail permits pursuant to G.S. 18B-1001(2), may sell growlers filled with the brewery's malt beverage for off-premises consumption provided a label is affixed to the growler that accurately provides the information as required by 04 NCAC 02T .0303 and .0305.
- (c) Holders of a brewery permit that have retail permits pursuant to G.S. 18B-1001(2), may refill customer's growlers provided a label is affixed to the growler that accurately provides the information as required by 04 NCAC 02T .0303 and .0305.
- (d) Breweries that refill growlers sold by other breweries shall relabel the growler prior to filling it with malt beverage.
- (e) Breweries that refill growlers sold by other breweries shall remove, deface or cover any permanent or non-permanent labels prior to affixing a new label.

Authority G.S. 18B-206(a); 18B-207.

SECTION .0400 - STANDARDS OF IDENTITY FOR WINE: CONTAINERS

04 NCAC 02T .0401 APPLICATION OF STANDARDS

All wines produced, imported, bottled, or offered for sale in this State shall meet the standards of identity prescribed as of April 1, 1986, in Subpart C, Part 4, Chapter 1, Title 27 of the Code of Federal Regulations which is incorporated herein by reference and includes subsequent amendments.

The Commission has a copy of those regulations available for inspection at the ~~address in this Rule.~~ Commission's principal office. Copies are available ~~at a cost of twenty five cents (\$.25) per page.~~ at the "actual cost" as defined in G.S. 132-6.2(b) for making the copies and the mailing cost if applicable. The Commission shall provide its "actual cost" on the Commission's website. Persons requesting copies of the above documents shall make payment by certified check, cashier's check or money order to the Commission prior to receiving any copies of the above documents.

North Carolina ABC Commission
3322 Garner Road
P.O. Box 26687
Raleigh, North Carolina 27611-6687

Authority G.S. 18B-206(a); 18B-207; 27 C.F.R. 4.20; 4.21; 4.22; 4.23; 4.24; 4.25; 4.26; 4.27.

SECTION .0500 - INDUSTRY MEMBERS: GENERAL PROVISIONS

04 NCAC 02T .0502 RECORD KEEPING REQUIREMENTS: SALES TICKETS

(a) In addition to records required to be kept by the North Carolina Department of Revenue, all industry members shall maintain on the licensed premises a copy of every original sales

ticket or receipt that relates to sales of alcoholic beverage products, equipment, advertising specialty items, or advertising novelties. Copies shall be in the following form:

- (1) paper; or
- (2) electronic, so long as it can be printed on paper.

(b) Sales Ticket Required. Wholesalers or their salesmen shall, at the time of each sale and delivery of malt beverages or wine to a retailer, provide on every retail sales ticket the following information:

- (1) date of sale;
- (2) name of establishment;
- (3) location;
- (4) quantity of each brand of malt beverages or wine sold;
- (5) unit price;
- (6) total price;
- (7) amount received;
- (8) invoice number; and
- (9) route, if applicable.

(c) All sales tickets shall be endorsed at the time of sale by the retailer or authorized agent and by the wholesaler with the usual signature of each.

(d) All sales tickets shall be retained by the wholesaler for a period of three years and shall be filed alphabetically, by sales route, or chronologically by date of sale.

Authority G.S. 18B-207.

SECTION .0700 - ALCOHOLIC BEVERAGES: RETAILER/INDUSTRY MEMBER RELATIONSHIP: TRADE PRACTICES

04 NCAC 02T .0708 COMMERCIAL BRIBERY

(a) No industry member shall make ~~secret~~ gifts or payoffs to purchasing agents, clerks, bartenders, salesmen or other employees of retail permittees.

(b) No industry member shall give any bonus, premium or compensation to any retailer or an officer, employee or agent of the retailer. Prohibited acts include:

- (1) monetary inducements ("push money") given to retailers or their employees;
- (2) total or partial payment of a retailer's employee's salary;
- (3) sales promotion contests in which a retailer's employees are offered or awarded prizes, such as trips abroad, cash, or automobiles that are totally or partially financed by an industry member;
- (4) payments or gratuities to groups or associations of retailer's employees;
- (5) other gifts such as trips, appliances, or other items given to retail corporate officers; or
- (6) participation in a retailer's sales or management meetings, conventions or outings by sponsoring or underwriting any events in connection with the meeting, convention or outing, unless such participation is limited to the providing of a hospitality suite with light

hors d'oeuvres and beverages, and the price paid for the suite is not greater than that paid by any other participant in the meeting, convention or outing.

(c) Notwithstanding Paragraphs (a) and (b) of this Rule, an industry member may invite up to two employees or representatives of a retail permittee who is permitted under G.S. 18B-1001, to, and pay for, a business meal to discuss sales and promotions in person, provided that:

- (1) the business meal, including beverages consumed with the meal, shall take place within North Carolina and shall not take place at any entertainment venue or in conjunction with entertainment;
- (2) if the industry member provides transportation, that it shall be by personal vehicle only;
- (3) the industry member must accompany the employees or representatives of a retail permittee for the duration of the business meal;
- (4) such business meal shall be provided without a corresponding obligation on the part of the retailer to purchase alcoholic beverages or to provide any other benefit to such industry member;
- (5) such business meal shall be provided without a corresponding obligation on the part of the retailer to exclude from sale the products of any other industry member;
- (6) the cost of the business meal shall not exceed the cost of a business meal in the food and non-alcoholic beverage industry provided in the ordinary course of business; and
- (7) an industry member shall pay for no more than two business meals per retail permittee per calendar year.

This Paragraph does not apply to any industry member that has a bona fide, pre-existing relationship with any retail permittee separate from the beverage alcohol industry.

Authority G.S. 18B-207; 18B-1116(a).

04 NCAC 02T .0709 CONSIGNMENT SALES: CONDITIONAL SALES: RETURNS

(a) Consignment Sales Prohibited. No industry member shall sell, offer for sale, or contract to sell to any retail permittee, nor shall any retail permittee purchase, offer to purchase, or contract to purchase from any industry member any alcoholic beverages on consignment or under conditional sale, or with the privilege of return, or on any basis other than a bona fide cash sale. For the purposes of this Rule, a consignment sale is any transaction in which title to the merchandise is not transferred at the time of shipment or delivery and which does not involve some form of full cash settlement. No industry member shall contract or agree with a retailer to retain title to alcoholic beverages until those products are sold.

(b) Privilege of Return. No industry member and retailer shall enter into any agreement whereby the retailer has an expressed or implied right to return alcoholic beverages that he cannot sell. Any acceptance of returned merchandise ~~will be~~ is considered a

strong indication that the "privilege of return" existed at the time of sale, and a repeated practice of accepting returned merchandise from a retailer would establish an implied privilege of return, even though no formal agreement has been made.

(c) Sales Conditioned on the Acquisition of Other Merchandise. No industry member shall make any agreement with any retailer ~~to accept as an agreement incident to present or future sales other alcoholic beverages that the retailer wants to remove from his inventory, with terms that allow the industry member to remove the retailer's inventory conditioned upon present or future sales.~~ The exchange of alcoholic beverages for equal quantities of the same type and brand in containers of another size and style is not considered an acquisition of "other" alcoholic beverages and, therefore, is not prohibited where the return is otherwise permissible.

(d) Exceptions. This Rule ~~shall~~ does not apply to the following transactions:

- (1) returns of malt beverages or wine for ordinary and usual commercial reasons arising after the alcoholic beverages have been sold, such as mutilated or damaged labels or containers, error in delivery, product deterioration, products have been deemed unsafe by State or federal authorities, the product approval has been withdrawn as referenced by 04 NCAC 02T .0201 and .0202, or a bona fide discontinuance of the retailer's business;
- (2) exchanges of malt beverage products for equal quantities of the same ~~brand, brand and~~ brand and type, ~~size and container style,~~ so long as the manufacturer's code date on the products will expire within 44 30 calendar days of the date of exchange, and the quantity exchanged does not exceed ~~20 50~~ 44 30 cases of each brand per ~~44 30~~ day period, period per retail permittee. For the purposes of this Rule, the term "exchange" means to replace product for product and does not authorize the wholesaler to accept returned malt beverage products for cash or credit; and
- (3) returns of wine or malt beverage products from a seasonal retailer who is open only a portion of the year if the products are likely to spoil during the off-season. For purposes of this Rule, a "seasonal retailer" is defined as one that closes its business completely for a period of at least eight weeks during the summer or winter months. Returns from a seasonal retailer may be for cash or credit.

Note: The return or exchange of wine products is governed by this Rule and the regulations under the Federal Alcohol Administration Act found in Title 27 of the United States Code of Federal Regulations, Part 11 (27 CFR Sec. 11.1 through 11.46), and nothing in these Rules shall be construed to authorize the return or exchange of wine products if the transaction is prohibited by federal law.

Authority G.S. 18B-207; 18B-1116; 27 C.F.R. 11.1 through 11.46.

04 NCAC 02T .0711 PROHIBITED TRADE PRACTICES

(a) General. It shall be a violation of ~~these Rules~~ this Rule for any alcoholic beverage (including malt beverages, wines and spirituous liquors) industry member, whether or not licensed in this state, or any officer, director, employee or affiliate, to either directly or indirectly lend, give, furnish or offer to any retail permittee or his employee, or to the owner of the premises on which the business of a retailer is conducted, or for any retail permittee, employee, or owner to demand, require or accept from any industry member, any money, services, furniture, fixture, equipment, sign, glasses, barware, supplies or other thing of value, except as provided in these Rules.

(b) Prohibited Services. By way of illustration, ~~but not limitation~~, the following services shall not be furnished, given, provided or made available to a retail permittee by an industry member, even if the retailer is charged or billed for the services for their market value:

- (1) installing, repairing or maintaining equipment, outdoor signs or other fixtures;
- (2) promoting a retailer in advertising;
- (3) reconciling inventory for a retailer;
- ~~(4) breaking down empty boxes, cases or cartons;~~
- ~~(5)(4)~~ providing labor or employees to assist a retailer in the retailer's promotional ~~events~~; events unless otherwise allowed in the rules of the Commission;
- ~~(6)(5)~~ loaning or renting aerial displays or outdoor inflatables to a retailer for use, whether on or off the retailer's licensed premises;
- ~~(7)(6)~~ pricing or repricing a product without the retailer's consent;
- ~~(8)(7)~~ warehousing, by:
 - (A) making refrigerated vehicles available to the retailer; or
 - (B) delaying delivery from a manufacturer, importer, nonresident vendor or warehouse in order to enable the retailer to take advantage of promotional prices or for any other reason;
- ~~(9) providing shelving schematics that are customized for an individual retailer or group of retailers, whether based on total beer or wine sales records from one store or a group of stores, but an industry member may use its own sales statistics and records to develop a suggested shelf plan for alcoholic beverage products;~~
- ~~(10)(8)~~ affixing special retailer stamps or stickers to beer or wine packaging, but a wholesaler may affix signs, stickers, stamps, or tags indicating the product's price to a container, shelf or display of its products;
- ~~(11)(9)~~ entering delivery data on a retailer's in-store computer;

- ~~(12)(10)~~ providing data processing services;
- ~~(13)(11)~~ sponsoring sports leagues that are also sponsored by a retailer, or that use the facilities of a retailer for sporting events;
- ~~(14)(12)~~ guaranteeing the loan of a retailer;
- ~~(15)(13)~~ extending credit to a retailer;
- ~~(16)(14)~~ failing to require a deposit equal to that charged by the supplier on kegs and returnable bottles; or
- ~~(17)(15)~~ negotiating special prices for or financing of equipment.

(c) Prohibited Things of Value. By way of illustration, ~~but not limitation~~, the following things of value shall not be furnished, given, loaned, rented or sold to a retail permittee by any industry member:

- (1) aerial displays or tethered inflatables;
- (2) parties given for retailers or groups of retailers' employees, unless otherwise allowed by the rules of the Commission;
- (3) prizes at retailer conventions;
- (4) advertising in a retailer periodical or advertising in a retailer publication designed for distribution to consumers;
- (5) outside signs;
- (6) cooperative advertising, including, but not limited to:
 - (A) providing or assisting retailer promotions, whether on or off the retailer's premises;
 - (B) participation with a retailer in the advertising of alcoholic beverages, the retailer's business or special events unless specifically approved by the Commission in the case of fundraisers for non-profit charitable ~~organizations~~; organizations as referenced by G.S. 18B-1116(b);
 - (C) underwriting the cost of T-markers, scorecards or scoreboards by the purchase of advertising from a third party; or
 - (D) customizing point-of-sale advertising materials, novelties, glassware, consumer specialties or product displays by printing or having printed the retailer's name, slogan or logo on the item, unless otherwise specifically allowed in the rules of the Commission;
- (7) making discounts, rebates or refunds to a retailer on the condition that the retailer use the discount, rebate or refund to pay off a loan;
- (8) equipment, fixtures or furnishings; or
- (9) clothing, except as provided in Rule .0713 of this Section.

Authority G.S. 18B-207; 18B-1116(a)(3),(b).

04 NCAC 02T .0712 ACCEPTED TRADE PRACTICES; SERVICES

The following service activities are specifically allowed in transactions between alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member and retailers:

- (1) ~~Shelving; Pricing. Shelving and Pricing for Malt Beverage and Wine Wholesalers. In retail outlets where wholesalers have been assigned specific space, these wholesalers may price or reprice their stock as designated by the retailer and rearrange and place their brand or brands in their assigned shelf space so as to properly rotate their stock and keep their assigned space clean and neat. This Rule authorizes a wholesaler to rearrange or reset a retailer's alcoholic beverage shelf space, display area, or department pursuant to that retailer's plan and direction, but that wholesaler shall not move or disturb brands sold by other wholesalers.~~
 - (a) Malt beverage and wine wholesalers who have been assigned space in retail permittee outlets may price or re-price their stock as designated by the retail permittee.
 - (b) Malt beverage and wine wholesalers may rearrange and place their brand or brands in their assigned shelf space so as to rotate their stock and keep their assigned space clean and neat.
 - (c) Malt beverage and wine wholesalers may rearrange or reset a retail permittee's alcoholic beverage shelf space, display area, or department pursuant to that retail permittee's plan and direction, but that industry member shall not move or disturb brands sold by other industry members.
- (2) Coil Cleaning Service. A wholesaler of wine or malt beverages An industry member may render coil cleaning services to a retailer who has draught equipment. retailer.
- (3) Generalized Schematics; Restrictions. Shelf Management Plans; Notice Prior to Reset. General alcoholic beverage product schematics and shelving diagrams may be utilized by an industry member for sales presentations so long as:
 - (a) ~~the diagram utilizes generally available national, state or regional market research or the industry member's own sales data;~~
 - (a) An industry member may discuss with a retailer shelf-management concepts and programs and may provide, publish, and make available data on market sales and analysis.

- (b) ~~the industry member does not solicit or receive individual sales figures or data from an individual retailer or group of retailers; and~~
- (b) An industry member may provide and suggest shelf-management plans which are customized for a specific retailer or group of retailers. The retailer shall remain solely responsible for implementing any suggested shelf-management plan. If an industry member provides a suggested shelf-management plan to a retailer or group of retailers, he must provide a suggested plan to any other retailer upon request.
- (e) ~~the schematic or diagram is not customized for an individual retailer or group of retailers who are similarly situated.~~
- (c) A wholesaler may provide physical labor to implement a shelf-management plan.
- (d) For purposes of this Rule, a shelf-management plan includes shelf resets.
- (4) Participation in Retailer Association Activities. An industry member ~~any~~ may participate in retailer association activities by:
 - (a) displaying product at association conventions or trade shows;
 - (b) renting display or booth space so long as the rental fee is not excessive and is the same as the fee paid by all exhibitors;
 - (c) providing hospitality events which are independent from association sponsored activities;
 - (d) purchasing tickets to functions and paying registration fees if such fees are not excessive and are the same as paid by all exhibitors; and
 - (e) making payments for advertisements in programs or brochures at association shows within the dollar limits established by 27 C.F.R. 6.100 and the Bureau of Alcohol, Tobacco and Firearms which is incorporated herein by reference. Cost adjustment increases authorized by ~~27 C.F.R. 6.82~~ 27 C.F.R. 6.83 are also incorporated herein by reference but subsequent amendments to 27 C.F.R. 6.100 are not incorporated. Copies of these regulations are available for inspection and copying as provided in Rule .0401 of this Subchapter. by 04 NCAC 02T .0401.

- (5) Educational Seminars. An industry member may provide or sponsor seminars for retailers and their employees in the following areas:
- (a) the proper use of equipment;
 - (b) the proper storage, handling and service of alcoholic beverages;
 - (c) safe driving programs;
 - (d) recognizing underage and intoxicated customers; and
 - (e) the history or aspects of a product's manufacturing process.
- Seminars may be conducted at the premises of either the retailer or industry member. Nothing in this Rule shall be construed to authorize an industry member to pay the retailer's expenses in attending the seminar.
- (6) Tastings. Beer and wine tastings may be conducted in accordance with ~~4 NCAC 2S .0901~~ 04 NCAC 02S .0901 and ~~.0902 of this Chapter. .0902.~~
- (7) Labor for Displays. An industry member may provide personnel to construct a promotional product display on the premises of a retailer, and may move other products from the display area in accordance with ~~Rule .0704 of this Section.~~ 04 NCAC 02T .0704.
- (8) Installations. The following items may be installed by an industry member at no charge to a retailer:
- (a) point of sale advertising materials; and
 - (b) tapping ~~accessories;~~ accessories.
- (9) Bar Spending. An industry member may visit the premises of an on-premise retail account for the purpose of promoting its brands so long as:
- (a) the visit is unannounced and not advertised; and
 - (b) a patron who refuses the industry member's offer to consume a product is offered a comparable beverage of his choice, either alcoholic or non-alcoholic.
- (10) Non-alcoholic Beverages. A malt beverage wholesaler who is also engaged in the business of selling non-alcoholic beverage products may engage in the accepted trade practices of the soft drink and snack food industries, so long as the sales and practices surrounding the non-alcoholic beverage merchandise are not used as an unlawful inducement to purchase malt beverages.

04 NCAC 02T .0713 ACCEPTED TRADE PRACTICES; THINGS OF VALUE; RETAIL PERMITTEES

- (a) Items That Must Be Sold. The following things of value shall not be given, loaned or rented by any alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member to a ~~retailer;~~ retail permittee, but may be sold to the ~~retailer~~ retail permittee at the price paid for the item by the first industry member who acquires the item:
- (1) novelties, such as coolers, umbrellas, ice chests, beach towels, towels, and sports equipment, so long as the novelty item has not been customized for a ~~retailer~~ retail permittee with the ~~retailer's~~ retail permittee's name or logo;
 - (2) glassware and cups, so long as the items have not been customized for a ~~retailer~~ retail permittee with the ~~retailer's~~ retail permittee's name or logo;
 - (3) carbon dioxide;
 - (4) ice; ~~and~~
 - (5) beer tapping accessories, including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check ~~valves.~~ valves; and
 - (6) ~~menus that exceed the number of food items provided in 04 NCAC 02S .1008(a)(3).~~
- (b) Items That May Be Provided at No Charge. The following things of value may be given, furnished, loaned, rented or sold by an industry member to a ~~retailer;~~ retail permittee:
- (1) samples of malt ~~beverage and beverage,~~ and spirituous liquor products in the following quantities:
 - (A) no more than three gallons of any brand of malt beverages; ~~and~~
 - (B) no more than three liters of any brand of ~~wine.~~ wine; and
 - (C) ~~no more than 50 milliliters of any brand of spirituous liquor.~~

~~Samples may be given only to a retailer who has not previously purchased the brand from that industry member. If a particular product is not available in a size within the quantity limitations of this Subparagraph, an industry member may furnish the next larger size.~~
Samples may be given only to a retail permittee who has not previously purchased those brands from the industry member within the previous calendar year.
 - (2) recipes, booklets and brochures for cooking with ~~wine or wine, malt beverages,~~ beverages or spirituous liquors as described in ~~4 NCAC 2S .1014 of this Chapter;~~ 04 NCAC 02S .1008(a)(3).
 - (3) ~~wine and beer~~ malt beverage, wine and mixed beverage lists, in accordance with ~~4 NCAC 2S .1008(a)(3) of this Chapter;~~ 04 NCAC 02S .1008(a)(3).

Note: Wine wholesalers selling non-alcoholic beverage merchandise are governed by the provisions of 27 C.F.R. 6.101.

Authority G.S. 18B-203(b); 18B-207; 18B-1116(b); 27 C.F.R. 6.83; 27 C.F.R. 6.100; 27 C.F.R. 6.101 (1986).

- (4) combination packaging, as provided in 27 C.F.R. 6.93;
 - (5) consumer specialty items such as bottle or can openers, cork screws, ash trays, shopping bags, individual can coolers, hats, caps, visors, t-shirts (without collars or buttons), or key chains. Such items may be given to ~~retailers~~ retail permittees for distribution to consumers, or may be provided by industry member personnel directly to consumers at the retailer's retail permittee's place of business during ~~unannounced and unadvertised visits; visits that are not announced or advertised to consumers.~~ Consumer specialty items shall not be customized for a ~~retailer~~ retail permittee with the ~~retailer's~~ retail permittee's name or logo;
 - (6) product displays, to include wine racks, bins, barrels, casks and shelving from which ~~beer or malt beverage, wine or spirituous liquor~~ are displayed and sold, so long as:
 - (A) each display bears conspicuous and substantial advertising matter; and
 - (B) the dollar limitations per brand do not exceed one hundred sixty dollars (\$160.00);
 - (7) point of sale advertising materials which have value only as advertising, so long as the pieces have not been customized for any individual ~~retailer; retail permittee;~~ and
 - (8) ~~retailer~~ retail permittee advertising specialty items as described in ~~4 NCAC 2S .1008(a)(4) of this Chapter, 04 NCAC 02S .1008(a)(4),~~ so long as the items have not been customized for an individual ~~retailer; retail permittee,~~ and so long as the dollar limitations per brand do not exceed ~~seventy eight dollars (\$78.00); three hundred dollars (\$300.00) per year.~~
- (c) Point-Of-Sale Advertising Materials. Notwithstanding having a secondary value, the following items are considered to be point-of-sale materials and need not be submitted by an industry member for approval prior to use, so long as the items bear conspicuous and substantial advertising matter:
- (1) clocks;
 - (2) lamps;
 - (3) lighted displays;
 - (4) blackboards;
 - (5) bulletin boards;
 - (6) dart board backgrounds;
 - (7) menu and price boards;
 - (8) tap standards;
 - (9) calendars; ~~and~~
 - (10) ~~mirrors; mirrors; and~~
 - (11) prizes offered in a consumer sweepstakes or contest pursuant to 04 NCAC 02T .0716(b). The prizes shall bear a sticker that shows it is the property of the industry member. The prizes shall be picked up by the industry member at the conclusion of the sweepstakes or contest.

(d) The provisions of 27 C.F.R. 6.93 referenced in this Rule are incorporated by reference, but such incorporation does not include subsequent amendments. Copies of this regulation ~~is~~ are available for inspection and copying as provided in ~~Rule .0401 of this Subchapter, 04 NCAC 02T .0401.~~

(e) Nothing within this Rule applies to ABC boards.

Authority G.S. 18B-107; 18B-1116(b); 27 C.F.R. 6.83; 27 C.F.R. 6.85; 27 C.F.R. 6.91; 27 C.F.R. 6.93 (1986).

04 NCAC 02T .0714 TRANSACTIONS WITH GOVERNMENT AND SPECIAL ONE-TIME PERMITTEES

(a) Permitted Activities. Notwithstanding the restrictions contained in ~~Rule .0711 of this Section, 04 NCAC 02T .0711,~~ the following activities by alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry members are ~~specifically~~ allowed, as described in this Rule, in transactions with cities, counties, the state, or in transactions with nonprofit or political organizations that have obtained a Special One-Time permit under the provisions of G.S. 18B-1002(a)(2) or (5), or nonprofit organizations that do not hold an ABC permit:

- (1) sponsorships of festivals, concerts, fundraisers or special events cosponsored by the local government, the state or nonprofit or political organizations, including payments of advertising fees;
- (2) loaning or renting portable equipment to a local government, the state or a nonprofit or political organization so long as the equipment loaned or rented is for a single event of limited duration;
- (3) contracts to provide payment for permanent advertising on signs or scoreboards when the industry member has submitted a request for and received an exemption pursuant to G.S. 18B-1116(b);
- (4) providing labor or employees to assist in the setting up or changing of draft beer kegs and equipment which has been loaned or rented pursuant to Subparagraph (a)(2) of this Rule;
- (5) loaning or renting previously approved aerial displays or outdoor inflatables for the duration of a special event, unless the event is held on the premises of a retailer;
- (6) loaning or allowing the use of refrigerated vehicles, unless the event is held in conjunction with or on the premises of a cosponsoring retailer;
- (7) providing novelties, prizes or prize money to nonprofit organizations that have obtained a Special One-Time Permit;
- (8) ~~making providing~~ providing cash ~~contributions to nonprofit organizations; contributions, product donations and other consumer goods, provided that any donated product remaining after the event is not supplied by the Special One-Time Permittee to a regular retail permittee;~~

- (9) participation with a local government or the state in the advertising of events cosponsored by the local government or state; and
- (10) accepting the return of alcoholic beverages not sold, for cash or credit, after the event is over.

(b) Sponsorship/Advertising Agreements Restricted. No sponsorship agreement or advertising contract between an industry member and a city, county, the state, or a Special One-Time permittee shall contain any agreement, either express or implied, that the industry member's products will be sold to the exclusion, in whole or in part, of other brands of alcoholic beverages offered by competitors.

(c) Cosponsorship with Retail Permittee. In any promotion by an industry member with a local government, the state, or a nonprofit organization in which there is cosponsorship by a retailer other than the local government or the state, the industry member shall obtain prior written approval from the Commission as provided in ~~Rule .0717 of this Section.~~ 04 NCAC 02T .0717.

Authority G.S. 18B-207; 18B-1116(b).

04 NCAC 02T .0716 CONSUMER CONTESTS; SWEEPSTAKES

(a) General. Consumer contests or sweepstakes may be offered by an alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member so long as no purchase is required. Entry forms may be attached to or part of an alcoholic beverage label or package so long as alternative methods of entry are available to the consumer by means of a tear pad of entry forms available at the point of ~~purchase.~~ purchase or by means of electronic entry forms available on the internet.

(b) Point-of-Sale Permissible; Restriction on Retailer Involvement. An industry member may provide to a retailer point-of-sale advertising materials promoting a sweepstakes or contest. An industry member shall not offer or promote any sweepstakes or contest in conjunction with any retailer as a cosponsor or as the provider of any prize. No prizes may be drawn or awarded on the premises of any retailer. Officers, employees and representatives of industry members and retailers are excluded from participating in a consumer sweepstakes or contest offered under this Rule.

Authority G.S. 18B-207; 18B-1116(b).

04 NCAC 02T .0717 CONDITIONS WHEN COMMISSION APPROVAL REQUIRED FOR PROMOTIONS

(a) Prior Approval Required; Exceptions. An alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member shall obtain written approval from the Commission prior to entering into any agreement to engage in activities as a sponsor for any promotion, as that term is defined in ~~Rule .0702(4) of this Section,~~ 04 NCAC 02T .0702(3), unless the activity involves the following:

- (1) sponsorships of nonprofit organizations that are not special one-time permittees, and the sponsored activity is neither held on the

premises of a retailer nor cosponsored by a retailer;

- (2) printing and distribution of items that are classified as point-of-sale advertising material, consumer specialty items, retailer specialty items or novelty items, so long as the items are displayed and distributed in compliance with ~~these Rules;~~ 04 NCAC 02S .1008, 04 NCAC 02T .0711(c)(6)(b) and 04 NCAC 02T .0713;
- (3) promotions that occur on an annual or regular basis and that have received written approval by the Commission in previous years, so long as the sponsorship activities engaged in by the industry member have not changed; and
- (4) sponsorships of individual amateur sports teams, when:
 - (A) the services or things of value provided by the industry member are given to benefit the individual team and its members;
 - (B) the team is not comprised of retailers or employees of retailers; and
 - (C) the team is not jointly sponsored by a retailer.

(b) The Commission shall approve a promotion if:

- (1) the procedure for approval is complied with as required by Paragraph (c) of this Rule;
- (2) the information provided as required by Paragraph (c) of this Rule is accurate; and
- (3) the promotion is a bona fide promotional event.

~~(b)(c) Procedures~~ Procedure for Approval. ~~Requests for approval of any promotional activity shall be made in writing by the industry member, and shall provide the following information: To receive consideration for approval by the Commission for a promotional activity, an industry member shall comply with the following procedures:~~

- ~~(1) names of all industry members participating;~~
- ~~(1) submit a completed Industry Promotion Approval form;~~
- ~~(2) names of all retailers involved as either cosponsors or as the host location;~~
- ~~(3) name of nonprofit organization being sponsored, if any;~~
- ~~(4) whether the organization being sponsored will obtain a Special One Time permit;~~
- ~~(5) purpose of the promotion;~~
- ~~(6) beneficiary of the promotion, and description of what benefits will be derived by the beneficiary;~~
- ~~(7)(2) submit~~ submit copies of broadcast and print advertisements; and
- ~~(8)(3) submit~~ submit samples of advertising pieces and costs of items;
- ~~(9) outdoor advertising to be used and location;~~
- ~~(10) date(s) of promotion; and~~
- ~~(11) complete description of industry member's activities in relation to the promotion, including statement of monies, fees, and items~~

~~to be given in exchange for sponsorship rights, and person to whom given.~~

~~(e)(d)~~ Notification to Wholesaler. A manufacturer, importer or nonresident vendor of beer or wine that receives approval for promotional activity under this Rule shall provide a copy of the Commission's approval to each of its wholesalers in this state if that wholesaler is or will be participating in the promotion in any manner, including the distribution of promotional materials.

~~(d)(e)~~ Approvals Restricted to Industry Members. No approval for any promotional activity by an industry member will be granted to a special one-time permittee, retailer, advertising agency, broadcaster or publisher.

~~(e)(f)~~ Approvals Granted Only Upon Written Request. The Commission will decline the approval of any verbal requests or hypothetical fact presentations describing promotional activities requiring prior written approval under this Rule.

~~(f)(g)~~ Timing of Requests. Industry members ~~are encouraged to~~ shall submit promotions for approval at least two months in advance of the promotion to allow adequate review by the Commission, and to allow for the mailing of written approvals to the industry member.

~~(e)(h)~~ Promotion Agreements Restricted. Commission approval of a promotion under this Rule shall not be construed as approval for the industry member to enter into any agreement, either express or implied, that its products will be sold or distributed by a retailer or special one-time permittee to the exclusion, in whole or in part, of other brands of alcoholic beverages offered by competitors.

Authority G.S. 18B-105; 18B-207; 18B-1116.

SECTION .0900 - DISTILLERS: REPRESENTATIVES

04 NCAC 02T .0901 DISTILLER REPRESENTATIVES: PROHIBITED ACTS

(a) Representatives Prohibited from Entering Store. Distiller representatives shall not enter any ABC store except for the purpose of calling on the buyer if the buyer's office is maintained in the ~~store or store~~, for the purpose of making a ~~purchase~~ purchase or unless given permission by a local Board to market product, build displays, or attach added value items.

(b) Representatives Prohibited from Contacting Store Personnel. Distiller representatives shall not contact, either directly or indirectly, or call upon store personnel while store personnel are off duty for the purpose of promoting their merchandise. Store personnel shall share equally with the distiller representative responsibility of any infraction of this Rule.

(c) Gifts Prohibited. Representatives shall not give ~~liquor~~ liquor, including samples, or anything of value to ~~store personnel~~ local ABC board members or employees, which includes store managers and general managers, at any time. ~~Store personnel~~ Local ABC board members or employees, which includes store managers and general managers, shall be equally as guilty as the representative if they accept gifts, either directly or indirectly, from any representative.

(d) Soliciting and Advertising Prohibited. Except for purchases made by state or local officials for supply of ABC stores, salesmen of spirituous liquor shall not with regard to purchases of spirituous liquor by any person:

- (1) solicit any order, agreement, or other commitment to purchase liquor, whether or not it is legally enforceable; or
- (2) advertise, promote or encourage purchases by any means or method or furnish any means by which spirituous liquor may be obtained, except as provided in ~~4 NCAC 2S .1011.~~ 04 NCAC 02S .1011.

Exceptions ~~may~~ shall be made upon notification from the Commission to a distiller representative when there is expressed interest by a fraternal or civic group in the purchase of a ceramic or commemorative decanter. Upon notice, distiller representatives may present pictorial art work or renderings in solicitation and a presentation to that group.

(e) Relationship With Mixed Beverages Permittee. No employee or representative of any distiller, importer, rectifier or bottler may in any manner promote or solicit orders by a mixed beverages permittee or aid the permittee in placing orders for any spirituous liquor or for any other alcoholic beverages.

(f) Gifts and Inducements Prohibited. No employee or representative of any rectifier or industry member may give or lend to any mixed beverage permittee, or his employee any gift, money, services, equipment, furniture, fixture or other thing of value.

Authority G.S. 18B-207; 18B-1116.

SECTION .1000 - AIR CARRIERS

04 NCAC 02T .1001 APPLICATION FOR PERMIT

An air carrier desiring to purchase malt ~~beverages or wine~~ beverages, wine or spirituous liquor for resale to its passengers while those passengers are in transit aboard an aircraft shall apply for and obtain an Air Carrier Permit. Application shall be on a form provided by the Commission and shall be made by the air carrier's employee responsible for purchases of food and beverages for service to passengers. The food and beverage service manager, by whatever title called, shall provide, and certify under oath the following information to the Commission:

- (1) name of air carrier;
- (2) name of airport where permit will apply;
- (3) address of airport;
- (4) mailing address of carrier at airport;
- (5) state in which air carrier corporation is incorporated; and
- (6) residence of food and beverage manager.

The applicant shall also include a ~~detailed~~ diagram of the ~~exact~~ location where the malt ~~beverages and wine~~ beverages, wine and spirituous liquor will be stored.

Authority G.S. 18B-107; 18B-207.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Well Contractors Certification Commission intends to amend the rules cited as 15A NCAC 27 .0101, .0110, .0301,

.0401, .0410, .0420, .0430, .0440, .0510, .0601, .0702, .0801, .0810, .0820, .0830, .0840, .0901, .0910 and repeal the rules cited as 15A NCAC 27 .0703-.0704.

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

Proposed Effective Date: May 1, 2011

CHAPTER 27 - WELL CONTRACTOR CERTIFICATION RULES

Public Hearing:

Date: January 6, 2011

Time: 11:00 a.m. – 12:00 p.m.

Location: NCSU Lake Wheeler Training Facility, 4000 Chi Road, Raleigh, NC 27603 (Off of Lake Wheeler Road, near intersection with Tryon Road)

SECTION .0100 - DUTIES AND DEFINITIONS

Public Hearing:

Date: January 13, 2011

Time: 11:00 a.m. – 12:00 p.m.

Location: DENR Asheville Regional Office, 2090 US Hwy 70, Swannanoa, NC 28778

15A NCAC 27 .0101 DEFINITIONS

(a) "Commission" means the Well Contractors Certification Commission as established by the North Carolina General Assembly.

(b) "College course" means a semester unit or quarter hour unit of instruction given at a college or university, which is relevant to well contractor activities.

(c) "Course/activity" means any course or activity with a clear purpose and objective which will maintain, improve or expand skills and knowledge relevant to the practice of well contractor activities.

(d) "Department" means the Department of Environment and Natural Resources.

(e) "Personally manage" means giving directions to the on-site person who is personally supervising well contractor activities.

(f) "Personally supervise" means the on-site direction and control of all well contractor activities at any time those activities are being conducted.

(g) "Professional development hour" or "PDH" means a nominal contact hour of instruction or presentation that is the basic unit of credit for all courses or activities related to satisfying continuing education requirements. requirements and shall hereafter be referred to as "continuing education unit" or "CEU". One CEU is equivalent to 60 minutes of instructional time.

(h) "Secretary" means the Secretary of the Department of Environment and Natural Resources.

Authority G.S. 87-98.2; 87.98.12; 143B-301.11.

Public Hearing:

Date: January 20, 2011

Time: 11:00 a.m. – 12:00 p.m.

Location: DENR Washington Regional Office, 943 Washington Square Mall, Washington, NC 27889

15A NCAC 27 .0110 TYPES OF CERTIFICATION

(a) The following types of certification for well contractors are established:

- (1) Level A certification: this level of certification includes all well contractor activities; and is required for geothermal well and related loop installations.
- (2) Level B certification: this level of certification includes all Level C well contractor activities; hydrofracturing; and all well construction and all well drilling techniques except sonic, air rotary and mud rotary drilling; drilling.
- (3) Level C certification: this level of certification includes all Level D well contractor activities and grouting; well abandonment; rehabilitating a well due to biofouling; well development (eg.-pumping or surging); packer and liner installations; and extending casing above land surface; and surface.

Reason for Proposed Action: The amendment of these rules will provide more clarity for the public and improve the enforcement of the well contractor certification rules.

Procedure by which a person can object to the agency on a proposed rule: Persons may object verbally at one of the Public Hearings. Written objections may be submitted to Joanne Rutkofske, 1653 Mail Service Center, Raleigh, NC 27699-1653.

Comments may be submitted to: Joanne Rutkofske, 1653 Mail Service Center, Raleigh, NC 27699-1653; phone (919) 715-9135; fax (919) 715-9433; email joanne.rutkofske@ncdenr.gov

Comment period ends: February 14, 2011

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

Fiscal Impact:

State

(4) Level D certification: this level of certification includes breaking a well ~~seal~~ seal, installation of a pump or other equipment in a well, and disinfection.

(b) Each certified well contractor shall be assigned a permanent certification number and shall be issued a certificate with that certification number. Certification numbers are not transferable and shall not be used by another well contractor.

(c) The certification number shall be carried by the well contractor on a card issued by the Commission at all times when performing well contractor activities.

(d) A certified well contractor of the appropriate level must be present at all times when well contractor activities are being performed.

Authority G.S. 87-98.2; 87-98.4; 87-98.12; 143B-301.11.

SECTION .0300 - CERTIFICATION OF WELL CONTRACTORS

15A NCAC 27 .0301 APPLICATION FOR CERTIFICATION

(a) The Commission shall accept applications for certification as a well contractor from any person who is at least 18 years of ~~age~~ age, is a citizen or legal resident of the United States, and whose application meets all the following conditions:

- (1) Each application shall be submitted on current forms provided by the Commission, which are designed for requesting certification as a well contractor by way of examination, examination or reexamination ~~reexamination, or temporary certification~~ and must be completed and submitted with the an appropriate fee(s) fee to the office of the chairman of the Commission, Commission office.
- (2) ~~Each application has been determined to be complete by the Commission.~~ Incomplete applications and applications not accompanied by the an appropriate fee(s) fee and attachments shall not be processed and shall be returned to the applicant.
- (3) Each application shall contain proof of experience as provided in Paragraph (d)(f) of this ~~Rule.~~ Rule and proof of completion of coursework as provided in Paragraph (e) of this Rule if applicable.
- (4) Except for those applications where renewal of certification is requested, each application shall include a request for the well contractor examination.

~~(b) Applicants who have intentionally supplied false information must wait 12 months before resubmitting an application for certification.~~

(b)(e) The Commission shall not schedule an applicant to take the required examination until the his application has been reviewed and the applicant has met all other conditions for certification. The applicant must pass the examination within three consecutive attempts or within a one year period of time

after application submittal, whichever expires first, or a new application shall be required. An applicant who has failed the examination after three consecutive attempts shall be required to obtain eight ~~PDH units~~ CEUs prior to resubmittal of an application for certification.

~~(c)(d)~~ A certification shall not be issued until all applicable fees have been received, the applicant passes the field observation for Level A if required, the applicant passes the required written examination, passes the field observation for Level A if required, and a photograph is obtained of the applicant by a representative of the Commission, and all applicable fees have been received.

~~(d)(e)~~ Proof of full-time equivalent experience meeting the requirements specified in Rule .0702 of this Chapter 15A NCAC 27 .0701 in level specific well contractor activities obtained within seven years prior to application submittal or previous certification by examination at a comparable or higher level, shall be demonstrated by providing one of the following:

- (1) An affidavit on a form provided by the Commission from at least one currently North Carolina certified well contractor, who has not committed any violation of ~~15A NCAC 02C or Subchapter 02C of this Title, 15A NCAC 27 this Chapter, or any county well ordinance~~ within the past two years, attesting that the applicant has been working in well contractor activities under the supervision of a certified well contractor of the desired level or higher for a minimum of the required quantity of experience; experience and submits appropriate payroll records as proof; or
- (2) Proof of previous certification by examination as a well contractor in North Carolina at a comparable or higher level; or
- (3) Proof of individual certification as a well contractor in another State with comparable licensing or certification requirements for a minimum of the required quantity of experience for the level being sought and of activities appropriate to the level being sought and submits appropriate payroll records as proof. A Letter of Good Standing from that State's well contractor licensing or certification organization must be included showing the applicant has not violated well construction or licensing rules of that State in the past five years.
- ~~(4)(2)~~ Any other specific proof of working in well contractor activities for a minimum of the required quantity of experience. At a minimum, the proof submitted shall demonstrate that the applicant has received a level of instruction in well construction techniques and practices appropriate for the level being sought, found in publications used as the basis for a course of study or apprenticeship program, as shown in Paragraph (g) of this Rule. Proof submitted must also show that the applicant has a working knowledge of the 15A NCAC 02C

~~.0100 (Well Construction Rules), the 15A NCAC 27 (Well Contractor Certification Rules) and applicable statutes.~~

~~(e)(g) The Commission WCCC may shall approve a course of study or apprenticeship program whose educational materials and or program meets technical aspects of well construction. The course of study or apprenticeship program shall provide needs-to-know education for the Level being sought. The experience requirements for an applicant may be reduced up to three months and the Level A field observation may be waived for successful completion of the course. the level of instruction in well construction techniques and practices found in publications recognized by the National Ground Water Association (NGWA) or other publications determined by the Commission to be equivalent to those recognized by NGWA.~~

Authority G.S. 87-98.5; 87-98.6; 87-98.9; 143B-301.11; S.L. 2001-440.

SECTION .0400 - CERTIFICATION BY EXAMINATION

15A NCAC 27 .0401 SUBMITTAL AND PROCESSING OF APPLICATIONS FOR EXAMINATIONS

~~(a) An applicant for certification as a well contractor shall submit a complete application for certification by examination shall be received by to the Commission Commission, at least 30 days prior to the date upon which the examination is scheduled to be administered and the appropriate fee must accompany the application. with the appropriate fee(s) and, if applicable, proof of completion of coursework as provided in Rule .0301(e) of this Chapter.~~

~~(b) Upon receipt of the complete application by the Commission, the application shall be reviewed for eligibility to take the examination. The designee(s) shall notify the applicant of his or her eligibility in writing and advise of the date, time and place of the examination.~~

~~(c) If the Commission determines that the applicant is eligible for examination:~~

- ~~(1) Level A applicants required to complete a field observation shall be notified by the designee(s) in writing to schedule a field observation. Once a field observation is successfully completed by the applicant the designee(s) shall notify the applicant in writing of their assignment to the next scheduled examination or requirement for an out-of-cycle examination. A successfully completed field observation will count towards the application requirements for up to 60 months.~~
- ~~(2) All other approved applicants shall be notified in writing of their assignment to the next scheduled examination. The notification shall advise the applicant of the date, time and place of the examination and the required grade for passing the examination. The assigned examination must be at least 30 days after the date of application approval.~~

~~(d)(e) If the designee(s) of the Commission determines that the applicant is not eligible for examination, the designee(s) shall~~

~~notify the applicant in writing and advise of the reason for ineligibility. In the event that the applicant is determined to be ineligible for the examination, the annual fee and examination fee shall be refunded. Upon learning of ineligibility, the applicant may request a meeting with the Commission, relative to the ineligibility, if the applicant so desires. Such requests must be in writing and shall be submitted no later than 30 days following the date of receipt of the letter of notification. The Commission shall review the request and grant or deny it no later than the second Commission meeting following receipt of the request. The applicant shall be given written notice of the decision to grant or deny the request and the reasons therefore.~~

~~(e)(d) Any applicant who knowingly supplies false information on the application for certification for the purpose of gaining eligibility, shall be ineligible for the examination and must forfeit the annual and examination fee. fees. Applicants who have intentionally supplied false information must also wait 12 months before being eligible to resubmit an application for certification.~~

Authority G.S. 87-98.6; 87-98.9; 143B-301.11.

15A NCAC 27 .0410 WELL CONTRACTOR EXAMINATIONS

~~(a) Well contractor examinations shall be comprehensive examinations that are standardized statewide. The examinations shall be designed to determine the applicant's knowledge of applicable rules; the ability to perform well contractor activities; and the ability to supervise, direct, manage and control the contracting activities of the well contracting business. Examinations and field observations shall be conducted in English.~~

~~(b) The Commission shall administer a written examination orally or on an individual basis upon submission by the applicant of a request form provided by the commission wherein the applicant states that he or she does not read, does not read well, or has a medical condition necessitating oral examination.~~

~~(b)(e) If a any other request for an accommodation in taking the examination is based on a medical condition, the applicant shall submit, in addition to a request form, supporting documentation from a physician.~~

~~(c)(d) A grade on the examination of 70 percent or more shall be passing. Results of the examination shall be reported as either passing or failing.~~

~~(e) The eligible applicant shall show photo identification for admittance to the exam.~~

Authority G.S. 87-98.6; 143B-301.11.

15A NCAC 27 .0420 TIME AND PLACE OF EXAMINATION

~~(a) An examination shall be given at least twice a year. Additional examinations may be scheduled by a representative(s) of the Commission. Information regarding the date, time, and place shall be made available upon request.~~

~~(b) Each applicant filing for examination shall be notified in writing of the date, time and place of the examination and the required grade for passing the examination.~~

Authority G.S. 143B-301.11; 87-98.6.

15A NCAC 27 .0430 CONDUCTING AND GRADING EXAMINATIONS

(a) Examinations, prepared by members of the Commission or its authorized ~~representatives, representatives and approved by the Commission,~~ shall be given only to those who, after filing a complete proper application, have been determined to be eligible. ~~Examinations shall be conducted and graded under the supervision of a representative of the Commission, or its authorized representatives. When each applicant receives his examination, he shall identify himself by way of his driver's license or other form of photographic identification satisfactory to the proctor and the identification number shall be recorded on the face of the examination paper.~~

(b) To gain entrance to the examination, each applicant shall identify themselves by way of their driver's license or other form of photographic identification satisfactory to the proctor and with an admission ticket as provided by the Commission upon application approval.

(c) Examinations shall be conducted and graded under the supervision of a representative of the Commission.

~~(d)(b)~~ Representatives of the Commission ~~or other authorized representatives,~~ who are supervising the examinations may take appropriate action against applicants, including dismissal from the examination, if cheating does occur. If a North Carolina certified well contractor assists an applicant in cheating on the examination, the applicant holds a certificate already, the Commission shall may revoke the certification in accordance with G.S. 87-98.8 and 15A-NCAC 27 .0901 for cheating on an examination. Rule .0901 of this Chapter.

Authority G.S. 87-98.6; 87-98.8; 143B-301.11.

15A NCAC 27 .0440 EXAMINATION RESULTS AND ISSUANCE OF CERTIFICATES

(a) After an examination, the applicant shall be informed, in writing only, by the Commission or its authorized representatives as to the results of their ~~his~~ examination. If a passing score is obtained, made, such notification constitutes certification by the Commission. After each examination, a list of those passing certified shall be drawn up and made a part of the permanent records of the Commission. ~~Copies of these lists shall be provided to each Commission member.~~ Upon completion of the examination process, ~~the applicants applicant~~ who ~~pass~~ passes the examination shall be issued a certificate.

(b) Under normal circumstances, neither the examination grade nor the examination paper of any applicant shall be made available to anyone other than the members of the Commission and its authorized representatives ~~those approved persons~~ who assist in conducting and grading the examinations. The examination papers shall be held by the Commission in a secure location for a period of six months following notification to the applicant. Questions by the applicant concerning the examination must be made in writing to the Commission within six months of the notification date. An applicant who fails to pass an ~~examination~~ examination, and who is still eligible to retake the examination under their current application, shall be entitled to and notified of the privilege to review their

examination, his examination within six months of the applicant's failed exam, in the presence of one or more Commission members or its authorized representative, representative in Raleigh, or at another location approved by the Commission.

Authority G.S. 87-98.6; 87-98.8; 143B-301.11.

SECTION .0500 - CERTIFICATION WITHOUT EXAMINATION

15A NCAC 27 .0510 RECIPROCAL WAIVER OF EXAMINATION FOR CERTIFICATION

(a) The Commission may waive the examination requirement of this Chapter for an applicant who is licensed or holds a certification to practice well contractor activities in another State which also provides for equivalent reciprocal waiver of examination for licensing or certification to practice well construction activities in that State state to North Carolina certified well contractors.

(b) The Commission may grant a waiver of the written examination and field observation requirement to an applicant who provides evidence satisfactory to the Commission that the applicant:

- (1) Meets the requirements for Certification established by the Commission under this Chapter; and
- (2) Became licensed or certified in the other State after passing in that State state an examination that is equal or comparable to the examination for which the applicant is seeking the waiver.

Authority G.S. 87-98.6; 87-98.7; 143B-301.11.

SECTION .0600 - CERTIFICATION RENEWAL

15A NCAC 27 .0601 CONDITIONS AND LIMITATIONS FOR RENEWAL OF CERTIFICATIONS

(a) Certification issued pursuant to this Rule shall not be transferable and shall expire on ~~December 31 of each year through the year 2000. Certification shall expire on June 30, 2001 and shall expire on June 30 of each year, year thereafter.~~ A certification may be renewed without examination for ensuing years by making application to the ~~Commission~~ Commission, obtaining any required continuing education units, and paying the renewal fee no later than the expiration date of the certification, certification and paying the renewal fee. Receipt by the Commission of all required documentation such application and the appropriate fee(s) shall extend the validity of the current certification until a new certification is received or the applicant is notified by the Commission that formal administrative action has been taken to suspend, revoke or deny renewal of the certification.

(b) A well contractor serving on temporary active duty in the uniformed services of the United States for a period of time exceeding 90 consecutive days in a certification period, shall be granted an extension of time for which to submit renewal fee with proof of deployment, within 30 days of return from deployment.

(c) If a certification is not renewed by June 30, the certification is expired. The contractor is not to engage in well contractor activities, and is subject to disciplinary action and civil penalties for any violation of the certification requirement. Certification may be regained during this time by making application to the Commission, submitting documentation for any required continuing education units, and paying the renewal fee no later than 30 days from expiration date of the certification.

(d)(b) If a certification is not renewed within 30 days from the June 30 expiration of the certification in accordance with G.S. 87-98.7(b) and G.S. 87-98.9, the certification shall become void and may be renewed only in accordance with the requirements of G.S. 87-98.7(b).

(e)(e) No application for a renewal shall be granted if the applicant's certification is suspended or ~~revoked~~ until the period for such suspension or ~~revocation~~ has expired.

(f) No application for a renewal shall be granted until a photograph of the applicant is obtained by a representative of the Commission for use on the applicant's wallet card.

(g)(d) Individuals certified under this program shall notify the Well Contractors Certification Commission within 30 days in writing regarding ~~of~~ any change of their personal or professional contact information, business or personal address.

(h)(e) The Commission shall notify the well contractor of nonpayment of the annual renewal fee in accordance with G.S. 87-98.9. Notice shall be attempted by certified mail or personal service.

Authority G.S. 87-98.6; 87-98.7(b); 143B-301.11.

SECTION .0700 - TYPES OF CERTIFICATION

15A NCAC 27 .0702 REQUIREMENTS OF CERTIFICATION

- (a) Level A - To obtain Level A certification, an applicant must:
 - (1) Submit proof of 18 months of level specific well contractor experience as specified in 15A NCAC 27 .0301; Rule .0301 of this Chapter or submit a combination of proof of successful completion of approved training as specified in Paragraph (e) of Rule .0301 with proof of level specific well contractor experience;
 - (2) Satisfactorily complete the well contractor certification field ~~observation;~~ observation or submit proof of successful completion of approved training as specified in Paragraph (e) of Rule .0301; and then
 - (3) Pass the Level A written examination. ~~exam.~~
- (b) Level B - To obtain Level B certification, an applicant must:
 - (1) Submit proof of 12 months experience in level specific ~~related~~ well contractor activities as specified in 15A NCAC 27 .0301; Rule .0301 of this Chapter or submit a combination of proof of successful completion of approved training as specified in Paragraph (e) of Rule .0301 with proof of level specific well contractor experience; and
 - (2) Pass the Level B written examination. ~~exam.~~
- (c) Level C - To obtain Level C certification, an applicant must:

- (1) Submit proof of six months experience in level specific ~~related~~ well contractor activities as specified in 15A NCAC 27 .0301; Rule .0301 of this Chapter or submit a combination of proof of successful completion of approved training as specified in Paragraph (e) of Rule .0301 with proof of level specific well contractor experience; and
- (2) Pass the Level C written examination. ~~exam.~~
- (d) Level D - To obtain Level D certification, an applicant must:
 - (1) Submit proof of six months experience in level specific ~~related~~ well contractor activities as specified in 15A NCAC 27 .0301; Rule .0301 of this Chapter or submit a combination of proof of successful completion of approved training as specified in Paragraph (e) of Rule .0301 with proof of level specific well contractor experience; and
 - (2) Pass the Level D written examination. ~~exam.~~
- (e) If a certificate issued under this Section is not renewed under G.S. 87-98.7, or is revoked, the well contractor must apply for certification by examination in order to be recertified.

Authority G.S. 87-98.5; 143B-301.11.

15A NCAC 27 .0703 LEVEL D CERTIFICATION WITHOUT EXAMINATION

- ~~(a) Unless an applicant is found to have engaged in an act that would constitute grounds for disciplinary action, the Commission shall issue a Level D certificate without examination to any person who since April 1, 2003 has been actively and continuously engaged in well contractor activities including breaking the well seal, and has been continuously registered as a pump installer with the Department or employed by a firm or corporation that has been continuously registered with the Department.~~
- ~~(b) To obtain certification under this Section, a person must submit an application for Level D to the Commission and pay the annual fee prior to June 30, 2008.~~
- ~~(c) A well contractor who is certified under this Section must continuously maintain the certification in good standing in order to remain certified.~~
- ~~(d) If a certificate issued under this Section is not renewed under G.S. 87-98.7, is suspended, or is revoked, the well contractor must apply for certification by examination in order to be recertified.~~

Authority G.S. 87-98.5; 143B-301.11.

15A NCAC 27 .0704 CERTIFICATION WITHOUT EXAMINATION IN 2008

~~The Commission shall issue a certificate to the level appropriate to the applicants' experience without additional examination to any person currently certified as a well contractor as of June 30, 2008 upon receipt of their annual renewal request with fee and required PDH for that renewal.~~

Authority G.S. 87-98.5; 143B-301.11.

SECTION .0800 - CONTINUING EDUCATION REQUIREMENTS

15A NCAC 27 .0801 REQUIREMENTS

(a) Every certified well contractor is required to obtain six eight Professional Development Hours (PDH) units Continuing Education Units (CEU) during the renewal period. The renewal period is July 1 through June 30.

(b) If a certified well contractor registrant exceeds the annual requirement in any renewal period, a maximum of six eight PDH units CEU may be carried forward into the subsequent renewal period.

(c) Selection of courses and activities which meet the requirements of 15A NCAC 27 .0820 Rule .0820 of this Chapter is the responsibility of the certified well contractor. Certified well contractors have the option of selecting courses other than those offered by sponsors. Post evaluation of courses offered by entities other than sponsors approved pursuant to 15A NCAC 27 .0810 could result in non acceptance of courses for the purpose of meeting the continuing education requirements.

(d) CEU PDH units may be earned as follows:

- (1) Completion of college courses or community college courses.
- (2) Completion of continuing education courses (including, but not limited to correspondence, televised, videotaped, audiotapes, webinars and other short courses/tutorials) that provide a completion certificate.
- (3) Teaching or instructing a course described in Subparagraph (d)(1) or (d)(2) of this Rule. (1) or (2) of this Paragraph.
- (4) Attending or making presentations at professional or technical events (including but not limited to seminars, in-house courses, workshops, meetings, conventions, or conferences).
- (5) Authoring published papers, articles, or books.
- (6) Active participation in professional or technical societies as defined in Rule .0820 of this Chapter. 15A NCAC 27 .0820.

Authority G.S. 87-98.12; 143B-301.11.

15A NCAC 27 .0810 APPROVAL OF CONTINUING EDUCATION COURSES

~~(a) For the purposes of this Section, "sponsor" means an organization or individual approved by the Commission after having supplied, on a form provided by the Commission, the information required by this Rule with respect to the organization's or individual's ability to provide instruction for courses or activities to maintain, improve, or expand the skills and knowledge related to the practice of well contractor activities. After evaluation the Commission may grant approval of all courses offered by a particular "sponsor".~~

(a) Courses must be preapproved by a representative(s) of the Commission no less than 30 days prior to the course date.

(b) Course approvals shall expire June 30 of each certification period for which they have been approved.

~~(b) The Commission may require any sponsor that has received Commission approval for its course(s) to apply for renewal of such approval either annually or when the sponsor's course offerings or course schedule varies from what was previously approved, whichever occurs first.~~

(c) Representatives of the Commission must be allowed to attend any approved course for the purpose of auditing without fee or advanced notice.

(d) First Aid, CPR, OSHA Mine Safety, and HAZWOPER Refresher classes may only be approved for CEU credit every odd numbered certification period.

~~(e)(e)~~ The Commission shall approve courses that instruct on well contractor activities and the use of well contractor equipment, products, and materials. To be approved, courses and activities must contain a clear purpose and objective and result in the maintenance, improvement, or expansion of skills and knowledge related to the practice of well contractor activities. Additionally, to be approved, requests for approval of courses or activities shall include the following information:

- (1) course or activity content;
- (2) timed agenda for the course; course schedule;
- (3) all course or activity dates and locations;
- ~~(3) level of instruction provided (i.e., beginning, intermediate, advanced);~~
- (4) qualifications of instructors (including both education and experience); and
- ~~(5) materials provided, field experiences, and other activities available in connection with the course(s).~~
- (5) Sample of completion certificate or other forms provided by or to be preapproved by the Commission for use in documenting attendance.

(f) CEU credit shall not be awarded for courses involving direct sales of products to course attendees.

Authority G.S. 87-98.12; 143B-301.11.

15A NCAC 27 .0820 DETERMINATION OF CREDIT

~~(a) The Certification Commission has final authority with respect to approval of courses or activities, sponsors, credit, PDH CEU values, values for courses, and other methods of earning credit. Courses or activities must maintain, improve or expand the skills and knowledge related to the practice of well contractor activities in order for a well contractor to receive credit. The Commission shall award the stated hours of credit (PDH) (CEU) for any acceptable and successfully completed course or activity in each of the following categories:~~

- (1) Credit for college or community college courses shall be 45 PDH CEU for receipt of a passing grade in the course, regardless of the number of credits awarded by the college or community college.
- (2) Credit for continuing education courses (including, but not limited to, correspondence, televised, videotaped, audiotapes, webinars and other short courses/tutorials) that provide a completion certificate shall be one PDH unit

CEU for each hour of attendance or contact time.

- (3) Credit for published papers, articles and books is ~~10 PDH~~ CEUs.
- (4) Credit for active participation in professional and technical societies is limited to two ~~PDH~~ CEU per organization. "Active participation" requires that the well contractor attend at least ~~75~~ 50 percent of the regularly scheduled meetings. ~~PDH~~ CEU credits for this type of activity are not earned until the end of each calendar year of membership in the organization. A minimum of three meetings held in a year is required to qualify for CEU credit.
- (5) Credit for teaching or presenting in Items (1) and (2) of this Rule are double the stated credits. Credit for teaching or presenting is available only for the first time that a well contractor teaches such a course or makes such a presentation. ~~Credit for teaching a course is not available to a well contractor if the well contractor is a full time member of the faculty (as defined by the institution) where the course is taught.~~

(b) CEU credit shall not be awarded to an individual certified well contractor for scheduled portions of a program where the individual did not actually attend, was not awake or in which the individual certified well contractor did not personally participate.

Authority G.S. 87-98.12; 143B-301.11.

15A NCAC 27 .0830 RECORDKEEPING

The responsibility of maintaining records to be used to support credits claimed is the responsibility of the contractor. To claim CEU credit, the contractor or course provider shall provide complete documentation to representatives of the Commission. Documentation for courses taken must be submitted during the certification period for which CEU are being claimed or as noted in G.S. 87-98.7(b). Courses taken prior to the current certification period shall not be accepted, unless an extension has been granted as noted in Rule .0840(b) of this Section, Rule .0840(c) of this Section or G.S. 87-98.7(b). The course provider shall be responsible for submitting complete documentation for classes where 10 or more certified well contractors are present. Documentation to claim CEU credit ~~Records~~ is required to include, but ~~is~~ are not limited to:

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, instructors ~~or speakers~~ name and ~~PDH~~ CEU credits claimed earned; on forms provided by the Commission; and
- (2) Attendance verification records in the form of completion certificates or forms provided or preapproved by the Commission. ~~other documents supporting evidence of attendance.~~

Authority G.S. 87-98.12; 143B-301.11.

15A NCAC 27 .0840 SPECIAL PROVISIONS FOR CONTINUING EDUCATION

(a) Given the intrinsic educational value of preparing for and successfully passing ~~an~~ the North Carolina well contractors certification examination, a well contractor certified by way of examination ~~or reciprocity pursuant to Rule .0510(b) of this Chapter for having passed an examination comparable to that administered by the Commission~~ shall not be required to obtain any ~~professional development hours~~ CEU prior to ~~their~~ the first renewal of certification.

(b) A well contractor serving on temporary active duty in the uniformed services of the United States for a period of time exceeding ~~120~~ 90 consecutive days in a ~~year~~ certification period shall ~~be granted an extension of time in which to obtain the professional development hours required during that renewal period.~~ have the continuing education requirement waived for that certification period. Requests must be received by the Commission at least 30 days prior to the June 30 renewal deadline, or within 30 days of return from deployment. The extension shall allow the requesting well contractor 12 months from the date the extension is granted to correct the deficiency in professional development hours (PDH) for the renewal period in issue.

(c) If certified by a physician, a well contractor experiencing physical disability, illness, or other incapacitating medical condition such that the well contractor is incapable of attending continuing education courses or activities during a given renewal period shall be granted an extension of time in which to obtain ~~professional development hours~~ CEU required during that renewal period. Requests for extension must be received by the Commission at least 30 days prior to the June 30 renewal deadline. The extension shall allow the requesting well contractor 12 months from the date the extension is granted to correct the deficiency in ~~professional development hours (PDH)~~ CEU for the renewal period in issue.

Authority G.S. 87-98.12; 143B-301.11.

SECTION .0900 - PROCEDURES FOR DISCIPLINARY ACTIONS

15A NCAC 27 .0901 REVOCATION, RELINQUISHMENT OR EXPIRATION OF CERTIFICATION

(a) The Commission may issue a letter of reprimand, suspend, or revoke the certification of a well contractor in accordance with the provisions of G.S. 87-98.8, G.S. 150B-3, and G.S. Chapter 150B, Article 3A.

(b) The disciplinary committee is delegated the authority to ~~administer~~ propose disciplinary action ~~of including a letter of reprimand,~~ suspension or revocation of the certification of a well contractor. The Chairman shall convene a disciplinary committee meeting to review the circumstances of any proposed letter of reprimand, suspension or revocation. ~~revocation or suspension.~~ Written notice of the meeting of the committee shall be served on the well contractor personally or by certified mail at least 15 days prior to the meeting, and shall contain the following: the date, time, and place of the meeting; the disciplinary action proposed; notice of the reasons for the

proposed disciplinary action; and an invitation to attend the committee meeting and present facts and reasons why the disciplinary action should not be taken. If served by mail, the notice shall be addressed to the well contractor at his or her last mailing business address on file with the Commission.

- (c) The disciplinary committee shall consist of the following:
 - (1) The Chairman;
 - (2) Two members of the Commission, appointed by the Chairman:
 - (A) a member who is a certified well contractor; and
 - (B) a member who is an environmental health professional actively engaged in well inspection and permitting.

(d) The disciplinary committee members shall consider the facts and reasons in support of or against the proposed disciplinary action, and within 10 working days of the conclusion of the committee meeting, the committee shall make and issue a decision. The disciplinary committee shall report the decision to the Commission at its next scheduled meeting.

(e) The well contractor shall be informed of the disciplinary committee's decision in writing, which shall contain the following: the disciplinary action, if any, which has been proposed to be taken; notice of the reasons for the action; and a statement giving the well contractor the opportunity for a hearing under G.S. Chapter 150B, Article 3A.

(f) The notice shall be served on the well contractor personally or by certified mail. If notice cannot be given personally or by certified mail, then notice shall be given in the manner provided in G.S. 1A-1, Rule 4(j1). The notice shall also state that, to obtain a hearing, the well contractor must file a written request for a hearing with the Commission at its business address no later than the 30th day following the date of receipt of the disciplinary committee's written decision. A hearing request which is mailed satisfies the 30 days' filing requirement if the hearing request is received postmarked no later than the 30th day following the date of the receipt of the written decision.

(g) The disciplinary action shall become the final action of the Commission if the well contractor does not request a hearing within 30 days.

(h) Certification may be relinquished by submission to the Certification Commission of the original certificate, certificate, wallet card and a notarized statement of relinquishment.

(i) The Certification Commission or its delegate(s) may issue a written reprimand to a well contractor in accordance with G.S. 87-98.8. The reprimand shall be delivered personally or by certified mail. If a letter of reprimand is issued, a copy of the letter shall be kept in the well contractor's file and a copy must be sent to the well contractor's employer of record. The well contractor shall be given the opportunity to put a letter of rebuttal into the file when a reprimand has been issued.

Authority G.S. 87-98.8; 143B-300; 150B-3; 150B-38; 150B-40; 150B-43.

15A NCAC 27 .0910 RECERTIFICATION FOLLOWING REVOCATION OR RELINQUISHMENT

(a) After revocation or relinquishment has been effective for a period determined by the Commission, a person may apply in

writing for recertification by the Commission, including in his petition any relevant facts concerning changes to conditions under which revocation or relinquishment occurred. Such facts shall show clearly that the applicant shall comply with the laws and regulations.

(b) After revocation, Level A applicants must also pass the field observation prior to written examination.

(c)(b) Within 120 days following receipt of a complete application for recertification, the Commission shall notify the applicant by letter of its decision to deny or grant examination eligibility in accordance with procedures set out in Rule .0301 of this Chapter. 15A NCAC 27 .0301. Additional eligibility requirements including a show cause conference may be imposed by the Commission. Eligibility shall only be granted if there is substantial evidence that the conditions leading to the revocation or relinquishment have been corrected.

(d)(e) Recertification of a person as a well contractor shall only occur by means of application, field observation if applicable and examination. The examination(s) shall not be waived. The applicant shall meet the eligibility requirements set forth in Rule .0301 of this Chapter. 15A NCAC 27 .0301. The applicant shall not be eligible for temporary certification under G.S. 87-98.7(c).

(e)(d) Upon notification of the Commission's decision to deny eligibility, the applicant may appeal the decision pursuant to the procedures contained in G.S. 150B, Article 3A.

Authority G.S. 87.98.8; 143B-301.11; 150B-3; 150B-43.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – STATE BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC State Board of Dental Examiners intends to amend the rules cited as 21 NCAC 16A .0101; 16H .0104; 16I .0102; 16M .0101; 16Q .0202, .0302, .0401; 16R .0103, .0106; 16W .0102-.0103; and 16Z .0101.

Proposed Effective Date: April 1, 2011

Public Hearing:

Date: January 13, 2011

Time: 7:00 p.m.

Location: Dental Board Office, 507 Airport Boulevard, Suite 105, Morrisville, NC 27560

Reason for Proposed Action:

21 NCAC 16A .0101; 16H .0104; 16I .0102; 16Q .0202, .0302, .0401; 16R .0103, .0106; 16W .0102, .0103; 16Z .0101 – Are all proposed for amendment to clarify that CPR certification may be obtained only by completing a course provided by an instructor who is physically present with the students.

21 NCAC 16M .0101 – Is proposed for amendment to permit the Board to increase the annual renewal fee charged to dentists

from one hundred eighty-nine dollars (\$189) to two hundred eighty-nine dollars (\$289).

Procedure by which a person can object to the agency on a proposed rule: *Objections may be sent in writing to the Dental Board c/o Mr. Bobby White, Chief Operations Officer, 507 Airport Boulevard, Suite 105, Morrisville, NC 27560.*

Comments may be submitted to: *Mr. Bobby D. White, 507 Airport Boulevard, Suite 105, Morrisville, NC 27560*

Comment period ends: *February 14, 2011*

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

Fiscal Impact:

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

SUBCHAPTER 16A - ORGANIZATION

21 NCAC 16A .0101 DEFINITIONS

As used in this Chapter:

- (1) "Applicant" means a person applying for any license or permit issued by the Board;
- (2) "Board" means the North Carolina State Board of Dental Examiners;
- (3) "Candidate" means a person who has applied and been accepted for examination to practice dentistry or dental hygiene in North Carolina;
- (4) "Current license" means a license that is renewed by the licensing board as required;
- (5) "CPR certification" means that the licensee has successfully completed a CPR course that provides manikin testing on the subjects of cardio-pulmonary resuscitation. The course must also cover the use of an automatic external defibrillator, unconscious and conscious choking and rescue breathing, provided that the foregoing requirements shall not be interpreted in any way that violates the Americans with Disabilities Act. The manikin

testing must be provided by an CPR certified instructor who is physically present with the student.

- ~~(5)~~(6) "Internship" means practice in an educational training program. Internship does not mean practice under an intern permit while holding an unrestricted general dental or dental specialty license issued by a state, U.S. territory or the District of Columbia; and
- ~~(6)~~(7) "Unrestricted license" means a license which is not under suspension or inactivation, or subject to the terms of a consent order or other disciplinary action imposed by the jurisdiction that issued the license, or limited by supervision or location requirements.

Authority G.S. 90-26; 90-28; 90-29(a); 90-29.3; 90-29.4; 90-29.5; 90-30; 90-37.1; 90-43; 90-48; 90-224; 90-224.1; 90-226.

SUBCHAPTER 16H - DENTAL ASSISTANTS

SECTION .0100 - CLASSIFICATION AND TRAINING

21 NCAC 16H .0104 APPROVED EDUCATION AND TRAINING PROGRAMS

To be classified as a Dental Assistant II, an assistant must meet one of the following criteria:

- (1) successful completion of:
 - (a) an ADA-accredited dental assisting program and current certification in CPR; CPR as defined in 21 NCAC 16A .0101; or
 - (b) one academic year or longer in an ADA-accredited dental hygiene program, and current certification in CPR; or
- (2) successful completion of:
 - (a) full-time employment and experience as a chairside assistant for two years (3,000 hours) of the preceding five, during which period the assistant may be trained in any dental delivery setting and allowed to perform the functions of a Dental Assistant II under the direct control and supervision of a licensed dentist;
 - (b) a 3-hour course in sterilization and infection control;
 - (c) a 3-hour course in dental office emergencies;
 - (d) radiology training consistent with G.S. 90-29(c)(12); and
 - (e) current certification in CPR; as defined in 21 NCAC 16A .0101; or
- (3) successful completion of the certification examination administered by the Dental Assisting National Board, and current certification in CPR.

Authority G.S. 90-29(c)(9).

SUBCHAPTER 16I - ANNUAL RENEWAL OF DENTAL HYGIENIST LICENSE

SECTION .0100 - ANNUAL RENEWAL

21 NCAC 16I .0102 CONTINUING EDUCATION REQUIRED

(a) As a condition of license renewal, each dental hygienist must complete a minimum of six clock hours of continuing education each calendar year.

(b) A dental hygienist who can demonstrate a disabling condition may request a variance in required continuing education hours during a particular period.

Authority G.S. 90-225.1.

SUBCHAPTER 16M - FEES PAYABLE

SECTION .0100 - FEES PAYABLE

21 NCAC 16M .0101 DENTISTS

- (a) The following fees shall be payable to the Board:
(1) Application for general dentistry license \$ 395.00
(2) Renewal of general dentistry license \$ 189.00 \$ 289.00
(3) Application for instructor's license or renewal thereof \$ 140.00
(4) Application for provisional license \$ 100.00
(5) Application for intern permit or renewal thereof \$ 150.00
(6) Certificate of license to a resident dentist desiring to change to another state or territory \$ 25.00
(7) Duplicate license \$ 25.00
(8) Reinstatement of license \$ 225.00
(9) Fee for late renewal of any license or permit \$ 50.00
(10) Application for license by credentials \$2000.00
(11) Application for limited volunteer dental license \$ 100.00
(12) Renewal of limited volunteer dental license \$ 25.00

- (13) Board conducted examination processing fee \$ 805.00

(b) Each dentist renewing a license to practice dentistry in North Carolina shall be assessed a fee of forty dollars (\$40.00), in addition to the annual renewal fee, to be contributed to the operation of the North Carolina Caring Dental Professionals.

Authority G.S. 90-28; 90-39; 90-48; 150B-19(5).

SUBCHAPTER 16Q - GENERAL ANESTHESIA AND SEDATION

SECTION .0200 - GENERAL ANESTHESIA

21 NCAC 16Q .0202 EQUIPMENT

(a) A dentist administering general anesthesia is solely responsible for providing that the environment in which the general anesthesia is to be administered meets the following requirements:

- (1) The facility is equipped with:
(A) An operatory of size and design to permit access of emergency equipment and personnel and to permit effective emergency management;
(B) A chair or table for emergency treatment, including chair suitable for CPR or CPR Board;
(C) Lighting as necessary for specific procedures; and
(D) Suction equipment as necessary for specific procedures, including non-electrical back-up suction;
(2) The following equipment is maintained:
(A) Positive pressure oxygen delivery system, including full face mask for adults and pediatric patients;
(B) Oral and nasal airways of various sizes;
(C) Blood pressure monitoring device;
(D) Electrocardiograph;
(E) Pulse oximeter; and
(F) Defibrillator;
(3) The following emergency equipment is maintained:
(A) I.V. set-up as necessary for specific procedures, including hardware and fluids;
(B) Laryngoscope with current batteries;
(C) Intubation forceps and endotracheal tubes;
(D) Tonsillar suction with back-up suction;
(E) Syringes as necessary for specific procedures;
(F) Tourniquet & tape; and
(G) Blood pressure monitoring device;

- (4) The following drugs are maintained with a current shelf life and within easy accessibility from the operatory and recovery room:
 - (A) Epinephrine;
 - (B) Atropine;
 - (C) Lidocaine;
 - (D) Antihistamine;
 - (E) Antihypertensive;
 - (F) Bronchial dilator;
 - (G) Antihypoglycemic agent;
 - (H) Vasopressor;
 - (I) Corticosteroid;
 - (J) Anticonvulsant;
 - (K) Muscle relaxant;
 - (L) Narcotic antagonist;
 - (M) Appropriate anti-arrhythmic medication;
 - (N) Nitroglycerine; and
 - (O) Antiemetic;
- (5) Written emergency and patient discharge protocols and training to familiarize office personnel in the treatment of clinical emergencies are provided; and
- (6) The following records are maintained:
 - (A) Patient's current written medical history, including known allergies and previous surgery;
 - (B) Base line vital signs, including blood pressure and pulse;
 - (C) An anesthesia record which shall include:
 - (i) Periodic vital signs taken at intervals during the procedure;
 - (ii) Drugs administered during the procedure, including route of administration, dosage, time and sequence of administration;
 - (iii) Duration of the procedure;
 - (iv) Documentation of complications or morbidity; and
 - (v) Status of patient upon discharge.

(b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of anesthesia while the evaluator observes. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:

- (1) Monitoring of blood pressure, pulse, and respiration;
- (2) Drug dosage and administration;
- (3) Treatment of untoward reactions including respiratory or cardiac depression;
- (4) Sterilization;
- (5) Use of CPR certified ~~personnel~~; personnel as defined in 21 NCAC 16A .0101;
- (6) Monitoring of patient during recovery; and

- (7) Sufficiency of patient recovery time.
- (c) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
 - (1) Laryngospasm;
 - (2) Bronchospasm;
 - (3) Emesis and aspiration;
 - (4) Respiratory depression and arrest;
 - (5) Angina pectoris;
 - (6) Myocardial infarction;
 - (7) Hypertension/Hypotension;
 - (8) Syncope;
 - (9) Allergic reactions;
 - (10) Convulsions;
 - (11) Bradycardia;
 - (12) Insulin shock; and
 - (13) Cardiac arrest.
- (d) A dentist administering general anesthesia shall ensure that the facility is staffed with auxiliary personnel who shall document annual successful completion of basic life support training and be capable of assisting with procedures, problems, and emergency incidents that may occur as a result of the general anesthetic or secondary to an unexpected medical complication.

Authority G.S. 90-28; 90-30.1; 90-48.

SECTION .0300 - PARENTERAL CONSCIOUS SEDATION

21 NCAC 16Q .0302 CLINICAL REQUIREMENTS AND EQUIPMENT

(a) A dentist administering moderate conscious sedation or moderate pediatric conscious sedation or supervising the administration of moderate conscious sedation or moderate pediatric conscious sedation by a certified registered nurse anesthetist shall ensure that the facility in which the sedation is to be administered meets the following requirements:

- (1) The facility is equipped with:
 - (A) An operatory of size and design to permit access of emergency equipment and personnel and to permit effective emergency management;
 - (B) A CPR Board or a dental chair without enhancements, suitable for providing emergency treatment;
 - (C) Lighting as necessary for specific procedures; and
 - (D) Suction equipment as necessary for specific procedures, including non-electrical back-up suction.
- (2) The following equipment is maintained:
 - (A) Positive oxygen delivery system, including full face mask for adults and pediatric patients and back-up E-cylinder portable oxygen tank apart from the central system;

- (B) Oral and nasal airways of various sizes;
- (C) Blood pressure monitoring device;
- (D) Pulse oximeter; and
- (E) Automatic External Defibrillator (AED).
- (3) The following emergency equipment is maintained:
 - (A) I.V. set-up as necessary for specific procedures, including hardware and fluids, if anesthesia is intravenous;
 - (B) Syringes as necessary for specific procedures; and
 - (C) Tourniquet and tape.
- (4) The following drugs are maintained with a current shelf life and within easy access from the operatory and recovery area:
 - (A) Epinephrine;
 - (B) Atropine;
 - (C) Narcotic antagonist;
 - (D) Antihistamine;
 - (E) Corticosteroid;
 - (F) Nitroglycerine;
 - (G) Bronchial dilator;
 - (H) Antiemetic;
 - (I) Benzodiazepine antagonist; and
 - (J) 50% Dextrose.
- (5) Written emergency and patient discharge protocols are maintained and training to familiarize office personnel in the treatment of clinical emergencies is provided; and
- (6) The following records are maintained for at least 10 years:
 - (A) Patient's current written medical history, including known allergies and previous surgery;
 - (B) Drugs administered during the procedure, including route of administration, dosage, strength, time and sequence of administration;
 - (C) A sedation record which shall include:
 - (i) blood pressure;
 - (ii) pulse rate;
 - (iii) respiration;
 - (iv) duration of procedure;
 - (v) documentation of complications or morbidity; and
 - (vi) status of patient upon discharge.
- (b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of moderate conscious sedation on a patient, or where applicable, moderate pediatric conscious sedation on a patient, including the deployment of an intravenous delivery system, while the evaluator observes. Practices limited to pediatric dentistry will not be required to demonstrate the deployment of an intravenous delivery system. Instead, they will orally describe to the

evaluator the technique of their training in intravenous and intraosseous deployment. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:

- (1) Monitoring blood pressure, pulse, and respiration;
- (2) Drug dosage and administration;
- (3) Treatment of untoward reactions including respiratory or cardiac depression, if applicable;
- (4) Sterile technique;
- (5) Use of CPR certified ~~personnel~~; personnel, as defined in 21 NCAC 16A .0101.
- (6) Monitoring of patient during recovery; and
- (7) Sufficiency of patient recovery time.
- (c) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
 - (1) Laryngospasm;
 - (2) Bronchospasm;
 - (3) Emesis and aspiration;
 - (4) Respiratory depression and arrest;
 - (5) Angina pectoris;
 - (6) Myocardial infarction;
 - (7) Hypertension/Hypotension;
 - (8) Allergic reactions;
 - (9) Convulsions;
 - (10) Syncope;
 - (11) Bradycardia;
 - (12) Insulin shock; and
 - (13) Cardiac arrest.
- (d) A dentist administering moderate conscious sedation or moderate pediatric conscious sedation shall ensure that the facility is staffed with sufficient auxiliary personnel for each procedure performed who shall document annual successful completion of basic life support training and be capable of assisting with procedures, problems, and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.
- (e) Upon request, the holder of a moderate pediatric conscious sedation or moderate conscious sedation permit may travel to the office of a licensed dentist who does not hold such a permit and provide sedation services at the level for which the traveling dentist holds a valid permit, as well as minimal sedation or moderate conscious sedation limited to oral routes for the patients of that dentist who are undergoing dental procedures. The permit holder is solely responsible for providing that the facility in which the sedation is administered meets the requirements established by the Board, that the required drugs and equipment are present, and that the permit holder utilizes sufficient auxiliary personnel for each procedure performed who shall document annual successful completion of basic life support training and be capable of assisting with procedures, problems, and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.
- (f) Holders of moderate conscious sedation permits limited to oral routes and nitrous oxide inhalation may not provide sedation at the office of a licensed dentist who does not hold an appropriate sedation permit.

Authority G.S. 90-28; 90-30.1; 90-48.

SECTION .0400 - ENTERAL CONSCIOUS SEDATION

21 NCAC 16Q .0401 MINIMAL CONSCIOUS SEDATION CREDENTIALS, EVALUATION AND PERMIT

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a certified registered nurse anesthetist to administer minimal conscious sedation, the dentist shall obtain a Board-issued permit for minimal conscious sedation, moderate pediatric conscious sedation, moderate conscious sedation or general anesthesia. A permit is not required for prescription administration of DEA controlled drugs prescribed for postoperative pain control intended for home use. A dentist may obtain a minimal conscious sedation permit from the Board by completing an application form provided by the Board and paying a fee of one hundred dollars (\$100.00). Such permit must be renewed annually and shall be displayed with the current renewal at all times in a conspicuous place in the office of the permit holder.

(b) Only a dentist who holds a general anesthesia license may administer deep sedation or general anesthesia.

(c) Application:

- (1) A minimal conscious sedation permit may be obtained by completing an application form provided by Board, a copy of which may be obtained from the Board office, and meeting the requirements of Section .0400 of this Subchapter.
- (2) The application form must be filled out completely and appropriate fees paid.
- (3) An applicant for a minimal conscious sedation permit shall be licensed and in good standing with the Board in order to be approved. For purposes of these Rules "good standing" means that the applicant is not subject to a disciplinary investigation and his or her licensee has not been revoked or suspended and is not subject to a probation or stayed suspension order.

(d) Evaluation:

- (1) Prior to issuance of a minimal conscious sedation permit the applicant shall undergo a facility inspection. The Board shall direct an evaluator qualified to administer minimal sedation to perform this inspection. The applicant shall be notified in writing that an inspection is required and provided with the name of the evaluator who shall perform the inspection. The applicant shall be responsible for successful completion of inspection of his or her facility within three months of notification. An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one.
- (2) During an inspection or evaluation, the applicant or permit holder shall demonstrate competency in the following areas:

- (A) Monitoring of blood pressure, pulse, pulse oximetry and respiration;
 - (B) Drug dosage and administration (by verbal demonstration);
 - (C) Treatment of untoward reactions including respiratory or cardiac depression (by verbal demonstration);
 - (D) Sterilization;
 - (E) Use of CPR certified ~~personnel;~~ personnel, as defined in 21 NCAC 16A.0101;
 - (F) Monitoring of patient during recovery (by verbal demonstration); and
 - (G) Sufficiency of patient recovery time (by verbal demonstration).
- (3) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
- (A) Laryngospasm;
 - (B) Bronchospasm;
 - (C) Emesis and aspiration;
 - (D) Respiratory depression and arrest;
 - (E) Angina pectoris;
 - (F) Myocardial infarction;
 - (G) Hypertension/Hypotension;
 - (H) Syncope;
 - (I) Allergic reactions;
 - (J) Convulsions;
 - (K) Bradycardia;
 - (L) Insulin shock; and
 - (M) Cardiac arrest.
- (4) The evaluator shall assign a grade of pass or fail and shall report his recommendation to the Board, setting out the basis for his conclusion. The Board is not bound by the evaluator's recommendation and shall make a final determination regarding whether the applicant has passed the evaluation. The applicant shall be notified of the Board's decision in writing.
- (e) Educational/Professional Requirements:
- (1) The dentist applying for a minimal conscious sedation permit shall meet one of the following criteria:
 - (A) successful completion of training consistent with that described in Part I or Part III of the American Dental Association (ADA) Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, and have documented administration of minimal conscious sedation in a minimum of five cases;
 - (B) successful completion of an ADA accredited post-doctoral training program which affords comprehensive training necessary to

- (C) administer and manage minimal conscious sedation; successful completion of an 18-hour minimal conscious sedation course which must be approved by the Board based on whether it affords comprehensive training necessary to administer and manage minimal conscious sedation;
- (D) successful completion of an ADA accredited postgraduate program in pediatric dentistry; or
- (E) is a North Carolina licensed dentist in good standing who has been using minimal conscious sedation in a competent manner for at least one year immediately preceding October 1, 2007 and his or her office facility has passed an on-site inspection by a Board evaluator as required in Paragraph (d) of this Rule. Competency shall be determined by presentation of successful administration of minimal conscious sedation in a minimum of five clinical cases.

- (2) All applicants for a minimal sedation permit must document successful completion of a Basic Life Saving (BLS) course within the 12 months prior to the date of application.

Authority G.S. 90-28; 90-30.1.

SUBCHAPTER 16R - CONTINUING EDUCATION REQUIREMENTS: DENTISTS

SECTION .0100 - CONTINUING EDUCATION

21 NCAC 16R .0103 CONTINUING EDUCATION REQUIRED

As a condition of license renewal, every dentist must complete a minimum of 15 clock hours of continuing education each calendar year. Any or all of the hours may be acquired through self study courses. For self study courses to be counted towards this continuing education requirement, the dentist must successfully complete a test following the course and obtain a certificate of completion. Current certification in CPR as defined by 21 NCAC 16A .0101 is required in addition to the mandatory continuing education hours.

Authority G.S. 90-31.1.

21 NCAC 16R .0106 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION

(a) Upon receipt of satisfactory written evidence, the Board may grant exemptions from the mandatory continuing education requirements set out in Rule .0103 of this Subchapter as follows:

- (1) A dentist who practices not more than 250 clock hours in a calendar year shall be

exempted from all continuing education requirements. Such dentists, who shall be known as semi-retired Class I dentists, must maintain current CPR ~~certification~~ certification, as defined in 21 NCAC 16A .0101.

- (2) A dentist who practices not more than 1,000 clock hours in a calendar year shall be exempt from one half of the continuing education courses required of dentists who practice full time. Such dentists, who shall be known as semi-retired Class II dentists, must maintain current CPR certification.
- (3) A retired dentist who does not practice any dentistry shall be exempt from all continuing education and CPR certification requirements.
- (4) A dentist who is disabled may request a variance in continuing education hours during the period of the disability. The Board may grant or deny requests for variance in continuing education hours based on a disabling condition on a case by case basis, taking into consideration the particular disabling condition involved and its effect on the dentist's ability to complete the required hours. In considering the request, the Board may require additional documentation substantiating any specified disability.

(b) In those instances where continuing education is waived and the exempt individual wishes to resume practice, the Board shall require continuing education courses in accordance with Rule .0103 of this Section when reclassifying the licensee. The Board may require those licensees who have not practiced dentistry for a year or more to undergo a bench test prior to allowing the licensee to resume practice when there is indication of inability to practice dentistry.

(c) Dentists shall receive 10 hours credit per year for continuing education when engaged in any of the following:

- (1) service on a full-time basis on the faculty of an educational institution with direct involvement in education, training, or research in dental or dental auxiliary programs; or
- (2) service on a full time basis with a federal, state or county government agency whose operation is directly related to dentistry or dental auxiliaries. Verification of credit hours shall be maintained in the manner specified in Rule .0105 of this Section.

(d) Dentists who work at least 20 hours per week in an institution or entity described in (c)(1) or (2) of this Rule shall receive five hours credit per year for continuing education.

(e) Dentists shall receive up to two hours of continuing education credits per year for providing dental services on a volunteer basis at any state, city or county operated site approved by the Dental Board. Credit will be given at ratio of 1:5, with one hour credit given for every five hours of volunteer work.

Authority G.S. 90-31.1; 90-38.

SUBCHAPTER 16W - PUBLIC HEALTH HYGIENISTS

SECTION .0100 - PUBLIC HEALTH HYGIENISTS

21 NCAC 16W .0102 TRAINING FOR PUBLIC HEALTH HYGIENISTS

(a) Prior to performing clinical procedures pursuant to G.S. 90-233(a) under the direction of a duly licensed dentist, a public health hygienist must have:

- (1) five years of experience in clinical dental hygiene;
- (2) ~~CPR certification, updated annually;~~ Current CPR certification, as defined in 21 NCAC 16A .0101;
- (3) six hours of continuing education in medical emergencies each year; and
- (4) such other training as may be required by the Dental Health Section of the Department of Health and Human Services.

(b) For purposes of this Rule, a minimum of 4000 hours performing primarily prophylaxis or periodontal debridement under the supervision of a duly licensed dentist shall be equivalent to five years experience in clinical dental hygiene.

Authority G.S. 90-223; 90-233(a).

21 NCAC 16W .0103 TRAINING FOR PUBLIC HEALTH HYGIENISTS PERFORMING PREVENTIVE PROCEDURES

(a) Public health hygienists who provide only educational and preventive procedures such as application of fluorides, fluoride varnishes, and oral screenings, and not clinical procedures, shall be subject to the training provisions set out in Paragraph (b) of this Rule instead of the training provisions required by 21 NCAC 16W .0102.

(b) A public health hygienist may perform preventive procedures as set out in Paragraph (a) of this Rule under the direction of a duly licensed public health dentist if the hygienist:

- (1) maintains ~~CPR certification;~~ certification, as defined in 21 NCAC 16A .0101; and
- (2) completes such other training as may be required by the Oral Health Section of the Department of Health and Human Services.

Authority G.S. 90-223; 90-233(a).

SUBCHAPTER 16Z - LIMITED SUPERVISION HYGIENISTS

21 NCAC 16Z .0101 ELIGIBILITY TO PRACTICE HYGIENE OUTSIDE DIRECT SUPERVISION

(a) To be eligible to perform the clinical hygiene procedures set out in G.S. 90-221(a) without the direct supervision of a dentist, a dental hygienist must:

- (1) maintain an active license to practice dental hygiene in this State;
- (2) have no prior disciplinary history in any State;
- (3) complete at least three years of experience in clinical dental hygiene or at least 2,000 hours of performing primarily prophylaxis or periodontal debridement under the supervision of a dentist licensed in this State within the five calendar years immediately preceding initial approval to work without direct supervision;
- (4) successfully complete annual ~~CPR certification;~~ certification, as defined in 21 NCAC 16A .0101;
- (5) successfully complete at least six hours of Board approved continuing education in dental office medical emergencies, in addition to the requirements of G.S. 90-225.1.

(b) To retain eligibility to perform the clinical hygiene procedures set out in G.S. 90-221(a) without direct supervision of a dentist, a dental hygienist must:

- (1) successfully complete at least six hours of Board approved continuing education in dental office medical emergencies each year, in addition to the requirements of G.S. 90-225.1;
- (2) successfully complete annual ~~CPR certification;~~ certification, as defined in 21 NCAC 16A .0101;
- (3) comply with all provisions of the N.C. Dental Practice Act and all rules of the Dental Board applicable to dental hygienists; and
- (4) cooperate fully with all lawful Board inspections of any facility at which the hygienist provides dental hygiene services without direct supervision of a dentist.

Authority G.S. 90-221; 90-233.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Monday, November 29, 2010 and Thursday December 16, 2010 9:00 a.m. at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3100. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jim R. Funderburk - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Ralph A. Walker
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
Daniel F. McLawhorn
Curtis Venable

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

December 16, 2010 January 20, 2011
February 17, 2010 March 18, 2010

RULES REVIEW COMMISSION

November 29, 2010

MINUTES

The Rules Review Commission met on Thursday, November 29, 2010, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jeff Gray, Jennie Hayman, Dan McLawhorn, David Twiddy, Curtis Venable and Ralph Walker.

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

The following people were among those attending the meeting:

John Hoomani	Department of Labor
Norman Young	Wildlife Resources Commission/Department of Justice
Erin Gould	Department of Labor
Barry Gupton	Building Code Council
Cathe Evans	Board of Architecture
Jean Stanley	Board of Nursing
David Kalbacker	Board of Nursing
Nancy Pate	Department of Environment and Natural Resources
Jamie McNees	Department of Environment and Natural Resources
Adriene Weaver	Department of Environment and Natural Resources
David McLeod	Department of Agriculture and Consumer Services
Margaret Wingate	Board of Electrolysis Examiners

The meeting was called to order at 9:03 a.m. with Ms. Hayman presiding. She reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the October 21, 2010 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

02 NCAC 34 .0331, .1103 – Structural Pest Control Commission. No rewritten rules have been submitted and no action was taken.

04 NCAC 02R .0701, .1008 – Alcoholic Beverage Control Commission. The Commission approved the rewritten rules submitted by the agency.

13 NCAC 14B .0202, .0205, .0208, .0211, .0213, .0308, .0401, .0407, .0604, .0610, .0611, .0612 – Department of Labor and Apprenticeship Council. The Commission approved the rewritten rules submitted by the agency contingent upon receiving a technical change to Rule .0205. The technical change has been received.

21 NCAC .0108, .0204, .0206, .0213, .0214, .0215 – Board of Architecture. The Commission approved rewritten Rules .0204, .0206, .0213, .0214, and .0215 submitted by the agency. The Commission approved rewritten Rule .0108 contingent on receiving a technical change. The technical change has been received.

LOG OF FILINGS

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

Plant Conservation Board

All permanent rules and repeals were approved unanimously.

Department of Labor

All permanent rules were approved unanimously.

Environmental Management Commission

All permanent rules were approved unanimously.

Wildlife Resources Commission

All permanent rules were approved unanimously.

Department of Environment and Natural Resources

15A NCAC 28 .0302 was approved unanimously.

Board of Electrolysis Examiners

All permanent rules were approved unanimously.

Board of Nursing

All permanent rules were approved unanimously with the following exception:

21 NCAC 36 .0201 - The Commission objected to this rule based on lack of statutory authority and ambiguity. In (b) the second sentence is a legal conclusion more than a rule and should be deleted. Whether or not either the failure of the board to send a notice of renewal or the failure of the licensee to receive it “excuses” the registrant from any renewal obligations is a question for a court of competent jurisdiction to decide untethered by the board’s legal conclusions. In (d) there are no standards for determining when a licensee “may be required” to demonstrate mental and physical competency to practice nursing. Thus the rule is unclear. There is no authority cited to set them outside the rules.

Onsite Wastewater Contractors and Inspectors Certification Board

21 NCAC 39 .0101 - The Commission objected to this Rule based on lack of statutory authority and ambiguity. There is no authority cited to require that a “wastewater treatment facility” be designed by a professional engineer” in (c) line 16. That is the net effect of this definition. The authority cited is simply authority to regulate those who build, inspect, and certify on-site wastewater treatment facilities. This agency regulates those who are “contractors and inspectors” of these systems, not the design or standards for the systems themselves. Counsel is also not aware of any specific statutory authorization given to this agency that might be found in Article 11, Wastewater Systems, of G.S. Chapter 130A (Public Health). The regulatory authority in that Article is given to the EMC.

21 NCAC 39 .0403 - The Commission objected to this Rule based on ambiguity. In (b) the standard “satisfactory to the proctor” is vague in that it is insufficient. The proctor may reject a driver’s license, passport, state or agency, or any other photo identification for any reason. The board must give the proctor some guidelines to use in deciding whether to accept or reject the photo identification. It is also unclear in line 8 who the proctor is, i.e., whether it is a board member or someone else, and in lines 6 and 9 who are “representatives” of the board, i.e., whether they are board members or others. It is also not clear whether a “Board representative” is

the same person as the proctor. In (c) line 10 it is unclear what constitutes "disrupts the exam." There are no standards set out in the rules for determining either what constitutes disrupting an examination or what the board shall use in making that determination. And even if the emphasis is on taking "appropriate action" that might be less than dismissal from the exam – such as moving a person who is distracting the other applicants by, e.g. coughing, sneezing, hiccupping, tapping a pencil – that is not clear and the standards for determining this are not clear.

The Commission approved rules 21 NCAC 39 .0102, .0201, .0301, 0401-.0402, .0404, .0501, .0601-.0605, .0701-.0703 contingent on receiving technical changes. It was noted that the board had indicated to RRC counsel that no technical changes would be presented prior to the RRC meeting; therefore these rules would be carried over to the December meeting based on the agency's failure to comply with the last sentence of G.S. 150B-21.10.

Respiratory Care Board

21 NCAC 61 .0204 was approved unanimously.

Building Code Council

All permanent rules were approved unanimously with the following exceptions:

2012 NC Building Code:

The Commission objected to Rule 424.1.13 based on lack of statutory authority. There is no authority cited for the Building Code Council to set requirements on what type drawings must be sealed by an NC licensed architect or engineer.

The Commission objected to Rule 425.1 based on ambiguity. It is not clear what the sentence "The state agency having jurisdiction shall classify the facility, small nonambulatory care facility or large residential facility" means.

The Commission objected to Rule 1008.1.9.3 based on ambiguity. In 2.3, it is not clear what would amount to "due cause" for the revocation of the use of a key-operated locking device.

The Commission objected to Rule G101.4 based on ambiguity. This provision is not a complete sentence and does not make sense as written.

The Commission objected to Rule 1704.1.1 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 1704.1.3 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 1807.2.4 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 1807.2.5 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 1810.3.5.2.5 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function as this rule does in 5.

The Commission objected to Rule 2210.3.1 based on lack of statutory authority and ambiguity. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function. It is also not clear what is meant by "accepted engineering practice."

The Commission objected to Rule 2210.3.3 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 2303.4.1.4 based on lack of statutory authority and ambiguity. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function. This rule is also not a complete sentence and is meaningless as written.

The Commission objected to Rule 2303.4.3 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 3603.6 based on ambiguity. It is not clear what is meant by "current coastal engineering practice."

The Commission objected to Rule 3604.1 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 3604.2 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 3604.3 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 3606.1 based on ambiguity. It is not clear what is meant by "accepted engineering practice." It is also not clear what is meant by "coastal areas."

The Commission objected to Rule 3606.7 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

The Commission objected to Rule 3607.2 based on ambiguity. It is not clear what "other materials" are "suitable" or what "other support" is "suitable."

2012 NC Fire Code:

The Commission objected to Chapter 2 based on ambiguity. In the definition of "labeled," it is not clear how to determine if a testing laboratory is "nationally recognized."

The Commission objected to Rule 1008.1.9.3 based on ambiguity. In 2.3, it is not clear what would constitute "due cause."

The Commission objected to Rule 2206.2.3.1 based on ambiguity. In 7, it is not clear when the fire code official will require vehicle impact protection.

2012 NC Fuel Gas Code:

The Commission objected to Chapter 2 based on ambiguity. In the definition of "labeled," it is not clear how to determine if a testing laboratory is "nationally recognized."

2012 NC Mechanical Code:

The Commission objected to Chapter 2 based on ambiguity. In the definition of "labeled," it is not clear how to determine if a testing laboratory is "nationally recognized."

2012 NC Plumbing Code:

The Commission objected to Rule 607.1 based on ambiguity. It is not clear how one is to determine what is an adequate source of hot water for each family unit to meet minimum basic requirements for health, sanitation and personal hygiene.

The Commission objected to Rule 701.4 based on lack of statutory authority. This rule regulates the use of a plumbing system rather than the construction. There is no authority cited for the Building Code Council to regulate the use of plumbing systems as opposed to the installation of them.

The Commission objected to Rule 803.5 based on lack of statutory authority. "Registered design professional" is defined as an individual who is registered or licensed to practice a design profession as defined by statutory requirements. There is no authority cited for the Building Code Council to set requirements for when a professional license is required to perform any function.

TEMPORARY RULES

There were no temporary rules filed for review.

COMMISSION PROCEDURES AND OTHER BUSINESS

There was a brief discussion of EO 70. Mr. Bryan told the Commission that he, Ms. Masich and Judge Mann had met with officials from the Office of State Budget and Management to discuss OAH and RRC cooperation with OSBM in implementing the Executive Order. They had discussed the possibility of using the procedures in G.S. 150B-21.14 when agencies identified rules that were without dispute no longer necessary. This would allow the agencies to request the RRC call for a public hearing on the rules to put them under its review without the necessity of the agencies going through the entire rulemaking process to repeal the rules. If the RRC finds the rules unnecessary and objects to them, the agencies could then repeal the rules in response to the objection.

The meeting adjourned at 11:04 a.m.

The next scheduled meeting of the Commission is Thursday, December 16 at 9:00 a.m.

Respectfully Submitted,

Dana Vojtko
Publications Coordinator

**LIST OF APPROVED PERMANENT RULES
November 29, 2010 Meeting**

PLANT CONSERVATION BOARD

<u>Protected Plant Species List</u>	02	NCAC 48F .0301
<u>Threatened Plant Species List</u>	02	NCAC 48F .0302
<u>Plant Species of Special Concern</u>	02	NCAC 48F .0304
<u>Collection and Sale of Ginseng</u>	02	NCAC 48F .0305
<u>Collection and Sale of Venus Flytrap</u>	02	NCAC 48F .0306
<u>Definitions</u>	02	NCAC 48F .0401
<u>Protected Plant Propagation</u>	02	NCAC 48F .0402
<u>Movement and Sale of Special Concern</u>	02	NCAC 48F .0403
<u>Duplication of Special Concern Permits</u>	02	NCAC 48F .0404
<u>Movement for Conservation Purposes</u>	02	NCAC 48F .0406
<u>Protected Plant Permits, Certificate of Origin</u>	02	NCAC 48F .0407
<u>Criteria for Approval Plant Conservation Permits</u>	02	NCAC 48F .0408
<u>Emergency Procedures for Rescue Operations</u>	02	NCAC 48F .0409
<u>Criteria for Issuance of Protected Plant Permits</u>	02	NCAC 48F .0410
<u>Issuance of Protected Plant Permits</u>	02	NCAC 48F .0411

<u>Conditions of Permit Issuance and Acceptance</u>	02	NCAC 48F .0412
<u>Amendment of Permits</u>	02	NCAC 48F .0413
<u>Designations</u>	02	NCAC 48F .0501
<u>Form PC-1</u>	02	NCAC 48F .0502
<u>Form PC-2</u>	02	NCAC 48F .0503
<u>Form PC-3</u>	02	NCAC 48F .0504
<u>Form PC-4</u>	02	NCAC 48F .0505
<u>Form PC-5</u>	02	NCAC 48F .0506
<u>Form PC-6</u>	02	NCAC 48F .0507
<u>Form PC07</u>	02	NCAC 48F .0508
<u>Form PC-9</u>	02	NCAC 48F .0509
<u>Form PC-9</u>	02	NCAC 48F .0510
<u>Form PC-10</u>	02	NCAC 48F .0511
<u>Form PC-11</u>	02	NCAC 48F .0512
<u>Form PC-12</u>	02	NCAC 48F .0513
<u>Form PC-13</u>	02	NCAC 48F .0514
<u>Form PC-14</u>	02	NCAC 48F .0515

ALCOHOLIC BEVERAGE CONTROL COMMISSION

<u>Standards for Commission and Employees</u>	04	NCAC 02R .0701
<u>Conflicts of Interest</u>	04	NCAC 02R .1008

LABOR, DEPARTMENT OF

<u>Incorporation by Reference</u>	13	NCAC 07A .0301
<u>Copies Available</u>	13	NCAC 07A .0302
<u>General Requirements</u>	13	NCAC 07F .0401
<u>Definitions Applicable to this Standard</u>	13	NCAC 07F .0402
<u>Color Coding and Warning Signs for Physical Hazards</u>	13	NCAC 07F .0403
<u>Personal Protective Equipment</u>	13	NCAC 07F .0404
<u>Lighting</u>	13	NCAC 07F .0405
<u>Ventilation</u>	13	NCAC 07F .0406
<u>Cleaners and Solvents</u>	13	NCAC 07F .0407
<u>Ionizing Radiation</u>	13	NCAC 07F .0408
<u>General Requirements for All Machines and Equipment</u>	13	NCAC 07F .0409
<u>Cranes: Derricks: and Hoists</u>	13	NCAC 07F .0410
<u>Material Handling Devices</u>	13	NCAC 07F .0411
<u>Slings and Alloy-Steel Chains</u>	13	NCAC 07F .0412
<u>Mobile Equipment</u>	13	NCAC 07F .0413
<u>Jacks: Lever: Ratchet: Screw: and Hydraulic</u>	13	NCAC 07F .0414
<u>Portable Power and Hand Tools</u>	13	NCAC 07F .0415
<u>Electrical</u>	13	NCAC 07F .0416
<u>Handling and Storing Material</u>	13	NCAC 07F .0417
<u>Handling Material from a Railway Car</u>	13	NCAC 07F .0418
<u>Unloading Material from a Truck</u>	13	NCAC 07F .0419
<u>Reaming and Drilling</u>	13	NCAC 07F .0420
<u>Riveting</u>	13	NCAC 07F .0421

<u>Bolting</u>	13	NCAC 07F .0422
<u>Manual Abrasive Blasting</u>	13	NCAC 07F .0423
<u>Painting</u>	13	NCAC 07F .0424
<u>Galvanizing and Pickling Operations</u>	13	NCAC 07F .0425
<u>Source of Standards</u>	13	NCAC 07F .0426

LABOR, DEPARTMENT OF, AND APPRENTICESHIP COUNCIL

<u>Standards for Apprenticeship</u>	13	NCAC 14B .0202
<u>Eligibility and Procedure for Registration of an Apprenti...</u>	13	NCAC 14B .0205
<u>Apprenticeship Agreement</u>	13	NCAC 14B .0208
<u>Revision of Apprenticeship Standards or Agreement</u>	13	NCAC 14B .0211
<u>Certification or Certificate of Completion</u>	13	NCAC 14B .0213
<u>Revision of OJT Standards or Agreement</u>	13	NCAC 14B .0308
<u>Quality Assurance Assessments</u>	13	NCAC 14B .0401
<u>De-Registration of Agreement</u>	13	NCAC 14B .0407
<u>Analysis: Underutilization</u>	13	NCAC 14B .0604
<u>Records</u>	13	NCAC 14B .0610
<u>Compliance Reviews</u>	13	NCAC 14B .0611
<u>Sanctions</u>	13	NCAC 14B .0612

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Outstanding Resource Waters</u>	15A	NCAC 02B .0225
<u>New River Basin</u>	15A	NCAC 02B .0307
<u>Catawba River Basin</u>	15A	NCAC 02B .0308

WILDLIFE RESOURCES COMMISSION

<u>Hyde County</u>	15A	NCAC 10F .0313
<u>Rowan County</u>	15A	NCAC 10F .0329
<u>Person County</u>	15A	NCAC 10F .0348

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

<u>Fee Schedule</u>	15A	NCAC 28 .0302
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ARCHITECTURE, BOARD OF

<u>Fees</u>	21	NCAC 02 .0108
<u>Forms of Practice</u>	21	NCAC 02 .0204
<u>Requirement for and Use of Professional Seal</u>	21	NCAC 02 .0206
<u>Individual Licenses</u>	21	NCAC 02 .0213
<u>Firm Practice of Architecture</u>	21	NCAC 02 .0214
<u>Out of State Firms</u>	21	NCAC 02 .0215

ELECTROLYSIS EXAMINERS, BOARD OF

<u>Infection Control Standards</u>	21	NCAC 19 .0401
<u>Sterilization and Disinfection</u>	21	NCAC 19 .0402
<u>Definitions</u>	21	NCAC 19 .0404
<u>Hand Hygiene</u>	21	NCAC 19 .0405

RULES REVIEW COMMISSION

<u>Use of Gloves</u>	21	NCAC 19	.0406
<u>Cleaning, Sterilization, and Safety Precautions for Instr...</u>	21	NCAC 19	.0407
<u>Environmental Control and Housekeeping</u>	21	NCAC 19	.0408
<u>Client Evaluation</u>	21	NCAC 19	.0409
<u>Hepatitis B Virus (HBV) Vaccination</u>	21	NCAC 19	.0410
<u>Follow-Up Procedures for Exposures to Hepatitis, Human Im...</u>	21	NCAC 19	.0411
<u>Standard Precautions for Disease Control and Prevention</u>	21	NCAC 19	.0412
<u>Curriculum</u>	21	NCAC 19	.0601
<u>Certifications Not Transferable</u>	21	NCAC 19	.0603
<u>Program Directors</u>	21	NCAC 19	.0604
<u>Enrollment Procedures</u>	21	NCAC 19	.0605
<u>School Equipment</u>	21	NCAC 19	.0608
<u>School Library</u>	21	NCAC 19	.0609
<u>Equipment, Student and Teacher Ratio</u>	21	NCAC 19	.0613
<u>School Hours and Schedule</u>	21	NCAC 19	.0614
<u>School Advertisements</u>	21	NCAC 19	.0617
<u>Private Practice in a School Building</u>	21	NCAC 19	.0618
<u>Equipment Endorsements and Sales Prohibited</u>	21	NCAC 19	.0619
<u>Certification of Schools in Other States or Jurisdictions</u>	21	NCAC 19	.0622
<u>Continuing Education Requirements, Renewal, Reinstatement...</u>	21	NCAC 19	.0701
<u>Board Approval of Courses</u>	21	NCAC 19	.0702
<u>Time Limits on Credit</u>	21	NCAC 19	.0704

NURSING, BOARD OF

<u>Selection and Qualifications of Nurse Members</u>	21	NCAC 36	.0109
<u>Suspension of Authority to Expend Funds</u>	21	NCAC 36	.0119
<u>Reinstatement of Lapsed License</u>	21	NCAC 36	.0203
<u>Nurse Anesthesia Practice</u>	21	NCAC 36	.0226

RESPIRATORY CARE BOARD

<u>Fees</u>	21	NCAC 61	.0204
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BUILDING CODE COUNCIL

<u>NC Fuel Gas Code - Purging of Gas Piping</u>	406.7
<u>NC Residential Code - Definitions(100309 Item B-4)</u>	202
<u>NC Residential Code - Basic Design Wind Velocities for Mo...</u>	R802.3.1

AGENDA
RULES REVIEW COMMISSION
Thursday, December 16, 2010 9:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Structural Pest Control Committee – 02 NCAC 34 .0331, .1103 (Bryan)

- B. Board of Nursing – 21 NCAC 36 .0201 (DeLuca)
- C. Onsite Wastewater and Inspector Board – 21 NCAC 39 .0101, .0102, .0201, .0301, .0401, .0402, .0403, .0404, .0501, .0601, .0602, .0603, .0604, .0605, .0701, .0702, .0703 (DeLuca)
- D. Building Code Council – 2012 NC Building Code – 424.1.13, 425.1, 1008.1.9.3, G101.4, 1704.1.1, 1704.1.3, 1807.2.4, 1807.2.5, 1810.3.5.2.5, 2210.3.1, 2210.3.3, 2303.4.1.4, 2303.4.3, 3603.6, 3604.1, 3604.2, 3604.3, 3606.1, 3606.7, 3607.2 (Bryan)
- E. Building Code Council – 2012 NC Fire Code – Chapter 2, 1008.1.9.3, 2206.2.3.1 (Bryan)
- F. Building Code Council – 2012 NC Fuel Gas Code – Chapter 2 (Bryan)
- G. Building Code Council – 2012 NC Mechanical Code – Chapter 2 (Bryan)
- H. Building Code Council – 2012 NC Plumbing Code – 607.1, 701.4, 803.5 (Bryan)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between October 21, 2010 and November 22, 2010
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days of the RRC Meeting
 - 1. Environmental Management Commission – 15A NCAC 02B .0235, .0275 - .0282, .0315 (DeLuca)
- VI. Review of 2011 State Medical Facilities Plan
- VII. Commission Business
 - Next meeting: January 20, 2011

Commission Review
Log of Permanent Rule Filings
October 21, 2010 through November 22, 2010

* Approval Recommended, ** Objection Recommended, *** Other

AGRICULTURE, BOARD OF

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

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

Adoptions by Reference
Amend/*

02 NCAC 09B .0116

The rules in Chapter 48 are from the Board of Agriculture and the Commissioner of Agriculture. These rules govern the plant industry, including plant protection, fertilizer, seeds, liming materials and landplaster, and genetically engineered organisms.

The rules in Subchapter 48A are plant protection rules directed at specific plant problems or methods of protection including regulations incorporated by reference (.0100); the honey and bee industry (.0200); exterior pests (.0300); white pine blister rust (.0400); witchweed (.0500); protection against the boll weevil (.0600); imported fire ant (.0700); potato virus "y" (.0800); sweet potato weevil (.0900); vegetable plant certification (.1000); tobacco plant certification (.1100); nursery certification (.1200); movement for scientific purposes (.1300); forms (.1400); gypsy moth (.1500); phytophagous snails (.1600); and control of noxious weeds (.1700).

Definitions
Repeal/*

02 NCAC 48A .0201

Protection From and Abatement of Bee Diseases
Repeal/*

02 NCAC 48A .0202

Inspections
Repeal/*

02 NCAC 48A .0203

The Inspection Process

02 NCAC 48A .0204

Repeal/*				
<u>Interstate Shipment</u>	02	NCAC	48A	.0205
Repeal/*				
<u>The Transportation of Bees</u>	02	NCAC	48A	.0206
Repeal/*				
<u>Requirements for Issuance of Permit</u>	02	NCAC	48A	.0207
Repeal/*				
<u>Location of Bees</u>	02	NCAC	48A	.0208
Repeal/*				
<u>Inspection of Nuclei and Queen Breeding Apiaries</u>	02	NCAC	48A	.0209
Repeal/*				
<u>Health Certificates</u>	02	NCAC	48A	.0210
Repeal/*				
<u>Compliance Agreement</u>	02	NCAC	48A	.0211
Repeal/*				
<u>Exposure of Diseased Materials</u>	02	NCAC	48A	.0213
Repeal/*				
<u>Infested Apiary Material Liable to Destruction</u>	02	NCAC	48A	.0214
Repeal/*				
<u>Destruction of Bees; Apiary Products or Equipment</u>	02	NCAC	48A	.0215
Repeal/*				
<u>Fumigation or Sterilization of Apiary Equipment</u>	02	NCAC	48A	.0216
Repeal/*				
<u>Fumigation by Private Practitioner</u>	02	NCAC	48A	.0217
Repeal/*				
<u>Clean Up Areas</u>	02	NCAC	48A	.0218
Repeal/*				
<u>Diseased Apiaries Quarantined</u>	02	NCAC	48A	.0219
Repeal/*				
<u>Out of State Areas May be Quarantined</u>	02	NCAC	48A	.0220
Repeal/*				
<u>Diseases and Disorders of Special Concern</u>	02	NCAC	48A	.0221
Repeal/*				
<u>Certification of Pollination Conditions</u>	02	NCAC	48A	.0222
Repeal/*				
<u>Abandoned Bees or Bee Equipment</u>	02	NCAC	48A	.0223
Repeal/*				
<u>Registration of Honeybee Colonies</u>	02	NCAC	48A	.0225
Repeal/*				
<u>Forms</u>	02	NCAC	48A	.0226
Repeal/*				
<u>Form BS-1</u>	02	NCAC	48A	.0227
Repeal/*				
<u>Location of Forms</u>	02	NCAC	48A	.0228
Repeal/*				
<u>Form BS-2</u>	02	NCAC	48A	.0229
Repeal/*				
<u>Form BS-3</u>	02	NCAC	48A	.0230
Repeal/*				
<u>Form BS-4</u>	02	NCAC	48A	.0231
Repeal/*				
<u>Form BS-5</u>	02	NCAC	48A	.0232

Repeal/*				
<u>Form BS-6</u>	02	NCAC	48A	.0233
Repeal/*				
<u>Form BS-7</u>	02	NCAC	48A	.0234
Repeal/*				
<u>Form BS-8</u>	02	NCAC	48A	.0235
Repeal/*				
<u>Form BS-9</u>	02	NCAC	48A	.0236
Repeal/*				
<u>Form BS-10</u>	02	NCAC	48A	.0237
Repeal/*				
<u>Africanized Bee/Varroa Mite Clean Up Area</u>	02	NCAC	48A	.0238
Repeal/*				
<u>Permit to Sell Bees</u>	02	NCAC	48A	.0239
Repeal/*				
<u>Form BS-11</u>	02	NCAC	48A	.0240
Repeal/*				
<u>Form BS-12</u>	02	NCAC	48A	.0241
Repeal/*				
<u>Definitions</u>	02	NCAC	48A	.0242
Adopt/*				
<u>Inspections</u>	02	NCAC	48A	.0243
Adopt/*				
<u>Inspection Process</u>	02	NCAC	48A	.0244
Adopt/*				
<u>Interstate Shipment</u>	02	NCAC	48A	.0245
Adopt/*				
<u>The Transportation of Bees</u>	02	NCAC	48A	.0246
Adopt/*				
<u>Requirements for Issuance of Permit</u>	02	NCAC	48A	.0247
Adopt/*				
<u>Location of Bees</u>	02	NCAC	48A	.0248
Adopt/*				
<u>Inspection of Nuclei and Queen Breeding Apiaries</u>	02	NCAC	48A	.0249
Adopt/*				
<u>Health Certificates</u>	02	NCAC	48A	.0250
Adopt/*				
<u>Compliance Agreement</u>	02	NCAC	48A	.0251
Adopt/*				
<u>Exposure of Diseased Materials</u>	02	NCAC	48A	.0252
Adopt/*				
<u>Infested Apiary Material Liable to Destruction</u>	02	NCAC	48A	.0253
Adopt/*				
<u>Destruction of Bees: Apiary Products or Equipment</u>	02	NCAC	48A	.0254
Adopt/*				
<u>Fumigation or Sterilization of Apiary Equipment</u>	02	NCAC	48A	.0255
Adopt/*				
<u>Clean-Up Areas</u>	02	NCAC	48A	.0256
Adopt/*				
<u>Diseased Apiaries Quarantined</u>	02	NCAC	48A	.0257
Adopt/*				
<u>Exterior Quarantine</u>	02	NCAC	48A	.0258

Adopt/*				
<u>Diseases and Disorders of Special Concern</u>	02	NCAC	48A	.0259
Adopt/*				
<u>Certification of Pollination Conditions</u>	02	NCAC	48A	.0260
Adopt/*				
<u>Abandoned Bees or Bee Equipment</u>	02	NCAC	48A	.0261
Adopt/*				
<u>Registration of Honeybee Colonies</u>	02	NCAC	48A	.0262
Adopt/*				
<u>Permit to Sell Bees</u>	02	NCAC	48A	.0263
Adopt/*				
<u>Forms</u>	02	NCAC	48A	.0264
Adopt/*				
<u>Africanized Bee/Varroa Mite Clean Up Area</u>	02	NCAC	48A	.0265
Adopt/*				

ALCOHOLIC BEVERAGE CONTROL COMMISSION

The rules in Chapter 2 are from the Alcoholic Beverage Control Commission.

The rules in Subchapter 2R are organizational rules, policies and procedures including general provisions (.0100); structure (.0200); publications, records and copies (.0300); rule-making (.0400); emergency rules (.0500); declaratory rulings (.0600); personnel policies: commission (.0700); adjudication: contested cases (.0800); fiscal rules for local boards (.0900); local ABC boards: personnel policies (.1000); local ABC boards: relationship with state commission (.1100); opening and discontinuance of stores (.1200); storage and distribution of spirituous liquors: commercial transportation (.1300); purchase of alcoholic beverages by local boards (.1400); pricing of spirituous liquor (.1500); warehouse storage of spirituous liquors (.1600); retail sales of alcoholic beverages (.1700); purchase-transportation permits for individuals and mix beverages for permittees (.1800); and sales of liquor to mixed beverages permittees (.1900).

<u>Location and Address</u>	04	NCAC	02R	.0102
Amend/*				
<u>Storage: Deliveries: Security</u>	04	NCAC	02R	.1302
Amend/*				
<u>Direct Shipments</u>	04	NCAC	02R	.1305
Amend/*				
<u>Mixed Beverages Tax Stamp</u>	04	NCAC	02R	.1901
Amend/*				

The rules in Subchapter 2S concern retail beer, wine, mixed beverages, brownbagging, advertising, and special permits. The rules include definitions and permit application procedures (.0100); general rules affecting retailers and brownbagging permittees (.0200); malt beverages and the wine retailer/wholesaler relationship (.0300); additional requirements for brownbagging permittees (.0400); additional requirements for mixed beverages permittees (.0500); special requirements for convention centers, community theatres, sports clubs, and nonprofit and political organizations (.0600); special occasions permits (.0700); culinary permits (.0800); wine and beer tastings (.0900); advertising (.1000); and effect of administrative action, fines, and offers in compromise (.1100).

<u>Definitions</u>	04	NCAC	02S	.0101
Amend/*				
<u>Applications for Permits: General Provisions</u>	04	NCAC	02S	.0102
Amend/*				
<u>Special Requirements for Restaurants</u>	04	NCAC	02S	.0105
Amend/*				
<u>Special Requirements for Hotels</u>	04	NCAC	02S	.0106
Amend/*				
<u>Special Requirements for Private Clubs</u>	04	NCAC	02S	.0107
Amend/*				

<u>Use of Profanity Prohibited</u> Repeal/*	04 NCAC 02S .0209
<u>Consumption: Intoxication by Permittee Prohibited</u> Amend/**	04 NCAC 02S .0212
<u>Entertainers and Conduct</u> Repeal/*	04 NCAC 02S .0216
<u>Visual Displays</u> Repeal/*	04 NCAC 02S .0217
<u>Happy Hours Regulated</u> Amend/*	04 NCAC 02S .0232
<u>Private Clubs: General Prohibitions; Guests</u> Amend/*	04 NCAC 02S .0234
<u>Private Clubs; Reciprocal Memberships</u> Amend/*	04 NCAC 02S .0235
<u>Restaurants; Hotels; Display: Control of Beverages</u> Amend/*	04 NCAC 02S .0404
<u>Tastings Held by Retailers for Consumers</u> Amend/*	04 NCAC 02S .0901
<u>Tastings Held by Industry Members for Consumers</u> Amend/*	04 NCAC 02S .0902
<u>Tastings Held by Industry Members for Retail Permittees: ...</u> Amend/*	04 NCAC 02S .0903
<u>General Prohibitions</u> Amend/**	04 NCAC 02S .1006
<u>Advertising of Malt Beverages, Wine and Mixed Beverages b...</u> Amend/*	04 NCAC 02S .1008
<u>Advertising of Spirituous Liquors</u> Amend/*	04 NCAC 02S .1011

MEDICAL CARE COMMISSION

The rules in Chapter 13 are from the NC Medical Care Commission.

The rules in Subchapter 13B set standards for the licensing of hospitals including supplemental rules for the licensure of skilled intermediate, adult care home beds in a hospital (.1900); specialized rehabilitative and rehabilitative services (.2000); general information (.3000); procedure (.3100); general requirements (.3200); patients' bill of rights (.3300); supplemental rules for the licensure of critical care hospitals (.3400); grievance and management (.3500); management and administration of operations (.3600); medical staff (.3700); nursing services (.3800); medical record services (.3900); outpatient services (.4000); emergency services (.4100); special care units (.4200); maternal-neonatal services (.4300); respiratory care services (.4400); pharmacy services and medication administration (.4500); surgical and anesthesia services (.4600); nutrition and dietetic services (.4700); diagnostic imaging (.4800); laboratory services and pathology (.4900); physical rehabilitation services (.5000); infection control (.5100); psychiatric services (.5200); nursing and adult care beds (.5300); comprehensive inpatient rehabilitation (.5400); supplemental rules for hospitals providing living organ donation transplant services (.5500); physical plant (.6000); general requirements (.6100); and construction requirements (.6200).

<u>Minimum Provisions of Patient's Bill of Rights</u> Amend/**	10A NCAC 13B .3302
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HOME INSPECTOR LICENSURE BOARD

The rules in Chapter 8 are the engineering and building codes including the approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200);

home inspector continuing education (.1300); Manufactured Housing Board continuing education (.1400); and alternate designs and construction appeals (.1500).

<u>Inactive License</u> Adopt/**	11	NCAC 08	.1012
<u>Inactive License</u> Amend/*	11	NCAC 08	.1303
<u>Elective Course Instructional Delivery Methods</u> Amend/*	11	NCAC 08	.1326

INSURANCE, DEPARTMENT OF

The rules in Chapter 11 are from the Financial Evaluation Division.

The rules in Subchapter 11A concern general provisions including definitions (.0100); purpose: personnel and records of the division (.0200); operational units (.0300); description of forms (.0400); CPA audits (.0500); and reinsurance intermediaries (.0600).

<u>Purpose and Scope</u> Repeal/*	11	NCAC 11A	.0501
<u>Definitions</u> Repeal/*	11	NCAC 11A	.0502
<u>Filing and Extensions for Filing Reports</u> Repeal/*	11	NCAC 11A	.0503
<u>Contents of Annual Audited Financial Report</u> Repeal/*	11	NCAC 11A	.0504
<u>Designation of CPA</u> Repeal/*	11	NCAC 11A	.0505
<u>Qualifications of Independent CPA</u> Repeal/*	11	NCAC 11A	.0506
<u>Approval of CPA</u> Repeal/*	11	NCAC 11A	.0507
<u>Scope of Examination and Report of CPA</u> Repeal/*	11	NCAC 11A	.0508
<u>Notification of Adverse Financial Condition</u> Repeal/*	11	NCAC 11A	.0509
<u>Internal Control Structure Related Matters</u> Repeal/*	11	NCAC 11A	.0510
<u>CPA Workpapers</u> Repeal/*	11	NCAC 11A	.0511
<u>Exemptions and Effective Dates</u> Repeal/*	11	NCAC 11A	.0512
<u>Examinations</u> Repeal/*	11	NCAC 11A	.0513
<u>Seasoning Requirements</u> Repeal/*	11	NCAC 11A	.0514
<u>Notes to Financial Statements</u> Repeal/*	11	NCAC 11A	.0515

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

Rules in Subchapter 10B are from the N. C. Sheriffs' Education and Training Standards Commission. These rules govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer

(deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

<u>Instructors</u>	12	NCAC	10B	.2004
Amend/*				
<u>Minimum Training Requirements</u>	12	NCAC	10B	.2005
Amend/*				
<u>Sheriff/Agency Head Responsibilities</u>	12	NCAC	10B	.2007
Amend/*				
<u>In-Service Firearms Requalification Specifications</u>	12	NCAC	10B	.2104
Amend/*				

ENVIRONMENTAL MANAGEMENT COMMISSION

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

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards used to classify the waters of the state (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

<u>Neuse River Basin-Nutrient Sensitive Waters Management St...</u>	15A	NCAC	02B	.0235
Amend/*				
<u>Falls Water Supply Nutrient Strategy: Purpose and Scope</u>	15A	NCAC	02B	.0275
Adopt/*				
<u>Falls Water Supply Nutrient Strategy: Definitions</u>	15A	NCAC	02B	.0276
Adopt/*				
<u>Falls Reservoir Water Supply Nutrient Strategy: Stormwater</u>	15A	NCAC	02B	.0277
Adopt/*				
<u>Falls Water Supply Nutrient Strategy: Stormwater Managemen...</u>	15A	NCAC	02B	.0278
Adopt/*				
<u>Falls Water Supply Nutrient Strategy: Wastewater Discharge</u>	15A	NCAC	02B	.0279
Adopt/*				
<u>Falls Water Supply Nutrient Strategy: Agriculture</u>	15A	NCAC	02B	.0280
Adopt/*				
<u>Falls Water Supply Nutrient Strategy: Stormwater Requirem...</u>	15A	NCAC	02B	.0281
Adopt/*				
<u>Falls Water Supply Nutrient Strategy: Options for Offsett...</u>	15A	NCAC	02B	.0282
Adopt/*				
<u>Neuse River Basin</u>	15A	NCAC	02B	.0315
Amend/*				

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

<u>Prevention of Significant Deterioration</u>	15A	NCAC	02D	.0530
Amend/*				

<u>Sources In Nonattainment Areas</u> Amend/*	15A NCAC 02D .0531
<u>Prevention of Significant Deterioration Requirements for ...</u> Amend/*	15A NCAC 02D .0544
<u>Hospital, Medical, and Infectious Waste Incinerators</u> Amend/*	15A NCAC 02D .1206

The rules in Subchapter 2T set out the requirements for the issuance of permits for waste systems that do not discharge to the surface waters of the state and include general requirements (.0100); and requirements for various systems including: wastewater pump and haul systems (.0200); sewer extensions (.0300); system-wide collection system permitting (.0400); wastewater irrigation systems (.0500); single-family residence wastewater irrigation systems (.0600); high rate infiltration systems (.0700); other non-discharge wastewater systems (.0800); reclaimed water systems (.0900); closed-loop recycle systems (.1000); residuals management (.1100); coal combustion products management (.1200); animal waste management systems (.1300); manure hauler operations (.1400); soil remediation (.1500); and groundwater remediation systems (.1600).

<u>Permitting by Regulation</u> Amend/*	15A NCAC 02T .0113
<u>Setbacks</u> Amend/*	15A NCAC 02T .0506
<u>Scope</u> Repeal/*	15A NCAC 02T .0901
<u>Definitions</u> Repeal/*	15A NCAC 02T .0902
<u>Permitting By Regulation</u> Repeal/*	15A NCAC 02T .0903
<u>Application Submittal - Conjunctive Systems</u> Repeal/*	15A NCAC 02T .0904
<u>Application Submittal - Non-Conjunctive Systems</u> Repeal/*	15A NCAC 02T .0905
<u>Reclaimed Water Effluent Standards</u> Repeal/*	15A NCAC 02T .0906
<u>Design Criteria for Wastewater Treatment Facilities - Con...</u> Repeal/*	15A NCAC 02T .0907
<u>Design Criteria for Wastewater Treatment Facilities - Non...</u> Repeal/*	15A NCAC 02T .0908
<u>Design Criteria for Distribution Lines</u> Repeal/*	15A NCAC 02T .0909
<u>Reclaimed Water Utilization</u> Repeal/*	15A NCAC 02T .0910
<u>Bulk Distribution of Reclaimed Water</u> Repeal/*	15A NCAC 02T .0911
<u>Setbacks</u> Repeal/*	15A NCAC 02T .0912
<u>Operation and Maintenance Plan</u> Repeal/*	15A NCAC 02T .0913
<u>Residuals Management Plan</u> Repeal/*	15A NCAC 02T .0914
<u>Local Program Approval</u> Repeal/*	15A NCAC 02T .0915

The rules in Subchapter 2U concern reclaimed water including general requirements (.0100); application requirements (.0200); effluent standards (.0300); design standards (.0400); general utilization requirements (.0500); bulk distribution of reclaimed water

(.0600); setbacks (.0700); operational plans (.0800); local program approval (.0900); wetlands augmentation (.1100); and irrigation to food chain crops (.1400).

<u>Purpose</u>	15A NCAC 02U .0101
Adopt/*	
<u>Scope</u>	15A NCAC 02U .0102
Adopt/*	
<u>Definitions</u>	15A NCAC 02U .0103
Adopt/*	
<u>Activities Which Require a Permit</u>	15A NCAC 02U .0104
Adopt/*	
<u>General Requirements</u>	15A NCAC 02U .0105
Adopt/*	
<u>Submission of Permit Applications</u>	15A NCAC 02U .0106
Adopt/*	
<u>Staff Review and Permit Preparation</u>	15A NCAC 02U .0107
Adopt/*	
<u>Final Action on Permit Applications to the Division</u>	15A NCAC 02U .0108
Adopt/*	
<u>Permit Renewals</u>	15A NCAC 02U .0109
Adopt/*	
<u>Modification and Revocation of Permits</u>	15A NCAC 02U .0110
Adopt/*	
<u>Conditions for Issuing General Permits</u>	15A NCAC 02U .0111
Adopt/*	
<u>Delegation of Authority</u>	15A NCAC 02U .0112
Adopt/*	
<u>Permitting by Regulation</u>	15A NCAC 02U .0113
Adopt/*	
<u>Wastewater Design Flow Rates</u>	15A NCAC 02U .0114
Adopt/*	
<u>Operational Agreements</u>	15A NCAC 02U .0115
Adopt/*	
<u>Certification of Completion</u>	15A NCAC 02U .0116
Adopt/*	
<u>Treatment Facility Operation and Maintenance</u>	15A NCAC 02U .0117
Adopt/*	
<u>Historical Consideration in Permit Approval</u>	15A NCAC 02U .0120
Adopt/*	
<u>Application Submittal - Conjunctive Systems</u>	15A NCAC 02U .0201
Adopt/*	
<u>Application Submittal - Non Conjunctive Systems</u>	15A NCAC 02U .0202
Adopt/*	
<u>Reclaimed Water Effluent Standards</u>	15A NCAC 02U .0301
Adopt/*	
<u>Design Criteria for Wastewater Treatment Facilities - Con...</u>	15A NCAC 02U .0401
Adopt/*	
<u>Design Criteria for Wastewater Treatment Facilities - Non...</u>	15A NCAC 02U .0402
Adopt/*	
<u>Design Criteria for Distribution Lines</u>	15A NCAC 02U .0403
Adopt/*	

RULES REVIEW COMMISSION

<u>Reclaimed Water Utilization</u> Adopt/*	15A NCAC 02U .0501
<u>Bulk Distribution of Reclaimed Water</u> Adopt/*	15A NCAC 02U .0601
<u>Setbacks</u> Adopt/*	15A NCAC 02U .0701
<u>Operation and Maintenance Plan</u> Adopt/*	15A NCAC 02U .0801
<u>Residuals Management Plan</u> Adopt/*	15A NCAC 02U .0802
<u>Local Program Approval</u> Adopt/**	15A NCAC 02U .0901
<u>Wetlands Augmentation</u> Adopt/*	15A NCAC 02U .1101
<u>Irrigation to Food Chain Crops</u> Adopt/*	15A NCAC 02U .1401

WILDLIFE RESOURCES COMMISSION

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10B are hunting and trapping rules and cover general hunting and wildlife provisions (.0100), hunting specific animals (.0200), trapping (.0300), and tagging furs (.0400).

<u>Deer (White Tailed)</u> Amend/*	15A NCAC 10B .0203
<u>Definitions</u> Adopt/*	15A NCAC 10B .0301
<u>Traps</u> Amend/*	15A NCAC 10B .0305

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish (.0300); non-game fish (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600).

<u>Public Mountain Trout Waters</u> Amend/*	15A NCAC 10C .0205
<u>Possession of Certain Fishes</u> Amend/*	15A NCAC 10C .0211
<u>Open Seasons: Creel and Size Limits</u> Amend/*	15A NCAC 10C .0305
<u>Manner of Taking Non-game Fishes: Purchase and Sale</u> Amend/*	15A NCAC 10C .0401

The rules in Subchapter 10D are game lands rules.

<u>General Regulations Regarding Use</u> Amend/*	15A NCAC 10D .0102
<u>Hunting On Game Lands</u> Amend/*	15A NCAC 10D .0103

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

The rules in Chapter 11 are from the Radiation Protection Commission and the Department of Environment and Natural Resources

and cover a broad and diverse range of applications including general provisions (.0100); registration of radiation machines, facilities and services (.0200); licensing of radioactive material (.0300); safety requirements for industrial radiography operations (.0500); use of x-rays in the healing arts (.0600 - .0700); requirements for analytical x-ray (x-ray diffraction or fluorescence analysis) equipment (.0800); requirements for particle accelerators (.0900); requirements for notices, instructions, reports, and inspections (.1000); fees (.1100); land disposal of radioactive waste (.1200); tanning facilities and equipment (.1400); requirements for obtaining licenses authorizing access to low-level radioactive waste disposal facilities (.1500); and standards for protection against radiation resulting from activities regulated by this Chapter (.1600).

<u>X-Ray Fee Amounts</u>	15A NCAC 11 .1105
Amend/**	
<u>Radioactive Materials and Accelerator Fee Amounts</u>	15A NCAC 11 .1106
Amend/**	
<u>Fees and Payment</u>	15A NCAC 11 .1423
Amend/**	

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 13 cover hazardous and solid waste management, inactive hazardous substances, and waste disposal sites.

The rules in Subchapter 13A cover hazardous waste management and specifically HWTSD (hazardous waste treatment, storage, or disposal) facilities.

<u>Special Purpose Commercial Hazardous Waste Facility</u>	15A NCAC 13A .0116
Amend/*	

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

The rules in Subchapter 13A cover hazardous waste management and specifically HWTSD (hazardous waste treatment, storage, or disposal) facilities.

<u>Fee Schedules</u>	15A NCAC 13A .0117
Amend/*	

STATE TREASURER, DEPARTMENT OF AND LOCAL GOVERNMENT COMMISSION

The rules in Chapter 3 concern the Local Government Commission including general provisions (.0100); approval of debt obligations (.0200); sale and delivery of bonds and notes (.0300); accounting and internal controls (.0400); audit contracts (.0500); school budgeting and accounting (.0600); mutual fund for local government investment (.0700); systems of registration (.0800) other requests for approval (.0900); and evidentiary hearing on refunding bonds (.1000).

<u>Fees</u>	20 NCAC 03 .0112
Amend/**	

STATE TREASURER, DEPARTMENT OF AND CAPITAL FACILITIES FINANCE AGENCY

The rules in Chapter 9 concern the Capital Facilities Finance Agency including general provisions (.0100); rule-making (.0200); contested cases (.0300); approval of application (.0400); review criteria (.0500); and fees (.0600).

<u>Fees and Expenses</u>	20 NCAC 09 .0602
Amend/**	

CERTIFIED PUBLIC ACCOUNTANT EXAMINERS, BOARD OF

The rules in Chapter 8 are from the N C State Board of Certified Public Accountant Examiners.

The rules in Subchapter 8A are departmental rules including organizational rules (.0100), board procedures (.0200), and definitions (.0300).

<u>Definitions</u> Amend/*	21 NCAC 08A .0301
<u>Concentration in Accounting</u> Amend/*	21 NCAC 08A .0309

The rules in Subchapter 8C concern contested cases including procedure in contested cases (.0100).

<u>Hearing Exhibits</u> Adopt/*	21 NCAC 08C .0126
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The rules in Subchapter 8F are the requirements for CPA examination and certificate applicants including general provisions (.0100), fees and refunds (.0200), educational requirements (.0300), experience (.0400), and applications (.0500).

<u>Time and Place of CPA Examinations</u> Amend/**	21 NCAC 08F .0101
<u>Filing of Examination Applications and Fees</u> Amend/**	21 NCAC 08F .0103
<u>Conditioning Requirements</u> Amend/**	21 NCAC 08F .0105
<u>Education and Work Experience Required Prior to CPA Exam</u> Amend/*	21 NCAC 08F .0302
<u>Waiver of Education Required Prior to Examination</u> Repeal/*	21 NCAC 08F .0304
<u>Work Experience Required of Candidates for CPA Certification</u> Amend/*	21 NCAC 08F .0401
<u>Education Required of Candidates for CPA Certification</u> Amend/*	21 NCAC 08F .0410

The rules in Subchapter 8H are reciprocity rules.

<u>Reciprocal Certificates</u> Amend/*	21 NCAC 08H .0101
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The rules in Subchapter 8J concern renewals and registrations.

<u>Annual Renewal of Certificate, Forfeiture, and Reapplication</u> Amend/*	21 NCAC 08J .0101
<u>Retired and Inactive Status: Change of Status</u> Amend/*	21 NCAC 08J .0105
<u>CPA Firm Registration</u> Amend/*	21 NCAC 08J .0108
<u>CPA Firm Practice Privilege Notification</u> Adopt/*	21 NCAC 08J .0109
<u>Compliance with CPA Firm Registration</u> Amend/**	21 NCAC 08J .0111

The rules in Subchapter 8K concern professional corporations and professional limited liability companies including general provisions (.0100); and practice procedures of professional corporations and professional limited liability companies (.0200) and registered limited liability partnerships (.0300).

<u>Supplemental Reports</u> Amend/**	21 NCAC 08K .0105
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The rules in Subchapter 8M relate to the State Quality Review program including general requirements (.0100), duties of the reviewed firm (.0200), review team qualifications and duties (.0300), and advisory committee (.0400).

<u>Peer Review Requirements</u>	21	NCAC	08M	.0105
Amend/*				
<u>Compliance</u>	21	NCAC	08M	.0106
Amend/**				

The rules in Subchapter 8N are professional ethics and conduct rules including scope and applicability (.0100); rules applicable to all CPAs (.0200); rules applicable to CPAs who use the CPA title in offering or rendering products or services to clients (.0300); and rules applicable to CPAs performing attest services (.0400).

<u>Cooperation with Board Inquiry</u>	21	NCAC	08N	.0206
Amend/**				
<u>Violation of Tax Law</u>	21	NCAC	08N	.0207
Amend/*				
<u>International Financial Accounting Standards</u>	21	NCAC	08N	.0215
Adopt/*				
<u>Forms of Practice</u>	21	NCAC	08N	.0302
Amend/*				
<u>Advertising or Other Forms of Solicitation</u>	21	NCAC	08N	.0306
Amend/*				
<u>CPA Firm Names</u>	21	NCAC	08N	.0307
Amend/*				
<u>Independence</u>	21	NCAC	08N	.0402
Adopt/*				
<u>Government Auditing Standards</u>	21	NCAC	08N	.0409
Adopt/*				

COSMETIC ART EXAMINERS, BOARD OF

The rules in Subchapter 14H are sanitation rules for both operators and facilities.

<u>Sanitary Ratings and Posting of Ratings</u>	21	NCAC	14H	.0105
Amend/*				
<u>Water Supply</u>	21	NCAC	14H	.0107
Amend/*				
<u>Cleanliness of Clinic Area</u>	21	NCAC	14H	.0112
Amend/*				
<u>Whirlpool, Footspa and Facial Steamer Sanitation</u>	21	NCAC	14H	.0120
Amend/*				
<u>Prohibited Practices</u>	21	NCAC	14H	.0121
Amend/*				

The rules in Subchapter 14N deal with examinations including general provisions (.0100), cosmetologist exam (.0200), manicurist exam (.0300), cosmetologist teacher exam (.0400), and manicurist teach examination (.0500), esthetician examination (.0600), and esthetician teacher examination (.0700).

<u>General Examination Instructions</u>	21	NCAC	14N	.0103
Amend/*				

The rules in Subchapter 14R are continuing education rules.

<u>Continuing Education Requirements</u> Amend/*	21	NCAC 14R	.0101
<u>Application Criteria and Continuing Education Course Appr...</u> Amend/**	21	NCAC 14R	.0102
<u>Criteria for Continuing Education Courses</u> Amend/**	21	NCAC 14R	.0103

APPRAISAL BOARD

The rules in Subchapter 57A cover licensing, certification and practice rules for appraisers including application procedures (.0100); licensing and certification (.0200); examination (.0300); general practice requirements (.0400); and appraisal standards (.0500).

<u>Continuing Education</u> Amend/*	21	NCAC 57A	.0204
<u>Expired Registration, License or Certificate</u> Amend/*	21	NCAC 57A	.0206
<u>Appraisal Reports</u> Amend/*	21	NCAC 57A	.0405
<u>Appraisal Management Companies</u> Adopt/*	21	NCAC 57A	.0410

The rules in Subchapter 57C concern administrative law procedures including appraisal board hearings (.0100); petitions for rules (.0200); rule-making (.0300); and declaratory rulings (.0400).

<u>Form of Complaints and Pleadings</u> Amend/*	21	NCAC 57C	.0101
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The rules in Subchapter 57D concern appraisal management companies including application for appraisal management registration (.0100); appraisal management company registration (.0200); appraisal management company procedures (.0300); and appraisal management company general practices (.0400).

<u>Form</u> Adopt/*	21	NCAC 57D	.0101
<u>Filing and Fees</u> Adopt/*	21	NCAC 57D	.0102
<u>Fitness for Registration</u> Adopt/**	21	NCAC 57D	.0201
<u>Registration Renewal</u> Adopt/*	21	NCAC 57D	.0202
<u>Expired Registration</u> Adopt/*	21	NCAC 57D	.0203
<u>Payment of Fees to the Board</u> Adopt/*	21	NCAC 57D	.0204
<u>Use of Registration Number</u> Adopt/*	21	NCAC 57D	.0301
<u>Change of Name or Contact Information</u> Adopt/*	21	NCAC 57D	.0302
<u>Compliance Manager</u> Adopt/**	21	NCAC 57D	.0303
<u>Appraiser Qualifications</u> Adopt/*	21	NCAC 57D	.0304
<u>Appraiser Competency</u> Adopt/*	21	NCAC 57D	.0305
<u>Appraisal Review</u>	21	NCAC 57D	.0306

Adopt/*			
<u>Records</u>	21	NCAC 57D	.0307
Adopt/*			
<u>Production of Records</u>	21	NCAC 57D	.0308
Adopt/*			
<u>Complaints Against Appraisers</u>	21	NCAC 57D	.0309
Adopt/*			
<u>Payment of Fees to Appraisers</u>	21	NCAC 57D	.0310
Adopt/*			
<u>Removal of an Appraiser from an Appraiser Panel</u>	21	NCAC 57D	.0311
Adopt/*			
<u>Requesting Additional Information from an Appraiser</u>	21	NCAC 57D	.0312
Adopt/*			
<u>Business Practices</u>	21	NCAC 57D	.0401
Adopt/*			

STATE PERSONNEL COMMISSION

The rules in Subchapter 1E cover employee benefits including general leave provisions (.0100); vacation leave (.0200); sick leave (.0300); workers compensation leave (.0700); military leave (.0800); holidays (.0900); miscellaneous leave (.1000); other types of leave without pay (.1100); community involvement (.1200); the voluntary shared leave program (.1300); family and medical leave (.1400); child involvement leave (.1500); community services leave (.1600); administrative leave (.1700) and incentive leave (.1800).

<u>Leave Offsetting</u>	25	NCAC 01E	.0103
Adopt/*			
<u>Vacation Leave Credits</u>	25	NCAC 01E	.0203
Amend/*			
<u>Policy</u>	25	NCAC 01E	.1801
Adopt/*			
<u>Definitions</u>	25	NCAC 01E	.1802
Adopt/*			
<u>Recruitment Documentation</u>	25	NCAC 01E	.1803
Adopt/*			
<u>Eligibility Requirements</u>	25	NCAC 01E	.1804
Adopt/*			
<u>Amount of Leave</u>	25	NCAC 01E	.1805
Adopt/*			
<u>Relationship to Other Leave</u>	25	NCAC 01E	.1806
Adopt/*			
<u>Carry-over and Payment of Leave</u>	25	NCAC 01E	.1807
Adopt/*			
<u>Transfer</u>	25	NCAC 01E	.1808
Adopt/**			
<u>Use of Leave</u>	25	NCAC 01E	.1809
Adopt/**			

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

<u>Definitions</u>	25	NCAC 01J	.0614
Amend/*			

RULES REVIEW COMMISSION

Special Provisions 25 NCAC 01J .0615
Amend/*

The rules in Subchapter 1N are workplace environment and health rules including State Employees Workplace Requirements Program for Safety and Health (.0100); personal protective equipment (.0200); AIDS in the workplace (.0300); communicable disease emergency (.0400) worksite wellness (.0500); and lactation support (.0600).

Purpose 25 NCAC 01N .0601
Adopt/*

Policy 25 NCAC 01N .0602
Adopt/*

Office of State Personnel Policy 25 NCAC 01N .0603
Adopt/*

Agencies Responsibilities 25 NCAC 01N .0604
Adopt/*

Employee Responsibility 25 NCAC 01N .0605
Adopt/*

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>ALJ</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>				
ABC Commission v. Fusion Foods, Inc., T/A Coastal Blue	09 ABC 4672	Lassiter	11/08/10	
ABC Commission v. Quickstops of Guilford County, Inc., T/A Road Runner Express (Regional Road)	09 ABC 5421	Brooks	04/19/10	
ABC Commission v. Ghulam Khan v. T/A West Green Market	09 ABC 4303	Brooks	04/19/10	
ABC Commission v. Sarabjit Kaur v. T/A G&S Food Market	09 ABC 5257	Brooks	04/19/10	
ABC Commission v. Quickstops of Guilford County, Inc., T/A Road Runner Express (Lee Street)	09 ABC 5422	May	06/09/10	
ABC Commission v. Boulos 2, Inc., T/A Akron Texaco	10 ABC 0027	May	04/21/10	
ABC Commission v. Startown Lounge, Inc. T/A 5 O'clock Somewhere	10 ABC 0153	Gray	06/25/10	
ABC Commission v. Diversified Investments and Growth, LLC, T/A Petro Mart 6	10 ABC 0576	Webster	07/09/10	
ABC Commission v. Talmar Inc. D/B/A E-City Resturant and Lounge, Mary Ann Davidson and Ratanya Walker				
ABC Commission v. Scooby's Bar & Restaurant, Sherri Lynn Bridgeman	10 ABC 2512	Gray	08/02/10	
ABC Commission v. Alpha 3 Enterprises LLC, T/A Liquid Room	10 ABC 2659	Lassiter	07/14/10	
ABC Commission v. Taqueria Guadalajara II, Inc, Jaime Fuentes Vice President	10 ABC 3107	Brooks	07/15/10	
ABC Commission v. Ab3 LLC T/A On the Roxx	10 ABC 4120	Brooks	10/08/10	
ABC Commission v. El Corona Mexican Resturant Inc., T/A Corona II	10 ABC 4122	May	09/24/10	
ABC Commission v. Speed Dee Superette, Tonya Marchisella	10 ABC 4583	Brooks	11/04/10	
ABC Commission v. Ben Long Wang, T/A Sapporo Bistro	10 ABC 4843	May	10/15/10	
<u>BOARD OF SOCIAL WORK CERTIFICATION AND LICENSURE</u>				
Miriam Deborah Kahn Sichel v. Social Work Certification and Licensure Board	10 BSW 2454	Overby	06/25/10	
<u>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</u>				
Tammy S. Barbone v. Crime Victims Compensation Comm.	08 CPS 2667	Brooks	07/16/10	
Christine G. Mroskey v. Crime Victims Compensation	09 CPS 0451	Gray	06/24/10	
Ace Wrecker Service Inc, Secretary of Crime Control and Public Safety	09 CPS 2292	Overby	03/31/10	
William Pickard Trucking, Inc., William Pickard v. Dept. of Crime Control and Public Safety, State Highway Patrol	09 CPS 4692	Brooks	06/09/10	
California Overland Ltd., NC State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 5225	Overby	05/12/10	
Earl Stanley Peters III v. Victims Compensation Service Division	09 CPS 5444	Elkins	08/30/10	
John Rose (Fliptastic, Inc) v. Department of Crime Control and Public Safety	09 CPS 5985	Gray	08/25/10	25:11 NCR 1345
Lynch's Auto Sales Salvage & Wrecker Service, inc v. Crime Control and Public Safety, Division of State Highway Patrol	09 CPS 6158	Lassiter	09/10/10	
Alice Conrad v. Crime Victims Compensation Commission	09 CPS 6168	Brooks	04/01/10	
Marius A. Christian v. State Highway Patrol	09 CPS 6368	Overby	08/13/10	
Jose H. Geronimo Ramirez v. Victims and Justice Services	09 CPS 6454	May	06/23/10	
David Leon Darby v. Division of Crime Control and Public Safety	09 CPS 6703	Overby	08/17/10	
Selective Clearing and Grading, Inc., Danny Creech, Lynn Creech v. Crime Control and Public Safety	09 CPS 6726	Gray	07/29/10	

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James M. Abdella v. Department of Crime Control and Public Safety v. Motor Carrier Enforcement Div	09 CPS 6740	Overby	08/18/10	
AD Gustafson Inc., Andrew Gustafson v. State Highway Patrol	10 CPS 0071	Lassiter	07/30/10	
Benjamin C. Simmons III, Precision Custom Farming, LLC v. DMV	10 CPS 0419	Elkins	06/29/10	25:04 NCR 515
Keon J. Jones v. Victims Compensation Commission	10 CPS 0848	Webster	07/26/10	
X&M Trucking, Xavier Artis v. Dept State Highway Patrol, DMV	10 CPS 0855	Lassiter	07/20/10	
Preferred Materials Inc v. Department of Crime Control & Public Safety, DMV	10 CPS 0931	Elkins	08/30/10	
AD Gustafson, Inc., Andrew Gustafson v. Secretary of Crime Control	10 CPS 2072	Gray	06/15/10	
Tracy James Drake, SR v. Victims and Justice Services	10 CPS 2073	Brooks	08/30/10	
Michael A. Rossi Sr., v. Dept. of Crime Control and Public Safety, Div. of Victims Compensation Services	10 CPS 2478	Lassiter	08/30/10	
McLain, LLC, Phillip McLain v. NC State Highway Patrol	10 CPS 2515	Brooks	07/02/10	
Vincent John Hall v. Crime Victims Compensation Commission, Maxton Police Department, Officer Duron Burney	10 CPS 2811	Gray	10/04/10	
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A list of Child Support Decisions may be obtained by accessing the OAH Website: <http://www.ncoah.com/hearings/decisions/>

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Kevin Summers v. DHHS, Div. of Health Service Regulation, Health Care Personnel Registry	09 DHR 3766	Overby	08/12/10	
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Mekre Francis v. DHHS, Div. of Health Service Regulation	09 DHR 3935	Gray	05/27/10	
Mattie Lowe/Angela Lowe, Lowe Family Care Home #3 v. DHHS, Division of Health Service Regulation	09 DHR 4148	Gray	08/27/10	
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Kimberly N. Carter (Davis) v. DHHS, Div. of Health Service Regulation	09 DHR 5133	Webster	08/03/10	
A+ Child Development Center LLC, v. DHHS, Division of Child Development	09 DHR 5443	May	04/27/10	
Gail N. Highsmith v. DHHS	09 DHR 5513	Brooks	05/13/10	
Sarah J. Bridges v. DHHS	09 DHR 5583	Brooks	05/27/10	
Onslow MRI, LLC v. DHHS, Div. of Health Service Regulation, Certificate of Need Section and Jacksonville Diagnostic Imaging, LLC d/b/a Coastal Diagnostic Imaging	09 DHR 5617	Overby	06/24/10	
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Rex Hospital, Inc, d/b/a Rex Hospital and UNC and Wake Radiology Oncology Services v. DHHS, Division of Health Service Regulation, Certificate of Need Section and Parkway Urology, P.A.	09 DHR 5769	Gray	07/20/10	
University of North Carolina Hospitals at Chapel Hill, and Rex Hospital, Inc. d/b/a Rex Healthcare and Wake Radiology Oncology Services, PLLC v. DHHS	09 DHR 5770	Gray	07/20/10	
Wake Radiology Oncology Services, PLLC and University of North Carolina Hospitals at Chapel Hill and Rex Hospital, Inc. d/b/a Rex Healthcare v. DHHS, Division of Health Service Regulation, CON Section and Parkway Urology, P.A. d/b/a Cary Urology, P.A.	09 DHR 5785	Gray	07/20/10	
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June Rae Crittenden v. Health Care Registry Section, DHHS	09 DHR 6166	Overby	03/29/10	
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Elizabeth Ann Holt v. DHHS, Division of Health Service Regulation	09 DHR 6347	Brooks	03/31/10	
Gloria Manley v. DHHS-DCD	09 DHR 6816	Overby	06/24/10	
Estate of Nora L. Edwards, Wanda Harrington v. DHHS, Div. of Medical Assistance	09 DHR 6836	Overby	03/16/10	
Jerry Flood, Forever Young Group Care v. DHHS, Div. of Health Service Regulation	09 DHR 6839	Gray	10/01/10	
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Margarette Snow v. DHHS	10 DHR 0648	Mann	09/07/10	
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Cassandra Johnson v. Div. of Child Development, DHHS	10 DHR 0683	Brooks	06/29/10	
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Omega Independent Living Services Inc, Site IV v. Div. of Health Service Regulation	10 DHR 1173	Elkins	08/30/10
Group Homes of Forsyth, Inc., Independence Group Home MHL #034-151 v. DHHS, Div. of Health Service Regulation	10 DHR 1165	May	07/16/10
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Happy Feet Learning Center, Tamika Herron v. Division of Child Development, DHHS	10 DHR 2658	Mann	08/20/10
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Peggy's Home Health Care, Inc., DHHS	10 DHR 3309	Gray	07/30/10
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Our Future Child Care, Gloria Williams v. Div. of Child Development/DHHS	10 DHR 3448	Brooks	09/07/10
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The Lawson's House v. Division of Mental Health/Developmental Disabilities and Substance Abuse Services	10 DHR 3472	Gray	09/09/10
Felecia Moore Rhyne v. DHHS, Division of Health Service Regulation	10 DHR 3578	Brooks	09/07/10
Tiffany Horne v. DHHS	10 DHR 3579	Brooks	09/07/10
Pamela Terry-President/Administrator People Achieving Living Skills Inc. (PALS) v. DHHS, Div Of Health Service Regulation Mental Health Licensure & Certification	10 DHR 3883	Lassiter	08/18/10
King's Memorial Christian Academy v. DHHS, Div. of Child Development	10 DHR 4719	Gray	09/30/10
Patricia Hill, Building Joy in Healthcare v. DHSR	10 DHR 4842	Lassiter	09/23/10
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Joseph Thomas DePrisco v. Criminal Justice Education and Training Standards Commission	09 DOJ 5354	Lassiter	06/01/10	
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Michael L. Bost Sr., v. Retirement System	09 DST 3781	May	04/15/10	
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Maureen Marie Schepis v. DHHS, J. Iverson Riddle Developmental Center, Emery Milliken, DHHS General Counsel	10 OSP 3346	Gray	08/30/10	
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