I. EXECUTIVE ORDERS
Executive Order No. 4 ........................................................................................ 1837 – 1838
Executive Order No. 5 ........................................................................................ 1839 – 1841

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

III. PROPOSED RULES
Environment and Natural Resources, Department of
  Coastal Resources Commission ........................................................................ 1846 – 1850
Occupational Licensing Boards and Commissions
  Hearing Aid Dealers and Fitters Board ........................................................... 1850 – 1852

IV. APPROVED RULES......................................................................................... 1853– 1878
Commerce, Department of
  Credit Union Division
Environment and Natural Resources, Department of
  Environmental Management Commission
Health and Human Services, Department of
  Child Care Commission
  Medical Care Commission
  Public Health, Commission for
Occupational Licensing Boards and Commissions
  Cosmetic Art Examiners, Board of
  Hearing Aid Dealers and Fitters Board
  Pharmacy, Board of
  Speech and Language Pathologists and Audiologists, Board of Examiners for
Transportation, Department of
  Department

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

VI. CONTESTED CASE DECISIONS
Index to ALJ Decisions ..................................................................................... 1889 – 1895

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Contact List for Rulemaking Questions or Concerns

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

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.
Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, North Carolina 27609
(919) 431-3000
(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules
molly.masich@oah.nc.gov
(919) 431-3071
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(919) 431-3073
Tammara Chalmers, Editorial Assistant
tammara.chalmers@oah.nc.gov
(919) 431-3083

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

contact: Joe DeLuca Jr., Commission Counsel
joe.deluca@oah.nc.gov
(919) 431-3081
Amanda Reeder, Commission Counsel
amanda.reeder@oah.nc.gov
(919) 431-3079

Fiscal Notes & Economic Analysis and Governor's Review
Office of State Budget and Management
116 West Jones Street
Raleigh, North Carolina 27603-8005
(919) 807-4700
(919) 733-0640 FAX

Contact: Anca Grozav, Economic Analyst
osbmruleanalysis@osbm.nc.gov
(919) 807-4740

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

contact: Amy Bason
amy.bason@ncacc.org

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

contact: Erin L. Wynia
ewynia@nclm.org

Legislative Process Concerning Rule-making
Joint Legislative Administrative Procedure Oversight Committee
545 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27611
(919) 733-2578
(919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney
Karen.cochrane-brown@ncleg.net
Jeff Hudson, Staff Attorney
Jeffrey.hudson@ncleg.net

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EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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

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

STATE OF NORTH CAROLINA

PAT McCROY
GOVERNOR

FEBRUARY 27, 2013
EXECUTIVE ORDER NO. 4

TEMPORARY EMPLOYMENT SERVICES

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

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

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

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

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

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

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

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

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

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

Section 4. The State Personnel Director shall establish monthly monitoring of the utilization of temporary employees in State Government and shall provide an annual report to the State Personnel...
Commission on the compliance by all agencies, departments and institutions as a part of N.C.G.S. § 126-3(b)(8) and (9) as it relates to temporary employees.

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

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

Pat McCrory
Governor

ATTJST:

Elaie P. Marshall
Secretary of State
State of North Carolina

PAT MCDORR
GOVERNOR

March 5, 2013

EXECUTIVE ORDER NO. 5

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

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

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

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

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

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

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

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

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

27:19

NORTH CAROLINA REGISTER
APRIL 1, 2013

1839
Section 1.
The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.
The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting equipment, supplies and engaged in restoring utility services in order to relieve the emergency area as described herein.

Section 3.
Vehicle combinations transporting a commodity that cannot be broken down or divided to meet the requirements outlined in this section are exempt from obtaining an oversize/overweight permit:

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

h. When the vehicle combination is traveling on North Carolina interstate highways only.

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

Section 4.
Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

a. The $50.00 fee listed in N.C.G.S. § 105-449.09 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.

b. The registration requirements under N.C.G.S. § 20-382.1 concerning interstate and intrastate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.

c. Non-participants in North Carolina’s International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 5.
The size and weight exemption for vehicles will only be allowed on all North Carolina interstate Highways.
Section 6.
The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) does not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 7.
The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 6 of this Executive Order in a manner, which will implement these provisions without endangering motorists in North Carolina.

Section 8.
Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are for relief efforts associated with transporting equipment, supplies and restoring utility services.

Section 9.
This Order shall not apply on posted bridges pursuant to N.C.G.S. 136-72 and light traffic roads pursuant to N.C.G.S. 20-118.

Section 10.
This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 11.
This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

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

Pat McCrory
Governor

ATTEST:

Elizabeth H. Wellons
Secretary of State
Notice of Application to modify an existing Innovative Approval of a Wastewater System for On-site Subsurface Use

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

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

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

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

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

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

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

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

For: Innovative Approval of Eljen Mantis 5 Wastewater Disposal technology

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

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

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

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

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

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

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

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

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

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

PUBLIC NOTICE OF INTENT TO ISSUE STATE GENERAL NPDES PERMITS

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

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

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

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

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

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

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

CONTACT:
Bethany Georgoulia
Wetlands and Stormwater Branch
N.C. Division of Water Quality
1617 Mail Service Center
Raleigh, North Carolina 27699-1617
Telephone (919) 807-6372
**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days.


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

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

Agency obtained G.S. 150B-19.1 certification:
- OSBM certified on: March 2, 2013
- RRC certified on: Not Required

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

Proposed Effective Date: September 1, 2013

Public Hearing:
- Date: May 2, 2013
- Time: 5:00 p.m.
- Location: NC Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557

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

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

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

Comment period ends: June 14, 2013

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

Fiscal impact (check all that apply).
- State funds affected
- Environmental permitting of DOT affected
- Analysis submitted to Board of Transportation
- Local funds affected
- Date submitted to OSBM: December 17, 2012
- Substantial economic impact (≥$500,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

**CHAPTER 07 – COASTAL MANAGEMENT**

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

**SECTION .0300 - OCEAN HAZARD AREAS**

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

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

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

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

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

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

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

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

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

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

(j) All data used to characterize the recipient beach shall be provided in digital and hardcopy format to the
Division of Coastal Management upon request.

(2) The applicant shall characterize the sediment to be placed on the recipient beach according to the following methodology:

(a) The characterization of borrow areas including submarine sites, upland sites, and dredged material disposal area shall be designed to capture the three-dimensional spatial variability of the sediment characteristics including grain size, sorting and mineralogy within the natural system or dredged material disposal area;

(b) The characterization of borrow sites shall include sediment characterization data provided by the Division of Coastal Management;

(c) Seafloor surveys shall measure elevation and provide acoustic imagery of the seafloor. Measurement of seafloor elevation at each submarine borrow site shall provide 100 percent coverage and use survey-grade swath sonar in accordance with current US Army Corps of Engineers standards for navigation and dredging. Seafloor imaging without an elevation component shall also provide 100 percent US Army Corps of Engineers standards for navigation and dredging. Because shallow submarine areas can pose technical challenges and physical limitations for acoustic measurements, alternative elevation surveying methods for water depths less than 10 feet (3 meters) may be evaluated on a case-by-case basis by the Division of Coastal Management and seafloor imaging without an elevation component may not be required in water depths less than 10 feet (3 meters). Subsurface geophysical imaging shall not be required for federally or state borrow sites completely confined to maintained navigation channels, sediment deposition basins within the active nearshore, beach, or inlet shoal system;

(d) Geophysical imaging of the seafloor subsurface shall be used to characterize each borrow site and shall use survey grids with a line spacing not to exceed 1,000 feet (305 meters). Offshore dredged material disposal sites shall use a survey grid not to exceed 2,000 feet (610 meters) and only one set of geophysical imaging of the seafloor subsurface is required. Survey grids shall incorporate at least one (1) tie point per survey line. Because shallow submarine areas can pose technical challenges and physical limitations for geophysical techniques, subsurface data may not be required in water depths less than 10 feet (3 meters). Subsurface geophysical imaging shall not be required for federally or state borrow sites completely confined to maintained navigation channels, sediment deposition basins within the active nearshore, beach, or inlet shoal system, or upland sites. All final subsurface geophysical data shall use accurate sediment velocity models for time-depth conversions and be referenced to the North American Datum of 1983 (NAD 83);

(e) Sediment sampling of all borrow sites shall use a vertical sampling device no less than 3 inches (76 millimeters) in diameter. Characterization of each borrow site shall use no less than 10 evenly spaced cores or one (1) core per 23 acres (grid spacing of 1,000 feet or 305 meters), whichever is greater. Characterization of borrow sites completely confined to federally or state maintained navigation channels or sediment deposition basins within the active nearshore, beach or inlet shoal system shall use no less than five (5) evenly spaced vertical samples per channel or sediment basin, or sample spacing of
no more than 5,000 linear feet (1,524 meters), whichever is greater. Two sets of sampling data (with at least one dredging event in between) from maintained navigation channels or sediment deposition basins within the active nearshore, beach or inlet shoal system may be used to characterize material for subsequent nourishment events from those areas if the sampling results are found to be compatible with Sub-Item (3)(a) of this Rule. In submarine borrow sites other than federally or state maintained navigation channels or associated sediment deposition basins within the active nearshore, beach or inlet shoal system where water depths are no greater than 10 feet (3 meters) geophysical data of and below the seafloor are acquired, sediment sample spacing shall be no less than one (1) core per six (6) acres (grid spacing of 500 feet or 152 meters). Vertical sampling shall penetrate to a depth equal to or greater than permitted dredge or excavation depth or expected dredge or excavation depths for pending permit applications. All sediment samples shall be integrated with geophysical data to constrain the surficial, horizontal and vertical extent of lithologic units and determine excavation volumes of compatible sediment as defined in Item (3) of this Rule.

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

Grain size distributions shall be reported for all sub-samples taken within each vertical sample for each of the four (4) grain size categories defined in Sub-Item (1)(e) of this Rule. Weighted averages for each core shall be calculated based on the total number of samples and the thickness of each sampled interval. A simple arithmetic mean of the weighted averages for each grain size category shall be calculated to represent the average grain size values for each borrow site. Vertical samples shall be geo-referenced and digitally imaged using scaled, color-calibrated photography; and

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

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

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

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

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

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

(d) The average percentage by weight of fine-grained sediment (less than 0.0625 millimeters) in each borrow site shall not exceed the average percentage by weight of fine-grained sediment of the recipient beach characterization plus five (5) percent;
(e) The average percentage by weight of granular sediment (greater than or equal to 2 millimeters and <less than 4.76 millimeters) in a borrow site shall not exceed the average percentage by weight of coarse-sand sediment of the recipient beach characterization plus five (5) percent;

(f) The average percentage by weight of gravel (greater than or equal to 4.76 millimeters) in a borrow site shall not exceed the average percentage by weight of gravel-sized sediment for the recipient beach characterization plus five (5) percent;

(g) The average percentage by weight of calcium carbonate in a borrow site shall not exceed the average percentage by weight of calcium carbonate of the recipient beach characterization plus 15 percent; and

(h) Techniques that take incompatible sediment within a borrow site or combination of sites and make it compatible with that of the recipient beach characterization shall be evaluated on a case-by-case basis by the Division of Coastal Management.

(4) Excavation and placement of sediment shall conform to the following criteria:

(a) Sediment excavation depth from a federally or state maintained navigation channel shall not exceed the permitted dredge depth of the channel;

(b) Sediment excavation depths for all borrow sites shall not exceed the maximum depth of recovered core at each coring location;

(c) In order to protect threatened and endangered species, and to minimize impacts to fish, shellfish and wildlife resources, no excavation or placement of sediment shall occur within the project area during times designated by the Division of Coastal Management in consultation with other State and Federal agencies; and

(d) Sediment and shell material with a diameter greater than three (3) inches (76 millimeters) shall be considered incompatible if it has been placed on the beach during the beach fill project, is observed between mean low water (MLW) and the frontal dune toe, and is in excess of twice the background value of material of the same size along any 50,000-square-foot (4,645 square meter) section of beach.

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

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD

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

Agency obtained G.S. 150B-19.1 certification:
☐ OSBM certified on:
☐ RRC certified on:
☒ Not Required

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

Proposed Effective Date: August 1, 2013

Public Hearing:
Date: June 6, 2013
Time: 12:45 p.m.
Location: Commission Room, Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, NC 27609

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

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

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

Comment period ends: June 6, 2013

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

Fiscal impact (check all that apply).

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

SUBCHAPTER 22B - RULE MAKING PROCEDURES

SECTION .0600 - FEES

21 NCAC 22B .0603 FEE SCHEDULE
The Board hereby establishes the following fees:

1. For a continuing education make-up class provided by the Board, not to exceed two days (per person, per day). $ 50.00
2. For a license examination preparation course provided by the Board, not to exceed three days (per person, per day). $ 50.00
3. For approval of a continuing education program provider. $ 40.00
4. Verifying and recording attendance at a continuing education program (per program, per person). $ 15.00
5. For a voluntary apprentice training workshop (per person, per day, not to exceed three days). $ 50.00
6. Examination fee. $300.00
7. Application for a license by examination. $250.00
8. Application for a license to fit and sell hearing aids in this state by a licensee of another state or territory. $150.00
9. Issuance of certificate of license after successfully passing examination. $ 25.00
10. Application for registration as an apprentice $100.00
11. Renewal of apprentice registration. $150.00
12. Annual license renewal. $250.00
(a) Late fee to reinstate expired license within 60 days after license expiration (in addition to renewal fee). $ 25.00
(b) Late fee to reinstate expired license more than 60 days after license expiration (in addition to renewal fee). $ 50.00
13. To reissue a suspended license more than 90 days after but not more than two years after license suspended. $200.00
14. Application for a non-licensee to be a Registered Sponsor $150.00

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

SUBCHAPTER 22F - GENERAL EXAMINATION AND LICENSE PROVISIONS

21 NCAC 22F .0108 REVIEW OF EXAMINATION
As set forth in G.S. 93B-8 (c), each registered applicant who takes and does not pass the qualifying examination shall be granted an opportunity to review his—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—her—...
21 NCAC 22K .0102 APPLICATION FOR LICENSE
The Application for License form shall be used by all registered applicants, as defined in 21 NCAC 22A .0308, who are seeking issuance of a license.

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

21 NCAC 22K .0103 APPLICATION FOR APPRENTICE REGISTRATION CERTIFICATE
The Application for Apprentice Registration Certificate form shall be used on each occasion that any individual is applying for issuance of an initial apprentice registration certificate, issuance of a new certificate to replace an invalidated apprentice registration certificate, or issuance of a renewal certificate.

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

21 NCAC 22K .0104 APPLICATION FOR LICENSE RENEWAL
The Application for License Renewal form shall be used on each occasion that an individual is applying for renewal of an unexpired license.

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

21 NCAC 22K .0105 ACCESS TO FORMS
The forms listed in 21 NCAC 22K .0001 may be obtained from the office of the Board.

Authority G.S. 93D-3(c).
This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.

Rules approved by the Rules Review Commission at its meeting on February 21, 2013.

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Register Citation to the Notice of Text</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COMMERCE, DEPARTMENT OF - CREDIT UNION DIVISION</strong></td>
<td></td>
</tr>
<tr>
<td>Name and Address</td>
<td>04 NCAC 06A .0101* n/a G.S. 150B-21.5(a)(4)</td>
</tr>
<tr>
<td>Petition for Adoption: Amendment or Repeal of Rules</td>
<td>04 NCAC 06B .0301* n/a G.S. 150B-21.5(a)(3)</td>
</tr>
<tr>
<td><strong>CHILD CARE COMMISSION</strong></td>
<td></td>
</tr>
<tr>
<td>Formative Assessments</td>
<td>10A NCAC 09 .3008* 26:23 NCR</td>
</tr>
<tr>
<td><strong>MEDICAL CARE COMMISSION</strong></td>
<td></td>
</tr>
<tr>
<td>Temporary Change in Bed Capacity</td>
<td>10A NCAC 13D .2105* 27:03 NCR</td>
</tr>
<tr>
<td><strong>PUBLIC HEALTH, COMMISSION FOR</strong></td>
<td></td>
</tr>
<tr>
<td>Authorized Vendors</td>
<td>10A NCAC 43D .0708* 27:05 NCR</td>
</tr>
<tr>
<td><strong>ENVIRONMENTAL MANAGEMENT COMMISSION</strong></td>
<td></td>
</tr>
<tr>
<td>Catawba River Basin</td>
<td>15A NCAC 02B .0308* 27:02 NCR</td>
</tr>
<tr>
<td>Stormwater Requirements: Coastal Counties</td>
<td>15A NCAC 02H .1005* G.S. 150B-21.5(a)(5)</td>
</tr>
<tr>
<td><strong>TRANSPORTATION, DEPARTMENT OF</strong></td>
<td></td>
</tr>
<tr>
<td>Informal Negotiations</td>
<td>19A NCAC 01C .0201* n/a G.S. 150B-21.5(a)(2)</td>
</tr>
<tr>
<td>Location of Garbage Collection Containers</td>
<td>19A NCAC 02D .0414* n/a G.S. 150B-21.5(a)(2)</td>
</tr>
<tr>
<td><strong>COSMETIC ART EXAMINERS, BOARD OF</strong></td>
<td></td>
</tr>
<tr>
<td>Licensees and Students</td>
<td>21 NCAC 14H .0401* 27:06 NCR</td>
</tr>
<tr>
<td>Cosmetic Art Shops and Schools</td>
<td>21 NCAC 14H .0402* 27:06 NCR</td>
</tr>
<tr>
<td>Continuing Education</td>
<td>21 NCAC 14R .0105* 27:06 NCR</td>
</tr>
<tr>
<td><strong>HEARING AID DEALERS AND FITTERS BOARD</strong></td>
<td></td>
</tr>
<tr>
<td>Meetings of the Board</td>
<td>21 NCAC 22A .0203 27:10 NCR</td>
</tr>
<tr>
<td>Appointments</td>
<td>21 NCAC 22A .0204 27:10 NCR</td>
</tr>
<tr>
<td>Time and Place of Examinations</td>
<td>21 NCAC 22F .0101* 27:10 NCR</td>
</tr>
<tr>
<td><strong>PHARMACY, BOARD OF</strong></td>
<td></td>
</tr>
<tr>
<td>Definitions</td>
<td>21 NCAC 46 .1317* 27:09 NCR</td>
</tr>
<tr>
<td>Responsibilities of the Pharmacist-Manager</td>
<td>21 NCAC 46 .1411* 27:07 NCR</td>
</tr>
<tr>
<td>Absence of Pharmacist</td>
<td>21 NCAC 46 .1413* 27:09 NCR</td>
</tr>
<tr>
<td>Drug Distribution and Control</td>
<td>21 NCAC 46 .1414* 27:09 NCR</td>
</tr>
<tr>
<td>Medication in Health Care Facility Emergency Departments</td>
<td>21 NCAC 46 .1415* 27:09 NCR</td>
</tr>
</tbody>
</table>
Remote Medication Order Processing Services 21 NCAC 46 .1417* 27:09 NCR
Automated Dispensing or Drug Supply Devices 21 NCAC 46 .1814* 27:09 NCR
Records of Dispensing 21 NCAC 46 .2302* 27:09 NCR
Records of Prescription Filling and Refilling 21 NCAC 46 .2303* 27:09 NCR
Automated Data Processing 21 NCAC 46 .2304* 27:09 NCR
Electronic Records 21 NCAC 46 .2508* 27:09 NCR
Anti-Neoplastic Agents 21 NCAC 46 .2807* 27:09 NCR

SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS, BOARD OF EXAMINERS FOR
Subpoenas 21 NCAC 64 .0903* 27:09 NCR

TITLE 04 – DEPARTMENT OF COMMERCE

04 NCAC 06A .0101 NAME AND ADDRESS
The Credit Union Division of the Department of Commerce is located in Raleigh, North Carolina. The mailing address for the Credit Union Division is 4314 Mail Service Center, Raleigh, North Carolina 27699-4314. The office is open to the public Monday through Friday 8:00 a.m. to 5:00 p.m., excluding state holidays.


04 NCAC 06B .0301 PETITION FOR ADOPTION: AMENDMENT OR REPEAL OF RULES
(a) Right to Petition. Any interested person may petition the Administrator to promulgate, amend, or repeal an administrative rule.
(b) Form of Petition. The petition shall be in writing, signed by the petitioning party or parties and must include the address of the petitioning party. In addition, the petition shall contain the following information:
   (1) a draft of the proposed rule, amendment or repeal or a summary thereof;
   (2) the reason(s) for the proposal;
   (3) the effect on existing rules or orders or both;
   (4) any data showing the probable effect of the proposal on existing practices in the area involved, including cost; and
   (5) the names of those most likely to be affected by the proposal with addresses if reasonably known.
(c) Address for Petition. Petitions shall be addressed to the Division at its mailing address.
(d) Disposition of Petition. Upon receipt of a petition, the Administrator shall make a study of the facts stated in the petition and any additional information he deems relevant. The Administrator’s disposition of the petition will be made in one of the following forms within 30 days of receipt of the petition:
   (1) a written denial of the proposal setting forth the reasons for the denial, or
   (2) a written communication to the petitioner indicating the Administrator’s plan to initiate rulemaking procedures pursuant to G.S. 150B-21.2.

History Note: Authority G.S. 54-109.12; 150B-20; 150B-21.2; Eff. June 1, 1990; Amended Eff. March 1, 2013.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 09 .3008 FORMATIVE ASSESSMENTS
Classroom staff are required to conduct formative assessments to gather information about each child’s growth and skill development, as well as inform instruction. All formative assessments used by the NC Pre-K program shall be approved by the NC Child Care Commission based on the assessment tool’s ability to collect information on children’s behaviors, development, skills, knowledge, strengths, needs and interests across all domains of development.

History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a),(b); Eff. March 1, 2013.

10A NCAC 13D .2105 TEMPORARY CHANGE IN BED CAPACITY
(a) A continuing care retirement community, having an agreement to care for all residents regardless of level of care needs, may temporarily increase bed capacity by 10 percent or 10 beds, whichever is less, over the licensed bed capacity for a period up to 60 days following notification to and approval by the Division of Health Service Regulation.
(b) In an emergency situation, such as a natural disaster, a facility may exceed its licensed capacity as determined by its disaster plan and as authorized by the Division of Health Service Regulation. Emergency authorizations shall not exceed 60 days.
(c) The Division shall authorize, in writing, a temporary increase in licensed beds in accordance with Paragraphs (a) and (b) of this Rule, if it is determined that:

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

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

10A NCAC 43D .0708 AUTHORIZED VENDORS
By signing the WIC Vendor Agreement, the vendor agrees to:

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

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

(18) Imprint the authorized WIC vendor stamp in the "Pay the Authorized WIC Vendor Stamped Here" box on the face of the food instrument or cash-value voucher to enable the vendor number to be read during the Program editing process;

(19) Imprint the vendor's bank deposit stamp or the vendor's name, address and bank account number in the "Authorized WIC Vendor Stamp" box in the endorsement;

(20) Deposit WIC program food instruments and cash-value vouchers in the vendor's bank. All North Carolina WIC program food instruments and cash-value vouchers must be deposited in the vendor's bank within 60 days of the "Issue Date" on the food instrument or cash-value voucher;

(21) Ensure that the authorized WIC vendor stamp is used only for the purpose and in the manner authorized by the Agreement and be responsible for the unauthorized use of the authorized WIC vendor stamp;

(22) Maintain storage of the authorized WIC vendor stamp so only the staff designated by the vendor owner or manager have access to the stamp and report loss of this stamp within two business days to the local WIC agency;

(23) Notify the local WIC agency of misuse (attempted or actual) of WIC program food instruments or cash-value vouchers;

(24) Maintain a minimum inventory of supplemental foods in the store for purchase. Supplemental foods that are outside of the manufacturer's expiration date do not count towards meeting the minimum inventory requirement. The following items and sizes constitute the minimum inventory of supplemental foods for vendors in Peer Groups I through III of Item (1) of Rule .0706, vendors in Peer Groups I through IV of Item (2) of Rule .0706 and vendors in Peer Group IV of Item (3) of Rule .0706:

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

<table>
<thead>
<tr>
<th>14 to 16 ounce can: 2 varieties</th>
<th>6 cans total</th>
</tr>
</thead>
</table>

All vendors in Peer Groups I through III of Item (1) of Rule .0706, Peer Groups I through IV of Item (2) of Rule .0706 and Peer Groups IV and V of Item (3) of Rule .0706 shall supply milk, soy-based or lactose-free infant formula in 32 ounce ready-to-feed or lactose-free powder within 48 hours of request by the state or local WIC agency;

(25) Ensure that all supplemental foods in the store for purchase are within the manufacturer's expiration date;

(26) Permit the purchase of supplemental food without requiring other purchases;

(27) Attend, or cause a manager or other authorized store representative to attend, annual vendor training upon notification by the local WIC agency. Failure to attend annual vendor training by September 30 of each year shall result in termination of the WIC Vendor Agreement;

(28) Inform and train vendor's cashiers and other staff on WIC Program requirements;

(29) Be accountable for the actions of its owners, officers, managers, agents, and employees who commit vendor violations;

(30) Allow monitoring and inspection of the store premises and procedures to ensure compliance with the agreement and state and federal WIC Program rules, regulations and applicable law. This includes providing access to all program-related records, including access to all WIC food instruments and cash-value vouchers at the store; vendor records pertinent to the purchase and sale of WIC supplemental foods, including invoices, receipts, copies of purchase orders, and any other proofs of purchase; federal and state corporate and individual income tax and sales and use tax returns and all records pertinent to these returns; and books and records of all financial and business transactions. These records must be retained by the vendor for a period of three years or until any audit pertaining to these records is resolved, whichever is later. Notwithstanding any other provision of this Rule and Rules .0707 and .0710, failure or inability to provide these records for an inventory audit or providing false records for an inventory audit shall be deemed a violation of 7 C.F.R. 246.12(i)(1)(iii)(B) and Subparagraph (a)(1) of Rule .0710. Invoices, receipts, purchase orders, and any other proofs of purchase for WIC supplemental foods shall include:

(a) the name of the seller and be prepared entirely by the seller or on the seller's business letterhead;

(b) the date of purchase and the date the authorized vendor received the WIC supplemental food at the store if different from the date of purchase; and

(c) a description of each WIC supplemental food item purchased, including brand name, unit size, type or form, and quantity;

(31) Maintain a record of all SNAP-eligible food sales and provide to the State agency upon request a statement of the total amount of revenue derived from SNAP-eligible food sales and written documentation to support the amount of sales claimed by the vendor, such as sales records, financial statements, reports, tax documents or other verifiable documentation;

(32) Submit a current accurately completed WIC Price List when signing this agreement, and by April 1 and October 1 of each year. The vendor also agrees to submit a WIC Price List within one week of any written request by the state or local WIC agency;

(33) Reimburse the state agency in full or agree to a repayment schedule with the state agency within 30 days of written notification of a claim assessed due to a vendor violation that affects payment to the vendor or a claim assessed due to the unauthorized use of the WIC vendor stamp. Failure to reimburse the state agency in full or agree to a repayment schedule within 30 days of written notification of a claim shall result in termination of the WIC Vendor Agreement. The state agency shall deny payment or assess a claim in the amount of the full purchase price of each food instrument or cash-value voucher invalid under Subparagraphs (a)(2), (a)(5), (a)(6) or (a)(7) of Rule .0704 of this Section. Denial of payment by the state agency or payment of a claim assessed due to a vendor violation(s) shall not absolve the vendor of the violation(s). The vendor shall also be subject to any vendor sanctions authorized under Rule .0710 for the vendor violation(s);

(34) Not seek restitution from the WIC customer for reimbursement paid by the vendor to the state agency or for WIC food instruments or cash-value vouchers not paid or partially paid by the state agency. Additionally, the vendor shall not charge the WIC customer for

27:19 NORTH CAROLINA REGISTER APRIL 1, 2013

1857
authorized supplemental foods obtained with food instruments or cash-value vouchers;

(35) Not contact a WIC customer outside the store regarding the transaction or redemption of WIC food instruments or cash-value vouchers;

(36) Notify the local WIC agency in writing at least 30 days prior to a change of ownership, change in store location, cessation of operations, or withdrawal from the WIC Program. Change of ownership, change in store location of more than three miles from the store's previous location, cessation of operations, withdrawal from the WIC Program or disqualification from the WIC Program shall result in termination of the WIC Vendor Agreement by the state agency. Change of ownership, change in store location, ceasing operations, withdrawal from the WIC Program or nonrenewal of the WIC Vendor Agreement shall not stop a disqualification period applicable to the store;

(37) Return the authorized WIC vendor stamp to the local WIC agency upon termination of the Agreement or disqualification from the WIC Program;

(38) Not discriminate on the basis of WIC participation, such as failing to offer WIC customers the same courtesies offered to other customers or requiring separate WIC lines;

(39) Reapply to continue to be authorized beyond the period of its current WIC Vendor Agreement. Additionally, a store must reapply to become authorized following the expiration of a disqualification period or termination of the Agreement. In all cases, the vendor applicant is subject to the vendor peer group criteria of Rule .0706 and the vendor selection criteria of Rule .0707; and

(40) Comply with all the requirements for vendor applicants of Items (3), (4) and (7) through (16) of Rule .0707 throughout the term of authorization. The state agency may reassess a vendor at any time during the vendor's period of authorization to determine compliance with these requirements. The state agency shall terminate the WIC Vendor Agreement of any vendor that fails to comply with Items (3), (4), (8), (9), (10), (11), (12), (13) or (15) of Rule .0707 during the vendor's period of authorization, and terminate the agreement of or sanction or both any vendor that fails to comply with Items (7), (14) or (16) of Rule .0707 during the vendor's period of authorization.

(18) August 1, 2004 (see Paragraph (u) of this Rule);
(19) May 1, 2007 (see Paragraph (v) of this Rule);
(20) September 1, 2010 (see Paragraph (w) of this Rule); and
(21) March 1, 2013 (see Paragraph (x) of this Rule).

(d) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1977 as follows:

(1) Torrence Branch (Index No. 11-136) from source to North Carolina-South Carolina State Line was reclassified from Class D to Class B; and
(2) Edwards Branch (Index No. 11-137-8-2-1) from source to Brier Creek was reclassified from Class D to Class C.

(e) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 12, 1979 as follows: Unnamed Tributary to Lower Little River (Robinette Creek) (Index No. 11-69-1.5) from source to Lower Little River was reclassified from Class C to Class B.

(f) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1982 as follows:

(1) Spainhour Creek (Index No. 11-39-3) from source to Lower Creek was reclassified from Class C (1) to Class C; and
(2) Allen Creek (Index No. 11-129-5-7-2-4) from source to Maiden Creek was reclassified from Class C to Class A-II.

(g) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective January 1, 1985 as follows: Catawba Creek from source to N.C. Highway 275 was reclassified from Class C(1) to Class C.

(h) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1985 as follows:

(1) Brier Creek (Index No. 11-137-8-2) from source to Little Sugar Creek was reclassified from Class C (1) to Class C;
(2) Little Hope Creek (Index No. 11-137-8-3) from source to Little Sugar Creek was reclassified from Class C (1) to Class C; and
(3) McMullen Creek (Index No. 11-137-9-5) from source to N.C. Highway 16 was reclassified from Class C (1) to Class C.

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

(j) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1989 as follows:

Wilson Creek (Index No. 11-38-34) and all tributary waters were reclassified from Class B-trout and Class C-trout to Class B-trout ORW and Class C-trout ORW.

(k) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective May 1, 1989 as follows:

(1) Henry Fork [Index Nos. 11-129-1-(1) and 11-129-1-(2)] from source to Laurel Creek, including all tributaries, were reclassified from Class WS-I, C ORW and C trout to Class WS-I ORW, C ORW and C trout ORW, except Ivy Creek and Rock Creek which will remain Class C trout and Class C; and
(2) Jacob Fork [Index Nos. 11-129-2-(1) and 11-129-2-(4)] from source to Camp Creek, including all tributaries, were reclassified from Class WS-III trout and WS-III to WS-III trout ORW and WS-III ORW.

(l) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1990 as follows:

(1) Upper Creek [Index No. 11-35-2-(1)] from source to Timbered Branch including all tributaries except Timbered Branch (Index No. 11-35-2-9) was reclassified from Class C Trout to Class C Trout ORW; and
(2) Steels Creek [Index No. 11-35-2-12(1)] from source to Little Fork and all tributaries was reclassified from Class C Trout to Class C Trout ORW.

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

(1) The classification for the portion of Mackey Creek [Index No. 11-15-(2)] from Marion Water Supply Intake to Laurel Fork was reclassified from Class C to Class C HQW;
(2) Laurel Fork Creek [Index No. 11-15-3] from source to Mackey Creek was reclassified from Class C Tr to Class C Tr HQW;
(3) Armstrong Creek [Index No. 11-24-14-(1)] from source to Bee Rock Creek was reclassified from Class WS-III Tr to Class WS-III Tr HQW;
(4) Two segments of Linville River [Index Nos. 11-29-(16) and 11-29-(19)] were reclassified from Class B Tr and Class B to Class B Tr HQW and Class B HQW, respectively;
(5) Upper Creek [Index No. 11-35-2-(8.5)] and its named tributaries were reclassified from Class C Tr to Class C Tr HQW;
(6) Upper Creek (Clear Water Beach Lake) [Index No. 11-35-2-(10)] from Holly Spring Branch to Dam Clear Water Beach Lake was reclassified from Class B Tr to Class B Tr HQW;
(7) Holly Spring Branch [Index No. 11-35-2-11] from source to Upper Creek was reclassified from Class C Tr to Class Tr HQW;
(8) Steels Creek [Index No. 11-35-2-12-(5)] from Little Fork to a point 1.7 miles upstream from N.C. Highway 181 Bridge was reclassified...
from Class B Tr to Class B Tr HQW and Steels Creek [Index No. 11-35-2-12(7)] from a point 1.7 miles upstream from N.C. Highway 181 bridge to Clear Water Beach Lake, Upper Creek was reclassified from Class B to Class B HQW;

(9) Upper Creek [Index No. 11-35-2(13)] from Dam at Clear Water Beach Lake to Warrior Fork was reclassified from Class WS-III Tr to Class WS-III Tr HQW;

(10) The portion of Johns River [Index No. 11-38-(28)] from Wilson Creek to Rhodhiss Lake, Catawba River was reclassified from Class C to Class C HQW;

(11) Mulberry Creek [Index No. 11-38-32-(1)] from source to Boone Fork and its tributaries Left Fork Mulberry Creek [Index No. 11-38-32-2], Right Fork Mulberry Creek [Index No. 11-38-32-3], Roaring Creek [Index No. 11-38-32-8] and Clark Branch [Index No. 11-38-32-10] were reclassified from Class C Tr to Class C Tr HQW;

(12) Amos Creek [Index No. 11-38-32-4] and Mills Creek [Index No. 11-38-32-5] and their named tributaries were reclassified from Class C to Class C HQW;

(13) Cane Branch [Index No. 11-38-32-6], Rush Branch [11-38-32-7] and Frankum Creek [11-38-32-9] and its named tributaries were reclassified from Class C to Class C HQW;

(14) Mulberry Creek [Index No. 11-38-32-(11)] from Boone Branch to Dam at Mulberry Beach was reclassified from Class B to Class B HQW;

(15) Boone Branch (Fork) [Index No. 11-38-32-12] and its named tributaries from source to Mulberry Creek were reclassified from Class B to Class B HQW;

(16) Brown Branch [Index No. 11-38-32-13] and Moore Branch [Index No. 11-38-32-14] were reclassified from Class B to Class B HQW; and

(17) Anderson Creek [Index No. 11-38-32-16] was reclassified from Class C to Class C HQW.

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

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

(1) Friday Lake (Index No. 11-125.5) from its source to Little Paw Creek was reclassified from Class C to Class B; and

(2) The Linville River [Index No. 12-29(1)] from Grandmother Creek to Linville Falls was reclassified from Class C Tr to Class B Tr.

(p) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective July 1, 1995 with the reclassification of Clark Creek from a point 0.6 mile downstream of Catawba County SR 1200 from October 1, 1972 to 0.4 mile upstream of Larkard Creek [Index No. 11-129-5(4.5)], and Howards Creek from its source to 0.7 mile upstream of Lincoln County State Road 1200 [Index No. 11-129-4], including associated tributaries from Class WS-IV to Classes C and WS-IV.

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

(1) North Fork Catawba River [Index No. 11-24-(1)] from Laurel Branch to Armstrong Creek from Class C Tr to Class B Tr; and

(2) Catawba River (Lake Hickory) from Rhodhiss dam to highway 321 [Index No. 11-(51)] from Class WS-IV CA to Class WS-IV B CA.

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

(1) The primary classification for portions of South Fork Catawba River [Index No. 11-129-(0.5)] and Hoyle Creek [Index No. 11-129-15-(1)] was reclassified from Class WS-IV to Class WS-V;

(2) Mill Creek [Index No. 11-7] from its source to Swannanoa Creek, including all tributaries, from Class C Tr to Class Tr HQW;

(3) Toms Creek [Index Nos. 11-21-(1) and 11-21-(2)] from its source to Harris Creek, including all tributaries were reclassified from Class C Tr to Class Tr HQW; and

(4) Harris Creek to McDowell County SR 1434, including all tributaries were reclassified from Class C to Class HQW.

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

(1) Portion of the Catawba River [Index Nos. 11-(27.5) and 11-(31)] from Class WS-IV B and WS-IV to Class WS-V B and WS-V;

(2) Armstrong Creek [Index Nos. 11-24-14-(1), 11-24-14-(13.5) and 11-24-14-(14)], and all tributaries from Classes WS-II Tr, WS-II, WS-II CA and C Tr to Classes C Tr HQW and C HQW;

(3) Lookout Shoals Lake from Oxford Dam to Island Creek [Index No. 11-(67)] from Class WS-V to Class WS-IV CA, from Island Creek
t) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended August 1, 2000 with the reclassification of Little Grassy Creek (Index No. 11-29-2), including all tributaries, from its source to the Linville River from Class C Tr to Class C Tr ORW.

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

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

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

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

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

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. March 1, 2013; December 1, 2010; September 1, 2010; May 1, 2007; August 1, 2004; August 1, 2000; April 1, 1999; August 1, 1998; September 1, 1996; July 1, 1995; April 1, 1994; August 3, 1992; August 1, 1990.
.1003(d)(1) of this Section if the development meets all of the following requirements:

(i) The development has a built upon area of 12 percent or less. A development project with an overall density at or below the low density threshold, but containing areas with a density greater than the overall project density, shall be considered low density as long as the project meets or exceeds the requirements for low density development and locates the higher density development in upland areas and away from surface waters and drainageways to the maximum extent practicable.

(ii) Stormwater runoff from the development is transported primarily by vegetated conveyances. The conveyance system shall not include a stormwater collection system as defined in Rule .1002 of this Section.

(iii) The development contains a vegetative buffer in accordance with Paragraph (e) of this Rule.

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

(i) The development has a built upon area of greater than 12 percent.

(ii) The development has no direct outlet channels or pipes to Class SA waters unless permitted in accordance with 15A NCAC 02H .0126.

(iii) The development utilizes control systems that are any combination of infiltration systems, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative low impact development (LID) stormwater management systems designed in accordance with Rule .1008 of this Section to control and treat the greater of, runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and postdevelopment conditions for a one-year, 24-hour storm. Wet detention ponds may be used as a stormwater control system to meet the requirements of this Subparagraph (1)(B)(iii), provided that the stormwater control system fully complies with the requirements of Subparagraph (1)(B). If a wet detention pond is used within one-half mile of Class SA waters, installation of a stormwater best management practice in series with the wet detention pond shall be required to treat the discharge from the wet detention pond. Alternatives as described in Rule .1008(h) of this Section may also be approved if they meet the requirements of Subparagraph (1)(B).

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

(v) The development contains a vegetative buffer in accordance with Paragraph (e) of this Rule.

(C) Stormwater Discharges Prohibited. All development activities, including both low and high density projects, shall prohibit new points of stormwater discharge to Class SA waters or an increase in the volume of stormwater flow through conveyances or increase in capacity of conveyances of existing stormwater conveyance systems that
drain to Class SA waters. Any modification or redesign of a stormwater conveyance system within the contributing drainage basin must not increase the net amount or rate of stormwater discharge through existing outfalls to Class SA waters. The following shall not be considered a direct point of stormwater discharge:

(i) Infiltration of the stormwater runoff from the design storm as described in Subparagraph (1)(B)(iii).

(ii) Diffuse flow of stormwater at a non-erosive velocity to a vegetated buffer or other natural area, that is capable of providing effective infiltration of the runoff from the design storm as described in Subparagraph (1)(B)(iii). Notwithstanding the other requirements of this Rule, the infiltration mandated in this Subparagraph (1)(C)(ii) does not require a minimum separation from the seasonal high-water table.

(iii) The discharge from a wet detention pond that is treated by a secondary stormwater best management practice, provided that both the wet detention pond and the secondary stormwater best management practice meet the requirements of Subparagraph (1)(C).

(D) Limitation on the Density of Development. Development shall be limited to a built upon area of 25 percent or less.

(2) Development Near Class SA Waters. Development activities within one-half mile of and draining to those waters classified by the Commission as Class SA waters or within one-half mile of waters classified by the Commission as Class SA waters and draining to unnamed freshwater tributaries to Class SA waters shall meet the requirements of Subparagraphs (1)(A), (B), and (C). The extent of Class SA waters is limited to those waters that are determined to be at least an intermittent stream based on a site stream determination made in accordance with the procedures that are delineated in the Division's "Identification Methods for the Origin of Intermittent and Perennial Streams" prepared pursuant to Session Law 2001-404.

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

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

(i) The development has a built upon area of 24 percent or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low density as long as the project meets or exceeds the requirements for low-density development and locates the higher density in upland areas and away from surface waters and drainageways to the maximum extent practicable.

(ii) Stormwater runoff from the development is transported primarily by vegetated conveyances. The conveyance system shall not include a stormwater collection system as defined in Rule .1002 of this Section.

(iii) The development contains a vegetative buffer in accordance with Paragraph (e) of this Rule.

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

(i) The development has a built upon area of greater than 24 percent.

(ii) The development uses control systems that are any combination of infiltration systems, wet detention ponds, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative stormwater...
management systems designed in accordance with Rule .1008 of this Section.

(iii) Control systems must be designed to store, control, and treat the stormwater runoff from all surfaces generated by one and one-half inch of rainfall.

(iv) The development contains a vegetative buffer in accordance with Paragraph (e) of this Rule.

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

(1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate the reuse of the collected rain water on site and shall be installed in such a manner that any overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(2) Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and designed rain garden. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(3) Install any other stormwater best management practice that meets the requirements of Rule .1008 of this Section to control and treat the stormwater runoff from all built upon areas of the site from the first one and one-half inches of rain.

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

(1) Remove an 85 percent average annual amount of Total Suspended Solids.

(2) For detention ponds, draw down the treatment volume no faster than 48 hours, but no slower than 120 hours.

(3) Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.

(4) Meet the General Engineering Design Criteria set forth in Rule .1008(c) of this Section.

(5) For structural stormwater controls that require separation from the seasonal high water table, a minimum separation of two feet is required. Where a separation of two feet from the seasonal high water table is not practicable, the Division may grant relief from the separation requirement pursuant to the Alternative Design Criteria set out in Rule .1008(h) of this Section. No minimum separation from the seasonal high water table is required for a secondary stormwater best management practice that is used in a series with another stormwater best management practice.

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

(1) Areas defined as Coastal Wetlands under 15A NCAC 07H .0205, as measured landward from the normal high waterline, shall not be included in the overall project area to calculate impervious surface density. Wetlands that are not regulated as coastal wetlands pursuant to 15A NCAC 07H .0205 and that are located landward of the normal high waterline may be included in the overall project area to calculate impervious surface density.

(2) Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.

(e) Vegetative Buffer. Developments permitted under Paragraph (a) shall contain a 50 foot wide vegetative buffer, as defined in Rule .1002(22) of this Section, for new development activities and a 30 foot wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with and maintained in grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within this vegetative buffer. The Division may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government.
requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

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

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

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

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

1. Activities of the North Carolina Department of Transportation that are regulated in accordance with the provisions of the Department's National Pollutant Discharge Elimination System (NPDES) Stormwater Permit.
2. Development activities that are conducted pursuant to and consistent with one of the following authorizations, or any timely renewal thereof, shall be regulated by those provisions and requirements of this Rule that were effective at the time of the original issuance of the following authorizations:
   (A) State Stormwater Permit issued under the provisions of this Rule.
   (B) Stormwater Certification issued pursuant to Rule .1000 of this Section prior to 1 December 1995.
   (C) A CAMA Major Development Permit.
   (D) 401 Certification that contains an approved Stormwater Management Plan.
   (E) A building permit pursuant to G.S. 153A-357 or G.S. 160A-417.
   (F) A site-specific development plan as defined by G.S. 153A-344.1(b)(5) and G.S. 160A-385.1(b)(5).
   (G) A phased development plan approved pursuant to G.S. 153A-344.1 or G.S. 160A-385.1 that shows:
      (i) For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved pursuant to G.S. 153A-330 through G.S. 153A-335 or G.S. 160A-371 through G.S. 160A-376.

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

Redevelopment activities that result in no net increase in built upon area and provide stormwater control equal to the previous development.

Development activities for which a complete Stormwater Permit Application has been accepted by the Division prior to October 1, 2008, shall be regulated by the provisions and requirements of this Rule that were effective at the time that this application was accepted as complete by the Division. For purposes of this Rule, a Stormwater Permit Application is deemed accepted as complete by the Division when the application is assigned a permit number in the Division's Basinwide Information Management System.

Development activities for which only a minor modification of a State Stormwater Permit is required shall be regulated by the provisions and requirements of this Rule that were effective at the time of the original issuance of the State Stormwater Permit. For purposes of this Rule, a minor modification of a State Stormwater Permit is defined as a modification that does not increase the net area of built upon area within the project site or does not increase the overall size of the stormwater controls that have been previously approved for that development activity.

Municipalities designated as a National Pollutant Discharge Elimination System (NPDES) Phase 2 municipality located within the 20 Coastal Counties until such time as the NPDES Phase 2 Stormwater Permit expires and is subject to renewal. Upon renewal of the NPDES Phase 2 Stormwater Permits for municipalities located within the 20 Coastal Counties, the Department shall review the permits to determine whether the permits should be amended to include the provisions of this Rule.

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

TITLE 19A – DEPARTMENT OF TRANSPORTATION

19A NCAC 01C .0201 INFORMAL NEGOTIATIONS

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

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

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

1. No garbage collection container site shall be located on any State highway rights-of-way except by written authorization of the Department of Transportation upon submission of a Right of Way Encroachment Agreement For Non-Utility Encroachments on Primary and Secondary Highways (FORM R/W 16.1A (January, 1981)).

2. No garbage collection container shall be located within 500 feet of an occupied dwelling unless the applicant obtains written permission from the owner of the dwelling.

3. An application for a site permit may be obtained from and shall be submitted to the District Engineer for the county in which the garbage container is proposed to be located.

4. Guidelines for container sites are as follows:
   (a) The county or municipality requesting the permit shall be responsible for any work to be performed in preparation of the site. Any work performed on the site by the Department of Transportation shall be on a reimbursable basis in accordance with rules 19A NCAC 02E .0501 and 19A NCAC 02E .0502;
   (b) Container sites adjacent to paved roadways shall be constructed in accordance with FORM R/W 16.1A; and
   (c) Container sites adjacent to unpaved roads shall be prepared with materials similar to those existing on the traveled portion of the roadway.

5. When container sites are located in areas requiring drainage, drainage shall be in accordance with FORM R/W 16.1A.

(6) Whenever container sites are located adjacent to the roadway, sight distances shall be provided for any vehicle to safely enter the road from the container site.

(7) Container sites shall be permitted adjacent to roadways only when lateral clearances can be provided from the edge of pavement to the container.

(8) The county or municipality which holds a permit for the placement of garbage collection containers as provided herein shall maintain a collection schedule in order to prevent spillage or overflow from said containers and shall keep the site free from all garbage and trash other than that which is within the garbage collection containers which are authorized by the permit. The District Engineers shall give written notice to the county or municipality of any failure to comply with this requirement. If a county or municipality which is so notified does not bring the site within compliance of the requirement within 30 days of receipt of the written notice, the District Engineer shall then revoke the permit and dispose of the garbage collection containers accordingly.

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


TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS

21 NCAC 14H .0401 LICENSEES AND STUDENTS

(a) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to students and licensees in practice in cosmetic art schools and shops. Each licensee and student shall wash his or her hands with soap and water or an equally effective cleansing agent immediately before and after serving each client.

(b) Each licensee and student shall wear clean garments and shoes while serving patrons.

(c) Licensees or students must not use or possess in a cosmetic art school or shop any of the following:
   (1) Methyl Methacrylate Liquid Monomer a.k.a. MMA;
   (2) Razor-type callus shavers designed and intended to cut growths of skin including skin tags, corns and calluses;
21 NCAC 14R .0105 CONTINUING EDUCATION

(a) This Rule pertains to all cosmetic art licensees. Each licensee wishing to maintain his or her license shall obtain continuing education during each licensing period. The licensee shall maintain records of attendance at a continuing education course including the following information:

(1) Course title and description;
(2) Date conducted;
(3) Address of location where the course was conducted; and
(4) Continuing education hours earned.

(b) Each licensee must ensure at least 50 percent of the subject matter in a course broadens the licensee's knowledge of the cosmetic arts profession in which he or she is licensed.

(c) Each cosmetic art teacher must ensure at least 50 percent of the subject matter in a course taken for the purpose of license renewal relates to teacher training techniques and enhances the ability to communicate.

(d) Continuing education courses shall be approved by the board providing the courses meet the requirements above.

(e) The Board or an agent of the Board may conduct audits of the licensee's continuing education at any time. Upon the Board's request each licensee shall provide completed records to the Board to support the last affirmation given pursuant to Subparagraph (j)(3) of this Rule. Records must be maintained until the end of the next renewal cycle after the affirmation for audit purposes.

(f) Continuing education courses completed prior to an individual's being licensed by the Board shall not qualify for continuing education credit.

(g) Apprentices do not need to earn continuing education for license renewal.

(h) Licensees are exempt from the eight hours of continuing education requirement until the licensing period commencing after their initial licensure.

21 NCAC 14H .0402 COSMETIC ART SHOPS AND SCHOOLS

(a) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to all cosmetic art schools and shops. A cosmetic art school or shop shall be kept clean.
(i) After completion of the continuing education requirements for any licensing cycle the licensee shall forward to the Board the following:

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

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

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

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

History Note: Authority G.S. 88B-2; 88B-4; 88B-21; 88B-24; 88B-29; Eff. April 1, 2012; Amended Eff. March 1, 2013.

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CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD

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

History Note: Authority G.S. 93D-3(b); Eff. April 23, 1976; Amended Eff. February 1, 1996; May 1, 1988; Repealed Eff. March 1, 2013.

21 NCAC 22F .0101 TIME AND PLACE OF EXAMINATIONS

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

History Note: Authority G.S. 93D-3(c); 93D-8; Eff. April 23, 1976; Amended Eff. March 1, 2013; June 1, 2012; January 1, 1992; May 1, 1988.

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CHAPTER 46 – BOARD OF PHARMACY

21 NCAC 46 .1317 DEFINITIONS

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

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

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

Diagnostic equipment. Equipment used to record physiological information while a person goes about normal daily living or while asleep in order to document a disease process.

Early pregnancy tests (EPTs), thermometers, glucose meters, and cholesterol equipment are not included as diagnostic equipment.

Drug review or Pharmaceutical care assessment. An onsite review of a patient's or resident's record by a licensed pharmacist that involves interpretation and evaluation of the drug therapy and other pharmaceutical care services to achieve intended medication
outcomes and minimize negative effects of drug therapy.

9) Duplicate as used in G.S. 90-85.24. Any license, permit, or registration issued or reissued by the Board that is identical to a previously issued license, permit, or registration, including a permit reissued due to a change in pharmacist-manager.

10) Emergency Drugs. Those drugs whose prompt use and immediate availability are generally regarded by physicians as essential in the proper treatment of unforeseen adverse changes in a patient's health or well-being.

11) Employee. A person who is or would be considered an employee under the North Carolina Workers' Compensation Act. This definition applies to locations both within and outside of this State holding pharmacy or device and medical equipment permits and without regard to the number of persons employed by the permit holder.

12) Executive Director. The Secretary-Treasurer and Executive Director of the Board.

13) Graduate of an Approved School or College of Pharmacy. A person who has received an undergraduate professional degree in pharmacy from an approved school or college of pharmacy, or a person who has graduated from a foreign professional school of pharmacy and has successfully completed the Foreign Pharmacy Graduate Equivalency Examination offered by the National Association of Boards of Pharmacy and the Test of English as a Foreign Language.

14) HMES. Home medical equipment supplier.

15) Health Care Facility. Any organization whose primary purpose is to provide a physical environment for patients to obtain health care services. This shall include:
   (a) a hospital;
   (b) a long-term care facility;
   (c) a mental health facility;
   (d) a drug abuse treatment center;
   (e) a penal institution; or
   (f) a hospice.

16) Health Care Facility Pharmacy. A pharmacy permitted by the Board that provides services to a Health Care Facility.

17) Indulgence in the Use of Drugs. The use of narcotic drugs or other drugs affecting the central nervous system or the use of intoxicating beverages to an extent as to deprive the user of reasonable self-control or the ability to exercise such judgment as might reasonably be expected of an average prudent person.

18) Internet Pharmacy.
   (a) A pharmacy that maintains an Internet web site for the purpose of selling or distributing prescription drugs; or
   (b) A pharmacy that uses the internet, either itself, or through agreement with a third party, to communicate with or obtain information from patients; uses such communication or information, in whole or in part, to solicit, fill or refill prescriptions; or otherwise uses such communication or information, in whole or in part, to engage in the practice of pharmacy as defined in G.S. 90-85.3(r).

Notwithstanding Sub-items (a) and (b) above, a pharmacy shall not be deemed an Internet pharmacy if it maintains an Internet web site for the following purposes only:
   (i) To post mere advertisements that do not attempt to facilitate, directly or through agreement with a third party, an actual transaction involving a prescription drug;
   (ii) To allow a patient to communicate a request for a refill of a legitimate prescription originally filled by the pharmacy that maintains the Internet web site;
   (iii) To allow a customer to research drug interactions and clinical pharmacology information; or
   (iv) To allow a patient to send an electronic mail message to a pharmacist licensed in North Carolina.

19) Limited Service Pharmacy Permit. A pharmacy permit issued by the Board to an applicant who wishes to render in an institutional setting pharmaceutical services not limited to scope and kind but to time and conditions under which such services are rendered.

20) Medication Therapy Management Services and Related Functions. Services and functions included in the practice of pharmacy as part of monitoring, recording and reporting drug therapy and device usage.

21) Medication Administration Record. A record of drugs administered to a patient.

22) Medication Order. An order for a prescription drug or other medication or a device for a patient from a person authorized by law to prescribe medications.

23) Mobility equipment. Devices that aid a person in self-movement, other than walking,
including manual or power wheelchairs and scooters.

(24) Oxygen and respiratory care equipment. Equipment or devices used to administer oxygen or other legend drugs, maintain viable airways or monitor cardio-respiratory conditions or events, including the following:
(a) compressed medical gases;
(b) oxygen concentrators;
(c) liquid oxygen;
(d) nebulizers;
(e) compressors;
(f) aerosol therapy devices;
(g) portable suction machines;
(h) nasal continuous positive airway pressure (CPAP) machines;
(i) Bi-phasic positive pressure devices (BiPAP);
(j) infant monitors, such as apnea monitors and cardio-respiratory monitors;
(k) positive and negative pressure mechanical ventilators; and
(l) pulse oximeters.

(25) Patient Medication Profile. A list of all prescribed medications for a patient.

(26) Pharmacist. Any person within the definition set forth in G.S. 90-85.3(p), including any druggist.

(27) Pharmacist-Manager. The person who accepts responsibility for the operation of a pharmacy in conformance with all statutes and rules pertinent to the practice of pharmacy and distribution of drugs by signing the permit application, its renewal or addenda thereto.

(28) Pharmacy. Any place within the definition set forth in G.S. 90-85.3(q), including any apothecary or drugstore.

(29) Pharmacy Intern. Any person who is registered with the Board under the internship program of the Board to acquire pharmacy experience or enrolled in approved academic internship programs. A pharmacy intern working under a pharmacist preceptor or supervising pharmacist may, while under supervision, perform all acts constituting the practice of pharmacy.

(30) Place of residence. Any place used as an individual's temporary or permanent home.

(31) President. The President of the Board.

(32) Rehabilitation environmental control equipment. Equipment or devices that permit a person with disabilities to control his or her immediate surroundings.

(33) Rehabilitation Services. Services and equipment required to maintain or improve functional status and general health as prescribed by the physician which are uniquely specified for each individual's lifestyle. The people involved in this process include the patient, caregiver, physician, therapist, rehabilitation equipment supplier and others who impact on the individual's life style and endeavors.

(34) Signature. A written or electronic signature or computerized identification code.

(35) Two Years of College Work. Attendance at a college accredited by an accrediting agency recognized by the United States Department of Education for two academic years of not fewer than eight and one-half months each and the completion of work for credit leading to a baccalaureate degree or its equivalent and that would permit the student to advance to the next class.

(36) Undergraduate Professional Degree in Pharmacy. A B.S. or Pharm. D. degree.

(37) Vice-President. The Vice-President of the Board.

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

21 NCAC 46 .1411 RESPONSIBILITIES OF THE PHARMACIST-MANAGER

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

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

(1) the development of policies and procedures for the compounding, admixture, labeling, and dispensing of parenteral medications in the health care facility, including relevant education and training of all pharmacy and nursing personnel involved in the preparation of parenteral medications;

(2) the establishment of specifications or use of compendia specifications for procurement of all pharmaceuticals, including drugs, chemicals, and biologicals used in direct patient care, subject to approval of the appropriate committee of the health care facility;
(3) participation in development and maintenance of a drug formulary when required by the health care facility;

(4) participation in those aspects of pharmaceutical care that affect drug distribution and control;

(5) preparing, packaging, compounding and labeling all drugs;

(6) assuring that drugs are dispensed only by a pharmacist or other persons allowed by law to dispense and that supportive pharmacy personnel are directed and supervised in compliance with all applicable laws and regulations;

(7) the development and implementation of policies and procedures to ensure that discontinued drugs; outdated drugs; drugs recalled; containers with worn, illegible, or missing labels; or products that are otherwise unusable are returned to the pharmacy for disposition in compliance with all applicable laws and regulations;

(8) maintaining records and reports required by law to ensure patient health, safety and welfare;

(9) developing and implementing policies and procedures that effectively address the safeguarding and handling of all drugs and devices, as defined in G.S. 90-85.3(e), throughout the health care facility, or other locations where legend drug products are transferred, including medications that originate from a source outside the facility. When discrepancies in controlled substance counts are identified:

(A) they shall be reviewed, and a report of this action, including steps taken to prevent recurrence, where possible, shall be provided to the pharmacist-manager within 24 hours of occurrence. This report shall be maintained by the pharmacist-manager; and

(B) they shall be reported to the Board and the Drug Enforcement Administration in compliance with all applicable laws and regulations;

(10) developing and implementing policies and procedures to ensure that auxiliary medication inventories are inspected in accordance with the pharmacy's policies;

(11) all drugs and devices dispensed by the pharmacy as defined in G.S. 90-85.3(e) that are ordered for and used within the health care facility; and

(12) maintaining policies and procedures regarding drug samples and patient's personal medications.

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

21 NCAC 46.1413 ABSENCE OF PHARMACIST

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

(1) a contractual arrangement with another health care facility, pharmacy, or pharmacist; or

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

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

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

(d) Only drugs in unit-of-use packaging shall be removed from the auxiliary medication inventory or from the pharmacy; they shall be used for administration to a specific patient only, in
amounts sufficient to meet the needs for immediate therapeutic requirements. Controlled substances may be stocked and removed from auxiliary medication inventories; controlled substances may not be removed from the pharmacy in the absence of a pharmacist. Drugs shall be pre-labeled by the pharmacist with drug name, strength, lot number and expiration date. A copy of written orders for new medications shall be provided to the pharmacy.

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

21 NCAC 46 .1414 DRUG DISTRIBUTION AND CONTROL
(a) MEDICATION ORDERS.
(1) Pharmacists shall dispense medications from a health care facility pharmacy only upon receipt of a medication order. A mechanism shall be in place to verify the authenticity of the medication order. Oral orders shall be recorded immediately and signed within the time frame established by regulatory agencies and health care facility policies and procedures.
(2) All medication orders shall be received and reviewed by a pharmacist and shall contain the:
(A) patient's name, location and other identifying information such as history or medical records number;
(B) medication name, strength, dosage form, route of and directions for administration. In the absence of a facility policy on interpretation of routes of administration, the route of administration must be specified;
(C) discernible quantity to be dispensed. Medical orders issued from a health care facility shall, in the absence of a different indicated quantity or facility policy, be deemed to authorize dispensing of a 30-day supply;
(D) date the order was written; and
(E) prescriber's signature as set out in Subparagraph (a)(1) of this Rule (may include electronic signature or verification).
(3) The health care facility pharmacy and the pharmacist-manager shall ensure that medication orders for patients requiring continuous drug therapy are entered into a patient medication profile, either manual or automated. The medication profile shall contain the:
(A) patient's name, location, and clinical data required for safe dispensing and administration of medication orders, such as age, height, weight, sex, and allergies;
(B) medication name, strength, dosage form, route of, and directions for administration;
(C) medication start date;
(D) medication discontinuance date; and
(E) identification of pharmacist responsible for or verifying technician entry of the medication order.
(4) Abbreviations used in medication orders shall be agreed to, jointly adopted, and published by the medical, nursing, pharmacy, and medical records staff of the health care facility.
(5) A method to protect the health care facility patients from indefinite, open-ended medication orders must be provided. The prescriber shall be notified that the order shall be stopped before such action takes place by one or more of the following:
(A) the routine monitoring of patient's drug therapy by a pharmacist;
(B) a health care facility-approved, drug class-specific, automatic stop order policy covering those drug orders not specifying a number of doses or duration of therapy; or
(C) a health care facility-approved automatic cancellation of all medication orders after a predetermined time interval unless rewritten by the prescriber.
(6) Health care facilities that credential practitioners for prescribing privileges within the facility shall provide the health care facility pharmacy with credentialing information annually or immediately upon discharge or when privileges are suspended or terminated.
(b) DISPENSING. In health care facilities with 24 hour pharmacy services, all dispensing shall be done by a pharmacist. In health care facilities without 24 hour pharmacy services, Rules .1413 and .1417 of this Section apply in the absence of a pharmacist.
(c) LABELING.
(1) The health care facility pharmacy and the pharmacist dispensing the drug shall ensure that all drugs dispensed from within a health care facility pharmacy are labeled and identified up to the point of administration;
(2) When a drug is added to a parenteral admixture, it shall be labeled with a distinctive supplementary label indicating the name and amount of the drug added, expiration date, and expiration time, if applicable. For admixtures prepared outside the health care facility pharmacy, the pharmacist-manager shall
d) AUXILIARY MEDICATION INVENTORIES.

(1) The pharmacist-manager of the health care facility pharmacy shall, in consultation with medical staff, develop a list of drugs and devices that may be stocked in auxiliary medication inventories (which may include patient care unit medication inventories, ancillary drug cabinet inventories, and emergency kits) located at the health care facility. This list shall include those drugs and devices that may be required to meet the immediate therapeutic needs of patients, but that are not reasonably available from the health care facility pharmacy in sufficient time to prevent prolonged discomfort or risk of harm to the health care facility's patients.

(2) The pharmacist-manager of the health care facility pharmacy shall develop, implement, and monitor compliance with policies and procedures that ensure auxiliary medication inventories are accessed only in compliance with all applicable laws and regulations and only by licensed health-care professionals or those authorized by North Carolina law to administer medications. If an auxiliary medication inventory is accessed in an unauthorized manner, the health care facility personnel who become aware of the access shall notify the health care facility pharmacy's pharmacist-manager.

(3) An auxiliary medication inventory shall contain drugs and devices only in amounts sufficient to meet immediate therapeutic needs of patients.

(4) Drugs and devices contained in an auxiliary medication inventory shall be labeled with the name, strength, lot number, manufacturer, and expiration date. A listing of the drugs and devices contained within an auxiliary medication inventory, including the name, strength, and quantity of each, shall be attached.

(5) When an auxiliary medication inventory is accessed, the health care facility personnel who become aware of the access shall provide a copy of both the record of withdrawal and patient medication order to the health care facility pharmacy's pharmacist-manager. The record of withdrawal shall contain:

(A) the date of the removal;
(B) the name, strength, dosage form, and quantity of drug or device removed;
(C) the name of the patient for whom the drug or device was ordered; and
(D) the name or other identification of the authorized person who removed the drug or device.

(6) The health care facility's pharmacist-manager shall ensure that auxiliary medication inventories are reviewed on a schedule set by the health care facility pharmacy's policies to ensure the purity, potency, and integrity of drugs and devices contained within.

(7) An auxiliary medication inventory containing controlled substances must comply with 10A NCAC 26E.0408.

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

(1) The pharmacist-manager shall, in addition to the requirements for preserving prescription orders as set forth in G.S. 90-85.26, develop a system of daily accountability for medication compounding and dispensing that permits the identification of the responsible pharmacists and pharmacy technicians. Readily retrievable records of accountability shall be maintained for at least 30 days. This system shall identify all personnel who perform these activities and the pharmacist responsible for:

(A) interpretation and appropriateness of new medication orders;
(B) profile entry of new medication orders;
(C) dispensing of new medication orders including stat doses;
(D) daily cart fills;
(E) intravenous admixtures;
(F) compounded medications; and
(G) assessing the quality of pharmacy procedures for preparation and release of drugs and devices for replenishment of auxiliary medication inventories and automated dispensing devices in locations outside the pharmacy.

(2) Upon notification of medication errors resulting from the administration of an incorrect medication or dose, the pharmacist-manager shall document the medication error. Documentation shall include chronological information and include documentation on health care facility forms. These documents shall be archived in a readily retrievable manner, open for inspection, for a period of three years.

(3) Upon notification of information that reasonably suggests that there is a probability a prescription drug or device dispensed from a location holding a permit has caused or contributed to the death of a patient (see 21 NCAC 46 .2502(k)), the pharmacist-manager shall retain all documents, labels, vial,
supplies, substances, and internal investigative reports relating to the event. All such items shall be maintained by the health care facility, accessible to the pharmacist-manager, and open to the Board of Pharmacy.

(4) The pharmacist-manager shall maintain records of ordering, receiving, dispensing, or transfer of controlled substances. These records shall include the following:
   (A) Invoices or other documents verifying the ordering and receipt of controlled substances;
   (B) Perpetual inventories of controlled substances transferred to auxiliary medication inventories and automated dispensing devices. These inventories shall record the transfer date; the location transferred to; the identity of the drug; the strength, dosage form, and quantity transferred; and the transferring pharmacist's name;
   (C) Records of disposition of a controlled substance prepared for a patient but not used, including documentation of the details of the destruction or other disposition and identification of the individuals involved in that destruction or other disposition;
   (D) A record of controlled substances dispensed directly to the patient to include the patient's name; date dispensed; dispensing pharmacist's name; name, strength, dosage form, and quantity of the drug dispensed. The records shall also document drugs returned and credited; and
   (E) A perpetual inventory on all controlled substances awaiting destruction or return to a vendor.

(5) Automated systems may be used to collect and store information required by Subparagraph (j)(4) of this Rule provided such system allows for the immediate retrieval of original medication order information and dispensing history consistent with criteria cited in 21 CFR .1306.

(6) With the exception of Subparagraph (j)(1) of this Rule, all records required by this Section shall be maintained for a period of three years. Such records shall be archived in a uniform manner, retrievable to the pharmacy within 48 hours, and open for review, copying, or seizure by a member or designated employee of the Board.

History Note: Authority G.S. 90-85.6; 90-85.21; 90-85.32; 90-85.33; 90-85.34; Eff. May 1, 1997; Amended Eff. March 1, 2013; February 1, 2005; April 1, 2003; April 1, 1999; August 1, 1998.

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

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

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

   (1) Drugs shall be dispensed only to a registered patient of the emergency department;
   (2) The pharmacist-manager shall develop and supervise a system of control and accountability of all drugs administered in, or dispensed from the emergency department;
   (3) The pharmacist-manager, in conjunction with the committee responsible for policy in the emergency department, shall develop an emergency department formulary which may be dispensed from the emergency department for patients receiving care in that department. This formulary shall consist of drugs of the nature and type to meet the immediate needs of emergency department patients, and quantities in each container shall be limited to not more than a 24 hour supply or the smallest commercially-available quantity;
   (4) Drugs shall be prepackaged in safety closure containers and shall be pre-labeled by the pharmacist to comply with Rule .1414(d)(4) of this Section. Prior to dispensing, the following information shall be placed on the label:
      (A) the name, address, and telephone number of the health care facility pharmacy;
      (B) the dispensing date;
      (C) the full name of patient;
      (D) the generic or trade name, or in the absence of a brand name, the established name of the product dispensed;
      (E) directions for use to the patient;
      (F) the name of physician prescribing and dispensing the product; and
      (G) required precautionary or further accessory cautionary information as may be desirable for proper use and safety to the patient;
   (5) A perpetual record of dispensing of all drugs, including drug samples and starter packages, shall be maintained as part of the pharmacy's records for three years. The pharmacist-manager or designee shall verify the accuracy
under which health care facility pharmacies that are not open 24
hours a day, seven days a week, may contract for the provision of remote medication order processing services when no pharmacist is present.

(b) Definitions of terms in this Rule:

(1) "Remote medication order processing services" consists of the following:
   (A) receiving, interpreting, or clarifying medication orders;
   (B) entering data and transferring medication order information;
   (C) performing drug regimen review;
   (D) interpreting clinical data;
   (E) performing therapeutic interventions; and
   (F) providing drug information concerning medication orders or drugs.

(2) "Remote medication order processing pharmacy" is a pharmacy permitted by the Board that provides remote medication order processing services.

(3) "Remote site" is a site located within the United States that is electronically linked to a health care facility licensed by the State of North Carolina for the purpose of providing remote medication order processing services.

(c) Outsourcing. A health care facility pharmacy may outsource medication order processing services to a remote medication order processing pharmacy provided the pharmacies have the same owner or the pharmacy has entered into a written contract or agreement with a remote medication order processing pharmacy that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws and regulations. The pharmacy providing the remote processing of medication orders must notify the Board of Pharmacy prior to providing such services.

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

(e) Access. The pharmacies must share common electronic files or have technology to allow secure access to the pharmacy's information system and to provide the remote pharmacy with access to the information necessary or required to process a medication order.

(2) Pharmacists employed by or otherwise acting as an agent for a remote medication order processing pharmacy may provide those services from a remote site. Both the pharmacist providing those services from a remote site and the remote medication order processing pharmacy on whose behalf the pharmacist is providing such services are responsible for compliance with all statutes, rules, policies, and procedures governing the provision of remote medication order processing services.

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

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

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

(i) Policy and Procedure Manual. All remote medication order processing pharmacies shall maintain a policy and procedure manual. Each remote medication order processing pharmacy, remote site, and health care facility pharmacy shall maintain...
those portions of the policy and procedure manual that relate to that pharmacy's or site's operations. The manual shall:

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

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

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

21 NCAC 46 .1814 AUTOMATED DISPENSING OR DRUG SUPPLY DEVICES

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

(1) only authorized personnel, as indicated by written policies and procedures, may obtain access to the drug inventories;
(2) a system of accountability exists for all drugs contained therein and the purity, potency, and integrity of the drugs is preserved;
(3) requirements for controlled substances security are met; and
(4) prior to the drug being released for access by the nurse, the pharmacist enters the medication order into a computerized pharmacy profile that is interfaced to the automated dispensing unit, so that drug allergy screening, therapeutic duplication, and appropriate dose verification is done prior to the drug being administered.

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

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

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

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

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

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

21 NCAC 46 .2302 RECORDS OF DISPENSING

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

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

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

History Note: Authority G.S. 90-85.6(a); 90-85.26; 90-85.30; 90-85.35; 90-106(h); Eff. December 31, 1985; Amended Eff. March 1, 2013; May 1, 1989.
21 NCAC 46 .2303 RECORDS OF PRESCRIPTION FILLING AND REFILLING

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

History Note: Authority G.S. 90-85.6(a); 90-85.26; 90-85.32;
Eff. December 31, 1985;
Amended Eff. March 1, 2013; May 1, 1989.

21 NCAC 46 .2304 AUTOMATED DATA PROCESSING SYSTEMS

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

(1) The system has the capability of producing sight-readable documents of all original and refilled prescription information. The term “sight-readable” means that a regulatory agent is able to examine the record and read the information. In administrative proceedings before the Board, records must be provided in a readable paper printout form.

(2) Information includes the prescription requirements and records of dispensing as indicated in Rules .2301 and .2302 of this Section.

(3) The individual pharmacist responsible for completeness and accuracy of the entries to the system provides documentation of the fact that prescription information entered into the computer is correct.

(4) Documentation in Item (3) of this Rule is provided in the pharmacy within 72 hours of date of dispensing.

(5) An auxiliary recordkeeping system is established for the documentation of refills if the automated data processing system is inoperative for any reason. When the automated data processing system is restored to operation, the information regarding prescriptions filled, refilled or transferred during the inoperative period shall be entered into the automated data processing system within the time equal to the number of inoperative days times three; for example, if the system were inoperative for five days then all interim data shall be entered within 15 days of the last inoperative day. However, nothing in this Item precludes the pharmacist from using professional judgment for the benefit of a patient’s health and safety. The auxiliary record keeping system shall be backed up at least weekly.

(6) The pharmacy makes arrangements with the supplier of data processing services or materials to assure that the pharmacy continues to have adequate and complete prescription and dispensing records if the relationship with the supplier is terminated for any reason. A pharmacy shall assure continuity in the maintenance of records.

(7) A current version of drug interactions software is used and policies and procedures are established to address overriding the software’s alerts of any drug interactions.

History Note: Authority G.S. 90-85.6(a); 90-85.26; 90-85.32; 90-107;
Eff. December 31, 1985;
Amended Eff. March 1, 2013; April 1, 1999; May 1, 1989.

21 NCAC 46 .2508 ELECTRONIC RECORDS

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

(1) is capable of printing the documentation so that the pharmacist-manager can provide it to the Board within 48 hours of a request;

(2) contains security features to prevent unauthorized access to the records; and

(3) contains daily back-up functionality to protect against record loss.

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

21 NCAC 46 .2807 ANTI-NEOPLASTIC AGENTS

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

(1) All anti-neoplastic drugs shall be compounded in a vertical flow, Class II, biological safety cabinet, or similar preparation area. There must be adherence to the pharmacy's hood-cleaning procedures before preparing in the hood a product not classified as an anti-neoplastic agent.

(2) Protective apparel shall be worn by personnel compounding anti-neoplastic drugs.

(3) Safety and containment techniques appropriate for compounding anti-neoplastic drugs shall be used in conjunction with the aseptic techniques required for preparing sterile parenteral products.
Disposal of anti-neoplastic waste shall comply with all applicable local, state, and federal requirements.

Written procedures for handling spills of anti-neoplastic agents must be developed and must be included in the policy and procedural manual for the permit-holder.

Prepared doses of anti-neoplastic drugs must be dispensed, labeled with precautions inside and outside, and shipped in a manner to minimize the risk of accidental rupture of the primary container.

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

1878

21 NCAC 64.0903 SUBPOENAS
(a) Subpoenas requiring the attendance of witnesses, or those to produce documents, evidence, or records shall be issued by the Board or the presiding officer within four business days of the receipt of a request from a party to the case for such subpoenas unless there is a motion to quash.

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

(c) Subpoenas shall contain:

1. the caption of the case;
2. the name and address of the individual or agency subpoenaed;
3. the date, hour and location of the hearing in which the witness is commanded to appear;
4. a particularized description of the books, papers, records or other objects the witness is directed to bring with him to the hearing, if any;
5. the identity of the party on whose application the subpoena issued;
6. the date of issue;
7. the manuscript signature of the Board or other issuing officer;
8. a return of service.

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

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

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

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

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

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

History Note: Authority G.S. 90-304(a)(3); 150B-38; 150B-39; 150B-40; Eff. February 15, 1977; Amended Eff. March 1, 2013; May 1, 1989.
This Section contains information for the meeting of the Rules Review Commission on April 18, 2013 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate
Addison Bell
Margaret Currin
Pete Osborne
Bob Rippy
Faylene Whitaker

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

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

RULES REVIEW COMMISSION MEETING DATES
April 18, 2013 May 16, 2013
June 20, 2013 July 18, 2013

AGENDA
RULES REVIEW COMMISSION
Thursday, April 18, 2013 10:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609

I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
II. Approval of the minutes from the last meeting
III. Follow-Up Matters:
   A. Child Care Commission – 10A NCAC 09 .3004 (DeLuca)
   B. Home Inspector Licensure Board – 11 NCAC 08 .1116 (Reeder)
   C. Hearing Aid Dealers and Fitters Board – 21 NCAC 22F .0120 (Reeder)
   D. Real Estate Commission – 21 NCAC 58A .0110, .1402 (DeLuca)
   E. Board of Recreational Therapy Licensure – 21 NCAC 65 .0601, .0602, .0901 (DeLuca)
IV. Review of Log of Filings (Permanent Rules) for rules filed between February 21, 2013 and March 20, 2013
V. Commission Business
   • Next meeting: May 16, 2013

Commission Review
Log of Permanent Rule Filings
February 21, 2013 through March 20, 2013

AGRICULTURE, BOARD OF
The rules in Chapter 9 are from the Food and Drug Protection Division.
The rules in Subchapter 9B are the rules and standards incorporated by reference.
Adoptions by Reference
Amend/*

The rules in Subchapter 9F concern internal combustion engine antifreezes including specification for ethylene glycol base engine coolants (.0100); specification for alcohol base engine coolants (.0200); and specification for methoxy propanol base engine coolants (.0300).

General
Amend/*
Physical and Chemical Requirements
Amend/*
Performance Requirements
Amend/*

02 NCAC 09F .0101
02 NCAC 09F .0102
02 NCAC 09F .0103
02 NCAC 09F .0201
02 NCAC 09F .0202
02 NCAC 09F .0203
02 NCAC 09F .0204
02 NCAC 09F .0305
02 NCAC 09F .0306

COMMERCE - EMPLOYMENT SECURITY, DIVISION OF

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

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

Confidentiality of Unemployment Insurance Information
Adopt/*
Request for Documents and Records
Adopt/*
Fees for Copies and Services
Adopt/*
Payment of Fees
Adopt/*

04 NCAC 24E .0101
04 NCAC 24E .0102
04 NCAC 24E .0103
04 NCAC 24E .0104

INFORMATION TECHNOLOGY SERVICES, OFFICE OF

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

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

Forms, Terms and Conditions
Amend/*
Definitions
Amend/*
Benchmark and the Board of Awards
Amend/*

09 NCAC 06A .0101
09 NCAC 06A .0102
09 NCAC 06A .0103
The rules in Subchapter 6B concern procurement requests including requisitioning (.0100); specifications (.0200); procurement authorization and procedures (.0300); rejection of offers (.0400); inspection and testing (.0500); guarantees and warranties (.0600); contracts (.0700); partial and multiple awards (.0800); waiver of competition (.0900); miscellaneous provisions (.1000); bid protest, contested case procedures (.1100); declaratory rulings, default proceedings, disqualifications and debarment (.1200); exemptions, emergencies, and special delegations (.1300); and records (.1400).

Procedure
Amend/*
Verbal Requests
Amend/*
Confidentiality of Solicitation Documents
Amend/*
Development of IT Solicitation Documents and Specifications
Amend/*
Need
Amend/*
Development of Specifications
Repeal/*
Articles for Special Purposes
Amend/*
Submission for Adoption
Repeal/*
Copies of Specifications
Repeal/*
Confidentiality
Repeal/*
Procurement Procedures
Amend/*
Methods of Source Selection
Amend/*
Electronic Offers
Amend/*
Recall of Offers
Amend/*
Public Opening
Amend/*
Late Offers
Amend/*
Clerical Errors and Clarifications
Amend/*
Extension of Offer Validity
Amend/*
Evaluation
Amend/*
Notification of Award
Repeal/*
Lack of Competition
Repeal/*
Solicitation Documents
Repeal/*
Division of Commodities and Service Needs
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<td>09</td>
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<td>NCAC</td>
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<td>09 NCAC 06B .1102</td>
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<td></td>
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</tr>
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<td>09 NCAC 06B .1105</td>
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<td>09 NCAC 06B .1106</td>
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<tr>
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<td>09 NCAC 06B .1107</td>
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<tr>
<td>Consent Order, Settlement, Stipulation</td>
<td>09 NCAC 06B .1108</td>
<td></td>
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<tr>
<td>Settlement Conference</td>
<td>09 NCAC 06B .1109</td>
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<td></td>
<td></td>
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<tr>
<td>Requests for Declaratory Rulings</td>
<td>09 NCAC 06B .1202</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Response to a Request for a Declaratory Ruling</td>
<td>09 NCAC 06B .1203</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Effect of a Declaratory Ruling</td>
<td>09 NCAC 06B .1204</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Record of Ruling</td>
<td>09 NCAC 06B .1205</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adopt/*</td>
<td>Default Proceedings; Disqualification; and Debarment</td>
<td>09 NCAC 06B .1206</td>
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<tr>
<td>Amend/*</td>
<td>Faithful Performance</td>
<td>09 NCAC 06B .1207</td>
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<td></td>
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<td>Exemptions</td>
<td>09 NCAC 06B .1301</td>
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<td>Emergency Situations or Pressing Need</td>
<td>09 NCAC 06B .1302</td>
<td></td>
<td></td>
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<tr>
<td>Amend/*</td>
<td>Special Delegations</td>
<td>09 NCAC 06B .1303</td>
<td></td>
<td></td>
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<td>General Delegations</td>
<td>09 NCAC 06B .1304</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amend/*</td>
<td>Compliance Reviews</td>
<td>09 NCAC 06B .1305</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amend/*</td>
<td>Procurement File Records</td>
<td>09 NCAC 06B .1402</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**CHILD CARE COMMISSION**

The rules in Chapter 9 are child care rules and include definitions (.0100); general provisions related to licensing (.0200); procedures for obtaining a license (.0300); issuance of provisional and temporary licenses (.0400); age and developmentally appropriate environments for centers (.0500); safety requirements for child care centers (.0600); health and other standards for center staff (.0700); health standards for children (.0800); nutrition standards (.0900); transportation standards (.1000); building code requirements for child care centers (.1300); space requirements (.1400); temporary care requirements (.1500); family child care home requirements (.1700); discipline (.1800); special procedures concerning abuse/neglect in child care (.1900); rulemaking and contested case procedures (.2000); religious-sponsored child care center requirements (.2100); administrative actions and civil penalties (.2200); forms (.2300); child care for mildly ill children (.2400); care for school-age children (.2500); child care for children who are medically fragile (.2600); criminal records checks (.2700); voluntary rated licenses (.2800); developmental day services (.2900); and NC pre-kindergarten services (.3000).

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

**ENVIRONMENTAL MANAGEMENT COMMISSION**

The rules in Subchapter 2D are air pollution control requirements including definitions and references (.0100); air pollution sources (.0200); air pollution emergencies (.0300); ambient air quality standards (.0400); emission control standards (.0500); air pollutants monitoring and reporting (.0600); complex sources (.0800); volatile organic compounds (.0900); motor vehicle emission control standards (.1000); control of toxic air pollutants (.1100); control of emissions from incinerators (.1200); oxygenated gasoline standards (.1300); nitrogen oxides 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).

| Amend/* | Applicability | 15A NCAC 02D .0902 |
| Amend/* | Recordkeeping; Reporting; Monitoring | 15A NCAC 02D .0903 |
Compliance Schedules for Sources In Ozone Nonattainment areas

RACT for Sources of Volatile Organic Compounds

Offset Lithographic Printing and Letterpress Printing

Industrial Cleaning Solvents

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

Activities Exempted from Permit Requirements

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

Recordkeeping Requirements

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

Albemarle Sound/Chowan River Herring Management Areas

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

Recreational Shrimp Limits

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

General

Season, Size and Harvest Limit: Internal Coastal Waters

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

Descriptive Boundaries for Coastal-Joint-Inland Waters

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

Attended Gill Net Areas

Stripped Bass Management Areas
COASTAL RESOURCES COMMISSION

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

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

WILDLIFE RESOURCES COMMISSION

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

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

PHYSICAL THERAPY EXAMINERS, BOARD OF

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

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

Executive Director
Repeal/* 21 NCAC 48A .0104
Definitions
Amend/* 21 NCAC 48A .0105
Suspension of Authority to Expend Funds
Adopt/*
Identification Requirements
Adopt/*

The rules in Subchapter 48B concern types of licenses.

Licenses by Examination
Amend/*

The rules in Subchapter 48C concern the scope of physical therapy practice and include physical therapists (.0100); physical therapists assistants (.0200); recent graduates (.0300); physical therapy aides (.0400); physical therapy students (.0500); and other assistive personnel (.0600).

Responsibilities
Amend/*

The rules in Subchapter 48D concern examinations.

Computer Examination
Amend/*

The rules in Subchapter 48E deal with the requirements for application for licensure (.0100).

Filing Application
Amend/*

Examination Scores
Amend/*

Verification of Licensure
Amend/*

The rules in Subchapter 48F concern certificates, fees, investigation, and record of licensees.

Fees
Amend/*

The rules in Subchapter 48G concern retention of license including licensure renewal (.0100); lapsed licenses (.0200); refusal to renew or grant license suspension or revocation (.0300); probation or warning (.0400); contested case hearings (.0500); and disciplinary action (.0600).

Renewal
Amend/*
Definitions
Amend/*
Continuing Competence
Amend/*
Approval of Providers and Activities
Amend/*
Continuing Competence Activities
Amend/*
Evidence of Compliance
Amend/*
Exemptions
Amend/*
Costs
Amend/*
<table>
<thead>
<tr>
<th>Notification and Hearing</th>
<th>21 NCAC 48G .0404</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amend/*</td>
<td></td>
</tr>
<tr>
<td>Grounds for Reprimand</td>
<td>21 NCAC 48G .0405</td>
</tr>
<tr>
<td>Repeal/*</td>
<td></td>
</tr>
<tr>
<td>Complaints and Reprimand</td>
<td>21 NCAC 48G .0504</td>
</tr>
<tr>
<td>Amend/*</td>
<td></td>
</tr>
<tr>
<td>Prohibited Actions</td>
<td>21 NCAC 48G .0601</td>
</tr>
<tr>
<td>Amend/*</td>
<td></td>
</tr>
<tr>
<td>Sanctions; Reapplication</td>
<td>21 NCAC 48G .0602</td>
</tr>
<tr>
<td>Amend/*</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Inspection of Rules</th>
<th>21 NCAC 48H .0102</th>
</tr>
</thead>
</table>
This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 431-3000. Also, the Contested Case Decisions are available on the Internet at http://www.ncoah.com/hearings.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray
Selina Brooks
Melissa Owens Lassiter
Don Overby

Randall May
A. B. Elkins II
Joe Webster

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>CASE NUMBER</th>
<th>DATE</th>
<th>PUBLISHED DECISION REGISTER CITATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALCOHOLIC BEVERAGE CONTROL COMMISSION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>James Ivery Smith, Ivy Lee Armstrong v. ABC Commission</td>
<td>11 ABC 08266</td>
<td>04/12/12</td>
<td>27:01 NCR 39</td>
</tr>
<tr>
<td>Trawick Enterprises LLC v. ABC Commission</td>
<td>11 ABC 08901</td>
<td>05/11/12</td>
<td></td>
</tr>
<tr>
<td>Dawson Street Mini Mart Lovell Glover v. ABC Commission</td>
<td>11 ABC 12597</td>
<td>05/23/12</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Christian Broome Hunt T/A Ricky's Sports Bar and Grill</td>
<td>11 ABC 13161</td>
<td>05/03/12</td>
<td></td>
</tr>
<tr>
<td>Alabaratii Brothers, LLC T/A Day N Nite Food Mart, v. ABC Commission</td>
<td>11 ABC 13545</td>
<td>05/01/12</td>
<td></td>
</tr>
<tr>
<td>Playground LLC, T/A Playground v. ABC Commission</td>
<td>11 ABC 14031</td>
<td>05/16/12</td>
<td>27:01 NCR 64</td>
</tr>
<tr>
<td>ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar</td>
<td>11 ABC 14036</td>
<td>07/05/12</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. D's Drive Thru Inc. T/A D's Drive Thru</td>
<td>12 ABC 00060</td>
<td>05/29/12</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Choudhary, LLC T/A Speedway</td>
<td>12 ABC 00721</td>
<td>05/01/12</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Dos Perros Restaurant LLC T/A Dos Perros Restaurant</td>
<td>12 ABC 05312</td>
<td>09/25/12</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Bobby Warren Joyner T/A Hillsdale Club</td>
<td>12 ABC 06153</td>
<td>11/06/12</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar</td>
<td>12 ABC 07260</td>
<td>12/11/12</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Fat Cats Grill and Oyster Bar Inc, T/A Fat Cats Grill and Oyster Bar</td>
<td>12 ABC 08988</td>
<td>12/19/12</td>
<td></td>
</tr>
<tr>
<td>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brian J. Johnson v. Department of Public Safety Victim Services</td>
<td>12 CPS 01664</td>
<td>12/21/12</td>
<td></td>
</tr>
<tr>
<td>George H. Jaggers, III v. Crime Victims Compensation Commission</td>
<td>12 CPS 01693</td>
<td>11/01/12</td>
<td></td>
</tr>
<tr>
<td>Teresa Herbin v. Department of Public Safety Victim Services</td>
<td>12 CPS 03680</td>
<td>08/10/12</td>
<td></td>
</tr>
<tr>
<td>Jacqueline M Davis victim-Antonio T Davis v. Dept. of Public Safety</td>
<td>12 CPS 05919</td>
<td>11/06/12</td>
<td></td>
</tr>
<tr>
<td>Demario J. Livingston v. Dept. of Public Safety Victim Services</td>
<td>12 CPS 06245</td>
<td>10/19/12</td>
<td></td>
</tr>
<tr>
<td>Shirley Ann Robinson v. N.C. Crime Victims Compensation Commission</td>
<td>12 CPS 07601</td>
<td>12/07/12</td>
<td></td>
</tr>
<tr>
<td>DEPARTMENT OF HEALTH AND HUMAN SERVICES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stonesthrow Group Home Medicaid Provider #6603018 Owned by Alberta Professional Services Inc v. DHHS, Division of Mental Health/Development Disabilities/ Substance Abuse, and DMA</td>
<td>09 DHR 05790</td>
<td>01/11/13</td>
<td></td>
</tr>
<tr>
<td>Bright Haven Residential and Community Care d/b/a New Directions Group Home v. Division of Medical Assistance, DHHS</td>
<td>10 DHR 00232</td>
<td>04/27/12</td>
<td></td>
</tr>
<tr>
<td>Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home, v. DHHS/Division of Health Service Regulation, Adult Care Licensure Section</td>
<td>10 DHR 01666</td>
<td>05/18/12</td>
<td></td>
</tr>
<tr>
<td>Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home v. DHHS, Division of Health Service Regulation, Adult Care Licensure and Certification Section</td>
<td>10 DHR 05801</td>
<td>05/18/12</td>
<td></td>
</tr>
<tr>
<td>Gold Care Inc. Licensee Hill Forest Rest Home Warren W. Gold v. DHHS, Adult Care</td>
<td>10 DHR 05861</td>
<td>05/18/12</td>
<td></td>
</tr>
<tr>
<td>Case Description</td>
<td>Docket Number</td>
<td>Date</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>---------------</td>
<td>------------</td>
<td></td>
</tr>
<tr>
<td>Robert T. Wilson v. DHHS, DHHS, Division of Health Service Regulation, Health Care Personnel Registry</td>
<td>10 DHR 07700</td>
<td>01/29/13</td>
<td></td>
</tr>
<tr>
<td>Mary Ann Barnes v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry</td>
<td>11 DHR 6488</td>
<td>07/16/12</td>
<td></td>
</tr>
<tr>
<td>Comprehensive PT Center v. DHHS, Division of Medical Assistance</td>
<td>11 DHR 9197</td>
<td>08/14/12</td>
<td></td>
</tr>
<tr>
<td>Cherry's Group Home, Alphonso Cherry v. DHSS, Michelle Elliot</td>
<td>11 DHR 09590</td>
<td>07/12/12</td>
<td></td>
</tr>
<tr>
<td>Leslie Taylor v. DHHS, Division of Health Regulation</td>
<td>11 DHR 10404</td>
<td>10/19/12</td>
<td></td>
</tr>
<tr>
<td>Powell's Medical Facility and Eddie N. Powell, M.D., v. DHHS, Division of Medical Assistance</td>
<td>11 DHR 01451</td>
<td>03/05/12</td>
<td></td>
</tr>
<tr>
<td>Julie Sadowski v. DHHS, Division of Health Service Regulation</td>
<td>11 DHR 01955</td>
<td>04/03/12</td>
<td></td>
</tr>
<tr>
<td>Carlos Kendrick Hamilton v. DHHS, Division of Social Services</td>
<td>11 DHR 11161</td>
<td>10/16/12</td>
<td></td>
</tr>
<tr>
<td>Teresa Diane Marsh v. DHHS, Division of Health Service Regulation</td>
<td>11 DHR 11456</td>
<td>04/27/12</td>
<td></td>
</tr>
<tr>
<td>Betty Parks v. Division of Child Development, DHHS</td>
<td>11 DHR 11738</td>
<td>06/20/12</td>
<td></td>
</tr>
<tr>
<td>Lorrie Ann Varner v. DHHS, Regulation Health Care Personnel Registry Section</td>
<td>11 DHR 11867</td>
<td>08/02/12</td>
<td></td>
</tr>
<tr>
<td>Brenda Brewer v. DHHS, Division of Child Development</td>
<td>11 DHR 12064</td>
<td>08/03/12</td>
<td></td>
</tr>
<tr>
<td>Timothy John Murray v. DHHS, Division of Health Service Regulation</td>
<td>11 DHR 12594</td>
<td>06/15/12</td>
<td></td>
</tr>
<tr>
<td>Holly Springs Hospital II, LLC v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Harnett Health System, Inc. and WakeMed</td>
<td>11 DHR 12727</td>
<td>04/12/12</td>
<td></td>
</tr>
<tr>
<td>Rex Hospital, Inc., v. DHHS, Division of Health Service Regulation, CON Section and WakeMed, Holly Springs Hospital II, LLC, and Harnett Health System, Inc.</td>
<td>11 DHR 12794</td>
<td>04/12/12</td>
<td></td>
</tr>
<tr>
<td>Harnett Health System, Inc., v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Holly Springs Hospital II, LLC, and WakeMed</td>
<td>11 DHR 12795</td>
<td>04/12/12</td>
<td></td>
</tr>
<tr>
<td>WakeMed v. DHHS, Division of Health Service Regulation, CON Section and Holly Springs Hospital II, LLC, Rex Hospital, Inc., and Harnett Health System, Inc</td>
<td>11 DHR 12796</td>
<td>04/12/12</td>
<td></td>
</tr>
<tr>
<td>Sandra Ellis v. DHHS</td>
<td>11 DHR 12959</td>
<td>07/11/12</td>
<td></td>
</tr>
<tr>
<td>Vendell Haughton v. DHHS, Division of Medical Assistance</td>
<td>11 DHR 13616</td>
<td>07/05/12</td>
<td></td>
</tr>
<tr>
<td>Tarsand Denise Morrison v. DHHS, Division of Health Service Regulation</td>
<td>11 DHR 13906</td>
<td>07/11/12</td>
<td></td>
</tr>
<tr>
<td>Care Well of Charlotte Inc., Joy Steele v. DHHS</td>
<td>11 DHR 13909</td>
<td>08/02/12</td>
<td></td>
</tr>
<tr>
<td>Carrie's Loving Hands Inc. #MHL #040-047 Felicia McGee v. DHHS, DHSR, Mental Health Licensure and Certification</td>
<td>11 DHR 14172</td>
<td>01/22/13</td>
<td></td>
</tr>
<tr>
<td>Carrie's Loving Hands Inc. #MHL #010-047 Felicia McGee v. DHHS, DHSR, Mental Health Licensure and Certification</td>
<td>11 DHR 14173</td>
<td>01/22/03</td>
<td></td>
</tr>
<tr>
<td>Michael Timothy Smith, Jr. v. DHHS, Division of Health Service Regulation</td>
<td>11 DHR 14184</td>
<td>08/01/12</td>
<td></td>
</tr>
<tr>
<td>John S. Won v. DHHS</td>
<td>11 DHR 14232</td>
<td>09/05/12</td>
<td></td>
</tr>
<tr>
<td>Cynthia Tuck Champion v. DHHS, Division of Health Service Regulation</td>
<td>11 DHR 14283</td>
<td>06/15/12</td>
<td></td>
</tr>
<tr>
<td>Leslie Taylor, and Octavia Carlton v. Mecklenburg County Department of Social Services Youth and Family Services Division</td>
<td>11 DHR 14335</td>
<td>10/12/12</td>
<td></td>
</tr>
<tr>
<td>Lauren Stewart v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry</td>
<td>11 DHR 14570</td>
<td>06/08/12</td>
<td></td>
</tr>
<tr>
<td>Alice M. Oakley v. Division of Child Development, DHHS</td>
<td>11 DHR 14571</td>
<td>05/15/12</td>
<td></td>
</tr>
<tr>
<td>McWilliams Center for Counseling Inc., v. DHHS, Division of Mental Health, Developmental Disabilities, Substance Abuse Services, and agency of the State of NC</td>
<td>11 DHR 15098</td>
<td>11/13/12</td>
<td></td>
</tr>
<tr>
<td>Althea L. Flythe v. Durham County Health Department</td>
<td>12 DHR 00242</td>
<td>05/17/12</td>
<td></td>
</tr>
<tr>
<td>Jerri Long v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry</td>
<td>12 DHR 00361</td>
<td>07/06/12</td>
<td></td>
</tr>
<tr>
<td>Renal Advantage, Inc., v. DHHS, Division of Health Service Regulation, CON Section and DVA Healthcare Renal Care, Inc</td>
<td>12 DHR 00518</td>
<td>08/28/12</td>
<td></td>
</tr>
<tr>
<td>Angela Moye v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry</td>
<td>12 DHR 00642</td>
<td>08/23/12</td>
<td></td>
</tr>
<tr>
<td>Jessica Lynn Ward v. DHHS</td>
<td>12 DHR 00643</td>
<td>05/17/12</td>
<td></td>
</tr>
<tr>
<td>Trinity Child Care II &amp; I v. DHHS, Division of Public Health, Child and Adult Care Food Program</td>
<td>12 DHR 00861</td>
<td>04/20/12</td>
<td></td>
</tr>
<tr>
<td>Dr. Karen J. Williams, LPC v. DHHS, Division of Medical Assistance</td>
<td>12 DHR 00926</td>
<td>09/18/12</td>
<td></td>
</tr>
<tr>
<td>Faith Home Care of NC, Bonita Wright v. DHHS, DMA</td>
<td>12 DHR 00928</td>
<td>07/25/12</td>
<td></td>
</tr>
<tr>
<td>Olar Underwood v. Division of Child Development and Early Education</td>
<td>12 DHR 00990</td>
<td>10/22/12</td>
<td></td>
</tr>
<tr>
<td>Angela C Jackson v. DHHS</td>
<td>12 DHR 01097</td>
<td>06/19/12</td>
<td></td>
</tr>
<tr>
<td>Paula N Umstead v. DHHS</td>
<td>12 DHR 01098</td>
<td>05/11/12</td>
<td></td>
</tr>
<tr>
<td>Daniel W. Harris, Jr., v. DHHS, Division of Health Service Regulation</td>
<td>12 DHR 01138</td>
<td>10/19/12</td>
<td></td>
</tr>
<tr>
<td>ACI Support Specialists Inc. Case #2009-4249 v. DHHS</td>
<td>12 DHR 01141</td>
<td>06/06/12</td>
<td></td>
</tr>
<tr>
<td>AriLand Healthcare Service, LLC, NCMHL #018-092, Shawn Kuhl Director of Operations v. DHHS, Emery E. Miliken, General Counsel</td>
<td>12 DHR 01165</td>
<td>05/25/12</td>
<td></td>
</tr>
<tr>
<td>Kenneth Holman v. DHHS</td>
<td>12 DHR 01244</td>
<td>06/05/12</td>
<td></td>
</tr>
<tr>
<td>Hillcrest Resthome Inc. ($2000 penalty) v. DHHS</td>
<td>12 DHR 01289</td>
<td>05/30/12</td>
<td></td>
</tr>
</tbody>
</table>
Hillcrest Resthome Inc. ($4000 penalty) v. DHHS 12 DHR 01290 05/30/12
Vivian Barrear v. DHHS, Division of Medical Assistance DHHS 12 DHR 01296 06/06/12
Patricia Satterwhite v. DHHS 12 DHR 01338 07/23/12
Timothy L Durham v. DHHS, Division of Health Services Regulation 12 DHR 01396 09/04/12
Clydette Dickens v. Nash Co DSS 12 DHR 01265 05/15/12
Robert Lee Raine v. DHHS 12 DHR 01736 05/30/12
Ms. Antoinette L. Williams v. DHHS 12 DHR 01739 06/15/12
Felicia McGee Owner of Carrie's Loving Hand Inc. and Caring Arms Inc v. DHHS, DHSR 12 DHR 01796 01/22/13
Mental Health Licensure Certification
Tricia Watkins v. DHHS, Division of Medical Assistance, Office of Medicaid TLW-Auditing Office 12 DHR 01807 06/01/12
First Path Home Care Services Gregory Locklear v. DHHS 12 DHR 01878 06/22/12
Patriotic Health Care Systems, LLC v. DHHS 12 DHR 02105 09/19/12
John and Christina Shipman v. DHHS 12 DHR 02107 07/24/12
Team Daniel, LLC v. DHHS, DMA 12 DHR 02162 09/11/13
Leslie Taylor, Octavia Carlton, Paula Carlton 12 DHR 02217 08/31/12
Madeline Brown v. DHHS, Division of Health Service Regulation 12 DHR 02257 07/02/12
Evelyn Evans v. DHHS, Division of Health Service Regulation 12 DHR 02258 07/02/12
Shannon Santimore v. DHHS, Division of Public Health, Epidemiology Section 12 DHR 02348 12/20/12
Precious Haven Inc. Melissa McAllister v. DHHS, Program Integrity 12 DHR 02430 05/18/12
Michael and Jamie Hart v. Davidson County, Department of Social Services 12 DHR 02542 07/03/12
Annamae R. Smith v. DHHS, Division of Medical Assistance 12 DHR 02657 11/05/12
Our Daily Living, Christopher OnWuka, Director v. DHHS 12 DHR 02777 10/17/12
Jessica L. Thomas v. Randolph County DSS 12 DHR 02955 07/24/12
Moses E Shoffner v. DHHS, Division of Child Development 12 DHR 03459 08/15/12
Marco Evans v. DHHS, Division of Health Service Regulation 12 DHR 04110 07/30/12
James C. Bartley v. DHHS, DMA 12 DHR 04116 07/25/12
Estate of Mary P Lipe Medicaid ID #901463645S Alvena C Heggins v. DHHS, DMS (DHHS Medicaid) 12 DHR 04260 01/16/13
LaBrenda Jane Elliot v. DHHS, Division of Medical Assistance 12 DHR 04993 09/24/12
James Johnson v. DHHS, Division of Health Service Regulation 12 DHR 05148 09/11/12
Cathy Crosland v. DHHS, Division of Health Service Regulation 12 DHR 05610 08/06/12
Southern Living Home Care Agency Inc., v. DHHS 12 DHR 05864 11/06/12
Beverly Coleman v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section 12 DHR 05961 09/05/12
Dwight William Osborne v. Glana M Surles, DHHS (Medicaid) 12 DHR 05963 09/14/12
Gregory Howard v. Health Care Personnel Registry 12 DHR 06157 09/07/12
Harrison E Shell Jr v. Wake County Human Services 12 DHR 06203 08/28/12
Valtina Bronson v. DHHS, Division of Health Service Regulation 12 DHR 06365 08/29/12
Danny Skipper AKA Danny Skipper v. DHHS, Division of Health Services Regulation 12 DHR 06403 10/22/12
Stalin Bailon v. Department of Social Services 12 DHR 06528 10/17/12
Tonya Diane Warfield v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section 12 DHR 06682 01/07/13
Our Daily Living, Christopher OnWuka, Director v. DHHS 12 DHR 06683 10/17/12
Darina Renee Ford v. DHHS 12 DHR 07166 11/19/12
Marquis Gerade Harrell v. DHHS, Health Care Personnel Registry, Leslie Chabet 12 DHR 07170 10/23/12
KMG Holdings Inc. – The Lighthouse II of Clayton MHL #051-138 v. DHHS, Division of Health Licensure and Certification 12 DHR 07292 11/08/12
Denise Marie Shear v. DHHS, Division of Health Service Regulation 12 DHR 07547 11/07/12
Terique Epps, Family Legacy Mental Health Services DBA Task Inc v. DHHS and PBH 12 DHR 07616 11/09/12
Angela Mackey v. DHHS, Division of Health Service Regulation 12 DHR 07619 10/05/12
Eloise Dowtin v. The Emmanuel Home IV v. Division of Health Service Regulation 12 DHR 07620 11/06/12
Orlando Stephen Murphy v. DHHS, DHSR, Health Care Personnel 12 DHR 07640 02/05/13
Yolanda McKinnon v. DHHS 12 DHR 07711 01/11/13
Kofi Paul Aboagye v. DHHS, Division of Health Service Regulation 12 DHR 07731 11/20/12
Mark Thomas v. DHHS, Division of Health Service Regulation 12 DHR 07853 01/04/13
Daniel Saft, A+ Residential Care (MHL #092-811) v. DHHS, DHSR, Mental Health Licensure and Certification 12 DHR 08197 01/16/13
Ronald Dixon v. Division of Child Development, DHHS 12 DHR 08446 11/14/12
Jah Mary Weese v. DHHS, Division of Health Service Regulation 12 DHR 08672 01/09/13
White Oak Homes II Inc., Lisa Atkinson v. DHHS, Mental Health Licensure and Certification Section, Division of Health Service 12 DHR 08994 02/08/13
Carolyn Ragin v. DHHS, Division of Health Services Regulation 12 DHR 09373 12/18/12
April Hood-Baker v. DHHS, DMA Glana M Surles 12 DHR 09489 01/15/13
Tyshon & Shannetta Barfield v. DHHS 12 DHR 09692 02/08/13
CONTESTED CASE DECISIONS

DEPARTMENT OF ADMINISTRATION
Meherrin Indian Tribe v. Commission of Indian Affairs 12 DOA 00986 01/18/13

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

DEPARTMENT OF JUSTICE
Tommy Keith Lymon v. Criminal Justice Education and Training Standards Commission 09 DOJ 03751 07/30/12 27:06 NCR 649
Greary Michael Chlebus v. Criminal Justice Education and Training Standards Commission 11 DOJ 4829 04/27/12
Dillan Nathanael Hymes v. Criminal Justice Education and Training Standards Commission 11 DOJ 10315 07/23/12 27:06 NCR 661
Barbara Renay Whaley v. Criminal Justice Education and Training Standards Commission 11 DOJ 10316 04/25/12
Robert Kendrick Mewborn v. Criminal Justice Education and Training Standards Commission 11 DOJ 10318 04/23/12
Athena Lynn Prevatte v. Sheriffs' Education and Training Standards Commission 11 DOJ 13148 05/25/12 27:04 NCR 529
Shatel Nate Coates v. Sheriffs' Education and Training Standards 11 DOJ 13151 07/05/12
James Lee Ray v. Sheriffs' Education Training Standards 11 DOJ 13152 08/27/12
Ko Yang v. Sheriffs' Education and Training Standards Commission 11 DOJ 13153 06/14/12
Dustin Edward Wright v. Sheriffs' Education and Training Standards Commission 11 DOJ 13154 08/08/12
Walter Scott Thomas v. Sheriffs' Education and Training Standards Commission 11 DOJ 13155 05/10/12
Darryl Howard v. Criminal Justice Education and Training Standards Commission 11 DOJ 13157 04/12/12
John Jay O'Neal v. Criminal Justice Education and Training Standards Commission 11 DOJ 13158 07/06/12 27:07 NCR 749
Charlesene Cotton v. Criminal Justice Education and Training Standards Commission 11 DOJ 13159 06/05/12 27:04 NCR 538
William James Becker v. Criminal Justice Education and Training Standards Commission 11 DOJ 13160 08/16/12
Steve Michael Galloway, Jr, Private Protective Services Board 11 DOJ 14434 04/23/12
Justin Thomas Medlin v. Alarm Systems Licensing Board 11 DOJ 14493 04/23/12
Argentina Rojas v. Department of Justice, Campus Police Officer Commission 12 DOJ 00394 11/02/12
Bruce Clyde Shoe v. Private Protective Services Board 12 DOJ 00556 09/26/12
Angela Louise Giles v. Private Protective Services Board 12 DOJ 00557 04/18/12
Marshall Todd Martin v. Sheriffs' Education 12 DOJ 00650 07/13/12
Frances Gentry Denton v. Sheriffs' Education and Training Standards Commission 12 DOJ 00651 08/30/12
James Philip Davenport v. Criminal Justice Education and Training Standards Commission 12 DOJ 00653 11/21/12
Alvin Louis Daniels v. Criminal Justice Education and Training Standards Commission 12 DOJ 00654 08/17/12
Michael Wayne McFalling v. Private Protective Services Board 12 DOJ 00814 05/21/12
Robert John Farmer v. Alarm Systems Licensing Board 12 DOJ 00887 05/04/12
Ricky Lee Ruhlman v. Private Protective Services Board 12 DOJ 01211 04/18/12
Leroy Wilson Jr., Private Protective Services Board 12 DOJ 01293 04/18/12
Clyde Eric Lovette v. Alarm Systems Licensing Board 12 DOJ 01498 05/02/12
Vincent Tyrion Griffin v. Alarm Systems Licensing Board 12 DOJ 01663 09/27/12
Andre Carl Banks Jr., v. Alarm Systems Licensing Board 12 DOJ 01695 06/22/12
Ryan Patrick Brooks v. Private Protective Services Board 12 DOJ 01696 06/05/12
Dustin Lee Chavis v. Private Protective Services Board 12 DOJ 01697 06/01/12
Jeffrey Adam Hopson v. Sheriffs' Education and Training Standards Commission 12 DOJ 01761 06/07/12
John Henry Caesar v. Sheriffs' Education and Training Standards Commission 12 DOJ 01762 06/18/12
Jerome Douglas Mayfield v. Private Protective Services Board 12 DOJ 02381 06/15/12
Elijah K. Vogel v. Private Protective Services Board 12 DOJ 02619 06/05/12
Timmy Dean Adams v. Department of Justice, Company Police Program 12 DOJ 02778 12/21/12
Carlito Soler v. Alarm Systems Licensing Board 12 DOJ 03457 09/26/12
Rodney Lyndolph Bland v. Criminal Justice Education and Training Standards Commission 12 DOJ 03839 01/11/13
Sherman Montrell Devon McQueen v. Criminal Justice Education and Training and Standards Commission 12 DOJ 03842 12/21/12
Barry Louis Christopher, Jr v. Private Protective Services Board 12 DOJ 05041 08/27/12 27:15 NCR 1570
Raymond Louis Soulet v. Sheriffs' Education and Training Standards Commission 12 DOJ 05142 08/27/12
Dustin Wilson Grant v. Sheriffs' Education and Training Standards Commission 12 DOJ 05145 10/25/12
Glenn Alvin Brand v. Sheriffs' Education and Training Standards Commission 12 DOJ 05146 10/08/12
Lawrence W. Sitgraves v. Private Protective Services 12 DOJ 06059 09/13/12
Collin Michael Berry v. Private Protective Services Board 12 DOJ 06590 10/22/12
Tiffany Ann Misel v. Private Protective Services Board 12 DOJ 06817 10/17/12
John Machouis v. Alarm Systems Licensing Board 12 DOJ 07161 12/19/12
Christopher A. Field v. Private Protective Services Board 12 DOJ 07548 12/19/12
Porschea Renee Williams v. Private Protective Services Board 12 DOJ 07549 01/09/13
<table>
<thead>
<tr>
<th>Case Title</th>
<th>DOJ/OSP Case No.</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ralph R. Hines v. Criminal Justice Education and Training Standards</td>
<td>12 DOJ 07812</td>
<td>11/07/12</td>
</tr>
<tr>
<td>Elizabeth Crooks Goode v. Criminal Justice Education and Training Standards Commission</td>
<td>12 DOJ 08014</td>
<td>12/14/12</td>
</tr>
<tr>
<td>Sabrina Richelle Wright v. Sheriffs’ Education and Training Standards Commission</td>
<td>12 DOJ 08048</td>
<td>01/16/13</td>
</tr>
<tr>
<td>Phillip Eugene Dendy v. Sheriffs’ Education and Training Standards Commission</td>
<td>12 DOJ 08049</td>
<td>01/18/13</td>
</tr>
<tr>
<td>Reginald E. James v. Private Protective Services Board</td>
<td>12 DOJ 08195</td>
<td>12/20/12</td>
</tr>
<tr>
<td>Omega Young v. Private Protective Services Board</td>
<td>12 DOJ 08261</td>
<td>12/17/12</td>
</tr>
<tr>
<td>Joseph T. Ferrara v. Private Protective Services Board</td>
<td>12 DOJ 08309</td>
<td>01/11/13</td>
</tr>
<tr>
<td>Jovan Lamont Sears v. Private Protective Services Board</td>
<td>12 DOJ 08447</td>
<td>12/20/12</td>
</tr>
<tr>
<td><strong>DEPARTMENT OF STATE TREASURER</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ella Joyner v. Department of State Treasurer Retirement System Division</td>
<td>11 DST 02437</td>
<td>07/12/12</td>
</tr>
<tr>
<td>William R. Tate v. Department of Treasurer, Retirement System Division</td>
<td>11 DST 04675</td>
<td>09/07/12</td>
</tr>
<tr>
<td>Brenda C. Hemphill v. Department of Treasurer, Retirement System Division</td>
<td>11 DST 10252</td>
<td>09/26/12</td>
</tr>
<tr>
<td>Russell E. Greene v. Department of State Treasurer Retirement Systems Division</td>
<td>11 DST 10875</td>
<td>06/14/12</td>
</tr>
<tr>
<td>James A Layton v. Department of State Treasurer</td>
<td>11 DST 12958</td>
<td>11/30/12</td>
</tr>
<tr>
<td>Marsha W Lilly, Robert L Hinton v. Retirement System</td>
<td>12 DST 01108</td>
<td>05/22/12</td>
</tr>
<tr>
<td><strong>STATE BOARD OF EDUCATION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Louis A. Hrebar v. State Board of Education</td>
<td>11 EDC 01445</td>
<td>07/27/12</td>
</tr>
<tr>
<td>Delene Huggins v. Department of Public Instruction</td>
<td>11 EDC 08899</td>
<td>06/28/12</td>
</tr>
<tr>
<td>Myra F. Moore v. NC Board of Education</td>
<td>11 EDC 11927</td>
<td>05/01/12</td>
</tr>
<tr>
<td>Dwayne White v. Department of Public Instruction, NC State Board of Education</td>
<td>11 EDC 11864</td>
<td>07/18/12</td>
</tr>
<tr>
<td>Lia C Long v. DPI</td>
<td>12 EDC 00805</td>
<td>10/18/13</td>
</tr>
<tr>
<td>North Carolina Learns Inc. d/b/a North Carolina Virtual Academy</td>
<td>12 EDC 01801</td>
<td>05/18/12</td>
</tr>
<tr>
<td>Katherine Kvesell Harris v. Public Schools, Board of Education</td>
<td>12 EDC 06520</td>
<td>09/05/12</td>
</tr>
<tr>
<td><strong>DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pamlico-Tar River Foundation, NC Coastal Federation, Environmental Defense Fund, and Sierra Club v. DENR, Division of Water Quality and PCS Phosphate Company, Inc</td>
<td>09 EHR 1839</td>
<td>04/26/12</td>
</tr>
<tr>
<td>ALCHEM Inc., v. NCDENR</td>
<td>10 EHR 00296</td>
<td>02/05/13</td>
</tr>
<tr>
<td>Don Hillebrand v. County of Watauga County Health Dept</td>
<td>10 EHR 00933</td>
<td>05/10/12</td>
</tr>
<tr>
<td>ALCHEM Inc., v. NCDENR</td>
<td>10 EHR 05463</td>
<td>02/05/13</td>
</tr>
<tr>
<td>House of Raeford Farms, Inc., v. DENR</td>
<td>10 EHR 05508</td>
<td>05/31/12</td>
</tr>
<tr>
<td>Lacy H Caple DDS v. Division of Radiation Protection Bennifer Pate</td>
<td>11 EHR 11454</td>
<td>05/09/12</td>
</tr>
<tr>
<td>Friends of the Green Swamp and Blue Ridge Environmental Defense League, Inc v. DENR Division of Waste Management and Waste Management of the Carolinas, Inc., d/b/a Waste Management of Wilmington</td>
<td>11 EHR 12185</td>
<td>08/08/12</td>
</tr>
<tr>
<td>Holmes Development &amp; Realty, LLC, and H.L. Homes v. DENR – Land Quality Section (Re: LQS 11-018)</td>
<td>11 EHR 13208</td>
<td>06/29/12</td>
</tr>
<tr>
<td>Ik Kim IT and K Enterprise v. DENR</td>
<td>11 EHR 13910</td>
<td>11/06/12</td>
</tr>
<tr>
<td>Save Mart of Duplin LLC v. DENR</td>
<td>12 EHR 02328</td>
<td>07/25/12</td>
</tr>
<tr>
<td><strong>DIVISION OF EMPLOYMENT SECURITY</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwight Marvin Wright v. Department of Commerce, Division of Employment Security</td>
<td>12 ESC 05042</td>
<td>07/27/12</td>
</tr>
<tr>
<td><strong>MISCELLANEOUS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Richard Lee Taylor v. City of Charlotte</td>
<td>11 MIS 14140</td>
<td>05/15/12</td>
</tr>
<tr>
<td>Lloyd M Anthony v. New Hanover County Sheriff Office</td>
<td>12 MIS 01803</td>
<td>06/07/12</td>
</tr>
<tr>
<td><strong>OFFICE OF STATE PERSONNEL</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amanda Thaxton v. State Ethics Commission</td>
<td>09 OSP 03754</td>
<td>09/20/12</td>
</tr>
<tr>
<td>Dorothy H. Williams v. DHHS, Central Regional Hospital</td>
<td>10 OSP 5424</td>
<td>02/28/12</td>
</tr>
<tr>
<td>Larry F. Murphy v. Employment Security Commission of North Carolina</td>
<td>10 OSP 03213</td>
<td>06/04/12</td>
</tr>
<tr>
<td>Walter Bruce Williams v. Dept. of Crime Control and Public Safety Butner Public Safety Division</td>
<td>10 OSP 03551</td>
<td>04/23/12</td>
</tr>
<tr>
<td>Teresa J. Barrett v. DENR</td>
<td>10 OSP 04754</td>
<td>10/22/12</td>
</tr>
<tr>
<td>Daniel Chase Parrott v. Crime Control and Public Safety, Butner Public Safety Division</td>
<td>10 OSP 04792</td>
<td>05/30/12</td>
</tr>
<tr>
<td>Steven M Mukumgu v. DAG</td>
<td>10 OSP 05199</td>
<td>08/07/12</td>
</tr>
<tr>
<td>Case Title</td>
<td>DOCKET NUMBER</td>
<td>DATE</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>---------------</td>
<td>----------</td>
</tr>
<tr>
<td>Beatrice T. Jackson v. Durham County Health Department</td>
<td>11 OSP 3835</td>
<td>06/08/12</td>
</tr>
<tr>
<td>Brenda D. Triplett v. DOC</td>
<td>11 OSP 4605</td>
<td>03/20/12</td>
</tr>
<tr>
<td>Tommie J. Porter v. DOC</td>
<td>11 OSP 5352</td>
<td>06/05/12</td>
</tr>
<tr>
<td>Fortae McWilliams v. DOC</td>
<td>11 OSP 06236</td>
<td>05/30/12</td>
</tr>
<tr>
<td>Kimberly F. LoFlin v. DOT, DMV</td>
<td>11 OSP 06762</td>
<td>07/10/12</td>
</tr>
<tr>
<td>John Hardin Swain v. DOC, Hyde Correctional Inst.</td>
<td>11 OSP 07956</td>
<td>04/23/12</td>
</tr>
<tr>
<td>John Fargher v. DOT</td>
<td>11 OSP 08111</td>
<td>04/18/12</td>
</tr>
<tr>
<td>Tammy Cagle v. Swain County, Department of Social Services</td>
<td>11 OSP 10307</td>
<td>09/26/12</td>
</tr>
<tr>
<td>Doris Wearing v. Polk Correctional Inst. Mr. Soloman Superintendent</td>
<td>11 OSP 11023</td>
<td>10/19/12</td>
</tr>
<tr>
<td>Fredericka Florentina Demmings v. County of Durham</td>
<td>11 OSP 11498</td>
<td>06/12/12</td>
</tr>
<tr>
<td>David B. Stone v. Department of Cultural Resources</td>
<td>11 OSP 11926</td>
<td>08/10/12</td>
</tr>
<tr>
<td>William C. Spender v. Dept. of Agriculture &amp; Consumer Services, Veterinary Division</td>
<td>11 OSP 12479</td>
<td>04/27/12</td>
</tr>
<tr>
<td>Terrence McDonald v. NCSU</td>
<td>11 OSP 12682</td>
<td>05/21/12</td>
</tr>
<tr>
<td>Terrence McDonald v. DHHS, Emery Milliken</td>
<td>11 OSP 12683</td>
<td>05/18/12</td>
</tr>
<tr>
<td>Phyllis Campbell v. DOC</td>
<td>11 OSP 13381</td>
<td>08/27/12</td>
</tr>
<tr>
<td>Raeford Quick v. DOC</td>
<td>11 OSP 14436</td>
<td>05/22/12</td>
</tr>
<tr>
<td>Tawana McLaurin v. DOC</td>
<td>12 OSP 00116</td>
<td>08/21/12</td>
</tr>
<tr>
<td>Thomas B. Warren v. DAG, Forest Services Division</td>
<td>12 OSP 00615</td>
<td>11/27/12</td>
</tr>
<tr>
<td>Bon-Jerald Jacobs v. Pitt County Department of Social Services</td>
<td>12 OSP 00634</td>
<td>06/12/12</td>
</tr>
<tr>
<td>Sherry Baker v. Department of Public Safety</td>
<td>12 OSP 00841</td>
<td>10/09/12</td>
</tr>
<tr>
<td>Diane Farrington v. Chapel Hill-Carrboro City Schools</td>
<td>12 OSP 01300</td>
<td>07/12/12</td>
</tr>
<tr>
<td>Cynthia Moats v. Harnett County Health Dept</td>
<td>12 OSP 01536</td>
<td>08/10/12</td>
</tr>
<tr>
<td>Natalie Wallace-Gomes v. Winston-Salem State University</td>
<td>12 OSP 01627</td>
<td>05/15/12</td>
</tr>
<tr>
<td>Clark D. Whitlow v. UNC-Chapel Hill</td>
<td>12 OSP 01740</td>
<td>06/12/12</td>
</tr>
<tr>
<td>Jeffrey L Wardick, v. Employment Securities Commission of NC</td>
<td>12 OSP 02027</td>
<td>07/17/12</td>
</tr>
<tr>
<td>Larry C. Goldston v. UNC-Chapel Hill</td>
<td>12 OSP 02222</td>
<td>09/26/12</td>
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<tr>
<td>Sheila Bradley v. Community College System Sandhills Community College</td>
<td>12 OSP 02473</td>
<td>06/06/12</td>
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<td>Brenda S. Sessoms v. Department of Public Safety</td>
<td>12 OSP 02507</td>
<td>07/25/12</td>
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<tr>
<td>Donnette J Amaro v. Onslow County Department of Social Services</td>
<td>12 OSP 02578</td>
<td>11/21/12</td>
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<tr>
<td>Ronald Gilliard v. N.C. Alcoholic Law Enforcement</td>
<td>12 OSP 02618</td>
<td>09/26/12</td>
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<tr>
<td>Kimberly Hinton v. DOT</td>
<td>12 OSP 02848</td>
<td>10/05/12</td>
</tr>
<tr>
<td>Natalie Wallace-Gomes v. Winston Salem State University</td>
<td>12 OSP 02950</td>
<td>08/01/12</td>
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<tr>
<td>Jaymar v. Department of Corrections, Central Prison</td>
<td>12 OSP 03381</td>
<td>07/20/12</td>
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<tr>
<td>Ronald Wayne Crabtree Jr., v. Butner Public Safety</td>
<td>12 OSP 03846</td>
<td>10/09/12</td>
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<td>Natalie Wallace-Gomes v. Winston Salem State University</td>
<td>12 OSP 03910</td>
<td>10/22/12</td>
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<td>Natalie Wallace-Gomes v. Winston Salem State University</td>
<td>12 OSP 04107</td>
<td>10/22/12</td>
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<td>Michelle Houser v. Department of Public Safety, Division of Prisons</td>
<td>12 OSP 04826</td>
<td>09/26/12</td>
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<tr>
<td>Audrey Melissa Tate v. Department of Public Safety, Division of Juvenile Justice</td>
<td>12 OSP 05182</td>
<td>08/03/12</td>
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<tr>
<td>Jonathan Ashley Stephenson v. UNC-Chapel Hill</td>
<td>12 OSP 05223</td>
<td>01/15/13</td>
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<tr>
<td>Charles E. Rouse v. DMV, Dist Sup Stacey Wooten</td>
<td>12 OSP 05315</td>
<td>09/05/12</td>
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<tr>
<td>Edwards Robert Esslinger v. DPI</td>
<td>12 OSP 05459</td>
<td>09/12/12</td>
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<td>Barry L. Pruett v. DMV, Driver and Vehicle Services</td>
<td>12 OSP 05785</td>
<td>09/11/12</td>
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<tr>
<td>Joseph Sandy v. UNC Chapel Hill</td>
<td>12 OSP 06152</td>
<td>09/05/12</td>
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<tr>
<td>Natalie Wallace-Gomes v. Winston Salem State University</td>
<td>12 OSP 06309</td>
<td>10/22/12</td>
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<tr>
<td>Paul Jeffrey Treadway v. Department of Public Safety, Division of Adult Supervision</td>
<td>12 OSP 06634</td>
<td>12/18/12</td>
</tr>
<tr>
<td>Phillip W Smith v. Department of Commerce, Division of Employment Security</td>
<td>12 OSP 06821</td>
<td>09/20/12</td>
</tr>
<tr>
<td>Christopher Rashad Pippins v. PCS BOE PCS Facility Services</td>
<td>12 OSP 07744</td>
<td>10/18/12</td>
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<tr>
<td>Wanda Edwards v. UNC School of Dentistry</td>
<td>12 OSP 07851</td>
<td>01/09/13</td>
</tr>
<tr>
<td>Gary C. Clement v. DHHS</td>
<td>12 OSP 08105</td>
<td>11/14/12</td>
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<tr>
<td>Oswald Woode v. DHHS, Central Regional Hospital</td>
<td>12 OSP 08664</td>
<td>01/09/13</td>
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<tr>
<td>Gary C. Clement v. DHHS</td>
<td>12 OSP 09581</td>
<td>01/04/13</td>
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**DEPARTMENT OF REVENUE**

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<td>Jerry Lamont Lindsey v. Department of Revenue</td>
<td>11 REV 1914</td>
<td>07/25/12</td>
<td></td>
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<tr>
<td>Thomas E Gust v. Department of Revenue</td>
<td>11 REV 13557</td>
<td>08/15/12</td>
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<tr>
<td>James Cooper III Sui Juris v. Department of Revenue</td>
<td>11 REV 13792</td>
<td>11/14/12</td>
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<tr>
<td>Brian Daniel Reeves v. Department of Revenue</td>
<td>12 REV 01539</td>
<td>06/04/12</td>
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<td>David Roser v. Department of Revenue</td>
<td>12 REV 01694</td>
<td>09/10/12</td>
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<tr>
<td>Ronnie Lee Nixon v. Department of Revenue</td>
<td>12 REV 01881</td>
<td>10/03/12</td>
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<td>William S. Hall v. Department of Revenue</td>
<td>12 REV 04115</td>
<td>08/27/12</td>
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<td>Noah D. Sheffield v. Department of Revenue</td>
<td>12 REV 07074</td>
<td>11/14/12</td>
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<td>Jenny M. Sheffield v. Department of Revenue</td>
<td>12 REV 07075</td>
<td>11/14/12</td>
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<td>12 REV 08968</td>
<td>01/03/13</td>
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<td>Michael Anthony Farrow-Bey v. Department of Secretary of State</td>
<td>12 SOS 07865</td>
<td>12/14/12</td>
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<tr>
<td>Jennifer Lynn Pierce-Founder Share Our Shoes v. Secretary of State's Office</td>
<td>12 SOS 01653</td>
<td>07/11/12</td>
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<td>UNC HOSPITALS</td>
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<td>Onyedika C Nwaebube v. UNC Hospitals</td>
<td>12 UNC 01110</td>
<td>06/25/12</td>
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<td></td>
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<td>Nephatiya Wade v. UNC Hospitals Chapel Hill NC</td>
<td>12 UNC 01209</td>
<td>07/17/12</td>
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<td></td>
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<td>Fredia R Wall v. UNC Physicians &amp; Associates</td>
<td>12 UNC 02256</td>
<td>10/04/12</td>
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<tr>
<td>Carolyn A. Green v. UNC Hospitals</td>
<td>12 UNC 02259</td>
<td>09/19/12</td>
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<tr>
<td>Annie E. Jarrett v. UNC Hospitals</td>
<td>12 UNC 03716</td>
<td>10/09/12</td>
<td></td>
<td></td>
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<tr>
<td>Vikki J Goings v. UNC Hospital</td>
<td>12 UNC 04109</td>
<td>09/18/12</td>
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<td>Elonnie Alston v. UNC Hospitals</td>
<td>12 UNC 04551</td>
<td>09/11/12</td>
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<td>Diara Z Andrews v. UNC Hospitals</td>
<td>12 UNC 04827</td>
<td>08/15/12</td>
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<tr>
<td>Shonte Hayes v. UNC P&amp;A</td>
<td>12 UNC 05746</td>
<td>09/10/12</td>
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<td></td>
</tr>
<tr>
<td>Tracy A. Spaine (Currier) v. UNC Hospitals</td>
<td>12 UNC 06822</td>
<td>11/06/12</td>
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