

#### Questions about remedies

- What is a particular remedy?
- When <u>can</u> it be used?
- How do you use it what is the procedure?
- When <u>should</u> it be used?
- What if it doesn't produce the desired result?

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Imminent Hazard – G.S. 130A-20
An imminent hazard is a situation that, in one mediate action is taken, is likely to cause an immediate threat to human file, or an immediate threat of immediate threat of immediate threat of irreparable damage to the environment.  If the different properties of the properties of irreparable damage to the environment. If the properties of the propertie

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## Injunction (G.S. 130A-18) What is it? • A court order telling a person to stop doing something • TRO, preliminary injunction, permanent injunction When can it be used? • When a person violates a NC public health statute or rule, or a local board of health rule

Injunction (G.S. 130A-18)

How what is
the
procedure?

Determine and document specific violation
Essential! Work with attorney: Is injunctive relief appropriate? What documentation/evidence do you need to assemble? What else does attorney need from you?

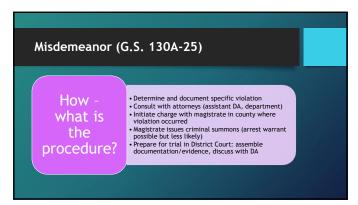
Attorney files action in Superior Court on behalf of local health director

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## Injunction (G.S. 130A-18) What happens next? • Types of orders: • TRO: Attorney seeks this for quick action. If court grants, must be filed with court and served on violator. Good for 10 days. • Preliminary injunction: short-term order following TRO expiration, for while case is pending. • Permanent injunction: final order. • Failure to comply with any of these orders could result in violator being held in contempt of court.

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# Misdemeanor (G.S. 130A-25) What is it? • Criminal charge for violating public health laws • Class 1 misdemeanor When can it be used? • When a person violates any NC public health statute or rule except those pertaining to smoking in public places

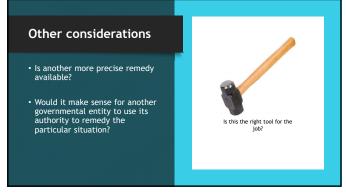


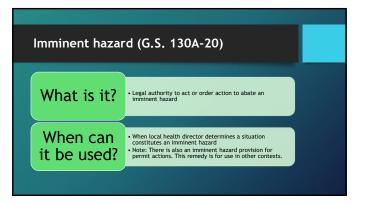
### Public health nuisance (G.S. 130A-19) What is it? • An order directing a property owner or other person in charge of the property to abate a public health nuisance When can it be used? • When the health director determines a public health nuisance exists on the property

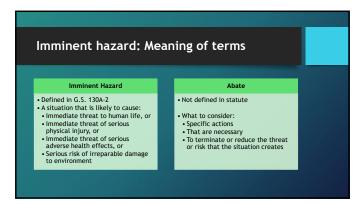
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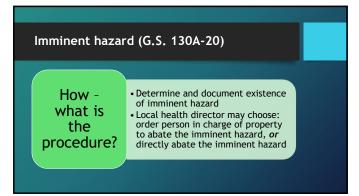
# Public health nuisance: Meaning of terms Public health nuisance • Not defined in statute • Elements to consider: • Situation on property • That interferes with the health of the public • In a way that is both substantial and unreasonable Abate • Not defined in statute • What to consider: • Specific actions • That are necessary • To terminate or reduce the public health problem

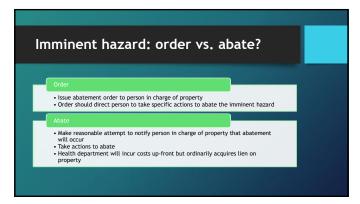
Public health nuisance (G.S. 130A-19)			
How - what is the procedure?	Determine and document existence of public health nuisance.     Local health director issues abatement order     If violator does not comply, local health director may ask Superior Court to enforce     Court may order the violator to abate the nuisance, or it may order the health department to abate the nuisance		















Administrative penalties (G.S. 130A-22)

What

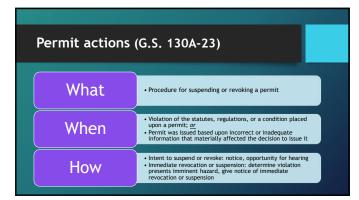
• Monetary fine imposed for violation of certain public health laws

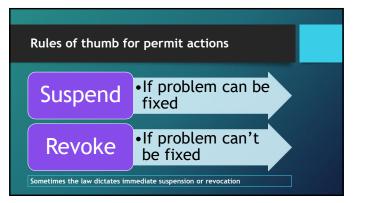
• Imposed by state agency for violations of state OSWW laws or state lead certification laws

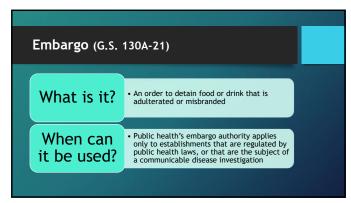
• imposed by local health director for violations of local OSWW rules, or state or local smoking statutes or rules

• Determine and document violation & recommend penalty
• Consult relevant state laws for procedures to follow and maximum amounts of penalties (vary by program and violation)









### Adulterated • Contains something injurious to health • Diseased, contaminated, filthy, purtid, decomposed, otherwise unfit to be food • Kept in conditions that have allowed it to become contaminated or otherwise unwholesome or injurious to health • Full description in GS 160-129



Embargo (G.S. 130A-21)			
How - what is the procedure?	Identify a public health official with embargo authority: state EH agency (including regionals), local health director in consultation with regional specialist     Affix tag to embargoed item(s)     Warn all persons not to remove or dispose of item(s) without permission     Petition a court for a condemnation order		

#### Remedies problems

- Is there a violation of a public health statute or rule in the scenario?
- What might be done before pursuing legal remedies?
- Which remedy would be appropriate for the scenario? Why?
- How would the remedy be pursued in your department? Who would be involved?

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