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The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

FEDERAL RULE AMENDMENT

PROPOSED RULES

**BATTLESHIP COMMISSION
DENTAL EXAMINERS
ENVIRONMENTAL MANAGEMENT
HEALTH: ETIDEMOLOGY
MEDICAL ASSISTANCE
MEDICAL EXAMINERS
OFFICE OF MARINE AFFAIRS
REAL ESTATE COMMISSION
SOCIAL SERVICES
WASTEWATER TREATMENT
WILDLIFE COMMISSION**

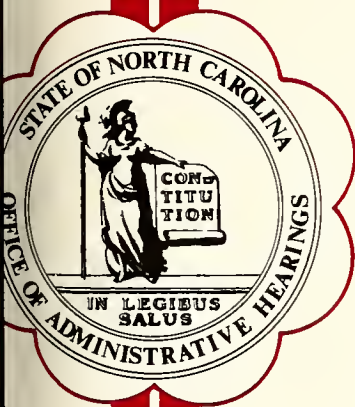
FINAL RULES

COASTAL MANAGEMENT

LIST OF RULES AFFECTED

ISSUE DATE: SEPTEMBER 15, 1986

Volume 1 • Issue 6 • Pages 380-415



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately one hundred pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of ninety-five dollars (\$95.00) for 12 issues.

Requests for subscription to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: Subscriptions.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include a reference to the Statutory Authority for the action; the time and place of the public hearing and a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Following publication of the proposal in the *North Carolina Register*, at least 60 days must elapse before the agency may take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule, cannot become effective earlier than the first day of the second calendar month after the adoption is filed.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in effect for the period specified in the rule or 120 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) In looseleaf pages at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) On microfiche. The microfiche edition is revised semi-annually (March and October) and can be purchased for forty dollars (\$40.00) per edition. Due to the volume of the Code, the complete copy can only be purchased on microfiche. The NCAC on microfiche is updated monthly by publication of a "List of Rules Affected" which sets out rules filed the previous month, the action taken, and the effective date of the change. This list is published in the *North Carolina Register*.

Requests for looseleaf pages of rules or the NCAC on microfiche should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. 1:1 NCR 101-201, April 1, 1986 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

North Carolina Register. Published monthly by the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions ninety-five dollars (\$95.00) per year.

North Carolina Administrative Code. Published in March and October by the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions forty dollars (\$40.00) per edition.

NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
(April 1986 - March 1987)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing	Earliest Date for Adoption by Agency	Earliest Effective Date
04/15/86	03/25/86	04/01/86	05/15/86	06/14/86	08/01/86
05/15/86	04/24/86	05/01/86	06/14/86	07/14/86	09/01/86
06/16/86	05/27/86	06/03/86	07/16/86	08/15/86	10/01/86
07/15/86	06/25/86	07/02/86	08/14/86	09/13/86	11/01/86
08/15/86	07/28/86	08/04/86	09/14/86	10/14/86	12/01/86
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11/14/86	10/23/86	10/30/86	12/14/86	01/13/87	03/01/87
12/15/86	11/25/86	12/02/86	01/14/87	02/13/87	04/01/87
01/15/87	12/29/86	01/05/87	02/14/87	03/16/87	05/01/87
02/16/87	01/26/87	02/02/87	03/18/87	04/17/87	06/01/87
03/16/87	02/23/87	03/02/87	04/15/87	05/15/87	07/01/87

CORRECTIONS

CORRECTIONS FOR NOTICE OF 9/17/86 DIVISION OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES' HEARING PUBLISHED IN THE NORTH CAROLINA REGISTER, VOLUME 1, ISSUE 5, AUGUST 15, 1986

On page 298 the notice should have read "the Commission for Mental Health, Mental Retardation and Substance Abuse Services and the Director of the Division of Mental Health, Mental Retardation and Substance Abuse Services . . ." and on page 303 the date of the public hearing should have been "September 17, 1986."

CORRECTION TO GENERAL STATUTES OF NORTH CAROLINA, CHAPTER 150B, PUBLISHED IN THE NORTH CAROLINA REGISTER, VOLUME 1, ISSUE 5, AUGUST 15, 1986, PAGE 235

150B-32. Designation of hearing officer. --(a) The Director of the Office of Administrative Hearings shall assign himself or a hearing officer in the Office of Administrative Hearings to preside as hearing officer in each contested case. If a party waives the right to have a case conducted in the Office of Administrative Hearings, an agency, one or more members of the agency, a person or group of persons designated by statute, or one or more hearing officers designated by the agency to conduct contested cases shall preside at the contested case.

Federal Rule Amendment

[The following is excerpted from 51 Fed. Reg. 30,486 (1986)]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

* * * * *

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions filed with the Commission. Publication of this amendment effectuates the designation of the North Carolina State Office of Administrative Hearings as a 706 Agency.

EFFECTIVE DATE: August 17, 1986.

FOR FURTHER INFORMATION CONTACT:

Mike Torres, Equal Employment
Opportunity Commission
Office of Program Operations
Systemic Investigations and Individual Compliance Programs
2401 E Street, NW
Washington, DC 20507
telephone (202) 634-6922

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

1. The authority citation for Part 1601 continues to read as follows:

Authority: Secs. 709, 713, 78
Stat. 263, 265; 42 U.S.C. 2000e-8, 2000e-12.

PROPOSED RULES

TITLE 1 - ADMINISTRATION

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Administration intends to adopt regulations cited as 1 NCAC 12 .0601-.1600.

The proposed effective date of this action is January 1, 1987.

Statutory Authority: G.S. 143B-390.2(b).

The public hearing will be conducted at 2:00 p.m. on October 15, 1986 at the Advisory Budget Commission Conference Room, Fifth Floor, Administration Building, 116 W. Jones Street, Raleigh, N.C.

Comment Procedures: Any interested person may present his or her views and comments either in writing prior to or at the hearing or orally at the hearing. Any person may request information, permission to be heard or copies of the proposed regulations by writing or calling Donna Moffitt, Office of Marine Affairs, 417 N. Blount Street, Raleigh, N.C. 27601, (919) 733-2290.

CHAPTER 12 - OFFICE OF MARINE AFFAIRS

SECTION .0600 - GENERAL PROVISIONS

.0601 ORGANIZATION: POWERS AND DUTIES

The organization, powers and duties of the Office of Marine Affairs are prescribed by G.S. 143B-390.2(a) and are hereby incorporated by reference.

.0602 DEFINITIONS

As used in Chapter 12 of Title 1:

- (1) "Aquarium" means the North Carolina Aquarium at Fort Fisher, at Pine Knoll Shores, or on Roanoke Island;
- (2) "Charitable" means for a benevolent purpose;
- (3) "Civic" means favoring the improvement of the environment, health, education, safety, general welfare, culture or recreation of the local community through non-political activities;
- (4) "Council" means the

North Carolina Marine Science Council;

- (5) "Department" means the Department of Administration;
- (6) "Director" means a director of one of the three Aquariums or his or her designee;
- (7) "Facility" means the Aquarium building and associated buildings and grounds;
- (8) "Permissible user or activity" means a user or activity that is compatible with the intent and conditions of the N.C. Aquariums' Facility-Use Policy;
- (9) "Person" means any natural person, corporation, partnership, association, or governmental unit;
- (10) "Secretary" means the Secretary of Administration;
- (11) "User" means any natural person, corporation, partnership, association or governmental unit.

.0603 NAME CHANGE

Henceforth, the N. C. Marine Resources Center/Fort Fisher shall be known as the North Carolina Aquarium at Fort Fisher, the N. C. Marine Resources Center/Bogue Banks shall be known as the North Carolina Aquarium at Pine Knoll Shores, and the N. C. Marine Resources Center/Roanoke Island shall be known as the North Carolina Aquarium on Roanoke Island.

.0604 FORMS

The forms listed in this Rule affect the public and are available at:

N.C. Aquarium on Roanoke Island
P. O. Box 967
Manteo, N. C. 27954
(919) 473-3493

N.C. Aquarium at Pine Knoll Shores
P. O. Box 580
Atlantic Beach, N. C. 28512
(919) 247-4003

N.C. Aquarium at Fort Fisher
Box 130
Kure Beach, N. C. 28449
(919) 458-8257

Office of Marine Affairs
N.C. Dept. of Administration
417 North Blount Street
Raleigh, N. C. 27601
(919) 733-2290

- (1) Aquarium Facility-Use Policy;
- (2) Application for Use of Facility;
- (3) Contract for Off-Hours Use of Facility;
- (4) Application for Research Space;
- (5) Contract for Use of Research Space;
- (6) Fee Schedule for Use of Space;
- (7) Seasonal Aquarium Calendar of Events and Program Participation Procedures; and
- (8) Marine Science Council Operating Procedures.

.0605 APPEALS

Any person affected by a decision made pursuant to this chapter who wishes to appeal the decision shall direct the appeal in writing to the Secretary of Administration, 116 West Jones Street, Raleigh, N.C. 27611. Appeals of decisions of the Secretary made pursuant to this chapter shall be governed by Chapter 150B (Administrative Procedure Act) of the North Carolina General Statutes.

SECTION .0700 - MARINE SCIENCE COUNCIL

.0701 ORGANIZATION

The North Carolina Marine Science Council is a 28-member advisory body in the Department. Its power and duties are set out in G.S. 143B-389.

.0702 STAFF

The Council is staffed by the Office of Marine Affairs, 417 North Blount Street, Raleigh, N.C. 27601.

.0703 BYLAWS

The Council's operating procedures are governed by its bylaws which are available from the Office of Marine Affairs or the Aquariums.

.0704 MEETINGS

The Council meets four times per year and at other times with the approval of the Secretary. Special approved meetings may be scheduled at the call of the Council chairperson or by a majority of the Council executive committee. The date for a regular meeting shall be set at least 20 days prior to the meeting date. Timely notice in advance of all special meetings must be given to each member of the Council and the public. Meetings of the Council are open to the public except

for those instances governed by G.S. 143-318.11.

.0705 AGENDA

Any person desiring to have topics included on the agenda for discussion at a regular Council meeting shall notify the staff at least 20 days prior to the meeting date. Final approval for proposed agenda items rests with the Council executive committee.

.0706 MINUTES

Minutes of Council meetings are available for inspection at the Office of Marine Affairs, 417 North Blount Street, Raleigh N.C. 27601.

SECTION .0800 - USE OF NORTH CAROLINA AQUARIUMS

.0801 PURPOSE

Pursuant to the delegation of administrative responsibilities by the Secretary to each director of the three North Carolina Aquariums, and in order to provide guidelines consistent with applicable laws and policies and with the needs, resources, and general educational and advocacy mission of the Aquariums, these facility-use rules are therefore promulgated and adopted.

.0802 FACILITIES

The three facilities have been constructed for the purpose of housing public aquariums; carrying out marine and coastal resources programs including public information and education; providing space for activities associated with marine programs and fostering marine-related applied research, extension education, and advisory services.

.0803 USERS

It is the Secretary's policy that the Aquariums and the grounds immediately surrounding them should be available for use by appropriate public agencies and private groups and for non-commercial activities which are in the best interests of the state and the communities which they serve, providing such uses do not interfere with regularly-scheduled Aquarium functions or other approved scheduled uses.

.0804 PERMISSIBLE ACTIVITIES

Permissible uses shall be confined to non-profit, marine-related, charitable, or civic activities, activities

conducted by tax-supported public agencies, and approved research activities. Activities may also be conducted by private, profit-making groups or individuals when such activities do not include actual sales or solicitations on state property; and when they provide significant public benefit, particularly when that benefit is marine-related.

.0805 PERMISSION FOR USE

All potential users other than applicants for research space shall obtain permission from the director for use of the building or grounds. Applicants for research space must follow the procedures outlined in Section .0300 of this Subchapter. Approved researchers and users of the facilities outside of normal operating hours shall be required to sign a written contract.

.0806 SCHEDULING PERMISSIBLE ACTIVITIES

If the director determines that a proposed user or activity is consistent with the Facility-Use Policy, he or she shall allow that activity to be scheduled. A permissible user or activity shall not conflict with regular Aquarium functions or programs and other approved uses of the Aquariums.

.0807 CONDITIONS FOR USE DURING NON-REGULAR HOURS

If a permissible user or activity requires access to buildings or grounds during hours that a facility is not normally open, the user may be required to make a deposit and may be assessed a reasonable fee to cover certain expenses incurred by the facility including custodial services, heat, light, water and equipment use in accordance with a fee schedule approved by the Secretary and available for inspection at the Office of Marine Affairs and at each Aquarium.

.0808 AVAILABLE AREAS

Each facility has the following functional areas available for use: (1) auditorium, (2) classrooms, (3) teaching laboratories, (4) aquarium galleries, (5) dry exhibit areas, (6) research laboratories, (7) library and (8) nearby natural areas. A group wishing to use the facility may request a specific functional area, but the

director shall have final authority in assigning the use of any particular area

.0809 LONG-TERM USE PROHIBITED

The facilities shall not be used on a continuing basis for long-term off-hours use by any one private group.

SECTION .0900 - SCHEDULING PROCEDURES FOR GROUP USE

.0901 SCHEDULING ACTIVITIES FOR REGULAR HOURS

For proposed activities that are to take place during normal operating hours, a representative of the user group shall make a request to use the facility by contacting the director. Verification that the proposed user and activity are compatible with the Facility-Use Policy and that the facility is available for the time and date requested shall be obtained from the director before the activity is scheduled.

.0902 SCHEDULING ACTIVITIES FOR NON-REGULAR HOURS

For proposed activities that are to take place outside of a facility's normal operating hours, a representative of a group wishing to use the facility shall follow these procedures:

- (1) Obtain copies of the Facility-Use Policy and the application for use of the facility from the director's office of a particular facility or the Office of Marine Affairs.
- (2) Complete the application and return it to the director's office of the preferred facility. In extraordinary circumstances, the application may be completed by telephone.
- (3) Application for use of the facility may be made no earlier than 90 days prior to the date of use and as late as 48 hours before the date of use. However, all requests are subject to availability of space and supervisory staff.
- (4) Obtain verification from the director of that facility that the proposed user and activity are compatible with the Facility-Use Policy and that the facility is available for the time and date requested. The director will complete and sign the contract upon his or her satisfaction that the above requirements have been met.

(5) Be prepared to meet these conditions upon execution of the contract:

- (a) Pay the appropriate deposit (deposit will be credited against any fees or damages);
- (b) Guarantee adequate supervision for the activity being planned;
- (c) Accept the requirement that an employee of the facility must be present at all times;
- (d) Pay in full when billed for any outstanding fees or for damages to the building or grounds resulting from the activity or caused by the user group;
- (e) Leave the building and grounds in the same condition as before the activity;
- (f) Accept the requirement that no controlled substances, no firearms (except those in the possession of law enforcement officials or certified safety instructor), and no pets are permitted on the premises during the activity;
- (g) Acquire permission from the Secretary if alcoholic beverages not to exceed 14% alcohol are to be consumed on the property. (Alcohol exceeding 14% shall not be consumed on state property.)

.0903 AQUARIUM'S RESPONSIBILITIES

The responsibilities of the Aquarium include the following:

- (1) Provide a clean and safe facility;
- (2) Provide an employee during the use of the facility;
- (3) Arrange the facility for the expected use, within reason;
- (4) Perform normal cleaning after the activity;
- (5) Report any damage and provide detailed written description of damage to the individual in charge of the user group.

SECTION .1000 - PROCEDURES FOR USE OF RESEARCH SPACE

.1001 WHEN USE IS LESS THAN 60 DAYS

Research applicants may apply directly to and receive approval from the director of the preferred facility if the period of continuous use is for 60 days or less.

.1002 WHEN USE EXCEEDS 60 DAYS

Potential researchers wishing to schedule space for a period greater than 60 days shall obtain a copy of the Facility-Use Policy and file a completed application with the Office of Marine Affairs, 417 North Blount Street, Raleigh, N.C. 27601, no more than 12 months prior to the date the space will be needed but no less than 60 days prior to the next regularly scheduled Council meeting. Applications and copies of the Facility-Use Policy are available at the Office of Marine Affairs and at each of the three Aquariums.

.1003 APPLICATIONS FORWARDED BY OFFICE OF MARINE AFFAIRS

Upon receipt of a completed application, the Office of Marine Affairs shall forward a copy to the appropriate director for confirmation of space availability and comments by the Aquarium staff.

.1004 REVIEW OF APPLICATIONS

The director shall send his or her comments and recommendation for approval or disapproval to the Office of Marine Affairs for distribution along with the application to the Marine Science Council or a Council subcommittee for review.

.1005 APPROVAL OR DENIAL

At the next regularly-scheduled meeting of the Council, action shall be taken regarding approval or denial of the application, assessment of a fee and any applicable use restrictions. The Office of Marine Affairs shall forward the results of the actions taken to the appropriate director. If denied, the Council or subcommittee will specify in writing the reasons for its decision.

.1006 NOTIFICATION TO APPLICANT

If denied, the director shall notify the applicant of the decision. Upon request, the director will provide the applicant with the reasons for denial of his or her application. If approved, the director shall allocate the space and notify the applicant. The letter of notification shall contain a statement warning that failure to appear to utilize the space within one week following the date for which it was requested may result in the approval being withdrawn. The

letter shall also include the exact dates of the time during which the applicant will be allowed to occupy the space, any special conditions that might apply, and any fees that will be assessed. The letter shall also indicate that the applicant will be required to sign a contract before occupying the space.

.1007 ANNUAL USE

Research space shall be allocated to approved researchers for a period of 12 months or less at a nominal cost consistent with an approved fee schedule available from the Office of Marine Affairs and each of the Aquariums. Fees shall be assessed on a case-by-case basis depending upon the particular researcher's ability to pay.

.1008 ANNUAL RENEWAL

Approved researchers shall apply for renewal of the space on an annual basis at least 60 days before the end of the current period of use. Applications for renewal may be made by letter to the appropriate director who shall follow the steps outlined in Rules .0304 through .0306 of this Subchapter. The Council or subcommittee shall act on the request for renewal of space at the next regularly-scheduled meeting of the Council.

.1009 CRITERIA FOR SELECTING APPLICANTS

The following criteria shall apply in evaluating requests for use of research space:

- (1) The research should address problems affecting the use of coastal or marine resources.
- (2) The research must be compatible with the facilities of the Aquariums.
- (3) Applications indicating any of the following will receive high priority:
 - (a) research offering potential of immediate application;
 - (b) research which promotes public information, extension education programs, and advisory services of the Aquariums;
 - (c) research requiring the unique features of the Aquariums (e.g. coastal location, multi-disciplinary setting, accessibility to visiting tourists and students, etc.);
 - (d) research which

contributes to fulfilling state goals and policies in marine affairs.

SECTION .1100 - LIABILITY

.1101 USER'S ASSUMPTION OF LIABILITY

Any agency, organization or group using the Aquarium facilities during off hours shall be prepared to assume liability for any accidents or injuries occurring on the property in connection with the activity. Neither the Department, the Aquarium, the Office of Marine Affairs, nor any of their employees, either jointly, severally or individually, shall be responsible for personal injury resulting from use of the property.

.1102 RESEARCHER'S ASSUMPTION OF LIABILITY

Any researcher using the Aquarium facilities shall be prepared to assume liability for any accidents or injuries occurring on the property in connection with the research activity. Neither the Department, the Aquariums, the Office of Marine Affairs, nor any of their employees, either jointly, severally or individually, shall be responsible for personal injury resulting from use of the property.

SECTION .1200 - UNAUTHORIZED USE OF FACILITIES: FEES

.1201 USES NOT COVERED BY POLICY

Use of the Aquarium buildings or grounds in any manner not provided for in the Facility-Use Policy shall be allowed only by permission of the Secretary. Copies of the Facility-Use Policy are available from any Aquarium and from the Office of Marine Affairs. The Facility-Use Policy is also codified as Rules .0800 through .1102 of this Subchapter.

.1202 USER FEES

No person or organization shall use or attempt to use any facility unless they are in compliance with the Facility-Use Policy. No person or organization shall use or attempt to use any facility during off hours without paying the applicable deposit and fee. Fees are established and approved by the Secretary and a

fee schedule is available for inspection at any Aquarium and at the Office of Marine Affairs in Raleigh.

.1203 UNAUTHORIZED ENTRY

No person shall enter or remain on Aquarium property during hours when the facility is not open to the public except for on-duty employees, contractors or agents of the Aquarium; law enforcement, fire and emergency personnel; and others authorized to use the property in connection with an Aquarium or Aquarium Society sponsored event, or unless accompanied by an authorized employee of the Aquarium or permission has been granted by the director.

SECTION .1300 - FIREARMS: FIRES: SMOKING

.1301 LETHAL INSTRUMENTS

Carrying or possessing firearms, airguns, bows and arrows, slingshots or lethal instruments of any kind on Aquarium property, except by law enforcement officials and certified safety instructors, is prohibited.

.1302 EXPLOSIVES

The possession or use of pyrotechnics and cap pistols except by authorized employees of the Aquariums is prohibited.

.1303 FIRES

All fires are prohibited except in designated areas.

.1304 SMOKING

Smoking is prohibited in the buildings except in designated areas. The director shall forbid smoking on the grounds when a fire hazard makes such action advisable.

SECTION .1400 - CONDUCT: ALCOHOLIC BEVERAGES: PETS: PROPER DRESS

.1401 DISORDERLY CONDUCT

No person shall engage in disorderly conduct, be intoxicated, or be impaired by controlled substances while on Aquarium property or while involved in an Aquarium-sponsored program that is conducted off the premises.

.1402 LOUD RADIOS

The playing of radios, tape players, etc., in such a manner as to disturb others is prohibited.

.1403 SALES OF ALCOHOL OR

CONTROLLED SUBSTANCES

No person shall sell or attempt to sell any beer, wine, whiskey, controlled substances or any other intoxicating or impairing substance on Aquarium property.

.1404 CONSUMPTION OF ALCOHOL

Alcoholic beverages that do not exceed 14% alcohol may be served and consumed on Aquarium property upon approval by the Secretary on the recommendation of the director.

.1405 PETS

Pets are not allowed in the Aquarium buildings but may be allowed on the grounds, provided they remain at all times under the owners' control and are restrained by a leash. Any animal causing a nuisance on Aquarium property shall be removed immediately by the owner upon the request of the director.

.1406 PROPER DRESS

Any person using the facility or participating in programs shall be appropriately dressed at all times. This includes the wearing of shirts, shoes and safety equipment as required.

SECTION .1500 - COMMERCIAL ACTIVITIES: SOLICITATIONS: ETC.

.1501 COMMERCIAL ENTERPRISES

Only authorized Aquarium employees or contractors or authorized employees or contractors of the N. C. Aquarium Society may engage in or conduct commercial activities on Aquarium property.

.1502 ADVERTISING

Non-commercial notices or advertisements may be erected or displayed on Aquarium property, provided permission has been granted by the director. Notices or advertisements for commercial activities conducted off the Aquarium premises are prohibited on Aquarium property.

.1503 PHOTOGRAPHS

No person shall take photographs, video tapes or movies of the Aquarium facilities or on Aquarium property for commercial purposes without the permission of the director.

.1504 LOGOS: SLOGANS: ETC.

No person shall use, adopt or modify any logos, names or slogans of the N. C. Aquariums or the N. C. Aquarium Society

without prior written permission of the Office of Marine Affairs.

.1505 SOLICITATIONS

Only persons engaged in fundraising activities sponsored by the N. C. Aquarium Society for the purpose of supporting the Aquariums or Society shall be permitted to solicit contributions on Aquarium property.

SECTION .1600 - PRESERVATION OF AQUARIUM PROPERTY

.1601 FLOWERS: PLANTS: ANIMALS: ETC.

Only authorized Aquarium employees or agents acting in performance of their duties may remove, dispose of or otherwise harm any animal or plant life, whether marine or terrestrial, or remove sand or other minerals owned or controlled by the Aquarium.

.1602 BUILDINGS: SIGNS: ETC.

Only authorized Aquarium employees or agents acting in performance of their duties shall alter, disturb or dispose of any part of any Aquarium property.

.1603 PARKING

All privately-owned vehicles shall be parked in designated parking areas of the Aquarium property. All other vehicles shall be parked only as directed by the director.

TITLE 7 - CULTURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the USS North Carolina Battleship Commission intends to amend regulations cited as 7 NCAC 5 .0203(a) and .0204(a). The purpose of the proposed regulations is to change price of admission to Battleship Memorial, and Sound and Light Show.

The proposed effective date of this action is January 1, 1987.

Statutory Authority: G.S. 143B-73; 143B-74.1.

The public hearing will be conducted at 2:00 p.m. on October 15, 1986 at the Admiral's Cabin, USS North Carolina Battleship Memorial, Wilmington, N.C.

Comment Procedures: Data, opinions, and arguments concerning these rules must be

submitted by October 15, 1986 to the Director, USS North Carolina Battleship Memorial, P.O. Box 417, Wilmington, N.C. 28402.

CHAPTER 5 - U.S.S. NORTH CAROLINA BATTLESHIP COMMISSION

SECTION .0200 USE REGULATIONS

.0203 ADMISSION PRICES

(a) The admission price for the ship is three dollars four dollars ~~(\$ 3.00)~~ ~~(\$4.00)~~ for adults age 12 and over, one dollar and fifty cents two dollars ~~(\$1.50)~~ ~~(\$2.00)~~ for children 6 through 11, seventy five cents one dollar ~~(\$0.75)~~ ~~(\$1.00)~~ per student for organized school groups in grades kindergarten through 6, and one dollar and fifty cents two dollars ~~(\$1.50)~~ ~~(\$2.00)~~ per student for organized school groups in grades 7 through 12.

(b) There is no charge for children under 6.

(c) Classroom teachers/aides/chaperones accompanying students in class field trips will be admitted without charge at the rate of 1 teacher/aide/chaperone for each 20 students.

(d) Tour groups under auspices of bona fide travel agents will be offered a 15 percent discount. Tour directors and drivers will be complimented for the tour.

(e) Any organized groups of 20 or more will be offered a 10 percent discount when tickets are purchased by a single source.

.0204 SOUND AND LIGHT SHOW

(a) The admission price for the Sound and Light Show is two dollars three dollars ~~(\$2.00)~~ ~~(\$3.00)~~ for adults age 12 and over and one dollar and fifty cents ~~(\$1.00)~~ ~~(\$1.50)~~ for children 6 through 11.

(b) There is no charge for children under 6 years of age.

(c) Tour groups under auspices of bona fide travel agents will be offered a 15 percent discount. Tour directors and drivers will be complimented for the tour.

(d) Any organized group of 20 or more will be offered a 10 percent discount when tickets are purchased by a single source.

TITLE 10 - HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human

Resources intends to adopt and repeal regulations cited as 10 NCAC 7A .0407 (Repeal) and 10 NCAC 7A .0501-.0502 (Adopt).

The proposed effective date of this action is February 1, 1987.

Statutory Authority: G.S. 130A-152(c); 1986 Session Laws, Chapter 1008, Section 2.

The public hearing will be conducted at 1:30 p.m. on October 15, 1986 at the Highway Building, Auditorium (First Floor), 1 South Wilmington Street, Raleigh, North Carolina.

Comment Procedures: Any person may request information or copies of the proposed rules by writing or calling John P. Barkley, Agency Legal Specialist, Division of Health Services, P. O. Box 2091, Raleigh, North Carolina 27602-2091, (919) 733-3131. Written comments on these subjects may be sent to Mr. Barkley at the above address. Written and oral (for no more than ten minutes) comments on these subjects may be presented at the hearing. Notice should be given to Mr. Barkley at least three days prior to the hearing if you desire to speak.

CHAPTER 7 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 7A - ACUTE COMMUNICABLE DISEASE CONTROL

SECTION .0400 - IMMUNIZATION

.0407 REDISTRIBUTION OF VACCINE BY LOCAL HEALTH DEPARTMENTS (REPEALED)

SECTION .0500 - PURCHASE AND DISTRIBUTION OF VACCINE

.0501 PURCHASE OF VACCINE

The Department of Human Resources may enter into contracts for the purchase of vaccines. Any purchase of such vaccines shall be in accordance with Article 3 of G.S. 143 and 1 NCAC 5A.

.0502 DISTRIBUTION OF VACCINE

(a) Except as provided in paragraph (b), a health care provider who receives vaccine from the State shall charge no more than the cost of the vaccine and a reasonable fee for administration of the vaccine.

(b) Vaccines provided by the State at no cost to local health departments shall be

administered at no cost to the patient.

Notice is hereby given in accordance with G.S. 1508-12 that the Division of Medical Assistance intends to amend regulation cited as 10 NCAC 26H .0202(a).

The proposed effective date of this action is January 1, 1987.

Statutory Authority: G.S. 108A-25(b); 108A-54; 108A-55; 42 C.F.R. 447, Subpart C.

The public hearing will be conducted at 1:30 p.m. on October 15, 1986 at North Carolina Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603, Room 201.

Comment Procedures: Written comments concerning this amendment must be submitted by October 15, 1986 to Director, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina 27603. Oral comments may be presented at the hearing.

CHAPTER 26 - MEDICAL SERVICES

SUBCHAPTER 26H - REIMBURSEMENT PLANS

SECTION .0200 - HOSPITAL INPATIENT REIMBURSEMENT PLAN

.0202 RATE SETTING METHODS

(a) A rate will be determined annually for each participating hospital to be effective for a twelve month period beginning July 1. Rates will be derived from desk reviewed cost reports for a base year period. The initial base year will be the cost reporting period ending in 1981. Rates will be applied to all claims for inpatient days of service paid after the effective date of the new rates. An annual rate is determined for each hospital to be effective for dates of service beginning each July 1. Rates are derived from cost reports for a base-year period or from previous appeal decisions. The initial base-year is the cost-reporting period ending in 1981. Services provided prior to July 1, 1986 are reimbursed at rates not to exceed the rates effective July 1, 1985.

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Medical Assistance intends to amend

regulations cited as 10 NCAC 26H .0302 (a) and (c).

The proposed effective date of this action is January 1, 1987.

Statutory Authority: G.S. 108A-25(b); 108A-54; 108A-55; 42 C.F.R. 447, Subpart C.

The public hearing will be conducted at 1:30 p.m. on October 15, 1986 at North Carolina Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603, Room 201.

Comment Procedures: Written comments concerning these amendments must be submitted by October 15, 1986 to Director, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603. Oral comments may be presented at the hearing.

SECTION .0300 - ICF-MR PROSPECTIVE RATE PLAN

.0302 ALLOWABLE COST FINDING: REPORTING AND VERIFICATION

(a) Annual cost reports are required from all providers within 90 days after their fiscal year end. These reports shall be presented on forms and in a format approved by the state agency. A 30 day extension of the due date may, for good cause, be granted by the state. Each facility that receives payments from the North Carolina Medicaid Program must prepare and submit a report of its costs and other financial information related to reimbursement annually. The report must include costs from a fiscal period beginning on July 1 and ending on June 30 and must be submitted to the state on or before the September 30 that immediately follows the June 30 year end. A new provider must submit a report for the period beginning with the date of certification and ending on June 30. Facilities that file reports after the due date will be charged a penalty of up to five hundred dollars (\$500.00) per day for each day after September 30 that the report is delinquent. The Division of Medical Assistance may extend the deadline for filing the report if, in its view, good cause exists for the delay. For providers with cost reporting periods ending on a date other than June 30 which were enrolled in the Medicaid program prior to July 1, 1986, this provision shall become effective for the

fiscal period ending June 30, 1988.

(c) Allowable costs will be recorded on the basis of generally accepted accounting principles using the accrual method of accounting except that governmental institutions will have the option of using the accrual or cash method of accounting.

Notice is hereby given in accordance with G.S. 150B-12 that the Social Services Commission intends to amend 10 NCAC 36 .0405; amend 10 NCAC 42W .0003; adopt .0005-.0006; amend 10 NCAC 46C .0101-.0102; repeal .0103-.0104; amend .0105; adopt .0106-.0107; amend 10 NCAC 47B .0405(h); adopt 10 NCAC 49C .0101-.0500.

The proposed effective dates of these actions are January 1, 1987 for 10 NCAC 46C and December 1, 1986 for all other rules.

Statutory Authority: G.S. 4-1; 48A-2; 90-21.1; 90-21.5; 143B-153; 143B-153(2a).

The public hearing will be conducted at 10:00 a.m. on October 15, 1986 at the Second Floor Conference Room, Woodoak Building, 1100 Navaho Drive, Raleigh, North Carolina 27609.

Comment Procedures: Any interested person may present his/her views and comments either in writing to or at the hearing or orally at the hearing. Any person may request information, permission to be heard, or copies of the proposed regulations by writing or call Bonnie Allred, 325 N. Salisbury Street, Raleigh, N.C. 27611, 919-733-3055.

CHAPTER 36 - CONTRACT SERVICES

SECTION .0400 - CONTRACT REQUIREMENTS

.0405 MONITORING

(a) Each purchase contract negotiated by the division of social services will be monitored by staff of the division. of social services. A visit to each provider agency service delivery site will be scheduled at least annually to monitor the provider's adherence to the terms of the contract and to assess the quality of services delivered. A monitoring report identifying areas of non-compliance and

establishing corrective action requirements will be sent to all parties to the contract.

(b) Each purchase contract and each vendor agreement which the county department of social services negotiates will be monitored annually by the county department of social services.

CHAPTER 42 - INDIVIDUAL AND FAMILY SUPPORT

SUBCHAPTER 42W - STATE ABORTION FUND

.0003 COUNTY DEPARTMENT OF SOCIAL SERVICES RESPONSIBILITIES

(a) Eligibility for the State Abortion Fund will be determined by the county department of social services.

(b) The county department of social services will provide abortion counseling to all clients determined eligible for State Abortion Funds.

(c) The county department of social services will provide to all State Abortion Fund clients family planning counseling and, upon request, referral for family planning medical consultation and supplies. Prior to authorization of payment for an abortion, counseling shall include the opportunity for the woman to personally view fetal models showing the growth and development of the human embryo and fetus, said models to be obtained from regular medical supply houses or medical schools.

(d) The county department of social services will arrange for the delivery of abortion services with appropriate medical providers:

(1) Physicians receiving payment for services through the State Abortion Fund must be licensed to practice medicine in North Carolina or if practicing in another state, by the appropriate regulatory authority in that state.

(2) Hospitals receiving State Abortion Funds for services rendered must be licensed in North Carolina by the Department of Human Resources or if located in another state, licensed or certified by the appropriate regulatory authority in that state.

(3) Abortion clinics and ambulatory surgical facilities receiving State Abortion Funds for services

rendered must be licensed or certified in North Carolina by the Department of Human Resources or if operating in another state, by the appropriate regulatory authority in that state.

(e) County departments of social services will negotiate for services delivery and payment with appropriate providers:

(1) Individual service authorization for clients will be routed on a designated form to participating medical providers by the county department of social services which will document the negotiated service payment.

(2) Providers may not collect additional funds from the patient.

.0005 REPORTING CASES OF RAPE AND INCEST

The director of any county department of social services receiving information from an applicant for State Abortion Funds alleging rape or incest as a basis for eligibility for assistance from the Fund shall report such incident of rape or incest to the district attorney having jurisdiction in the area in which the incident occurred.

.0006 CONSENT FOR PAYMENT FOR MINOR'S ABORTION

Where an applicant is an unemancipated minor, as defined in G.S. 48A-2, and requests assistance from the State Abortion Fund, the county department of social services shall require the written consent of at least one parent or legal guardian of the minor before authorizing payment of state funds for inducing an abortion. Other services for pregnancy may be authorized without such consent.

CHAPTER 46 - DAY CARE RULES

SUBCHAPTER 46C - PURCHASE OF CHILD DAY CARE

SECTION .0100 - BASIC REQUIREMENTS

.0101 PURPOSE

The rules in this Subchapter govern the purchase of child day care services with state and federal day care funds administered by the Office of Day Care Services. Section.

.0102 APPLICABILITY

(a) All day care facilities providers from which day care is purchased for eligible children with day care services funds shall adhere to the rules of this Subchapter that apply to that type of facility-provider.

(b) Day care centers subject to the maximum reimbursement rates for child day care shall have their allowable costs established according to one of the two methods described in Sections .0300 and .0400 of this Subchapter.

(c) Family day care homes and individual child care arrangements may be reimbursed at any negotiated rate up to the maximum rates established by the Social Services Commission for that type facility.

.0103 DEFINITIONS (REPEALED)

.0104 MAXIMUM REIMBURSEMENT RATES (REPEALED)

.0105 SPECIAL NEEDS SUPPLEMENTAL RATE

(a) In addition to the rate of payment allowed under the provisions of Rule .0104 of this Section, a supplemental rate, not to exceed 10 percent of the state maximum child day care reimbursement rates for the type of facility, may be established for a Level 2 center or family day care home provider under the following conditions:

(a) Any approved provider of daily care may be eligible for a supplemental rate equal to 10 percent of the provider's payment rate under the following conditions:

(1) the service population of the child day care center or family day care home is comprised of at least 60 percent children without special needs and the center or home provides services to a child or children with special needs;

(2) the provider can document the need for extra costs or charges for services to special needs children, which are in addition to the basic child day care costs as allowed in 10 NCAC 46B and 46C;

(3) (2) the provider's rate for a child shall be based on projected allowable costs, not to exceed 10 percent of the provider's approved daily care rate for that age group; as set by the Office of Day Care Services;

(4) (3) the agency determining eligibility for the service has on file a signed letter, statement, or summary from the person authorized to make the diagnosis to document the "special need" condition and a summary of the special services required to meet the child's needs.

(b) A "special needs" child is one who is determined by the appropriate authorities to qualify under one or more of the criteria listed in this Paragraph:

(1) child recipient of SSI (Supplemental Security Income);

(2) special needs child as defined in accordance with Department of Public Instruction's rules in 16 NCAC Rule .1501, 6H .0001;

(3) a mentally retarded or severely physically disabled child under criteria found in 10 NCAC 37F .0004;

(4) a "high risk" infant in accordance with criteria in 10 NCAC 18U .0403, defined as a child from birth to 18 months of age who exhibits significantly atypical patterns of behavior that indicate a high probability of mental retardation. The condition of high risk must be determined by a physician, who may secure corroborating evidence from a practicing psychologist or a psychological associate under the supervision of a practicing psychologist.

.0106 PAYMENT RATES

(a) Rates for daily care purchased from a child day care center shall be established according to the procedures described in Rule .0107 of this Section.

(b) The payment rate for full-time care purchased from a family day care home (registered plan) is one hundred fifty dollars (\$150.00) per month.

(c) The payment rate for full-time care purchased from an individual child care arrangement is one hundred dollars (\$100.00) per month.

(d) The payment rates for daily transportation purchased from any approved provider, except as provided in Paragraph (a) of Rule .0107, are:

(1) forty-two dollars (\$42.00) per month for any child younger than three years and any other child whose transportation needs

require special accommodations or additional supervision.

- (2) thirty-eight dollars (\$38.00) per month for any child who does not meet the requirements of Subparagraph (d) (1).

(e) Payment rates for part-time care shall be prorated according to the number of hours per day or days per month the child is scheduled to attend.

(f) Client fees imposed in accordance with the provisions of Section .0300 of Subchapter 46H shall be subtracted from the provider's allowable cost to determine the payment rate for an individual child.

.0107 RATES FOR DAY CARE CENTERS

(a) The payment rate for centers in which fewer than 50% of the children enrolled are subsidized with state or federal funds shall be the same fee paid by private paying parents for a child in the same age group in the same center, including registration fees. The payment rate for daily transportation provided by these centers is the same fee paid by a private paying parent for transportation of a child to and/or from the center.

(b) Centers in which 50% or more of the children enrolled are subsidized with state or federal funds may choose annually one of the following options:

- (1) the center's payment rates for care and transportation for state fiscal year 1985-86; or
(2) the county market rate for care calculated pursuant to Section 97 of Chapter 479 of the 1985 Session Laws and the state payment rate for transportation.

(c) Centers which primarily serve children who are mentally or physically handicapped, cerebral palsied, autistic, or abused or neglected pursuant to G.S. 7A-544, are exempt from the provisions of Paragraphs (a) and (b) of this rule and may choose annually one of the following payment options:

- (1) the maximum rates established by the Division of Mental Health, Mental Retardation and Substance Abuse Services for developmental day centers; or
(2) the center's allowable unit cost per child established annually by the

section according to allowable cost policy and rate establishment procedures approved by the secretary pursuant to G.S. 14B-153(2a). The state allowable costs codified in 10 NCAC 46B shall apply only to centers which meet the criteria of this rule.

(d) Except as provided for in Paragraph (a), the payment rate for registration fees shall be limited to twenty dollars (\$20.00) per year per child.

(e) Purchasing agencies may negotiate with day care center providers for purchase of child day care services at payment rates lower than those prescribed by this rule.

CHAPTER 47 - STATE/COUNTY SPECIAL ASSISTANCE

SUBCHAPTER 47B - ELIGIBILITY DETERMINATION

SECTION .0400 - ELIGIBILITY FACTORS

.0405 INCOME

~~(1) the first twenty dollars (\$20.00) shall be disregarded plus one-half of the remainder not to exceed a total disregard of fifty dollars (\$50.00) from total monthly earned income;~~

~~(2) work-related expenses shall be subtracted (federal and state tax, FICA, union dues, retirement, medical and hospital insurance, the cost of uniforms, tools or materials);~~

~~(3) cost of transportation to and from work shall be subtracted (if applicant recipient uses his own vehicle), ten cents (\$.10) a mile shall be allowed; and~~

~~(4) ten dollars (\$10.00) for incentive shall be subtracted.~~

(1) the first sixty-five dollars (\$65.00) shall be disregarded;

(2) impairment-related work expenses for such items as equipment, prostheses, and medical devices and work-related expenses for uniforms, tools, materials or unusual transportation costs shall be subtracted;

(3) then one half of the remainder shall be disregarded.

CHAPTER 49 - AFDC

SUBCHAPTER 49C - EMERGENCY ASSISTANCE

SECTION .0100 - COVERAGE

.0101 ELIGIBILITY FOR COVERAGE

(a) Eligibility for coverage will be as follows:

(1) Emergency Assistance

shall be provided to or on behalf of a needy child(ren) under the age of 21, the specified relative of the needy child(ren), the spouse of the specified relative and any other child(ren) under the age of 21 who may live in the home and is under the care and supervision of the specified relative. The needy child under the age of 21 who is within the specified degree of relationship must be living with the specified relative or have lived with the specified relative within six months prior to the month in which Emergency Assistance is requested.

(2) Families of migrant workers shall be covered if the requirements stated in paragraph (a) of this rule and the regulations stated in 45 CFR 233.120 are met.

(b) Verification

(1) The county shall accept the applicant's statement to verify the household composition.

(2) The county shall accept the applicant's statement verifying living with and kinship unless questionable. If the applicant's statement is questionable, the county department of social services shall be required to verify living with and kinship according to rules in 10 NCAC 49B .0304.

.0102 EMERGENCIES COVERED

(a) The following emergencies shall be covered:

(1) a crisis situation resulting from a catastrophic illness;

(2) substantial loss of shelter, food, clothing, or household furnishings due to fire, flood, or similar natural or man-made disaster, or a crime of violence;

(3) emergency situation over which there was no control, which left the family homeless, or in immediate danger of eviction or foreclosure;

(4) a situation in which Emergency Assistance is necessary to avoid destitution of the needy

child(ren) as described in .0101 of this Subchapter, or to provide shelter for the child(ren);

(5) emergency situation which could lead to destitution and the destitution or need for living arrangements did not arise because he or a specified relative refused without good cause to accept employment or training for employment. Good cause is defined in 10 NCAC 49B .0311(2).

(6) mass emergencies;

(7) Loss of a relative who has been responsible for support and/or care of one of the family members.

(b) The county department of social services shall verify the emergency situation. Methods of verification include but are not limited to an eviction notice, contact with the landlord or other collateral, statement from a doctor, or signed statement from the applicant.

.0103 EMERGENCY NOT COVERED

Heating or cooling-related emergencies shall not be covered.

.0104 BENEFIT LEVEL

(a) The maximum benefit per household is five hundred dollars (\$500.00) during thirty consecutive days. Such assistance cannot be received again within a twelve consecutive month period.

(b) When the county department purchases in-kind goods or contracts for the purchase of services to alleviate or to prevent destitution of the family, the value of the in-kind goods or contracted services must be established and considered when authorizing the benefit level.

(1) For in-kind goods, the value will be the actual purchase price of the goods.

(2) For contracted services, the provider will submit to the county department of social services a written statement of the value of the service provided.

.0105 TYPES OF ASSISTANCE PROVIDED

Assistance will include:

(1) temporary shelter;

(2) transportation;

(3) home repairs such as repair of frozen pipes and plastic covering for windows;

(4) replacement or repair, when appropriate, of necessary appliances,

household items, or furniture;
 (5) in-kind goods such as clothing, blankets, food;
 (6) outpatient medical services such as prescriptions, eyeglasses and doctor visits if the expense is not covered by the Medicaid Program or the individual needing the care is either not receiving or is ineligible for Medical Assistance.

.0106 METHODS OF PAYMENT
 Methods of payment include:
 (1) direct payment;
 (2) voucher payment;
 (3) vendor payment.

SECTION .0200 - APPLICATION AND DISPOSITION

.0201 APPLICATION AND DISPOSITION

(a) The family shall apply for Emergency Assistance in the county in which it lives.
 (b) Application shall be made on a State-prescribed form.
 (c) If eligible for assistance, the family should receive benefits within 24 to 48 hours, depending upon the specific circumstances of the emergency.
 (d) If eligibility can not be verified as described in this Subchapter, the application may pend beyond 48 hours.

SECTION .0300 - RESERVE AND INCOME

.0301 RESERVE

(a) A family shall be allowed to reserve resources at a maximum of two thousand two hundred dollars (\$2,200.00). If the reserve owned by the family exceeds two thousand two hundred dollars (\$2,200.00), it shall be ineligible.
 (b) Resources owned by members of the household applying for Emergency Assistance shall be counted.
 (c) The following reserve items shall be counted:
 (1) cash on hand;
 (2) the current balance of savings account(s);
 (3) that portion of a checking account other than the monthly income deposited to meet the household's needs;
 (4) stocks, bonds, mutual fund shares, savings certificates;
 (5) revocable trust funds;
 (6) life estate and remainder interest, if salable;

(7) net proceeds from a business, including a farm, which has been discontinued;
 (8) equity in real property not used as a home or producing an income.
 (d) The following reserve items shall be excluded:
 (1) household or personal belongings (includes essential and non-essential personal property);
 (2) motor vehicles;
 (3) primary residence, including mobile home, and all contiguous property;
 (4) income-producing property;
 (5) insurance (including burial, term, and whole life cash values);
 (6) value of prepaid burial contracts;
 (7) value of burial plots;
 (8) savings of a student under the age of 21 who is saving his money for school expenses;
 (9) relocation assistance payments;
 (10) that portion of monthly income deposited in a checking account to meet monthly needs;
 (11) non-salable life estate or remainder interest;
 (12) heir property;
 (13) HUD community development block grants.
 (e) Verification
 (1) Unless questionable, the value of the family's reserve shall be verified by the specified relative's statement.
 (2) If the family's resources equal or exceed two thousand two hundred dollars (\$2,200.00) or the specified relative's statement is questionable, resources shall be verified according to 10 NCAC 49B .0307.
 (3) If additional verification is required, the application may pend beyond 48 hours.

.0302 INCOME

(a) Except for verification, income rules stated in 10 NCAC 49B .0308 shall control for Emergency Assistance.
 (b) Verification
 (1) The county department of social services shall use any resources available at the county department to verify income of the family. These resources may include but are not limited to other public assistance case records of the family, income listings such as the

State Data Exchange, Bendex, or Unemployment Insurance which is available both on paper listing and on-line in the State's Eligibility Information System.

- (2) If records are unavailable at the county department of social services for verifying income, county departments of social services shall accept the specified relative's written statement as to the amount of the family's income, unless questionable.
- (3) If the specified relative's statement is questionable, the county department of social services shall be required to verify income according to the rules in 10 NCAC 49B .0308(g).
- (4) If additional verification is required, the application may pend beyond 48 hours.

SECTION .0400 - SERVICES

.0401 SERVICES PROVIDED

The county shall provide the following services to help meet needs attributable to the emergency:

- (1) information regarding community services available;
- (2) referral to other agencies where appropriate, including referral to the local Child Support Enforcement Agency;
- (3) Other services as stated in the county's Social Services Plan.

SECTION .0500 - GENERAL EMERGENCY ASSISTANCE PROGRAM PROCEDURES

.0501 PROCEDURES

The following general procedures shall be applicable to the Emergency Assistance Program:

- (1) Notice and hearings rules stated in 10 NCAC 24A .0600 shall control for Emergency Assistance.
- (2) Confidentiality rules stated in 10 NCAC 24B shall control for Emergency Assistance.
- (3) Rules regarding lost, stolen and forged checks stated in 10 NCAC 49B .0605 shall control for Emergency Assistance.
- (4) Overpayment rules stated in 10 NCAC 49B .0606 shall control for Emergency Assistance.
- (5) Client fraud rules

stated in 10 NCAC 49B .0608 shall control for Emergency Assistance.

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources intends to repeal regulations cited as 10 NCAC 43J .0101; .0102; .0301; .0302; .0303.

The proposed effective date of this action is January 1, 1987.

Statutory Authority: G.S. 143B-10.

The public hearing will be conducted at 9:00 a.m. on October 16, 1986 at the 4th Floor Conference Room, Albemarle Building, 325 N. Salisbury Street, Raleigh, N.C.

Comment Procedures: Any interested person may present his/her comments either in writing three days prior to or at the hearing or orally at the hearing for a maximum of ten minutes. Any person may request information by writing or calling Victoria Voight, Office of Legislative and Legal Affairs, 325 N. Salisbury Street, Raleigh, N.C. 919-733-6920.

CHAPTER 43 - SERVICES PROGRAM PLAN

SUBCHAPTER 43J - MINIMUM SERVICE LEVELS

SECTION .0100 - GENERAL

.0101 PURPOSE (REPEALED)

.0102 APPLICABILITY (REPEALED)

SECTION .0300 - IN-HOME SERVICES

.0301 SERVICES (REPEALED)

.0302 MINIMUM LEVEL
REQUIREMENTS (REPEALED)

.0303 COMPLIANCE (REPEALED)

TITLE 15 - NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend regulation cited as 15 NCAC 2B .0311.

The proposed effective date of this action is April 1, 1987.

Statutory Authority: G.S.
143-214.1.

The public hearing will be conducted at 7:00 p.m. on October 22, 1986 at King Auditorium, King Hall, University of North Carolina - Wilmington, 601 South College Road, Wilmington, NC 28403-3297.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within thirty days after the hearing or may be presented orally at the hearing. Oral statements may be limited to 5 minutes at the discretion of the hearing officer. For further information or the submission of written comments, contact Bill Kreutzberger, DEM, P.O. Box 27687, Raleigh, NC 27611, (919) 733-5083.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0311 CAPE FEAR RIVER BASIN

(b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;
- (9) December 1, 1985;
- (10) February 1, 1986;
- (11) January 1, 1987;
- (12) April 1, 1987.

(Editor's Note: Notice for (b)(11) of this Paragraph was published in the North Carolina Register, Volume 1, Issue 5 on pages 339-340. The proposed effective date for (b)(11) is January 1, 1987.)

Notice is hereby given in accordance with G.S. 150B-12 that the NR&CD intends to amend regulations cited as 15 NCAC 8B .0303; 8D .0004; 8C .0002; and adopt 15 NCAC 8D .0006.

The proposed effective date of this action is January 1, 1987.

Statutory Authority: G.S.
90A-37; 90A-39; 90A-40; 90A-41;
and 93B-8.

The public hearing will be conducted at 10:00 a.m. on October 31, 1986 at Council Chamber, Municipal Building, 300 West Washington Street, Greensboro, N. C.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within 30 days after the hearing or may be presented orally at the hearing. Oral statements may be limited to five minutes at the discretion of the hearing officer. For further information or the submission of written comments, contact Jackie Wall, DEM, P. O. Box 27687, Raleigh, N. C. 27611, (919) 733-5083.

CHAPTER 8 - WASTEWATER TREATMENT PLANT OPERATORS

SUBCHAPTER 8B -CERTIFICATION OF OPERATORS

SECTION .0300 CERTIFICATION BY EXAMINATION

.0303 EXAMINATION RESULTS AND ISSUANCE OF CERTIFICATES

(a) Within as short a period as feasible, after an examination, the examinee will be informed, in writing only, by the commission or its authorized representatives as to the results of his examination. If a passing score is made, such notification constitutes certification by the commission that the applicant is a qualified operator in the appropriate grade. After each examination, a list of those certified shall be drawn up and made a part of the permanent records of the commission. Copies of these lists will be provided each commission member and official approval of certification will be made by the commission at its regularly scheduled meetings. Upon completion of the lettering, the qualifying applicant will be issued a certificate designating his level of competency.

SUBCHAPTER 8C - CLASSIFICATION OF WASTEWATER TREATMENT FACILITIES

- .0002 RATING SCALE FOR
CLASSIFICATION OF FACILITIES
(5) SECONDARY TREATMENT UNITS
(a) Carbonaceous Stage
(vi) Stabilization
Lagoons.....5
with outlet to stream

SUBCHAPTER 8D - POWERS AND ENFORCEMENT

.0004 REVOCATION OF CERTIFICATION

(a) The certification commission may revoke the certification of an operator when it is found that the operator has practiced fraud or deception; that reasonable care, judgement, or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable to properly perform his duties. Prior to the commission taking action on a proposed revocation, the operator shall be given an opportunity to submit a written statement and present an oral argument before the commission at a regularly scheduled meeting. Notice of the meeting shall be delivered personally or by certified mail at least 15 days prior to the meeting.

(b) Notice of revocation shall be given delivered to the operator personally or by certified mail at least 20 days prior to taking action the effective date of revocation. The notice shall contain the alleged facts or conduct upon which the revocation is based and shall inform the operator of the opportunity to contest the action. The procedures to be followed shall be as specified in 15 NCAC 8A. 0302.

.0006 RECERTIFICATION FOLLOWING REVOCATION

(a) After revocation has been effective for a period of not less than 270 days, a person may apply in writing for recertification by the commission, including in his petition any relevant facts concerning changes to conditions under which revocation occurred. Such facts should show clearly that applicant will comply with the laws and regulations.

(b) Within 120 days following receipt of an application for recertification, the commission will notify the applicant by letter of its decision to deny or grant examination eligibility in accordance with procedures set out at subsection 8B .0102

herein. Additional eligibility requirements including a show cause conference may be imposed by the commission as it deems appropriate. Eligibility will only be granted if there is substantial evidence that the conditions leading to the revocation have been corrected.

(c) Recertification of a person as a wastewater treatment plant operator shall only occur by means of application and examination. The examinations will not be waived. The applicant shall meet the eligibility requirements set forth in Section 8B .0200 beginning with 8B .0201 except that applicant shall not be eligible for 8B .0206. Operational experience prior to revocation will not apply as eligibility for future recertification. Applicant shall not be eligible for temporary certification under Section 8B .0404.

(d) Upon notification of the commission's decision to deny eligibility, the applicant may appeal the decision pursuant to the procedures contained in NCGS 150B-23.

Notice is hereby given in accordance with G.S. 150B-12 that the Wildlife Resources Commission intends to amend regulations cited as 15 NCAC 10F .0303(a) and .0322.

The proposed effective date of this action is March 1, 1987.

Statutory Authority: G.S. 75A-3; and 75A-15.

The public hearing will be conducted at 9:00 a.m. on October 20, 1986 at Room 386, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of the hearing will be open for receipt of written comments from October 21, 1986, to 5:00 p.m. on November 21, 1986. Such written comments must be delivered or mailed to the Wildlife Resources Commission, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611.

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER

SAFETY REGULATIONS

.0303 BEAUFORT COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Beaufort County:

(3) that portion of Blounts Creek beginning 100 yards below the Old Crist Landing and extending upstream to Cotton Patch Landing; the NC 33 bridge;

(5) the navigable portion of Nevils Creek extending upstream from its mouth at the Pamlico River.

(b) Speed Limit. It is unlawful to operate a vessel at greater than no-wake speed in the regulated areas described in paragraph (a) of this Rule.

.0322 UNION COUNTY

(a) Regulated Area. This Rule applies only to that portion of Cane Creek Lake which lies within the territorial limits of Union County.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp on the waters of Cane Creek Lake in Union County. or within 50 yards of the boat ramp at the Family Camping Area located on the regulated area described in Paragraph (a) of this Rule.

(c) Speed Limit in Congested Area. No person shall operate a vessel at greater than no-wake speed within 75 yards of the narrow neck that connects the upper and lower portions of Cane Creek Lake.

(c) (d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Executive Director, or his representative, on the waters of Cane Creek Lake in Union County. regulated area described in paragraph (a) of this Rule.

TITLE 21 - LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the Dental Examiners intends to amend regulation cited as 21 NCAC 16M .0001.

The proposed effective date of this action is February 1, 1987.

Statutory Authority: G.S. 90-28; 90-39.

The public hearing will be conducted at 1:00 p.m. on October 25, 1986 at 3325 Executive Drive, Raleigh, N. C., at the Offices of the Board.

Comment Procedures: Persons wishing to present oral data, views or arguments on a proposed rule may file a notice with the board at least ten days prior to the proposed hearing. Any person may also file a written submission containing data, comments or arguments at any time within ten days after the hearing.

CHAPTER 16 - BOARD OF DENTAL EXAMINERS

SUBCHAPTER 16M - FEES PAYABLE

.0001 DENTISTS

The following fees shall be payable to the North Carolina State Board of Dental Examiners:

- (1) Application for General Dentistry Examination\$75.00
 - (2) Application for Instructor's License and Examination\$50.00
 - (3) General Dentistry and Instructor's License Renewal.....\$40.00
 - (4) Application for Provisional Licensure — General Dentistry.....\$50.00
 - (5) Application for Intern Permit or renewal thereof.....\$50.00
 - (6) Certificate of license to a resident dentist desiring a change to another state or territory.....no chg
 - (7) Licensure upon clinical examination of practitioner of another state.....\$75.00
 - (8) Reinstatement of a license to resume practice.....\$50.00
- From time to time, the board will establish a schedule of of fees for license application and renewal, as authorized by G.S. 90-39. A schedule of current fees may be obtained from the Board's office.

Notice is hereby given in accordance with G.S. 150B-12 that the Board of Medical Examiners intends to amend regulations cited as 21 NCAC 32B .0101; and .0201.

The proposed effective date of this action is January 1, 1987.

Statutory Authority: G.S. 90-9 and 90-13.

The public hearing will be conducted at 10:00 a.m. on October 15, 1986 in the

auditorium of N.C. Medical Society, 222 N. Person St., Raleigh, N.C.

Comment Procedures: Persons interested may present written or oral statements relevant to the actions proposed at a hearing to be held as indicated above. Written statements not presented at the hearing should be directed before October 1, 1986, to the following address: Administrative Procedures, N.C. Board of Medical Examiners, Suite 214, 222 N. Person St., Raleigh, N.C. 27601.

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

SUBCHAPTER 32B - LICENSE TO PRACTICE MEDICINE

SECTION .0100 - LICENSE BY WRITTEN EXAMINATION

.0101 MEDICAL EDUCATION

In order to be eligible for N.C. written examination, FLEX (Federation Licensing Examination), a physician applicant must:

- (1) be a graduate of a medical school approved by either:
 - (a) LCME (Liaison Commission on Medical Education), or
 - (b) AOA (American Osteopathic Association); or
- (2) if graduated from a medical school not approved by LCME or AOA, the applicant must:
 - (a) take the North Carolina written examination, FLEX, and
 - (b) furnish proof of satisfactory completion of three years of graduate medical education and training approved by the board (see Rule .0113);
- (3) if graduated from a medical school not approved by the LCME or AOA, and if clinical clerkships are taken in the U.S.A., the applicant must:
 - (a) furnish evidence that he has satisfactorily completed clinical clerkships at teaching hospitals in the U.S.A. with ACGME (Accreditation Council for Graduate Medical Education) or AOA-approved graduate medical education and training programs in the areas of the specific clerkships;
 - (b) if clerkships do not meet the above requirement, deficiencies may be remedied as follows:
 - (i) re-apply to medical

school so that the school may arrange for the applicant to complete approved clinical clerkships as required, or
(ii) apply for admission to advanced standing at a medical school approved by the LCME or AOA to repeat one year of clinical clerkship.

No applicant graduated from a medical school which has been disapproved by the board shall be eligible for examination or licensure in North Carolina.

Burden of proof of medical education is on the applicant.

SECTION .0200 - LICENSE BY ENDORSEMENT

.0201 MEDICAL EDUCATION

In order to be eligible for license by endorsement of credentials, a physician applicant must:

- (1) be a graduate of a medical school approved by either:
 - (a) LCNE (Liaison Commission on Medical Education), or
 - (b) AOA (American Osteopathic Association); or
- (2) if graduated from a medical school not approved by LCNE or AOA, the applicant must:
 - (a) take the North Carolina written examination, FLEX, and
 - (b) furnish proof of satisfactory completion of three years of graduate medical education and training approved by the board (see Rule .0113);
- (3) if graduated from a medical school not approved by the LCNE or AOA, and if clinical clerkships are taken in the U.S.A., the applicant must:
 - (a) furnish evidence that he has satisfactorily completed clinical clerkships at teaching hospitals in the U.S.A. with ACGME (Accreditation Council for Graduate Medical Education) or AOA-approved graduate medical education and training programs in the areas of the specific clerkships;
 - (b) if clerkships do not meet the above requirement, deficiencies may be remedied as follows:
 - (i) re-apply to medical school so that the school may arrange for the applicant to complete approved clinical clerkships as required, or

(ii) apply for admission to advanced standing at a medical school approved by the LCME or AOA to repeat one year of clinical clerkship.

No applicant graduated from a medical school which has been disapproved by the board shall be eligible for examination or licensure in North Carolina.

Burden of proof of medical education is on the applicant.

Notice is hereby given in accordance with G.S. 150B-12 that the Real Estate Commission intends to amend regulations cited as 21 NCAC 58A .0101(b); .1005(a)(3); .1104(a); .1105(a) and (b); .1203(a)(1)-(4); .1205(a); .1306(b)(1) and (2); .1314(d); .1318(a); 21 NCAC 58B .0101; .0102; .0103(a); .0104(c); .0201(b); .0202(a) and adopt 21 NCAC 58B .0105.

The proposed effective date of this action is April 1, 1987.

Statutory Authority: G.S. 93A-3(c); 93A-4(c) and (d); 93A-33; 93A-44; 93A-51; 93A-52(a) and (d); 150B-11.

The public hearing will be conducted at 9:00 a.m. on October 17, 1986 at Offices of the North Carolina Real Estate Commission, 1200 Navaho Drive, Raleigh, North Carolina.

Comment Procedures: Comments regarding the proposed rules may be made orally or submitted in writing at the public hearing. Written comments not submitted at the hearing should be directed so as to be delivered no later than November 20, 1986, to the North Carolina Real Estate Commission, P.O. Box 17100, Raleigh, North Carolina 27619.

CHAPTER 58 - REAL ESTATE

SUBCHAPTER 58A - REAL ESTATE BROKERS AND SALESMEN

SECTION .0100 - GENERAL BROKERAGE

.0101 DISPLAY OF LICENSE

(b) The annual license renewal sticker pocket card issued by the board to each broker, salesman, or brokerage corporation shall be affixed retained by the licensee to his real estate license immediately upon receipt as evidence of licensure.

SECTION .1000 - SCHOOLS

.1005 WITHDRAWAL: DENIAL OR SUSPENSION OF APPROVAL

(a) The commission may deny, withdraw or suspend approval of any school, reprimand the school, or place the school on probation upon finding that:

- (1) such school has refused or failed to comply with any of the provisions of Sections .1000, .1100 or .1200 of this Subchapter; or
- (2) any school official or instructor has obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate licensing examination questions; or
- (3) such school has a salesman or broker licensing examination performance record for any annual or semi-annual reporting period which is substantially below the performance record of all first-time examination candidates.

SECTION .1100 - REAL ESTATE PRE-LICENSING COURSES

.1104 COURSE CONTENT

(a) All courses shall consist of instruction in the subject area and at the competency and instructional levels prescribed in the commission's syllabi.

.1105 COURSE COMPLETION STANDARDS

(a) Schools must establish and enforce academic standards for course completion which reasonably assure that students receiving a passing grade possess adequate knowledge and understanding of the subject areas prescribed for the course. A student's grade must be based solely on his or her performance on examinations and graded homework or classwork assignments. No credit may be awarded to a student for attendance or class participation. In any course for which college or CEU credit is may be awarded, the passing grade for such course must be the same as that grade which is considered passing under the school's uniform grading system for the purpose of awarding college or CEU credit.

(b) Course completion requirements must include passing a comprehensive final course examination which covers all subject areas prescribed by the commission for such course,

and which measures student competence in accordance with the competency and instructional levels prescribed in the commission's course syllabus, and which accounts for at least fifty percent of a student's grade for the course. Final course examinations are subject to review and approval by the commission. Take-home or open-book final course examinations are prohibited. Schools may allow a student to make up a any missed course examination or to retake a any failed course examination in accordance with policies adopted by the school; however, no such make-up or repeated examination may include more than twenty-five percent of the questions which appeared on the original missed or failed examination. taken by the student. Schools may not allow a student to retake a failed examination more than twice once unless the student first repeats the course.

SECTION .1200 - CERTIFICATION OF REAL ESTATE INSTRUCTORS

.1203 CRITERIA FOR CERTIFICATION

(a) The commission shall certify an applicant to teach the courses listed in this Paragraph upon finding that the applicant is recommended by a licensed/approved school, has submitted all information required by the commission, is possessed of good character and reputation, and possesses the qualifications described in this Paragraph for each course:

(1) Fundamentals of Real Estate: A current North Carolina salesman or broker license, a minimum of 90 120 classroom hours of real estate education excluding company or franchise in-service sales training, programs, and a minimum of two years full-time general real estate brokerage experience within the past previous five years.

(2) Real Estate Law: Either A license to practice law in North Carolina or a current North Carolina broker license, a minimum of three years full time general real estate brokerage experience within the past five years, and substantial education in real estate law topics above the pre-licensing level, and experience in closing at least ten real estate sales

transactions within the previous three years.

(3) Real Estate Finance:

Either one year full-time experience within the past five previous three years as a mortgage loan officer specializing in first mortgage loans, or two years full-time experience within the past five previous three years as a general loan officer with an institution which deals in makes a substantial number of first mortgage loans, or a current North Carolina broker license, and a minimum of three five years full-time general real estate brokerage experience within the past five previous seven years, and substantial education in real estate finance topics above the pre-licensing level.

(4) Real Estate Brokerage

Operations: A current North Carolina broker license, 120 classroom hours of real estate education excluding company or franchise in-service sales training and minimum of three years full-time general real estate brokerage experience with the past previous five years including at least one year as broker-owner, designated broker-in-charge or managing broker of a multi-agent real estate or office.

.1205 DENIAL: REVOCATION: SUSPENSION OF INSTRUCTOR CERTIFICATION

(a) The board may deny, revoke or suspend the certification of any instructor, or reprimand the instructor, upon finding that:

(1) The instructor fails to meet the criteria for certification provided by those regulations; or

(2) The instructor has failed to comply with board regulations regarding real estate courses or schools; or

(3) The instructor's employment has been terminated by any school approved by the board on the grounds of incompetence or failure to comply with institutional policies and procedures; or

(4) The instructor provided false information to the board when making application for certification; or

(5) The instructor's real

- estate broker/saleman license has been revoked or suspended; or
- (6) The instructor has obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate licensing examination questions; or
- (7) The instructor has failed to employ acceptable instructional principles and methods is unworthy or incompetent to act as an instructor in a manner that serves the interests of the public.

SECTION .1300 - PRIVATE REAL ESTATE SCHOOLS

.1306 ADMINISTRATION

(b) The school director must be possessed of good character and reputation and must satisfy one of the following qualifications standards:

- (1) hold a baccalaureate or higher degree in the field of education; or
- (2) have at least two years full-time experience within the past ten years as an instructor or school administrator; or
- (3) possess qualifications which are found by the Board to be substantially equivalent to those described in Subparagraph (1) or (2) of this Paragraph.

.1314 ADVERTISING AND RECRUITMENT ACTIVITIES

(d) Schools shall not use endorsements or recommendations of any person or organization, by way of advertising or otherwise, unless such person or organization has consented in writing to the use of the endorsement or recommendation and is not compensated for such use. A copy of the written consent shall be retained on file by the school for three five years.

.1318 SUSPENSION: REVOCATION OR DENIAL OF LICENSE

(a) The commission may suspend, revoke, deny issuance, or deny renewal of a license to operate a private real estate school, or may reprimand the license holder, or may place the school on probation, upon finding that the applicant for or holder of such license, or any instructor or other employee of the owner or holder of such license;

- (1) has refused or failed to comply with any of the provisions of Article 3, Chapter 93A of the General Statutes or the rules or regulations promulgated thereunder;
- (2) has knowingly presented to the commission false or misleading information relating to matters within the purview of the commission under Article 3, Chapter 93A of the General Statutes or the rules and regulations promulgated thereunder;
- (3) has presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional program of other schools, to the licensing examination performance of its students, or to employment opportunities;
- (4) has failed to comply with the provisions of any contract or agreement entered into with a student;
- (5) has at any time refused to permit authorized representatives of the commission to inspect the school, or failed to make available to them upon request full information relating to matters within the purview of the commission under the provisions of Article 3, Chapter 93A of the General Statutes or the rules or regulations promulgated thereunder;
- (6) has obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate licensing examination questions;
- (7) or any officer of a corporate licensee or corporation applying for a license, or any partner of a partnership licensee or partnership applying for a license, has pleaded guilty, entered a plea of nolo contendere or been found guilty of a crime involving moral turpitude in any state or federal court;
- (8) or the school has a salesman or broker licensing examination performance record for any annual or semi-annual reporting period which is substantially below the performance record of all first-time examination candidates.

SUBCHAPTER 58B - TIME SHARES

SECTION .0100 - TIME SHARE REGISTRATION

.0101 APPLICATION FOR REGISTRATION

Every application for time share project registration shall be filed at the commission office upon a form prescribed by the commission and shall contain information concerning the developer's right to use the real property on which the project is located, including a title opinion provided by an independent attorney performed within 30 days preceding the date of application, a description of the improvements and amenities located at the project, including a description of the type and number of time share units, a description of the time share estate to be sold to purchasers, information concerning the developer and the marketing and managing entities and their relationship to the developer, information concerning any criminal convictions, unpaid civil judgments, bankruptcies and administrative disciplinary actions against the developer, the marketing and managing entities, or their principals or officers in this or any other state or principality, true copies of all documents required, and such additional information required under G.S. 93A-52.

(a) Every application for time share project registration shall be filed at the commission's offices upon a form prescribed by the commission. Every such application shall contain or have appended thereto:

- (1) information concerning the developer's title or right to use the real property on which the project is located, including a title opinion provided by an independent attorney performed within 30 days preceding the date of application;
- (2) information concerning owners of time shares at the project other than the developer;
- (3) a description of the improvements and amenities located at the project, including a description of the number and type of time share units;
- (4) a description of the

time share estate to be sold or conveyed to purchasers;

- (5) information concerning the developer and his financial ability to develop the project, the marketing and managing entities and their relationship to the developer;
 - (6) information concerning any criminal convictions, unpaid civil judgments, bankruptcies and administrative penalties or disciplinary actions against the developer, the marketing or managing entities, or their principals or officers in this or any other state or principality;
 - (7) copies of all documents to be distributed to time share purchasers at the point of sale or immediately thereafter; and
 - (8) such information as may be required by G.S. 93A-52.
- (b) Every application for time share registration shall be submitted to the commission in the following format:
- (1) Documents shall be securely bound and fastened between firm covers approximately nine inches by 15 inches in size.
 - (2) The first document in each filing shall be the application form wholly and accurately completed.
 - (3) Each filing shall contain a table of contents, listing each document by title in the order required by the application form. Each document shall bear a notation indicating whether it is to be distributed to purchasers or is submitted for commission examination only.
 - (4) Each document shall be tabbed and labeled on the right side. Each label shall identify the document by title and number as required by the application form.
- (c) In accordance with G.S. 93A-52, an application for time share registration shall be considered to be properly completed when it is wholly and accurately filled out and when all required documents are appended to it and appear to be in compliance with the provisions of the Time Share Act and the Condominium Act or Unit Ownership Act.

.0102 REGISTRATION FEE

Every application for time

share project registration must be accompanied by a certified check made payable to the North Carolina Real Estate Commission in the amount of one thousand five hundred dollars (~~\$1,000.00~~) (\$1,500.00). Applications for registration not accompanied by the appropriate fee shall not be considered by the commission. In the event a properly completed application filed with the commission is denied for any reason, the amount of two hundred fifty dollars (\$250.00) shall be retained by the commission from the application fee and the balance refunded to the applicant developer.

.0103 RENEWAL OF TIME SHARE PROJECT REGISTRATION

(a) Every developer desiring the renewal of a time share project registration shall apply for the same in writing upon a form prescribed by the commission during the month of June next preceding the expiration of the certificate of registration of the project. Every such renewal application shall be accompanied by a certified check made payable to the North Carolina Real Estate Commission in the amount of seven hundred fifty dollars (~~\$750.00~~) one thousand dollars (\$1,000.00). To renew the time share project registration, the properly completed renewal application accompanied by the prescribed fee must be received at the commission's office prior to the expiration of the certificate of registration.

.0104 AMENDMENTS TO TIME SHARE PROJECT REGISTRATION

(c) Amendments to the time share project registration shall be made upon a form prescribed by the commission. Every amendment shall identify the section of the project registration to be amended and shall contain a summary of the amendment and a brief statement of the reasons for the amendment. The amendment shall include either the text of the project registration section to be substituted or a copy of the document to be modified.

(c) Amendments to time share project registrations shall be submitted in the form of substitute pages for material previously filed with the commission. New or changed information shall be conspicuously indicated by underlining in red ink. Every

amendment submitted shall be accompanied by a cover letter signed by the developer or his attorney containing a summary of the amendment, a statement of reasons for which the amendment has been made, and further indicating:

- (1) the name and address of the project and its registration number;
- (2) the name and address of the developer;
- (3) the document or documents to which the amendment applies;
- (4) whether or not the changes represented by the amendment required the assent of the time share owners and if so, how the assent of the time share owners was properly obtained; and
- (5) the recording reference in the office of the register of deeds for the changes if applicable.

Developers of multiple projects must submit separate amendments and cover letters for each project for which amendments are submitted.

.0105 NOTICE OF TERMINATION

(a) a developer of a registered time share project which, for any reason, terminates its interest, rights, ownership or control of the project or any significant part thereof shall immediately notify the commission in writing on a form prescribed by the commission for that purpose. Notice of termination to the commission shall include the date of termination, the reasons therefor, the identity of the developer's successor, if any, and a report on the status of time share sales to purchasers on the date of termination.

(b) Upon receipt of a properly executed notice of termination of the developer's interest in a time share project, the commission shall enter a notation of cancellation of registration in the file of the project, and shall notify the developer of cancellation. A developer's failure to give notice of termination as provided herein shall not prevent cancellation of the project's registration under G.S. 93A-52.

SECTION .0200 - PUBLIC OFFERING STATEMENT

.0201 GENERAL PROVISIONS

(b) In addition to the

information required to be contained in a public offering statement by G.S. 93A-44, every public offering statement shall disclose to the purchaser of a time share complete and accurate information concerning: the availability of the purchaser's time share; the recordation of the instrument conveying the purchaser's time share; the availability of each amenity and recreational facility; and the exchange of the purchaser's time share.

(1) the real property type of the time share program and a description of the estate the purchaser will own, the term of that estate and the remainder interest, if any, once the term has expired;

(2) the document creating the time share program, a statement that it is the document which governs the program and a reference to the location where the purchaser may obtain or examine a copy of the document;

(3) whether or not the property is being converted to time share from some other use, and is so, a statement to that effect and disclosure of the prior use of the improvements;

(4) the maximum number of time shares in the project and each recreational and other commonly used facility offered, and who or what will own each facility, if the project is to be complete in one construction phase;

(5) the complete plan of phased offerings, including the maximum number of time shares which may be in the project, each recreational and other commonly used facility, who or what will own each facility, and the developers representations regarding his commitment to build out the project;

(6) the association of owners or other entity which will ultimately be responsible for managing the time share program, the first date or event when the entity will convene or commence to conduct business, and whether and for how long the developer, as time share owner, will control the entity;

(7) the location where owners may inspect the articles and bylaws of the owners association, or other

organizational documents of the entity and the books and records it produces;

(8) whether the entity has lien rights against time share owners for failure to pay assessments;

(9) whether or not the developer has entered into a management contract on behalf of the managing entity, the extent to which the managing entities powers are delegated to the manager and the location where a copy of the management contract may be examined;

(10) whether or not the developer will pay assessments for time shares which it owns and a statement that the amount of assessments due the managing entity from owners will change over time, as circumstances may change; and

(11) whether or not the developer sponsors or will sponsor a rental or resale program, and if so, a summary of the program or programs.

.0202 PUBLIC OFFERING STATEMENT SUMMARY

(a) Every public offering statement shall contain a one page cover prescribed by the commission and completed by the developer entitled Public Offering Statement Summary. The Public Offering Statement Summary shall read as follows:

PUBLIC OFFERING STATEMENT SUMMARY

NAME OF PROJECT:.....

ADDRESS OF PROJECT:.....

NAME AND LICENSE NUMBER
OF SALESMAN:.....

This Public Offering Statement contains information which deserves your careful study. The public Offering Statement contains answers to the following questions which should be of particular importance to you:

BEFORE YOU SIGN ANY CONTRACT WHICH OBLIGATES YOU TO PURCHASE A TIME SHARE, YOU WOULD CONSIDER:

(1) When will my time share be available to me? (italic)
see public Offering Statement page....

(2) What will be my total

cost, including my initial cost, periodic fees and other changes? (*italic*) see Public Offering Statement page.....

(3) Who may change these charges and how? (*italic*) see Public Offering Statement page.....

(4) How will the time share project be maintained in the future? (*italic*) see Public offering Statement page.....

(5) When will each amenity and recreation facility (swimming pool, golf course, tennis courts, etc.) be available for my use? (*italic*) see Public offering Statement page.....

(6) Will I be able to exchange my time share for a time share somewhere else? If so, how? (*italic*) see Public offering Statement page.....

(7) How and when will the title to my time share be recorded? (*italic*) see public Offering Statement page.....

As you decide whether or not to purchase a time share.

The Public Offering Statement includes general information about the real estate type and size of this time share project. It also includes a general description of the recreational and other facilities existing now, or to be provided in the future. The Public Offering Statement will tell you how maintenance and management of the project will be provided and how the costs of these services will be charged to purchasers. From the Public Offering

Statement you will also learn how the project will be governed and whether purchasers will have a voice in that government.

The Public Offering Statement contains important information, but is not a substitute for the detailed information contained in contract of purchase and the legal documents which create and affect the time share program at this project.

Please study this Public Offering Statement carefully. Satisfy yourself that any questions you may have are answered before you decide to purchase. If a salesman or other representative of the developer has made a representation which concerns you, and you cannot find that representation in writing, ask that it be pointed out to you.

NOTICE

UNDER NORTH CAROLINA LAW, YOU MAY CANCEL YOUR TIME SHARE PURCHASE WITHOUT PENALTY WITHIN FIVE DAYS AFTER SIGNING YOUR CONTRACT. TO CANCEL YOUR TIME SHARE PURCHASE, YOU MUST MAIL OR HAND DELIVER WRITTEN NOTICE OF YOUR DESIRE TO CANCEL YOUR PURCHASE TO NAME AND ADDRESS OF PROJECT. IF YOU CHOOSE TO MAIL YOUR CANCELLATION NOTICE, THE NORTH CAROLINA REAL ESTATE COMMISSION RECOMMENDS THAT YOU USE REGISTERED OR CERTIFIED MAIL AND THAT YOU RETAIN YOUR POSTAL RECEIPT AS PROOF OF THE DATE YOUR NOTICE WAS MAILED. UPON CANCELLATION, ALL PAYMENTS WILL BE REFUNDED TO YOU.

March 17, 1984

FINAL RULES

When the text of any adopted rule differs from the text of that rule as proposed, the text of the adopted rule is published in this section.

When the text of any adopted rule is identical to the text of that as proposed, adoption of the rule will be noted in the "List of Rules Affected" and the text of the adopted rule will not be republished.

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication of proposed rules.

TITLE 15 - NR&CD

SUBCHAPTER 7H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0200 - THE ESTUARINE SYSTEM

.0208 USE STANDARDS

(b)
(5)

(E) To protect water quality of shellfishing areas, marinas shall not be located within areas where shellfish harvesting for human consumption is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the marina. In compliance with Section 101(a)(2) of the Clean Water Act and North Carolina Water Quality Standards adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish apparently are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption. The Division of Marine Fisheries shall be consulted regarding the

significance of shellfish harvest as an existing use and the magnitude of the quantities of shellfish which have been harvested or are available for harvest in the area where harvest will be affected by the development.

History Note: Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); Eff. September 9, 1977; Amended Eff. September 1, 1986; June 1, 1986; December 1, 1985; March 1, 1985.

SECTION .0300 - OCEAN HAZARD AREAS

.0304 AECs WITHIN OCEAN HAZARD AREAS

(1)

(a) a distance landward from the first line of stable natural vegetation to the recession line that would be established by multiplying the long-term annual erosion rate times 60, provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates shall be those set forth in tables entitled "Long Term Annual Erosion Rates Updated Through 1980" or "Long Term Annual Erosion Rates Updated Through 1985 (Currituck County) approved by the Coastal Resources Commission on March 18, 1983 and July 25, 1986 (except as such rates may be varied in individual contested cases, declaratory or interpretive rulings). The tables are available without cost from any local permit officer or the Division of Coastal Management; and

(4) Unvegetated Beach Area.

This is a dynamic area that is subject to rapid unpredictable landform change from wind and wave action. The areas in this category shall be designated following detailed studies by the Coastal Resources Commission. These areas shall be designated on maps approved by the Commission and available without cost from any local permit officer or the Division of Coastal Management.

History Note: Statutory
Authority G.S. 113A-107;
113A-113;
Eff. September 9, 1977;
Amended Eff. September 1, 1986.

.0305 GENERAL IDENTIFICATION
AND DESCRIPTION OF LANDFORMS

(g) Measurement line means the line from which the oceanfront setback as described in .0306(a) of this Subchapter is measured in the unvegetated beach area of environmental concern as described in .0304(a)(4) of this Subchapter. Procedures for determining the measurement line shall be adopted by the Commission for each area where such a line is designated. These procedures shall be available from any local permit officer or the Division of Coastal Management.

History Note: Statutory
Authority G.S. 113A-107;
113A-113(b)(6);
Eff. September 9, 1977;
Amended Eff. September 1, 1986;
December 1, 1985;
February 2, 1981;
August 15, 1979.

.0306 GENERAL USE STANDARDS
FOR OCEAN HAZARD AREAS

(a)

(1) If neither a primary nor frontal dune exists in the AEC on or behind the lot on which the development is proposed, the development shall be landward of the erosion setback line. The erosion setback line shall be set at a distance of 30 times the long-term annual erosion rate from the first line of stable natural vegetation or measurement line, where applicable. In areas where the rate is less than 2 feet per year, the setback line shall be 60 feet from the vegetation line or measurement line, where applicable.

(2) If a primary dune exists in the AEC on or behind the lot on which the development is proposed, the development shall be landward of the crest of the primary dune or the long-term erosion setback line, whichever is farthest from the first line of stable natural vegetation or measurement line, where applicable. For existing lots, however, where setting the development behind the crest of the primary dune would preclude any practical use of the lot, development may be located seaward of the primary dune. In such cases, the development shall be located behind the long-term erosion setback line and shall not be located on or in front of a frontal dune. The words "existing lots" in this Rule shall mean a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership.

(3) If no primary dune exists, but a frontal dune does exist in the AEC on or behind the lot on which the development is proposed, the development shall be set behind the frontal dune or behind the long-term erosion setback line, whichever is farthest from the first line of stable natural vegetation or measurement line, where applicable.

History Note: Statutory
Authority G.S. 113A-107;
113A-113(b)(6);
Eff. September 9, 1977;
Amended Eff. September 1, 1986;
December 1, 1985;
September 1, 1985;
November 1, 1983.

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES AFFECTED

EDITION X, NO. 6

EFFECTIVE: September 1, 1986

AGENCY	ACTION TAKEN
<u>AGRICULTURE</u>	
2 NCAC 9L .1102-.1103	Amended
.1108-.1110	Adopted
<u>COMMERCE</u>	
4 NCAC 7 .0507	Temp. Amended
.0507	Amended
16A .0004	Amended
16C .0501-.0503	Adopted
<u>CORRECTIONS</u>	
5 NCAC 2C .0202-.0203	Amended
<u>HUMAN RESOURCES</u>	
10 NCAC 3D .0115	Amended
.0701	Amended
3M .0101-.0104	Amended
.0105-.0106	Adopted
.0201-.0203	Amended
.0204-.0206	Adopted
.0301-.0302	Repealed
.0304	Repealed
.0401-.0402	Repealed
.0501	Amended
.0502	Repealed
18A .0123-.0136	Adopted
41H .0104	Repealed
.0201	Amended
.0301	Amended
.0302-.0303	Repealed
.0304	Amended
.0305-.0312	Repealed
.0405	Amended
42D .1502	Amended
44D .0108	Amended
<u>LABOR</u>	
13 NCAC 7C .0101-.0102	Amended
13 .0202-.0203	Amended
.0205	Amended
.0213	Amended
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15 NCAC 2H .0112	Amended
.0125	Adopted
6A .0009	Adopted
<u>SECRETARY OF STATE</u>	
18 NCAC 7 .0101	Amended
.0103	Amended
.0201	Amended
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Amended
Amended
Amended
Amended
Amended

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1	Administration, Department of
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16	Education, Department of
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19A	Transportation, Department of
20	Treasurer, Department of State
*21	Occupational Licensing Boards
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23	Community Colleges, Department of
24	Independent Agencies
25	Personnel, Department of State
26	Office of Administrative Hearings

NOTE: Title 21 contains the chapters of the various occupational licensing boards.

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6	Barber Examiners, Board of
8	Certified Public Accountant Examiners
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