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The **NORTH CAROLINA REGISTER**

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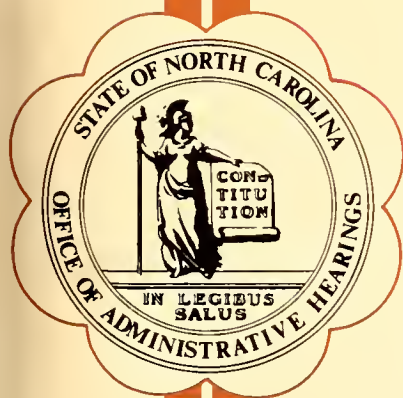
Community Colleges

Licensing Boards

NRCD

ISSUE DATE: JULY 1, 1988

Volume 3 • Issue 7 • Pages 267-294



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-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 fifty 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 24 issues.

Requests for subscriptions 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 the time and place of the public hearing; 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; a reference to the Statutory Authority for the action 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.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, 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 with the Office of Administrative Hearings for publication in the NCAC.

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 180 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) Single pages may be obtained 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) The full publication consists of 52 volumes totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC 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 bi-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 looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
(March 1988 - March 1989)

| Issue Date | Last Day for Filing | Last Day for Electronic Filing | Earliest Date for Public Hearing & Adoption by Agency | * Earliest Effective Date |
|------------|---------------------|--------------------------------|---|---------------------------|
| ***** | ***** | ***** | ***** | ***** |
| 03/15/88 | 02/24/88 | 03/02/88 | 04/14/88 | 07/01/88 |
| 04/04/88 | 03/11/88 | 03/18/88 | 05/04/88 | 08/01/88 |
| 04/15/88 | 03/25/88 | 04/01/88 | 05/15/88 | 08/01/88 |
| 05/02/88 | 04/11/88 | 04/18/88 | 06/01/88 | 09/01/88 |
| 05/16/88 | 04/27/88 | 05/03/88 | 06/15/88 | 09/01/88 |
| 06/01/88 | 05/10/88 | 05/17/88 | 07/01/88 | 10/01/88 |
| 06/15/88 | 05/26/88 | 06/02/88 | 07/15/88 | 10/01/88 |
| 07/01/88 | 06/10/88 | 06/17/88 | 07/31/88 | 11/01/88 |
| 07/15/88 | 06/24/88 | 07/01/88 | 08/14/88 | 11/01/88 |
| 08/01/88 | 07/11/88 | 07/18/88 | 08/31/88 | 12/01/88 |
| 08/15/88 | 07/26/88 | 08/02/88 | 09/14/88 | 12/01/88 |
| 09/01/88 | 08/11/88 | 08/18/88 | 10/01/88 | 01/01/89 |
| 09/15/88 | 08/26/88 | 09/02/88 | 10/15/88 | 01/01/89 |
| 10/03/88 | 09/12/88 | 09/19/88 | 11/02/88 | 02/01/89 |
| 10/14/88 | 09/26/88 | 10/03/88 | 11/13/88 | 02/01/89 |
| 11/01/88 | 10/11/88 | 10/18/88 | 12/01/88 | 03/01/89 |
| 11/15/88 | 10/26/88 | 11/02/88 | 12/15/88 | 03/01/89 |
| 12/01/88 | 11/07/88 | 11/15/88 | 12/31/88 | 04/01/89 |
| 12/15/88 | 11/23/88 | 12/02/88 | 01/14/89 | 04/01/89 |
| 01/02/89 | 12/08/88 | 12/15/88 | 02/01/89 | 05/01/89 |
| 01/16/89 | 12/27/88 | 01/03/89 | 02/15/89 | 05/01/89 |
| 02/01/89 | 01/10/89 | 01/17/89 | 03/03/89 | 06/01/89 |
| 02/15/89 | 01/26/89 | 02/02/89 | 03/17/89 | 06/01/89 |
| 03/01/89 | 02/08/89 | 02/15/89 | 03/31/89 | 07/01/89 |
| 03/15/89 | 02/21/89 | 03/02/89 | 04/14/89 | 07/01/89 |

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

VOTING RIGHTS ACT FINAL DECISION LETTERS

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division

WBR:MAP:ST:gmh
DJ 166-012-3
T7846

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

June 3, 1988

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P.O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to the procedures for conducting the May 31, 1988, referendum election for the Half Moon Fire District in Onslow County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on April 4, 1988. Although we noted your request for expedited consideration, we have been unable to respond until now.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

U.S. Department of Justice
Civil Rights Division

WBR:MAP:JAR:gmh
DJ 166-012-3
W0551
W0846-0850

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

June 3, 1988

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P.O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to the procedures for conducting the September 13, 1988, special primary election and the October 4, 1988, special runoff election and the candidate qualification and runoff request periods therefor; the 1988 absentee ballot procedures; and the qualification period for unaffiliated candidates for the 1988 general election for the board of commissioners in Onslow County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on May 19, 1988. In accordance with your request, expedited consideration has been given this submission pursuant to the Procedures for the Administration of Section 5 (28 C.F.R. 51.34).

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See also 28 C.F.R. 51.41 and 51.43.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

U.S. Department of Justice
Civil Rights Division

WBR:MAP:TGL:gmh
DJ 166-012-3
T7326

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

June 6, 1988

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P. O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to the procedures for conducting the June 21, 1988, bond election for the Southwest Creek Water and Sewerage District in Onslow County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on April 7, 1988.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

TITLE 1 - DEPARTMENT OF
ADMINISTRATION

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Administration intends to adopt regulation cited as 1 NCAC 1B .0702.

The proposed effective date of this action is November 1, 1988.

The public hearing will be conducted at 11:00 a. m. on August 5, 1988 at Policy and Planning Conference Room, Administration Building, 5th Floor, 116 West Jones Street, Raleigh, North Carolina 27603-8003.

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 in writing or calling Becky Barbee, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27603-8003, (919) 733-7232.

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1B - DEPARTMENTAL ADMINISTRATIVE PROCEDURES

SECTION .0700 - ADMINISTRATIVE HEARING PROCEDURES

.0702 ADMINISTRATIVE LAW JUDGE:
RECOMMENDED DECISION

When an administrative law judge issues a recommended decision in a contested case involving an agency of the Department of Administration, the Office of Administrative Hearings shall forward the official record in the case to the secretary who shall be responsible for the issuance of the agency's final decision or order unless statutorily provided otherwise.

Statutory Authority G.S. 150B-34; 150B-36.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Administration intends to amend regulations cited as 1 NCAC 4G .0207, .0211, .0214, .0217, .0218, .0220, .0301, .0304 and adopt regulation cited as 1 NCAC 4G .0222.

The proposed effective date of this action is November 1, 1988.

The public hearing will be conducted at 10:00 a. m. on August 5, 1988 at Policy and Planning Conference Room, Administration Building, Fifth Floor, 116 West Jones Street, Raleigh, North Carolina 27603-8003.

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 Becky Barbee, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27603-8003, (919) 733-7232.

CHAPTER 4 - AUXILIARY SERVICES

SUBCHAPTER 4G - SURPLUS PROPERTY

SECTION .0200 - STATE SURPLUS PROPERTY

.0207 REQUEST FOR BIDS ON STATE
SURPLUS PROPERTY

A free copy of the bid invitation listing state surplus property to be sold by sealed bidding is available both at the Administration Building in downtown Raleigh and at the State Surplus Property Warehouse, warehouse, Raleigh, North Carolina. Requests for bids are mailed upon request. Annual subscriptions to the bid invitation are available through State Surplus Property Agency at a price based on the recovery of postage and handling and a portion of the printing costs.

Statutory Authority G.S. 143-49.

.0211 EXECUTION OF BIDS

The executor of a bid must sign his bid in pen or pencil in the space provided on the bid form and also print his name below the signature. Additionally, the executor must complete in the space provided, in pen, pencil, stamp or gummed sticker, his full name and or company name, address, city, state, zip and phone number.

Statutory Authority G.S. 143-49.

.0214 STATE DOES NOT GUARANTEE

The description of the property offered for sale is compiled from available information. All property is sold "as is" and "where is." but there is no guaranty or warranty, either express or implied, on the part of the state as to number,

~~condition or quality of that~~ In addition, the property offered for sale or a portion thereof ~~may not be withdrawn prior to the sale.~~ is subject to withdrawal prior to the bid date. A refund or an adjustment will not be made on account of property not meeting expectations nor will the bidders' failure to inspect prior to the sale be grounds for a claim. ~~All property is sold "as is" and "where is"~~ and Any cost of weighing, packaging, crating, loading or hauling property is assumed by the bidder unless otherwise provided.

Statutory Authority G.S. 143-49.

.0217 FAILURE TO PAY

If the purchaser fails to pay for the property within ~~the 10 day period,~~ ten working days from the date of award, the property ~~may purchased~~ will be promptly resold in such manner as the state may elect, and the defaulting purchaser charged with ~~any loss resulting~~ to the state, if any, together with all expense of the sale. If the purchaser does not remove the property purchased within 30 calendar days after the date of award, the Division of Auxiliary Services reserves the right to retain the purchase price and resell the property a second time and retain ~~any~~ all proceeds therefrom.

Statutory Authority G.S. 143-49.

.0218 BOND

The Division of Auxiliary Services reserves the right to require any bidder presently or previously in default to post a bond prior to bidding or prior to ~~an award being made to him.~~ consideration of his bid.

Statutory Authority G.S. 143-49.

.0220 TIMBER SALES AND PINESTRAW SALES

Timber and pinestraw owned by state agencies ~~is are~~ customarily disposed of by the state surplus property agency on a sealed competitive bid basis. A request for bid forms will be sent to any interested party upon request.

Timber and pinestraw are generally sold on a lump-sum basis with payment to be made in full at the time of execution of a contract; and a high bidder may, in the discretion of the Director of Auxiliary Services, be required to post bond prior to award.

Statutory Authority G.S. 143-49.

.0222 PAYMENT

All payments must be in the form of cashier's or certified check or postal money order. Payment in full for all property purchased must be made within ten working days from date of award, and all property purchased must be removed within 30 calendar days from date of award. No property may be removed by the purchaser prior to full payment of the purchase price. The terms bid opening date and date of award are considered to be one in the same. Working days are considered to be Monday thru Friday (holidays excluded) while calendar days are actual.

Statutory Authority G.S. 143-49.

SECTION .0300 - STATE SURPLUS PROPERTY FORMS

.0301 REQUEST FOR BIDS ON SALE OF SURPLUS STATE PROPERTY

Form ~~PC-36~~ DA-AS-SP/3 is for use in soliciting sealed bids and proposals. The terms and conditions of sale are contained on Form ~~PC-36~~ DA-AS-SP/3 as well as instructions.

Statutory Authority G.S. 150B-11.

.0304 NOTIFICATION: AWARD OF SURPLUS PROPERTY

Form PC-38 is used by Auxiliary Services to notify the successful bidder and agency of the award of bid on state surplus property. Bidders need not be present at bid opening.

Statutory Authority G.S. 150B-11.

TITLE 2 - DEPARTMENT OF AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Pesticide Board intends to adopt, amend, repeal regulations cited as 2 NCAC 9L .0102(1), .0201-.0207, .0302 -.0305, .0307, .0309, .0311 - .0312, .0314 - .0318, .0401 - .0403, .0508 - .0511, .0513 - .0514, .0521, .0524(c), .0525(a), .0528, .0901 - .0902, .0904 - .0920, .1102(b), .1202 - .1203, .1301, .1303 - .1304, .1401, .1403, .1405, .1601 - .1602, .1701 - .1707, .1901 and .1903.

The proposed effective date of this action is November 1, 1988.

The public hearing will be conducted at 2:00 p.m. on August 4, 1988 at Board Room, Agricul-

ture Building, One Edenton Street, Raleigh, NC 27611.

Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to John L. Smith, Secretary, North Carolina Pesticide Board, P. O. Box 27647, Raleigh, North Carolina 27611.

CHAPTER 9 - FOOD AND DRUG PROTECTION DIVISION

SUBCHAPTER 9L - PESTICIDE SECTION

SECTION .0100 - ORGANIZATIONAL RULES

.0102 DUTIES (CONTINUED)

The North Carolina Pesticide Board has delegated the following statutory powers, duties, and authorities to the Commissioner of Agriculture:

(1) the first sentence of G.S. 143-442(a);

Statutory Authority G.S. 143-461(5).

SECTION .0200 - RULES AND REGULATIONS ADOPTED BY REFERENCE

.0201 INSPECTORS MANUAL (REPEALED)

.0202 E.P.A. INSPECTORS MANUAL (REPEALED)

.0203 REGISTRATION: REREGISTRATION AND CLASSIFICATION PROCEDURES (REPEALED)

.0204 UNIFORM POLICIES FOR REGISTRATION (REPEALED)

.0205 COMPENDIUM OF REGISTERED PESTICIDES (REPEALED)

.0206 COMMON AND CHEMICAL NAMES OF PESTICIDES (REPEALED)

.0207 EXEMPTION OF AGENCIES FOR USE OF PESTICIDES IN EMERGENCIES (REPEALED)

Statutory Authority G.S. 143-437; 143-440;
143-461; 150B-14.

SECTION .0300 - REGISTRATION

.0302 NOTICE TO REGISTRANTS AND APPLICANTS (REPEALED)

.0303 COPIES (REPEALED)

.0304 ASSISTANCE (REPEALED)

.0305 APPLICATION FOR REGISTRATION REQUIREMENTS (REPEALED)

Statutory Authority G.S. 143-442.

.0307 REVIEW OF APPLICATION FOR COMPLETENESS (REPEALED)

Statutory Authority G.S. 143-442.

.0309 DISCONTINUED PRODUCTS (REPEALED)

Statutory Authority G.S. 143-442.

.0311 NEW REGISTRATIONS (REPEALED)

.0312 DENIAL OF REGISTRATION (REPEALED)

Statutory Authority G.S. 143-442; 143-464.

.0314 PESTICIDE REGISTRATION CERTIFICATION (REPEALED)

.0315 REGISTRATION RECORDS (REPEALED)

Statutory Authority G.S. 143-442.

.0316 COMMON AND CHEMICAL NAMES OF PESTICIDES

The North Carolina Pesticide Board adopts by reference in accordance with G.S. 150B-14(c) the volume entitled "Acceptable Common Names and Chemical Names for the Ingredient Statement on Pesticide Labels," as published by the Office of Pesticide Programs of the Environmental Protection Agency, Washington, D. C. Copies of "Acceptable Common Names and Chemical Names for the Ingredient Statement on Pesticide Labels" are available for inspection in the Office of the Pesticide Administrator of the Food and Drug Protection Division and may be obtained at a cost as determined by the publisher by contacting National Technical Information Service, U. S. Department of Commerce, Springfield, Va. 22161.

Statutory Authority G.S. 143-461; 150B-14.

.0317 REGISTRATION OF PESTICIDES TO MEET SPECIAL LOCAL NEEDS

The North Carolina Pesticide Board adopts by reference in accordance with G.S. 150B-14(c), "Regulations Pertaining to State Registration of Pesticides to Meet Special Local Needs," 40 C.F.R. Part 162, Subpart D. This reference establishes procedures and criteria under which the state may register pesticide products, or any uses thereof, formulated for distribution and use within the state to meet special local needs under Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.). Copies of "Regulations Pertaining to State Registration of Pesticides to Meet Special Local Needs" are available for inspection in the Office of the Pesticide Administrator of the Food and Drug Protection Division and may be obtained at a cost as determined by the publisher by contacting Superintendent of Documents, U. S.

Government Printing Office, Washington, D. C. 20402.

Statutory Authority G.S. 143-437; 143-440; 143-461; 150B-14.

.0318 EXEMPTION OF AGENCIES FOR USE OF PESTICIDES IN EMERGENCIES

The North Carolina Pesticide Board hereby adopts by reference in accordance with G.S. 150B-14(c) "Exemption of Federal and State Agencies for Use of Pesticides in Emergencies," 40 C. F. R. Section 166. This reference establishes criteria for determining the conditions under which an emergency exists, the procedures for obtaining an exemption, and sets forth requirements related thereto. Copies of "Exemption of Federal and State Agencies for Use of Pesticides in Emergencies" are available for inspection in the Office of Pesticide Administrator of the Food and Drug Protection Division and may be obtained at a cost as determined by the publisher by contacting Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

Statutory Authority G.S. 143-437; 143-440; 143-461; 150B-14.

SECTION .0400 - SAMPLES AND SUBMISSIONS

.0401 SAMPLES: SUBMISSIONS (REPEALED)

Statutory Authority G.S. 143-446.

.0402 TOLERANCES

In regards to establishing tolerances providing for reasonable deviations from the guaranteed analysis statement, the following guidelines are adopted:

- (1) that, in general, a "passed" judgment on a pesticide formulation be made if the analytical results are within the following guidelines:

| Pesticide Active Ingredient | | Guarantee, Percent | |
|-----------------------------|---|--------------------|------------------------|
| | | ≤ | 1.00 |
| 1.00 | - | | 19.99 |
| 20.00 | - | | 49.99 |
| 50.00 | - | | 100.00 |
| Allowable Deviation | | | |
| Below Guarantee | | | |
| 15 percent of Guarantee | | | |
| 0.1 plus | | | 5 percent of Guarantee |

0.5 plus 3 percent of Guarantee
1.0 plus 2 percent of Guarantee

Additional considerations:

- (a) If a sufficient number of samples as determined by the food and drug protection division of a given product indicate that the manufacturer is not formulating the product to achieve the level of the guarantee, an administrative judgment may be made to warn the formulator against the practice of formulating products in a manner only to stay within the allowable deviation from the guarantee.
- (b) A sample result falling outside of the guidelines may not necessarily be "deficient" if one of the following factors could reasonably be expected to have contributed significantly to the off-limits analysis:
- (i) special sampling problems, such as fertilizer-pesticide mixtures and certain granular products;
 - (ii) accuracy, specificity, reproducibility, etc., of the methods used when applied to the particular formulation;

Statutory Authority G.S. 143-437(1); 143-446.

.0403 PESTICIDE SAMPLING PROCEDURES (REPEALED)

Statutory Authority G.S. 143-443; 143-446.

SECTION .0500 - PESTICIDE LICENSES

.0508 SUBCATEGORIES OF CONSULTANTS (REPEALED)

Statutory Authority G.S. 143-455; 143-460(27).

.0509 CONSULTANT'S EDUCATIONAL AND EXPERIENCE REQUIREMENTS

(d) The North Carolina Pesticide Board may waive the requirement for taking parts of the North Carolina consultant examination provided the applicant has a Ph. D., master's, or bachelor's degree in the discipline pertinent to the category for which a license is desired and provided the applicant has demonstrated successful completion of pertinent academic training or has passed a written or oral examination offered by another state or a professional organization. Applicants will be required to successfully complete written, or written and oral, examination(s) which demonstrates adequate knowledge of pertinent subject matter not specifically completed in academic training including knowledge of applicator state and federal pesticide laws and related subject matter.

Statutory Authority G.S. 143-455; 143-460(27).

.0510 EXAMINATION WAIVER (REPEALED)
.0511 PESTICIDE LICENSES EXAMINATION REQUIREMENT (REPEALED)

Statutory Authority G.S. 143-449(b); 143-452(f); 143-453(b); 143-455; 143-460(27), (29), (30), (33).

.0513 FEES REQUIREMENT (REPEALED)
.0514 SCHEDULE OF EXAMINATIONS (REPEALED)

Statutory Authority G.S. 143-449(b); 143-452(f); 143-453(b); 143-455(a)(c).

.0521 RECERTIFICATION CREDIT COMMITTEE (REPEALED)

Statutory Authority G.S. 143-437(1).

.0524 EXPIRATION OF CERTIFICATION

(c) A certified individual who has completed none of the recertification options in Rule .0522 of this Section prior to the recertification expiration date shall be required to retake and satisfactorily pass a comprehensive license examination defined in Rule .0514 of this Section G.S. 143-453 before a license will be reissued in any category. This examination will be based on updated training materials approved by the Board.

Statutory Authority G.S. 143-437(1); 143-440(b); 143-453(c)(2); 143-455(d).

.0525 RECERTIFICATION OF PESTICIDE DEALERS

(a) Pesticide dealers who have successfully completed the pesticide license examination requirements in Rule .0502(1) of this Section of G.S. 143-449 are certified for a period of five years; however, all such individuals must renew their pesticide licenses annually, as required in the North Carolina Pesticide Law of 1971.

Statutory Authority G.S. 143-448; 143-449.

.0528 RECERTIFICATION CREDIT APPROVAL

(a) The pesticide section shall receive requests for approval of sponsored training toward recertification, evaluate each proposed program based on criteria approved by the board, and assign appropriate Continuing Certification Credits for each program. Each such assignment shall be reviewable by the board.

(b) Continuing Certification Credit assignment shall be in increments of no less than 1/2 hour.

Statutory Authority G.S. 143-437.

SECTION .0900 - FORMS

.0901 DESIGNATIONS

The forms used by the pesticide section of the food and drug protection division will be known by the following title and numerical designations:

- (7) ~~Financial Responsibility Liability Insurance Certificate for Commercial Pesticide Applicators (Ground) Form PC-107;~~
- (10) ~~Financial Responsibility Liability Insurance Certificate for Commercial Pesticide Applicators (Aerial) Form PC-110;~~

Statutory Authority G.S. 143-461.

.0902 FORM PC-400 (REPEALED)

Statutory Authority G.S. 143-461.

.0904 FORM PC-402 (REPEALED)

.0905 FORM PC-403 (REPEALED)

.0906 FORM PC-404 (REPEALED)

.0907 FORM PC-405 (REPEALED)

.0908 FORM PC-406 (REPEALED)

.0909 FORM PC-407 (REPEALED)

.0910 FORM PC-408 (REPEALED)

.0911 FORM PC-409 (REPEALED)

.0912 FORM PC-410 (REPEALED)

.0913 FORM PC-411 (REPEALED)

.0914 FORM PC-412 (REPEALED)

.0915 FORM PC-413 (REPEALED)

.0916 COPIES AND SUBMISSIONS OF FORMS (REPEALED)

.0917 FORM PC-414 (REPEALED)

.0918 FORM PC-415 (REPEALED)

.0919 FORM PC-416 (REPEALED)

.0920 FORM PC-417 (REPEALED)

Statutory Authority G.S. 143-441; 143-442; 143-446; 143-448(b); 143-450; 143-452; 143-454; 143-455; 143-460(27), (29), (30), (33); 143-461; 143-466; 143-467.

SECTION .1100 - PRIVATE PESTICIDE APPLICATOR CERTIFICATION

.1102 DEFINITIONS

(b) ~~Restricted use pesticide for the purpose of this Regulation any pesticide bearing the designation on the labeling "Restricted Use Pesticide."~~

(c) (b) Private pesticide applicator--a person who uses or supervises the use of any restricted use pesticide under the following conditions:

- (1) for the purpose of producing any agricultural commodity on property owned or rented by him or his employer, or
- (2) if applied without compensation other than trading of personal services between producers of agricultural commodities on the property of another person.

Statutory Authority G.S. 143-440.

SECTION .1200 - ARSENIC TRIOXIDE

.1202 PESTICIDE DEALER AND PURCHASER RESPONSIBILITY

The pesticide dealer shall secure the signature of the purchaser attesting to the fact that such purchaser has knowledge of the use restrictions on arsenic trioxide contained herein; provided, however, that any licensed pesticide applicator under the authority of G.S. 143-452 or G.S. 106-65.25 may use such formulations containing arsenic trioxide in or around human dwellings provided such use is performed in a manner consistent with the product label and limits access to the pesticide by children.

Statutory Authority G.S. 143-440(b); 143-441; 143-466.

.1203 EXEMPTION OF LICENSED PESTICIDE APPLICATOR (REPEALED)

Statutory Authority G.S. 143-440(b); 143-441.

SECTION .1300 - AVAILABILITY OF RESTRICTED USE PESTICIDES

.1301 DEFINITIONS

(a) The term "end use" as ~~pertains to this Regulation used in this Section~~ means these activities attendant to the application of a pesticide to a site.

~~The term "restricted use pesticide" for the purpose of this Regulation means any pesticide bearing the designation on the labeling "Restricted Use Pesticide."~~

(b) All other specific words or terms used in this Regulation shall have the same definition or meaning as shown in the North Carolina Pesticide Law of 1971, G.S. 143-460 and regulations thereunder, and the North Carolina Structural Pest Control Law, G.S. 106-65.24 and regulations thereunder.

Statutory Authority G.S. 143-440; 143-463.

.1303 EXEMPTIONS

(a) Restricted use pesticides may be made available to an employee under the supervision

of a certified private or licensed pesticide applicator, certified structural pest control applicator, or structural pest control licensee provided the employee is acting under the direction and supervision of said applicators and provided further that said employee is 16 years of age or older.

(c) Prior to making available restricted use pesticides to an employee under the supervision of a certified private applicator, licensed pesticide applicator, certified structural pest control applicator, or structural pest control licensee, all persons shall require the employee to sign his name, list the certification number of employer under whose direction and supervision the employee is acting, and record the name of the pesticide(s) obtained and the date of purchase. Such information shall be available for routine inspection by the North Carolina Pesticide Board or its agent.

Statutory Authority G.S. 143-440; 143-463; 143-466.

.1304 RESTRICTIONS (REPEALED)

Statutory Authority G.S. 143-440; 143-463; 143-466.

SECTION .1400 - GROUND APPLICATION OF PESTICIDES

.1401 DEFINITIONS

All specific words or terms used in this Section other than those defined below shall have the same definitions as shown in the North Carolina Pesticide Law of 1971, G.S. 143-460:

~~(7) Restricted Use Pesticide. For the purpose of this Regulation, it is any pesticide bearing the designation on the labeling "Restricted Use Pesticide."~~

Statutory Authority G.S. 143-458; 143-463; 143-466(a).

.1403 EXEMPTIONS TO 2 NCAC 91.1402 (REPEALED)

Statutory Authority G.S. 143-458; 143-463; 143-466(a).

.1405 EXEMPTIONS TO 2 NCAC 91.1404 (REPEALED)

Statutory Authority G.S. 143-458; 143-463.

SECTION .1600 - PESTICIDE EMERGENCY PLAN

- .1601 GENERAL (REPEALED)
.1602 PROCEDURE (REPEALED)

Statutory Authority G.S. 143-436; 143-437; 143-441.

SECTION .1700 - ULTRA LOW VOLUME (ULV)
AND LOW VOLUME (LV) APPLICATION OF
PESTICIDES

- .1701 DEFINITIONS (REPEALED)
.1702 ULTRA LOW VOLUME (ULV)
APPLICATION OF PESTICIDES
(REPEALED)
.1703 LOW VOLUME (LV) APPLICATION
OF PESTICIDES (REPEALED)
.1704 CONTENTS OF THE
RECOMMENDATION (REPEALED)
.1705 NOTIFICATION REQUIREMENTS
(REPEALED)
.1706 LIMITATIONS (REPEALED)
.1707 REVOCATION OF RECOMMENDATION
(REPEALED)

Statutory Authority G.S. 143-458(a).

SECTION .1900 - PESTICIDE STORAGE

.1901 DEFINITIONS

All specific words or terms used in this Section other than those defined in this Rule shall have the same definitions as shown in the North Carolina Pesticide Law of 1971, G.S. 143-460. The rules contained in this Section shall be deemed to be minimum for storage.

- (6) ~~Person.~~ The term "person" means any person, including (but not limited to) an individual, firm, partnership, association, company, joint stock association, public or private institution, federal governmental agency, or private or public corporation organized under the laws of this State or the United States or any other state or country;
(7) ~~Commercial Pesticide Applicator.~~ For the purpose of this Regulation includes any person who owns or manages a pesticide application business which is engaged in the business of applying pesticides upon the lands or properties of another; any private golf course operator; any seed treater; any person engaged in demonstration or research pest control; and any other person who acts as a commercial pesticide applicator;
(8) ~~Restricted Use Pesticide (RUP).~~ For the purpose of this Regulation means any pesticide requiring the designation on the labeling "Restricted Use Pesticide";

Statutory Authority G.S. 143-437; 143-440; 143-441; 143-461; 143-466.

.1903 COMMERCIAL STORAGE:
RESTRICTED USE PESTICIDES
(REPEALED)

Statutory Authority G.S. 143-437; 143-440 through 143-443; 143-447; 143-461; 143-466.

TITLE 4 - DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Alcoholic Beverage Control Commission intends to amend regulations cited as 4 NCAC 2R .1502, .1801.

The proposed effective date of this action is November 1, 1988.

The public hearing will be conducted at 10:00 a.m. on August 12, 1988 at ABC Commission, Room 101, 3322 Garner Road, Raleigh, NC.

Comment Procedures: Written comments and arguments should be submitted prior to August 12, 1988 to the ABC Commission at P.O. Box 26687, Raleigh, NC 27611-6687. Persons desiring to speak at the hearing should notify the commission prior to August 12, 1988.

CHAPTER 2 - ALCOHOLIC BEVERAGE
CONTROL COMMISSION

SUBCHAPTER 2R - ORGANIZATIONAL RULES:
POLICES AND PROCEDURES

SECTION .1500 - PRICING OF SPIRITUOUS
LIQUOR

.1502 MARKUP FORMULA

(a) On every delivered case of spirituous liquors, there is to be added a ~~66.7736~~ 75.3684 percent markup, which is derived by the following formula: (x) equals the base price of the case, including freight and bailment charges. Thirty-two ~~three~~ and thirty-six hundredths percent equals the markup allowed local boards; therefore, ~~1.3236(x)~~ 1.3336(x) equals the delivered case cost plus the ~~32.36~~ 33.36 percent local markup, or the "retail price," excluding all taxes.

Example: ~~323600(x)~~ local markup
~~297810(x)~~ state tax ~~[22.5%~~
of ~~1.3236(x)]~~
~~416326(x)~~ state tax retained
locally
~~[3.5%~~ of ~~1.3236(x)]~~
~~667736(x)~~ total markup

Example: 333600(x) local markup

PROPOSED RULES

| | | | |
|---|----------------------------|----------------------|----------------------------|
| <u>.373408(x)</u> | <u>state tax [28%</u> | + 1.70 | Bailment surcharge G.S. |
| | <u>of 1.3336(x)]</u> | | 18B-804(b)(6a) |
| <u>.046676(x)</u> | <u>state tax retained</u> | 68.4094 | |
| | <u>locally</u> | 12 | Divide by the number of |
| | <u>[3.5% of 1.3336(x)]</u> | | bottles in the case |
| <u>.753684(x)</u> | <u>total markup</u> | 5.7008 | |
| (b) The selling price of spirituous liquor, which | | .05 | Add bottle charge G.S. |
| includes the cost of goods, local markup and all | | | 18B-804(b)(6) |
| taxes, is derived by following these steps: | | .05 | Add additional bottle |
| (1) Determine the subtotal case cost by adding | | 5.8008 | charge G.S. 18B-804(b)(6b) |
| base case cost, freight and bailment to- | | | Round the result to an |
| gether; | | | integer evenly divisible |
| (2) Multiply the subtotal case cost by | | | by five cents (\$.05) |
| <u>1.667736</u> , <u>1.753684</u> , to four decimals; | \$ 5.80 | | Retail selling price per |
| (3) Add the bailment surcharge as determined | | | bottle to an individual |
| by the commission; | + 2.81 | | Mixed beverage tax G.S. |
| (4) Divide the result by the number of bottles | | | 18B-804(b)(8) |
| in the case; | \$ 8.61 | | Selling price to a mixed |
| (5) Add five cents (\$.05) rehabilitation tax | | | beverage permittee |
| [Add one cent (\$.01) for bottles 50 ml. or | | | |
| less]; | or: | | |
| (6) Add five cents (\$.05) for the local board | \$ 38.57 | | Distiller's Price |
| charge [Add one cent (\$.01) for bottles 50 | .60 | | Distiller's Freight |
| ml. or less]; | .83 | | Bailment charges |
| (7) Round the result to an integer evenly di- | 40.00 | | Subtotal case cost |
| visible by five cents (\$.05). The breaking | <u>1.66736</u> | | |
| point is one cent (\$.01), 1 mill; the mill is | | | Markup formula (includes |
| underlined. | | | markup and required taxes) |
| (A) If cent equals \$.00, it remains \$.00; | 66.7094 | | Case cost to four decimals |
| (B) If cent equals \$.05, it remains \$.05; | + 1.70 | | Add bailment surcharge |
| (C) If cent equals \$.010, (mill is 0), round | 68.4094 | | |
| downward to \$.00; | 68.40 | | |
| (D) If cent equals \$.011, (if mill is 1-9), | 12 | | Divide by number of |
| round upward to \$.05; | | | bottles in the case |
| (E) If cent equals \$.060, (mills is 0), round | 5.7008 | | |
| downward to \$.05; | .05 | | Add bottle charge |
| (F) If cent equals \$.061, (if mill is 1-9), | .05 | | Add additional bottle |
| round upward to \$.10; | | | charge |
| (G) If cent equals \$.411, .42, .43, .44, | 5.8008 | | Round the result to an |
| round upward to \$.45; | | | integer evenly |
| (H) If cent ' \$.461, .47, .48, .49, round | | | divisible by five cents |
| upward to \$.50; | | | (\$.05) |
| (8) The result is the retail selling price per | \$ 5.80 | | Retail selling price per |
| bottle. | | | bottle to an individual |
| (c) Example: | + 2.81 | | Mixed beverage tax |
| \$38.57 | \$ 8.61 | | Selling price to a mixed |
| .60 | | | beverage permittee |
| + .83 | | | |
| 40.00 | | | |
| + 12.9440 | | | |
| 52.9440 | | | |
| 41.9124 | | | |
| 1.8530 | | | |
| 66.7094 | | | |
| | Distiller's Price | \$38.57 | Distiller's Price |
| | Distiller's Freight | .60 | Distiller's Freight |
| | Bailment charges | + .85 | Bailment charges |
| | Subtotal case cost | 40.00 | Subtotal case cost |
| | Markup (\$40.00 X 32.26%) | + 13.3440 | Markup (\$40.00 X 33.36%) |
| | G.S. 18B-804(b)(3) | | G.S. 18B-804(b)(3) |
| | | 53.3440 | |
| | | 14.9364 | |
| | | 1.8671 | |
| | | | State Tax (53.3440 X |
| | | | 28%) G.S. 18B-804(b)(4) |
| | | | Additional markup |

$$\begin{array}{r} 70.1475 \\ + .56 \\ \hline 70.7075 \\ \underline{12} \\ 5.8923 \\ \underline{.05} \\ .05 \\ \hline 5.9923 \end{array}$$

(53.3440 X 3.5%)
G.S. 18B-804(b)(5)
Case cost to four decimals
Bailment surcharge G.S.
18B-804(b)(6a)
Divide by the number of
bottles in the case
Add bottle charge G.S.
18B-804(b)(6)
Add additional bottle
charge G.S. 18B-804(b)(6b)
Round the result to an
integer evenly divisible
by five cents (\$.05)

$$\begin{array}{r} \$ 6.00 \\ \$ 6.00 \\ + 2.81 \\ \hline \$ 8.81 \end{array}$$

Retail selling price per
bottle to an individual
Mixed beverage tax G.S.
18B-804(b)(8)
Selling price to a mixed
beverage permittee

or:

$$\begin{array}{r} \$ 38.55 \\ .60 \\ .85 \\ 40.00 \\ \hline 1.753684 \end{array}$$

Distiller's Price
Distiller's Freight
Bailment charges
Subtotal case cost
Markup formula (includes
markup and required taxes)
Case cost to four decimals
Add bailment surcharge
Divide by number of
bottles in the case
Add bottle charge
Add additional bottle
charge
Round the result to an
integer evenly
divisible by five cents
(\$.05)
Retail selling price per
bottle to an individual
Mixed beverage tax
Selling price to a mixed
beverage permittee

$$\begin{array}{r} \$ 6.00 \\ \$ 6.00 \\ + 2.81 \\ \hline \$ 8.81 \end{array}$$

Statutory Authority G.S. 18B-203(a)(3);
18B-207; 18B-804.

SECTION 1800 -
PURCHASE-TRANSPORTATION

PERMITS FOR INDIVIDUALS AND MIXED
BEVERAGES PERMITTEES

1801 PURCHASE-TRANSPORTATION
PERMITS: WINE: LIQUOR

(b) Form. The Purchase-Transportation Permit shall be issued on a printed three-part form and shall specify the following information on the face of the permit:

(8) name and driver's license number of purchaser.

Statutory Authority G.S. 18B-207; 18B-303(a); 18B-403.

TITLE 15 - DEPARTMENT OF NATURAL
RESOURCES AND COMMUNITY
DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Environmental Management (Environmental Management Commission) intends to amend regulations cited as 15 NCAC 2B .0216, .0302 - .0304, .0308 - .0309.

The proposed effective date of this action is January 1, 1989.

The public hearing will be conducted at the following locations, dates and times:

(Raleigh)
August 1, 1988
2:00 p.m.
Ground Floor Hearing Room
Archdale Building
512 N. Salisbury Street
Raleigh, NC 27611

(Boone)
August 2, 1988
7:00 p.m.
Court Room Number 1
Watauga County Courthouse
West King Street
Boone, NC

(Franklin)
August 3, 1988
7:00 p.m.
Court Room
Macon County Courthouse
Franklin, NC

(Asheville)
August 4, 1988
7:00 p.m.

Lecture Room
Simpson Administration Bldg.
Asheville-Buncombe Tech. Inst.
Asheville, NC

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 at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged. For more information contact: Mr. Stephen E. Zoufaly, Division of Environmental Management, P.O. Box 27687, Raleigh, NC 27611, (919) 733-5083.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS OF NORTH CAROLINA

.0216 OUTSTANDING RESOURCE WATERS

(c) Listing of Waters Classified ORW. All Waters classified as ORW ~~and~~ with specific actions to protect exceptional resource values are listed ~~in this rule~~ as follows:

- (1) Cataloochee Creek (French Broad River Basin, Index No. 5-41) including all tributary waters will have no discharges of waste except those existing swimming pools and existing trout farms qualifying for a general permit in accordance with 15 NCAC 21I Section .0100.
- (2) South Fork Mills River (French Broad River Basin, Index No. 6-54-3) from source to the upstream side of Queen Creek including all tributary waters will have no discharges of waste except those existing swimming pools and existing trout farms qualifying for a general permit in accordance with 15 NCAC 21I Section .0100.
- (3) South Toe River [French Broad River Basin, Stream Index No. 7-2-52-(1)] from source to U.S. Hwy 19E including all tributary waters will have no discharges of waste except those existing swimming pools and existing trout farms qualifying for a general permit in accordance with 15 NCAC 21I Section .0100.
- (4) Fires Creek (Hiwassee River Basin, Index No. 1-27) including all tributary waters will have no discharges of waste except those existing swimming pools and existing trout farms qualifying for a general permit in accordance with 15 NCAC 21I Section .0100.
- (5) Gipp Creek (Hiwassee River Basin, Index No. 1-52-23) including all tributary waters will have no discharges of waste except those existing swimming pools and existing trout farms qualifying for a general permit in accordance with 15 NCAC 21I Section .0100.
- (6) Nantahala River (Little Tennessee River Basin and Savannah River Drainage Area, Index No. 2-57) from source to the backwaters of Nantahala Lake including all tributary waters will have no discharges of waste except those existing swimming pools and existing trout farms qualifying for a general permit in accordance with 15 NCAC 21I Section .0100.
- (7) Chattooga River (Little Tennessee River Basin and Savannah River Drainage Area, Index No. 3) from source to North Carolina-Georgia State Line including Bad Creek, East Fork Chattooga River, Jacks Creek, Overflow Creek, Clear Creek, Hensen Branch, Big Creek, Talley Mill Creek and all tributary waters will have no new discharges of waste.
- (8) Wilson Creek (Catawba River Basin, Index No. 11-38-34) including all tributary waters will have no discharges of waste except those existing swimming pools and existing trout farms qualifying for a general permit in accordance with 15 NCAC 21I Section .0100.
- (9) Elk Creek [Yadkin-Pee Dee River Basin, Index Nos. 12-24-(1) and 12-24-10] including all tributary waters will have no discharges of waste except those existing swimming pools and existing trout farms qualifying for a general permit in accordance with 15 NCAC 21I Section .0100.
- (10) Roosevelt Natural Area [White Oak River Basin, Index Nos. 20-36-9.5-(1) and 20-36-9.5(2)] including all fresh and saline waters within the property boundaries of the natural area will have only new development which complies with the low density option in the stormwater rules as specified in 15 NCAC 21I .1003(a)(2) within 575 feet of the Roosevelt Natural Area (if the development site naturally drains to the Roosevelt Natural Area).

Statutory Authority G.S. 143-214.1.

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0302 HIWASSEE RIVER BASIN

(c) The Hiwassee River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) August 9, 1981;
- (2) February 1, 1986;
- (3) November 1, 1988.

(d) The Schedule of Classifications and Water Quality Standards for the Hiwassee River Basin was amended effective November 1, 1988 as follows:

- (1) Fires Creek (Index No. 1-27) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
- (2) Gipp Creek (Index No. 1-52-23) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

.0303 LITTLE TENNESSEE RIVER BASIN AND SAVANNAH RIVER DRAINAGE AREA

(c) The Little Tennessee River Basin and Savannah River Drainage Area Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 16, 1977;
- (2) March 1, 1977;
- (3) July 13, 1980;
- (4) February 1, 1986;
- (5) October 1, 1987;
- (6) November 1, 1988.

(d) The Schedule of Classifications of Water Quality Standards for the Little Tennessee Basin and Savannah River Drainage Area was amended effective November 1, 1988 as follows:

- (1) Nantahala River (Index No. 2-57) from source to the backwaters of Nantahala Lake and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW.
- (2) Chattooga River (Index No. 3) including Bad Creek, East Fork Chattooga River, Jacks Creek, Overflow Creek, Clear Creek, Henson Branch, Big Creek, Talley Mill Creek and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

.0304 FRENCH BROAD RIVER BASIN

(c) The French Broad River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) September 1, 1976;
- (2) March 1, 1977;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) August 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) May 1, 1987;
- (9) November 1, 1988.

(d) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 1988 as follows:

- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
- (2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

.0308 CATAWBA RIVER BASIN

(c) The Catawba River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) August 12, 1979;
- (3) April 1, 1982;
- (4) January 1, 1985;
- (5) August 1, 1985;
- (6) February 1, 1986;
- (7) November 1, 1988.

(d) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective November 1, 1988 as follows:

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

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

.0309 YADKIN-PEE DEE RIVER BASIN

(c) The Yadkin-Pee Dee River Schedule of Classification and Water Quality Standards was amended effective:

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) November 1, 1988.

(d) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective November 1, 1988 as follows:

- (1) Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Coastal Management intends to amend regulation cited as 15 NCAC 711 .1105; and adopt regulation cited as 15 71 .0604.

The proposed effective date of this action is January 1, 1989.

The public hearing will be conducted at 10:00 a.m. on August 2, 1988 at Marine Fisheries Building, 3411 Arendell Street, Morehead City, NC.

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. The Coastal Management Division will receive written comments up to the date of the hearing. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. Additional information concerning the hearings or the proposals may be obtained by contacting Portia Rochelle, Division of Coastal Management, P.O. Box 27687, Raleigh, NC 27611. (919) 733-2293.

CHAPTER 7 - COASTAL MANAGEMENT

SUBCHAPTER 711 - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .1100 - GENERAL PERMIT FOR CONSTRUCTION OF BULKHEADS AND THE PLACEMENT OF RIPRAP FOR SHORELINE

PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS

.1105 SPECIFIC CONDITIONS

(a) This general permit is applicable only along shorelines void of wetland vegetation including marsh grass and wooded swamp, or where all construction is to be accomplished landward of such vegetation.

(b) Along natural shorelines e.g. rivers, creeks, bays, sounds, etc., bulkheads ~~or~~ and riprap material must be positioned as follows:

- (1) Bulkheads must be positioned so as not to exceed more than an average distance of two feet waterward of the mean high water mark, or the normal water level contour, whichever is applicable. In ~~no~~ no case shall the bulkhead ~~or riprap~~ be positioned more than five feet waterward of the mean high water or normal water level contour at any point along its alignment.

- (2) Riprap must be positioned so as not to exceed a maximum of five feet waterward of the mean high water mark or normal water level contour at any point along its alignment. This location standard also applies to riprap proposed for previously bulkheaded shorelines.

(c) Along shorelines within upland basins, canals, and ditches, bulkheads or riprap material must be positioned so as not to exceed more than an average distance of five feet waterward of the mean high water mark or the normal water level contour, whichever is applicable. In no case shall the bulkhead or riprap be positioned more than ten feet waterward of the mean high water or normal water level contour at any point along its alignment. For the purpose of these regulations, the Atlantic Intracoastal Waterway (AIWW) is considered a natural shoreline and development must occur as described in 711 .1105(b).

(d) Construction authorized by this general permit will be limited to a maximum shoreline length of 500 feet.

(e) All backfill material shall be obtained from an upland source.

(f) The bulkhead must be constructed, or the riprap must be in place prior to any backfilling activities.

(g) The bulkhead ~~or riprap~~ must be structurally tight so as to prevent seepage of backfill materials through the ~~bulkhead~~ structure.

(h) Riprap material shall be free from loose dirt or any other pollutant. It must be of a size sufficient to prevent its movement from the site by wave or current action.

(i) Riprap material must consist of clean rock or masonry materials such as marl ~~brick~~ or broken concrete. Materials such as tires, car bodies, scrap metal, paper products, tree limbs, wood debris, organic material or similar material, are not considered riprap.

(j) The bulkhead must be solid and constructed of treated wood, concrete slabs, metal sheet piles or other suitable materials approved by department personnel. No excavation is permitted except for that which may be required for the construction of the bulkhead wall, riprap, deadmen cables, etc. This permit does not authorize any excavation waterward of the approved alignment.

(k) Bulkheads or riprap shall not extend beyond established alignments nor restrict the original width of the canal or basin.

(l) If on contiguous acre or more of property is to be excavated or filled, an erosion and sedimentation control plan must be filed with the Division of Land Resources, Land Quality Section, or appropriate local government having jurisdiction. This plan must be approved prior to commencing the land-disturbing activity.

Statutory Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

**SUBCHAPTER 7J - PROCEDURES FOR
HANDLING MAJOR DEVELOPMENT
PERMITS: VARIANCE REQUESTS; APPEALS
FROM MINOR DEVELOPMENT PERMIT
DECISIONS: AND DECLARATORY RULINGS**

**SECTION .0600 - DECLARATORY RULINGS
AND PETITIONS FOR RULEMAKING**

.0604 PETITIONS FOR RULEMAKING

(a) Any person wishing to request the adoption, amendment, or repeal of a rule shall make this request in a petition addressed to the Division of Coastal Management. The petition shall specify it is filed pursuant to G.S. 150B-16 and shall contain the following information:

- (1) either a draft of the proposed rule or a summary of its contents;
- (2) the statutory authority for agency adoption of the rule;
- (3) a statement of reasons for adoption of the proposed rule(s);
- (4) a statement of the effect on existing rules or orders;
- (5) any data in support of the proposed rule(s);
- (6) a statement of the effect of the proposed rule on existing practices;

(7) the names and addresses, if known, of persons most likely to be affected by the proposed rule; and

(8) the name and address of the petitioner.

(b) The petition will be placed on the agenda for the next regularly scheduled commission meeting and the director shall prepare a recommended response to the petition for the commission's consideration. Petitions will be considered in accordance with the requirements of G.S. 150B-16.

Statutory Authority G.S. 113A-124(c)(5); 150B-16.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Wildlife Resources Commission intends to amend regulation cited as 15 NCAC 10F .0330 and adopt regulation .0356.

The proposed effective date of this action is November 1, 1988.

The public hearing will be conducted at 10:00 a.m. on August 1, 1988 at Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27611, Room 386, Archdale Building.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from July 18, 1988, to August 15, 1988. Such written comments must be delivered or mailed to the Wildlife Resources Commission, 512 N. Salisbury St., Raleigh, NC 27611.

**CHAPTER 10 - WILDLIFE RESOURCES AND
WATER SAFETY**

**SUBCHAPTER 10F - MOTORBOATS AND
WATER SAFETY**

**SECTION .0300 - LOCAL WATER SAFETY
REGULATIONS**

.0330 CARTERET COUNTY

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

- (1) that portion of the Intracoastal Waterway within 200 feet on each side of the entrance to Sea Gate Marina;
- (2) the waters of Money Island Slough beginning at the east end of Money Island near the Anchorage Marina Basin and

ending at the west end of Money Island where Brooks Avenue deadends at the slough;

- (3) the waters of Taylor Creek located within the territorial limits of the Town of Beaufort;
- (4) the waters of Pelletier Creek beginning at the entrance to Pelletier Creek at the Intracoastal Waterway and ending at U.S. Highway 70;
- (5) the waters of Bogue Sound in Morehead City between Sugar Loaf Island and the seawall on the south side of Evans, Shepard and Shackleford Streets and bounded on the east by the State Ports Authority and on the west by the eastern right-of-way margin of South 13th Street extended;
- (6) the waters of Gallant's Channel from the US 70 crossing over the Grayden Paul bridge to Taylor's Creek.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Carteret County, with respect to the regulated areas designated in Subparagraphs (1), (2), ~~and~~ (4) and (6) of Paragraph (a) of this Rule, and the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated in Subparagraph (3) of Paragraph (a) of this Rule, and the Board of Commissioners of Morehead City, with respect to Subparagraph (5) of Paragraph (a) of this Rule, are designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

.0356 PASQUOTANK COUNTY

(a) Regulated Area. This area applies to the canals of the Glen Cove Subdivision in Pasquotank County.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed while on the waters of the regulated area designated in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of County Commissioners of Pasquotank County is designated a suitable agency for placement and maintenance of the markers implementing this Rule.

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

**TITLE 21 - OCCUPATIONAL LICENSING
BOARDS**

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. State Board of Cosmetic Art Examiners intends to adopt, amend, repeal regulations cited as 21 NCAC 14D .0303; 14G .0011, .0014; 14H .0012; 14I .0107, .0109, .0302; 14J .0103, .0106, .0204 - .0206, .0305; 14L .0101, .0105, .0301.

The proposed effective date of this action is November 1, 1988.

The public hearing will be conducted at 10:00 a.m. on July 29, 1988 at N.C. State Board of Cosmetic Art Examiners, 4101 North Blvd., Suite H, New Hope Center, Raleigh, North Carolina 27604.

Comment Procedures: Any person may request information or copies of the proposed rules by writing or calling Vicky R. Goudie, Executive Secretary, N.C. State Board of Cosmetic Art Examiners, 4101 North Blvd., Suite H, Raleigh, North Carolina 27604, (919) 790-8460. Written comments on these rules may be sent to Mrs. Goudie by July 15th 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 Mrs. Goudie at least three days prior to the hearing if you desire to speak.

**CHAPTER 14 - BOARD OF COSMETIC ART
EXAMINERS**

**SUBCHAPTER 14D - CONDUCT OF THE
CONTESTED CASE**

SECTION .0300 - SUBPOENAS

.0303 SERVICE OF SUBPOENAS

(a) Subpoenas may be served in any manner provided by law.

- (1) ~~by an employee of the board; or~~
- (2) ~~by the sheriff of the county in which the person subpoenaed resides, when the party requesting the subpoena prepays the sheriff's service fee.~~

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

Statutory Authority G.S. 88-23; 150B-27.

**SUBCHAPTER 14G - REQUIREMENTS FOR
THE ESTABLISHMENT OF SCHOOLS OF
COSMETIC ART**

**.0011 CHANGE OF LOCATION OR
OWNERSHIP**

If the location of the school is changed, a new letter of approval will be necessary, or if there is a transfer of ownership or management of the school, either by sale, lease or otherwise, a new approval application is required. ~~The same shall be reported within 10 days of such change to the board, and application made for letter of approval. The school must meet the same conditions and requirements as a new beauty school in order to obtain a letter of approval. The letter of approval may be retroactive to the date of change or fraction therefore, if the school was in operation under a valid letter of approval at the time of this change and if the application for a new letter of approval is timely made.~~

Statutory Authority G.S. 88-23.

**.0014 SCHOOL AFFILIATION WITH BEAUTY
SHOPS AND OTHER BUSINESSES**

Beauty shops or any other business shall not be operated ~~in connection with beauty schools or colleges. Refer to 24 NCAC 14G .0015.~~ within the defined area of an approved beauty school or college. Beauty shops or any business operating adjacent to an approved beauty school or college shall be separated by a solid wall, floor to ceiling, with a separate entrance.

Statutory Authority G.S. 88-23.

SUBCHAPTER 14H - SANITATION

**.0012 CLEANLINESS OF CLINIC AREA AND
SUPPLIES AND EQUIPMENT**

- (a) The clinic area shall be kept clean.
- (b) Waste material shall be kept in suitable covered receptacles. The area surrounding the waste receptacles shall be maintained in a neat and sanitary manner.
- (c) Sanitation rules which apply to towels and cloths are as follow:
 - (1) Separate and clean towels shall be used for each patron.
 - (2) After a towel has been used once, it shall be discarded and placed in a clean, closed container until properly laundered.
 - (3) Clean towels shall be kept in a closed cabinet, free from dust or dirt, until ready for use.
 - (4) Chair cloths and shampoo aprons shall be kept clean and shall not be allowed to

come in direct contact with the patron's neck.

- (d) The head rest of an operating chair shall be covered with a clean towel or other sanitary covering before being used.

(e) At least six combs and brushes must be provided for each operator. All combs and brushes shall be thoroughly cleansed after each use in the following manner:

- (1) They shall be cleaned with soap and hot water;
- (2) They must be sanitized by being covered for 20 minutes in a five percent phenol, 70 percent alcohol, and ten percent Lysol solution; Chlorine solution.
- (3) They may be sanitized by being covered for 30 minutes in other sanitizing solutions approved by the North Carolina State Board of Cosmetic Art Examiners;
- (4) They must be removed from the solution and dried thoroughly with a clean towel and shall be in a closed container until used.

Statutory Authority G.S. 88-23.

**SUBCHAPTER 14I - OPERATIONS OF
SCHOOLS OF COSMETIC ART**

SECTION .0100 - RECORD KEEPING

**.0107 ENROLLMENT WITH STATE BOARD
OFFICE**

(a) Matriculations shall be filed in the office of the North Carolina State Board of Cosmetic Art Examiners not later than 30 days after the student enrolls in school. If enrollment is not received within 30 days, a copy of daily time records are required.

(b) Students who have not been properly enrolled with the state board office will not be accepted for the examination given by the board, and no hours will be credited by the board.

(c) North Carolina State Board of Cosmetic Art Examiners statement of purpose for Cosmetology Education shall be given to each student at time of enrollment. Receipt of this must be signed by student and returned along with the enrollment to the State Board Office, 4101 North Blvd., Suite 11, Raleigh, North Carolina 27604.

Statutory Authority G.S. 88-23.

.0109 GRADUATION

(a) The manager of each school shall compile, from the school records, a summary of each student's grades, hours, live model performance completions, date of enrollment and last date of attendance which shall be presented to the stu-

dent upon graduation or the last date of attendance.

(b) This summary shall be signed by the manager, instructor, and student; and shall have the seal of the beauty school affixed.

(c) Upon graduation, this summary is to be mailed to the North Carolina State Board of Cosmetology Examiners address on a form furnished by the board.

Statutory Authority G.S. 88-23.

SECTION .0300 - CLASSROOMS

.0302 LIBRARY

(a) A small library of reference books shall be made available for the students use, covering ~~all~~ the major ethnic cultures.

(b) In addition to the textbooks used, the library shall contain a standard dictionary, a medical dictionary and any other books relative to all fields of Cosmetology.

Statutory Authority G.S. 88-23.

SUBCHAPTER 14J - CURRICULUM

SECTION .0100 - BEGINNERS' DEPARTMENT

.0103 TIME REQUIREMENTS ACCORDING TO HOURS

(a) The maximum time a student is allowed to stay in the beauty school in any one day shall be eight clock hours, and no more than 40 hours per week.

(b) At no time shall a student be credited with more than eight hours in any one day and hours earned on one date cannot be credited to another day.

(c) Each student must complete 1200 hours in an approved beauty school or college before applying to the board for examination, except those students enrolled for the manicurist course only.

(d) Each student shall spend 300 hours in the beginners' department before entering the advanced department and shall not work on members of the public during this 300 hours.

(e) Hours earned in the beginners' department shall be devoted to scientific study, sanitization and mannequin practice as outlined in 21 NCAC 14J .0104 and .0105.

(f) Manicuring practice in this department shall be done on the students enrolled in the school during the first 300 hours.

Statutory Authority G.S. 88-23.

.0106 EQUIPMENT FOR BEGINNERS

The beginners' department shall be equipped with the following minimum equipment for every 20 students in the department:

- (1) one manicure table and stool,
- (2) two shampoo bowls and chairs,
- (3) two hearing heating caps,
- (4) one mannequin with hair per student,
- (5) three marcel heaters, three electrical marcel curling irons,
- (6) one slide projector and slides,
- (7) one mannequin practice table to accommodate at least ten students,
- (8) sufficient cold wave rods for each student in the department. ~~and~~
- ~~(9) two steamer caps pressing comb per student.~~

Statutory Authority G.S. 88-23.

SECTION .0200 - ADVANCED DEPARTMENT

.0204 COURSE WORK REQUIREMENT

The course work done by advanced students shall be as follows:

- (1) lectures on scientific study--10 hours;
- (2) chemistry, as necessary to the practice of cosmetic art-- 10 hours;
- (3) anatomy--10 hours;
- (4) bacteriology--10 hours;
- (5) skin, scalp, hair, nails and their common disorders--20 hours;
- (6) grooming and personal hygiene--5 hours;
- (7) pin curling, finger waving, rollers and combing--25 hours;
- (8) electrical marcel curling iron and blow dryers--20 hours;
- (9) permanent waving, marcelling, croquignole or hair relaxing--35 hours;
- (10) hair coloring and bleaching--25 hours;
- (11) salesmanship--10 hours;
- (12) manicuring--10 hours;
- (13) cosmetics--10 hours;
- (14) scalp treatments--10 hours;
- (15) roller placement and pin curl placement and directional waving for design--10 hours;
- (16) wig care and styling-- ~~40~~ 2 hours;
- (17) frosting and streaking--10 hours;
- (18) professional ethics--10 hours; and
- (19) sanitation and sterilization--20 hours.

Statutory Authority G.S. 88-23.

.0205 LIVE MODEL PERFORMANCE REQUIREMENTS

(a) The following live model performance completions shall be done by each student in the advanced department before the student is certi-

fied to the North Carolina State Board of Cosmetic Art Examiners for the examination:

- (1) hair and scalp treatments--30 hours -- 15 performance completions;
 - (2) hairstyling and shampooing--200 hours -- 150 performance completions;
 - (3) tinting and bleaching--50 hours -- 6 performance completions;
 - (4) frosting and streaking--20 hours -- 4 performance completions;
 - (5) temporary rinses--10 hours -- 20 performance completions;
 - (6) semi permanent rinses--5 hours -- ~~7~~ 4 performance completions;
 - (7) cold permanent waving--150 hours -- ~~40~~ 20 performance completions;
 - (8) marcelling, croquignole and permanent relaxing--35 hours--15 performances;
 - (9) facials, massages, packs, eyebrow arching--15 hours -- 10 performance completions;
 - (10) lash and brow tinting--10 hours -- 4 performance completions;
 - (11) manicuring and hand and arm massage--20 hours -- ~~40~~ 20 performance completions;
 - (12) hair shaping--100 hours -- 25 performance completions; and
 - (13) wig care and styling-- ~~20~~ 4 hours -- ~~40~~ 2 performance completions; and
 - (14) electrical marcel curling iron and blow dryers--10 hours--10 performances.
- (b) Certification of these live model performance completions will be required along with the application for the examination.

Statutory Authority G.S. 88-23.

.0206 EQUIPMENT IN ADVANCED DEPARTMENT

The advanced department shall be equipped with the following minimum equipment:

- (1) four manicure tables and stools,
- (2) eighteen dryers and chairs,
- (3) eight shampoo bowls and chairs,
- (4) three heating caps or one conditioning machine,
- (5) thirty dressing tables and styling chairs,
- (6) three facial chairs,
- (7) ~~six~~ three marcel heaters,
- (8) ~~marcel irons for each student enrolled,~~ three marcel irons, and
- (9) sufficient cold wave rods for each student enrolled in the department.

Statutory Authority G.S. 88-23.

SECTION .0300 - COMBINED STUDIES

.0305 TEACHING PROGRAM (REPEALED)

Statutory Authority G.S. 88-21(16).

SUBCHAPTER 14L - TEACHING STAFF

SECTION .0100 - TEACHER EXAMINATIONS

.0101 QUALIFICATIONS

No person shall be eligible to take an examination to be certified as a teacher of cosmetic arts unless he or she has the following qualifications:

- (1) at least five years experience as a registered cosmetologist practicing cosmetic art in a beauty shop immediately prior to applying for examination; and
- (2) is a licensed cosmetologist who has practiced as a registered cosmetologist in an approved beauty salon at least six months and has completed at least 400 hours of teacher training in an approved beauty school or college, consisting of the following:
 - (a) 0 to 200 hours orientation unit planning, daily lesson planning and clinic management planning all under the supervision of a licensed instructor;
 - (b) 200 to 400 hours to be used by the trainee in conducting theory classes, practical demonstrations and clinic management under the direct supervision of a licensed instructor;
- (3) must be registered with the board before entering the teacher training program and a copy of his/her high school diploma must be attached to the enrollment;
- (a) Under no condition are hours for credit retroactive prior to registration with the board;
- (b) At no time shall the trainee do clinical work in the school;
- (4) must comply with present regulations requiring a high school diploma or equivalency;
- (5) must pay ten dollars (\$10.00) license fee.
- (6) All teachers taking the State Board Examination will be required to take both cultures before being issued a license;
- (7) After an applicant has taken the State Board Teacher's Examination and failed twice, he/she shall be required to enroll in the 400-hour Teacher Training Program and pass the examination with a grade of 85 percent.

Statutory Authority G.S. 88-23.

.0105 CONTINUING EDUCATION FOR COSMETOLOGY TEACHERS

"A teacher has two years to complete 16 hours of Continuing Education to renew his/her license."

Statutory Authority G.S. 88-23.

SECTION .0300 - COSMETOLOGY MANAGER

.0301 COSMETOLOGY MANAGER

The curriculum for a cosmetology manager shall be as follows:

- (1) Supervisory Responsibilities
 - (a) Hiring and Training -- 9 hours
 - (b) Public Relations -- 8 hours
 - (c) Employee Discipline -- 8 hours
 - (2) Business Management
 - (a) Banking -- 3 hours
 - (b) Basic Bookkeeping -- 24 hours
 - (c) Payroll -- 10 hours
 - (d) Salaries and Commission -- 12 hours
 - (e) Appointment Scheduling -- 8 hours
 - (f) Inventory -- 7 hours
 - (i) Control
 - (ii) Purchasing
 - (iii) Merchandising
 - (g) Advertising -- 2 hours
 - (h) Insurance -- 2 hours
 - (i) Laws and Permits -- 2 hours
 - (j) Telephone Techniques -- 11 hours
 - (k) Salon Floorplanning -- 3 hours
 - (3) Health and Public Safety
 - (a) First Aid -- 8 hours
 - (b) Accident Prevention -- 2 hours
 - (c) Fire Codes -- 2 hours
 - (4) Advanced Hair Coloring
 - (a) Indepth Haircoloring -- 39 hours
 - (i) Corrective Haircoloring -- 17 hours
 - (ii) Advanced Color Formulas -- 7 hours
 - (iii) Laws of Color -- 7 hours
 - (5) Advanced Restructuring
 - (a) Advanced Wave Techniques -- 27 hours
 - (b) Advanced Straightening Techniques -- 22 hours
 - (c) Advanced Relaxing Techniques -- 8 hours
 - (6) Advanced Cosmetology
 - (a) Advanced Hair Analysis -- 6 hours
 - (b) Advanced Hair Shaping -- 34 hours
 - (c) Advanced Thermal Techniques -- 6 hours
 - (d) Advanced Blow Waving -- 6 hours
- TOTAL HOURS: 300

Statutory Authority G.S. 88-5.

TITLE 23 - DEPARTMENT OF COMMUNITY COLLEGES

Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Community Colleges/Department of Community Colleges intends to amend regulations cited as 23 NCAC 2D .0101; and 23 NCAC 2E .0602.

The proposed effective date of this action is November 1, 1988.

The public hearing will be conducted at 1:00 p.m. on August 10, 1988 at Fourth Floor, Room 401A, Caswell Building, 200 West Jones Street, Raleigh, North Carolina 27603-1337.

Comment Procedures: A ten-minute time limit per person may be imposed for oral presentations. The number of persons making oral presentations may be limited in order to stay within the time available. Individuals who plan to make oral presentations must submit their remarks in writing to the hearing officer. This procedure will assist the hearing officer in organizing and reporting information to the SBCC. Written statements not to be presented at the hearing should be directed to Dr. C. Neill McLeod, Hearing Officer, Department of Community Colleges, 200 West Jones Street, Raleigh, N.C. 27603-1337 by August 1, 1988.

CHAPTER 2 - COMMUNITY COLLEGES

SUBCHAPTER 2D - INSTITUTIONS: FISCAL AFFAIRS

Editor's Note: Upon review by our staff of the history files for this Subchapter, we have discovered that numbering errors in filing during 1976 and 1977 have resulted in improper publication in the Code. Upon request for certified copies of rules within this Section, only the correct rule will be certified and, in order to insure clarification, all related materials and forms will be attached.

SECTION .0100 - SALARIES

.0101 ESTABLISHING PAY RATES

(a) The monthly and annual salaries or hourly rates of pay from state funds for full-time and part-time personnel in institutions shall be established by the president of the institution with the approval of the board of trustees of the institution within the line item budget approved for the institution by the state board and in accordance with the regulations approved by the state board, except that the state funded portion salary of the president of an institution shall be approved by the State President in accordance with

the state salary schedule. Salary increases shall be granted annually or upon promotion to a higher position. Legislative increases shall be granted according to requirements set forth by the General Assembly. The state board shall adopt a minimum and maximum amount of state funds which may be paid to any individual working in an institution. In lieu of a salary table, the minimum and maximum amounts shall be based on the lowest and highest amounts used in the 1980-81 fiscal year and will be increased in subsequent years based on actions of the General Assembly. Individuals shall be paid between the minimum and maximum amounts at a level determined by the salary approving authority at the local institution.

(b) All hourly, monthly, and annual salaries for full-time or part-time personnel shall be certified by the president of the institution and reported to the department.

(c) Administrative procedures, forms, and regulations for the implementation of the above policies shall be developed by the Department.

(d) The State President shall determine, based on the following criteria, the proper placement of newly-hired presidents on the state salary schedule. Extraordinary cases which cannot be determined based on these criteria shall be submitted to an evaluation board consisting of a trustee, a president, and a state board member for determination of placement; but in no case may this placement be above step three for that size institution. The evaluation board shall be appointed by the state president.

(e) ~~Presidents' salaries are established according to institutional size and years of acceptable experience of the individual. All Presidents' salaries shall be established according to the following criteria: Presidents employed on June 30, 1988 shall be treated as new hires for the purpose of establishing pay. Institutional size and years of acceptable experience shall determine their placement on the Salary Schedule for Presidents:~~

- (1) New presidents without administrative experience shall be placed on step zero.
- (2) Salary increments shall be allowed on the State Salary Schedule for Presidents in the Community College System based on full-time administrative services for the following categories:
 - (A) Increments for prior experience as a president in the North Carolina Community College System or other in-state or out-of-state post-secondary institution shall be allowed on a year for year basis.
 - (B) Public school superintendents and first line administrators of post-secondary institutions may be given increment experi-

ence on the Presidents' Salary Schedule of one increment for five or more years of such experience. Furthermore, when applicable, first-line administrators from within the North Carolina Community College System may be placed on the Salary Schedule for Presidents at the next higher step based on his current salary paid from state funds.

(C) Any year in which the General Assembly fails to allow a step increment on the Salary Schedule for Presidents, shall be considered a freeze year and no increment shall be allowed for that year for any President.

(D) Presidents who were employed prior to July 1, 1988, shall be allowed acceptable experience under the criteria in effect at the time of their initial employment unless the current criteria is more beneficial to them.

Statutory Authority G.S. 115D-5; 115D-54.

SUBCHAPTER 2E - EDUCATIONAL PROGRAMS

SECTION .0600 - VOCATIONAL CURRICULUM

.0602 INSTRUCTIONAL CONTRACT PROVISIONS

(a) Each institution is to assess its own need to provide instructional services by contracting with other public or private organizations or institutions. ~~puruant to G.S. 115D-20(6).~~ Any curriculum instructional program or course intended to be offered by contract must be submitted to the State President for approval. This policy does not apply to contracts between an institution and its individual instructors.

(b) Any curriculum contract entered into by the local board of trustees of an institution ~~puruant to G.S. 115D-20(6) and the provisions of this policy~~ must meet the following general criteria:

- (1) A contract document in proper legal form is necessary in all cases and ~~will~~ shall be drawn up by the institution consistent with the requirements of the local board of trustees, the public or private organization or institution being contracted with and the State Board's criteria.
- (2) The contract shall be limited to and not exceed the fiscal year in which it begins.
- (3) The provisions for payment under contract shall not exceed usual and customary costs associated with the contracted instruction.

- (4)(3) The contract shall provide that the institutional personnel shall have the right to supervise the educational program offered by the public or private organizations or institutions to the extent necessary to ensure the quality of the instructional program.
- (5)(4) The contract shall provide that the institution, the Department and the State Auditor shall have access to the records of the contractor to the extent necessary to ascertain the accuracy of such records and shall authorize the Department to obtain such fiscal accounting reports as are necessary in carrying out the terms of the contract.
- (6)(5) Curriculum courses taught under contract shall be limited to programs the institution has been authorized to offer.
- (7)(6) The contract shall stipulate that students taught under the terms of the contract shall pay the same fees charged other students in similar programs in the institution, which fees shall be deposited in like manner as other fees. No tuition or fee charges shall be collected by the public or private organizations or institutions from students taught under such contracts unless specified by the contract.
- (8)(7) The contract must be signed by the chairman of the board of trustees, president of the institution and a representative of the public or private organizations or institutions.
- (8) When approved by the local board of trustees and the public or private organizations or institutions, the contract document shall be submitted to the State President for information to qualify for reimbursement for state or federal funds.
- (9) After a contract is submitted for information to the State President, the Department is authorized to approve the institution's budget for contracted instructional services if the requirements in Subparagraph (b)(4) have been met by the contractor.
- (c) In addition, the following provisions shall apply specifically to curriculum contracts with a proprietary or private non-profit institution or public agency.
- (1) The proprietary or private non-profit institution with which the contract is made

must be licensed as required by the General Statutes of North Carolina and must have maintained the licensure for a minimum of two years to offer the instruction desired.

- (2) If federal funds are to be used to pay for instruction provided under the conditions of the contract, the proprietary or private non-profit institution must meet the requirements of the Private Vocational Training Institution, as stated in Appendix A of Title 45 of the Federal Register Volume 42, Number 194 (October 3, 1977) or 20 USC 2461 (21).

- (3) The proprietary or private non-profit institution must be in compliance with Titles VI and VII of the Federal Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972 and Section 504 regulations of the Handicapped Act of 1973.

(d) The chief executive officer of the proprietary or private non-profit institution, or his designated agent, must sign a certification statement that the program in question, facility, or contract for services to students, will be open without regard to race, age, color, creed, sex, political affiliation, or handicapping conditions.

(e) (4) Public or private colleges or universities must be licensed as required by the General Statutes of North Carolina to offer the instruction desired if entering into a contract to provide instructional services with the board of trustees of an institution.

(f) (e) Institutions shall earn reimbursement on the regular formula budget for student membership hours generated by instruction under contract except that cosmetology instruction offered under contract shall be funded for instructional units at the occupational extension formula rate and for instructional support and administration at the curriculum formula rate.

(g) Approval Procedure. When approved by the local board of trustees and the public or private organizations or institutions, the contract document shall be submitted to the system President who is authorized to approve the institution's budget for the contracted instructional services if the requirements in Paragraphs (b), (c), (d), and (e) of this Rule have been met.

Statutory Authority G.S. 115D-1 through 115D-5; 115D-18; 115D-20(6); P.L. 98-524; P.L. 88-352.

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| *21 | Occupational Licensing Boards |
| 22 | Administrative Procedures |
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| 26 | Administrative Hearings, Office of |

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