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The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

FINAL DECISION LETTERS

PROPOSED RULES

Commerce

Human Resources

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NRCD

State Personnel

LIST OF RULES AFFECTED

ISSUE DATE: NOVEMBER 15, 1988

Volume 3 • Issue 16 • Pages 729-799



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.

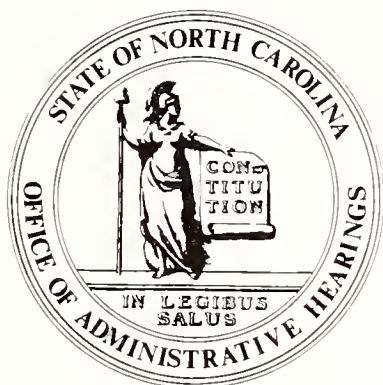
CITATION TO THE NORTH CAROLINA REGISTER

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
(September 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
*****	*****	*****	*****	*****
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:TGL:jmc
DJ 166-012-3
W5137
W8971

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

October 20, 1988

DeWitt F. McCarley, Esq.
City Attorney
P. O. Box 7207
Greenville, North Carolina 27835-7207

Dear Mr. McCarley:

This refers to the annexation [Ordinance No. 1869 (1988)] and the designation of the annexed area to District 1 for the City of Greenville in Pitt 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 August 22, 1988.

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. 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

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

WBR:LLT:TGL:gmh
DJ 166-012-3
W3262; W9045
W4978-4980; W9046
W7705-7706; W9047
W8624; W9048

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

October 24, 1988

David A. Holec, Esq.
City Attorney
P. O. Box 1388
Lumberton, North Carolina 28359

Dear Mr. Holec:

This refers to the seven annexations and the designation of the annexed areas to single-member districts for the City of Lumberton in Robeson 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 submissions on July 5, August 25, August 29, and October 4, 1988.

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 the Procedures for the Administration of Section 5 (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

**TITLE 4 - DEPARTMENT OF
COMMERCE**

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina State Ports Authority intends to amend rule(s) cited as 4 NCAC 13A .0101, .0203; 13B .0002 - .0004; 13D .0101; 13E .0302, .0501, .0603, .0701, .0901, .0902; 13F .0301, .0302; adopt rule(s) cited as 4 NCAC 13E .0803; and repeal rule(s) cited as 4 NCAC 13A .0201, 13E .0303 - .0306, .0703, .0802; and 13F .0100 and .0200.

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

The public hearing will be conducted at 5:15 p.m. on December 15, 1988 at Conference Room, SPA Maritime Building, 2202 Burnett Boulevard, Wilmington, N.C. 28401.

Comment Procedures: Interested persons may present statements orally or in writing at the hearing or in writing prior to the hearing by mail addressed to: Dennis P. Myers, Assistant Attorney General, N.C. Department of Justice, P.O. Box 629, Raleigh, N.C. 27602.

**SUBCHAPTER 13A - DEPARTMENTAL RULES
AND GENERAL PROVISIONS**

**SECTION .0100 - ORGANIZATION OF STATE
PORTS AUTHORITY**

.0101 IDENTIFYING INFORMATION

The principal office of the State Ports Authority is located at:

North Carolina State Ports Authority
420 North Salisbury Street
Raleigh, North Carolina 27611
2202 Burnett Boulevard
P. O. Box 9002
Wilmington, North Carolina 28402

Statutory Authority G.S. 143B-454(6).

.0201 PURPOSES AND POWERS (REPEALED)

Statutory Authority G.S. 143B-453; 143B-454.

.0203 REAL PROPERTY AND CONSTRUCTION

(e) Construction funded solely by the special operating fund of the Ports Authority, from cash reserves, loan proceeds, grants and any source other than capital improvement appropriations shall be subject to the following specified portions of the Property Control and Construction Manual, Fourth Edition, which is pub-

lished by the Office of State Property and Construction of the Department of Administration. The portions of the Property Control and Construction Manual which such construction is subject to are:

- (1) employment of architects and engineers;
- (2) plans and specifications — revised and approvals;
- (3) advertising for bids;
- (4) receipt of bids and award of contracts;
- (5) bid opening procedure;
- (6) surety bonds;
- (7) certificates authorizing payments;
- (8) monthly progress meetings;
- (9) construction progress reports;
- (10) change orders;
- (11) final inspection of projects;
- (12) design criteria and policies.

(d) These portions of the indicated manual describe procedures and standards to be utilized in letting and performance of construction contracts. The above indicated portions of the Fourth Edition of the Property Control and Construction Manual are hereby adopted by reference and made a part of the rules of the State Ports Authority. Copies of the manual may be obtained from the Office of State Property and Construction which is located at:

Administration Building
116 W. Jones Street
Raleigh, N.C. 27611

(c) (e) Construction projects, the required funding of which is no more than ~~ten~~ fifty thousand dollars (~~\$10,000~~), (\$50,000), may be bid on an informal basis by the director of engineering. ~~Request~~ Requests for bids on an informal basis shall be by letter to parties likely to be interested in construction of the project and the letter shall give adequate instructions as to bidding proceedings, date of bid opening, and sufficient information and specifications necessary to enable a bidder to be properly informed prior to submission of his bid.

Statutory Authority G.S. 143-129; 143B-454; 143B-455; 143B-457.

**SUBCHAPTER 13B - PURCHASING
PROCEDURES**

.0002 PURCHASES EXCEEDING \$5,000

Purchases amounting to ~~two thousand five hundred dollars (\$2,500)~~ five thousand dollars (\$5,000) or more, for items not on contract certification are requisitioned through the division of purchase and contract in accordance with that division's prescribed procedures. Purchase or-

ders are issued directly to the supplier for items authorized by contract certification. The Ports Authority may effect purchases through the division of purchase and contract for amounts less than ~~two thousand five hundred dollars (\$2,500)~~ five thousand dollars (\$5,000), at its discretion.

Statutory Authority G.S. 143-52; 143B-453; 143B-454; 143B-465.

.0003 PURCHASES NOT EXCEEDING \$5,000: CERTIFICATION CONTRACTS

Procedures for effecting purchases, for items which are available on contract certification, which are in amounts less than ~~two five thousand five hundred dollars (\$2,500)~~ (\$5,000) are as follows:

- (1) A purchase order will be issued by the purchasing officer when available items or their functional equivalent may be obtained in accordance with an established contract certification.
- (2) The purchase orders of the Ports Authority are serially numbered and clearly indicate that the North Carolina State Ports Authority is the issuer of the purchase order. It gives the date and the complete address of the supplier to whom it is being sent. It requests delivery to the North Carolina State Ports Authority at whichever port is appropriate, Morehead City, ~~or~~ Wilmington or Southport, and to the person who is to receive the goods or services ordered at the appropriate port. Instructions will state the address to which the invoice will be directed. The purchase order provides space for the quantity of the items ordered, the description, the unit price and the total price. A space is provided to show reference to the contract certification number, if applicable. The purchasing officer signs the purchase order or it may be signed by a designated person in the Morehead City office.

Statutory Authority G.S. 143B-453; 143B-454; 143B-465;

.0004 PURCHASES NOT EXCEEDING \$5,000: INFORMAL QUOTATIONS

If a contract certification is not in effect for a particular item, prior to the issuance of a purchase order, informal quotations for purchases which are less than ~~two five thousand five hundred dollars (\$2,500)~~ (\$5,000) are obtained, whenever possible. This may be done in several ways:

- (1) A written request for quotations may be made using a quotation form. The request

for quotation will clearly indicate that the agency requesting the quotation is the North Carolina State Ports Authority. It will give the number of the request for quotation and the date issued, clearly indicating that it is not an order. The quotation form has room to indicate the Port Authority's delivery requirement, quantity and description of items. Prospective vendors have space to show their delivery date, terms and price.

- (2) If it appears in the judgement of the purchasing officer that the request for quotation can better be handled by correspondence, a letter will be written to prospective suppliers requesting quotations. The responses from the suppliers become a matter of record.
- (3) When time does not permit the use of the informal quotation form or the correspondence method, quotes may be received by the purchasing officer making telephone calls to several suppliers in order to secure the desired item or items at the best possible price. The results of the telephone calls are tabulated by the purchasing officer and are retained as a matter of record.
- (4) After quotations are received, they are tabulated to determine the best available price and if the quotations are consistent with the requirements of the Ports Authority and meet the requirements of the Department of Administration, Division of Purchase and Contract, a purchase order is issued.

Statutory Authority G.S. 143B-453; 143B-454; 143B-465.

SUBCHAPTER 13D - PORT CHARGES TARIFF

SECTION .0100 - GENERAL PROVISIONS

.0101 PUBLICATION OF PORT CHARGES TARIFF

The port charges tariff of the Ports Authority sets forth the charges for services rendered at its terminals and the rules and regulations to be followed by users of the terminals. In accordance with General Order No. 15 of the Federal Maritime Commission, the tariff is filed with the Federal Maritime Commission as a public document. A public copy of the tariff is on file at the following address: Federal Maritime Commission, Bureau of Compliance, 1100 L Street, NW, Washington, D.C. 20573. A copy is also on file at the North Carolina State Ports Authority, North Carolina Maritime Building--Wilmington, 2202 Burnett Boulevard, Wilmington, North Carolina 28401. The tariff is adopted by reference pursuant to G.S. 150B-14(c) and shall include any later amendments and editions thereof.

Statutory Authority G.S. 143B-453; 143B-454; 150B-14.

SUBCHAPTER 13E - SECURITY AND SAFETY

SECTION .0300 - TRAFFIC ADMINISTRATION

.0302 DUTIES OF PORT MANAGERS

~~The office of terminal traffic engineer is hereby established. The Safety Director of the North Carolina State Ports Authority shall serve as terminal traffic engineer in addition to his other functions, and shall exercise the powers and duties with respect to traffic as provided in this ordinance. It shall be the general duty of the Port Managers to determine the installation and proper timing and maintenance of traffic-control devices, to initiate engineering analyses of traffic accidents and to devise remedial measures, to initiate engineering investigation of traffic conditions, to plan the operation of traffic on the streets and roadways of the two terminals, and to cooperate with other administrative officials of the North Carolina State Ports Authority in the development of ways and means to improve traffic conditions and to carry out the additional powers and duties imposed by this ordinance.~~

Statutory Authority G.S. 143B-461.

.0303 DUTIES: TERMINAL TRAFFIC ENGINEER (REPEALED)

.0304 TESTING: TRAFFIC CONTROL DEVICES (REPEALED)

.0305 TRAFFIC COMMITTEES ESTABLISHED (REPEALED)

.0306 DUTIES OF TRAFFIC COMMITTEES (REPEALED)

Statutory Authority G.S. 143B-461.

SECTION .0500 - TRAFFIC CONTROL DEVICES

.0501 PLACEMENT AND MAINTENANCE

~~The terminal traffic engineer port managers shall place and maintain traffic-control signs, signals, and devices when and as required under the traffic ordinances of the two terminals to make effective the provisions of said ordinances, and may place and maintain such additional traffic-control devices as he they may deem necessary to regulate traffic under the traffic ordinances of the two terminals or under state law, or to guide or warn traffic.~~

Statutory Authority G.S. 143B-461.

SECTION .0600 - OPERATION OF MOTOR VEHICLES

.0603 ERECTION OF TRAFFIC CONTROL SIGNS

~~The terminal traffic engineer is port managers~~ are hereby authorized and shall be responsible for erecting signs called for by Rules .0901(a) to (g) and .0902(a) to (g) of this Subchapter. The erection, placement, and size and color of signs shall be in accordance with the provisions of manual on "Uniform Traffic Control Devices for Streets and Highways."

Statutory Authority G.S. 143B-461.

SECTION .0700 - CONTROL OF FIRE ARMS AND SMOKING

.0701 SMOKING RESTRICTIONS

~~The traffic committee, with the approval of the executive director, port managers~~ may designate areas of the two terminals where smoking is prohibited. Upon such official designation, the terminal traffic engineer shall erect signs signs shall be erected clearly defining such areas. Areas wherein smoking is prohibited are listed in Rules .0901(h) and .0902(h) of this Subchapter.

Statutory Authority G.S. 143B-461.

.0703 PENALTY UPON CONVICTION (REPEALED)

Statutory Authority G.S. 143B-461.

SECTION .0800 - PENALTIES AND SECURITY

.0802 PENALTY: PARKING VIOLATIONS (REPEALED)

Statutory Authority G.S. 143B-461.

.0803 REGISTRATION OF VEHICLES AND GATE PROCEDURE

Every vehicle entering the premises of the North Carolina State Ports Authority must be registered by the Ports Authority Police Department. Ports Authority employees, longshoring employees and tenants' employees will receive and display registration stickers with the proper identification, to be mounted on the left side of the front bumper of their vehicle. All other vehicles entering the premises, with the exception of emergency vehicles, will stop at the entrance guardhouse. Cargo carriers will be registered and visitors will be issued temporary gate passes. Upon leaving the terminals, vehicles will again stop, for processing out in the case of cargo carriers and to return the temporary gate passes in the case of visitors. Stopping areas will be clearly marked at each port entrance and exist.

Statutory Authority G.S. 143B-461.

.0901 WILMINGTON ORDINANCE SCHEDULES

[illegible]

Myers Boulevard	45 <u>20</u> MPH
Woodbine Street	45 <u>20</u> MPH
Warehouse Road	45 <u>20</u> MPH
Industrial Road	45 <u>20</u> MPH
Commerce Street	45 <u>20</u> MPH
Crescent Street	45 <u>20</u> MPH
First Street	45 <u>20</u> MPH
Second Street	45 <u>20</u> MPH
Third Street	45 <u>20</u> MPH
Fourth Street	45 <u>20</u> MPH
Fifth Street	45 <u>20</u> MPH
Maritime Boulevard	25 <u>20</u> MPH
Sixth Street	45 <u>20</u> MPH
Seventh Street	45 <u>20</u> MPH
Eighth Street	45 <u>20</u> MPH
Ninth Street	45 <u>20</u> MPH
Tenth Street	45 <u>20</u> MPH
Eleventh Street	45 <u>20</u> MPH

Yes

Twelfth Street	20 MPII
Thirteenth Street	20 MPII
Fourteenth Street	20 MPII
Inside all Transit and Storage Buildings	10 MPII
All Open Berth Areas	15 MPII

West side of ~~Myers Boulevard~~ Transit Road at
intersection of Warehouse Road.

Northeast corner of Warehouse Road and First Street.

Northwest corner of Warehouse Road and
Fourth Street.

Northwest corner of Fifth Street and Industrial Road.

Southeast corner of Fifth Street and Industrial Road.

Northwest corner of Maritime Boulevard and Industrial Road.

Southeast corner of Maritime Boulevard and Industrial Road.

Southeast corner of Maritime Boulevard and
~~Myers Boulevard~~ Transit Road.

Northwest corner of Maritime Boulevard and
Fifth Street.

Southeast corner of Maritime Boulevard and
Commerce Street.

Maritime Boulevard at Gate House.

Northeast corner of Industrial Road and Sixth Street.

Southwest corner of Commerce Street and Sixth Street.

Southwest corner of Industrial Road and Seventh Street.

Southeast corner of Warehouse Road and Seventh Street.

Northeast corner of Warehouse Road and
Fifth Street.

Southwest corner of Industrial Road and Eighth Street.

Northeast corner of Industrial Road and
Crescent Street.

Northeast corner of Warehouse Road and
Ninth Street.

Southwest corner of Industrial Road and Ninth Street.

Northeast corner of Industrial Road and Tenth Street.

Northwest corner of Crescent Street and Tenth Street.

Southwest corner of Commerce Street and Tenth Street.

Northeast corner of Warehouse Road and
Eleventh Street.

Southwest corner of Industrial Road and Eleventh Street.

Northeast corner of Sixth Street and Industrial Road.

Southeast corner of Fleventh Street and Industrial Road ~~Northwest~~ Northeast corner of

(c) The following schedule lists the locations

(c) The following schedule lists the locations of yield signs in the Wilmington Terminal:

Northwest corner of ~~Myers Boulevard~~ Transit
Road and Woodbine Street.

Southeast corner of Myers Boulevard Transit Road and RR Scale Road.
 Southwest corner of Myers Boulevard Transit Road and No. 1 Ramp.
 Southwest corner of Myers Boulevard Transit Road and No. 2 Ramp.
 Northeast corner of Myers Boulevard Transit Road and Second Street.
 Southwest corner of Warehouse Road and Second Street.
 Southwest corner of Myers Boulevard Transit and No. 3 Ramp.
 Northeast corner of Myers Boulevard Transit and Third Street.
 Southwest corner of Warehouse Road and Third Street.
 Northwest corner of Industrial Road and Third Street.
 Southwest corner of Myers Boulevard Transit Road and No. 4 Ramp.
 Northeast corner of Myers Boulevard Transit Road and Fourth Street.
 Southwest corner of Industrial Road and Fourth Street.
 Northeast corner of Industrial Road and Fourth Street.
 Southwest corner of Myers Boulevard Transit Road and No. 5 Ramp.
 Southwest corner of Myers Boulevard Transit Road and No. 6 Ramp.
 Northeast corner of Myers Boulevard Transit Road and Maritime Boulevard.
 West Exit of Parking Lot at Maritime Boulevard and Industrial Road.
 Southwest corner of Myers Boulevard Transit Road and No. 7 Ramp.
 Northeast corner of Myers Boulevard Transit Road and Seventh Street.
 Northwest corner of Warehouse Road and Commerce Street.
Northwest corner of Industrial Road and Commerce Street.
Southeast corner of Fifth Street and Industrial Road.
Southeast corner of Industrial Road and Twelfth Street.

(d) The following schedule lists the locations of railroad warning signs in the Wilmington Terminal:

North side of Myers Boulevard Transit Road and North Gate Crossing.
 South side of Myers Boulevard Transit Road at North Gate Crossing.
 North side of Myers Boulevard Transit Road at intersection of Warehouse Road.
 South side of Myers Boulevard Transit Road at intersection of Warehouse Road.

East side of Warehouse Road at intersection of Myers Boulevard Transit Road.
 Northwest corner of Third Street and Industrial Road.
 Southeast corner of Third Street and Warehouse Road.
 Northwest corner of Fourth Street and Industrial Road.
 South side of Fourth Street south of Cargo Shelter No. 1.
 West side of Myers Boulevard Transit Road at Lumber Ramp Crossing.
 East side of Myers Boulevard Transit Road at Lumber Ramp Crossing.
 North side of Maritime Boulevard at East Lumber Yard Crossing.
 South side of Maritime Boulevard at East Lumber Yard Crossing.
 South side of Maritime Boulevard at Main Gate Crossing.
 North side of Maritime Boulevard at Main Gate Crossing.
South side of Industrial Road at Twelfth Street Crossing.
North side of Industrial Road at Twelfth Street Crossing.

(e) The following schedule lists the locations of no thru traffic signs in the Wilmington Terminal:

Southwest corner of Warehouse Road and First Street.
 Northeast corner of Warehouse Road and Fourth Street.
Warehouse Road.
Inside all transit and storage buildings.

(f) The following schedule lists the locations of do not enter signs in the Wilmington Terminal:

Southwest corner of Myers Boulevard Transit Road and RR Scale Road.

(g) The following schedule lists parking ordinances in the Wilmington Terminal:

(1) The following schedule lists the locations of parking areas signs:

North side of Third Street at Parking Area between Warehouse Road and Industrial Road.

Southeast corner of Maritime Boulevard and Industrial Road at Parking Area.

Southeast corner of Commerce Street and Warehouse Road at Parking Area.

Southeast corner of No. 1 Transit Shed between tracks and road.

East side of northern half of No. 2 Transit Shed between tracks and road.

East side of No. 4 Transit Shed between tracks and road.

~~East side of Polk Street and Gate to Central Boulevard.~~

~~West side of Personnel Office, Warehouse No. 2.~~

~~West side of Warehouse No. 4 from south end to door No. 4.~~

(1) ~~(2)~~ The following schedule lists the locations of no parking between signs areas:

Southwest corner of ~~Myers Boulevard Transit Road~~ and Ramp No. 1 to west side of ~~Myers Boulevard Transit Road~~ opposite loading door No. 6 of Transit Shed No. 1.

West side of ~~Myers Boulevard Transit Road~~ opposite loading door No. 4 of Transit Shed No. 2, to Northwest corner of ~~Myers Boulevard Transit Road~~ and Ramp No. 2.

East side of ~~Myers Boulevard Transit Road~~ from North end of Warehouse No. 3 to North side of Personnel Office.

East side of ~~Myers Boulevard Transit Road~~ from South side of Personnel Office to Northeast corner of ~~Myers Boulevard Transit Road~~ and Second Street.

Southeast corner of ~~Myers Boulevard Transit Road~~ and Second Street to East side of ~~Myers Boulevard Transit Road~~ opposite loading door No. 4 in Warehouse No.1.

Southeast corner of ~~Myers Boulevard Transit Road~~ and Third Street to Northeast corner of ~~Myers Boulevard Transit Road~~ and Fourth Street.

Southeast corner of ~~Myers Boulevard Transit Road~~ and Maritime Boulevard to Northeast corner of ~~Myers Boulevard Transit Road~~ and Seventh Street.

Southwest corner of Warehouse Road and Third Street to Northwest corner of Warehouse Road and Fourth Street.

Southeast corner of Warehouse Road and Third Street to Northeast corner of Warehouse Road and Fourth Street.

(2) The following schedule lists the areas in which parking is prohibited and no parking signs will be erected:

Northwest corner of 11th Street.

Northwest corner of 9th Street.

South corner of Transit Shed No. 4.

Northwest corner of Maritime Boulevard.

(h) The following schedule lists the areas in which smoking is prohibited in the Wilmington Terminal:

(1) Smoking is prohibited in all areas west of the railroad tracks along ~~Myers Boulevard Transit Road~~ and on the South Open Berth. Smoking will be permitted only within designated smoking areas.

(2) Smoking is also prohibited in Storage Warehouses 1, 2, 3, and 4 and Cargo

Shelter 1 and signs are posted in the following locations:

North and South ends of East and West sides of Transit Shed 1.

North and South ends of East and West sides of Transit Shed 2.

North and South ends of East and West sides of Transit Shed 3.

North and South ends of East and West sides of Transit Shed 4.

North and South ends of East and West sides of Warehouse 1.

North and South ends of East and West sides of Warehouse 2.

North and South ends of East and West sides of Warehouse 3.

North and South ends of East and West sides of Warehouse 4.

North and South ends of Cargo Shelter 1.

(i) The following schedule lists streets in the Wilmington Terminal which are one way:

~~Fifth Street~~ ~~Twelfth Street~~ is limited to one-way traffic with such traffic moving from Industrial Road eastbound to ~~Maritime Boulevard~~ ~~Pennsylvania Avenue~~.

Statutory Authority G.S. 143B-461.

.0902 MOREHEAD CITY ORDINANCE SCHEDULES

(a) The following schedule lists maximum speed limits for specified streets in the Morehead City Terminal:

<u>NAME OF STREET</u>	<u>MAXIMUM SPEED</u> <u>LIMIT</u>
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Arendell Street	45 <u>20</u> MPH
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Terminal Road	45 <u>20</u> MPH
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Transit Road	45 MPH
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Warehouse Road	45 <u>20</u> MPH
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Lumber Road	45 <u>20</u> MPH
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Garage Road	45 <u>20</u> MPH
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North Gate Road	45 <u>20</u> MPH
-----------------	------------------

Storage Road	45 <u>20</u> MPH
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Barge Terminal	45 <u>20</u> MPH
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Barge Terminal East	45 <u>20</u> MPH
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First Street	45 <u>20</u> MPH
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Second Street	45 <u>20</u> MPH
---------------	------------------

Third Street	45 <u>20</u> MPH
--------------	------------------

Fourth Street to	
------------------	--

Garage Street	45 <u>20</u> MPH
---------------	------------------

Fifth Street	45 <u>20</u> MPH
--------------	------------------

First Street North	45 <u>20</u> MPH
--------------------	------------------

Second Street North	45 <u>20</u> MPH
---------------------	------------------

Fourth Street North	45 <u>20</u> MPH
---------------------	------------------

AT ALL TIMES

Yes

Yes

Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes

(b) The following schedule lists the locations of stop signs in the Morehead City Terminal:

Arendell Street at Main Gate House (2 signs).

Southeast corner of Arendell Street and Terminal Road.

Southwest corner of Warehouse Road and Terminal Road.

Northwest corner of First Street and Warehouse Road.

Southwest corner of Old Transit Road and Terminal Road.

Northwest corner of Old Transit Road and Second Street.

Southeast corner of Old Transit Road and Second Street.

Northeast corner of Warehouse Road and Second Street.

Southwest corner of Warehouse Road and Second Street.

Southeast corner of Second Street and Garage Road.

Southeast corner of Third Street and Garage Road.

Northwest corner of Third Street and Warehouse Road.

Northeast corner of Garage Road and Fourth Street.

Northeast corner of Fourth Street and Warehouse Road.

Northwest corner of Fourth Street and Old Transit Road.

Southeast corner of Fourth Street and Old Transit Road.

Southwest corner of Fifth Street and Fourth Street.

Southwest corner of Lumber Road and Fourth Street.

North Gate Road at Gate House (2 signs).

Southeast corner of Fourth Street N and North Gate Road.

Northwest corner of Fourth Street N and North Gate Road.

Southwest corner of Second Street and North Gate Road.

Northwest corner of Second Street and North Gate Road.

Northeast corner of Barge Terminal N and Second Street N.

Northeast corner of Arendell Street and Fourth Street.

Southeast corner of Arendell Street and Fourth Street.

(c) The following schedule lists the locations of yield signs in the Morehead City Terminal:

Southwest corner of First Street and Garage Road.

Northwest corner of North Gate Road and Highway 70.

Southeast corner of Terminal Road and Barge Terminal Road East.

Northeast corner of Arendell Street and Fourth Street.

Southwest corner of Arendell Street and Fourth Street.

(d) The following schedule lists the locations of railroad warning signs in the Morehead City Terminal:

East side of Fourth Street at intersection of Arendell Street.

North side of Arendell Street at intersection of Fourth Street.

East side of Terminal Road at intersection of Arendell Street.

North side of Barge Terminal East at intersection of Arendell Street.

West side of First Street N at intersection of Arendell Street.

North side of Fifth Street at Northwest corner of Warehouse 8.

West side of Fifth Street opposite west side of center of Warehouse 8.

North side of Lumber Road at intersection of Fifth Street.

Southeast corner of Fourth Street and Old Transit Road.

Northwest corner of Fourth Street and Old Transit Road.

(e) The following schedule lists the locations of no thru traffic signs in the Morehead City Terminal:

~~Northwest~~ Northeast corner of Terminal Road and Arendell Street.

Southwest corner of North Gate Road and Second Street North.

(f) At the present, do not enter signs are not applicable to the Morehead City Terminal.

(g) The following schedule lists parking ordinances in the Morehead City Terminal:

(1) ~~The following schedule lists the locations of parking area signs:~~

~~East side of Second Street between Transit Road and Pier.~~

~~West side of Second Street between Transit Road and Pier.~~

~~East side of Second Street between Transit Road and Warehouse Road.~~

~~South side of Warehouse Road between Second Street and First Street.~~

~~South side of Warehouse Road between Second Street and Fourth Street.~~

~~East side of Transit Shed 3 at entrance way.~~

~~West side of Terminal Road between Warehouse Road and Garage Road.~~

(1) ~~(2)~~ The following schedule lists the location of no parking between signs areas:

~~West~~ East side of Transit Shed 3 between Pier and Old Transit Road.

West side of Warehouse 10 between Old Transit Road and Northwest corner of Building.

West side of Terminal Road between Old Transit Road and Pier.

East side of Terminal Road between Old Transit Road and Pier. North side of Phosphate Drive House between Terminal Road and Pier.

North side of Old Transit Road at Tank Area between Fourth Street and Fifth Street.

Refueling area east of Warehouse 9 between Terminal Road and Fourth Street.

(2) ~~(3)~~ The following rules identify parking areas established for use by employees:

(A) The following areas are designated parking areas for vehicles owned by employees of the Ports Authority and employees of the Port Authority's tenants on the Morehead City Terminal:

(i) That area immediately south of Lumber Road, bounded on the west by 5th Street, on the east by 4th Street and on the south by the glycol storage tanks;

(ii) The area immediately north of the truck scales fronting on Garage Road.

(B) Both of the foregoing areas are to be adequately marked with signs which signs will state the parking restrictions.

(h) The following schedule lists areas in which smoking is prohibited in the no smoking restrictions at the Morehead City Terminal:

(1) Smoking is prohibited in all areas south of the railroad tracks along Transit Road and on the Open Berth Areas. Smoking will be permitted only within designated smoking areas.

(2) Smoking is also prohibited within Storage Warehouses 4, 5, 6, 7, 8, 9, and 10 and signs are posted in the following locations:

East and West ends of ~~North and South~~ sides of Transit Shed 1.

East and West ends of North and South sides of Transit Shed 2.

East and West ends of North ~~and South~~ sides of Transit Shed 3.

East and West ends of North ~~and South~~ sides of Warehouse 4.

East and West ends of North and South sides of Warehouse 5.

North and South ends of East and West sides of Warehouse 6.

North and South ends of East and West sides of Warehouse 7.

North and South ends of East and West sides of Warehouse 8.

North and South ends of East and West sides of Warehouse 9.

East and West ends of North and South sides of Warehouse 10.

East and West sides and North and South ends of Transit Shed 4.

Statutory Authority G.S. 143B-461.

SUBCHAPTER 13F - PERSONNEL

SECTION .0100 - AFFIRMATIVE ACTION POLICY (REPEALED)

.0101 GENERAL

.0102 ASSIGNMENT OF RESPONSIBILITIES

.0103 UTILIZATION ANALYSIS

.0104 GOALS AND TIMETABLES

.0105 INTERNAL EVALUATION

.0106 REPORTING PROCEDURES

.0107 JOB STRUCTURING

.0108 SELECTION AND PLACEMENT

.0109 RECRUITMENT

.0110 SOURCES OF RECRUITMENT

.0111 EMPLOYMENT APPLICATIONS ON FILE

.0112 RECORDS AND REPORTS

Statutory Authority G.S. 143B-454(5).

.0115 GRIEVANCE PROCEDURES

.0116 IMPLEMENTATION PROGRAM

.0117 EQUAL EMPLOYMENT OPPORTUNITY GOALS

.0118 UTILIZATION OF SKILLS OF PRESENT EMPLOYEES

.0119 WAGE AND SALARY STRUCTURE

.0120 BENEFITS AND CONDITIONS OF EMPLOYMENT

.0121 LABOR UNIONS

.0122 OUTSIDE CONTRACTORS

Statutory Authority G.S. 143B-454(5).

SECTION .0200 - EQUAL EMPLOYMENT OPPORTUNITY (REPEALED)

.0201 POLICY STATEMENT
.0202 APPEAL PROCEDURE

Statutory Authority G.S. 143B-454(5).

SECTION .0300 - GENERAL EMPLOYMENT
POLICIES

.0301 GENERAL

(a) The State Ports Authority Personnel Manual sets forth the policies and regulations concerning personnel management at the North Carolina State Ports Authority. ~~for salaried employees.~~ Its purpose is to assure fairness and equality in the handling of all personnel matters. Should changes or additions in policies be required, new supplements will be issued for inclusion in the manual.

(b) Major sections of the manual are:

- (1) ~~general employment policies,~~ Equal Employment Opportunity Policy Statement and Sexual Harassment Policy Statement,
 - (2) ~~position management,~~ general employment policies,
 - (3) pay plan,
 - (4) leave and separation,
 - (5) employee relations,
 - (6) ~~manpower development,~~ drug testing program.
- (c) ~~For ease of reading, the North Carolina State Ports Authority is referred to as the Ports Authority throughout the manual and the rules in this Subchapter. Copies of the manual will be issued to each department head. Copies of the manual will be issued to each department head and to each first line supervisor.~~

Statutory Authority G.S. 143B-454(5); 150B-14.

.0302 PERSONNEL QUESTIONS

Any questions concerning personnel matters should be directed to the Personnel Officer of the Ports Authority at the following address:

Personnel Officer
North Carolina State Ports Authority
P.O. Box ~~3248~~ 9002
Wilmington, North Carolina
~~28406~~ 28402.

Statutory Authority G.S. 143B-454(5).

TITLE 10 - DEPARTMENT OF HUMAN
RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources intends to adopt, amend, rule(s) cited as

10 NCAC 3G .2204, .2205, .2211, .2212, .2214, .2304, .2305, .2307, .2310-.2314, .2401-.2403, .2409, .2423, .2438, .2443, .2449 -.2451, .2501, .2510, .2515, .2516, .2525, .2528, .2602, .2610, .3001, .3101 - .3302, .3401 - .3425, and .3501 - .3519.

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

The public hearing will be conducted at 4:00 p.m. on December 15, 1988 at Division of Facility Services, Hearing Room, Council Building, 701 Barbour Drive, Raleigh, NC 27603.

Comment Procedures: Address Comments to:
Lynda McDaniel
Division of Facility Services
701 Barbour Drive
Raleigh, NC 27603.
By 12-15-88.

Comments will also be received orally at the hearing.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3G - RADIATION PROTECTION

SECTION .2200 - GENERAL PROVISIONS

.2204 DEFINITIONS

- (19) "Equipment ~~servicing and~~ services" means the selling, installation, rebuilding, conversion, repair, inspection, testing, survey, or calibration of equipment which can affect the compliance with these Regulations by a licensee or registrant.
- (30) "Licensing state" means any state with regulations equivalent to the Conference of Radiation Control Program Directors, Inc. Suggested State Regulations for Control of Radiation relating to, and an effective program for, the regulatory control of naturally occurring and accelerator produced radioactive material (NARM) and so designated as such by the Conference of Radiation Control Program Directors, Inc. Unless the contest clearly indicates otherwise, use of the term Agreement State in this Subchapter shall be deemed to include licensing state with respect to NARM.
- (31) "Misadministration" means the administration of:
 - (a) a radiopharmaceutical or source of radiation other than the one intended;
 - (b) a radiopharmaceutical or radiation to the wrong patient;

- (c) a radiopharmaceutical or radiation by a route of administration other than that intended by the prescribing physician;
 (d) a diagnostic dosage of a radiopharmaceutical or source of radiation differing from the prescribed dosage by more than 50 percent;
 (e) a therapy dosage of radiopharmaceutical differing from the prescribed dosage by more than 10 percent; or
 (f) a therapy radiation dose from a source of radiation such that errors in the source calibration, time of exposure, or treatment geometry result in a calculated total treatment dose differing from the final prescribed total treatment dose by more than 10 percent.
 (32) "Mobile nuclear medicine services" means the transportation and medical use of radioactive material.
 (33) (30)
 (34) (31)
 (35) (32)
 (36) (33)
 (37) (34)
 (38) (35)
 (39) (36)
 (40) (37)
 (41) (38)
 (42) (39) "Radiation area" means any area, accessible to individuals, in which there exists radiation at such levels that, if an individual were continuously present, a major portion of the body could receive in any one hour a dose in excess of five millirems, or in any seven five consecutive days a dose in excess of 100 millirems.
 (43) (40)
 (44) (41)
 (45) (42)
 (46) (43) "Radioactive Waste Disposal Facility" means any facility established for the purpose of receiving radioactive materials from another licensee to be processed incidental to disposal.
 (47) (44) "Radioactive Waste Processing Facility" means any low-level radioactive waste facility, as defined in G.S. 104F-5(9b), established for the purpose of receiving radioactive waste materials generated by from another licensee to be processed, stored, compacted, incinerated or treated, incidental to disposal.
 (48) (45)
 (49) (46)
 (50) (47)
 (51) (48)
 (52) (49)

- (53) (50)
 (54) (51)
 (55) (52)
 (56) (53)
 (57) (54)
 (58) (55)
 (56) "Special form" means any of the following physical forms of licensed material of any transport group:
 (a) The material is in solid form having no dimension less than 0.5 millimeter or at least one dimension greater than five millimeters; does not melt, sublime, or ignite in air at a temperature of 1,000°F.; will not shatter or crumble if subjected to the percussion test described in Rule .2215 of this Section; and is not dissolved or converted into dispersible form to the extent of more than 0.005 percent by weight by immersion for one week in water at 68°F. or in air at 86°F.; or
 (b) The material is securely contained in a capsule having no dimension less than 0.5 millimeter or at least one dimension greater than five millimeters; will retain its contents if subjected to the tests prescribed in Rule .2215 of this Section; and is constructed of materials which do not melt, sublime, or ignite in air at 1,175°F., and do not dissolve or convert into dispersible form to the extent of more than 0.005 percent by weight by immersion for one week in water at 68°F. or in air at 86°F.
 (59) "Special form radioactive material" means radioactive material which satisfies the following conditions:
 (a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;
 (b) The piece or capsule has at least one dimension not less than live millimeters (0.197 inch); and
 (c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission and the tests prescribed in Rule .2215 of this Section. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1984, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985, must meet requirements of this definition applicable at the time of its design or construction.
 (60) (57)
 (61) (58)

(62) (59)
(63) (60) "These Regulations and these Rules" means Subchapter 3G of this Title.

(64) "Transport group" means any one of seven groups into which radionuclides in normal form are classified, according to their toxicity and their relative potential hazard in transport, in Rule .2214 of this Section, except:

(a) Any radionuclide not specifically listed in one of the groups in Rule .2214 of this Section shall be assigned to one of the groups in accordance with the following table:

Radioactive half-life		
Radionuclide	0 to 1000 days	1000 days to 10 years
atomic number 1-81	Group III	Group II
	Group III	
atomic number 82 and over	Group I	Group I
	Group III	

(b) For mixtures of radionuclides the following shall apply:

(i) If the identity and respective activity of each radionuclide are known, the permissible activity of each radionuclide shall be such that the sum, for all groups present, of the ratio between the total activity for each group to the permissible activity for each group will not be greater than unity;

(ii) If the groups of the radionuclides are known but the amount in each group cannot be reasonably determined, the mixture shall be assigned to the most restrictive group present.

(iii) If the identity of all or some of the radionuclides cannot be reasonably determined, each of those unidentified radionuclides shall be considered as belonging to the most restrictive group which cannot be positively excluded.

(iv) Mixtures consisting of a single radioactive decay chain where the radionuclides are in the naturally occurring proportions shall be considered as consisting of a single radionuclide. The group and activity shall be that of the first member present in the chain, except that if a radionuclide "X" has a half-life longer than that of that first member and an activity greater than that of any other member, including the first, at any time during transportation,

the transport group of the nuclide "X" and the activity of the mixture shall be the maximum activity of that nuclide "X" during transportation.

(64) "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed Δ_1 for special form radioactive material or Δ_2 radioactive material, where Δ_1 and Δ_2 are given in Rule .2214 of this Section or may be determined by procedures described in Rule .2214 of this Section. All quantities of radioactive material greater than a Type A quantity are Type B.

(65) (62)

(66) (63)

(67) (64)

(68) (65)

(69) (66)

(70) (67)

(71) (68)

(72) (69) "Waste" means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste has the same meaning as in the national Low-Level Waste Policy Act, that is radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in Section He.(2) of the Atomic Energy Act (uranium or thorium tailings and waste); waste as defined in G.S. 104E-5(9a) and includes licensed naturally occurring and accelerator produced radioactive material which is not subject to regulation by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, except as defined differently in Rule .3302 of this Subchapter.

Statutory Authority G.S. 104E-7(2).

.2205 OTHER DEFINITIONS

Definitions of certain other words and phrases as used in these Regulations are set forth in other sections Sections .2600, .2700, .2900, .3300, .3400 and .3500 of this Subchapter.

Statutory Authority G.S. 104E-7.

.2211 PROHIBITED USES

(a) Hand-held fluoroscopic screens shall not be used.

(b) Shoe-fitting fluoroscopic devices shall not be used.

PROPOSED RULES

(c) Effective February 1, 1981, plastic plastic pointed position indicating devices on intraoral dental systems shall not be used.

(d) Effective January 1, 1983, mechanical timers on intraoral dental timers shall not be used.

(e) Dental fluoroscopy without image intensification shall not be used.

(f) Non-intensified photofluorographic equipment shall not be used.

Statutory Authority G.S. 104E-7.

.2212 COMMUNICATIONS

All communications and reports concerning these Regulations, and applications filed thereunder, shall be addressed to the agency at its office located at 1330 St. Mary's Street, P.O. Box 12200, 701 Barbour Drive, Raleigh, North Carolina 27605 27603-2008.

Statutory Authority G.S. 104E-7.

.2214 CLASSIFICATION OF RADIO ACTIVE MATERIAL

(a) Except as provided otherwise by the definition of transport group in Rule .2204(61) of this Section, the transport group for radionuclides shall be determined from the following table:

TRANSPORT GROUPING OF RADIONUCLIDES

Element	Radionuclide Group	
Actinium (89)	Ac-227	I
	Ac-228	I
Americium (95)	Am-241	I
	Am-243	I
Antimony (51)	Sb-122	IV
	Sb-124	III
	Sb-125	III
Argon (18)	Ar-37	II
	Ar-41	I
	Ar-41	I
	(uncompressed)	
Arsenic (33)	As-73	IV
	As-74	IV
	As-76	IV
	As-77	IV
Astatine (85)	At-211	III
Barium (56)	Ba-131	IV
	Ba-133	I
	Ba-140	III
Berkelium (97)	Bk-249	I
Beryllium (4)	Be-7	IV
Bismuth (83)	Bi-206	IV
	Bi-207	III
Bromine (35)		
Cadmium (48)		
Calcium (20)		
Californium (98)		
Carbon (6)		
Cerium (58)		
Cesium (55)		
Chlorine (17)		
Chromium (24)		
Cobalt (27)		
Copper (29)		
Curium (96)		
Dysprosium (66)		
Erbium (68)		
Europium (63)		
Fluorine (9)		
Gadolinium (64)		
Gallium (31)		
Germanium (32)		
Gold (79)		
Hafnium (72)		
Holmium (67)		
	Bi-210	I
	Bi-212	III
	Br-82	IV
	Cd-109	IV
	Cd-115m	III
	Cd-115	IV
	Ca-45	IV
	Ca-47	IV
	Cf-249	I
	Cf-250	I
	Cf-252	I
	C-14	IV
	Ce-141	IV
	Ce-143	IV
	Ce-144	III
	Cs-134	IV
	Cs-134m	III
	Cs-134	III
	Cs-135	IV
	Cs-136	IV
	Cs-137	III
	Cl-36	III
	Cl-38	IV
	Cr-51	IV
	Co-56	III
	Co-57	IV
	Co-58m	IV
	Co-58	IV
	Co-60	III
	Cu-64	IV
	Cm-242	I
	Cm-243	I
	Cm-244	I
	Cm-245	I
	Cm-246	I
	Dy-151	III
	Dy-165	IV
	Dy-166	IV
	Er-169	IV
	Er-171	IV
	Eu-150	III
	Eu-152m	IV
	Eu-154	I
	Eu-155	IV
	F-18	IV
	Gd-153	IV
	Gd-159	IV
	Ga-67	III
	Ga-72	IV
	Ge-74	IV
	Au-193	III
	Au-194	III
	Au-195	III
	Au-196	IV
	Au-198	IV
	Au-199	IV
	Hf-181	IV
	Ho-166	IV

PROPOSED RULES

Hydrogen (1)	H-3		Os-193	IV
(see tritium)			Palladium (46)	Pd-103 V
Indium (49)	In-113m IV		Pd-109 IV	
	In-114m III		Phosphorus (15)	P-32 IV
	In-115m IV		Platinum (73)	Pt-191 IV
	In-115 IV			Pt-193 IV
Iodine (53)	I-124 III			Pt-193m IV
	I-125 III			Pt-197m IV
	I-126 III			Pt-197 IV
	I-129 III		Plutonium (94)	Pu-238(I) I
	I-131 III			Pu-238(I) I
	I-132 IV			Pu-240 I
	I-133 III			Pu-241(I) I
	I-134 IV			Pu-242 I
	I-135 IV		Polonium (84)	Po-210 I
Iridium (77)	Ir-190 IV		Potassium (19)	K-42 IV
	Ir-192 III			K-43 III
	Ir-194 IV		Praseodymium (59)	Pr-142 IV
Iron (26)	Fe-55 IV			Pr-143 IV
	Fe-59 IV		Promethium (61)	Pm-147 IV
Krypton (36)	Kr-85m III			Pm-149 IV
	Kr-85m V		Protactinium (91)	Pa-230 I
	(uncompressed)			Pa-231 I
	Kr-85 III			Pa-233 II
	Kr-85 VI		Radium (88)	Ra-223 II
	(uncompressed)			Ra-224 II
	Kr-87 II			Ra-226 I
	Kr-87 V			Ra-228 I
	(uncompressed)		Radon (86)	Rn-220 IV
Lanthanum (57)	La-140 IV			Rn-222 II
Lead (82)	Pb-203 IV		Rhenium (75)	Re-183 IV
	Pb-210 II			Re-186 IV
	Pb-212 II			Re-187 IV
Lutetium (71)	Lu-172 III			Re-188 IV
	Lu-177 IV			Re-Natural IV
Magnesium (12)	Mg-28 III		Rhodium (45)	Rh-103m IV
Manganese (25)	Mn-52 IV			Rh-105 IV
	Mn-54 IV		Rubidium (37)	Rb-86 IV
	Mn-56 IV			Rb-87 IV
Mercury (80)	Hg-197m IV			Rb-Natural IV
	Hg-197 IV		Ruthenium (44)	Ru-97 IV
	Hg-203			Ru-103 IV
Mixed fission products (MFP)		II		Ru-105 IV
Molybdenum (42)	Mo-90 IV			Ru-106 III
Neodymium (60)	Nd-147 IV		Samarium (62)	Sm-145 III
	Nd-149 IV			Sm-147 III
Neptunium (93)	Np-237 I			Sm-151 IV
	Np-239 I			Sm-153 IV
Nickel (28)	Ni-56 III		Scandium (21)	Sc-46 III
	Ni-59 IV			Sc-47 IV
	Ni-63 IV			Sc-48 IV
	Ni-65 IV		Selenium (34)	Se-75 IV
Niobium (41)	Nb-92m IV		Silicon (14)	Si-31 IV
	Nb-95 IV		Silver (47)	Ag-105 IV
	Nb-97 IV			Ag-110m III
Osmium (76)	Os-185 IV			Ag-111 IV
	Os-191m IV		Sodium (11)	Na-22 III
	Os-191 IV			Na-24 IV

PROPOSED RULES

Strontium (38)	Sr 85m	IV
	Sr 85	IV
	Sr 89	III
	Sr 90	H
	Sr 91	III
Sulfur (16)	Sr 92	IV
	S 35	IV
Tantalum (73)	Ta 182	III
	Te 96m	IV
Technetium (43)	Te 96	IV
	Te 97m	IV
	Te 97	IV
	Te 99m	IV
	Te 99	IV
Tellurium (52)	Te 125m	IV
	Te 127m	IV
	Te 127	IV
	Te 129m	III
	Te 129	IV
Terbium (65)	Te 131m	III
	Te 132	IV
Thallium (81)	Tb 160	III
	Tl 200	IV
	Tl 201	IV
	Tl 202	IV
	Tl 204	III
Thorium (90)	Th 227	H
	Th 228	I
	Th 230	I
	Th 231	I
	Th 232	III
Thulium (69)	Th 234	H
	Th Natural	III
	Tm 168	III
	Tm 170	III
	Tm 171	IV
Tin (50)	Sn 113	IV
	Sn 117m	III
	Sn 121	III
	Sn 125	IV
	Tritium (1)	IV
Tungsten (74)	H-3 (as a gas, as luminous paint, or absorbed on solid material)	VII
	W 181	IV
	W 185	IV
	W 187	IV
	U 230	H
Uranium (92)	U 232	I
	U 233 (F)	H
	U 234	H
	U 235 (F)	III
	U 236	H
	U 238	III
	U Natural	III
	U Enriched (F)	III
	U Depleted	III

Vanadium (23)	V 48	IV
	V 49	III
Xenon (54)	Xe 125	III
	Xe 131m	III
	Xe 131m	V
	(uncompressed)	
	Xe 133	III
Ytterbium (70)	Xe 133	VI
	(uncompressed)	
	Xe 135	H
	Xe 135	V
	(uncompressed)	
Yttrium (39)	Yb 175	IV
	Y 88	III
	Y 90	IV
	Y 91m	III
	Y 91	III
Zinc (30)	Y 92	IV
	Y 93	IV
	Zn 65	IV
	Zn 69m	IV
	Zn 69	IV
Zirconium (40)	Zr 93	IV
	Zr 95	III
	Zr 97	IV

(b) The following is an explanation of the notations found in the table in (a) of this Rule.

- (1) The atomic number is shown in parenthesis following the name of the element;
- (2) The atomic mass number is immediately to the right side of the element symbol in the column entitled radionuclide;
- (3) The term, uncompressed, means at a pressure not exceeding one atmosphere;
- (4) The letter, "m", means metastable state;
- (5) The term, (F), means fissile material.

For a single radionuclide of known identity, the values of Δ_1 and Δ_2 used for determining Type A quantity in the Rules of this Subchapter are taken from Appendix A of 10 CFR 71 as revised at 48 Federal Register 35600, August 5, 1983, and corrections at 48 Federal Register 38449, August 24, 1983.

Statutory Authority G.S. 104E-15.

SECTION .2300 - REGISTRATION OF RADIATION MACHINES: FACILITIES AND SERVICES

.2304 PROHIBITED SERVICES AND TRANSPORTATION

(a) Except as provided in Paragraph (b) of this Rule or otherwise authorized in writing by the agency, each person registered pursuant to Rule .2303 of this Section shall prohibit any person from furnishing radiation machine equipment servicing or services as described in Rule .2305(d)

of this Section to his ~~radiation machine~~ facility until such person provides evidence that he ~~has been~~ is currently registered with the agency as a provider of such services in accordance with Rule .2305 of this Section.

(b) No person registered pursuant to the provisions of Rule .2303 of this Section shall perform any services listed in Rule .2305(d) of this Section in his facility unless such person satisfies the applicable requirements in Rules .2305, .2313, and .2314 of this Section and has received written authorization from the agency to perform such services.

Statutory Authority G.S. 104E-7.

.2305 APPLICATION FOR REGISTRATION OF SERVICES

(a) Each person who is engaged in the business of installing or offering to install radiation machines and machine components or is engaged in the business of furnishing or offering to furnish ~~radiation machine servicing or any equipment~~ services listed in Paragraph (d) of this Rule in this state, to an agency licensee or registrant, shall apply for registration of such services with the agency within 30 days following the amended effective date of this Rule or thereafter prior to furnishing or offering to furnish any of these services.

(b) Application for registration shall be completed on agency form DFS 5101 and shall contain all information required by the agency as indicated on the form and accompanying instructions. This information ~~shall include:~~ include:

- (1) the name, address and telephone number of:
 - (A) the individual or the company to be registered;
 - (B) the owner(s) of the company;
- (2) the description of the services to be provided;
- (3) the name, training and experience of each person who provides services specified in (d) of this Rule; ~~and~~
- (4) the date of the application and the signature of the person responsible for the company; ~~beneath a statement specified in (c) of this Rule and~~
- (5) any additional information the agency determines to be necessary for evaluation of the application for registration.

(c) Each person applying for registration under ~~Subsection Paragraph~~ (a) of this Rule shall specify: certify

(1) that he has read and understands the requirements ~~of these Regulations, and the Rules in this Subchapter.~~

(2) the training and experience which qualify him to discharge the services for which he is applying for registration.

(d) For the purpose of this Section, equipment services include: are

- (1) direct sale and transfer of radiation machines and machine components to end users;
- (2) ~~(1)~~ installation or servicing of radiation machines and associated radiation machine components;
- (2) ~~calibration of radiation machines or radiation measurement instruments or devices;~~
- (3) ~~radiation protection or health physics consultations or surveys; diagnostic radiographic facility and shielding design;~~
- (4) ~~personnel dosimetry services; diagnostic fluoroscopic facility and shielding design;~~
- (5) diagnostic area radiation survey, e.g., shielding design and evaluation;
- (6) radiation instrument calibration;
- (7) therapeutic facility and shielding design, area radiation survey or calibration;
- (8) personnel dosimetry services;
- (9) general health physics consulting, e.g., independent diagnostic radiation output measurements, dose analysis, design of safety programs and radiation safety training programs, non-healing arts facility and shielding design and area radiation surveys; and
- (10) such other equipment services which can affect compliance with these Regulations by a licensee or registrant, as determined by the agency.

(e) Applicants for registration of services are subject to the applicable requirements of Rules .2313 and .2314 of this Section.

Statutory Authority G.S. 104E-7.

.2307 ISSUANCE OF NOTICE OF REGISTRATION

(a) Upon a determination that an applicant meets the requirements of these Regulations, the agency shall issue a notice of registration. The agency shall issue a notice of registration upon a determination that an applicant:

- (1) is qualified by reason of education, training and experience;
- (2) has adequate facilities and equipment;
- (3) has established an adequate radiation protection program appropriate to the registered activities; and

(4) meets the applicable requirements in this Subchapter.

(b) The agency may incorporate in the notice of registration at the time of issuance or thereafter by amendment or order, such additional requirements and conditions with respect to the registrant's receipt, possession, use and transfer of radiation machines as the agency deems appropriate or necessary for compliance with the Rules in this Subchapter. Such additional requirements are subject to appeal under 10 NCAC 3B .0500.

(c) The agency may refuse to grant a registration required in Rules .2303 and .2305 of this Section to any applicant who does not possess adequate qualification, equipment or satisfy the applicable requirement in this Subchapter; provided that, before any order is entered denying an application for registration, the agency shall give notice and grant a hearing as provided in Chapter 150 B of the North Carolina General Statutes.

Statutory Authority G.S. 104E-7.

.2310 OTHER PROHIBITED ACTIVITIES

(a) No person registered pursuant to Rule .2305 of this Section for x-ray sales or installations shall make, sell, lease, transfer, lend, assemble, or install radiation machines or equipment used in connection with such machines unless such machines and equipment when placed in operation shall meet the applicable requirements of these Regulations.

(b) No person, in any advertisement, shall refer to the fact that he or his facility is registered with the agency pursuant to the provisions of Rule .2303 or .2305 of this Section and no person shall state or imply that any activity under such registration has been approved by the agency.

(c) No person registered pursuant to Rule .2305 of this Section shall install radiation machines which are subject to provisions of Section .2700 of this Subchapter unless the registrant first determines that the agency has issued written acknowledgement of receipt of any plan review required in Rule .2703 of this Subchapter.

Statutory Authority G.S. 104E-7; 104E-20.

.2311 OUT-OF-STATE RADIATION MACHINES

(a) ~~Whenever any~~ No person shall bring any radiation machine is to be brought into the state, for any temporary use, the unless such person has bringing such machine into the state shall give given a written notice to the agency at least two five working days before the machine is to be used in the state. The notice shall include the

type of radiation machine; the nature, duration, and scope of use; and the exact location(s) where the radiation machine is to be used. If, for a specific case, the ~~two~~ five working day period would impose an undue hardship on the person, he may, upon application to the agency, obtain permission to proceed sooner.

(b) The ~~out-of-state~~ person in Paragraph (a) of this Rule shall:

- (1) comply with all applicable rules in this Subchapter, including registration pursuant to Rule .2303 of this Section; and
- (2) supply the agency with such other information as the agency may reasonably request. ~~and~~
- ~~(3) not operate within the state on a temporary basis, in excess of 180 calendar days per year.~~

Statutory Authority G.S. 104E-7.

.2312 MODIFICATIONS; REVOCATION; TERMINATION OF REGISTRANTS

(a) The terms and conditions of all registrations are subject to amendment, revision or modification and all registrations are subject to suspension or revocation by reason of:

- (1) amendments to the act;
- (2) rules adopted pursuant to provisions of the act; or
- (3) orders issued by the agency pursuant to provisions of the act and rules adopted pursuant to provisions of the act.

(b) Any registration may be revoked, suspended or modified in whole or in part:

- (1) for any material false statement in the application or in any statement of fact required by provisions of this Section;
- (2) because of conditions revealed by:
 - (A) the application;
 - (B) any statement of fact;
 - (C) any report, record, inspection or other means, which would warrant the agency to refuse to grant a registration on original application; or
- (3) for violations of, or failure to observe any of the terms and conditions of the Act, the registration, the Rules of this Subchapter, or order of the agency.

(c) Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, prior to the institution of proceedings for modification, revocation or suspension of a registrant, the agency shall:

- (1) call to the attention of the registrant in writing the facts or conduct which may warrant these actions, and

- (2) provide an opportunity for the registrant to demonstrate achievement of compliance with all lawful requirements.
- (d) Before any order is entered suspending, revoking or modifying a registration, the agency shall give notice and grant a hearing as provided in Chapter 150B of the North Carolina General Statutes.
- (e) The agency may terminate a registration upon written request submitted by the registrant to the agency.

Statutory Authority G.S. 104E.

**.2313 ADDITIONAL REQUIREMENTS:
REGISTERED SERVICES**

(a) An applicant for registration of diagnostic area radiation survey or calibration services pursuant to Rule .2305 of this Section shall meet the following additional requirements:

- (1) The applicant shall have adequate radiation survey and radiation measurement equipment appropriate to the services requested for authorization.
- (2) The applicant shall ensure that the equipment in Subparagraph (a)(1) of this Rule is calibrated at least every 12 months by persons registered to provide such services pursuant to Rule .2305 of this Section, except as provided in Subparagraph (a)(3) of this Rule.
- (3) The applicant may perform the equipment calibrations required in Subparagraph (a)(2) of this Rule provided that:
 - (A) such calibrations are currently traceable to the National Bureau of Standards;
 - (B) the calibration procedures are approved by the agency;
 - (C) the radiation sources used for such calibration are licensed or registered as required by the Rules in this Subchapter; and
 - (D) the equipment is labeled to indicate the date of calibration and records of the calibration are maintained.
- (4) The applicant shall submit, for approval by the agency:
 - (A) A description of the procedures that will be utilized in performing area radiation surveys including a list of all guides and references to the employee;
 - (B) a copy of all forms, reports and documents that will be supplied to customers;
 - (C) samples of three different types of surveys;
 - (D) samples of three reports of diagnostic radiation output measurements; and

(E) samples of three therapeutic calibration reports.

(b) An applicant for registration of services pursuant to Rule .2305 of this Section who proposes to provide diagnostic radiographic, fluoroscopic and therapeutic facility and shielding design services shall meet the following additional requirements:

- (1) The applicant shall submit, for approval by the agency, examples of the facility and shielding design which will be provided to clients.
- (2) The applicant shall submit examples of the calculations which will be performed as part of the facility and shielding design along with any guides, occupancy factor rationales, and workload estimation rationales which will be used.
- (3) The applicant shall ensure that the facility and shielding design services provided to licensees and registrants of the agency satisfy the applicable requirements in this Subchapter.

Statutory Authority G.S. 104E-7.

**.2314 TRAINING AND EDUCATIONAL
REQUIREMENTS FOR EQUIPMENT
SERVICES**

(a) Each person registered pursuant to Rule .2305 of this Section shall be qualified by reason of education, training and experience to provide the services for which registration is requested. The following are minimum qualifications for specific types of services:

- (1) Class I - sales of radiation machines and machine components to end users: The applicant must certify knowledge of familiarity with the rules and regulations which govern the possession, installation and use of radiation machines in North Carolina.
- (2) Class II - installation and service of radiation machines and machine components including the making of diagnostic radiation output measurements to verify performance associated with the installation or service:
 - (A) manufacturer's equipment school for service, maintenance and installation for the specific type of machine use;
 - (B) training in principles of radiation protection; and
 - (C) three to six months of experience in installation and service of radiation machines and machine components.
- (3) Class III - diagnostic radiographic facility and shielding design:

- (A) formal training in principles of radiation protection;
 - (B) formal training in shielding design; and
 - (C) one year of experience in diagnostic radiographic facility and shielding design for the specific type of machine application.
 - (4) Class IV - diagnostic fluoroscopic facility and shielding design:
 - (A) formal training in principles of radiation protection;
 - (B) formal training in shielding design; and
 - (C) one year of experience in diagnostic fluoroscopic facility and shielding design for the specific type of machine application.
 - (5) Class V - diagnostic area radiation survey, e.g., shielding evaluation:
 - (A) formal training in basic radiological health;
 - (B) formal training in shielding evaluation; and
 - (C) one year of experience performing area radiation surveys.
 - (6) Class VI - radiation instrument calibration: The applicant must possess a current radioactive materials license or registration authorizing radiation instrument calibration.
 - (7) Class VII - therapeutic facility and shielding design, area radiation survey, or calibration:
 - (A) certification by the American Board of Radiology in therapeutic radiological physics, radiological physics, roentgen-ray and gamma ray physics, or x-ray and radium physics; or
 - (B) having the following minimum training and experience:
 - (i) a master's degree in physics, biophysics, radiological physics or health physics;
 - (ii) one year of full-time training in therapeutic radiological physics;
 - (iii) one year of full-time experience in a therapeutic facility including personal calibration and spot-check of at least one machine;
 - (iv) shall submit a description of the procedures that will be utilized in performing therapeutic calibrations including a list of all guides and references to be employed;
 - (v) shall submit a copy of all forms, reports and documents that will be supplied to customers; and
 - (vi) shall submit one sample of each specific type, e.g., teletherapy, accelerator.
 - (8) Class VIII - personnel dosimetry service; The applicant must hold current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Bureau of Standards or use NVLAP accredited dosimetry.
 - (9) Class IX - general health physics consulting, e.g., independent diagnostic radiation output measurements, dose analysis, design of safety programs, and radiation safety training programs, non-healing arts facility and shielding design, and area radiation surveys:
 - (A) baccalaureate degree in a physical science, engineering or related field and two years of progressive experience in medical or health physics; graduate training in medical or health physics may be substituted on a year for year basis; or
 - (B) certification by the American Board of Radiology in therapeutic radiological physics, radiological physics, roentgen-ray and gamma ray physics, or x-ray and radium physics; or certification by the American Board of Health Physics in health physics.
- (b) Any person not meeting the requirements in Paragraph (a) of this Rule may apply to the agency for registration, provided such person demonstrates education, training and experience which is equivalent to that required in Paragraph (a) of this Rule.
- (c) Any person registered prior to the effective date of this Rule to provide equipment services pursuant to Rule .2305 of this Section shall meet the education, training and experience requirements in Paragraph (a) or (b) of this Rule no later than 24 months after the effective date of this Rule.
- (d) The agency shall initiate action to terminate the registration of any person who fails to comply with the requirements of Paragraph (c) of this Rule.

Statutory Authority G.S. 104E-7.

SECTION .2400 - LICENSING OF RADIOACTIVE MATERIAL

.2401 PURPOSE AND SCOPE

(a) This Section provides for the licensing of radioactive material. No person shall receive, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license issued pursuant to, or as otherwise provided, in this Section.

(b) In addition to the requirements of this Section,

- (1) All licensees are subject to the requirements of Section Sections .2500 and .3100 of this Subchapter, except as otherwise provided in the Rules of this Section;
- (2) Licensees engaged in industrial radiographic operations are subject to the requirements of Section .2600 of this Subchapter; ~~and~~
- (3) Licensees using sealed sources in the healing arts are subject to the requirements of Section .2800 of this Subchapter;
- (4) Licensees engaged in the operation of radioactive waste disposal facilities are subject to the requirements of Section .3300 of this Subchapter; and
- (5) Licensees engaged in well logging operations are subject to the requirements of Section .3400 of this Subchapter.

(c) In addition to the requirements of this Section, all licensees are subject to the annual fee provisions contained in Section .3200 of this Subchapter.

Statutory Authority G.S. 104E-7; 104E-10(b); 104E-19.

.2402 EXEMPTIONS FOR SOURCE MATERIAL

- (2) source material contained in the following products:
 - (A) glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material;
 - (B) glassware ~~glass enamel and glass enamel frit~~ containing not more than ~~40~~ ten percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass, ~~glass enamel~~ or ceramic used in construction;
 - (C) piezoelectric ceramic containing not more than two percent by weight source material;
 - (D) glass enamel or glass enamel frit containing not more than ten percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufactures in the United States before July 25, 1983;

Statutory Authority G.S. 104E-10(b).

.2403 EXEMPT CONCENTRATIONS - OTHER THAN SOURCE MATERIAL

(a) No person shall introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under Subsection Paragraph (b) of this Rule or equivalent regulations ~~or~~ of the U.S. Nuclear Regulatory Commission or any agreement state, except in accordance with a specific license issued pursuant to Rule .2425 of this Section.

(b) Except as provided in Subsection Paragraph (a) of this Rule, any person is exempt from these Regulations to the extent that such ~~persons~~ person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in the following table:

(EXEMPT CONCENTRATIONS TABLE is unchanged)

Statutory Authority G.S. 104E-7, -10, -20;

.2409 GENERAL LICENSES - MEASURING GAUGING; CONTROLLING DEVICES

(c) Any person who acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license issued under Paragraph ~~in~~ (a) of this Rule:

- (7) except as provided in ~~(c)(9)~~ (c)(8) Subparagraph (c)(8) of this Rule, shall transfer or dispose of the device containing radioactive material only by transfer to a person holding a specific license authorizing receipt of the device; and, within 30 days after transfer of a device to a specific licensee, shall furnish to the agency at the address in Rule .2212 of this Subchapter, identification of the device by manufacturer's name and model number and the name and address of the person receiving the device, except no report is required if the device is transferred to the specifically licensed manufacturer or distributor in order to obtain a replacement device;
- (8) shall transfer the device to another general licensee only where the device:
 - (A) remains in use at a particular location.
 - (i) In this case the transferer shall give the transferee a copy of this Section and any safety documents identified in the label of the device;
 - (ii) The transferor shall, within 30 days of the transfer, report to the agency at the address in Rule .2212 in this Subchapter; the manufacturer's name and model number of device transferred, the name and address of the transferee, and the name and position of an individual

who may constitute a point of contact between the commission and the transferee.

- (B) is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee.

Statutory Authority G.S. 104E-7; 104E-10(b).

.2423 SPECIFIC LICENSES-SEALED SOURCES IN INDUSTRIAL RADIOGRAPHY

In addition to the requirements set forth in Rule .2417 of this Section, a specific license for use of sealed sources in industrial radiography will be issued if:

- (1) The applicant has an adequate program for training radiographers and radiographers' assistants and submits to the agency a schedule or description of such program which specifies the:
 - (a) initial training;
 - (b) periodic training;
 - (c) on-the-job training;
 - (d) means to be used by the licensee to determine the radiographer's knowledge and understanding of and ability to comply with agency regulations and licensing requirements, and the operating and emergency procedures of the applicant; and
- (e) means to be used by the licensee to determine the radiographer's assistant's knowledge and understanding of and ability to comply with the operating and emergency procedures of the applicant;
- (2) The applicant has established and submits to the agency satisfactory written operating and emergency procedures described in Rule .2613 of this Subchapter;
- (3) ~~The applicant has an adequate internal inspection system, or other management control, to assure that license provisions, regulations, and the applicant's operating and emergency procedures are followed by radiographers and radiographer's assistants. The applicant has established and submits to the agency a description of its inspection program which is adequate to ensure that radiographers and radiographers' assistants follow the rules in this Subchapter and the applicant's operating and emergency procedures, and which must include:~~
 - (a) observation of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at the intervals not to exceed three months; provided that, if a radiographer

or a radiographer's assistant has not participated in a radiographic operation for more than three months since the last inspection, that individual's performance must be observed and recorded the next time the individual participates in a radiographic operation; and

- (b) the retention of inspection records on the performance of radiographers or radiographers' assistants for three years;
- (4) The applicant submits to the agency a description of his overall organizational structure pertaining to the industrial radiography program, including specified delegations of authority and responsibility for operation of the program;
- (5) The applicant who desires to conduct his own leak tests has established adequate procedures to be followed in leak testing sealed sources for possible leakage and contamination and submits to the agency a description of the procedures, including:
 - (a) instrumentation to be used;
 - (b) method of performing tests, e.g., points on equipment to be ~~smear~~ tested and method of taking ~~smear~~ tests; and
 - (c) pertinent experience of the person who will perform the test; and
- (6) The licensee ~~shall conduct~~ conducts a program for inspection and maintenance of radiographic exposure devices and storage containers to assure proper functioning of components important to safety.

Statutory Authority G.S. 104E-7; 104E-10(b).

.2438 SPECIFIC TERMS AND CONDITIONS OF LICENSES

- (a) Each license issued pursuant to this part shall be subject to all the provisions of the act, now or hereafter in effect, to all rules and regulations adopted pursuant to provisions of the act and to orders of the agency.
- (b) No license issued or granted pursuant to this Section and no right to possess or utilize radioactive material granted by any license issued pursuant to this Section shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the agency, after securing full information, finds that the transfer is in accordance with the provisions of the act, and gives its consent in writing.
- (c) Each person licensed by the agency pursuant to this Section shall confine his use and possession of the radioactive material licensed to the locations and purposes authorized in the license.

(d) Each licensee shall notify the agency in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against:

- (1) licensee;
- (2) an entity [as that term is defined in 11 U.S.C. 101(14)] controlling the licensee or listing the license or licensee as property of the estate; or
- (3) an affiliate [as that term is defined in 11 U.S.C. 101(2)] of the licensee.

(e) The notification in (d) of this Rule shall indicate:

- (1) the bankruptcy court in which the petition for bankruptcy was filed; and
- (2) the date of the filing of the petition.

Statutory Authority G.S. 104E-7; 104E-10(b).

.2443 TRANSFER OF MATERIAL

(f) Preparation for shipment and transport of radioactive material shall be in accordance with the provisions of Rule ~~.2447~~ .2446 of this Section.

Statutory Authority G.S. 104E-7; 104E-10(b).

.2449 EXEMPTIONS - WASTE MANAGEMENT BY GENERATORS

(a) Subject to the limitations in Paragraphs (b) and (c) of this Rule, any licensee is exempt from the provisions of G.S. 104E-6.1 and G.S. 104E-10.1 with respect to the following waste management practices:

- (1) storage of waste incidental to transfer to a licensed low-level radioactive waste facility authorized to receive such waste;
 - (2) storage of waste to allow for total decay of contained radioactive material prior to disposal as nonradioactive waste;
 - (3) storage of waste to allow for partial decay of contained radioactive material prior to disposal, incineration or other treatment; or
 - (4) compaction, incineration, treatment, packaging or disposal of waste as provided in the Rules in Section .2500 of this Subchapter.
- (b) Except as provided in Paragraph (c) of this Rule, the exemptions in Paragraph (a) of this Rule shall apply only to a licensee:
- (1) who possesses and uses radioactive material pursuant to specific licenses issued by the agency and only to management by the licensee of waste generated incidental to such possession and use;

- (2) who is determined by the agency to be using sound waste management practices;
- (3) who is determined by the agency to be managing such low volumes or activity of waste that such exemptions will not endanger the public health or safety or the environment; and
- (4) whose combined waste management activities do not cause a radiation dose to the off-site public in excess of the limits stated in Rule .3323 of this Subchapter.

(c) The exemptions in Paragraph (a) of this Rule shall also apply to on-site disposal of waste by persons who generate waste pursuant to a license issued by the U.S. Nuclear Regulatory Commission, provided that:

- (1) such persons satisfy the requirements in Subparagraphs (b)(2) and (b)(3) of this Rule;
- (2) such persons do not receive waste, generated by others, for the purpose of disposal;
- (3) such persons shall limit off-site dose to the public, resulting from all activities authorized by the agency and the U.S. Nuclear Regulatory Commission, to the limits stated in Rule .3323 of this Subchapter or as prescribed by the U.S. Nuclear Regulatory Commission regulated activities, whichever is more restrictive; and
- (4) such persons apply for and receive a specific radioactive material license, issued by the agency pursuant to the Rules in this Section, which authorizes such disposal pursuant to Rule .2516 of this Subchapter.

Statutory Authority G.S. 104E-7(a)(10).

.2450 RECORDS AND REPORTS OF MISADMINISTRATION

(a) When a misadministration involves any therapy procedure, the licensee shall notify the agency by telephone. The licensee shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician agrees to inform the patient. However, if the referring physician believes, based on medical judgement, that telling the patient or the patient's responsible relative or guardian, would be harmful to one or the other, respectively, such notification is not required. These notifications must be made within 24 hours after the licensee discovers the misadministration. If the referring physician, patient, or the patient's responsible relative or guardian cannot be reached within 24 hours, the

license to notify the patient or the patient's responsible relative or shall notify them as soon as practicable. The licensee is not required to notify the patient or the patient's responsible relative or guardian without first consulting the referring physician. However, the licensee shall not delay medical care for the patient because of this notification requirement.

(b) Within 15 days after an initial therapy misadministration report to the agency, the licensee shall report, in writing, to the agency and to the referring physician, and furnish a copy of the report to the patient or the patient's responsible relative or guardian if either was previously notified by the licensee as required by Paragraph (a) of this Rule. The written report must include:

- (1) the licensee's name;
- (2) referring physician's name;
- (3) a brief description of the event;
- (4) the effect on the patient;
- (5) the action taken to the prevent recurrence; and
- (6) confirmation that the licensee informed the patient or the patient's responsible relative or guardian, or documentation of the reasons why the patient or the patient's responsible relative or guardian was not informed.

The report must not include the patient's name or other information that could lead to identification of the patient.

(c) When a misadministration involves a diagnostic procedure, the radiation safety officer shall promptly investigate its cause, make a record for agency review, and retain the record as directed in Paragraph (d) of this Rule. The licensee shall also notify the referring physician and the agency in writing on DFS-5215 within 15 days if the misadministration involved the use of radioactive material not intended for medical use, administration of dosage five times different than the intended dosage, or administration of radioactive material such that the patient is likely to receive an organ dose greater than two rems or a whole body dose greater than 500 millirems. Licensees shall use dosimetry tables in package inserts, corrected only for amount of radioactivity administered, to determine whether a report is required.

(d) Each licensee shall retain a record of each misadministration for ten years. The record must contain:

- (1) the names of all individuals involved in the event (including the physician, allied health personnel, the patient, and the patient's referring physician);

- (2) the patient's social security number or identification number, if one has been assigned;
- (3) a brief description of the event;
- (4) the effect on the patient;
- (5) the action taken, if any to prevent recurrence; and

(e) Aside from the notification requirements, nothing in this Rule shall affect the rights or duties of licensees, and physicians in relation to each other, patients, or responsible relatives or guardians.

Statutory Authority G.S. 104E-7(a)(2).

.2451 SPECIFIC LICENSES - MOBILE NUCLEAR MEDICINE SERVICES

(a) Provided that mobile nuclear medicine services shall be limited to clients who do not have a specific radioactive material license for the same services, unless the client's specific license specifically authorized the use of such mobile services, the agency will license a mobile nuclear medicine service for the following services:

- (1) uptake, dilution and excretion;
- (2) imaging and localization;
- (3) sealed sources for diagnosis; and
- (4) certain in vitro clinical or laboratory testing.

(b) The mobile nuclear medicine service licensee shall:

- (1) obtain a letter signed by the management of each client for which services are rendered that authorizes the licensee to use radioactive material at the client's address of use;
- (2) retain the letter for two years after the last provision of service;
- (3) not order radioactive material to be delivered directly from the manufacturer or distributor to the client's address of use;
- (4) transport to each address of use only syringes or vials containing prepared radio-pharmaceuticals or radiopharmaceuticals that are intended for reconstitution of radiopharmaceuticals kits;
- (5) bring into each address of use of all radioactive material to be used and before leaving, remove all unused radioactive material and all associated waste;
- (6) secure or keep under constant surveillance and immediate control all radioactive material when in transit or at an address of use;
- (7) check survey instruments, dose calibrators and all other transported equipment for proper function before medical use at each address of use;

- (8) carry a radiation detection survey meter in each vehicle that is being used to transport radioactive material and, before leaving a client address of use, survey all radiopharmaceutical areas of use with a radiation detection survey meter to ensure that all radiopharmaceuticals and all associated waste have been removed; and
- (9) retain a record of each survey required in Subparagraph (b)(7) of this Rule for two years, where such records shall include:
 - (A) the date of the survey,
 - (B) a plan of each area that was surveyed,
 - (C) the measured dose rate at several points in each area of use expressed in millirems per hour,
 - (D) the instrument used to made the survey; and
 - (E) the initials of the individual who performed the survey.

Statutory Authority G.S. 104E-7(a)(2), -10(b).

SECTION .2500 - STANDARDS FOR PROTECTION AGAINST RADIATION

.2501 PURPOSE AND SCOPE

(a) This Section establishes standards for protection against ionizing radiation hazards. Except as otherwise specifically provided, this Section applies to all licensees or registrants. Nothing in this Section shall be interpreted as limiting the intentional exposure of patients to radiation for the purpose of medical diagnosis or therapy.

(b) In addition to complying with the requirements set forth in this Section, every reasonable effort shall be made to maintain radiation exposures, and releases of radioactive materials in effluents to unrestricted areas, as far below the limits specified in this Section as practicable. The term "as far below the limits specified in this Section as practicable" means as low as reasonably achievable taking into account the state of technology, and the economics of improvements in relation to benefits to the public health and safety and in relation to the utilization of ionizing radiation in the public interest.

(c) Nothing in this Section shall relieve a licensee engaged in operation of a radioactive waste disposal facility, as defined in Rule .2204 of this Subchapter, from responsibility for complying with the requirements in Section .3300 of this Subchapter.

Statutory Authority G.S. 104E-7.

.2510 PERSONNEL MONITORING

(a) Each licensee or registrant shall supply appropriate personnel monitoring equipment to, and shall require the use of such equipment by:

- (1) each individual who enters a restricted area under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of 25 percent of the applicable value specified in Rule .2502 ~~(a)~~ of this Section;
- (2) each individual under 18 years of age who enters a restricted area under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of ~~25~~ 5 percent of the applicable value specified in Rule ~~.2505(a)~~ .2502 of this Section; and
- (3) each individual who enters a high radiation area.

(b) Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.

(c) With the exception of direct and indirect reading pocket ionization chamber and dosimeters used to measure the doses to the hands, forearms, feet and ankles, all personnel dosimeters which are used to comply with Rules .2502 or .2505 of this Section or with conditions in a license or registration and which require processing to determine the radiation doses shall be provided and evaluated by a dosimetry processor who is:

- (1) registered to provide such services pursuant to Rule .2305 of this Subchapter, and
- (2) accredited by the National Voluntary Laboratory Accreditation Programs (NVLAP) of the National Bureau of Standards for the type of radiation or radiations included in the NVLAP programs that most closely approximate the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

Statutory Authority G.S. 104E-7.

.2515 PICKING UP; RECEIVING; AND OPENING PACKAGES

(a) Each licensee or registrant who expects to receive a package containing quantities of radioactive material in excess of the Type A quantities specified in ~~(c) of this Rule .2214 of this Subchapter~~ shall:

- (1) If the package is to be delivered to the licensee's or registrant's facility by the carrier, make arrangements to receive the package when it is offered for delivery by the carrier; or

- (2) If the package is to be picked up by the licensee or registrant at the carrier's terminal, make arrangements to receive notification from the carrier of the arrival of the package, at the time of arrival.

(b) Each licensee or registrant who picks up a package of radioactive material from a carrier's terminal shall pick up the package expeditiously upon receipt of notification from the carrier of its arrival.

(c) Each licensee or registrant, upon receipt of a package of radioactive material, shall monitor the external surfaces of the package for radioactive contamination caused by leakage of the radioactive contents, except that the following are not required to be monitored:

- (1) packages containing ~~no more than the exempt quantity specified in the table in this Rule; less than one millicurie of beta or gamma emitting radioactive material or ten microcuries of alpha emitting radioactive material;~~
- (2) packages containing no more than ten ~~microCuries~~ millicuries of radioactive material consisting solely of tritium, carbon-14, sulfur-35, or iodine-125;
- (3) packages containing only radioactive material as gases or in special form;
- (4) packages containing only radioactive material in other than liquid form including Mo-99 Tc -99 m generators, and not exceeding the Type A quantity limit specified in ~~the table in this~~ Rule .2214 of ~~this~~ Subchapter; and
- (5) packages containing only radionuclides with half-lives of less than thirty days and a total quantity of no more than 100 ~~microCuries~~ millicuries.

The monitoring shall be performed as soon as practicable after receipt, but no later than three hours after the package is received at the licensee's facility if received during the licensee's normal working hours, or within 18 hours after receipt if received after normal working hours.

TABLE OF EXEMPT AND TYPE A QUANTITIES

Transport Group	Exempt Quantity Limit (in Millicuries)
I	0.001
II	0.1
III	1
IV	1
V	1
VI	1
VII	25,000

Special form +

Type A Quantity Limit
(in Curies)

0.001
0.050
3
20
20
1,000
1,000
20

The definitions of "transport group" and "special form" are specified in Rule .2204(56)(61) of this Subchapter.

(d) If removable radioactive contamination, in excess of 0.01 ~~microCurie~~ microcurie or 22,200 disintegrations per minute per 100 square centimeters of package surface, is found on the external surfaces of the package, the licensee shall immediately notify the final ~~delivering~~ delivering carrier and by telephone and telegraph, mailgram or facsimile, the agency.

(e) Each licensee or registrant, upon receipt of a package containing quantities of radioactive material in excess of the Type A quantities specified in ~~(c) of this~~ Rule .2214, other than those transported by exclusive use vehicle, shall monitor the radiation levels external to the package. The package shall be monitored as soon as practicable after receipt, but no later than three hours after the package is received at the licensee's facility if received during the licensee's normal working hours, or within 18 hours after receipt if received after normal working hours.

(f) If radiation levels are found on the external surface of the package in excess of 200 millirem per hour, or at three feet from the external surface of the package in excess of ~~40~~ ten millirem per hour, the licensee or registrant shall immediately notify, by telephone and by telegraph, mailgram or facsimile, the final delivering carrier and the agency.

(g) Each licensee or registrant shall establish and maintain procedures for safely opening packages in which radioactive material is received, and shall assure that these procedures are followed and that due consideration is given to special instructions for the type of package being opened.

Statutory Authority G.S. 104E-7.

.2516 WASTE DISPOSAL

(b) Any person may apply to the agency for approval of proposed procedures to dispose of radioactive material in a manner not otherwise

authorized in this Section. Each applicant shall include:

- (2) where appropriate, an analysis and evaluation of pertinent information as to:
 - (A) the nature of the environment, including ~~typographical~~, topographical, geological, ~~meterological~~, meteorological, and hydrological characteristics;
 - (c) The agency will not approve any application for a license to receive radioactive material from other persons for disposal on land not owned by ~~a~~ the state or the federal government.

Statutory Authority G.S. 104E-7(2), (5); 104E-10(d).

.2525 CLASSIFICATION/RADIOACTIVE WASTE FOR NEAR-SURFACE DISPOSAL

(a) The following are definitions of and special requirements applicable to the difference classes of waste:

- (1) "Class A Waste" means radioactive waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste shall meet the minimum requirements set forth in Rule .2526(a) of this Section. If Class A waste also meets the stability requirements set forth in Rule .2526(b) of this Section, it is not necessary to segregate the waste for disposal.
- (2) "Class B Waste" means radioactive waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste shall meet both the minimum requirements and stability requirements set forth in Rule .2526 of this Section.
- (3) "Class C Waste" means radioactive waste that not only must meet more rigorous requirements on waste form to ensure stability, but also requires additional measures at the disposal facility to protect against inadvertent human intrusion. The physical form and characteristics of Class C waste shall meet both the minimum requirements and stability requirements set forth in Rule .2526 of this Section.
- (b) If the waste contains only radionuclides listed in the table in Subparagraph (b)(5) of this Rule, the licensee shall determine the classification as follows:

- (1) If the concentration does not exceed 0.1 times the value in the table in Subparagraph (b)(5) of this Rule, the waste is Class A waste.

- (2) If the concentration exceeds 0.1 times the value in the table in Subparagraph (b)(5) of this Rule, the waste is Class C waste.
- (3) If the concentration exceeds the value in the table in Subparagraph (b)(5) of this Rule, the waste is not generally acceptable for near-surface disposal.
- (4) For wastes containing mixtures of radionuclides listed in the table in Subparagraph (b)(5) of this Rule, the licensee shall determine the concentration by the "sum of fractions rule" described in (f) of this Rule.
- (5) The following is the table of long-lived radionuclides and concentrations for use in conjunction with waste classification rules of this Section:

radionuclides	concentration
---------------	---------------

carbon 14	8
carbon 14 in activated metal	80
nickel 59 in activated metal	220
niobium 94 in activated metal	0.2
technetium 99	3
iodine 129	0.08
radium, and alpha emitting transuranic radionuclides with half-lives greater than five years	100
plutonium 241	3,500
curium 242	400 20,000

concentration

Curies/cubic meter
Curies/cubic meter
Curies/cubic meter
Curies/cubic meter
Curies/cubic meter
~~nanoCuries/gram~~nanocuries/gram
~~nanoCuries/gram~~nanocuries/gram
~~nanoCuries/gram~~nanocuries/gram

Statutory Authority G.S. 104E-7(2).

.2528 TRANSFER OF RADIOACTIVE

WASTE FOR DISPOSAL AND
MANIFESTS

(a) The licensee shall prepare a shipment manifest which shall accompany each shipment of waste and which shall include the following information:

- (1) the name, address and telephone number of the person generating the waste;
- (2) the name, address and telephone number of the person transporting the waste to the waste disposal facility;
- (3) ~~a as complete as practicable~~ a statement as practicable of the following information:
 - (A) a physical description ~~on~~ of the waste,
 - (B) the waste volume,
 - (C) the radiouclide identity and quantity,
 - (D) the total quantity of radioactivity,
 - (E) the total quantity of the radionuclides: hydrogen-3, carbon-14, technetium-99 and iodine- ~~125~~ 129 and
 - (F) the principal chemical form;
- (4) the solidification agent, if any;
- (5) if the waste contains more than 0.1 percent chelating agents by weight, the identity and estimated weight percent of the chelating agents; and
- (6) a clear statment of the waste class, if determined to be either Class A, Class B or Class C waste pursuant to the provisions of Rule .2525 of this Section.

(g) Any radioactive waste disposal facility operator shall:

- (1) acknowledge receipt of the waste within one week of receipt by returning a signed copy of the manifest or equivalent documentation to the shipper, where such shipper is the licensee who last possessed the waste and transferred the waste to the operator;
- (2) indicate on the returned copy of the manifest or equivalent documentation in Subparagraph (g)(1) of this Rule any discrepancies between materials listed on the manifest and materials received;
- (3) maintain copies of all completed manifests or equivalent documentation until the agency authorizes their disposition; and
- (4) notify the shipper (e.g., the generator, the collector, or processor) and the agency when any shipment or part of a shipment has not arrived within 60 days after the advance manifest was received.

(h) ~~(g)~~ If the shipper does not receive a notification of receipt for any shipment or any part of a shipment within 20 days after transfer, the shipper shall conduct an investigation, to include a trace of the shipment. The shipper and any other licensee who conducts a trace investigation

shall file a written report with the agency within two weeks of the completion of the investigation.

Statutory Authority G.S. 104E-7(2), (3); 104E-12(a).

SECTION .2600 - SAFETY REQUIREMENTS
FOR INDUSTRIAL RADIOGRAPH
OPERATIONS

.2602 DEFINITIONS

(1) "Storage area" means any location, facility or vehicle which is used to store, transport or secure a radiographic exposure device, a storage container or a sealed source when it is not in use and which is locked or has a physical barrier to prevent accidental exposure, tampering with or unauthorized removal of the device, container or source.

Statutory Authority G.S. 104E-7.

.2610 LIMITATIONS

(a) The licensee or registrant shall not permit any person to act as a radiographer until the person:

- (1) has been instructed in the subjects outlined in Rule .2618 of this Section and has demonstrated understanding thereof;
- (2) has received copies of and instruction in the Rules contained in this Section and in the applicable Rules of Section .2400 and .3000 of this Subchapter, and the licensee's or registrant's operating and emergency procedures, and has demonstrated understanding thereof;
- (3) has demonstrated competence to use the radiographic exposure devices, sealed sources, related handling tools and survey instruments which will be employed in his assignment; and
- (4) has demonstrated understanding of the instructions in (a) of this Rule by successful completion of a written test and a field examination on the subjects covered.

(b) The licensee or registrant shall not permit any person to act as a radiographer's assistant until the person:

- (1) has received copies of and instructions in the licensee's or registrant's operating and emergency procedures, and has demonstrated understanding thereof;
- (2) has demonstrated competence to use under the personal supervision of the radiographer, the radiographic exposure devices, sealed sources, related handling tools and radiation survey instruments which will be employed in his assignment; and

(3) has demonstrated understanding of the instructions in (b) of this Rule by successfully completing a written or oral test and a field examination on the subjects covered.

(c) Records of the training including copies of written tests and dates of oral tests and field examinations shall be maintained for three years.

(d) Each licensee or registrant shall conduct an internal audit program to ensure that the agency's radioactive material license, registration conditions and the licensee's or registrant's operating and emergency procedures are followed by each radiographer and radiographer's assistant. These internal audits shall be performed at least quarterly, and each radiographer shall be audited at intervals not to exceed 12 months. Records of internal audits shall be maintained for inspection by the agency for two years from the date of the audit.

Statutory Authority G.S. 104E-7.

SECTION .3000 - REQUIREMENTS FOR PARTICLE ACCELERATORS

.3001 PURPOSE AND SCOPE

(a) This Section establishes procedures for the licensing and the use of particle accelerators.

(b) In addition to the requirements of this Section, all licensees are subject to the requirements of ~~Section~~ Sections .2200, .2500, ~~.3100~~ .3100 of this Subchapter and parts of Section .2300 of this Subchapter, as deemed appropriate by the agency. Licensees engaged in industrial radiographic operations are subject to the requirements of Section .2600 of this Subchapter, and licensees engaged in the healing arts are subject to the Rule .2450 and applicable requirements of Section .2700 of this Subchapter. Licensees engaged in the production of radioactive material or possessing radioactive material incidental to an accelerator are subject to the requirements of Section .2400 of this Subchapter.

(c) In addition to the requirements of this Section, all particle accelerator licensees are subject to the annual fee provisions contained in Section .3200 of this Subchapter.

Statutory Authority G.S. 104E-7; 104E-9(8); 104E-19(a);

SECTION .3100 - NOTICES; INSTRUCTIONS; REPORTS AND INSPECTIONS

.3101 SCOPE

This Section establishes requirements for notices, instructions and reports by licensees or

registrants to individuals engaged in work under a license or registration and options available to such individuals in connection with agency inspections of licensees or registrants to ascertain compliance with the provisions of the act and ~~regulations, rules, orders~~ and licenses issued thereunder regarding radiological working conditions. The regulations in this Section apply to all persons who receive, possess, use, own or transfer sources of radiation licensed by or registered with the agency pursuant to the regulations in Sections .2300, ~~to~~ .2400, .3000 and .3300 of this Subchapter.

Statutory Authority G.S. 104E-7; 104E-12.

SECTION .3300 - LAND DISPOSAL OF RADIOACTIVE WASTE

.3302 DEFINITIONS

(29) "Waste" means low-level radioactive waste that is acceptable for disposal in a land disposal facility. For the purpose of this ~~Subchapter, Section,~~ the words "waste" and "low-level radioactive waste" have the same meaning.

Statutory Authority G.S. 104E-5; 104E-7; 104E-10; 104E-25.

SECTION .3400 - REQUIREMENTS FOR WIRELINE SERVICE OPERATORS AND SUBSURFACE TRACER STUDIES

.3401 PURPOSE AND SCOPE

(a) The rules in this Section establish radiation safety requirements for persons using sources of radiation for wireline service operations including mineral logging, radioactive markers, and subsurface tracer studies.

(b) The requirements of this Section are in addition to, and not in substitution for, the requirements of Section .2200, .2400, .2500, .3000, .3100 and .3200 of this Subchapter.

(c) The rules in this Section apply to all licensees who use sources of radiation for wireline service operations including mineral logging, radioactive markers, or subsurface tracer studies.

Statutory Authority G.S. 104E-7.

.3402 DEFINITIONS

As used in this Section, the following definitions apply:

(1) "Field station" means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary jobsites.

- (2) "Injection tool" means a device used for controlled subsurface injection of radioactive tracer material.
- (3) "Logging supervisor" means the individual who provides personal supervision of the utilization of sources of radiation at the well site.
- (4) "Logging tool" means a device used subsurface to perform well-logging.
- (5) "Mineral logging" means any logging performed for the purpose of mineral exploration other than oil and gas.
- (6) "Personal supervision" means guidance and instruction by the supervisor who is physically present at the jobsite and watching the performance of the operation in such proximity that contact can be maintained and immediate assistance given as required.
- (7) "Radioactive marker" means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation.
- (8) "Source holder" means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source in well-logging operations.
- (9) "Subsurface tracer study" means the release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.
- (10) "Temporary jobsite" means a location to which radioactive materials have been dispatched to perform wireline service operations or subsurface tracer studies.
- (11) "Well-bore" means a drilled hole in which wireline service operations and subsurface tracer studies are performed.
- (12) "Well-logging" means the lowering and raising of measuring devices or tools which may contain sources of radiation into well-bores or cavities for the purpose of obtaining information about the well or adjacent formations.
- (13) "Wireline" means a cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.
- (14) "Wireline service operations" means any evaluation or mechanical service which is performed in the well-bore using devices on a wireline.

Statutory Authority G.S. 104E-7.

.3403 WRITTEN AGREEMENTS REQUIRED

No licensee shall perform wireline service operations with a sealed source(s) unless, prior to commencement of the operation, the licensee has a written agreement with the well operator, well owner, drilling contractor, or land owner. The written agreement required in this Rule shall certify that:

- (1) In the event a sealed source is lodged downhole, a reasonable effort to recover the source(s) will be made; and
- (2) In the event a decision is made to abandon the sealed source downhole, the requirements of Rule .3424(c) and (d) of this Section shall be met.

Statutory Authority G.S. 104E-7.

.3404 LIMITS ON LEVELS OF RADIATION

Sources of radiation shall be used, stored, and transported in such a manner that the transportation requirements of Section .2400 of this Subchapter and the dose limitation requirements of Section .2500 of this Subchapter are met.

Statutory Authority G.S. 104E-7.

.3405 STORAGE PRECAUTIONS

(a) Each source of radiation, except accelerators, shall be provided with a storage and transport container. The container shall be provided with a lock, or tamper seal for calibration sources, to prevent unauthorized removal of or exposure to the source of radiation.

(b) Sources of radiation shall be stored in a manner which will minimize the danger from explosion or fire.

Statutory Authority G.S. 104E-7.

.3406 TRANSPORT PRECAUTIONS

Transport containers shall be physically secured to the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal.

Statutory Authority G.S. 20-167.1; 104E-7, 10(b), 15(a).

.3407 RADIATION SURVEY INSTRUMENTS

(a) The licensee shall maintain sufficient calibrated and operable radiation survey instruments at each field station to make physical radiation surveys as required by this Section and by Section .2500 of this Subchapter. Instrument shall be capable of measuring 0.1 milliroentgen per hour through at least 50 milliroentgens per hour.

(b) Each radiation survey instrument shall be calibrated:

- (1) at intervals not to exceed six months and after each instrument servicing;
 - (2) at energies and radiation levels appropriate for use; and
 - (3) so that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.
- (c) Calibration records shall be maintained for a period of three years for inspection by the agency.

Statutory Authority G.S. 104E-7, -12(a)(1).

.3408 LEAK TESTING OF SEALED SOURCES

(a) Each licensee using sealed sources of radioactive material shall have the sources tested for leakage. Records of leak test results shall be kept in units of microcuries and maintained for inspection by the agency for six months after the next required leak test is performed or until transfer or disposal of the sealed source.

(b) Tests for leakage shall be performed only by persons specifically authorized to perform such tests by the agency, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state. The test sample shall be taken from the surface of the source, source holder, or from the surface of the device in which the source is stored or mounted and on which one might expect contamination to accumulate. The test sample shall be analyzed for radioactive contamination, and the analysis shall be capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample.

(c) Each sealed source of radioactive material shall be tested at intervals not to exceed six months. In the absence of a certificate from a transferor indicating that a test has been made prior to the transfer, the sealed source shall not put into use until tested. If, for any reason, it is suspected that a sealed source may be leaking, it shall be removed from use until tested. If, for any reason, it is suspected that a sealed source may be leaking, it shall be removed from service immediately and tested for leakage as soon as practical.

(d) If the test reveals the presence of 0.005 microcurie or more of leakage or contamination, the licensee shall immediately withdraw the source from use and shall cause it to be decontaminated, repaired, or disposed of in accordance with these Rules. A report describing the equipment involved, the test results, and the corrective action taken shall be filed with the agency.

(e) The following sources are exempt from the periodic leak test and notification requirements of this Rule:

- (1) hydrogen-3 sources;
- (2) sources of radioactive material with a half-life of 30 days or less;
- (3) sealed sources of radioactive material in gaseous form;
- (4) sources of beta- and/or gamma-emitting radioactive material with an activity of 100 microcuries or less; and
- (5) sources of alpha-emitting radioactive material with an activity of 10 microcuries or less.

Statutory Authority G.S. 104E-7, -12(a).

.3409 QUARTERLY INVENTORY

Each licensee shall conduct a quarterly physical inventory to account for all source of radiation. Records of inventories shall be maintained for two years from the date of the inventory for inspection by the agency and shall include the quantities and kinds of sources of radiation, the location where sources of radiation are assigned, the date of the inventory, and the name of the individual conducting the inventory.

Statutory Authority G.S. 104E-7, -12(a)(1).

.3410 UTILIZATION RECORDS

(a) Each licensee shall maintain current utilization records showing the following information for each source of radiation:

- (1) make, model number, and a serial number or a description of each source of radiation used;
- (2) the identity of the well-logging supervisor or field unit to whom assigned;
- (3) locations where used and dates of use; and
- (4) in the case of tracer materials and radioactive markers, the radionuclide and activity used in a particular well.

(b) The licensee shall maintain the utilization records, required in (a) of this Rule, for inspection by the agency for a period of two years from the date of the recorded event(s).

Statutory Authority G.S. 104E-7, -12(a)(1).

.3411 DESIGN: PERFORMANCE: AND CERTIFICATION CRITERIA

(a) Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations and manufactured after October 1, 1989, shall be certified by the manufacturer, or other testing organization acceptable

to the agency, to meet the following minimum criteria:

- (1) be of doubly encapsulated construction;
- (2) contain radioactive material whose chemical and physical forms are as insoluble and non-dispersible as practical; and
- (3) individually pressure tested to at least 24,656 pounds per square inch absolute without failure.

(b) For sealed sources, except those containing radioactive material in gaseous form, acquired after October 1, 1989, in the absence of a certificate from a transferor certifying that an individual sealed source meets the requirements of this Rule, the sealed source shall not be put into use until such determination and testing have been performed.

(c) Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations after October 1, 1989, shall be certified by the manufacturer, or other testing organization acceptable to the agency, as meeting the sealed source performance requirements for oil well-logging as contained in the American National Standard N542, "Sealed Radioactive Sources, Classification" adopted November 1, 1977, and effective on October 1, 1989.

(d) Certification documents shall be maintained for inspection by the agency for a period of two years after source disposal. If the source is abandoned downhole, the certification documents shall be maintained until the agency authorized disposition.

Statutory Authority G.S. 104E-7.

.3412 LABELING

(a) General requirements are as follows:

- (1) Each source, source holder, or logging tool containing radioactive material shall bear a durable, legible, and clearly visible marking or label, which has, as a minimum, the standard radiation caution symbol, without the conventional color requirement, and the following wording:

CAUTION

RADIOACTIVE MATERIAL

- (2) The marking or labeling required in Subparagraph (a)(1) of this Rule shall be on the smallest component transported as a separate piece of equipment.
- (3) Each transport container shall have permanently attached to it a durable, legible, and clearly visible label which has, as a minimum, the standard radiation caution symbol and the following wording:

CAUTION

RADIOACTIVE MATERIAL

NOTIFY CIVIL AUTHORITIES (OR NAME OF COMPANY)

(b) The word "danger" may be substituted for the word "caution" in the signs described in this Rule.

Statutory Authority G.S. 104E-7, -12(a)(1).

.3413 INSPECTION AND MAINTENANCE

(a) Each licensee shall conduct, at intervals not to exceed six months, a program of inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, and injection tools to assure proper labeling and proper physical condition. The licensee shall maintain records of inspection and maintenance for a period of two years for inspection by the agency.

(b) If any inspection conducted pursuant to (a) of this Rule reveals damage to labeling or components critical to radiation safety, the licensee shall remove the device from service until repairs have been made.

(c) The repair, opening, or modification of any sealed source shall be performed only by persons specifically authorized to do so by the agency, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state.

Statutory Authority G.S. 104E-7.

.3414 TRAINING REQUIREMENTS

(a) No licensee shall permit any individual to act as a logging supervisor until such individual has:

- (1) received, in a course recognized by the agency, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state, instruction in the subjects outlined in Rule .3425 of this Section and demonstrated an understanding thereof;
- (2) read, received instruction in and demonstrated an understanding of the rules contained in this Section and the applicable rules in Sections .2200, .2500 and .3100 of this Subchapter or their equivalent, conditions of appropriate license or certificate of registration, and the licensee's operating and emergency procedures; and
- (3) demonstrated competence to use sources radiation, related handling tools, and radiation survey instruments which will be used on the job.

(b) No licensee shall permit any individual to assist in the handling of sources of radiation until such individual has:

- (1) read or received instruction in the licensee's operating and emergency proce-

dures and demonstrated an understanding thereof;

- (2) demonstrated competence to use, under the personal supervision of the logging supervisor, the sources of radiation, related handling tools, and radiation survey instruments which will be used on the job.

(c) The licensee shall provide safety reviews for logging supervisors and logging assistants at least once during each calendar year.

(d) The licensee shall maintain employee training records for inspection by the agency for two years following termination of employment.

Statutory Authority G.S. 104E-7, -12(a)(1).

.3415 OPERATING AND EMERGENCY PROCEDURES

The licensee's operating and emergency procedures shall include instructions in at least the following:

- (1) handling and use of sources of radiation to be employed so that no individual is likely to be exposed to radiation doses in excess of the standards established in Section .2500 of this Subchapter;
- (2) methods and occasions for conducting radiation surveys;
- (3) methods and occasions for locking and securing sources of radiation;
- (4) personnel monitoring and the use of personnel monitoring equipment;
- (5) transportation to temporary jobsites and field stations, including the packaging and placing of sources of radiation in vehicles, placarding of vehicles, and securing sources of radiation during transportation;
- (6) minimizing exposure of individuals in the event of an accident;
- (7) procedure for notifying proper personnel in the event of an accident;
- (8) maintenance of records;
- (9) inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, and injection tools;
- (10) procedure to be followed in the event a sealed source is lodged downhole; and
- (11) procedures to be used for picking up, receiving, and opening packages containing radioactive materials.

Statutory Authority G.S. 104E-7.

.3416 PERSONNEL MONITORING

(a) No licensee shall permit any individual to act as a logging supervisor or to assist in the handling of sources of radiation unless each such

individual wears either a film badge or a thermoluminescent dosimeter (TLD).

(b) Each film badge or TLD required in Paragraph (a) of this Rule shall be assigned to and worn by only one individual.

(c) The license shall maintain personnel monitoring records for inspection until the agency authorizes disposal.

Statutory Authority G.S. 104E-7, -12(a)(2).

.3417 SECURITY

During each logging or tracer application, the logging supervisor or other designated employee of the licensee shall maintain direct surveillance of the operation to protect against unauthorized or unnecessary entry into a restricted area, as defined in Section .2200 of this Subchapter.

Statutory Authority G.S. 104E-7.

.3418 HANDLING TOOLS

The licensee shall provide and require the use of tools that will assure remote handling of sealed sources other than low-activity calibration sources.

Statutory Authority G.S. 104E-7.

.3419 SUBSURFACE TRACER STUDIES

(a) Protective gloves and other appropriate protective clothing and equipment shall be used by all personnel handling radioactive tracer material. Precautions shall be taken to avoid ingestion or inhalation of radioactive material.

(b) No licensee shall cause the injection of radioactive material as part of a substance tracer element study without prior written authorization from any other agency which may regulate or require prior approval for such injection.

Statutory Authority G.S. 104E-7.

.3420 PARTICLE ACCELERATORS

No licensee shall permit above-ground testing of particle accelerators, designed for use in well-logging, which results in the production of radiation, except in areas of facilities controlled or shielded so that the applicable requirements of Rules .2502 and .2506 of this Subchapter are met.

Statutory Authority G.S. 104E-7.

.3421 RADIATION SURVEYS

(a) The licensee shall make and record radiation surveys and calculations for each area where radioactive materials are stored.

(b) The licensee shall make and record radiation surveys and calculations for the radiation levels in occupied positions and on the exterior of each vehicle used to transport radioactive material. Such surveys and calculations shall include each source of radiation or combination of sources to be transported in the vehicle.

(c) After removal of the sealed source from the logging tool and before departing the jobsite, the licensee shall use the logging tool detector or a survey meter to assure that the logging tool is free of contamination.

(d) The licensee shall make and record radiation surveys at the jobsite or well-head for each tracer operation, except those using hydrogen-3, carbon-14, and sulfur-35. These surveys shall include measurements of radiation levels before and after the operation.

(e) Records required pursuant to Paragraphs (a) through (d) of this Rule shall include the dates, the identification of individual(s) making the survey, the identification of survey instrument(s) used, and an exact description of the location of the survey. The licensee shall maintain records of these surveys for inspection by the agency for two years after completion of the survey.

Statutory Authority G.S. 104E-7, -12(a)(1).

.3422 DOCUMENTS AND RECORDS REQUIRED AT FIELD STATIONS

Each licensee shall maintain at any field station, for inspection by the agency, the following documents and records for the specific devices, sources and personnel used at the field station:

- (1) appropriate license or equivalent document;
- (2) operating and emergency procedures;
- (3) applicable regulations;
- (4) records of the latest survey instrument calibrations made pursuant to Rule .3407 of this Section;
- (5) results of the most recent leak test performed pursuant to Rule .3408 of this Section;
- (6) quarterly inventories required in Rule .3410 of this Section;
- (7) utilization records required in Rule .3410 of this Section;
- (8) records of inspection and maintenance required in Rule .3413 of this Section;
- (9) survey records required in Rule .3421 of this Section; and
- (10) certificate or authorization documents.

Statutory Authority G.S. 104E-7.

.3423 DOCUMENTS AND RECORDS REQUIRED AT TEMPORARY JOBSITES

Each licensee conducting operations at a temporary jobsite shall have the following documents and records available at that site for inspection by the agency:

- (1) operating and emergency procedures;
- (2) survey records required in Rule .3421 of this Section for the period of operation at the site;
- (3) evidence of current calibration for the radiation survey instruments in use at the site;
- (4) when operating in the state under reciprocity, a copy of the appropriate license, certificate of registration, or equivalent documents(s); and
- (5) certificate of training and/or document showing authorized use of material.

Statutory Authority G.S. 104E-7.

.3424 NOTIFICATION OF INCIDENTS: ABANDONMENT; AND LOST SOURCES

(a) The licensee shall comply with the applicable notification requirements in Section .2500 of this Subchapter for incidents and sources lost in other than downhole logging operations.

(b) Whenever a sealed source or device containing radioactive material is lodged downhole, the licensee shall:

- (1) monitor at the surface for the presence of radioactive contamination with a radiation survey instrument or logging tool during logging tool survey instrument or
- (2) notify the agency immediately by telephone if radioactive contamination is detected at the surface or if the source appears to be damaged.

(c) When it becomes apparent that efforts to recover the radioactive source will not be successful, the licensee shall:

- (1) advise the well-operator of the rules of the appropriate state agency with jurisdiction over abandonment and appropriate method of abandonment, which shall include:
 - (A) the immobilization and sealing in place of the radioactive source with a concrete plug;
 - (B) the setting of a whipstock or other deflection device; and
 - (C) the mounting of a permanent identification plaque, at the surface of the well, containing the appropriate information required by (d) of this Rule;
- (2) notify the agency by telephone, giving the circumstances of the loss and requesting

approval of the proposed abandonment procedures; and

- (3) file a written report with the agency within 30 days of the abandonment, setting forth the following information:
 - (A) date of occurrence and a brief description of attempts to recover the source; and
 - (B) a description of the radioactive source involved, including radionuclide, quantity, and chemical and physical form;
 - (i) surface location and identification of well,
 - (ii) results of efforts to immobilize and set the source in place,
 - (iii) depth of the radioactive source,
 - (iv) depth of the top of the cement plug,
 - (v) depth of the well, and
 - (vi) information contained on the permanent identification plaque.
 - (d) Whenever a sealed source containing radioactive material is abandoned downhole, the licensee shall provide a permanent plaque for posting the well or well-bore. This plaque shall:
 - (1) be constructed of long-lasting material, such as stainless steel or monel, and
 - (2) contain the following information engraved on its face:
 - (A) the word "CAUTION";
 - (B) the radiation symbol without the conventional color requirement;
 - (C) the date of abandonment;
 - (D) the name of the well operator or well owner;
 - (E) the well name and well identification number(s) or other designation;
 - (F) the sealed source(s) by radionuclide and quantity of activity;
 - (G) the source depth and the depth to the top of the plug; and
 - (H) an appropriate warning, depending on the specific circumstances of each abandonment, which may include:
 - (i) "Do not drill below plug back depth",
 - (ii) "Do not enlarge casing", or
 - (iii) "Do not re-enter the hole" before contacting at the address in Rule .2212 of this Subchapter.
 - (e) The licensee shall immediately notify the agency by telephone and subsequently by confirming letter if the licensee knows or has reason to believe that radioactive material has been lost in or to an underground potable water source. Such notice shall designate the well location and shall describe the magnitude and extent of loss of radioactive material, assess the consequences

of such loss, and explain efforts planned or being taken to mitigate the consequences.

Statutory Authority G.S. 104E-7.

.3425 SUBJECTS IN TRAINING COURSES FOR LOGGING SUPERVISORS

Training courses for logging supervisors shall address at least the following subjects:

- (1) fundamentals of radiation safety:
 - (a) characteristics of radiation;
 - (b) units of radiation dose and quantity of radioactivity;
 - (c) significance of radiation dose:
 - (i) radiation protection standards
 - (ii) biological effects of radiation doses
 - (d) levels of radiation from sources of radiation
 - (e) methods of minimizing radiation dose:
 - (i) working time
 - (ii) working distance
 - (iii) shielding
- (2) radiation detection instrumentation to be used:
 - (a) use of radiation survey instruments
 - (b) operation
 - (c) calibration
 - (d) limitations
 - (e) survey techniques
 - (f) use of personal monitoring equipment
- (3) equipment to be used:
 - (a) handling equipment
 - (b) sources of radiation
 - (c) storage and control of equipment
 - (d) operation and control of equipment
 - (4) the requirements of pertinent federal and state regulations
 - (5) the licensee's written operating and emergency procedures
 - (6) the licensee's record keeping procedures.

Statutory Authority G.S. 104E-7.

SECTION .3500 - TANNING FACILITIES

.3501 PURPOSE AND SCOPE

- (a) This Section provides for the registration and regulation of facilities and equipment which employ ultraviolet and other lamps for the purpose of tanning the skin of the living human body through the application of ultraviolet radiation.
- (b) Except as otherwise provided in this Section, tanning facilities are exempt from the rules in Sections .2200 through .3400 of this Subchapter to the extent that such facilities do not receive, own, possess or use radioactive material or other

sources of ionizing radiation as defined in G.S. 104E-5.

(c) Nothing in this Section shall be interpreted as limiting the intentional exposure of patients to ultraviolet radiation for the purpose of treatment or therapy other than skin tanning, provided such treatment or therapy is supervised by a licensed practitioner in the lawful practice of their profession to prescribe and supervise such treatment.

Statutory Authority G.S. 104E-7(7).

.3502 COMPLIANCE WITH OTHER LAWS

Nothing in this Section shall relieve any person of responsibility for complying with other pertinent North Carolina laws and regulations.

Statutory Authority G.S. 104E-7(7).

.3503 DEFINITIONS

As used in this Section, the following definitions shall apply:

- (1) "Agency" means the North Carolina Department of Human Resources.
- (2) "Consumer" means any individual who is provided access to a tanning facility which is required to be registered pursuant to provisions of this Section.
- (3) "Individual" means any human being.
- (4) "Operator" means any individual designated by the registrant to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.
- (5) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of these entities.
- (6) "Registrant" means any person who is registered with the agency as required by provisions of this Section.
- (7) "Registration" means registration with the agency in accordance with provisions of this Section.
- (8) "Tanning equipment" means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.
- (9) "Tanning facility" means any location, place, area, structure or business which provides consumers access to tanning equipment.

ment. For the purposes of this definition tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.

- (10) "Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between 200 nanometers and 400 nanometers.

Statutory Authority G.S. 104E-7(7).

.3504 EXEMPTIONS

(a) The agency may, upon application therefor or upon its own initiative, grant such exemptions or exceptions from the requirements of the rules in this Section as it determines are authorized by law and will not result in undue hazard to public health and safety.

(b) Any person is exempt from the provisions of this Section to the extent that such person:

- (1) uses equipment which emits ultraviolet radiation incidental to its proper operation, and
- (2) does not use the equipment in Subparagraph (b)(1) of this Rule to deliberately expose parts of the living human body to ultraviolet radiation for the purpose of skin tanning.

(c) Any individual is exempt from the provisions of this Section to the extent that such individual owns tanning equipment exclusively for personal use.

(d) Tanning equipment while in transit or storage incidental thereto is exempt from the provisions of this Section.

Statutory Authority G.S. 104E-7(7).

.3505 APPLICATION FOR REGISTRATION OF TANNING FACILITIES

(a) Each person having a tanning facility on the effective date of this Rule shall apply for registration of such facility no later than 60 days following the effective date of this Rule.

(b) Each person acquiring or establishing a tanning facility after the effective date of this Rule shall apply to the agency for registration of such facility prior to beginning operation.

(c) The application required in (a) and (b) of this Rule shall be completed on forms provided by the agency and shall contain all the information required by such forms and any accompanying instructions.

(d) The agency shall require at least the following information on the forms provided for applying for registration of tanning facilities:

- (1) name, physical address, mail address and telephone number of the tanning facility;
- (2) name(s), mail address(es) and telephone number(s) of the owner(s) of the tanning facility;
- (3) name(s) of the tanning facility operator(s) with a certification of each operator's training as provided in Rules .3518(g) and (h) of this Section;
- (4) the manufacturer(s), model number(s) and type(s) of ultraviolet lamp(s) or tanning equipment located at the tanning facility;
- (5) name(s) of the tanning equipment supplier(s), installer(s) and service agent(s);
- (6) the geographic areas of the state to be covered, if the application is for a mobile tanning facility;
- (7) copies of any posted warnings or notices which are not required by this Section and which address the safety and proper use of tanning equipment and protective devices;
- (8) copies of the consent forms and statements which the consumer, parent or guardian will be required to sign pursuant to Rules .3518(c) and (d) of this Section;
- (9) procedures which the operator(s) will be required to follow for the correct use of tanning equipment to include: instructions to the consumer, use of protective eyewear, suitability of prospective consumers for tanning equipment use, determination of duration of tanning exposures, periodic testing of tanning equipment and timers, handling of complaints of injury from consumers, and records to be maintained on each consumer; and
- (10) certification that the applicant has read and understands the requirements of the rules in this Section, such certification to be signed and dated by the manager and the owner of the tanning facility.

Statutory Authority G.S. 104E-7(7).

.3506 ISSUANCE OF CERTIFICATE OF REGISTRATION

(a) Upon determination that an application meets the requirements of this Section, the agency will issue a certificate of registration.

(b) The agency may incorporate in the certificate of registration, at the time of issuance or thereafter by appropriate rule or order, such additional requirements and conditions with respect to the registrant's receipt, possession, use and

transfer of tanning equipment and tanning facilities as the agency deems appropriate or necessary.

Statutory Authority G.S. 104E-7(7).

.3507 EXPIRATION OF CERTIFICATE OF REGISTRATION

Except as provided in Rule .3508(b) of this Section, each certificate of registration shall expire at midnight on the expiration date stated therein.

Statutory Authority G.S. 104E-7(7).

.3508 RENEWAL OF CERTIFICATE OF REGISTRATION

(a) The registrant shall file applications for renewal in accordance with Rule .3505 of this Section.

(b) Provided that a registrant files with the agency an application for renewal in proper form for renewal not less than 30 days prior to the expiration date stated on the certificate of registration, such certificate of registration shall not expire pending final action on the application by the agency.

Statutory Authority G.S. 104E-7(7).

.3509 REPORT OF CHANGES

The registrant shall notify the agency in writing before making any changes which would render the information contained in the application for registration or the certificate of registration no longer accurate.

Statutory Authority G.S. 104E-7(7).

.3510 TRANSFER OF CERTIFICATE OF REGISTRATION

No certificate of registration may be transferred from one person to another person or from one tanning facility to another tanning facility.

Statutory Authority G.S. 104E-7(7).

.3511 APPROVAL NOT IMPLIED

No person, in any advertisement, shall refer to the fact that such person or such person's facility is registered with the agency pursuant to the provisions of this Section, and no person shall state or imply that any activity under such registration has been approved by the agency.

Statutory Authority G.S. 104E-7(7).

.3512 DENIAL; REVOCATION; TERMINATION OF REGISTRATION

(a) The agency may deny, suspend or revoke a certificate of registration applied for or issued pursuant to this Section:

- (1) for any material false statement in the application for registration or in any statement of fact required by provisions of this Section;
- (2) because of conditions revealed by the application or any report, record, inspection or other means which would warrant the agency to refuse to grant a certificate of registration on an original application;
- (3) for operation of the tanning facility in a manner that causes or threatens to cause hazard to the public health or safety;
- (4) for failure to allow authorized representatives of the agency to enter the tanning facility at reasonable times for the purpose of determining compliance with the provisions of this Section, conditions of the certificate of registration or an order of the agency; or
- (5) for violation of or failure to observe any of the terms and conditions of the certificate of registration, the rules in this Section, or an order of the agency.

(b) Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, prior to the institution of proceedings for suspension or revocation of a certificate of registration, the agency shall:

- (1) call to the attention of the registrant, in writing, the facts or conduct which may warrant such actions, and
- (2) provide reasonable opportunity for the registrant to demonstrate or achieve compliance with all lawful requirements.

(c) Any person aggrieved by a decision by the agency to deny a certificate of registration or to suspend or revoke a certificate of registration after issuance may request a hearing under provisions of Chapter 150B of the North Carolina General Statutes, Article 3.

(d) The agency may terminate a certificate of registration upon receipt of a written request for termination from the registrant.

Statutory Authority G.S. 104E-7(7).

.3513 CONSTRUCTION AND OPERATION OF TANNING EQUIPMENT

Except as otherwise ordered or approved by the agency, each tanning facility shall be constructed, operated and maintained in accordance with the requirements in Rules .3514 to .3518 of this Section.

Statutory Authority G.S. 104E-7(7).

.3514 WARNING SIGNS REQUIRED

(a) The registrant shall conspicuously post the warning sign described in (b) of this Rule within one meter of each tanning station and in such a manner that the sign is clearly visible, not obstructed by any barrier, equipment or other object, and can be easily viewed by the consumer before energizing the tanning equipment.

(b) The warning sign in Paragraph (a) of this Rule shall use upper and lower case letters which are at least ten millimeters and five millimeters in height, respectively, and shall have the following wording:

DANGER - ULTRAVIOLET RADIATION

-Follow instruction.

-Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer.

-Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.

-Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp or tanning equipment if you are using medication or have a history of skin problems or believe yourself to be especially sensitive to sunlight.

-If you do not tan in the sun, you are unlikely to tan from the use of this product.

Statutory Authority G.S. 104E-7(7).

.3515 EQUIPMENT AND CONSTRUCTION REQUIREMENTS

(a) The registrant shall use only tanning equipment manufactured in accordance with the specifications set forth in 21 Code of Federal Regulations (CFR) Part 1040, Section 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products." The exact nature of compliance shall be based on the standards in effect at the time of manufacture as shown on the device identification label required by 21 CFR Part 1010, Section 1010.3.

(b) Each assembly of tanning equipment shall be designed for use by only one consumer at a time.

(c) Each assembly of tanning equipment shall be equipped with a timer which complies with the requirements of 21 CFR Part 1040, Section

1040.20(c)(2). The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. No timer interval shall have an error exceeding plus or minus ten percent of the maximum timer interval for the product.

(d) Tanning equipment electrical circuit shall be approved by the Underwriter Laboratories (UL) or Electrical Testing Laboratories (ETL).

(e) Tanning equipment shall include physical barriers to protect consumers from injury induced by touching or breaking the lamps.

Statutory Authority G.S. 104E-7(7).

**.3516 ADDITIONAL REQUIREMENTS
FOR STAND-UP BOOTHS**

Tanning booths designed for stand-up use shall also comply with the following additional requirements:

- (1) Booths shall have physical barriers or other means, such as handrails or floor markings, to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.
- (2) Booths shall be constructed with sufficient strength and rigidity to withstand the stress of use and the impact of a falling person.
- (3) Access to booths shall be of rigid construction with doors which are non-latching and open outwardly.
- (4) Booths shall be equipped with handrails and non-slip floors.

Statutory Authority G.S. 104E-7(7).

.3517 PROTECTIVE EYEWARE REQUIRED

(a) The registrant shall provide protective eyewear to each consumer for use during any use of tanning equipment.

(b) The protective eyewear in Paragraph (a) of this Rule shall meet the requirements of 21 CFR Part 1040, Section 1040.20(c)(5).

(c) Tanning facility operators shall ensure that consumers wear the protective eyewear required by this Rule by means of post exposure observation.

(d) The registrant shall ensure that the protective eyewear required by this Rule is properly sanitized before each use and shall not rely upon exposure to the ultraviolet radiation produced by the tanning equipment itself to provide such sanitizing.

Statutory Authority G.S. 104E-7(7).

**.3518 RECORDS: REPORTS AND
OPERATING REQUIREMENTS**

(a) Prior to initial exposure, the tanning facility operator shall provide each consumer the opportunity to read a copy of the warning specified in Rule .3514(b) of this Section and request that the consumer sign a statement that the information has been read and understood. For illiterate or visually impaired persons unable to sign their name, the warning statement shall be read by the operator, in the presence of a witness, and the witness and the operator shall sign the statement.

(b) The registrant shall maintain a record of each consumer's total number of tanning visits and dates and durations of tanning exposures.

(c) The registrant shall submit to the agency a written report of injury for which medical attention was sought or obtain from the use of registered tanning equipment within five working days after occurrence. The report shall include:

- (1) the name of the affected individual,
- (2) the name and location of the tanning facility involved,
- (3) the nature of the actual or alleged injury, and
- (4) any other information relevant to the actual or alleged injury, to include the date and duration of exposure and any documentation of medical attention sought or obtained.

(d) The registrant shall not allow individuals under the age of 18 to use tanning equipment unless the individual provides a consent form and a statement, described in Paragraph (a) of this Rule, signed by that individual's parent or legal guardian.

(e) The registrant shall replace defective or burned out lamps, bulbs or filters with a type intended for use in the affected tanning equipment as specified by the manufacturer's product label and having the same spectral distribution (certified equivalent lamp).

(f) The registrant shall replace ultraviolet lamps and bulbs, which are not otherwise defective or damaged, at such frequency or after such duration of use as may be recommended by the manufacturer of such lamps and bulbs.

(g) The registrant shall certify that all tanning equipment operators are adequately trained in at least the following:

- (1) the requirements of this Section,
- (2) procedures for correct operation of the tanning facility and tanning equipment,
- (3) recognition of injury or overexposure to ultraviolet radiation,
- (4) the tanning equipment manufacturer's procedures for operation and maintenance of the tanning equipment,

- (5) the determination of skin type of customers and appropriate determination of duration of exposure to registered tanning equipment, and
- (6) emergency procedures to be followed in case of injury.
- (h) No later than two years after the effective date of this Rule, the registrant shall allow operation of tanning equipment only by persons who have successfully completed formal training courses which cover the topics in Subparagraphs (g)(1) to (6) of this Rule and have been approved by the agency.
- (i) The registrant shall maintain a record of operator training required in Paragraphs (g) and (h) of this Rule for inspection by authorized representatives of the agency.

Statutory Authority G.S. 104E-7(7).

.3519 COMMUNICATIONS WITH THE AGENCY - AGENCY ADDRESS

Applications for registration, reports, notifications and other communications required by this Section shall be directed to the Radiation Protection Section, Division of Facility Services, 701 Barbour Drive, Raleigh, North Carolina 27603-2008.

Statutory Authority G.S. 104E-7(7).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources intends to repeal rule(s) cited as 10 NCAC 3R .2204 - .2208 and adopt rule(s) cited as 10 NCAC 3R .2213 - .2216.

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

The public hearing will be conducted at 2:00 p.m. on December 16, 1988 at Hearing Room, Council Building, 701 Barbour Drive, Raleigh, N. C. 27603.

Comment Procedures: Address comments to: Lynda McDaniel, Division of Facility Services, 701 Barbour Drive, Raleigh, N. C. 27603. Comments will also be received orally at the hearing.

SUBCHAPTER 3R - CERTIFICATE OF NEED REGULATIONS

SECTION .2200 - CRITERIA AND STANDARDS FOR END STAGE RENAL DISEASE SERVICES

- .2204 CAPACITY IN THE FACILITY AND IN THE HEALTH SERVICE AREA (REPEALED)**
- .2205 SCOPE OF SERVICES OFFERED (REPEALED)**
- .2206 PROJECTED UTILIZATION (REPEALED)**
- .2207 PROJECTED PATIENT ORIGIN (REPEALED)**
- .2208 SITE: EQUIPMENT AND STAFFING (REPEALED)**

Statutory Authority G.S. 131E-177(1).

.2213 INFORMATION REQUIRED OF APPLICANTS

(a) An applicant that proposes to increase stations in an existing certified facility or relocated stations must provide the following information:

- (1) Utilization rates;
- (2) Morbidity and mortality rates;
- (3) The number of patients that are home trained and the number of patients on home dialysis;
- (4) The number of transplants performed or referred;
- (5) The number of patients currently on the transplant waiting list;
- (6) Hospital admission rates, by admission diagnosis, i.e., dialysis related versus non-dialysis related;
- (7) The number of patients with converted status to infectious disease, i.e., hepatitis and AIDS.

(b) An applicant that proposed to increase the number of stations in an existing facility, or establish a new dialysis station, or the relocation of existing dialysis stations must provide the information requested on the End Stage Renal Disease (ESRD) Treatment application form to include the following:

- (1) A written agreement with an acute care hospital that specifies the relationship with the dialysis facility and describes the services that the hospital will provide to patients of the dialysis facility. The agreement must include at least the following:
 - (a) specific services being covered and the basic working relationship between the two facilities,
 - (b) provision for ready acceptance of ESRD patients in emergency situations,
 - (c) provision for timely acceptance and admission of transferred patients when

- medically determined appropriate by the attending or treating physician,
- (d) provisions for interchange of medical information necessary for continuity of care,
 - (e) provision for security and accountability of patients' personal effects, and
 - (f) signature of the duly authorized person(s) representing the facilities and the agency providing the service.
- (2) A written agreement with a transplantation center describing the relationship with the dialysis facility and the specific services that the transplantation center will provide to patients of the dialysis facility. The agreements must include at least the following:
- (a) timeframe for initial assessment and evaluation of patients for transplantation,
 - (b) composition of the assessment / evaluation team,
 - (c) method for periodic follow-up,
 - (d) criteria by which a patient will be evaluated for transplantation and follow-up, and
 - (e) signatures of the duly authorized persons representing the facilities and the agency providing the services.
- (3) Documentation of the availability of a safe and adequate water supply with an adequate water purification system.
- (4) Documentation of standing service from a power company and back-up capabilities.
- (5) The location of the site on which the services are to be operated. If such site is neither owned by nor under option to the proponent, the proponent must provide a written commitment to diligently pursue acquiring the site if and when the approval is granted, must specify a secondary site on which the services could be operated should acquisition efforts relative to the primary site ultimately fail, and must demonstrate that the primary and secondary sites are available for acquisition.
- (6) Documentation that the services will be provided in conformity with applicable laws and regulations pertaining to staffing, fire safety equipment, physical environment, and other relevant health and safety requirements.
- (7) The projected patient origin for the services by percentage by county of residence. All assumptions, including the specific methodology by which patient origin is projected, must be clearly stated.

- (8) Documentation that at least 80 percent of the anticipated patient population is within 30 miles of the facility with the exception of remote area facilities as defined in the State Medical Facilities Plan.

Statutory Authority G.S. 131E-177(1).

.2214 REQUIRED PERFORMANCE STANDARDS

(a) A proposal involving an increase in the number of dialysis stations in an existing renal dialysis facility shall not be approved unless the average utilization of all existing stations at the site at which the proposed stations are to be operated is at least 9.6 dialysis procedures per station per week for the six months immediately preceding the submittal of the application.

(b) A proposal involving the establishment of a new renal dialysis facility or center shall not be approved unless the utilization of all machines proposed to be operated is reasonably projected to be at a continuous rate of at least 9.6 dialysis procedures per station per week at the end of the first two operating years following completion of the proposed project.

(c) A proposal involving an increase in the number of dialysis stations in an existing renal dialysis facility shall not be approved unless the average utilization of all machines proposed to be operated is reasonably projected to be at a continuous rate of at least 9.6 dialysis procedures per station per week at the end of the first operating year following completion of the proposed project.

Statutory Authority G.S. 131E-177(1).

.2215 SCOPE OF SERVICES

To be approved, the applicant must demonstrate that the following services will be available:

- (1) diagnostic and evaluation services;
- (2) maintenance dialysis;
- (3) self-care training;
- (4) accessible home training;
- (5) home training back-up;
- (6) accessible follow-up program for support of patients dialyzing at home;
- (7) x-ray services;
- (8) laboratory services;
- (9) blood bank services;
- (10) emergency care;
- (11) acute dialysis in an acute care setting;
- (12) vascular surgery for dialysis treatment patients;
- (13) transplantation services;
- (14) vocational rehabilitation counseling and services; and

- (15) transportation.

Statutory Authority G.S. 131E-177(1).

.2216 STAFFING AND STAFF TRAINING

(a) To be approved, the state agency must determine that the proponent can meet the following staffing requirements:

- (1) A physician director who is board eligible or board certified in internal medicine or pediatrics by a professional board, and has at least 12 months experience or training in the care of patients at ESRD facilities,
- (2) A duly licensed registered nurse with at least 18 months of experience with patient care, 6 months of which must have been with patients experiencing renal failure,
- (3) A social worker, and
- (4) A dietician.

(b) To be approved, the state agency must determine that the proponent will provide an ongoing program of training for nurses and technicians in dialysis techniques at the facility.

Statutory Authority G.S. 131E-177(1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Director of the Division of Mental Health, Mental Retardation and Substance Abuse Services intends to amend rule(s) cited as 10 NCAC 14C .1146.

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

The public hearing will be conducted at 11:00 a.m. on December 16, 1988 at Archdale Building, Room 542-A, 512 North Salisbury Street, Raleigh, NC 27611.

Comment Procedures: Any interested person may present his/her comments by oral presentation or by submitting a written statement. Persons wishing to make oral presentations should contact Jan Warren, Division of Mental Health, Mental Retardation and Substance Abuse Services, 325 N. Salisbury St., Raleigh, N.C. 27611, (919) 733-7971 by December 16, 1988. The hearing record will remain open for written comments from November 15, 1988 through December 16, 1988. Written comments must be sent to the above address and must state the rule rules to

which the comments are addressed. Fiscal information on this rule is also available from the same address.

CHAPTER 14 - MENTAL HEALTH: GENERAL

SUBCHAPTER 14C - GENERAL RULES

SECTION .1100 - STATE AND FEDERAL FUNDS ADMINISTERED

.1146 RESIDENTIAL FACILITIES FOR SEVERELY MENTALLY ILL ADULTS

(a) Pursuant to G.S. 122C-150, the division shall administer a program of grants to area programs to be called funds for residential facilities for ~~chronically~~ severely mentally ill adults.

(b) Such grants shall be used to support residential facilities for ~~chronically~~ severely mentally ill adults.

(c) Funds for residential facilities for ~~chronically~~ severely mentally ill adults shall be administered to area programs as direct grants and do not require local matching.

(d) Programs operated by an area program or contract programs of the area program may spend funds for residential facilities for ~~chronically~~ severely mentally ill adults for the following:

- (1) staffing;
- (2) to rent or lease residential facilities;
- (3) furniture or specialized equipment for residents;
- (4) transportation of residents;
- (5) other necessary operating expenses as approved by the division; and
- (6) repairs and maintenance of facilities which represent normal upkeep and do not materially increase the value of the facility or extend its useful life.

(e) Funds for residential facilities for ~~chronically~~ severely mentally ill adults may be used for the purchase, construction and/or alteration, improvement or repair of a residential facility by the area program or a non-profit board under contract with the area program with division approval. The program shall meet the requirements of the following:

- (1) In order to participate in a Federal Department of Housing and Urban Development (HUD) Section 202 project (12 U.S.C. §1701g) for the purchase, construction or alteration, improvement or repair of a facility, the program shall meet the following requirements:

- (A) The area program may request funds for this project from the division. The division may participate in HUD Section

202 project contingent upon the availability of state funds.

(B) The area program shall sign a legally binding contract with a private non-profit agency to specify that if the facility ceases to be used in the delivery of services to the clients, the private non-profit agency shall reimburse the division according to the following requirements:

(i) If the facility is sold, it should be sold at the current fair market value as determined by two independent appraisals acceptable to the division, and the division shall be reimbursed a pro rata share of the selling price of the facility based on the contribution made by the division in the purchase, construction or alteration, improvement or repair of the facility.

(ii) If the facility is retained by the private non-profit agency, the division shall be reimbursed a pro rata share of the current fair market value of the facility as determined by two independent appraisals acceptable to the division based on the contribution made by the division in the purchase, construction or alteration, improvement or repair of the facility.

(C) The area program shall maintain a record which reflects the amount of contribution made by the state for purchase, construction or alteration, improvement or repair to the facility.

(2) Projects that involve the purchase, construction, and/or alteration, improvement or repair of a residential facility with the exception of federal Housing and Urban Development (HUD) 202 projects shall meet the requirements of the following:

(+) (A) The Residential Facility Mortgage Payment Program. The division may participate in the mortgage payment program in part or in total dependent upon the availability of state funds.

(+) (B) The Residential Facility Purchase / Construction Program.

(+) (i) The division may participate in the down payment and/or lump sum purchase/construction of a residential facility in whole or part contingent upon the availability of state funds.

(+) (ii) The area program or non-profit board shall secure two property appraisals for review and approval by the division prior to purchase.

(-) (iii) If a new construction grant is requested, the area program shall submit

~~two~~ three construction bid contracts from ~~two~~ three building contractors except as provided for by G.S. 143-132 to the appropriate regional office for review and approval prior to construction bid letting.

(+) (C) A request for initial renovation of a newly acquired residential facility of five thousand dollars (\$5000) or less shall be submitted to the appropriate regional office of the division for approval. Initial minor repairs to facilities of less than one thousand dollars (\$1000) shall be approved by the area program.

(+) (D) A request for alteration or improvement of an existing residential facility in excess of five thousand dollars (\$5000) shall be forwarded to the division director's office through the appropriate regional office of the division for approval.

(+) (E) A request for alteration or improvement of an existing facility of five thousand dollars (\$5,000) or less shall be submitted to the appropriate regional office for approval.

(+) (F) Each request as outlined in (c) (2) (B) and (+) (D) of this Rule shall be accompanied by a narrative that explains the need for the purchase, construction, alteration, improvement or repair of the facility and a copy of the schematic drawings and specifications. If approved by the Division of Mental Health, Mental Retardation and Substance Abuse Services, these drawings and specifications shall be forwarded to the Division of Facility Services for review and approval.

(+) (G) If the residential facility is operated by a non-profit board, the area program shall sign a legally binding contract with the private non-profit agency for either the mortgage payments to be made or the purchase/construction program as indicated in (+) (+) (e) (2) (A) and (+) (B) of this Rule. A copy of the appropriate contract shall be obtained from the Fiscal Services Branch of the central office of the division.

(+) (H) If a residential facility owned by an area program or its private non-profit contract agency was purchased, altered, improved, or rehabilitated using division funds and later ceases to be used in the delivery of services to clients by the area program or its private non-profit contract agency, the facility shall be sold at the current fair market value as determined

by two independent appraisals acceptable to the division. The division shall be reimbursed a pro rata share of the proceeds of the sale based on the percent of contribution made by the division in the purchase, alteration, improvement or rehabilitation. If an area program or its non-profit contract program wishes to retain a facility that was purchased, altered, improved or rehabilitated using funds for residential facilities for ~~chronically~~ severely mentally ill adults the area program or its contract program shall pay to the division a pro rata share of the current fair market value of the facility as determined by two independent appraisals acceptable to the division based on contribution made by the division in the purchase, alteration, improvement or rehabilitation of the facility. This provision may be waived by the division director upon written request of the program. The area program shall maintain records on a continuous basis which reflect the amount of contribution for purchase, alteration, improvement, or rehabilitation by the division, area program and/or other funding entity.

(1) Immediately upon receipt of said funds or as soon thereafter as practical, an area program or private non-profit agency receiving state funds pursuant to this Rule shall cause to be recorded with the Register of Deeds of the county in which the residential facility is located a notice of claim in lieu (or continuing lien as applicable) on behalf of the state for all funds provided by the state through the division.

(f) Fund balance. The division may allow area programs or contract programs to maintain a fund balance of no more than 15 percent of the current annual budget in accordance with Rule .1125 of this Section.

(g) To apply for funds for residential facilities for ~~chronically~~ severely mentally ill adults, an annual plan and budget for such funds shall be included in the appropriate area program's total annual plan and budget package when it is submitted to the appropriate regional office of the division.

(h) Funds for residential facilities for ~~chronically~~ severely mentally ill adults shall be allocated among the regions of the division by the division director.

(i) Based on the approved annual plan and budget request submitted and availability of funds, allocation of funds for residential facilities for ~~chronically~~ severely mentally ill adults to area

programs within each region shall be made by the division director or his designee.

Statutory Authority G.S. 122C-112(a)(6); 122C-141; 122C-147; 122C-150; 143B-10.

TITLE II - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Insurance intends to amend rule(s) cited as 11 NCAC 8 .0901, .0902 and .0905.

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

The public hearing will be conducted at 9:30 a.m. on January 17, 1989 at Manufactured Housing Board, 410 N. Boylan Avenue, Conference Room, Raleigh, N.C. 27611.

Comment Procedures: Written comments may be sent to Owen Tharrington, c/o Manufactured Housing Board, 410 N. Boylan Avenue, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Owen Tharrington at (919) 733-3901 or Linda Stott at (919) 733-4700.

CHAPTER 8 - ENGINEERING AND BUILDING CODES

SECTION .0900 - MANUFACTURED HOUSING BOARD

.0901 MANUFACTURED HOUSING BOARD

The North Carolina Manufactured Housing Board is established to provide for a comprehensive framework for regulation of all segments of the manufactured housing industry. The Commissioner of Insurance or his designee shall serve as chairman of a nine member board representing the industry and the public.

Statutory Authority G.S. 143-143.8; 143-143.10.

.0902 ADDRESS

(a) The mailing address for the North Carolina Manufactured Housing Board is: North Carolina Manufactured Housing Board, c/o Office of Insurance Commissioner, Post Office Box 26387, Raleigh, North Carolina 27611.

(b) ~~The Consumer Hotline toll-free telephone number for reporting complaints regarding warranties and substantial defects is: 1-800-662-7777, Consumer Insurance Informa-~~

tion Division. A supplemental telephone number is: 1-919-733-2032.

Statutory Authority G.S. 143-143.8; 143-143.10; 143-143.17.

.0905 LICENSING

(a) Any person employed by a dealer whose occupational activity is that of selling on behalf of the retail dealership shall be licensed as a salesperson. Each salesperson's license shall be conspicuously displayed at all times by the dealership employing the salesperson.

(b) A manufactured housing salesperson may be allowed to engage in business during the time period after making application for a license but before such license is granted.

(c) The following shall not be required to be licensed as a manufactured housing dealer:

- (1) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court;
- (2) Public officials while performing their official duties;
- (3) Persons disposing of manufactured homes acquired for their own use, provided that said home is not used for the purpose of avoiding the provisions of G.S. 143-143.9;
- (4) Licensed real estate salesmen or brokers who negotiate or sell a manufactured home for any individual who is the owner of not more than three manufactured homes;
- (5) Banks and finance companies who sell repossessed manufactured homes who do not maintain a sales lot or building with one or more employed retail salespersons.

(d) Licenses shall be issued by the board whenever the application is in compliance with the applicable laws and regulations. Such license shall entitle the licensee to conduct the specified business for a period of one year from date of issuance or the first day of July, whichever is earlier. The board may, if it deems necessary, cause an investigation to be made to ascertain if all the requirements set forth in the application are true and shall not issue a license to the applicant until it is satisfied as to the accuracy of the application.

(e) Manufactured housing manufacturers, dealers, and set-up contractors shall conspicuously display their licenses at all times at their place of business.

(f) Whenever a bond is required by G.S. 143-143.12, before any license shall be issued by the board, the applicant shall deliver to the board a corporate surety bond, cash bond or fixed value equivalent. The bond shall be to the board and

in favor of any person who shall suffer any loss as a result of any violation of the law or administrative rules governing manufactured housing. The bond shall be for the license period and a new bond or proper continuation certificate shall be delivered to the board at the beginning of each license period. The bond for one type of license may not be considered as the bond for another type of license.

(g) License fees are as follows:

- (1) ~~twenty-five dollars (\$25.00)~~ two hundred fifty dollars (\$250.00) per Certificate of Origin plant for manufactured housing manufacturers;
- (2) ~~twenty dollars (\$20.00)~~ one hundred dollars (\$100.00) per county of operation for manufactured housing dealers;
- (3) ~~ten dollars (\$10.00)~~ fifty dollars (\$50.00) per county for supplemental manufactured housing dealer locations;
- (4) ~~five dollars (\$5.00)~~ twenty-five dollars (\$25.00) for retail manufactured housing salespersons;
- (5) ~~five dollars (\$5.00)~~ twenty-five dollars (\$25.00) for manufactured housing representatives; and
- (6) ~~ten dollars (\$10.00)~~ one hundred dollars (\$100.00) per business location for set-up contractors.

Statutory Authority G.S. 143-143.10.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Insurance intends to adopt rule(s) cited as 11 NCAC 10 .1107.

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

The public hearing will be conducted at 10:00 a.m. on December 19, 1988 at Third Floor Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, N.C. 27611.

Comment Procedures: Written comments may be sent to Pete Murdza, Actuarial Services, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Pete Murdza at (919) 733-3284, or Linda Stott at (919) 733-4700.

**CHAPTER 10 - FIRE AND CASUALTY
DIVISION**

SECTION .1100 - RATE FILINGS

.1107 OTHER LINES

The information required by N.C.G.S. 58-480(e) shall be presented as follows:

- (1) North Carolina premium, loss and loss adjustment experience:
 - (a) For each coverage, premium at present rates shall be calculated. Indicate how such calculations were produced and supply supporting documentation for a sample of such calculations and justification of any aggregate factors used.
 - (b) The latest earned premiums and marketshare based on those premiums for the company or companies making the filing and for the ten largest insurers that write that coverage in North Carolina shall be provided.
 - (c) Information from the Annual Statement on losses and premiums shall be included. (If the filing is being made for more than one company, composite information shall be provided.) Provide such information separately for the latest five Annual Statements for the particular line:
 - (i) North Carolina Page 14,
 - (ii) Part 2,
 - (iii) Part 2B,
 - (iv) Part 3A.
 - (d) The following information on companies experience and schedule rating plans for the particular line shall be included:
 - (i) The experience rating plan off-balance,
 - (ii) The schedule rating plan off-balance,
 - (iii) The average deviation from bureau rates (if applicable),
 - (iv) The average dividend granted.
 - (e) If the filing involves a rate change for a particular classification or territory, rather than an overall statewide rate change, the same information in (d) shall be provided for that class or territory.
 - (f) For each coverage and each year used in setting the overall rate level, the following information on dollars of incurred losses shall be provided:
 - (i) Paid losses,
 - (ii) Case basis reserves,
 - (iii) Loss development,
 - (iv) Incurred allocated loss adjustment expense,
 - (v) Incurred unallocated loss adjustment expense,
 - (vi) Applied trend factor,
 - (vii) Trended total incurred losses and LAE.
 - (g) Whenever North Carolina or countrywide losses are separated into excess (catastrophe) and nonexcess (noncatastrophe) losses, a clear description and justification of the standard used to separate such losses shall be included. In determining an excess (catastrophe) loading, include as many years of data as possible. If the number of years included differs from the number available, provided an explanation. Also provide an explanation if the data from which the excess loading is derived differs from that on which the rate level change is based.
 - (h) Territorial and class rate calculations shall include written premiums, earned premiums, paid losses, incurred losses, and the number of claims by territory for each of the years used to determine territorial relatives.
 - (i) For all incurred loss adjustment expense data contained in the filing, the related incurred losses shall be shown.
- (2) Credibility factor development and application. All information related to the derivation of credibility factors contained in the filing shall be provided. Include the following information:
 - (a) All data reviewed and worksheets used;
 - (b) A complete description of the methodology used to derive the factors;
 - (c) A description of alternative methodologies used or considered for use;
 - (d) A description of the criteria used to select one of the various methodologies for including in a particular filing;
 - (e) Special details regarding the application of these criteria in the selection of a methodology for the filing;
 - (f) Details on the application of the methodology to this filing.
- (3) Loss development factor development and application:
 - (a) All information related to the derivation of the loss development factors contained in the filing shall be provided. Include the following information:
 - (i) All data reviewed and worksheets used,
 - (ii) A complete description of the methodology used to derive the factors,
 - (iii) A description of alternative methodologies used or considered for use,
 - (iv) A description of the criteria used to select one of the various methodologies for inclusion in a particular filing,
 - (v) Special details regarding the application of these criteria in the selection of a methodology for this filing,

- (vi) Details on the application of the methodology to this filing.
- (b) If accident year data is used in the rate filing, provide for each coverage complete (including the upper left portion) total limits paid loss development triangles for the ten latest available accident years at all available development points. Also provide the corresponding loss development factors and five-year average factors derivable from these triangles.
- (c) The same information in (b) of this Rule for incurred losses.
- (d) The same information in (b) of this Rule for number of paid claims.
- (e) The same information in (b) of this Rule for number of outstanding claims.
- (f) A statement regarding any strengthening or weakening of company reserves that has occurred in the last five years. (If the filing is for a group of companies, include statements from the largest writers of the coverage in North Carolina.)
- (4) Trending factor development and application:
 - (a) Available trend data (both countrywide and for North Carolina) for the latest available five years shall be included in the filing for all coverages or sublines.
 - (b) All information related to the derivation of the trend factors contained in the filing should be provided. Include the following information:
 - (i) All data reviewed and worksheets used,
 - (ii) A complete description of the methodology used to derive the factors,
 - (iii) A description of alternative methodologies used or considered for use,
 - (iv) A description of the criteria used to select one of the various methodologies for inclusion in a particular filing,
 - (v) Special details regarding the application of these criteria in the selection of a methodology for this filing,
 - (vi) Details on the application of the methodology to this filing.
 - (c) The derivation of all trend factors included in the filing shall be shown, including the intermediate steps and the origins of all figures used in the calculations.
- (5) Changes in premium base and exposures:
 - (a) Data on the mix of policies by different policy terms shall be submitted. For the latest five years, include both the number of policies and the amount of earned premium for different policy terms.
 - (b) Data on changes in distribution of insureds by class and territory shall be submitted. Submit all information available on such groupings for the latest five years.
 - (c) Data on changes in any inflation sensitive premium bases for the coverage during the latest five years.
 - (6) Limiting factor development and application. Information on the following items shall be provided:
 - (a) Limitations on losses included in the statistical data used in the filing;
 - (b) Limitations on the extent of the rate level change by coverage or subline;
 - (c) Limitations on the extent of territorial and class rate changes;
 - (d) Any other limitations applied.
 - (7) Expenses:
 - (a) All information related to the derivation of the trend factors contained in the filing should be provided. Include the following information:
 - (i) All data reviewed and worksheets used,
 - (ii) A complete description of the methodology used to arrive at the selected loading,
 - (iii) A description of alternative methodologies used or considered for use,
 - (iv) A description of the criteria used to select one of the various methodologies for inclusion in a particular filing,
 - (v) Special details regarding the application of these criteria in the selection of a methodology for this filing,
 - (vi) Details on the application of the methodology to this filing.
 - (b) Earned premium and unallocated loss adjustment expenses for each of the latest five years shall be included. If available, provide such information by coverage or subline.
 - (c) Number of claims (all limits and all deductibles) and allocated loss adjustment expenses for each of the last five years shall also be included. If available, provide such information by coverage or subline.
 - (d) A statement regarding any company expense cutting activities undertaken in the last five years shall be provided. (If the filing is for a group of companies, include statements from the largest writers of the coverage in North Carolina.)
 - (8) The percent rate change:
 - (a) The overall statewide rate change shall be shown as well as the amount of the change attributable to each of the following:
 - (i) experience,

- (ii) a change in the annual trend factor from the previous filing,
- (iii) a change in expense provisions,
- (iv) law changes,
- (v) a change in the tax provision, and
- (vi) a change in the assessment provision.
- (b) The information described in (a) of this Rule shall also be provided by coverage or subline.
- (9) Proposed rates:
 - (a) Proposed rates for each territory, classification, and coverage shall be provided. (In filings involving a large number of possible rates, information on rating factors and their application may be substituted for the actual rates.)
 - (b) An explanation of how territorial average rates and classification rates are determined shall be included. Also provide a sample calculation for each.
- (10) Investment earnings: Information on anticipated investment income is necessary to establish the provision for underwriting profit in the rates:
 - (a) Information on the amount of investment income earned on loss, loss expense, and unearned premium reserves in relation to earned premium for a particular line in North Carolina shall be calculated for the latest two years and estimated for the current year and all years during which the proposed rates will be in effect. Calculations shall be provided in detail including the amount of the reserves of each type at the beginning and end of each of the specified years.
 - (b) Information on the estimated average length of time that elapses between the occurrence of an insured loss in North Carolina and the payment of a claim shall be provided. The average shall be weighted average based on size of claim payments. Indicate how the length has changed over the last ten years.
 - (c) To evaluate recent insurer profitability, provide the following information separately from the latest two Annual Statements: (If the filing is for more than one company, composite information shall be provided.)
 - (i) Page 2 (Assets),
 - (ii) Page 3 (Liabilities, Surplus and Other Funds),
 - (iii) Page 4 (Underwriting and Investment Exhibit),
 - (iv) Exhibit (Analysis of Assets).
- (11) Identification and Certification of Statistical Plans:
 - (a) All statistical plans used or consulted in preparing this filing shall be identified. Also describe the data compiled by each plan.
 - (b) A certification that all the data utilized in the rate filing was collected in accordance with such plans and is a true and accurate representation on the company's experience to the best of its knowledge shall also be provided.
- (12) Investment Earnings on Capital and Surplus: Given the selected underwriting profit and contingencies loading contained in the filing, indicate the resulting rate of return on equity capital, on total assets, and on assets assigned to insurance operations including consideration of investment income. Show the derivation of all factors used in producing the calculations. Provide justification that these rates of return are reasonable and fair.
- (13) Level of Capital Surplus Needed:
 - (a) Aggregate premium to surplus ratios for the latest five calendar years shall be shown.
 - (b) Estimates of comparable ratios for the years during which the rates will be in effect shall also be provided.
- (14) Other Information:
 - (a) All information on the various preliminary and intermediate steps taken in preparing the filing shall be included with it.
 - (b) All information related to the derivation of the profit and contingency loading contained in the filing should be provided. This information should include at a minimum the following:
 - (i) All data reviewed and worksheets used,
 - (ii) A complete description of the methodology used to arrive at the selected loading,
 - (iii) A description of alternative methodologies used or considered for use,
 - (iv) A description of the criteria used to select one of the various methodologies for inclusion in a particular filing,
 - (v) Special details regarding the application of these criteria in the selection of a methodology for this filing,
 - (vi) Details on the application of the methodology to this filing.
- (15) Additional information:

The commissioner may require such other information as he deems necessary to constitute a proper rate filing.

Statutory Authority G.S. 58-9; 58-480(e).

**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 intends to amend rule(s) cited as 15 NCAC 2F .0103.

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

The public hearing will be conducted at 2:00 p.m. on December 20, 1988 at 512 N. Salisbury Street, Archdale Building, Ground Floor Hearing Room, Raleigh, NC.

Comment Procedures: All interested persons are invited to attend. Comments may be submitted in writing or may be presented orally at the hearing. Further details of the proposed amendment may be obtained by writing or calling: Mr. Coy Batten, P.O. Box 27687, Raleigh, NC (919) 733-6900.

**CHAPTER 2 - ENVIRONMENTAL
MANAGEMENT**

SUBCHAPTER 2F - CONSTRUCTION GRANTS

SECTION .0100 - FEDERAL GRANTS PRIORITY

.0103 BASES FOR PRIORITY

- (a) Wastewater Treatment Plants:
(3) Existing Wastewater Treatment Facilities Design Nutrient Requirement for Treatment Facilities - (Maximum Value -- 10 Points). The existing wastewater ~~discharge from a sewer area receives only primary treatment or less treatment facility is required by permit to add units for the removal of nutrients from its effluent~~ 10.

Statutory Authority G.S. 143-215.3(a)(4); 143-2.15(a)(13).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Wildlife Resources Commission intends to amend rule(s) cited as 15 NCAC 10F .0303, .0314 and .0321.

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

The public hearing will be conducted at 10:00 a.m. on December 15, 1988 at Room 383, Archdale Bldg., 512 N. Salisbury Street, Raleigh, NC.

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 December 1, 1988 to December 29, 1988. Such written comments must be delivered or mailed to the Wildlife Commission, 512 N. Salisbury St., Raleigh, NC 27611.

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

**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:

- (6) that portion of the Pamlico River lying east of the Highway 17 bridge and west of the Norfolk Southern Railroad trestle bridge.
(7) that portion of Tranter's Creek beginning at the bridge on State Road 1567 and continuing one mile upstream.

(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.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Beaufort County and the City Council of the City of Washington ~~is~~ are designated ~~a~~ as suitable ~~agency~~ agencies for place and maintenance of the markers implementing this Rule.

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

.0314 NEW HANOVER COUNTY

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

- (7) those waters of the Northeast Cape Fear River between the US Hwy. 117 bridge and the Seaboard Coastline Railroad Bridge.

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

.0321 PENDER COUNTY

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

- (6) those waters of the Northeast Cape Fear River between the U.S. Highway 117 bridge and the Seaboard Coastline Railroad bridge.

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

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Wildlife Resources Commission intends to adopt and amend rule(s) cited as 15 NCAC 10F .0327 and .0358.

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

The public hearing will be conducted at 9:00 a.m. on December 15, 1988 at Room 386, Archdale Bldg., 512 N. Salisbury St., Raleigh, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing or by writing to the Wildlife Resources Commission, 512 N. Salisbury St., Raleigh, NC 27611. The record of hearing is open from December 1, 1988 to December 30, 1988.

.0327 MONTGOMERY COUNTY

(a) Regulated Areas. This Rule applies only to the portions of Badin Lake, Lake Tillery and Tuckertown Reservoir which lie within the boundaries of Montgomery 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 while on the waters of the regulated areas described in Paragraph (a) of this Rule.

(b) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, dock, pier, bridge, marina, boat storage structure, or boat service area on the waters of the regulated area described in Paragraph (a) of this Rule.

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

.0358 JONES COUNTY

(a) Regulated Area. This Rule applies to those waters of the Trent River from a point 25 yards

west of the US Hwy. 17 bridge downstream to a point 50 yards east of the Seaboard Coastline Railroad bridge at Pollocksville, NC.

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within any of the regulated area described in Paragraph (a) of this Rule.

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

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

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Notice is hereby given in accordance with G.S. 150B-12 that the Natural Resources and Community Development - Division of Economic Opportunity intends to amend rule(s) cited as 15 NCAC 16C .0104, .0106 and .0108.

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

The public hearing will be conducted at 10:00 a.m. on December 15, 1988 at Fifth Floor Conference Room, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina.

Comment Procedures: All interested persons are invited to attend. Comments may be submitted in writing or may be presented orally at the hearing. Oral presentations which exceed three minutes are requested to have a written copy to be filed with the hearing clerk. Further details of the proposed amendments may be obtained by writing or calling: Mr. James L. Forte, Director, Division of Economic Opportunity, Post Office Box 27687, Raleigh, NC 27611, Phone: (919) 733-2633.

CHAPTER 16 - DIVISION OF ECONOMIC OPPORTUNITY

SUBCHAPTER 16C - COMMUNITY SERVICE BLOCK GRANT PROGRAM

SECTION .0100 - GENERAL PROVISIONS

.0104 DEFINITIONS

For the purpose of this Subchapter, the following definitions apply:

- (1) Act. The Omnibus Budget Reconciliation Act of 1981, as amended, under which the

Community Services Block Grant Program was established.

- (2) Community Action Agency (CAA). An agency officially designated and funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating an anti-poverty project and which was funded by the division in fiscal year 1985 to administer a Community Services Block Grant anti-poverty project or any agency designated as such by the ~~Secretary~~ Governor or his designee and determined to be eligible by the division.
- (3) Community Services Block Grant. The state administered Community Services Block Grant Program (CSBG).
- ~~(4) Indian Tribal Organization. The recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by the governing body.~~
- ~~(5) Indian Tribe. Any tribe, band, nation, or other organized group or community of Indians which is recognized by the State of North Carolina or the federal government as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or, is located on, or in proximity to a federal or state reservation or rancheria.~~
- ~~(4) (6) Limited Purpose Agency. An agency funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating projects for a specific target population, such as senior citizens, or for a specific program area, such as economic development and which was funded by the division in fiscal year 1982 to carry out similar specific and limited projects.~~
- ~~(5) (7) Local Administering Agency. An agency funded by the division to carry out programs in a single or multi-county area.~~
- ~~(6) (8) OCS. The Office of Community Services is established in the U.S. Department of Health and Human Services and is charged with the responsibility of administering the program.~~
- ~~(7) (9) Persons in poverty. For the purpose of the allocation of CSBG fund, persons in poverty is defined as the number of persons who fall below the poverty threshold established by the Bureau of Census, U.S. Department of Commerce. The number of persons in poverty will be based on the most recent available census data. For the purpose of program eligibility, persons in poverty is defined as the persons who fall below the poverty guidelines established by the~~

Division of the U.S. Office of Management and Budget.

- ~~(8) (10) Quarter. Each three months during the life of a grant agreement with a grant recipient.~~
- ~~(9) (11) State Plan. The plan which sets forth how the State of North Carolina will use the funds allocated under GSBG.~~

Statutory Authority G.S. 143-323(d); 143B-10; 143B-276; 143B-277.

.0106 ELIGIBLE GRANT RECIPIENTS

~~(a) Eligible grant recipients for CSBG funds are:~~

- ~~(1) community action agencies as defined in (2) of Rule .0104 of this Section;~~
- ~~(2) organizations serving seasonal and migrant farmworkers;~~
- ~~(3) limited purpose agencies as defined in (6) of Rule .0104 of this Section;~~
- ~~(4) Indian tribes as defined in (5) of Rule .0104 of this Section; and~~
- ~~(5) local boards of county commissioners.~~

~~(b) To be eligible to receive any portion of the CSBG funds as set forth in (b) of Rule .0108 of this Section, a new grant recipient must serve one or more counties which have a minimum total population of 100,000 persons according to the most recent available census data. This requirement is applicable to all one hundred counties in the state in the formation of a new grant recipient. Existing agencies as defined in (2) of Rule .0104 of this Section are exempt from the total population requirements.~~

Eligible grant recipients for CSBG funds include:

- (1) community action agencies as defined in (2) of Rule .0104 of this Section; in any geographic area of a state not presently served by an eligible entity, the Governor may decide to serve such a new area by:
 - (a) requesting an existing eligible entity which is located and provides services in an area contiguous to the new area to serve the new area;
 - (b) if not existing eligible entity is located and provides services in an area contiguous to the new area, requesting the eligible entity located closet to the area to be served or an existing eligible entity serving an area within reasonable proximity of the new area to provide services in the new area; or
 - (c) where no existing eligible entity requested to serve the new area decides to do so, designating any existing eligible entity, any organization which has a board meeting

the requirements of Section 675(c)(3) or any political subdivision of the state to serve the new area. The Governor's designation of an organization which has a board meeting the requirements of Section 675(c)(3) or a political subdivision of the state to serve the new area shall qualify such organization as an eligible entity.

- (2) organizations serving seasonal or migrant farmworkers; and
- (3) limited purposes agencies as defined in (6) of Rule .0104 of this Section.

Statutory Authority G.S. 143-276; 143-323(d); 143B-10(b); 42 U.S.C. 9901-12.

.0108 ALLOCATION OF CSBG FUNDS

(a) A grant in Federal Fiscal Year 1984 and in each subsequent federal fiscal year will be made to the N.C. Commission on Indian Affairs out of the CSBG funds allocated to North Carolina. The amount of the grant will be based on the ratio of Native Americans in poverty served by the grant to the Commission compared the total number of persons in poverty in the State.

(b) The remaining balance of funds allocated to North Carolina under the CSBG Program will be used in Federal Fiscal Year 1984 and in each subsequent federal fiscal year as follows:

- (1) Ninety percent of the funds to make grants to those community action agencies as defined in Rule .0104 of this Section and which are re-certified as eligible agencies each fiscal year by the division. The amount of funds allocated to each eligible community action agency shall be based on the following method of distribution:

(A) Funds shall be allocated based on the ratio (percentage) of persons in poverty in the county (counties) served by the eligible agency compared to the number of persons in poverty in the total area (counties) served by all eligible agencies.

(B) However, no eligible agency shall receive less than:

- (i) An allocation of one hundred twenty thousand dollars (\$120,000); or
- (ii) Eighty percent of the eligible agency's Federal Fiscal Year 1982 allocation, whichever is higher.

- (2) Five percent of the funds to make grants in Federal Fiscal Year 1984 and in each subsequent federal fiscal year to those limited purpose agencies as defined in Rule .0104 of this Section and which are re-certified as eligible agencies each fiscal year by the division. The division shall

allot to each eligible limited purpose agency an amount of funds which will be based on the percentage of the total CSBG funds the eligible agency received for Federal Fiscal Year 1982.

- (3) The remaining balance of five percent of the funds will be used by the division for administration of the CSBG Program.

(c) All eligible agencies may be allowed to carry forward unearned funds at the end of a grant agreement to the succeeding grant agreement. The amount of unearned funds that may be carried forward to the succeeding grant agreement is a maximum of 10 percent of the funds allocated to agency under the prior grant year. The division's approval will be based upon a review of the following:

- (1) The annual audit as required in Rules .0501 and .0502 of Subchapter 16C;
- (2) A final Financial Status Report, as required in Rule .1203(h) of Subchapter 16C;
- (3) The cognizant approved final indirect cost rate agreement(s) that cover the grant recipient's CSBG program year; and
- (4) The proposed use of the carry-over funds as shown in the Community Anti-Poverty Plan, as required in Rules .0204 - .0209 of Subchapter 16C.

The division will notify in writing the grantee as to whether or not the grantee will be allowed to carry forward unearned funds to the succeeding grant agreement.

(d) All unearned funds which the division does not allow eligible agencies to carry forward to succeeding grant agreement(s) will be added to the state's allocation in the subsequent Federal Fiscal Year, and allocated, as provided in Paragraphs (a) and (b) of this Rule.

(e) Supplemental CSBG Grants. The preceding Paragraphs of this Rule do not apply to the allocation of supplemental CSBG grants to North Carolina. Such allocations to eligible applicants for eligible activities will be made by the division in a manner not inconsistent with federal guidelines and conditions on supplemental appropriations. The division has the flexibility to determine the number of grants awarded and the manner in which grantee(s) are selected based upon the amount of the allocation and the intent of the applicable legislation and regulations.

(a) Funds allocated to North Carolina under the CSBG Program will be used in Federal Fiscal Year 1989 and in each subsequent federal fiscal year as follows:

- (1) Ninety percent of the funds to make grants to those eligible grant recipients as defined in Rule .0106 (a) of this Section which are

re-certified as eligible agencies each fiscal year by the division. The amount of the funds allocated to each eligible grant recipient shall be based on the following method of distribution:

- (A) Funds shall be allocated based on the ratio (percentage) of persons in poverty in the county (counties) served by the eligible agency compared to the number of persons in poverty in the total area (counties) served by all eligible agencies.
- (B) However, no eligible agency shall receive less than:
 - (i) An allocation of one hundred twenty thousand dollars (\$120,000), or
 - (ii) Eighty percent of the eligible agency's Federal Fiscal Year 1982 allocation, whichever is higher.
- (2) Five percent of the funds will be used by the division for administration of the CBSG program.
- (3) The remaining five percent of the funds to make grants in Federal Fiscal Year 1989 and in each subsequent federal fiscal year to those limited purpose agencies as defined in Rule .0104 of this Section and which are re-certified as eligible agencies each fiscal year by the division. The division shall allot to each eligible Limited Purpose Agency an amount of funds based on the percentage of the total CSBG funds the eligible agency received of those funds reserved for the limited purpose agencies and the North Carolina Commission of Indian Affairs in federal fiscal year 1986.
 - (b) Beginning with federal fiscal year 1988 and effective for all subsequent fiscal years, eligible agencies will not be allowed to carry forward unearned funds at the end of a grant agreement to the succeeding grant agreement. All unobligated funds must be returned to the division within 60 days after the termination of the grant agreement.
 - (c) Supplemental CSBG Grants. The preceding paragraphs of this Rule do not apply to the allocation of supplemental CSBG grants to North Carolina. Such allocations to eligible applicants for eligible activities will be made by the division in a manner not inconsistent with federal guidelines and conditions on supplemental appropriations. The division has the flexibility to determine the number of grants awarded and the manner in which grantee(s) are selected based upon the amount of the allocation and the intent of the applicable legislation and regulations.

Statutory Authority G.S. 143-323(d); 143B-10; 143B-227; 143B-276; 42 U.S.C. 9901-12.

TITLE 25 - OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-12 that the Office of State Personnel intends to adopt rule(s) cited as 25 NCAC 1D .2101 - .2104; amend rule(s) cited as 25 NCAC 1D .0105, .0202, .0205, .0210, .0301, .0302, .1003, .1005, .1202, .1203, .1204; 25 NCAC 1E .0203, .0210, .0301; 25 NCAC 1J .0406, .0407, .0408; 25 NCAC 1L .0002, .0003, .0004; and repeal rule(s) cited as 25 NCAC 1D .0206.

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

The public hearing will be conducted at 9:00 a.m. on December 15, 1988 at Personnel Development Training Center, 101 W. Peace Street, Raleigh, North Carolina 27611.

Comment Procedures: Interested persons may present statements orally or in writing at the hearing or in writing prior to the hearing by mail addressed to: Drake Maynard, Office of State Personnel, 116 W. Jones Street, Raleigh, North Carolina 27611.

CHAPTER 1 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 1D - COMPENSATION

SECTION .0100 - ADMINISTRATION OF THE PAY PLAN

.0105 PAY STATUS

An employee is in pay status when working, when on paid leave, when exhausting vacation or sick leave, or when on workers' compensation leave. (Note: Lump sum payment of vacation leave upon separation is not paid leave status). An employee is not in pay status after the last day of work when separated because of resignation, dismissal, death, service retirement, and reduction-in-force.

Statutory Authority G.S. 126-4.

SECTION .0200 - NEW APPOINTMENTS

.0202 HIRING RATE

(a) The hiring rate of pay for a class, or trainee rate where applicable, shall normally be paid a qualified new employee.

(b) It is intended that agencies make as few appointments above the hiring rate as possible. Rates above this may be requested when:

- (1) A tight labor market exists and recruitment efforts have not produced qualified applicants; or
- (2) The applicant possesses exceptional qualifications above the minimum requirements of the class specification, and operational needs exist which justify filling the position at the salary above the minimum of the range. The additional experience and training must be in the same or closely related area to that stated as acceptable in the class specification.

Appointments above the hiring rate are to be avoided if salary inequities would be created. This should be considered very carefully in order to avoid present or future inequities. Forms PD-105 requesting appointments at rates above the hiring rate must include a statement of reasons and justification for such rates. If conditions justify appointment above the hiring rate, the agency may elect to use the hiring rate for initial appointment with the option to increase the salary to a rate above step one upon successful completion of the probationary period.

(c) When an employee is given permanent status after successful completion of either the probationary period or the trainee period, the employee's salary shall be increased to step one of the range (unless appointment was made at or above this level). The effective date for change to permanent status must be the first day of a ~~month, or first day of a pay period. if different.~~ If the employee is in pay status for at least half of the workdays and holidays in the pay period are worked, credit will be given for the full pay period.

Statutory Authority G.S. 126-4.

.0205 DATE TO BEGIN WORK

A new employee may begin work on any scheduled workday in ~~the month.~~ a pay period. When the first day of a ~~month pay period~~ falls on a non-workday and the employee begins work on the first workday of a month pay period the date to begin work will be shown as the first of the ~~month.~~ pay period. ~~In some types of employment, the workdays differ from the normal Monday through Friday workweek. In these cases, the entrance on duty date will be the day he actually begins work.~~

Statutory Authority G.S. 126-4.

.0206 PERFORMANCE INCREASE

ANNIVERSITY DATE (REPEALED)

Statutory Authority G.S. 126-4.

.0210 TRAINEE SALARY ADJUSTMENTS

(a) During a trainee appointment, an evaluation of the individual's performance and progress on the job is to be made at frequent intervals. As a general guide, salary increases are provided at specified intervals. These increases are not automatic and are not necessarily limited to the full elapse of specified intervals. Salary adjustments may be either advanced or delayed depending upon the progress of the employee. In cases where salary adjustments have been advanced, normally the trainee's salary will not be adjusted to step one of the range for the regular classification until the employee meets all education and experience requirements for the appointment; the salary can be moved to the regular class rate only when job performance demonstrates achievement of duties, knowledges, and skills at the level of the class as verified by individual job audit. Adjustments are to be given upon recommendation by the appointing authority and the supervisor that the employee has earned an increase.

~~(b) Performance increase anniversary dates are not established until the individual has completed the training period and is placed in the regular classification.~~

Statutory Authority G.S. 126-4.

SECTION .0300 - PROMOTION

.0301 DEFINITION AND POLICY

Promotion is a change in status upward, documented according to customary professional procedure and approved by the State Personnel Director, resulting from assignment to a position of higher level. When it is practical and feasible, a vacancy should be filled from among the eligible permanent employees; a vacancy must be filled by an applying employee if required by 25 NCAC, Subchapter 1H, Recruitment and Selection, Section .0600, General Provisions, Rule .0625, Promotion Priority Consideration for Current Employees. ~~Selection should be based upon demonstrated capacity, quality and length of service.~~

Statutory Authority G.S. 126-4; 126-7.1.

.0302 SALARY RATE

The purpose of a promotional pay increase is to reward the employee for the assumption of duties more responsible and more difficult than those in the current position. ~~The primary factor determining the amount of increase is the relative~~

difference in difficulty and responsibility between the present and new positions. Since promotional increases result in permanent change to basic salary, a promotional increase of more than two steps cannot be justified as an offset to temporary costs of promotion, such as relocation expenses. Subject to the availability of funds, the following will apply:

(1) Permanent Promotion:

(a) The salary shall be increased to step one or by one step whichever is larger, but not to exceed the maximum of the new, higher range. shall not be exceeded. Exceptions:

(i) When internal salary equity considerations in the receiving work unit or agency are necessary, or a specific salary rate is published in advance of a promotional offer;

(ii) When an employee is demoted with no change in salary and subsequently promoted back to the same level within one year, the salary shall remain unchanged and treated as if the demotion had not occurred;

(iii) If the employee's salary is above the maximum as a result of reallocation down, no increase can be given but the salary may remain above the maximum.

(b) ~~(i)~~ If a probationary employee is promoted and the salary is at the hiring rate, the salary must be increased to the hiring rate of the grade to which promoted until the employee is eligible for permanent appointment.

(c) ~~(ii)~~ If the employee is to receive a performance salary increase on the same date as the promotion, the increase may be given before the promotional increase.

(d) ~~(b)~~ The salary may be increased by one and one-half steps or two steps. The salary may be increase by more than one step, not to exceed the number of salary grades provided by the promotion. The nature and magnitude of the change in jobs, the need to maintain equity of salaries within the work unit, and other management needs must be given consideration when making such requests. Only in extreme, well-documented circumstances will salary increases be considered which equate to more steps than the number of grades provided by the promotion. Personnel forms must include the justification.

(e) If the agency finds it necessary and equitable to consider a larger increase for a promotion involving a three or more grade level change, a salary increase of

more than two steps may be requested. Some factors to be considered are: nature and magnitude of the change in jobs; available applicants; special or technical expertise required; and previous training and experience. Such requests may be made provided:

(i) The agency head accepts accountability for the decision of the amount to grant and will provide written documentation giving reasons and justification for the requests.

(ii) Salary inequities are not created within the work unit or program.

(e) Since promotional increases result in permanent change to basic salary, a larger promotional increase cannot be justified as an offset to temporary cost of promotion, such as relocation expenses.

(2) Temporary Promotion:

(a) Temporary promotions may be made when an employee is placed in an "acting" capacity for a period of time.

(b) When an employee is placed in an "acting" capacity, at the discretion of management, one of the following may occur:

(i) The employee may be placed in the higher level position (if vacant) with an understanding that he/she will return to the former position and salary when the position is filled.

(ii) A salary adjustment may be given in the present position with the understanding that the salary will be decreased when the "acting" capacity terminates.

(c) The provisions for salary increases for permanent promotions apply in either case.

(d) The length of time that an employee is in an "acting" capacity should be limited, and the amount of promotional salary increase determined by the degree of assumption of the higher level duties.

Statutory Authority G.S. 126-4.

SECTION .1000 - REINSTATEMENT

.1003 BREAK IN SERVICE

A break in service occurs when an employee is in non-pay status for more than 31 calendar days because of resignation, dismissal, retirement or reduction in force. (An employee is in pay status when working, when on paid leave or when on workers' compensation leave. An employee is not in pay status after the last day of work when separated because of resignation, dismissal, death,

retirement and reduction in force.) Periods of leave without pay do not constitute a break in service.

Statutory Authority G.S. 126-4.

.1005 EFFECTIVE DATE

(a) A reinstatement may be made effective on any scheduled workday in the ~~month~~ pay period. When the first day of a ~~month~~ pay period falls on a non-workday and the employee begins work on the first workday of a month, the date to begin work will be shown as the first day of the ~~month~~ pay period. However, if the position requires work on such days, the date will be the day the employee actually begins work.

(b) ~~If an employee is reinstated before the date through which vacation leave was paid, the payment for unused vacation leave shall not be considered as dual compensation.~~

Statutory Authority G.S. 126-4.

SECTION .1200 - LONGEVITY PAY

.1202 TIME AND METHOD OF PAY

(a) Longevity pay is automatic; payment shall be made when all eligibility requirements are met as specified below.

(b) Longevity payment shall be made in a lump sum.

(c) Payment shall be made during the same monthly pay period or by the second bi-weekly pay period following the date the employee is eligible to receive longevity pay. This includes employees on worker's compensation leave.

(d) If an employee retires, resigns or is otherwise separated or dies on or after the date of eligibility for a longevity payment, the payment shall be made to the employee or to the estate if deceased.

(e) If an employee who has at least 10 years of aggregate service retires, resigns or is otherwise separated or dies before a date on which eligible for the longevity payment, a longevity payment computed on a pro rata basis shall be paid if all other eligibility requirements are met. The payment shall be made to the employee or to the estate if deceased.

(f) If an employee transfers between state agencies any time during the month or at the end of the month in which eligibility requirements are met, the receiving agency shall make the longevity payment based on the salary in effect on the eligibility date.

(g) If an eligible employee goes on extended military leave without pay, a longevity payment computed on a prorata basis shall be paid the

same as if the employee is separating. The balance will be paid when the employee returns and completes a full year. Then, a full payment will be made on the employee's longevity date that was established before going on leave without pay. (Example: Received longevity on 6-1-85 on 11 years; extended military leave without pay on 9-1-85 (pay 3/12 longevity on 12 years); reinstated on 12-1-86; pay 9/12 longevity effective 9-1-87 on 13 years (has 13 years 3 months aggregate service); pay full longevity effective 6-1-88 on 14 years.

Statutory Authority G.S. 126-4.

.1203 AMOUNT OF LONGEVITY PAY

(a) Annual longevity pay amounts are based on the length of aggregate state service and a percentage of the employee's annual rate of base pay on the date of eligibility. Longevity pay amounts are computed by multiplying the employee's base pay rate by the appropriate percentage from the following table. (Salary increases effective on the longevity eligibility date shall be incorporated in the base pay before computing longevity.)

Years of Aggregate State Service	Longevity Pay Rate
10 but less than 15 years	1.50 percent
15 but less than 20 years	2.25 percent
20 but less than 25 years	3.25 percent
25 or more years	4.50 percent

(b) For an otherwise eligible employee who separates before the date of annual eligibility, or goes on extended military leave without pay a pro rated longevity payment will be made. The longevity pay amount shall be computed on the salary as of the last day worked; then it is prorated by an amount equal to the proportion of the year worked toward the annual eligibility date. The employee will receive 1/12 of the annual amount for each month worked toward the next longevity payment. For example, if an employee received longevity on January 1 and separates on July 31, 7/12 of the full longevity payment would be paid. The payment should be made to the nearest cent rather than the nearest dollar.

(c) The only exception to the above is if an employee has a fraction of a year toward the next higher percentage rate, the payment would be based on the higher rate. For example, if an employee has 19 years and 3 months service, the payment would be 3.25 percent rather than 2.25 percent.

Statutory Authority G.S. 126-4.

.1204 ELIGIBILITY REQUIREMENTS

(a) An employee shall have at least 10 years of aggregate qualifying service before being eligible for any longevity payments.

(b) The employee must have a full-time permanent appointment.

(c) An employee's earliest possible date of eligibility for a longevity payment is the date when 10 years of aggregate state service has been completed. If on the effective date of this policy an employee has completed the qualifying length of service but is somewhere between eligibility dates, longevity payment will not be made until the next longevity anniversary date. In succeeding years a longevity payment will be made annually in the pay period in which the employee's longevity anniversary date falls. Periods of leave without pay in excess of one-half the workdays in a month (with the exception of military leave and worker's compensation leave) will delay the longevity anniversary date. ~~on a month-for-month basis.~~

(d) Credit for the aggregate service requirement shall not be given for temporary full-time or temporary part-time employment and periods of leave without pay in excess of one-half the workdays and holidays in a ~~month~~ pay period, with the exception of military leave and worker's compensation leave.

(e) Upon change of appointment to temporary, part-time or exempt, (except as provided by statute), the employee is ineligible for continued longevity pay; hence, if the employee has worked part but not all of one year since the last annual longevity payment, a pro rata payment shall be made as if the employee were separating from state service provided the change is not of a temporary nature. If an employee goes on leave without pay, longevity ~~would~~ shall not be paid until the employee returns and completes the full year. If, however, the employee should resign while on leave without pay, then the pro rata amount for which the employee is eligible is paid.

Exceptions:

- (1) An employee going on leave without pay due to short-term disability may be paid the prorata amount for which the employee is eligible;
- (2) An employee going on extended military leave without pay shall be paid the prorata amount for which eligible; and
- (3) An employee on workers' compensation leave shall be paid longevity as if working.

(f) Partial Payments:

- (1) If an employee separates from a state agency and receives a partial longevity payment and is reinstated in another state agency, the balance of the longevity pay-

ment shall be made upon completion of additional service totaling 12 months since the last full longevity payment. The balance due is computed on the annual salary being paid at the completion of the 12 months.

- (2) If an employee comes to work in a position that is subject to the Personnel Act from a system (such as judicial, county, public schools, etc.) that has a longevity policy which allows partial payments, it is the responsibility of the receiving state agency to verify that such payment was or was not made. Then the state agency would pay the remainder of the payment when the employee is eligible.

(g) Aggregate service is the time for full-time or part-time (half-time or over) permanent, trainee, probationary or provisional employment, whether subject to or exempt from the State Personnel Act. If a permanent full-time employee is in pay status ~~(working, exhausting vacation or sick leave, or when on Workers' Compensation Leave)~~ or is on authorized military leave for one-half ~~or more~~ of the regularly scheduled workdays and holidays in a ~~month~~ pay period, credit shall be given for the entire ~~month~~ pay period. Permanent part-time employment is credited as aggregate service on a pro rata basis - it is computed as a percentage of the amount the employee would be credited if permanent full-time.

Credit shall also be given for:

- (1) Employment with other governmental units which are now state agencies (Examples: county highway maintenance forces, War Manpower Commission, Judicial System).
- (2) Authorized military leave from any of the governmental units for which service credit is granted provided the employee is reinstated within the time limits outlined in the state military leave policies.
- (3) Employment with the county Agricultural Extension Service; Community College System and the public school system of North Carolina, with the provision that a school year is equivalent to one full year (credit for a partial year is given on a month for month basis for the actual months worked).
- (4) Employment with a local Mental Health, Public Health, Social Services or Emergency Management agency in North Carolina if such employment is subject to the State Personnel Act.
- (5) Employment with the General Assembly (except for participants in the Legislative

Intern Program and pages). All of the time, both permanent and temporary, of the employees will be counted; and the full legislative terms of the members.

Statutory Authority G.S. 126-4.

SECTION .2100 - SPECIAL SALARY ADJUSTMENTS

.2101 DEFINITION AND POLICY

Special salary adjustments are within grade pay increases not covered by policies for promotion, reallocation, salary range revision and authorized hiring rates. The intent of this provision is to provide necessary solutions to critical and unusual pay administration problems. A special salary adjustment may be appropriate in cases of key employee retention problems related to critical and unusual labor market conditions or for solving the most serious salary equity problems. Salary adjustments shall not be granted to reward performance except as it related to these two issues.

Statutory Authority G.S. 126-4.

.2102 APPLICABILITY

Recommended adjustments under this provision are subject to the availability of salary reserve funds and are subject to approval of the State Personnel Director and the Director of State Budget and Management. Special salary adjustments are not permissible where the intent or result would violate or circumvent the provisions of other pay administration policies or any provision of law in effect at the time. Agency management and university management are responsible for maintaining internal equity among their employees and for assuring that special salary adjustments do create other inequities.

Statutory Authority G.S. 126-4.

.2103 JUSTIFICATION

Justification must accompany requests for special salary adjustments, including specific outside salary offers in cases of retention, or specific information on salary relationships in cases of correcting salary inequities.

Statutory Authority G.S. 126-4.

.2104 RESPONSIBILITY OF THE STATE PERSONNEL DIRECTOR

The State Personnel Director shall be responsible for identifying and recommending steps to correct salary inequities within occupational cat-

egories; for development and implementation of guidelines for managers and personnel officers in the proper procedures for avoidance of inequities and the proper use of policy options for the correction of inequities; and for communication verified salary inequities to the attention of agencies, departments or universities for appropriate corrective action.

Statutory Authority G.S. 126-4.

SUBCHAPTER 1E - EMPLOYEE BENEFITS

SECTION .0200 - ANNUAL LEAVE

.0203 LEAVE CREDITS

(a) Vacation leave credits shall be provided for a full-time or part-time (half-time or more) permanent, trainee, or probationary employee who is ~~working or on paid leave in pay status~~ for one-half of the regularly scheduled workdays and holidays in a month pay period. The rate is based on length of total State service. Leave for part-time employees shall be computed as a percentage of total amount provided to a full-time employee.

(c) Total State Service Defined. Total state service is the time of full-time or part-time (half-time or over) permanent, trainee, probationary or provisional employment, whether subject to or exempt from the State Personnel Act. If an employee so appointed is in pay status ~~(working, exhausting vacation or sick leave, or drawing workers' compensation)~~ or is on authorized military leave for one-half ~~or more~~ of the regularly scheduled workdays and holidays in a month pay period, credit shall be given for the entire ~~month pay period~~. ~~Permanent part-time employees are credited with total state service on a month to month basis the same as permanent full-time employees.~~ They will receive a full ~~month of credit for each month pay period they work over half work are in pay status for one half or more of their scheduled workdays and holidays.~~

Statutory Authority G.S. 126-4; 126-8.

.0210 SEPARATION: PAYMENT OF VACATION LEAVE

(a) Lump sum payment for leave is made only at the time of separation. An employee shall be paid in a lump sum for accumulated leave not to exceed a maximum of 240 hours when separated from state service due to resignation, dismissal, reduction-in-force, death or service retirement. ~~For monthly pay rolls, if the last day of terminal leave falls on the last work day in the month, pay shall be made for the remaining non-workdays in~~

~~that month. Employees retiring on disability retirement may exhaust leave rather than be paid in a lump sum. An employee is not entitled to any scheduled holiday occurring after the last day of work. The employee ceases to accumulate leave and ceases to be entitled to take sick leave. The last day of work is the date of separation.~~

(b) If an employee separates and is overdrawn on leave, it will be necessary to make deductions from the final salary check. It will be deducted in full hour units, i.e., a full hour for any part of an hour overdrawn.

(c) Payment for leave may be made on the regular payroll or on a supplemental payroll, reflecting the number of days of leave and the amount of payment. Leave may be paid through the last full hour of unused leave. This will be charged to the budget subhead under which the employee's position was charged. A separate check must be issued for any part of any travel due.

(d) Retirement deduction shall be made from all ~~terminal~~ leave payments.

(e) Receipt of lump sum leave payment and retirement benefit shall not be considered as dual compensation.

(f) In the case of a deceased employee, payment for unpaid salary, ~~terminal~~ leave, and travel must be made, upon establishment of a valid claim, to the deceased employee's administrator or executor. In the absence of an administrator or executor, payment must be made to the Clerk of Superior Court of the county of the deceased employee's residence, in accordance with the provisions of G.S. 28A-25-6.

~~(g) An employee ceases to accumulate leave and time toward salary increases and ceases to be entitled to take sick leave during the period of terminal leave. The employee will not be charged leave for any holidays occurring during that period. The last day of work is the date of separation, except that when an employee exhausts sick and vacation leave before disability retirement the date separated will be the ending date of vacation leave. In the latter case the employee continues to accumulate leave during the period of exhausting leave.~~

Statutory Authority G.S.126-4; 128A-25.6.

SECTION .0300 - SICK LEAVE

.0301 SICK LEAVE CREDITS

(a) Sick leave credits at the rate of 8 hours per month or 96 hours per year shall be provided for a full-time or part-time (half-time or more) permanent, trainee or probationary employee who is ~~working or on~~ paid leave in pay status for

one-half ~~or more~~ of the regularly scheduled workdays and holidays in ~~any month.~~ pay period.

(b) Leave for part-time employees shall be computed as a percentage of total amount provided to a full-time employee.

Statutory Authority G.S. 126-4; 126-8.

SUBCHAPTER 1J - EMPLOYEE RELATIONS

SECTION .0400 - SERVICE AWARDS PROGRAM

.0406 ELIGIBILITY REQUIREMENTS

(a) Awards will be presented on the basis of an employee's aggregate service.

(b) Aggregate service is the time for full-time or part-time (half-time or over) permanent, trainee, probationary or provisional employment, whether subject to or exempt from the State Personnel Act. If an employee is in pay status ~~(working, exhausting vacation or sick leave, or drawing workers' compensation)~~ or is on authorized military leave for one-half ~~or more~~ of the regularly scheduled workdays and holidays in a ~~month,~~ pay period, credit shall be given for the entire ~~month,~~ pay period. Permanent part-time employment is credited as aggregate service on a pro rata basis - it is computed as a percentage of the amount the employee would be credited if permanent full-time.

Statutory Authority G.S. 126-4.

.0407 ADDITIONAL CREDIT

Credit for the aggregate service requirement also shall be given for the following:

- (1) employment with other governmental units which are now state agencies (example: county highway maintenance forces, War Manpower Commission, judicial system);
- (2) authorized military leave from any of the governmental units for which service credit is granted, provided the employee returns within the time limits outlined in the state military leave policies;
- (3) employment with the county agricultural extension service, community college system and the public school system of North Carolina, with the provision that a school year is equivalent to one full year;
- (4) employment with a local mental health, public health, social services, or civil defense agency in North Carolina if such employment is subject to the State Personnel Act;
- (5) employment with the General Assembly (except for legislators, participants in the Legislative Intern Program and pages).

Statutory Authority G.S. 126-4.

.0408 PART-TIME EMPLOYMENT

Credit for the aggregate service requirement shall be given for permanent part-time service (one-half time or more) on a prorated basis. Credit for the aggregate service requirement shall not be given for temporary part-time employment and periods of break-in service or leave without pay in excess of one-half the workdays and holidays in a month pay period. (Exception: military leave and workmen's compensation) Service in one or more state agencies counts toward total number of years service for this program.

Statutory Authority G.S. 126-4.

SUBCHAPTER II - AFFIRMATIVE ACTION

.0002 POLICY

(a) It is the official policy of the State of North Carolina to provide all current employees and applicants for state employment with equal employment opportunities, without discrimination on the basis of race, color, religion, national origin, sex, age, or handicapping condition.

(b) The commitment to equal career opportunity shall be undertaken through a continuing program of affirmative action in order to:

- (1) assure that all personnel policies and practices relevant to total employment in state government will guarantee and preserve equal employment opportunities for all persons of the state;
- (2) assure more equitable representation of women, minorities, and handicapped persons throughout all aspects of the state's workforce.

The policies and programs which support equal employment opportunity must be complied with fully by every state agency (as defined by G.S. 143B-3 and G.S. 150B-2), department and university. Measures shall be taken to ensure a work environment supportive of equal opportunity.

Statutory Authority G.S. 126-4(10); 126-16; 143B-3; 150B-2.

**.0003 PROGRAM IMPLEMENTATION:
STATE LEVEL**

(b) ~~The Office of State Personnel shall provide technical assistance to each department of state government.~~ The State Personnel Director through the Equal Opportunity Services Division is responsible for assisting the state's agencies,

departments and universities in achieving equal employment opportunity objectives through:

- (1) establishing policies, guidelines and programs with the Personnel Commission's approval;
- (2) evaluation and monitoring program effectiveness;
- (3) providing technical assistance and training;
- (4) providing instruction for managers and supervisors on management practices which support equal employment opportunity;
- (5) identify and recommending steps to correct salary inequities among minorities, female and white male employees within occupational categories. Salary inequities found to exist will be called to the attention of the involved agency, department or university, for appropriate corrective action.

Statutory Authority G.S. 126-4(10); 126-16.

**.0004 PROGRAM IMPLEMENTATION:
DEPARTMENT LEVEL**

(a) Each department head of state government shall develop and implement a departmental affirmative action program designed to solve problems in those areas that adversely affect minorities, women and handicapped persons.

(b) Each department and university shall present a plan for this affirmative action program to the Office of State Personnel for review, technical assistance and approval by the Director of State Personnel.

(c) Each department's and university's affirmative action plan shall meet all requirements of the administrative EEO/AA Planning and Resources Guide and shall include but not be limited to the following elements:

- (1) a workforce analysis designed to examine the number and levels at which it employs minorities, women, and handicapped persons;
- (2) a set of objectives, goals and timetables;
- (3) a recruitment program designed to attract minorities, women and handicapped persons to all levels of employment;
- (4) an interviewing program that includes, for each vacancy, the interviewing of at least three applicants representative of the ethnic, sex and handicapped composition of available applicants;
- (5) a program of promotion and career ladders for present employees;
- (6) a program of training to enhance employee development and advancement opportunities. Such programs shall include a

process to ensure that minorities, women and handicapped persons have adequate representation and participation in internal and external training programs such as Supervisory Training, Public Managers Program, and Educational Assistance Program;

- (7) A program of orientation and training in equal employment opportunity and affirmative action compliance for all managers, supervisors and others authorized to make or recommend personnel actions; A program of orientation and training on management practices which support equal employment opportunity and affirmative action;
- (8) Reduction-in-force procedures are designed to maintain the proportion of protected group members in the departmental or university workforce and preserves gains made in utilizing protected group members;
- (9) An annual internal evaluation system (WPPR) to hold managers to all levels accountable for the progress of the department's and university's affirmative action program;
- (10) an internal reporting system to measure total program effectiveness. An internal reporting system which, from a demographic perspective, summarizes the total program effectiveness;

- (11) A performance appraisal system which emphasizes objective and consistent evaluation of job performance.

(d) Each department head shall assign responsibility and authority for the affirmative action program to a high level official or an equal employment opportunities officer (EEEO). Division heads and appropriate supervisors shall participate in developing the program and shall be responsible for implementing it in the work unit. Each agency, as defined by NCGS 143B-3 and 150B-2, or department employing 800 or more employees and each university shall appoint a full time Equal Employment Opportunity Officer who shall have direct access to the agency, department or university head in the event of or to report violations and shall provide the resources necessary to achieve program objectives. Those agencies or departments with less than 800 employees shall designate a part-time Equal Employment Opportunity Officer who shall have direct access to the agency or department head in the event of or to report violations and shall provide resources necessary to achieve program objectives.

Authority G.S. 126-4(10); 126-16; 143B-3; 150B-2; Executive Order No. 18 (Equal Employment Opportunity).

LIST OF RULES AFFECTED

NORTH CAROLINA ADMINISTRATIVE CODE

EFFECTIVE: November 1, 1988

AGENCY			ACTION TAKEN
<u>DEPARTMENT OF ADMINISTRATION</u>			
1	NCAC	1B .0702	Adopted
		4G .0207	Amended
		.0211	Amended
		.0214	Amended
		.0217 - .0218	Amended
		.0220	Amended
		.0222	Adopted
		.0301	Amended
		.0304	Amended
<u>DEPARTMENT OF AGRICULTURE</u>			
2	NCAC	9L .0102	Amended
		.0201 - .0207	Repealed
		.0302 - .0305	Repealed
		.0307	Repealed
		.0309	Repealed
		.0311 - .0312	Repealed
		.0314 - .0315	Repealed
		.0316 - .0318	Adopted
		.0401	Repealed
		.0402	Amended
		.0403	Repealed
		.0508	Repealed
		.0509	Amended
		.0510 - .0511	Repealed
		.0513 - .0514	Repealed
		.0521	Repealed
		.0524 - .0525	Amended
		.0528	Adopted
		.0901	Amended
		.0902	Repealed
		.0904 - .0920	Repealed
		.1102	Amended
		.1202	Amended
		.1203	Repealed
		.1301	Amended
		.1303	Amended
		.1304	Repealed
		.1401	Amended
		.1403	Repealed
		.1405	Repealed
		.1601	Repealed
		.1701 - .1707	Repealed
		.1901	Amended
		.1903	Repealed
<u>DEPARTMENT OF COMMERCE</u>			
4	NCAC	2R .1502	Amended

LIST OF RULES AFFECTED

DEPARTMENT OF HUMAN RESOURCES

10	NCAC	7C	.0601 - .0603	Temp. Adopted Expires 04-26-89
		8B	.0901 - .0906	Temp. Adopted Expires 04-18-89
		8D	.1205	Amended
		8F	.0111	Temp. Amended Expires 04-12-89
		10G	.0103	Temp. Amended Expires 04-26-89
		14K	.0303	Adopted
		26G	.0402	Amended
		26H	.0102 - .0103	Amended
			.0106	Amended
			.0303	Amended
			.0401	Amended

DEPARTMENT OF INSURANCE

11	NCAC	5B	.0101 - .0103	Adopted
			.0201 - .0202	Adopted
			.0301 - .0303	Adopted
			.0401 - .0402	Adopted
			.0501 - .0502	Adopted
		6B	.0101 - .0105	Adopted
			.0201 - .0205	Adopted
			.0301 - .0304	Adopted
			.0401 - .0403	Adopted

DEPARTMENT OF JUSTICE

12	NCAC	11	.0301	Amended
			.0306	Amended

DEPARTMENT OF LABOR

13	NCAC	12	.0101	Amended
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DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

14A	NCAC	1A	.0002	Amended
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DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

15	NCAC	7H	.0104	Amended
			.0304	Amended
		10B	.0115	Amended
		10F	.0355	Adopted

DEPARTMENT OF REVENUE

17	NCAC	6B	.0301 - .0310	Amended
			.0312 - .0319	Amended
			.0320 - .0321	Adopted
			.0408	Amended
			.0602 - .0603	Amended
			.1750	Amended
			.2704	Amended
			.2803	Amended

LIST OF RULES AFFECTED

		.3007	Amended
		.3525	Amended
		.3802 - .3803	Amended
6C		.0110	Amended

SECRETARY OF STATE

18	NCAC	1	.0103	Amended
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DEPARTMENT OF TRANSPORTATION

19A	NCAC	2E	.0203	Amended
		3D	.0515	Amended
			.0801	Amended
			.0904	Amended

DEPARTMENT OF STATE TREASURER

20	NCAC	8	.0101 - .0102	Amended
			.0106 - .0107	Repealed
			.0108	Amended
			.0201	Repealed
			.0202 - .0205	Amended
			.0206	Adopted
			.0301 - .0302	Amended
			.0401 - .0403	Amended
			.0501	Amended

BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

21	NCAC	18B	.0401	Adopted
			.1001	Adopted

BOARD OF NURSING

21	NCAC	36	.0217	Amended
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OFFICE OF STATE PERSONNEL

25	NCAC	1A	.0001 - .0002	Repealed
		1B	.0101 - .0103	Repealed
			.0105 - .0106	Repealed
			.0202	Repealed
			.0209 - .0212	Repealed
			.0304	Repealed
			.0403 - .0411	Repealed
		1C	.0101	Repealed
			.0103	Repealed
			.0202	Amended
			.0214	Amended
			.0303 - .0305	Amended
			.0306	Repealed
			.0308 - .0309	Repealed
			.0310	Amended
			.0503 - .0504	Amended
			.0509	Amended
		1D	.0202	Amended
			.0502 - .0503	Amended
			.0509 - .0512	Amended
			.0515	Amended

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	.0901	Amended
	.0906	Amended
	.0908	Amended
	.1102 - .1104	Amended
	.1106	Amended
	.1119	Amended
	.1501 - .1502	Amended
	.1504	Amended
1E	.0801	Repealed
1F	.0102	Repealed
	.0501	Repealed
1H	.0601	Repealed
	.0602	Amended
	.0625	Adopted
1I	.0101	Repealed
	.0103 - .0104	Repealed
	.0301	Repealed
	.1404	Repealed
1K	.0101	Repealed
1L	.0004 - .0005	Amended
1M	.0002	Repealed
1N	.0002	Repealed

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1	Administration, Department of
2	Agriculture, Department of
3	Auditor, Department of State
4	Commerce, Department of
5	Corrections, Department of
6	Council of State
7	Cultural Resources, Department of
8	Elections, State Board of
9	Governor, Office of the
10	Human Resources, Department of
11	Insurance, Department of
12	Justice, Department of
13	Labor, Department of
14A	Crime Control and Public Safety, Department of
15	Natural Resources and Community Development, Department of
16	Education, Department of
17	Revenue, Department of
18	Secretary of State, Department of
19A	Transportation, Department of
20	Treasurer, Department of State
*21	Occupational Licensing Boards
22	Administrative Procedures
23	Community Colleges, Department of
24	Housing Finance Agency
25	State Personnel, Office of
26	Administrative Hearings, Office of

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

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2	Architecture, Board of
4	Auctioneers, Commission for
6	Barber Examiners, Board of
8	Certified Public Accountant Examiners, Board of
10	Chiropractic Examiners, Board of
12	Contractors, Licensing Board for
14	Cosmetic Art Examiners, Board of
16	Dental Examiners, Board of
18	Electrical Contractors, Board of Examiners of
20	Foresters, Board of Registration for
21	Geologists, Board of
22	Hearing Aid Dealers and Fitters Board
26	Landscape Architects, Licensing Board of
28	Landscape Contractors, Registration Board of
31	Marital & Family Therapy Certification Board
32	Medical Examiners, Board of
33	Midwifery Joint Committee
34	Mortuary Science, Board of
36	Nursing, Board of
37	Nursing Home Administrators, Board of
38	Occupational Therapists, Board of
40	Opticians, Board of
42	Optometry, Board of Examiners in

44	Osteopathic Examination and Registration, Board of
46	Pharmacy, Board of
48	Physical Therapy, Examining Committee of
50	Plumbing and Heating Contractors, Board of
52	Podiatry Examiners, Board of
53	Practicing Counselors, Board of
54	Practicing Psychologists, Board of
56	Professional Engineers and Land Surveyors, Board of
58	Real Estate Commission
60	Refrigeration Examiners, Board of
62	Sanitarian Examiners, Board of
63	Social Work, Certification Board for
64	Speech and Language Pathologists and Audiologists, Board of Examiners of
66	Veterinary Medical Board

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- AG - Attorney General's Opinions
- C - Correction
- E - Errata
- EO - Executive Order
- FDL - Final Decision Letters
- FR - Final Rule
- GS - General Statute
- JO - Judicial Orders or Decision
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