

The **NORTH CAROLINA REGISTER**

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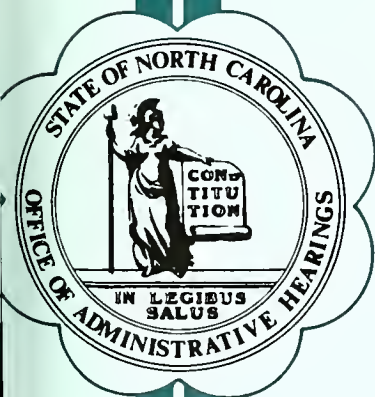
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ISSUE DATE: DECEMBER 1, 1989

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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 one hundred and five dollars (\$105.00) 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 1 page 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 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.

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
(January 1989 - May 1990)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
12/01/89	11/07/89	11/15/89	12/31/89	04/01/90
12/15/89	11/22/89	12/01/89	01/14/90	04/01/90
01/02/90	12/07/89	12/14/89	02/01/90	05/01/90
01/16/90	12/20/89	12/29/89	02/15/90	05/01/90
02/01/90	01/10/90	01/18/90	03/03/90	06/01/90
02/15/90	01/25/90	02/01/90	03/17/90	06/01/90
03/01/90	02/08/90	02/15/90	03/31/90	07/01/90
03/15/90	02/22/90	03/01/90	04/14/90	07/01/90
04/02/90	03/12/90	03/19/90	05/02/90	08/01/90
04/16/90	03/23/90	03/30/90	05/16/90	08/01/90
05/01/90	04/09/90	04/17/90	05/31/90	09/01/90
05/15/90	04/24/90	05/01/90	06/14/90	09/01/90

* 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.

EXECUTIVE ORDER NUMBER 98

HURRICANE HUGO RELIEF

WHEREAS, I have proclaimed that a State of disaster exists in certain areas of North Carolina due to the effects of Hurricane Hugo; and

WHEREAS, a State of emergency has been declared in the State of South Carolina and the Governor of South Carolina has requested that the State of North Carolina temporarily waive weight restrictions on the gross weight of trucks transporting trees and by-products from the disaster caused by Hurricane Hugo and weight and license requirements thereon; and

WHEREAS, pursuant to Chapter 166A, the North Carolina Emergency Management Act, and by the authority vested in me as Governor of the State of North Carolina by the Constitution and laws of this State, and with the concurrence of the Council of State; and

WHEREAS, for the purpose of relieving human suffering caused by Hurricane Hugo it is ORDERED;

Section 1: That for a period of time beginning immediately until 4 December 1989 the State of North Carolina under the supervision and direction of the Department of Transportation and Division of Motor Vehicles will waive weight restrictions on the gross weight of vehicles transporting trees and by-products coming out of the

State of South Carolina subject to the following conditions:

- (1) Vehicle weight will not exceed the maximum gross vehicle weight criteria established by the manufacturer.
- (2) The vehicles will be allowed only on primary and interstate routes to be designated by the Department of Transportation.
- (3) The vehicles will, upon entering the State of North Carolina stop at the first available vehicle weight station and produce identification sufficient to establish that the load contained thereon is part of the Hurricane Hugo relief effort.

Section 2: The vehicle described above will be exempt from the vehicle licensing and tax requirements of N.C.G.S. 105, Subchapter 5, Article 36B.

Section 3: The North Carolina Department of Transportation shall enforce the conditions set forth in Section 1 and Section 2 in a manner in which would best accomplish the implementation of this rule without endangering the motorists on North Carolina highways.

This Order is effective immediately and shall remain in effect until December 4, 1989.

This the 3rd day of November 1989.

**TITLE 1 - DEPARTMENT OF
ADMINISTRATION**

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Administration intends to amend rule(s) cited as 1 NCAC 30A .0301; 1 NCAC 30D .0101 - .0103, .0201 - .0202, .0301 - .0304, .0306; 1 NCAC 30E .0101 - .0103, .0201 - .0202, .0301 - .0302, .0304 - .0306, .0402.

The proposed effective date of this action is April 1, 1990.

The public hearing will be conducted at 1:00 p.m. on January 23, 1990 at Large Conference Room, State Construction Office, Legislative Office Building, Room 403, 300 N. Salisbury Street, Raleigh, North Carolina 27611.

Comment Procedures: Any interested person may present his/her comments either in writing prior to or at the hearing or orally at the hearing. Any person may request information, permission to be heard - or copies of the proposed regulations by writing or calling David McCoy, Department of Administration, 116 West Jones Street, Raleigh, N.C. 27603-8003 (919) 733-6888.

CHAPTER 30 - STATE CONSTRUCTION

**SUBCHAPTER 30A - DIVISION OF STATE
CONSTRUCTION**

**SECTION .0300 -
ARCHITECTURAL/ENGINEERING REVIEW
OFFICE**

.0301 RESPONSIBILITIES

Responsibilities of this office include review of all plans and specifications received from designers or consultants and state agencies for capital improvement projects; consultation and coordination of reviews with other agencies; coordination, communication and assistance with other offices in the division of state construction; and providing consulting assistance to state agencies.

Statutory Authority G.S. 143-135.26; 143-341(3); 143B-10; 143B-370.

**SUBCHAPTER 30D - STATE BUILDING
COMMISSION DESIGNER AND CONSULTANT
SELECTION POLICY**

SECTION .0100 - GENERAL PROVISIONS

.0101 AUTHORITY

The State Building Commission, hereinafter referred to as SBC, is a statutory body, empowered by Public Law to perform a multiplicity of duties with regard to the State's Capital Facilities Development and Management Program. In the specific area of state capital improvement project design selection, the SBC is empowered to adopt rules establishing standard procedures and criteria to assure that the designer selected for each state capital improvement project and the consultant selected for planning and studies of an architectural and engineering nature associated with a capital improvement project or a future capital improvement project has the qualifications and experience necessary for that capital improvement project or the proposed planning or study project. The SBC is responsible and accountable for the final selection of the designer and the final selection of the consultant. The exceptions are The University of North Carolina and the General Assembly which shall be responsible and accountable for the final selection of designers and the final selection of consultants for capital projects in which they are the funded agencies.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0102 POLICY

It is the policy of the SBC to select designers and consultants for capital improvement projects as defined in G.S. 143-135.27, based on criteria contained herein and to make available to every designer and consultant duly licensed to practice in North Carolina, the opportunity to be considered for providing professional services for those departments and agencies under its jurisdiction. The SBC considers that the selection of competent designers and consultants is vital to providing the State of North Carolina with best and most appropriate facilities consistent with authorized funds. These procedures are intended to provide a basis for the fair and uniform selection of designers and consultants. These procedures for defined projects are intended to be consistent with the 1987 N.C. Session Laws 102. Projects not covered by this policy shall also be consistent with the 1987 N.C. Session Laws 102.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0103 DEFINITIONS

For purposes of this Subchapter, the following definitions shall apply:

- (1) "Annual Service Agreement" means an open end agreement for professional services with a designer or consultant, subject to the limitations of this policy, for the provision

- of small miscellaneous and/or urgent design services.
- (2) "Capital Projects Coordinator" means the individual authorized by each funded agency to coordinate all capital improvement projects and related matters with the State Construction Office and to represent that agency on all matters presented to the SBC. The individual so designated for purposes of these Rules may have other titles within his agency but shall carry out the duties assigned herein to the Capital Projects Coordinator. Whenever the Capital Projects Coordinator is referenced herein, it shall be understood to include a designated assistant or representative.
- (3) "Designer" means any individual, firm, partnership, corporation, association or other legal entity permitted by law licensed to practice architecture, engineering, or landscape architecture in the State of North Carolina.
- (4) "Consultant" means any individual, firm, partnership, corporation, association or other legal entity selected for planning and studies of an architectural and engineering nature associated with a capital improvement project. The consultant must be licensed to practice architecture or engineering in the State of North Carolina.
- (5) ~~(4)~~ "Contact person" means the person named in the public advertisement who shall be the Capital Projects Coordinator or his designee.
- (6) ~~(5)~~ "Funded agency" means the department, agency, authority, or office that is named in the legislation appropriating funds for the design and/or construction project.
- (7) ~~(6)~~ "Major projects" means those capital improvement projects whose authorized funding or estimated cost is greater than five hundred thousand dollars (\$500,000.00) or a planning study activity whose authorized funding is greater than fifty thousand dollars (\$50,000.00).
- (8) ~~(7)~~ "Minor projects" means those capital improvement projects whose authorized funding or estimated cost is five hundred thousand dollars (\$500,000.00) or less or a planning or study activity whose authorized funding is fifty thousand dollars (\$50,000.00) or less. Minor projects may also include a grouping of small non-specified or anticipated projects whose aggregate total falls within the minor project cost limitations.
- (9) ~~(8)~~ "Professional services" means those services within the scope of the practice of

architecture, engineering or landscape architecture as defined by the public laws of North Carolina.

- (10) ~~(9)~~ "Using agency" means the sub-division of the funded agency for whose use the project is to be provided. If the funded agency is so subdivided for administrative control, the using agency would be a division, geographically self-contained facility, campus, or similar body, as determined by the administrative head of the funded agency.

Statutory Authority G.S. 143-135.25; 143-135.26.

SECTION .0200 - PROJECT INFORMATION

.0201 PROJECT DESCRIPTION

It shall be the responsibility of each Capital Projects Coordinator to provide the State Construction Office with a written description of the professional services desired, the program or scope of work, schedule requirements, amount of authorized funds and other appropriate information for each project requiring professional services. This information should be provided to the State Construction Office seven days prior to the publication dates of the first and fifteenth of each month for the North Carolina Purchase Directory. The Capital Projects Coordinator is responsible for prompt initiation of the designer or consultant selection process to enable the completion of designer or consultant selection with 60 days of the date ~~of the above notification~~ funds are appropriated for a project by the General Assembly or the date of project authorization by the Director of the Budget. The State Building Commission may grant an exception to this requirement upon written request of the funded agency if:

- (1) no site was selected for the project before the funds were appropriated; or
- (2) funds were appropriated for advance planning only.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0202 PUBLIC ANNOUNCEMENT

Based upon project information furnished by a Capital Projects Coordinator, the State Construction Office shall publish an announcement of the need for professional services, a designated contact person in the using agency and the closing date in the North Carolina Purchase Directory. Public announcement is required prior to designer or consultant selection except in the event of emergency. In the event of an emergency, public announcement is not required and

the procedure outlined in Rule .0302 (4) of this policy will be followed.

On projects, the closing date for being considered for professional services shall not be less than ten days for minor projects and 15 days for major projects nor more than 21 days from date of publication in the Purchase Directory.

A letter of interest for each project must be received by the contact person prior to a designer's being considered for professional services.

Statutory Authority G.S. 143-135.25; 143-135.26.

SECTION .0300 - SELECTION OF DESIGNERS OR CONSULTANTS

.0301 DESIGNER OR CONSULTANT QUALIFICATIONS

All designers or consultants desiring to provide professional services shall file with the State Construction Office a Federal Standard Form 254 by January 1 of each year. Qualifications may be submitted any time during the year; but, during January of each year, all submissions older than 12 months may be destroyed.

In response to a specific project announcement, the designer or consultant may submit a new or updated Standard Form 254 or other information requested by the State Construction Office. Designer or consultant qualifications must be on file or submitted to the State Construction Office prior to being considered by the pre-selection committee.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0302 PRE-SELECTION

A pre-selection committee shall be established for all projects requiring professional service. On minor projects, the pre-selection committee shall consist of at least the Capital Projects Coordinator, a representative of the using agency and one representative from the State Construction Office. On major projects the pre-selection committee shall consist of at least the Capital Projects Coordinator, a representative of the using agency and two representatives from the State Construction Office. At least one member of all pre-selection committees shall be a licensed design professional.

- (1) General Procedure for All Projects: The Capital Projects Coordinator shall review with the using agency the requirements of the project. This step should normally take place prior to public advertisement in the Purchase Directory, because designers and consultants have a significant need to know in advance the program intent of a project in order to demonstrate their qualifications

for the project in their letter of interest. The Capital Projects Coordinator shall receive all letters of interest and other qualification information either directly or from the designated contact person. After a pre-selection priority list is prepared, the list will remain confidential except to the Secretary of the SBC. If fewer than three letters of interest are received on major projects, the project will be readvertised in the Purchase Directory. If fewer than three letters of interest are received following the re-advertisement, the Capital Projects Coordinator may proceed with the selection process using the data received or may advertise again.

- (2) Special Procedures for Minor Projects: The Capital Projects Coordinator shall again review with the using agency the requirements of the project and the qualifications of all firms expressing interest in a specific project. The Capital Projects Coordinator and a representative of the using agency shall meet with the representative from the State Construction Office for the evaluation of each firm and development of a list of three firms in priority order to be presented to the SBC. The Capital Projects Coordinator may institute the interview procedures, under major projects, where special circumstances dictate such need. The Capital Projects Coordinator shall submit to the Secretary of the SBC the list of three firms in priority order, including pre-selection information and written recommendations, to be presented to the SBC. The Capital Projects Coordinator shall state in the submission to the SBC that the established rules for public announcement and pre-selection have been followed or shall state full particulars if exceptions have been taken.
- (3) Special Procedures for Major Projects: The pre-selection committee shall review the requirements of a specific project and the qualification of all firms expressing interest in that project and shall select from that list not more than six nor less than three firms to be interviewed and evaluated. The pre-selection committee shall interview each of the selected firms, evaluate each firm interviewed, and rank in order three firms. The Capital Projects Coordinator shall state in his submission that the established rules for public announcement and pre-selection have been followed or shall state full particulars if exceptions have been taken.
- (4) Special Procedures for Emergency Projects: On occasion, emergency design or consultant services may be required for restoration

or correction of a facility condition which by its nature poses a significant hazard to persons or property, or when an emergency exists. Should this situation occur, in all likelihood there will not be sufficient time to follow the normal procedures described herein. The Capital Projects Coordinator on these rare occasions is authorized to declare an emergency, notify the State Construction Office and then obtain the services of a competent designer or consultant for consultation or design of the corrective action. In all cases, such uses of these emergency powers will involve a written description of the condition and rationale for employing this special authority signed by the head of the agency and presented to the SBC at its next normal meeting. Timeliness for obligation of funds or other non-hazardous or non-emergency situations do not constitute sufficient grounds for invoking this special authority.

- (5) Annual Contract: A Funded Agency or a Using Agency may require the services of designer(s) or consultant(s) for small miscellaneous projects on a routine basis. In such cases, designer(s) or consultant(s) for annual contracts will be selected in accordance with the above procedures for minor projects. In addition, no annual contract fee will exceed fifty thousand dollars (\$50,000.00) in total volume and no single fee shall exceed ten thousand dollars (\$10,000.00).

Statutory Authority G.S. 143-135.25; 143-135.26.

.0303 SELECTING CRITERIA

In selecting the three firms to be presented to the SBC, the pre-selection committee should take into consideration such factors as:

- (1) Specialized or appropriate expertise in the type of project.
- (2) Past performance on similar projects.
- (3) Adequate staff and proposed design or consultant team for the project.
- (4) Current workload and State projects awarded.
- (5) Proposed design approach for the project including design team and consultants.
- (6) Recent experience with project costs and schedules.
- (7) Construction administration capabilities.
- (8) Proximity to and familiarity with the area where project is located.
- (9) Record of successfully completed projects without major legal or technical problems.

- (10) Other factors that may be appropriate for the project.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0304 DESIGNER OR CONSULTANT SELECTION FOR UNC SYSTEM PROJECTS

In selecting designers or consultants for its projects, the UNC system shall comply with the preceding policies and pre-selection procedures, except that pre-selection committees need not include a representative of the State Construction Office. The UNC system shall establish its own procedures for final designer or consultant selection. These procedures shall correspond in form to those established below for other than UNC system projects and shall be filed with and approved by the SBC.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0306 CONTRACT NEGOTIATION

After the three have been notified of the selection action by The University of North Carolina or the SBC, a representative from the State Construction Office, the Capital Projects Coordinator, and a representative from the using agency will discuss with the selected designer or consultant appropriate information about the project, the scope of services to be provided and the state design/review/construction process.

The State Construction Office will request in writing a detailed fee proposal from the selected designer or consultant. The State Construction Office in coordination with the Capital Projects Coordinator and the using agency will attempt to negotiate a fair and equitable fee consistent with the project program and the professional services required for the specific project. In the event a fee cannot be agreed upon, the State Construction Office shall terminate the negotiations and shall repeat the notification and negotiation process with the next ranked firm on the selection list. In the event a fee cannot be agreed upon with the second-ranked designer or consultant, the process will be repeated with the third-ranked designer or consultant. If a fee still cannot be agreed to, the SBC shall review the history of negotiations and make appropriate determinations including program adjustments so as to lead to a negotiated contract with one of the original three firms selected. Such renegotiation with the firms shall be carried out in the original selection order, or call for the Capital Projects Coordinator to submit another list of three firms in priority order to the SBC or to the UNC system. The negotiation process will continue until

a fee has been determined that is agreed to by the State Construction Office, the using agency, and the designer or consultant. Annual contracts are subject to special management procedures described herein. Normally, the initial fee negotiation for this type of work will involve mutual agreement in unit costs for time, materials, and overhead; a final lump sum price for each discrete project will be negotiated in advance as each project is ordered.

Following execution of the contract, the State Construction Office will publish in the North Carolina Purchase Directory the list of three firms selected in priority order, the firm to be contracted with, and the fee negotiated.

Statutory Authority G.S. 143-135.25; 143-135.26.

SUBCHAPTER 30E - STATE BUILDING COMMISSION DESIGNER OR CONSULTANT EVALUATION PROCEDURES

SECTION .0100 - GENERAL PROVISIONS

.0101 AUTHORITY

The State Building Commission, hereinafter referred to as SBC, is a statutory body, empowered by Public Law to perform a multiplicity of duties with regard to the State's Capital Facilities development and management program. In the specific area of state capital improvement project designer and consultant evaluation, the SBC is empowered to develop procedures for accomplishment of such evaluation.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0102 POLICY

It is the policy of the SBC to evaluate designers for capital improvement projects as defined in G.S. 143-135.27 based on criteria contained herein. Further, it is considered of paramount importance that every state capital improvement project receive a professional design which is timely, of highest professional quality, and in keeping with the project scope. It is to this end that individual ~~designer~~ designer's or consultant's performance on state capital improvement projects should be fairly and consistently evaluated and used as a factor in designer or consultant selection for future work.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0103 DEFINITIONS

For purposes of this Subchapter, the following definitions shall apply:

- (1) "Capital Projects Coordinator" means the individual authorized by each funded agency

to coordinate all capital improvement projects and related matters with the State Construction Office and to represent that agency on all matters presented to the SBC. The individual so designated for purposes of these rules may have other titles within the individual's agency but shall carry out the duties assigned herein to the Capital Projects Coordinator. Whenever the Capital Projects Coordinator is referenced herein, it shall be understood to include a designated assistant or representative. Concerning evaluation of designers, or consultants the Capital Projects Coordinator is responsible for the agency's evaluation of each phase of the project as well as the overall ~~designer~~ designer's or consultant's evaluation.

- (2) "Project Designer" means any individual, firm, partnership, corporation, association or other legal entity permitted by law licensed to practice architecture, engineering, or landscape architecture or surveying in the State of North Carolina. The designer or consultant shall be responsible for the performance of all his consultants. Accordingly, the evaluation of the project designer will include evaluation of the work of all consultants who are included in the designer's contract with the funded agency.
- (3) "Consultant" means any individual, firm, partnership, corporation, association or other legal entity selected for planning and studies of an architectural and engineering nature associated with a capital improvement project. The consultant must be licensed to practice architecture or engineering in the State of North Carolina.
- (4) ~~(2)~~ "Funded Agency" means the department, agency, authority or office that is named in the legislation appropriating funds for the design and or construction project.
- (5) ~~(4)~~ "Owner's Representative" is an individual appointed by the using agency to represent the using agency on all user-related matters. The owner is the representative of the using agency as defined in Rule .0103(9) of Subchapter 30D - State Building Commission Designer Selection Procedures.
- (6) ~~(5)~~ "Professional Services" means those services within the scope of the practice of architecture, engineering, landscape architecture or surveying as defined by the public laws of North Carolina.
- (7) ~~(6)~~ "Scope Statement" means a written description of the capital project that is to be designed. Normally the scope statement shall reflect the written project description

as contained in the project cost estimate validated by the State Construction Office.

- (8) ~~(7)~~ "Evaluation Form" is the form to be used for all ~~designer~~ designers' or consultants' evaluations. The form shall be developed and approved by the State Building Commission and is the only approved document for this purpose; it may be reproduced by the agencies as required.

Statutory Authority G.S. 143-64.31; 143-135.25; 143-135.26.

SECTION .0200 - PROJECT INFORMATION

.0201 PROJECT DESCRIPTION

It shall be the responsibility of each Capital Projects Coordinator, for each Capital Improvements project as defined in G.S. 143-135.27 requiring professional services, to provide the State Construction Office with a written description of the professional services desired, the scope of work, schedule requirements, amount of authorized funds and other appropriate information. Particular emphasis will be placed on a determination as to whether the designer's or consultant's services are to include items such as programming, modeling, special presentations or other requirements beyond specific facility design. This requirement data shall be incorporated in the designer's or consultant's professional services contract and will serve as key elements against which the ~~designer~~ designer's or consultant's performance will be evaluated.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0202 DESIGN CONTRACT

It shall be the responsibility of the Office of State Construction to insure that both the Capital Projects Coordinator and the designer or consultant have a clear mutual understanding of design requirements for the project and key elements of these requirements are included in the professional services contract between the agency and the designer or consultant.

Statutory Authority G.S. 143-135.25; 143-135.26.

SECTION .0300 - EVALUATION OF DESIGNERS OR CONSULTANTS

.0301 DESIGN PHASES

Definitions:

- (1) "Pre-Design Phase" is the description of the provision of professional services prior to actual design. If a firm scope of the work is not known, the design agreement may be

written in such a manner as to require project programming assistance by the designer or consultant, followed by agency approval of a designer-proposed project scope, prior to commencement of actual design. In evaluating design or consultant services during this phase, the Capital Projects Coordinator may wish to receive input from the Owner's representative.

- (2) "Design Phase" involves preparation of the actual design. The Capital Projects Coordinator must maintain active involvement during the design process in order to be able to evaluate the designer's or consultant's response to owner requirements, the consistency of owner requirements, external design requirements driven by insurance or environmental considerations, etc., the technical design itself, designer/owner response to review comments, adherence to design schedule, and quality of cost estimate, as well as adherence of the cost estimate to the project budget. In general, the evaluation of this phase is to encompass the efficiency and effectiveness of the designer in adherence to the project scope statement. Included is an evaluation of subconsultants if utilized. The subconsultant performance will also be considered in evaluation of the principal designer. The Capital Projects Coordinator, in preparing the evaluation of the design phase, may wish to receive input from the Owner's representative as well as the State Construction Office.

- (3) "Bidding-Construction Phase" encompasses the process for provision of professional services for bidding, award, and construction of the project. As the job progresses past contract award, the Capital Projects Coordinator must maintain a continuing awareness of designer performance during the period of construction including the shop drawing review process, payment processing, change order management, and field administration including project cost control. The Capital Projects Coordinator or owner's representative should attend the monthly construction progress meetings. The Capital Projects Coordinator must be capable of discerning the degree to which change orders are precipitated by design errors or omissions. The Capital Projects Coordinator must be capable of determining how well the designer provides general administration of the performance of construction contracts, including inspection and continuous liaison of the work to insure compliance with plans and specifications

during the construction process. At the completion of the project, the Capital Projects Coordinator must ensure that the project designer has completed all required close-out actions. The Capital Projects Coordinator will be responsible for preparation of the Bidding-Construction Phase evaluation. Assistance will be sought from the Owner's representative and the State Construction Office in preparation of the evaluation for this phase of the project.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0302 OVERALL JOB PERFORMANCE

The Capital Projects Coordinator shall determine the designer's or consultant's overall performance for the completed project. The overall rating is intended to reflect the effectiveness of the design in achieving the predetermined project scope in a timely, cost effective manner. The evaluation shall encompass the designer's or consultant's management approach to the project including cooperation of the designer's staff, communication with the Capital Projects Coordinator and Owner's representative, timeliness of action, and performance of consultants. The Capital Projects Coordinator shall invite input from the Owner's representative and the State Construction Office. All prime contractors shall be offered the opportunity to provide an assessment of the designer at job completion. The Capital Projects Coordinator shall be responsible for the final overall rating. This summary evaluation shall not necessarily reflect a precise numerical averaging of scores for the Pre-design, Design, and Bidding-Construction phases but will be generally representative of those scores. To be timely and useful, designer evaluation data will be accumulated within 30 days of submission of the final report. Prior to completion of the final designer evaluation, the Capital Projects Coordinator shall submit the proposed evaluation to the designer for comment. Comments received from designers or consultants shall be considered by the Capital Projects Coordinator. At this stage, the Capital Projects Coordinator shall prepare the final designer or consultant evaluation and provide a copy to the designer or consultant. The form approved by the SBC shall be used for this purpose.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0304 INTERIM DESIGNER OR CONSULTANT EVALUATION

The designer or consultant may request preparation of an interim evaluation form by the Ca-

pital Projects Coordinator or the Coordinator may elect to prepare an interim evaluation if so desired. This interim evaluation is intended to reflect performance to date and should be used as a guidance device for correction of performance prior to the final evaluation.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0305 SUBMISSION OF FINAL REPORT

The Capital Projects Coordinator shall submit the completed final evaluation to the Office of State Construction with a copy to the designer or consultant. The designer or consultant shall have the opportunity to comment on the evaluation to the Office of State Construction with a copy to the Capital Projects Coordinator. Such comments on the final evaluation shall become a part of the final evaluation record. It is imperative that the final designer or consultant evaluation be completed and presented to the State Construction Office for all capital projects within 60 days of the final report. If the evaluation is not completed within the prescribed time frame, the State Building Commission may elect to process no further design awards for an agency until the evaluation is complete.

Statutory Authority G.S. 143-135.25; 143-135.26.

.0306 REPORT COMPIlation

The Office of State Construction will be responsible for maintaining designer or consultant evaluation data. The data maintained shall be on an individual job basis and also cumulative by the designer or consultant. Data will be made available on request to individual designer or consultant preselection committees. The data maintained by the State Construction Office will reflect performance history for a period of five years. All evaluation data on completed projects in excess of five years of age will be removed from State Construction Office files and will not be used as a factor in the cumulative evaluation.

Statutory Authority G.S. 143-135.25; 143-135.26.

SECTION .0400 - POST-EVALUATION PROCEDURES

.0402 APPEALS OF ASSIGNED EVALUATIONS

If a design or consultant firm considers that the assigned evaluation is improper and the opportunity to provide rebuttal comments for the record is insufficient to resolve the assigned rating, the designer or consultant may appeal the rating to the Office of State Construction. The State Construction Office will appoint and convene a rating panel of three professional State employees

of which at least one member is a licensed professional architect or engineer to hear the appeal and render a decision. The hearing shall involve at a minimum the Capital Projects Coordinator and the Owner's representative as well as representatives of the designer or consultant who shall appear before the panel and which is open to the public. The State Construction Office hearing panel shall issue a report to the State Building Commission of the hearing and the decision reached. If the Capital Projects Coordinator or designer desires further recourse, the State Construction Office panel decision may be formally appealed to the Office of Administrative Hearings pursuant to N.C.G.S. 150B.

Statutory Authority G.S. 143-135.25; 143-135.26.

TITLE 4 - ECONOMIC AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Milk Commission intends to amend rule(s) cited as 4 NCAC 7 .0501.

The proposed effective date of this action is April 1, 1990.

The public hearing will be conducted at 10:00 a.m. on January 9, 1990 at Room 3137, Dobbs Bldg., 430 N. Salisbury Street, Raleigh, NC 27611.

Comment Procedures: Written comments, data, opinions and arguments concerning the proposed amendments must be submitted by January 9, 1990, to the North Carolina Milk Commission, 430 N. Salisbury Street, Raleigh, NC 27611, Attention: Grady Cooper, Jr., Executive Secretary.

CHAPTER 7 - MILK COMMISSION

SECTION .0500 - MARKETING REGULATIONS

.0501 DEFINITIONS

- (22) "Qualifying Bascholding Producer Milk" means the skim milk and butterfat contained in milk of North Carolina bascholding producers eligible to participate in the North Carolina pool that is:
- (d) diverted from a pool plant to a nonpool plant for the account of the handler de-

scribed in Paragraph (18) of this Rule, subject to the following conditions:

- (i) a bascholding producer's milk shall be eligible for diversion to a nonpool plant during any month in which such producer milk is physically or constructively received at a pool plant as follows:
- (A) in any month of August through February, six days' production; and
- (B) in any month of March through July, two days' production.
- (ii) ~~during each of the any month months of the year, August through November and January and February,~~ the total quantity of milk diverted by a cooperative association shall not exceed one-fourth of the bascholding producer milk that such cooperative caused that month to be delivered to or diverted from pool plants; or
- (iii) a handler described in Paragraph (18) of this Rule that is not a cooperative association may divert for its account any bascholding producer milk that is not under the control of a cooperative association. The total quantity of milk so diverted shall not exceed one-fourth of the milk that is physically or constructively received at or diverted from pool plants as producer milk of such handler during in each any month of the year, August through November and January and February.

- (23) "Non-Qualifying bascholding producer milk" means the skim milk and butterfat contained in the milk of North Carolina bascholding producers that is not eligible to participate in the North Carolina pool for the following reasons:

- (d) Any milk diverted to a non-pool Grade A fluid milk plant shall not be included in the North Carolina pool. For any volume of milk excluded from the North Carolina pool under this provision, a proportionate volume of base shall be deducted by determining the percentage the milk excluded is to the total volume at that stage of calculation and then applying this percentage to the eligible base to determine the amount of base to be deducted. [Similar to computations as outlined in Rules .0511(a) and .0512(a).]

Statutory Authority G. S. 106-266.6; 106-266.8 (3). (7).

Notice is hereby given in accordance with G.S. 150B-12 that the Hazardous Waste Management Commission intends to adopt rule(s) cited as 4 NCAC 18 .0203 and amend rule(s) cited as 4 NCAC 18 .0303.

The proposed effective date of this action is April 1, 1990.

The public hearing will be conducted at

January 3, 1990

7:00 p.m.

N.C. Wesleyan College
Student Activity Center
3400 N. Wesleyan Blvd.
Rocky Mount, NC 27804

January 4, 1990

7:00 p.m.

Richmond Community College Campus
Auditorium
Off Hwy. 74 east of Rockingham
Hamlet, NC 28345

January 9, 1990

7:00 p.m.

Winston-Salem State University
Anderson Center
601 Martin Luther King Jr. Dr.
Winston-Salem, NC 27110

January 10, 1990

7:00 p.m.

Gaston College
Myers Center Auditorium
201 Hwy. 321 South
Dallas, NC 28034

Comment Procedures: Any interested person may present written comments for consideration by the Commission. The hearing record will remain open for receipt of comments from November 7, 1989 through January 11, 1990. Written comments should be received by the Commission by midnight on January 11, 1990 to be considered as part of the hearing record. Comments should be addressed to:

Ms. Cindy Trinks
N.C. Hazardous Waste Management
Commission
430 N. Salisbury St.
Raleigh, NC 27611

Any person may present oral comments at the hearings. Requests to speak should be presented

in writing to Ms. Cindy Trinks at the above address no later than five days before the date of the respective hearing. Additional comments may be allowed by the Commission by sign up at the public hearings as time allows. All presentations will be limited to 5 minutes. A fiscal note covering these rules has been prepared by the Commission and may be obtained by written request addressed to Ms. Trinks at the address above. A draft justification document has been prepared by the Commission in accordance with G.S. 130B-11(b) and may be obtained by written request addressed to Ms. Trinks at the address above.

According to the procedures set out at G.S. 150B-13, these rules were adopted as temporary rules, effective November 7, 1989, with a proposed effective date as permanent rules on April 1, 1990. These rules are amendments to the current temporary rules at 4 NCAC 18 .0100 through .0300 which are proposed to be adopted as permanent rules on March 1, 1990.

CHAPTER 18 - N.C. HAZARDOUS WASTE MANAGEMENT COMMISSION

SECTION .0200 - SITE SELECTION CRITERIA

.0203 SITE LOCATION FACTORS AND CRITERIA

This Subsection sets out rules for excluding sites based upon the factors set out in G.S. 130B-11 which requires the Commission to consider hydrological and geological factors; environmental and public health factors; natural and cultural resources; local land uses; transportation factors; aesthetic factors; availability and reliability of public utilities; and availability of emergency response personnel and equipment in the development of site selection criteria.

- (1) A location shall not be selected to be placed upon the geological formations of Castle Hayne; Shady Dolomite; and Murphy Marble, Andrews Formation and Nottely Quartzite, Undivided; based upon the Geologic Map of North Carolina (printed by the Department of Environment, Health and Natural Resources, 1985 Edition).
- (2) A location shall not be selected to be placed within ten miles from the centerline of the Blue Ridge Parkway.
- (3) A location shall not be selected within five miles of the State boundary.
- (4) A location shall not be selected to be placed within the corporate limits, effective November 7, 1989, of a municipality except on land zoned, as of November 7, 1989, to permit industrial uses. Corporate limits based upon 1988 North Carolina Department of Transportation maps which contain

1987 data submitted by the municipalities or 1990 pre-census maps from the United States Census Bureau, whichever is more current and complete, will be used in the second phase of statewide screening.

- (5) A location shall not be selected within a census tract based upon the 1980 data from the United States Census Bureau that has a population density greater than 500 people per square mile.
- (6) A location shall not be selected to be placed upon a general soil association type that floods in more than ten percent of the area based upon United States Department of Agriculture General Soils Association data.

Statutory Authority G.S. 130B-7(a)(5); 130B-7(a)(24); 130B-11(b); 150B-13.

SECTION .0300 - SITE SELECTION PROCEDURE

.0303 STATEWIDE SCREENING FOR SUITABLE SITES

(a) The Commission shall institute a statewide screening process to identify suitable sites in accordance with G.S. 130B-11(b) and the procedures contained in this Rule.

(b) The identification shall be made based on technical siting criteria set out in G.S. 130B-11 and 4 NCAC 18 .0200, including meteorological factors, and shall use readily available data.

(c) The statewide screening process to be used by the Commission is a search of the entire state which will be accomplished by successively eliminating unsuitable areas. The first screening process will exclude general areas under the criteria set out at 4 NCAC 18 .0202. The Commission will develop other sets of site selection criteria which will be done through the rulemaking procedures set out at G.S. 150B. Following each set of criteria, another screening process will be initiated to eliminate more unsuitable areas.

(d) The second phase of the statewide screening process will exclude general areas under the criteria set out at 4 NCAC 18 .0203. These criteria will eliminate additional unsuitable areas as those set out by the criteria at 4 NCAC 18 .0202.

(e) Following each set of criteria and subsequent screening process, the Commission will produce a state map showing the particular and cumulative effect of the elimination of unsuitable areas according to each set of criteria. The statewide screening is based upon the most recent and consistent data available for the entire state. As the Commission starts the investigation of suitable areas, there may be more detailed or

more current information available to specific areas which the Commission will utilize.

Statutory Authority G.S. 130B-7(a)(24); 130B-11(b); 150B-13.

TITLE II - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Insurance intends to amend rule(s) cited as 11 NCAC 14 .0201 - .0202, .0409, .0413 - .0414; repeal rule(s) cited as 11 NCAC 14 .0204 - .0209, .0411 - .0412; and adopt rule(s) cited as 11 NCAC 14 .0415 - .0431, .0501 - .0506, .0601 - .0605 and .0701 - .0705.

The proposed effective date of this action is April 1, 1990.

The public hearing will be conducted at 10:00 a.m. on January 5, 1990 at Third Floor Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, N.C. 27611.

Comment Procedures: Written comments may be sent to Bob Stamey, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Bob Stamey at (919) 733-5633, or Linda Stott at (919) 733-4700.

CHAPTER 14 - ADMISSION REQUIREMENTS

SECTION .0200 - FORMATION OF DOMESTIC INSURANCE COMPANY

.0201 INFORMATION REQUIRED DURING PRE-INCORPORATION

Preparatory ~~Prior to submission the certification of a certificate the articles of incorporation to the Office of the Secretary of State commissioner for approval~~ pursuant to G.S. 58-73, the following information must be submitted to the Commissioner for his consideration and approval:

- (1) Biographical affidavits in the form identified as 11 NCAC 14 .0409 must be submitted for each promoter, incorporator, director, trustee, proposed management personnel or other person similarly situated.
- (2) A detailed and complete plan of operation describing the lines of insurance to be written and how the proposed company will perform its various functions.
- (3) ~~(2)~~ An actuarial projection of the anticipated operational results for a five-year pe-

riod based on the initial capitalization of the proposed company and its plan of operation. These projections must be prepared by a properly qualified individual, be in sufficient detail for a complete analysis to be performed, and be accompanied by a list of the assumptions utilized in making such projections.

- (4) ~~(3)~~ Description of the source of the initial capitalization of the proposed company if other than through a public offering of pre-incorporation subscriptions to the capital stock of the company.
- (5) ~~(4)~~ If a public offering of pre-incorporation subscriptions to the capital stock of the proposed company is planned, the incorporators must comply fully with the provisions of Chapter 78A, North Carolina Securities Act, and must provide evidence of full compliance with said Chapter 78A furnished to the Commissioner by the Office of the Secretary of State.
- (6) ~~(5)~~ Evidence that ~~the~~ adequate technical expertise, ~~e.g., accounting, (accounting, actuarial, underwriting, legal, etc., etc.)~~ is either available among the incorporators and proposed initial staff or that the incorporators have retained such necessary expertise for the operation of the company.
- (7) ~~(6)~~ Such other specific information that the Commissioner may request which he deems pertinent to the organization of the proposed company.

Statutory Authority G.S. 58-73; 58-77.

.0202 INFORMATION REQUIRED AFTER ORGANIZATION MEETING

In accordance with the procedures established by G.S. 58-74, the following information must be submitted to the Commissioner ~~in preparation of for approval prior to~~ the issuance of a license certificate of authority to a newly organized company:

- (1) A certificate of proceedings of the organizational meeting setting forth a copy of the ~~certificate articles~~ of incorporation with the names of the subscribers thereto; the date of the first meeting and of any adjournments thereof, certified copies of the minutes of the meeting, certified copies of the bylaws, an opening balance sheet of the corporation's books and records and confirmation of the initial capitalization funds in escrow or otherwise, for the company; and
- (2) Duly prepared and executed forms furnished by the Commissioner as follows:

- (a) check sheet and analysis of application for admission in the form designated as 11 NCAC 14 .0414;
- (b) application for license in the form designated as 11 NCAC ~~44 .0404~~ 11A .0404 for life, accident and health, and fire and casualty insurance companies; 11 NCAC ~~44 .0407~~ 11A .0407 for fraternal orders; and 11 NCAC ~~44 .0405~~ 11A .0405 for hospital and medical service corporations; and 11 NCAC 11A .0406 for dental service corporations;
- (c) petition for admission to do business in North Carolina in the form designated as 11 NCAC ~~44 .0404~~ 14 .0415;
- (d) power of attorney for services of legal process in the form designated in 11 NCAC ~~44 .0402~~ 14 .0416;
- (e) power of attorney ~~for sale of~~ to sell securities on deposit in the form designated as 11 NCAC ~~44 .0403~~ 14 .0417.

Statutory Authority G.S. 57-5; 58-74.

- .0204 APPLICATION FORMS: FOREIGN INSURANCE COMPANIES (REPEALED)
- .0205 ANNUAL STATEMENTS: REPORTS: FOREIGN COMPANIES (REPEALED)
- .0206 AUTHORIZED LINES OF BUSINESS FOR A FOREIGN COMPANY (REPEALED)
- .0207 FOREIGN COMPANY MUST HAVE CONDUCTED SUCCESSFUL BUSINESS (REPEALED)
- .0208 WAIVER OF THREE-YEAR OPERATIONS GAIN REQUIREMENT (REPEALED)
- .0209 EXCEPTION TO IN FORCE POLICY REQUIREMENTS: FOREIGN CO. (REPEALED)

Statutory Authority G.S. 58-150; 58-150(1); 58-150(2); 58-151.1.

SECTION .0400 - DESCRIPTION OF FORMS

.0409 BIOGRAPHICAL AFFIDAVIT

~~The affidavit concerning education, prior occupation, business experience and supplementary information is to be submitted by each of the members of the board of directors and the executive officers of a company applying for a license to do business in North Carolina. For a new company being formed in North Carolina, this affidavit is to be submitted by each promotor, incorporator, director, trustee, proposed management personnel or other persons similarly situated. This form includes information on the education, prior occupation, business experience and other pertinent information about the affiant.~~

A form used to provide information on the education, prior occupation, business experience,

and other supplementary information on each member of the board of directors and the executive officers of an insurance company applying for a license to do business in North Carolina. For a new insurance company being formed in North Carolina, this form is to be submitted by each promoter, incorporator, director, trustee, and proposed management personnel.

Statutory Authority G.S. 58-73; 58-74; 58-150.

.0411 CERTIFICATE OF AUTHORITY: HMO (REPEALED)

.0412 INFORMATION SHEET: FORMATION OF DOMESTIC COMPANY (REPEALED)

Statutory Authority G.S. 57A-3; 57A-4; 58-73; 58-77.

.0413 ADMISSION DATA GUIDELINES

This information sheet is furnished to companies proposing to make an application for an initial license to transact insurance business in North Carolina. This form includes instructions for perfecting an application for admission, general and statutory requirements for admission, items to be submitted, taxes and fees payable upon admission and other pertinent information.

Information provided to insurance companies proposing to make an application for an initial license to transact insurance business in North Carolina. Form contains basic admission requirements and procedures for initiating an application for admission.

Statutory Authority G.S. 58-150.

.0414 CHECK SHEET AND ANALYSIS OF APPLICATION FOR ADMISSION

The check sheet and analysis of application for admission is used in the application for the initial license of an insurance company for the purpose of a check sheet providing a list of items to be submitted by the company. The form includes the company's name, company's address, list of items to be submitted and other pertinent information.

A form used in the application process listing the items to be submitted by an applicant insurance company for review. Form includes applicant company name and address, items to be submitted and other pertinent information.

Statutory Authority G.S. 58-63; 58-75; 58-77.

.0415 PETITION FOR ADMISSION

A form used in the application process to certify compliance with certain basic admission requirements. Form contains applicant company name,

state of domicile, certain financial data of the company and other pertinent information.

Statutory Authority G.S. 58-150(2).

.0416 POWER OF ATTORNEY FOR SERVICE OF LEGAL PROCESS

A form used in the application process to appoint the Commissioner of Insurance as an applicant company's true and lawful attorney upon whom processes of law against the company in any action or legal proceeding subject to North Carolina Statutes may be served.

Statutory Authority G.S. 58-150(3).

.0417 POWER OF ATTORNEY FOR SALE OF SECURITIES

A form used in the application process authorizing the Commissioner of Insurance to sell or transfer securities on deposit with the Department of Insurance as may be necessary to pay any legal liability of the applicant company.

Statutory Authority G.S. 58-182.5.

.0418 STANDARD QUESTIONS FOR APPLICANT INSURANCE COMPANIES

A form used to obtain basic information on the current operations of an applicant insurance company by asking a series of general questions.

Statutory Authority G.S. 58-150.

.0419 MARKETING QUESTIONS FOR APPLICANT LIFE INSURANCE COMPANIES

A form used to obtain specific information on the marketing aspects of an applicant life insurance company by asking a series of questions pertaining to proposed operations in North Carolina.

Statutory Authority G.S. 58-150.

.0420 MARKETING QUESTIONS FOR APPLICANT FIRE AND CASUALTY INSURANCE COMPANIES

A form used to obtain specific information on the marketing aspects of an applicant fire and casualty insurance company by asking a series of questions pertaining to proposed operations in North Carolina.

Statutory Authority G.S. 58-150.

.0421 UNCONDITIONAL GUARANTY

A form used by an applicant insurance company not satisfying the successful operations ad-

mission requirement to request a waiver of the requirement by having a qualified affiliate guarantee to maintain the capital and surplus of the applicant company at or above the admission requirements of North Carolina for at least three years. This form is a legal document committing the affiliate to carry out such a guarantee.

Statutory Authority G.S. 58-150(2).

.0422 CORPORATE RESOLUTION OF GUARANTOR

A form used by an applicant insurance company setting forth the required resolution by the board of directors of a qualified affiliate to guarantee to maintain the capital and surplus of the applicant company at or above the admission requirements of North Carolina when a waiver of the successful operations admission requirement is requested.

Statutory Authority G.S. 58-150(2).

.0423 ELIGIBILITY REQUIREMENTS FOR SURPLUS LINES INSURANCE COMPANIES

Information provided to insurance companies proposing to become eligible for the placement of surplus lines business in North Carolina. Form contains the basic requirements for such eligibility.

Statutory Authority G.S. 58-424.

.0424 FILING REQUIREMENTS FOR SURPLUS LINES INSURANCE COMPANIES

Information provided to insurance companies proposing to become eligible for the placement of surplus lines business in North Carolina. Form contains the materials to be filed for review to determine eligibility.

Statutory Authority G.S. 58-424.

.0425 BULLETIN 87-L-7

This form contains general requirements for purchasing groups seeking to operate in North Carolina under the Federal Risk Retention Act.

Statutory Authority G.S. 58-513(a).

.0426 BULLETIN 87-L-6

This form contains policy form and rate filing requirements for purchasing groups procuring insurance under the Federal Risk Retention Act from property and casualty companies licensed in North Carolina.

Statutory Authority G.S. 58-131.39; 58-480.

.0427 APPLICATION FOR REGISTRATION AS A PURCHASING GROUP

This form contains the notice of intent to do business and appointment of the Commissioner as attorney to accept service for purchasing groups seeking to operate in North Carolina under the Federal Risk Retention Act.

Statutory Authority G.S. 58-512.

.0428 APPLICATION FOR REGISTRATION AS A FOREIGN LIABILITY RISK RETENTION GROUP

This form contains the notice of intent to do business and appointment of the Commissioner as attorney to accept service for risk retention groups seeking to operate in North Carolina under the Federal Risk Retention Act.

Statutory Authority G.S. 58-508(1)a.

.0429 RISK RETENTION GROUP PLAN OF OPERATION

This form contains the general requirements for filing a complete and qualitative plan of operation or feasibility study by a risk retention group seeking to operate in North Carolina under the Federal Risk Retention Act.

Statutory Authority G.S. 58-508(1)b.

.0430 ANNUAL GROSS PREMIUM TAX RETURN FOR PURCHASING GROUPS

This is the form of the annual premium tax return for purchasing groups registered to do business in North Carolina under the Federal Risk Retention Act.

Statutory Authority G.S. 58-511(b).

.0431 ANNUAL GROSS PREMIUM TAX RETURN FOR RISK RETENTION GROUPS

This is the form of the annual premium tax return for risk retention groups registered to do business in North Carolina under the Federal Risk Retention Act.

Statutory Authority G.S. 58-508(3).

SECTION .0500 - ADMISSION OF A FOREIGN OR ALIEN INSURANCE COMPANY

.0501 APPLICATION FORMS

In addition to any information required pursuant to G.S. 58-150, a foreign insurance company applying for admission to do business in the State of North Carolina is required to prepare and ex-

ecute as appropriate the forms described in 11 NCAC 14 .0409 through .0422.

Statutory Authority G.S. 58-150.

.0502 ANNUAL STATEMENTS, REPORTS ON EXAMINATION

Foreign insurance companies seeking admission to do business in North Carolina must submit for review by the Commissioner complete and certified copies of the applicable annual statements in the form required under 11 NCAC 11E .0102 for the last three years preceding the date of application for admission, together with the latest report on examination prepared by the Department of Insurance of the state of domicile in the form required under 11 NCAC 11C .0102. Applicant companies should continue to submit such statements and reports in the form required as they become available throughout the admission process.

Statutory Authority G.S. 58-150(1).

.0503 AUTHORIZED LINES OF BUSINESS FOR A FOREIGN COMPANY

A foreign insurance company seeking admission to do business in North Carolina can only be licensed for the lines of business it has the authority to transact in its state of domicile or any other state in which it is licensed.

Statutory Authority G.S. 58-150(2).

.0504 FOREIGN COMPANY MUST HAVE CONDUCTED SUCCESSFUL BUSINESS

Foreign insurance companies seeking admission to North Carolina must have net operational gains for three consecutive years next preceding the date of application for admission. Such applicant companies must continue to reflect net gains from their operations throughout the admission process.

Statutory Authority G.S. 58-150(2).

.0505 WAIVER OF THREE-YEAR OPERATIONAL GAIN REQUIREMENT

(a) The three-year operational gain requirement for a foreign insurance company applying for admission to North Carolina may be waived by the Department if the company meets all other requirements for admission and it is a subsidiary of, or affiliated under a holding company system, as defined by G.S. 58-124.1, with, a licensed insurance company which:

- (1) has been licensed in North Carolina for a minimum of ten years,

- (2) has been successful in its insurance operations,
- (3) enjoys a satisfactory reputation in its dealings with its North Carolina policyholders, and
- (4) has a substantial degree of management control over the operations of the applicant company.

The affiliated company must guarantee to maintain the capital and surplus of the applicant company at or above the admission requirements in North Carolina for a minimum of three years or until the applicant company can provide a report on examination which certifies three consecutive years of net gains from operations, whichever shall last occur. The forms for making such a guarantee are described in Rules .0421 and .0422 of this Chapter. The affiliated company must reflect sufficient financial strength to support such a guarantee. Any applicant company which is granted a waiver of this requirement will be required to place on deposit with the Commissioner, in addition to any other minimum required deposits for admission, qualified securities in the amount of one hundred thousand dollars (\$100,000), of the kind and nature set forth under 11 NCAC 11B .0103.

(b) On an individual case basis, a foreign life insurance company may be considered for admission if it has a minimum of one year of net operational gains and can provide a certified financial projection, prepared by an actuary, an actuarial firm, or a certified public accountant, satisfactory to the Commissioner, reflecting continuing operational gains for at least the next three years. Any such financial projection must contain adequate details of all income and expense items sufficient for proper evaluation. All assumptions used in the preparation of such a projection must be included with the filing. Any applicant company which is granted a waiver under this provision will be required to place on deposit with the Commissioner, in addition to any other minimum required deposits for admission, eligible securities in the amount of one hundred thousand dollars (\$100,000) of the kind and nature set forth under 11 NCAC 11B .0103.

(c) A foreign fire and/or casualty insurance company may be considered for a waiver of the successful operations admission requirement under the following conditions:

- (1) the applicant company must have been in business for at least five years under the same ultimate ownership and writing basically the same lines of business, and
- (2) the applicant company must have reflected net gains from its operations for at least three of the last five years, or must reflect

verifiable total statutory capital and surplus in excess of fifty million dollars (\$50,000,000) in its most recent annual statement, and

- (3) the applicant company must provide certification of the adequacy of its loss and loss adjustment expense reserves, satisfactory to the Commissioner, as they pertain to the most recent annual statement, and
- (4) the applicant company must reflect verifiable total statutory capital and surplus in excess of ten million dollars (\$10,000,000) on its most recent annual statement.

Any company which is granted a waiver under this provision will be required to place on deposit with the Commissioner, in addition to any other minimum required deposits for admission, eligible securities in the amount of five hundred thousand dollars (\$500,000) of the kind and nature set forth under 11 NCAC 11B .0103.

Statutory Authority G.S. 58-150(2); 58-182.7.

.0506 EXCEPTION TO IN FORCE POLICY REQUIREMENTS

Pursuant to G.S. 58-151.1, every foreign life insurance company applying for admission to do business in North Carolina must have policies in force upon not less than 500 lives for an aggregate amount of insurance of not less than five hundred thousand dollars (\$500,000); however, to facilitate the change of domicile of a foreign company already licensed in North Carolina, it is the Department's interpretation that the new applicant entity will not be required to possess the required number of policies in force inasmuch as all existing policies of the former licensed entity will satisfy this requirement.

Statutory Authority G.S. 58-151.1.

SECTION .0600 - SURPLUS LINES

.0601 LIST OF ELIGIBLE COMPANIES

The Department shall publish a list of insurance companies eligible for the placement of surplus lines business each month. The list shall be provided to any and all surplus lines advisory organizations for distribution to their members.

Statutory Authority G.S. 58-424(b).

.0602 REQUESTS FOR SURPLUS LINES ELIGIBILITY

Each insurance company desiring to be placed on the Department's list of eligible surplus lines insurers must submit a written request to the Department and must satisfy the requirements of G.S. 58-424(a). Each company should include

with such a request a listing of the lines of insurance to be available through the company which are not readily available through licensed insurance companies in North Carolina.

Statutory Authority G.S. 58-424(a).

.0603 FINANCIAL INFORMATION REQUIRED

Each request for surplus lines eligibility should be accompanied by the following financial information so that verification of compliance with the eligibility requirements can be made:

- (1) Annual Statements for the preceding two years in the form required under 11 NCAC 11E .0102 for companies licensed in at least one state in the United States.
- (2) Annual financial reports for the preceding two years in English and in U.S. dollars for alien insurance companies.
- (3) A certified copy of the latest report on examination or, if the company is not required to be examined by any jurisdiction, a copy of the latest CPA report and management letter.
- (4) Actuarial certification of the loss reserves and loss adjustment expense reserves for the most recent year if such certification is available.
- (5) A copy of the NAIC financial ratio (IRIS) results for the most recent year, along with an explanation for any unusual values if such tests are performed.
- (6) Alien insurers must file a copy of their U.S. trust agreement.
- (7) Alien insurers must be filed with and approved by the Non Admitted Insurers Information Office of the National Association of Insurance Commissioners to be considered for eligibility in North Carolina.

Statutory Authority G.S. 58-424.

.0604 REQUIREMENTS FOR CONTINUED ELIGIBILITY

(a) Once a company is deemed to be eligible for surplus lines business and is placed on the Department's list, it may remain on the list each month so long as it remains in good repute and continues to satisfy the eligibility requirements of G.S. 58-424(a).

(b) Any eligible company with total capital and surplus of five million five hundred thousand dollars (\$5,500,000) or less must file quarterly financial statements within 45 days after the end of each quarter.

(c) All eligible companies licensed in at least one state in the United States must file annual statements each year in the form required under

11 NCAC 11E .0102 by March 1 of the following year.

(d) Eligible alien companies must file annual financial reports in English and in U.S. dollars within six months after the close of their fiscal year.

Statutory Authority G.S. 58-424; 58-426.

.0605 DELETION FROM ELIGIBLE COMPANY LIST

(a) Any eligible company found to no longer be of good repute or no longer satisfying the eligibility requirements will be deleted from the Department's list if the situation is not corrected within 15 days.

(b) Any eligible company may voluntarily withdraw from eligibility and have the company deleted from the Department's list by written request.

Statutory Authority G.S. 58-426.

SECTION .0700 - FEDERAL RISK RETENTION ACT ENTITIES

.0701 FOREIGN RISK RETENTION GROUP REGISTRATION

(a) Risk retention groups chartered in another state and not holding a current certificate of authority issued by the Commissioner shall, before offering liability insurance and before filing a feasibility study, request an application for registration as a liability risk retention group and guidelines for filing a plan of operation.

(b) Risk retention groups chartered in another state and not holding a current certificate of authority issued by the Commissioner shall, before offering liability insurance as a liability risk retention group on any risk located in this state, register with the Commissioner on the form designated in 11 NCAC 14 .0428 and provide the additional information requested on the form. Feasibility studies filed which are not in compliance with the plan of operation guidelines shall be returned without registration.

Statutory Authority G.S. 58-508.

.0702 PURCHASING GROUP FILING REQUIREMENTS

(a) A purchasing group desiring to do business in this state, before soliciting any member to insure through the group any liability risk located in this state, shall request an application for registration as a purchasing group. The purchasing group shall then furnish notice of its intent to do business to the Commissioner on the form designated in 11 NCAC 14 .0427.

(b) A purchasing group desiring to do business in this state must purchase insurance from a company licensed to do business in North Carolina or comply with the provisions of the North Carolina Surplus Lines Act.

(c) Each purchasing group shall specify the method by which, and the person or persons through whom, insurance will be offered to its members whose risks are resident or located in this state.

(d) A purchasing group desiring to do business in this state by complying with the provisions of the North Carolina Surplus Lines Act must, before effecting coverage, designate the name and address of the broker licensed by the Commissioner.

(e) All policy forms and rates for use by purchasing groups soliciting in this state must be filed and approved prior to their use in this state.

Statutory Authority G.S. 58-512; 58-513.

.0703 APPOINTMENT OF COMMISSIONER AS ATTORNEY TO ACCEPT SERVICE

A risk retention group filing its registration to do business in this state and a purchasing group filing its notice of intent to do business as a purchasing group in this state, shall submit to the Commissioner with its registration or notice of intent a form appointing the Commissioner as its agent for the purpose of receiving service of legal process as described in 11 NCAC 14 .0427 and .0428.

Statutory Authority G.S. 58-508; 58-512.

.0704 UPDATES AND AMENDMENTS TO FILINGS

(a) Any risk retention group which has successfully registered with the Commissioner shall notify the Commissioner in writing within 30 days of any changes in its operations which result in the registration then on file to contain false, inaccurate or misleading information, including the solicitation or writing of any liability insurance coverage in addition to that for which it has previously notified the Commissioner so as to correct such false, inaccurate or misleading information.

(b) Any purchasing group which has successfully registered with the Commissioner shall notify the Commissioner in writing within 30 days of any changes in its operations which result in the registration then on file to contain false, inaccurate or misleading information, including the solicitation or purchasing of any liability insurance coverage in addition to that for which it has previously notified the Commissioner, so as to

correct such false, inaccurate or misleading information.

(c) Any risk retention group or purchasing group which has been notified of its completed registration by the Commissioner shall, on or before March 1 of each year, by sworn affidavit of the officer or party qualified and authorized to file an original registration or notice of intent to do business, certify to the Commissioner as to the continued accuracy of the information on file or amended by notice pursuant to Paragraph (a) or (b) of this Rule, and as to its continued intent to be registered and do business in this state.

Statutory Authority G.S. 58-508; 58-512.

.0705 FILING AND PAYMENT OF PREMIUM TAXES

(a) Each risk retention group registered to transact insurance in this state shall file with the Commissioner on or before March 15 of each year a report of all premiums paid to it for risks insured within the state in the form described in 11 NCAC 14 .0431.

(b) All premiums paid for coverages within this state to risk retention groups shall be subject to taxation at the same rate and subject to the same interest, fines, and penalties for nonpayment as that applicable to surplus lines insurance.

(c) Each purchasing group registered to transact insurance in this state shall file with the Commissioner on or before March 15 of each year a report of all premiums paid to it for risks insured within the state in the form described in 11 NCAC 14 .0430.

(d) Taxes on premiums paid for coverage of risks resident or located in this state by a purchasing group or any member of a purchasing group shall be:

- (1) Imposed at the same rate and subject to the same interest, fines and penalties as those applicable to premium taxes on similar coverage from a similar insurance source by other insureds; and
- (2) Paid first by such insurance source, and if not by such source then by the agent or broker for the purchasing group, and if not by such agent or broker then by each of its members.

Statutory Authority G.S. 58-508; 58-511.

TITLE 16 - DEPARTMENT OF PUBLIC EDUCATION

Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Education in-

tends to adopt rule(s) cited as 16 NCAC 6G .0301 - .0303.

The proposed effective date of this action is May 1, 1990.

The public hearing will be conducted at 9:30 a.m. on January 5, 1990 at 3rd Floor Conference Room, Education Building, 116 West Edenton Street, Raleigh, NC 27603-1712.

Comment Procedures: Any interested person may present views and comments either in writing prior to or at the hearing or orally at the hearing.

CHAPTER 6 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 6G - EDUCATION AGENCY RELATIONS

SECTION .0300 - SCHOOL IMPROVEMENT AND ACCOUNTABILITY

.0301 LOCAL SCHOOL IMPROVEMENT PLANS

(a) Student performance goals must be stated in three to five year goals, including annual milestones to measure progress toward those goals. The purpose of these goals is to increase student performance.

(b) Satisfactory progress toward meeting student performance goals is defined as achievement of 75 percent of the annual milestones listed in the approved local school improvement plan.

(c) LEAs that currently meet all or most of the performance standards of the state accreditation plan must set additional locally determined student performance goals. In setting these goals, the LEA must:

- (1) establish local student performance goals for any remaining state accreditation performance standards that it does not currently meet;
- (2) establish some local student performance goals that are higher than the performance standards in state accreditation; and
- (3) establish, for school years after the LEA's first year of participation, student performance goals in additional curricula areas and/or in additional grade levels not addressed in state accreditation.

(d) LEAs that currently meet all or most of the performance standards of the state accreditation plan may also:

- (1) develop student performance goals in additional curricula areas not currently addressed in state accreditation; and

(2) add additional indicators such as California Achievement Test scores at grades 4, 5 and 7.

(e) The indicators that are included in the state accreditation performance standards, along with Scholastic Aptitude Test scores, are required for measuring and assessing student performance. Additional end of course and end of grade tests will be added to these indicators as they are developed.

(f) LEAs may, but are not required to include as indicators for measuring and assessing student performance and satisfactory performance factors such as:

- (1) post-secondary plans;
- (2) enrollment in Algebra 1; and
- (3) college enrollees who require remediation.

(g) LEAs that develop an evaluation instrument or approach other than the teacher performance appraisal instrument must describe that instrument or approach in the local school improvement plan.

Statutory Authority G.S. 115C-238.1.

.0302 DIFFERENTIATED PAY

(a) No LEA may adopt a differentiated pay plan that includes an across-the-board salary supplement for all certified employees.

(b) The LEA may adopt a differentiated pay plan that includes some, but not all, schools within the LEA, only if the plan is approved by a majority of all certified instructional and instructional support staff and of all certified administrators.

(c) After an LEA that uses the school-based performance model for differentiated pay attains local school goals, the local board of education, upon recommendation of the principal and superintendent, shall determine which certified staff members contributed to the attainment of those goals. The LEA will then distribute differentiated pay bonuses to those employees. A school-based committee that participates in the review of bonus distribution serves only in an advisory role to the principal, who bears the final responsibility for evaluating the performance of certified staff and deciding whom to recommend to the superintendent for bonus distribution.

(d) A school-based differentiated pay plan must include, at a minimum, all full-time certified staff in the participating schools.

Statutory Authority G.S. 115C-238.1.

.0303 FLEXIBLE FUNDING

(a) LEAs that request a waiver of the purpose for which state funds may be used must submit

a justification that shows how the waiver is necessary for the LEA to reach its local accountability goals.

(b) Fund transfers that create position from nonposition categories must include matching benefit costs.

(c) Converting or transferring positions or portions of positions from varying lengths of employment must be on a prorata basis and at the beginning salary level of the original classification.

(d) The LEA must request specific permission to use funds for purposes that are not currently authorized.

(e) LEAs may request to transfer positions or portions of positions to dollars for the purpose of one-time expenditures such as capital outlay, administrative equipment or software.

(f) Fund transfers cannot obligate the state to a greater cost than the original allotment.

(g) Waivers will not be considered or granted for:

- (1) teacher assistants;
- (2) matching state funds for federal vocational education;
- (3) transportation;
- (4) employee benefits, including annual leave and longevity;
- (5) group homes;
- (6) Willie M.;
- (7) developmental day care; and
- (8) all federal funds.

Statutory Authority G.S. 115C-238.1.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Licensing Board for General Contractors intends to amend rule(s) cited as 21 NCAC 12 .0204, .0503 - .0504.

The proposed effective date of this action is April 1, 1990.

The public hearing will be conducted at 11:00 a.m. on January 17, 1990 at State Room, North Carolina State University Faculty Club, 4200 Hillsborough Street, Raleigh, North Carolina.

Comment Procedures: Persons wishing to present oral data, views or arguments on a proposed rule may file a notice with the Board at least 10 days prior to the public hearing. Any person may also file a written submission containing data, comments or arguments at any time until 10 days

after the hearing. Submissions should be mailed to the Board at: P.O. Box 17187, Raleigh, North Carolina 27619.

CHAPTER 12 - LICENSING BOARD FOR GENERAL CONTRACTORS

SECTION .0200 - LICENSING REQUIREMENTS

.0204 ELIGIBILITY

(a) Limited License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) Be financially stable to the extent that the total current assets of the applicant or the firm or corporation he represents exceed the total current liabilities by at least ten thousand dollars (\$10,000.00). This requirement shall remain in effect for all applications made prior to October 1, 1990. For applications made on or after October 1, 1990 an applicant for a limited license must be financially stable to the extent that the total current assets of the applicant or the firm or corporation he represents exceed the total current liabilities by at least twelve thousand, five hundred dollars (\$12,500.00). The Board reserves the right in its sole discretion to require a license holder to submit an audited financial statement prepared by a certified public accountant if the circumstances render such submission necessary.
- (3) Possess the competency and the ability, as revealed by the applicant's experience and education to engage in the practice of general contracting within a specified classification or classifications in order to successfully complete a single project of a value of less than or equal to two hundred fifty thousand dollars (\$250,000.00), such competency and ability being determined in the sole discretion of the Board;
- (4) Successfully complete 70 percent of each part of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.

(b) Intermediate License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) Be financially stable to the extent that the total current assets of the applicant or the

firm or corporation he represents exceed the total current liabilities by at least fifty thousand dollars (\$50,000.00) as reflected in an audited financial statement prepared by a certified public accountant; ~~or a qualified independent accountant who is engaged in the public practice of accountancy;~~

- (3) Possess the competency and the ability as revealed by the applicant's experience and education to engage in the practice of general contracting within a specified classification or classifications in order to successfully complete a single project of a value of less than or equal to five hundred thousand dollars (\$500,000), such competency and ability being determined in the sole discretion of the Board;
 - (4) Successfully complete 70 percent of each part of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.
- (c) Unlimited License. The applicant for such a license must:
- (1) Be entitled to be admitted to the examination given by the Board in light of the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
 - (2) Be financially stable to the extent that the total current assets of the applicant or the firm or corporation he represents exceed the total current liabilities by at least one hundred thousand dollars (\$100,000.00) as reflected in an audited financial statement prepared by a certified public accountant; ~~or by a qualified independent accountant who is engaged in the public practice of accountancy;~~
 - (3) Possess the competency and the ability, as revealed by the applicant's experience and education to engage in the practice of general contracting within a specified classification or classifications in order to successfully complete a single project of a value in excess of five hundred thousand dollars (\$500,000), such competency and ability being determined in the sole discretion of the Board;
 - (4) Successfully complete 70 percent of each part of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.
- (d) Reciprocity. If an applicant is licensed as a general contractor in another state, the Board, in its discretion, need not require the applicant to successfully complete the written examination

as provided by G.S. 87-15.1. However, the applicant must comply with all other requirements of these rules to be eligible to be licensed in North Carolina as a general contractor.

Statutory Authority G.S. 87-1; 87-10.

SECTION .0500 - LICENSE

.0503 RENEWAL OF LICENSE

(a) Form. An application for renewal requires the holder of a valid license to set forth whether there were any changes made in the status of the licensee's business during the preceding year and also requires the holder to give a financial statement for the business in question. The financial statement need not be an audited financial statement prepared by a certified public accountant ~~or by a qualified independent accountant~~ but may be completed by the holder of the license on the form itself. However, the Board reserves the right in its sole discretion to require a license holder to submit an audited financial statement if the circumstances render such submission necessary. Except as provided herein, the financial statement will be subject to approval by the Board in accordance with the requirements of Rule .0204 of this Chapter.

(b) Display. The certificate of renewal of license granted by the Board, containing the signatures of the Chairman and the Secretary-Treasurer, must be displayed at all times by the licensee at his place of business.

Statutory Authority G.S. 87-1; 87-10.

.0504 INCREASE IN LIMITATION

(a) General. A person, firm or corporation holding a valid license to engage in the practice of general contracting in North Carolina may apply for a different limitation by making application for such different limitation with the

Board on a form prescribed and furnished by the Board.

(b) Request. A request for the required application form may be made at the address shown in Rule .0101 of this Chapter.

(c) Form. The application form for a change in limitation requires the applicant to set forth his professional qualifications and his present and past experience in general contracting. An audited financial statement prepared by a certified public accountant ~~or by a qualified independent accountant who is engaged in the public practice of accountancy~~ is required with the application for change in limitation.

(d) Eligibility. An applicant for a new limitation is eligible for the requested change if he possesses the qualifications for the limitation as set forth in Rule .0204 of this Chapter with the exception that such applicant shall not be required to take a written examination.

(e) Filing Deadline. An applicant who wishes to have his application considered for a change in limitation must file his application no later than the first day of the month preceding any regularly scheduled meeting of the Board. At such meeting the Board will consider the application. Regular meetings of the Board are in January, April, July and October of each year.

(f) Fees. The fees for issuance of limited, intermediate, and unlimited licenses are as provided by G.S. 87-10.

(g) Notice of Approval. Within two weeks after the regular meeting of the Board in which a timely filed application is considered, the Board will notify the applicant of its decision. If the application is approved, a certification of license in the new limitation will be issued by the Board and the applicant, as of the time of notice of the approval, may conduct himself or itself in accordance with the rights available under the limitation granted.

Statutory Authority G.S. 87-1; 87-10.

The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.

Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Please contact this office if you have any questions.

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

Upon request from the adopting agency, the text of rules will be published in this section.

*Punctuation, typographical and technical changes to rules are incorporated into the List of Rules Codified and are noted as * Correction. These changes do not change the effective date of the rule.*

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES CODIFIED

DECEMBER 1989

AGENCY			ACTION TAKEN
<u>DEPARTMENT OF AGRICULTURE</u>			
2	NCAC	9L .0601 - .0604	Amended
		43L .0202	Amended
		48A .0603	Amended
		.0611	Amended
		52A .0011	Adopted
		52B .0101	Amended
		.0209	Amended
		52C .0101	Amended
		.0105	Amended
<u>DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT</u>			
4	NCAC	1J .0101 - .0102	Amended
		.0201	Amended
		.0301	Amended
		.0401	Adopted
		6A .0101	Amended
		7 .0501	Temp. Amended
			Expires 05-02-90
		16	* Correction
		18 .0102	Temp. Amended
			Expires 03-25-90
		.0202	Temp. Amended
			Expires 03-25-90
		.0203	Temp. Adopted
			Expires 05-06-90
		.0302	Temp. Amended

FINAL RULES

.0303

Expires 03-25-90
Temp. Amended
Expires 05-06-90

DEPARTMENT OF CORRECTION

5	NCAC	1A	.0101	Repealed
			.0106	Repealed
			.0201 - .0202	Repealed
			.0301 - .0302	Repealed
			.0401 - .0402	Repealed
			.0501 - .0502	Repealed
			.0601 - .0602	Repealed
		1B	.0101 - .0103	Repealed
		1C	.0101 - .0102	Repealed
			.0201 - .0206	Repealed
			.0301 - .0305	Repealed
			.0401 - .0404	Repealed
			.0501 - .0505	Repealed
			.0601 - .0606	Repealed
			.0701 - .0703	Repealed
			.0801 - .0803	Repealed
			.0901 - .0905	Repealed
			.1001 - .1002	Repealed
		1D	.0101 - .0105	Repealed
			.0201 - .0203	Repealed
		1E	.0101 - .0102	Repealed
			.0201 - .0204	Repealed
		2F	.0605	Amended
		2G	.0201 - .0202	Amended
			.0203 - .0205	Amended
			.0206 - .0209	Adopted

OFFICES OF THE GOVERNOR AND LIEUTENANT GOVERNOR

9 NCAC 2B Executive Order Number 98
Eff. November 3, 1989

DEPARTMENT OF HUMAN RESOURCES

10	NCAC	3B .0110	* Correction
		.0603	* Correction
		3D .0101 - .0108	Repealed
		.0110 - .0115	Repealed
		.0201 - .0203	Repealed
		.0301 - .0302	Repealed
		.0401 - .0412	Repealed
		.0501 - .0516	Repealed
		.0601 - .0608	Repealed
		.0610 - .0616	Repealed
		.0701	Repealed
		.0802 - .0807	Adopted
		.0901 - .0926	Adopted
		.1002 - .1004	Adopted
		.1101 - .1104	Adopted
		.1201 - .1206	Adopted
		.1301 - .1302	Adopted
		.1401 - .1403	Adopted
		3E .0101	Amended

FINAL RULES

	.0105	Amended
	.0110	Amended
	.0112	Amended
	.0201	Amended
	.0206	Amended
	.0302	Amended
	.0304 - .0305	Amended
	.0307	Amended
	.0309	Amended
	.0311	Amended
	.0315	Amended
3R	.0305	Amended
3S	.0108 - .0109	Amended
	.0208 - .0210	Amended
	.0212	Repealed
	.0213 - .0214	Amended
	.0307	Amended
	.0407 - .0408	Amended
	.0506 - .0509	Amended
	.0614 - .0617	Amended
	.0619	Amended
	.0706 - .0707	Amended
	.0806 - .0808	Amended
	.0902	Amended
	.0904	Adopted
	.1001 - .1004	Amended
	.1006	Amended
3U	.0802	* Correction
7C	.0601 - .0602	Temp. Amended
		Expires 04-30-90
	.0603	Temp. Repealed
		Expires 04-30-90
	.0604 - .0608	Temp. Adopted
		Expires 04-30-90
10E	.0304	Amended
14K	.0315	Amended
14M	.0602	Amended
	.0603	Repealed
	.0604	Amended
	.0605	Repealed
	.0607	Repealed
	.0609	Amended
	.0611 - .0615	Amended
	.0617 - .0618	Adopted
	.0621	Adopted
18I	.0114 - .0115	Amended
18J	.0111	Amended
	.0113	Amended
	.0118	Amended
	.0711	Amended
18L	.0429	Amended
	.0511	Amended
	.0704	Amended
	.0803	Amended
18M	.0701	Amended
	.0707	Amended
	.1401	Adopted
	.1403 - .1409	Adopted
18N	.0206	Amended

FINAL RULES

18P	.1004	Amended
18Q	.0123	Repealed
	.0125 - .0134	Repealed
	.0520	Amended
	.0715	Amended
26II	.0303	Amended
42P	.0201	Amended
	.0401 - .0404	Amended
45II	.0202	Amended
50B	.0313	Amended

DEPARTMENT OF INSURANCE

11	NCAC	14	* Correction
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DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

14A	NCAC	11	.0503	Amended
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DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15	NCAC	2D	.0101	Amended
			.0531	Amended
			.0901	Amended
			.0903	Amended
			.0912 - .0913	Amended
			.0917 - .0938	Amended
			.0941	Amended
			.0943	Amended
		2H	.0603	Amended
		2L	.0104	Amended
		3B	.0907	Amended
		7B	.0203	* Correction
			.0204	* Correction
			.0403	* Correction
		7H	.0308	Amended
		10B	.0212	Temp. Amended
				Expires 05-01-90
		10D	.0003	Amended
		13	Transferred to 4 NCAC 19 Eff. November 1, 1989	
		16	Transferred to 10 NCAC 51 Eff. November 1, 1989	
		17	Transferred to 4 NCAC 20 Eff. November 1, 1989	

DEPARTMENT OF PUBLIC EDUCATION

16	NCAC	6G	.0301 - .0303	Temp. Adopted
				Expires 05-06-90

BOARD FOR GENERAL CONTRACTORS

21	NCAC	12	.0204	Amended
			.0503 - .0504	Amended

BOARD OF PLUMBING AND HEATING CONTRACTORS

21	NCAC	50	.1101 - .1103	Temp. Amended
				Expires 02-01-90

DEPARTMENT OF COMMUNITY COLLEGES

23	NCAC	2D .0101	Amended
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INDEPENDENT AGENCIES

24	NCAC	1D .0501 - .0503	Amended
		1H .0501 - .0503	Amended

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT
1	Administration, Department of
2	Agriculture, Department of
3	Auditor, Department of State
4	Economic and Community Development, Department of
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