

The **NORTH CAROLINA REGISTER**

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IN THIS ISSUE

EXECUTIVE ORDERS

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Development**

Education

**Environment, Health, and
Natural Resources**

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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 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

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

NOTE

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

CITATION TO THE NORTH CAROLINA REGISTER

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

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NORTH CAROLINA REGISTER



*Office of Administrative Hearings
P. O. Drawer 11666
Raleigh, NC 27604
(919) 733 - 2678*

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Julian Mann III,
Director
James R. Scarcella Sr.,
Deputy Director
Molly Masich,
Director APA Services

Staff:
Ruby Creech,
Publications Coordinator
Teresa Kilpatrick,
Editorial Assistant
Jean Shirley,
Editorial Assistant

NORTH CAROLINA REGISTER
Publication Schedule
(January 1990 - December 1991)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
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
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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
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06 15 90	05 24 90	06 01 90	07 15 90	10 01 90
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10 01 90	09 10 90	09 17 90	10 31 90	02 01 91
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10 01 91	09 10 91	09 17 91	10 31 91	02 01 92
11 01 91	10 11 91	10 18 91	12 01 91	03 01 92
12 02 91	11 07 91	11 14 91	01 01 92	04 01 92

* 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 103
EXTENSION OF EXECUTIVE ORDER NUMBER
100**

Whereas, at the request of the Governor of South Carolina and for the purpose of relieving human suffering caused by Hurricane Hugo, by Executive Order Numbers 98 and 100, I ordered the waiving of weight restrictions, licensing and tax requirements for vehicles transporting, out of South Carolina, trees uprooted or damaged by Hurricane Hugo; and

Whereas, Executive Order Number 100 expired on February 3, 1990; and

Whereas, the Governor of South Carolina has requested me to extend the effective date of Executive Order Number 100; and

Whereas, extensive tree damage occurred within North Carolina as a result of Hurricane Hugo and the North Carolina forestry industry has requested that the terms and conditions of Executive Order Number 100 be clarified;

Now therefore, 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; **IT IS ORDERED:**

That the term of Executive Order Number 100 is hereby extended until April 15, 1990 subject to the following additional conditions;

Sections 1. The waiver of weight restrictions will conform to the following guidelines:

(1) Vehicle weight will not exceed the maximum gross vehicle weight criteria established by the manufacturer or 90,000 lbs. gross vehicle weight, whichever is less.

(2) Tandem axle weights shall not exceed 42,000 lbs. and single axle weights shall not exceed 22,000 lbs.

Section 2. The terms and conditions of Executive Order Number 98 and 100 and the vehicle weight guidelines set forth in Sections 1 above shall extend to vehicles transporting within North Carolina trees uprooted or damaged by Hurricane Hugo, including field chips. This Order also applies to sawmill residues such as bark, chips and sawdust derived from such trees and produced by any sawmill located in North or South Carolina. This Order shall specifically exclude milled lumber.

Section 3. Vehicles transporting forest products or by-products allowed under Section 2 above are permitted reasonable access to downed tim-

ber, concentration yards and primary wood-processing plants by way of secondary roads; provided, however, that posted limitations on light-traffic roads and bridges must be observed.

Section 4. The driver of any vehicle transporting a cargo which originated in North Carolina and for which relief is claimed under this Order shall provide on demand to any law enforcement officer identification and authorization issued to the owner by personnel designated by the N.C. Division of Forest Resources for this purpose.

Section 5. The North Carolina Department of Transportation shall enforce the conditions set forth in Sections 1 through 4 in a manner which would best accomplish the implementation of this Executive Order without endangering the motorists on North Carolina roadways.

This the 6th day of February, 1990.

**EXECUTIVE ORDER NUMBER 104
AMENDING EXECUTIVE ORDER NUMBER 90**

WHEREAS, Executive Order Number 90 established the Governor's Advisory Council on Literacy; and

WHEREAS, our public libraries play a significant role in the literacy effort across our State; and

WHEREAS, it has been made to appear that the contribution of the Department of Cultural Resources will assist the Council in achieving its goal;

THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, it is **ORDERED:** Executive Order Number 90 is hereby amended to include the Secretary of the Department of Cultural Resources in its membership as follows:

Section 2. MEMBERSHIP

10. Four members-at-large to be appointed by the Governor; and

11. The Secretary of the Department of Cultural Resources, or the Secretary's designee.

This Executive Order shall become effective immediately.

Done in Raleigh, North Carolina, this the 8th day of February, 1990.

**EXECUTIVE ORDER NUMBER 105
EXTENDING EXPIRATION DATE OF
EXECUTIVE ORDER NUMBER 3**

EXECUTIVE ORDERS

By the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

The North Carolina Advisory Council on Vocational Education, established by Executive Or-

der Number 3, and extended by Executive Order Number 51, is hereby extended, effective May 15, 1989, through May 15, 1991.

Done in Raleigh, North Carolina, this the 8th day of February, 1990.

**TITLE 4 - DEPARTMENT OF ECONOMIC
& COMMUNITY DEVELOPMENT**

Notice is hereby given in accordance with G.S. 150B-12 that the N. C. Department of Economic & Community Development Energy Division intends to amend rule(s) cited as 4 NCAC 12C .0007.

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

The public hearing will be conducted at 10:30 AM on April 2, 1990 at Room 1120D of the Dobbs Building, 430 N. Salisbury Street, Raleigh, N. C.

Comment Procedures: Comments received at the public hearing will be reviewed for inclusion in the North Carolina State Plan. Any interested person or organization may send written comments to the Energy Division, N. C. Department of Economic & Community Development, PO Box 25249, Raleigh, NC 27611, prior to the date of the hearing. All written comments will be become part of the record of the hearing. Any interested person or organization desiring an opportunity to make an oral presentation at the hearing must file a copy of the text of their comments with the Energy Division at the above address prior to the date of the hearing. All oral presentations may be limited as to time at the discretion of the Hearing Officer.

CHAPTER 12 - ENERGY

SUBCHAPTER 12C - ORGANIZATION

**.0007 INSTITUTIONAL CONSERVATION
PROGRAM**

The Department of ~~Commerce~~, Economic and Community Development, Energy Division, has adopted a State Plan for Technical Assistance and Energy Conservation Measures: Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions, as amended ~~August 4, 1985~~, February 7, 1990, pursuant to Title III of the National Energy Conservation Policy Act of 1978 (Public Law 95-619, 92 Stat. 3206, 42 U.S.C. Section 8201 et. seq.). This State Plan, and any future amendments to this plan are incorporated herein by reference and is adopted in this Rule by reference as if written herein word for word. Copies of the State Plan may be obtained from the Energy Division, North Carolina Department of ~~Commerce~~, Economic and Com-

munity Development, Post Office Box 25249, Raleigh, North Carolina 27611.

Statutory Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449; 150B-12; Title III NECPA, P.L. 95-619, 92 Stat. 3206, 42 U.S.C. Section 8201, et. seq..

**TITLE 15A - DEPARTMENT OF
ENVIRONMENT, HEALTH, AND
NATURAL RESOURCES**

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to adopt rule(s) cited as 15A NCAC 10C .0110 and 10F .0362.

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

The public hearing will be conducted at 10 a.m. on April 2, 1990 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from March 19, 1990 to April 17, 1990. Such written comments must be delivered or mailed to the N. C. Wildlife Commission, 512 N. Salisbury St., Raleigh, NC 27611.

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

**SUBCHAPTER 10C - INLAND FISHING
REGULATIONS**

**SECTION .0100 - JURISDICTION OF
AGENCIES: CLASSIFICATION OF WATERS**

.0110 PRIMARY NURSERY AREAS

Primary nursery areas are those areas in which young fish or crustaceans spend a major portion of their initial growing season due to favorable food, cover, bottom type, salinity, temperature, or other factors. The following waters are designated as primary nursery areas:

- (1) North River:
Board Creek - Camden County - Entire stream;
Deep Creek - Currituck County - Entire stream;
Lutz Creek - Currituck County - Entire stream.*
- (2) Alligator River:
East Lake - Dare County - Entire stream;*

- Little Alligator River - Tyrrell County - Entire stream.
- (3) Currituck Sound:
 Martin Point Creek - Dare County - Entire stream (Jean Guite Creek);
 Tull Creek and Bay - Currituck County - Tull Bay to mouth of Northwest River; Tull Creek from mouth upstream to SR 1222 bridge.
- (4) Pamlico River:
 Duck Creek - Beaufort County - Entire stream;
 Bath Creek - Beaufort County - Entire stream;
 Mixons Creek - Beaufort County - Entire stream;
 Porter Creek - Beaufort County - Entire stream;
 Tooleys Creek - Beaufort County - Entire stream;
 Jacobs Creek - Beaufort County - Entire stream;
 Jacks Creek - Beaufort County - Entire stream;
 Bond Creek - Beaufort County - Entire stream;
 Muddy Creek - Beaufort County - Entire stream;
 Strawhorn Creek - Beaufort County - Entire stream;
 South Prong Wright Creek - Beaufort County - Entire stream;
 Jordan Creek - Beaufort County - Entire stream.
- (5) Neuse River:
 Slocum Creek - Craven County - Entire stream;
 Hancock Creek - Craven County - Entire stream.
- (6) New River:
 French Creek - Onslow County - Entire stream;
 New River - Onslow County - US Highway 17 bridge to point 0.75 miles upstream.

Statutory Authority G.S. 113-132; 113-134.

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0362 HARNETT COUNTY

(a) Regulated Area. This Rule applies to the following public waters of Harnett County:

- (1) All waters of the Carolina Lakes within 50 yards of any marked boat launching

ramp, boat service area, boat pier, boat dock, boat mooring area, boat storage structure, or bridge.

- (2) The marked canal joining Lake Carolina to Ski Lake.

(b) Restricted Zones. Except for authorized personnel of State, County, and Municipal governments and emergency response personnel, no person shall operate a vessel in any restricted zone marked to prevent entry by boats, including designated swimming areas and danger zones near dams and spillways.

(c) Speed Limit. No person shall operate a vessel at greater than no-wake speed within any of the regulated areas delineated in Paragraph (a) of this Rule.

(d) Placement and Maintenance of Markers. The Board of Commissioners of Harnett County is designated as the suitable agency for placement and maintenance of markers implementing this Rule. Provided the Board exercises its supervision responsibility, they may delegate the actual placement and maintenance to some other responsible agency, corporation, group, or individual. With regard to marking the regulated areas and restricted zones described in Paragraphs (a) and (b) of this Rule, the supplementary standards set forth in Rule .0301(g) of this Section shall apply.

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

TITLE 16 - DEPARTMENT OF PUBLIC EDUCATION

Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Education intends to amend rule(s) cited as 16 NCAC 6C .0101 and adopt rule(s) cited as 16 NCAC 6D .0105.

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

The public hearing will be conducted at 9:30 a.m. on 16 NCAC 6D .0105; 10:30 a.m. on 16 NCAC 6C .0101 on April 2, 1990 at 1st Floor Conference Room, Education Annex 1, 217 W. Jones St., 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 6C - PERSONNEL

SECTION .0100 - GENERAL PROVISIONS

.0101 DEFINITIONS

As used in this Subchapter:

- (5) "Part-time employee" means a person employed for ~~half time or more~~ at least 15 hours per week.

Authority N.C. Constitution, Article IX, Sec. 5; G. S. 115C-2.

SUBCHAPTER 6D - INSTRUCTION

SECTION .0100 - CURRICULUM

.0105 USE OF SCHOOL DAY

(a) Local boards of education are obligated both to assure that materials presented to students during the school day are related to the curriculum, and to preserve their discretion and the discretion of administrators and teachers to determine, within the limits of the prescribed curriculum, the materials to be presented to students during the school day and the times during which materials selected will be presented. Therefore, no local board of education may enter into a contract or agreement with any person, corporation, association or organization which:

- (1) limits or impairs its authority and responsibility, or the authority and responsibility of administrators and teachers, to determine the materials to be presented to students during the school day; or
- (2) limits or impairs its authority and responsibility, or the authority and responsibility of administrators and teachers, to determine the times during the school day when materials will be presented to students.

(b) Local boards of education are obligated to assure that students, as a consequence of the compulsory attendance laws, are not made a captive audience for required viewing, listening to, or reading commercial advertising. Therefore, no local board of education may enter into any contract or agreement with any person, corporation, association or organization pursuant to which students are regularly required to observe, listen to, or read commercial advertising. This Rule does not prohibit local boards of education, teachers or administrators from requiring students from time to time to observe, listen to, or read educational materials that contain commercial advertising. This Rule also shall not prohibit the regular study of advertising as an academic subject.

(c) Any contract or agreement previously made by a local board of education in contravention of this Rule shall not be renewed by the local board. However, any contract or agreement previously made by a local board of education that results in a violation of the five and one-half hour instructional day is hereby declared void and unenforceable.

Authority N.C. Constitution, Article IX, Sec. 5; G.S. 115C-1; 115C-2.

TITLE 21 - OCCUPATIONAL LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Certification Board for Social Work intends to amend rule(s) cited as 21 NCAC 63 .0104, .0301, and .0403.

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

The public hearing will be conducted at 10:00 a.m. on April 5, 1990 at Davidson County Human Resource Center, 915 Greensboro Street, (Off N. Main St., Business I-85), Lexington, NC 27292.

Comment Procedures: Written comments should be sent to Dr. Carl Mumpower, Chairperson, N.C. Certification Board for Social Work, 111 McDowell St., Asheville, N.C., by March 31, 1990.

CHAPTER 63 - CERTIFICATION BOARD FOR SOCIAL WORK

SECTION .0100 - GENERAL

.0104 ORGANIZATION OF THE BOARD

The North Carolina Certification Board for Social Work is composed by law of seven members appointed by the governor to staggered terms of three years. The composition of the board shall include four certified social workers (two certified social workers and two certified clinical social workers). Among the social workers, one member shall be employed in the field of social work education, one member from the private sector and one member from the public sector. The three remaining members shall be from the general public. The board shall elect a chairperson, vice chairperson and secretary-treasurer from its membership to serve for a term of at least one year. The board shall hold at least ~~40~~ eight meetings each year and four members shall at all times constitute a quorum.

Members of the board are expected to attend all meetings.

Statutory Authority G.S. 90B-6.

SECTION .0300 - EXAMINATIONS

.0301 WRITTEN EXAMINATIONS

The board shall administer to all approved applicants for certification, a written examination at least ~~twice~~ once a year. The exam shall be given in a reasonable, geographic area within the state. A national examination selected by the board shall serve to evaluate the qualifications of applicants for certification.

Statutory Authority G.S. 90B-6; 90B-7; 93B-8.

SECTION .0400 - RENEWAL OF CERTIFICATION

.0403 RENEWAL FEES

(a) A biennial renewal fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) shall be assessed.

(b) Persons who fail to apply for renewal prior to the expiration date shall be assessed a minimum late renewal fee of fifteen dollars (\$15.00).

Statutory Authority G.S. 90B-9(b).

TITLE 25 - OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-12 that the OSP, State Personnel Commission intends to amend rule(s) cited as 25 NCAC 1D .0303, .0308, .0406, .0605, .0609, .0706 - .0708.

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

The public hearing will be conducted at 9:00 a.m. on April 5, 1990 at Personnel Development Center, 101 W. Peace St., Raleigh, N.C.

Comment Procedures: Interested persons may present statements orally or in writing at the hearing or in writing prior to the hearing by mail addressed to: Drake Maynard, OSP, 116 W. Jones St., Raleigh, N.C. 27611.

CHAPTER 1 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 1D - COMPENSATION

SECTION .0300 - PROMOTION

.0303 EFFECTIVE DATE

(c) If the desired amount of increase is not given on the effective date of the promotion because of unavailable funds or equity considerations, an additional increase(s) up to the full allowable amount may be given at a later date(s) on a current basis. Additional increases are limited to two occurrences after the initial promotional increase and must be awarded within 24 months of the original effective date of the action. If a subsequent promotion, reallocation up or down, ~~or~~ demotion or reassignment occurs, this cancels the authorization to grant additional increases as a result of the previous promotion. If increases are to be given at later dates, a notation must be entered on the form stating the reason the increase is being delayed and showing the dollar amount of the allowable increase, the amount given, and the balance that may be given later. The personnel actions submitted later must reference the original promotion, state "Promotional Increase" in the description of action block, which will denote that this is a delayed increase.

Statutory Authority G.S. 126-4.

.0308 SALARY INCREASES

The purpose of a promotional pay increase is to reward the employee for the assumption of duties more responsible and more difficult than those in the current position. Subject to the availability of funds, salary increases, not to exceed the maximum of the range, may be given in accordance with the following:

(1) Permanent Promotion:

(a) Salaries at the hiring rate shall be increased to the new hiring rate.

(b) (a) The salary shall be increased to the minimum rate of the grade to which promoted or by five percent, whichever is larger. Salaries at the minimum rate or within the range shall be increased to the new minimum rate of the grade to which promoted or by five percent, whichever is larger. Exceptions:

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

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

(i) If a specific salary rate or limitation is published in advance of a promotional

offer because of internal salary equity or budget considerations in the receiving work unit or agency, a salary increase above the salary rate posted is not required. If this occurs, no salary increase will be approved at a later date.

- (ii) ~~(iii)~~ If the employee's salary is above the maximum as a result of a reallocation down, no increase can be given, but the salary may remain above the maximum.
- (c) ~~(b)~~ If the employee being promoted has had related training and experience which exceeds the minimum qualifications for the position, the salary may be increased by more than five percent, the total not to exceed five percent for each salary grade provided by the promotion. The nature and magnitude of the change in jobs, the need to maintain equity of salaries within the work unit, and other management needs must be given consideration when making such requests. However, if an employee has been reduced to a lower salary grade through demotion, reassignment, reallocation or salary range revision, but without a corresponding reduction in salary, and the employee is later promoted to a position with a higher grade, the number of grades in the original reduction shall be considered to have been compensated and shall not be considered in the salary setting procedure in this Rule.
- (e) If a probationary employee is promoted and the salary is at the hiring rate, the salary must be increased to the hiring rate of the grade to which promoted until the employee is eligible for permanent appointment.
- (d) If the employee is to receive a performance salary increase on the same date as the promotion, the increase may be given before the promotional increase.
- (e) Only with the prior approval of the State Personnel Director and only in well-documented cases which involve circumstances such as severe labor market conditions, unusual change in the scope of work, extraordinary qualifications, or resolution of serious equity problems will salary increases be considered which equate to more than five percent for each grade provided by the promotion. Personnel forms must include the justification.
- (f) If an employee is promoted from a class for which there is no special entry rate into a class which has a special entry rate, the employee's salary may be increased

by the amount of the promotional increase plus the percent difference between the minimum and the special entry rate authorization.

Statutory Authority G.S. 126-4.

SECTION .0400 - DEMOTION

.0406 SALARY RATE

(a) When the employee's current salary falls within the range of the lower class, it may remain the same or be reduced to any salary in the lower range. Exception: When an employee is promoted or reallocated upward and subsequently demoted, ~~or~~ reassigned, or reallocated downward to any lower class within one year, the following shall apply:

- (1) the salary shall revert to the salary being paid before the promotion or reallocation, plus any increases that would have been given had that promotion not occurred;
- (2) if to a level higher than held before the promotion or reallocation, the salary shall revert to a grade and step permitted by 25 NCAC 1D, Section .0300, as though the previous promotion or reallocation had not occurred;
- (3) if to a level lower than held before the promotion or reallocation, the salary shall be set in accordance with Paragraph (1) of this Rule, but not to exceed the maximum.

Statutory Authority G.S. 126-4.

SECTION .0600 - REALLOCATION

.0605 EFFECTIVE DATE

(c) Salary increases within the range are optional and, if recommended, should be given on the effective date of the reallocation. If the desired amount of increase is not given on the effective date because of unavailable funds, equity considerations or performance, the increase(s), up to the full allowable amount, may be given at a later date(s) on a current basis. Total increases are limited to three occurrences and must be awarded within 24 months of the original effective date of the action. If a subsequent promotion, reallocation up or down, ~~or~~ demotion or reassignment occurs, this cancels the authorization to grant additional increases as a result of the previous reallocation.

(d) If increases are to be given at later dates, a notation must be entered on the form stating the reason the increase is being delayed and showing the dollar amount of the allowable increase, the amount given, and the balance that may be given

later. The personnel actions submitted later must ~~reference the original reallocation~~ state "Reallocation Increase" in the description of action block, which will denote that this is a delayed salary increase. If no increase is to be given at a later date, no notation is necessary.

Statutory Authority G.S. 126-4.

.0609 REALLOCATION TO A HIGHER GRADE

When an employee's position is assigned to a higher grade as a result of reallocation, subject to the availability of funds and satisfactory employee performance, salary increases, not to exceed the maximum of the range, may be given in accordance with the following:

- (3) Salaries within the range may remain the same; or if funds are available and where appropriate, individual salary increases may be considered, based on the employee's related training and experience which exceeds the minimum qualifications for the position, but the total not to exceed five percent for each salary grade provided by the reallocation. Salary equity within the work unit and other management needs must be given consideration when making such requests. However, if an employee has been reduced to a lower salary grade through demotion, reassignment, reallocation or salary range revision, but without a corresponding reduction in salary, and the employee's position is later assigned to a higher grade as a result of reallocation, the number of grades in the original reduction shall be considered to have been compensated and shall not be considered in the salary setting procedure in this Rule.
- (4) Only with the prior approval of the State Personnel Director and in extreme well-documented circumstances relating to critical positions and well-documented labor market conditions will salary increases be considered which equate to more than five percent for each grade provided by the reallocation. Personnel forms must include the justification.
- (5) If the employee is to receive a performance salary increase on the same day as the reallocation, the performance increase ~~may~~ shall be given before a ~~salary adjustment~~ reallocation increase is considered.

Statutory Authority G.S. 126-4.

SECTION .0700 - SALARY RANGE REVISION

.0706 ASSIGNMENT TO A HIGHER GRADE

When an employee's position is assigned to a higher grade as a result of salary range revision, subject to the availability of funds and satisfactory employee performance, salary increases, not to exceed the maximum of the range, may be given in accordance with the following:

- (3) Salaries within the range may remain the same; or if funds are available and where appropriate, individual salary increases may be considered, the total not to exceed five percent for each salary grade provided by the salary range revision. Salary equity within the work unit and other management needs must be given consideration when making such requests. However, if an employee has been reduced to a lower salary grade through demotion, reassignment, reallocation or salary range revision, but without a corresponding reduction in salary, and the employee's position is later assigned to a higher grade as a result of salary range revision, the number of grades in the original reduction shall be considered to have been compensated and shall not be considered in the salary setting procedure in this Rule.
- (4) If the employee is to receive a performance salary increase on the same day as the salary range revision, the increase ~~may~~ shall be given before a range revision increase is considered.

Statutory Authority G.S. 126-4.

.0707 EFFECTIVE DATE

(b) Salary increases within the range are optional and, if recommended, should be given on the effective date of the salary range revision. If the desired amount of increase is not given on the effective date because of unavailable funds, equity considerations or performance, the increase(s), up to the full allowable amount, may be given at a later date(s) on a current basis. Total increases are limited to three occurrences and must be awarded within 24 months of the original effective date of the action. If a subsequent promotion, reallocation up or down, or demotion or reassignment occurs, this cancels the authorization to grant additional increases as a result of the previous salary range revision.

(c) If increases are to be given at later dates, a notation must be entered on the form stating the reason the increase is being delayed and showing the dollar amount of the allowable increase, the amount given, and the balance that may be given later. The personnel actions submitted later must ~~reference the original salary range revision~~ state "Salary Range Revision" increase in the description of action block, which will denote

that this is a delayed salary increase. If no increase is to be given at a later date, no notation is necessary.

Statutory Authority G.S. 126-4.

.0708 SALARY ADMINISTRATION: SPECIAL ENTRY RATES

Special entry rates will be announced as a percent above the hiring rate and as a rate of pay. Agencies experiencing recruitment and retention difficulties may elect to use the special entry rates. Priority for salary increases shall be given to employees whose salaries are at or below special entry rates. Salary increases shall not be given to employees whose performance is not at a satisfactory level. Salary increases are not entitlements and all are subject to the availability of funds in the agency budget. When the agency

decides to use the new rates, salary increases, not to exceed the maximum of the range, may be given in accordance with the following:

- (2) Salaries at or above the special entry rate may be increased by the percent authorized above the hiring rate. If funds are not available, but become available at a later time, increases may be made on a current basis. Total increases are limited to three occurrences and must be awarded within 24 months of the original effective date of the action. If a subsequent reallocation up or down, promotion, ~~or~~ demotion or reassignment occurs, this cancels the authorization to grant additional increases as a result of the special entry rate authorization.

Statutory Authority G.S. 126-4.

FINAL RULES

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

MARCH 1990

AGENCY				ACTION TAKEN
<u>DEPARTMENT OF COMMERCE</u>				
4	NCAC	II	.0102	Temp. Amended
			.0301	Expires 07-09-90
			.0401	Temp. Amended
			.0501	Expires 07-09-90
		5C	.0103	Amended
		17	.0203	Amended
		18	.0101 - .0104	Adopted
			.0201 - .0202	Adopted
			.0203	Temp. Amended
			.0204	Expires 07-24-90
			.0301 - .0303	Temp. Adopted
			.0303	Expires 07-24-90
			.0304 - .0307	Adopted
			.0308	Temp. Adopted
				Expires 07-24-90
<u>DEPARTMENT OF CULTURAL RESOURCES</u>				
7	NCAC	4V	.0101 - .0104	Adopted
			.0201 - .0202	Adopted

OFFICES OF THE GOVERNOR AND LIEUTENANT GOVERNOR

FINAL RULES

- 9 NCAC 2B Executive Order Number 103
 Eff. February 6, 1990
 Executive Order Number 104
 Eff. February 8, 1990
 Executive Order Number 105
 Eff. February 8, 1990

DEPARTMENT OF HUMAN RESOURCES

- | | | | | |
|----|------|-----|---------------|----------|
| 10 | NCAC | 3C | .1303 | Amended |
| | | | .1603 - .1604 | Amended |
| | | | .1606 | Amended |
| | | | .1703 - .1704 | Amended |
| | | | .1706 | Amended |
| | | | .1708 - .1713 | Amended |
| | | | .1717 | Amended |
| | | | .1801 - .1802 | Amended |
| | | | .1804 | Amended |
| | | | .1806 - .1811 | Repealed |
| | | | .1902 - .1906 | Amended |
| | | | .1908 | Amended |
| | | | .1910 - .1913 | Amended |
| | | | .1916 - .1919 | Amended |
| | | | .1922 - .1923 | Amended |
| | | | .1926 | Amended |
| | | 3H | .0217 | Amended |
| | | | .0513 | Amended |
| | | | .1204 | Amended |
| | | | .1209 | Repealed |
| | | | .1306 | Amended |
| | | | .1502 - .1503 | Amended |
| | | | .1612 - .1613 | Amended |
| | | 3T | .0101 | Repealed |
| | | 15A | .0114 | Repealed |
| | | | .0119 - .0120 | Amended |
| | | | .0123 | Amended |
| | | | .0127 - .0129 | Amended |
| | | | .0204 | Repealed |
| | | | .0205 | Amended |
| | | | .0214 - .0216 | Amended |
| | | | .0218 - .0220 | Amended |
| | | | .0227 | Amended |
| | | | .0305 | Amended |
| | | | .0402 | Amended |
| | | | .0404 - .0406 | Amended |
| | | | .0504 | Amended |
| | | | .0606 | Amended |
| | | 15B | .0101 - .0119 | Repealed |
| | | | .0301 - .0302 | Repealed |
| | | | .0501 - .0506 | Repealed |
| | | | .0601 - .0603 | Repealed |
| | | | .0701 - .0705 | Repealed |
| | | | .0801 - .0802 | Repealed |
| | | | .0901 | Repealed |
| | | 15C | .0101 - .0123 | Repealed |
| | | | .0301 | Repealed |
| | | | .0501 - .0502 | Repealed |
| | | | .0601 - .0602 | Repealed |

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	.0701 - .0705	Repealed
	.0801 - .0806	Repealed
	.0901 - .0902	Repealed
	.1001 - .1008	Repealed
	.1101 - .1106	Repealed
15D	.0101 - .0113	Repealed
	.0301 - .0302	Repealed
	.0501 - .0504	Repealed
	.0601 - .0602	Repealed
	.0701 - .0710	Repealed
	.1001 - .1002	Repealed
15E	.0101 - .0158	Repealed
	.0301 - .0302	Repealed
	.0501 - .0507	Repealed
	.0602	Repealed
	.0701 - .0708	Repealed
	.0801 - .0814	Repealed
	.0901 - .0906	Repealed
	.1001	Repealed
	.1101 - .1107	Repealed
	.1201 - .1204	Repealed
	.1301 - .1311	Repealed
	.1401	Repealed
	.1501 - .1502	Repealed
16A	.0102 - .0104	Amended
	.0301 - .0308	Repealed
16B	.0101 - .0137	Repealed
	.0301 - .0307	Repealed
	.0401 - .0404	Repealed
16C	.0101 - .0119	Repealed
	.0201 - .0203	Repealed
	.0301 - .0303	Repealed
	.0401 - .0403	Repealed
16D	.0101 - .0127	Repealed
	.0201 - .0207	Repealed
	.0301 - .0306	Repealed
	.0401 - .0409	Repealed
	.0501 - .0503	Repealed
16E	.0001 - .0032	Repealed
17A	.0103	Repealed
	.0106	Amended
	.0201	Amended
	.0316 - .0322	Repealed
17B	.0101 - .0113	Repealed
	.0301 - .0302	Repealed
	.0501 - .0502	Repealed
17C	.0101 - .0118	Repealed
	.0202 - .0205	Repealed
17D	.0101 - .0119	Repealed
	.0202 - .0203	Repealed
18A	.0123	Repealed
	.0126	Amended
	.0128	Amended
	.0131	Amended
	.0133 - .0134	Amended
18D	.0118 - .0122	Amended
	.0124	Amended
	.0126	Amended
	.0208 - .0209	Amended

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	.0212	Amended
	.0322 - .0324	Amended
18E	.0108	Repealed
	.0109 - .0113	Amended
	.0215	Amended
	.0218 - .0221	Amended
18F	.0218	Repealed
	.0219	Amended
	.0313	Amended
	.0315	Amended
	.0317 - .0318	Amended
	.0320	Amended
18H	.0108	Amended
	.0113 - .0114	Amended
18J	.0118	Amended
	.0509 - .0510	Amended
	.0701	Amended
18L	.0107 - .0108	Amended
	.0223 - .0224	Amended
	.0331	Amended
	.0428	Amended
	.0504	Amended
	.0513	Amended
	.0601	Amended
	.0701	Amended
	.0801 - .0802	Amended
	.0901	Amended
	.1001	Amended
	.1201	Amended
	.1308	Amended
	.1401	Amended
18M	.0107	Amended
	.0206	Amended
	.0304 - .0305	Amended
	.0708	Amended
	.0817	Amended
	.0822	Amended
	.0904	Amended
	.1101	Amended
	.1203	Amended
18N	.0105	Amended
	.0204	Amended
	.0209	Amended
	.0305 - .0307	Amended
	.0520	Amended
	.0523 - .0524	Amended
	.0711	Amended
18Q	.0801	Amended
	.0803	Amended
	.0811	Amended
18S	.0101 - .0115	Repealed
	.0206 - .0207	Amended
	.0301 - .0302	Repealed
	.0401 - .0410	Repealed
18U	.0101 - .0103	Amended
	.0301	Amended
	.0401	Amended
	.0701	Amended
	.0703	Amended

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	.0801	Amended
	.0901	Amended
	.1201	Amended
	.1203	Amended
18V	.0001	Repealed
20C	.0121	Amended
	.0201 - .0206	Amended
	.0304	Amended
	.0412	Amended
20F	.0301	* Correction
	.0407 - .0408	* Correction
	.0411 - .0412	* Correction
22E	.0101 - .0105	Repealed
	.0107	Repealed
	.0201 - .0204	Repealed
	.0301 - .0302	Repealed
22F	.0102	Repealed
	.0302	Repealed
22G	.0311	Repealed
	.0605 - .0607	Repealed
	.0804 - .0805	Repealed
	.0902 - .0903	Repealed
23A	.0401 - .0402	* Correction
	.0501 - .0503	* Correction
	.0505	* Correction
23B	.0401	* Correction
24A	.0101 - .0102	Repealed
	.0103	Amended
	.0201 - .0207	Repealed
	.0301	Repealed
	.0302	Amended
	.0305	Repealed
	.0306	Amended
	.0307	Repealed
	.0505	Amended
	.0507	Amended
	.0607	Amended
24B	.0101	Repealed
	.0201	Repealed
	.0202	Amended
	.0204	Amended
	.0401	Amended
	.0501	Amended
	.0503	Amended
25	.0101 - .0108	Amended
	.0109	Repealed
	.0201 - .0206	Amended
26B	.0120	Amended
26C	.0005	Adopted
2611	.0508	Adopted
27	.0001 - .0002	Repealed
	.0003	Amended
	.0006	Repealed
	.0008	Repealed
	.0009	Amended
28	.0001 - .0002	Repealed
29B	.0003	Amended
30	.0101 - .0102	Repealed
	.0104	Repealed

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	.0201 - .0202	Repealed
	.0212	Amended
41H	.0406 - .0408	Amended
49B	.0308	Temp. Amended
		Expires 08-31-90
50B	.0313	Amended
	.0407	Amended

DEPARTMENT OF INSURANCE

11	NCAC	I	.0103	* Correction
			.0106 - .0107	* Correction
			.0203	* Correction
			.0401 - .0403	* Correction
			.0405	* Correction
			.0601 - .0603	* Correction

DEPARTMENT OF JUSTICE

12	NCAC	9A	.0103 - .0104	Amended
		9B	.0209	Amended
			.0226 - .0227	Amended
			.0232 - .0233	Amended
			.0234	Adopted
			.0304	Amended
			.0312	Adopted
		9C	.0304	Amended
			.0306	Amended
			.0309	Amended
			.0601	Amended
		9E	.0107	Amended

DEPARTMENT OF LABOR

13	NCAC	7C	.0101	Amended
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DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A	NCAC	1A	.0001 - .0002	Amended
		1B	.0101	Amended
			.0201	Amended
			.0302	Amended
			.0401	Amended
		1C	.0101 - .0102	Amended
			.0201 - .0204	Amended
			.0301	Amended
			.0401	Amended
			.0501	Amended
			.0503	Amended
		1D	.0101 - .0102	Amended
			.0201 - .0204	Amended
			.0302 - .0304	Amended
		1E	.0004 - .0005	Amended
		1F	.0001	Amended
			.0003 - .0004	Amended
		1G	.0101 - .0102	Amended
		2B	.0308	Amended
		7H	.0308	Amended
			.0603 - .0604	Adopted

FINAL RULES

		.1205	Amended
		.1904	Amended
	7J	.0406	Amended
	7M	.0901 - .0902	Adopted
		.1001 - .1002	Adopted
	9A	.0001	Amended
	10J	.0002 - .0003	* Correction

DEPARTMENT OF PUBLIC EDUCATION

16	NCAC	6C	.0201 - .0202	Amended
			.0203 - .0204	Repealed
			.0205	Amended
			.0301	Amended
			.0304 - .0306	Amended
			.0309	Amended
			.0311	Amended
			.0401 - .0405	Amended
		6D	.0105	Temp. Adopted
				Expires 08-07-90
			.0201 - .0203	Repealed
			.0204 - .0210	Adopted

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21	NCAC	8A	.0301	Amended
			.0307	Amended
			.0311	Adopted
		8C	.0121	Amended
		8F	.0103	Amended
			.0105	Amended
			.0401	Amended
			.0502	Amended
		8G	.0112	Amended
			.0403 - .0404	Amended
			.0406	Amended
			.0409	Amended
		8H	.0001	Amended
			.0003 - .0004	Amended
		8I	.0004	Amended
		8J	.0001	Amended
			.0005	Amended

BOARD OF MEDICAL EXAMINERS

21	NCAC	32H	.0402 - .0403	Amended
			.0406	Amended

BOARD OF NURSING

21	NCAC	36	.0109	Amended
			.0112	Amended
			.0211	Amended
			.0218	Amended
			.0403	Amended
			.0405	Amended

BOARD OF PLUMBING AND HEATING CONTRACTORS

FINAL RULES

21	NCAC	50	.1101 - .1103	Amended
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OFFICE OF STATE PERSONNEL

25	NCAC	1E	.1003	Amended
		1H	.0602	Amended
			.0604	Amended
		1J	.0606	Amended

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

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

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

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

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- AG - Attorney General's Opinions
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