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The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

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- Economic & Community Development
- Environment, Health, and Natural Resources
- Human Resources
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ARRC OBJECTIONS

RULES INVALIDATED BY JUDICIAL DECISION

ISSUE DATE: DECEMBER 14, 1990

Volume 5 • Issue 18 • Pages 1107-1176



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 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 one 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. 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 include 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, 1988** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1988.

North Carolina Register. Published bi-monthly by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions one hundred and five dollars (\$105.00) per year.

North Carolina Administrative Code. Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

NORTH CAROLINA REGISTER



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

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*****	*****	*****	*****	*****
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
06/01/90	05/10/90	05/17/90	07/01/90	10/01/90
06/15/90	05/24/90	06/01/90	07/15/90	10/01/90
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09/16/91	08/23/91	08/30/91	10/16/91	01/01/92
10/01/91	09/10/91	09/17/91	10/31/91	02/01/92
10/15/91	09/24/91	10/01/91	11/14/91	02/01/92
11/01/91	10/11/91	10/18/91	12/01/91	03/01/92
11/15/91	10/24/91	10/31/91	12/15/91	03/01/92
12/02/91	11/07/91	11/14/91	01/01/92	04/01/92
12/16/91	11/21/91	12/02/91	01/15/92	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.

VOTING RIGHTS ACT FINAL DECISION LETTER

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

U.S. Department of Justice
Civil Rights Division

JRD:MAP:DAP:gmh
DJ 166-012-3
AK533

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

November 21, 1990

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

Dear Mr. Holec:

This refers to the September 11, 1990, annexation to the City of Lumberton in Robeson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on September 28, 1990.

The Attorney General does not interpose any objection to the specified change. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

J. Gerald Hebert
Acting Chief, Voting Section

PROPOSED RULES

TITLE 4 - DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Banking Commission intends to amend rule(s) cited as 4 NCAC 3C .0110, .0201, .1601.

The proposed effective date of this action is May 1, 1991.

The public hearing will be conducted at 8:30 a.m. on February 1, 1991 at the Dobbs Building, Room 6168, 430 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Comments must be submitted in writing not later than Monday, Jan. 21, 1991. Written comments should be directed to:

L. McNeil Chestnut
North Carolina Banking Commission
P.O. Box 29512
Raleigh, North Carolina 27626-0512

CHAPTER 3 - BANKING COMMISSION

SUBCHAPTER 3C - BANKS

SECTION .0100 - ORGANIZATION AND CHARTERING

.0110 ORGANIZATIONAL EXPENSES

(c) Certain organizational expenses may be capitalized and amortized where consistent and in accordance with generally accepted accounting principals as defined by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants, where such standards do not otherwise conflict with the Banking Laws of North Carolina, and provided further that such treatment is subject to the prior review by and consent of the Commissioner of Banks.

Statutory Authority G.S. 53-2; 53-92; 53-104; 150B-11(1).

SECTION .0200 - BRANCHES AND LIMITED SERVICE FACILITIES

.0201 ESTABLISHMENT OF BRANCHES AND LIMITED SERVICE FACILITIES

Banks may establish branches or limited service facilities upon written approval of the Commissioner of Banks.

(10) Commissioner to set requirements. When a bank acquires one or more branches or limited service facilities in connection with a

reorganization in which the Commissioner of Banks or other bank depository financial institution regulator has found one or more banks depository financial institutions to be in an insolvent, unsafe or unsound condition, the Commissioner of Banks shall set all requirements pertaining to notice and publication, time limitations, and any comment period.

Statutory Authority G.S. 53-4; 53-14; 53-62; 53-92; 150B-11(1).

SECTION .1600 - FEES

.1601 FEES, COPIES AND PUBLICATION COSTS

(a) For applications, petitions, and other proceedings which must be filed with the Commissioner of Banks the following fees shall be paid to the Commissioner at the time of filing:

- (1) Application for the Formation of a New Bank \$ 10,000.00
- (2) Application for Authority to Decrease Capital Stock \$ 250.00
- (3) Application to Merge or Consolidate Banks (fee is per bank) \$ 4,000.00
- (4) Application for Reorganization Into a Bank Holding Company Through an Interim Bank (fee is per bank) \$ 4,000.00
- (5) Application for Reorganization \$ 4,000.00
- (6) Application for Conversion of a National Bank to State Charter \$ 5,000.00
- (7) Application for Voluntary Liquidation \$ 3,000.00
- (8) Application for Authority to Create and Invest in a Subsidiary \$ 750.00
- (9) Application for Approval of Change in Bank Control or Management \$ 1,000.00
- (10) Petition for Authority to Exceed Investment or Loan Limitations \$ 250.00
- (11) Application for Authority to Establish a Branch Bank \$ 1,000.00
- (12) Application for Authority to Relocate a Main Office or Branch \$ 750.00
- (13) Application for Authority to Create a Limited Service Facility \$ 1,000.00
- (14) Application for Authority to Convert a Branch to a Limited

PROPOSED RULES

- Service Facility \$ 500.00
- (15) Authority to Close a Branch \$ 1,000.00
- (16) Request for Replacement Charter Certificate \$ 25.00
- (17) Request for Certificate of Good Standing \$ 25.00
- (18) Application for Conversion of a Savings and Loan Association to a State Bank \$ 7,500.00

(b) The fees set forth in Paragraph (a) of this Rule are for standard applications, petitions, and other proceedings filed and considered in the ordinary course of business. Any application, petition or other proceeding which in the opinion of the Commissioner of Banks requires extraordinary review, investigation or special examination will be subject to additional expenses at an hourly rate to be determined annually by the Banking Commission. The Commissioner of Banks will advise an applicant or petitioner in advance of any additional work required and the hourly rate for the same.

(c) Publications available through the Banking Commission and copies of public records may be obtained at the following costs.

- (1) Publications:
 - (A) Consumer Finance Laws of North Carolina 1988 Edition (Includes Consumer Finance Act, Retail Installment Sales Act, and Interest Rate Laws) \$ 8.00
 - (B) Laws of NC Relating to Banks and Savings and Loans (Including the latest Cumulative Supplement) \$ 15.00
 - (C) The Cumulative Supplement (individually) \$ 8.00
 - (D) Annual Report of Consumer Finance Licensees \$ 4.00
 - (E) Annual Report of State-chartered Banks \$ 5.00
 - (F) Annual Report of Special Services \$ 3.50
 - (G) North Carolina Administrative Code - Chapter 3 Banking Commission and Related Regulations \$ 7.50
 - (H) Annual Subscription for Official Notice-Maximum Rate of Interest Allowed on Certain Loans \$ 10.00

(2) Copies of public records: one dollar (\$1.00) per page.

(d) Any new publication or any publication not set forth in Subparagraph (c)(1) of this Rule may

be purchased at a price of ~~five cents (\$0.05)~~ twenty-five cents (\$0.25) per page.

Statutory Authority G.S. 53-92; 53-122(3); 150B-11(1).

* * * * *

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 .0309.

The proposed effective date of this action is April 1, 1991.

The public hearing will be conducted at 7:00 p.m. on January 14, 1991 at the Utilities Commission Hearing Room, Dobbs Building, Second Floor, 430 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Any interested person may present written comments for consideration by the Commission. The hearing record will remain open for receipt of written comments from November 19, 1990 through January 14, 1991. Written comments should be received by the Commission by 5:00 p.m. on January 14, 1991, to be considered as part of the hearing record. Comments should be addressed to:

*Ms. Cindy Trinks
N.C. Hazardous Waste Management Commission
Post Office Box 25249
Raleigh, NC 27611*

Any person may present oral comments at the hearing. 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 hearing. Additional comments may be allowed by the Commission by sign up at the public hearing as time allows. All presentations will be limited to 5 minutes.

**CHAPTER 18 - N.C. HAZARDOUS WASTE
MANAGEMENT COMMISSION**

**SECTION .0300 - SITE SELECTION
PROCEDURE**

.0309 FINAL SITE

To the extent any provisions of this Subsection may conflict with other provisions of this Chapter, these provisions apply:

- (1) The size of the final site for a facility may be limited to the acreage necessary to accommodate either an incinerator, solvent distillation and recovery unit or land disposal unit, together with any stabilization or storage components associated with these units. The amount of acreage necessary for each of these hazardous waste management units shall be determined in accordance with 15A NCAC 13A .0002 and 40 CFR 260.10(63). The Commission will obtain title to this acreage in fee simple.
- (2) The final site for a facility containing an incinerator shall be surrounded entirely by a buffer zone consisting of land extending at least 1,000 feet from the boundary of the incinerator site to the property boundary. The Commission need not hold fee simple title to the buffer zone in the event the buffer zone is land owned by the State prior to condemnation.
- (3) The final site for a facility containing a solvent distillation and recovery unit or a landfill unit shall be surrounded entirely by a buffer zone consisting of land extending at least 200 feet from the boundary of the solvent distillation and recovery unit site or landfill unit site to the property boundary. The Commission need not hold fee simple title to the buffer zone in the event the buffer zone is land owned by the State prior to condemnation.
- (4) Except as provided in this Subsection, the final site for the hazardous waste management unit or units will meet all the criteria set forth in 4 NCAC 18 .0200.
- (5) Except as provided in this Subsection, the buffer zone shall meet all the criteria set forth in 4 NCAC 18 .0200, except that the buffer zone may contain wetlands; provided the Commission manages or provides for the management of the buffer zone in a manner which preserves the wetlands. Administration buildings, laboratories and receiving stations may be constructed in the buffer zone so long as not constructed in or on wetlands.

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

* * * * *

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

and Community Development - Division of Community Assistance intends to repeal rule(s) cited as 4 NCAC 19N .0101 - .0104, .0201 - .0202, .0301 - .0303, .0401 - .0402, .0501 - .0505, .0601 - .0604; 19O .0101 - .0104, .0201 - .0202, .0301 - .0304, .0401 - .0403, .0501 - .0503, .0601 - .0605, .0701 - .0704; 19P .0101 - .0104, .0201 - .0202, .0301 - .0303, .0401 - .0403, .0501 - .0505, .0601 - .0604; 19Q .0101 - .0104, .0201 - .0202, .0301 - .0304, .0401 - .0403, .0501 - .0503, .0601 - .0605, .0701 - .0704; and adopt rule(s) cited as 4 NCAC 19R .0101 - .0104, .0201 - .0202, .0301 - .0305, .0401 - .0402, .0501 - .0505, .0601 - .0604.

The proposed effective date of this action is April 1, 1991.

The public hearing will be conducted at 2:00 p.m. on January 14, 1991 at the Second Floor Conference Room, 1307 Glenwood Avenue, Suite 250, Raleigh, North Carolina 27605.

Comment Procedures: Comments may be presented at the hearing or submitted by mail to:

Deborah G. McCrae
Division of Community Assistance
1307 Glenwood Avenue, Suite 250
Raleigh, North Carolina 27605

CHAPTER 19 - DIVISION OF COMMUNITY ASSISTANCE

SUBCHAPTER 19N - EMERGENCY SHELTER GRANTS PROGRAM ADMINISTRATIVE RULES

SECTION .0100 - GENERAL PROVISIONS (REPEALED)

- .0101 PURPOSE AND OBJECTIVES
- .0102 DEFINITIONS
- .0103 WAIVERS
- .0104 ELIGIBLE APPLICANTS

Authority G.S. 143-323; 143B-10; 143B-276; P.L. 99-500; 24 C.F.R. 575; 24 C.F.R. 575.3; 24 C.F.R. 575.23.

SECTION .0200 - ELIGIBLE AND INELIGIBLE ACTIVITIES (REPEALED)

- .0201 ELIGIBLE ACTIVITIES
- .0202 INELIGIBLE ACTIVITIES

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575.21(a); 24 C.F.R. 575.21(b).

SECTION .0300 - DISTRIBUTION OF FUNDS (REPEALED)

PROPOSED RULES

- .0301 SIZE AND USE OF GRANTS
- .0302 REALLOCATION
- .0303 GENERAL APPLICATION REQUIREMENTS

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575.37; 24 C.F.R. 575.61.

SECTION .0400 - GRANT SELECTION PROCESS (REPEALED)

- .0401 ELIGIBILITY REQUIREMENTS
- .0402 EVALUATION FACTORS

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575.33.

SECTION .0500 - GRANT ADMINISTRATION (REPEALED)

- .0501 GRANT AGREEMENT
- .0502 METHOD OF ADMINISTRATION
- .0503 PROPERTY MANAGEMENT STANDARDS
- .0504 RECORDKEEPING
- .0505 GRANT CLOSEOUTS

Authority G.S. 143-323; 143B-10; 159-34; 24 C.F.R. 575.21; 24 C.F.R. 575.59; 24 C.F.R. 575.61; 24 C.F.R. 575.67.

SECTION .0600 - COMPLIANCE AND REPORTING REQUIREMENTS (REPEALED)

- .0601 COMPLIANCE
- .0602 REPORTING
- .0603 MONITORING BY NRCD
- .0604 REMEDIES

Authority G.S. 143-322; 143-323; 143B-10; 24 C.F.R. 575.61; 24 C.F.R. 575.65; 24 C.F.R. 575.69.

SUBCHAPTER 190 - EMERGENCY SHELTER GRANTS PROGRAM ADMINISTRATIVE RULES

SECTION .0100 - GENERAL PROVISIONS (REPEALED)

- .0101 PURPOSE AND OBJECTIVES
- .0102 DEFINITIONS
- .0103 WAIVERS
- .0104 ELIGIBLE APPLICANTS

Authority G.S. 143-323; 143B-10; 143B-276; P.L. 100-77; 24 C.F.R. 575; 24 C.F.R. 575.3; 24 C.F.R. 575.23.

SECTION .0200 - ELIGIBLE AND INELIGIBLE ACTIVITIES (REPEALED)

- .0201 ELIGIBLE ACTIVITIES

- .0202 INELIGIBLE ACTIVITIES

Authority G.S. 143-323; 143B-10; 150B-14; 24 C.F.R. 575.21.

SECTION .0300 - DISTRIBUTION OF FUNDS (REPEALED)

- .0301 APPLICATION REQUIREMENTS
- .0302 SIZE OF GRANTS
- .0303 DISTRIBUTION OF FUNDS
- .0304 REALLOCATION

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575; 24 C.F.R. 575.41; 24 C.F.R. 575.61.

SECTION .0400 - OPERATIONS/SERVICES CATEGORY (REPEALED)

- .0401 DEFINITION
- .0402 ELIGIBILITY REQUIREMENTS
- .0403 SELECTION CRITERIA

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575; 24 C.F.R. 575.21.

SECTION .0500 - REHABILITATION CATEGORY (REPEALED)

- .0501 DEFINITION
- .0502 ELIGIBILITY REQUIREMENTS
- .0503 SELECTION CRITERIA

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575; 24 C.F.R. 575.21; 24 C.F.R. 575.33.

SECTION .0600 - GRANT ADMINISTRATION (REPEALED)

- .0601 GRANT AGREEMENT
- .0602 METHOD OF ADMINISTRATION
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- .0604 RECORDKEEPING
- .0605 GRANT CLOSEOUTS

Authority G.S. 143-323; 143B-10; 159-34; 24 C.F.R. 575; 24 C.F.R. 575.61; 24 C.F.R. 575.67.

SECTION .0700 - COMPLIANCE AND REPORTING REQUIREMENTS (REPEALED)

- .0701 COMPLIANCE
- .0702 REPORTING
- .0703 MONITORING BY NRCD
- .0704 REMEDIES

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575.61; 24 C.F.R. 575.65; 24 C.F.R. 575.69.

SUBCHAPTER 19P - EMERGENCY SHELTER GRANTS PROGRAM ADMINISTRATIVE RULES

PROPOSED RULES

**SECTION .0100 - GENERAL PROVISIONS
(REPEALED)**

- .0101 PURPOSE AND OBJECTIVES
- .0102 DEFINITIONS
- .0103 WAIVERS
- .0104 ELIGIBLE APPLICANTS

Authority G.S. 143-323; 143B-10; 143B-276; P.L. 99-500; P.L. 100-77; 24 C.F.R. 575; 24 C.F.R. 575.3; 24 C.F.R. 575.23.

**SECTION .0200 - ELIGIBLE AND INELIGIBLE
ACTIVITIES (REPEALED)**

- .0201 ELIGIBLE ACTIVITIES
- .0202 INELIGIBLE ACTIVITIES

Authority G.S. 143-323; 143B-10; 150B-14; 24 C.F.R. 575.21.

**SECTION .0300 - GENERAL REQUIREMENTS
(REPEALED)**

- .0301 APPLICATION REQUIREMENTS
- .0302 SIZE OF GRANTS
- .0303 REALLOCATION

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575; 24 C.F.R. 575.41; 24 C.F.R. 575.61.

**SECTION .0400 - OPERATIONS CATEGORY
(REPEALED)**

- .0401 DEFINITION
- .0402 ELIGIBILITY REQUIREMENTS
- .0403 AWARDS

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575; 24 C.F.R. 575.21.

**SECTION .0500 - GRANT ADMINISTRATION
(REPEALED)**

- .0501 GRANT AGREEMENT
- .0502 METHOD OF ADMINISTRATION
- .0503 PROPERTY MANAGEMENT
STANDARDS
- .0504 RECORDKEEPING
- .0505 GRANT CLOSEOUTS

Authority G.S. 143-323; 143B-10; 159-34; 24 C.F.R. 575; 24 C.F.R. 575.61; 24 C.F.R. 575.67.

**SECTION .0600 - COMPLIANCE AND
REPORTING REQUIREMENTS (REPEALED)**

- .0601 COMPLIANCE
- .0602 REPORTING
- .0603 MONITORING BY NRCD
- .0604 REMEDIES

Authority G.S. 143-323; 143B-10; 24 C.F.R. 575.61; 24 C.F.R. 575.65; 24 C.F.R. 575.69.

**SUBCHAPTER 19Q - EMERGENCY SHELTER
GRANTS PROGRAM ADMINISTRATIVE RULES**

**SECTION .0100 - GENERAL PROVISIONS
(REPEALED)**

- .0101 PURPOSE AND OBJECTIVES
- .0102 DEFINITIONS
- .0103 WAIVERS
- .0104 ELIGIBLE APPLICANTS

Authority G.S. 143-323; 143B-10; 143B-276; P.L. 100-77; P.L. 100-628; 24 C.F.R. 575 and 576; 24 C.F.R. 576.3; 24 C.F.R. 576.23.

**SECTION .0200 - ELIGIBLE AND INELIGIBLE
ACTIVITIES (REPEALED)**

- .0201 ELIGIBLE ACTIVITIES
- .0202 INELIGIBLE ACTIVITIES

Authority G.S. 143-323; 143B-10; 150B-14; 24 C.F.R. 576.21.

**SECTION .0300 - GENERAL REQUIREMENTS
(REPEALED)**

- .0301 APPLICATION REQUIREMENTS
- .0302 SIZE OF GRANTS
- .0303 DISTRIBUTION OF FUNDS
- .0304 REALLOCATION

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576; 24 C.F.R. 576.61; 24 C.F.R. 576.81.

**SECTION .0400 - OPERATIONS/SERVICES
CATEGORY (REPEALED)**

- .0401 DEFINITION
- .0402 ELIGIBILITY REQUIREMENTS
- .0403 AWARDS

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576; 24 C.F.R. 576.21(a)(2)(3).

**SECTION .0500 - REHABILITATION
CATEGORY**

- .0501 DEFINITION
- .0502 ELIGIBILITY REQUIREMENTS
- .0503 AWARDS

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.

**SECTION .0600 - GRANT ADMINISTRATION
(REPEALED)**

- .0601 GRANT AGREEMENT

- .0602 METHOD OF ADMINISTRATION
- .0603 PROPERTY MANAGEMENT STANDARDS
- .0604 RECORDKEEPING
- .0605 GRANT CLOSEOUTS

Authority G.S. 143-323; 143B-10; 159-34; 24 C.F.R. 576; 24 C.F.R. 576.81; 24 C.F.R. 576.87.

SECTION .0700 - COMPLIANCE AND REPORTING REQUIREMENTS (REPEALED)

- .0701 COMPLIANCE
- .0702 REPORTING
- .0703 MONITORING BY NRCO
- .0704 REMEDIES

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81; 24 C.F.R. 576.85; 24 C.F.R. 576.89.

SUBCHAPTER 19R - EMERGENCY SHELTER GRANTS PROGRAM ADMINISTRATIVE RULES

SECTION .0100 - GENERAL PROVISIONS

.0101 PURPOSE AND OBJECTIVES

The purpose of the North Carolina Emergency Shelter Grants Program (hereinafter referred to as "ESGP") is to assist families and individuals who are homeless primarily due to their economic circumstances. Consistent with this purpose, ESGP funds will assist local governments in improving the quality and availability of emergency shelters and services for the homeless in their community.

Authority G.S. 143-323; 143B-10; 143B-276; P.L. 100-628; 24 C.F.R. 575 and 576.

.0102 DEFINITIONS

The following terms shall apply to the rules of this Subchapter:

- (1) "Act" means the Stewart B. McKinney Homeless Assistance Act, P.L. 100-77, as amended.
- (2) "Applicant" means a local government which makes an application pursuant to the provisions of this Subchapter.
- (3) "Department" means the North Carolina Department of Economic and Community Development.
- (4) "ESGP" means the state-administered Emergency Shelter Grants Program.
- (5) "Local Government" means any unit of general city or county government in the state.
- (6) "Recipient" means a local government that has been awarded an ESGP grant and has executed a Grant Agreement with the Department.

- (7) "Secretary" means the Secretary of the Department of Economic and Community Development or his designee.
- (8) "Shelter" means an individual facility with the capacity to provide overnight lodging whose purpose is to assist homeless persons through activities funded under this Subchapter. For purposes of this program, the term "shelter" excludes substance abuse rehabilitation centers.
- (9) "State" means the state of North Carolina.
- (10) "Subrecipient" means a nonprofit service-providing agency that a recipient contracts with to carry out services and activities funded under this Subchapter.
- (11) "Obligated" means the recipient or subrecipient has placed orders, awarded contracts, incurred costs, or performed similar transactions that require payment from the ESGP grant amount.
- (12) "Expended" means purchases have been made and deliveries received for goods and services to be paid with ESGP funds.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.3; P.L. 100-77.

.0103 WAIVERS

The Secretary may waive any requirements of this Subchapter not required by law whenever he determines that undue hardship to applicants, recipients or beneficiaries will result from applying the requirements and where application of the requirements would adversely affect the purposes of the Act.

Authority G.S. 143-323; 143B-10; P.L. 100-77; 24 C.F.R. 576.

.0104 ELIGIBLE APPLICANTS

Eligible applicants are all local governments.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.23.

SECTION .0200 - ELIGIBLE AND INELIGIBLE ACTIVITIES

.0201 ELIGIBLE ACTIVITIES

This Subchapter, in accordance with G.S. 150B-14(c), adopts by reference as eligible activities those Operations/Services activities described as such in 24 CFR 576.21(a) and in corresponding sections of the Act, as amended. Copies of these sections of federal law and regulation are available for public distribution from the Department.

Authority G.S. 143-323; 143B-10; 150B-14; 24 C.F.R. 576.21.

.0202 INELIGIBLE ACTIVITIES

This Subchapter, in accordance with G.S. 150B-14(c), adopts by reference as ineligible activities those activities described as such in the Act and in 24 CFR 576.21(c), as amended. Copies of these sections of federal law and regulation are available for public distribution from the Department.

Authority G.S. 143-323; 143B-10; 150B-14; 24 C.F.R. 576.21.

SECTION .0300 - GENERAL REQUIREMENTS

.0301 APPLICATION REQUIREMENTS

(a) Local governments are required to submit applications in a manner prescribed by the Department in order to be considered for funding. Selection of applications for funding will be based primarily on information contained in the application, thus applications must provide sufficient information for the Department to evaluate them.

(b) Applicants may apply for more than one grant and be awarded more than one grant, providing the total amount of funds awarded to a single shelter does not exceed the maximum limits determined by the Department.

(c) The Department shall designate specific dates for submission of ESGP grant applications. Grant application submission dates will be announced by the Department a minimum of 20 days before the date applications are due.

(d) Applications must be received by the Department administrative offices in Raleigh before 5:00 p.m. on the submission date or, if sent by mail, must be postmarked on or before the submission date.

(e) The applicant shall certify to the Department that it will comply with all applicable federal and state laws, regulations, rules and executive orders.

(1) Copies of these federal and state documents are available for public distribution from the Department.

(2) Notwithstanding the provisions of Paragraph (d) in this Rule, certifications of compliance may be postmarked to be received by the Department up to two weeks after the date the application is due. This provision applies only to certifications.

(f) Applicants must comply with the Act, all applicable federal and state laws, regulations,

rules, executive orders and guidelines issued by the Department.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81.

.0302 SIZE OF GRANTS

(a) Grants are applied for and awarded in one category: Operations/Services.

(b) The maximum amount which may be applied for in the Operations/Services category depends on the size of the shelter on whose behalf the application is made. Shelter size shall be determined by overnight lodging capacity.

(c) The minimum grant which may be applied for shall be determined by the Department.

(d) Notwithstanding the provisions of Paragraph (b) of this Rule, the Department reserves the right to award grants for less than the requested amount in the event that the total amount of funds requested exceeds the total amount of funds available; the Department also reserves the right to award grants exceeding the amount requested if the total amount of funds requested is less than the total amount of funds available.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.

.0303 DISTRIBUTION OF FUNDS

A percentage of ESGP funds to be determined by the Department will be awarded to domestic violence shelters.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.

.0304 REALLOCATION

Any ESGP funds recaptured by the Department will be reallocated in a manner to be prescribed by the Department.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.61.

.0305 AWARDS

Awards shall be made by the Department to eligible applicants using a pro-rata formula based on the total amount requested that is eligible for funding and the total amount available for distribution, in accordance with Rules .0302 and .0303 of this Section.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.

SECTION .0400 - OPERATIONS/SERVICES CATEGORY

.0401 DEFINITION

The operations/services category includes those eligible activities referenced in 24 CFR 576.21(a).

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.21(a)(2)(3).

.0402 ELIGIBILITY REQUIREMENTS

Applications for ESGP funds must be complete and show that:

- (1) The application was duly authorized by the local governing body, or that such authorization is imminent.
- (2) Grant funds will be expended by a shelter as defined in Rule .0102 of this Subchapter.
- (3) Funds will be expended within 180 days of the date of the grant award.
- (4) Funds used for the provision of essential services:
 - (a) Total 30 percent or less of the entire Operations/Services grant amount and;
 - (b) Are used to provide either a new service or a quantifiable increase in the level of service.
- (5) All federal requirements will be met, including:
 - (a) Matching Resources - 24 CFR 576.71;
 - (b) Nondiscrimination - 24 CFR 576.79(a).
- (6) The subrecipient must continue operation as an emergency shelter for at least one year after the date of the grant award.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.

SECTION .0500 - GRANT ADMINISTRATION

.0501 GRANT AGREEMENT

(a) Upon approval of the application by the Department, a written grant agreement will be executed between the recipient and the Department. The rules in this Subchapter, application guidelines, subsequent guidelines prepared by the Department, the approved application, and any subsequent amendments to the approved application shall become a part of the grant agreement.

(b) A copy of the grant agreement in its original form along with any and all modifications thereto shall be kept on file in the office of the recipient in accordance with Rule .0504 of this Section.

(c) ESGP Program amendments. Recipients shall request prior Departmental approval for all amendments to the grant agreement when:

- (1) The recipient proposes to change the approved project budget amount for any of the three types of eligible activities as described in 24 CFR 576.21(a).
- (2) The recipient proposes to distribute all or part of its grant(s) to programs, shelters,

or agencies other than those originally approved in the application.

(d) The Department reserves the right to disallow any proposed amendment to the grant agreement.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81.

.0502 METHOD OF ADMINISTRATION

(a) Recipients may delegate to nonprofit subrecipients the responsibility of undertaking or carrying out ESGP activities pursuant to 24 CFR 576.3 and 24 CFR 576.23. This does not prohibit the designation of an administering agency, so long as no ESGP funds are used for administrative costs.

(b) The Department shall make payments of ESGP funds to recipients on a cost-reimbursement or cost-incurred basis. Recipients shall request payment of ESGP funds in a manner prescribed by the Department.

(c) All payments of ESGP funds to recipients must be for costs incurred during the period of the grant. Recipients will not receive payment for costs incurred before the execution of the Grant Agreement.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.

.0503 PROPERTY MANAGEMENT STANDARDS

(a) Property acquired with ESGP grant funds shall be used to provide benefits to the homeless.

(b) Recipients and subrecipients must proceeds from the disposition of property acquired with ESGP funds in a manner which provides benefit to the homeless in their community.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81.

.0504 RECORDKEEPING

(a) The Department, or any of the Department's duly authorized representatives, shall have access to all books, accounts, records, reports, files, audits, and other papers or property of recipients or their subrecipients and contractors pertaining to funds provided under this Subchapter for the purpose of making surveys, audits, examinations, excerpts and transcripts.

(b) Financial records, supporting documents and all other reports and records required under this Subchapter, and all other audits and records pertinent to the ESG Program shall be retained by the recipient for a period of at least three years from the date of the closeout of the program, except that records shall be retained until all liti-

gations, claims, or audit findings involving the records have been resolved.

(c) All records shall be sufficient to determine compliance with the requirements and primary objectives of the ESG Program and all other applicable laws and regulations. All accounting records shall be supported by source documentation.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.87.

.0505 GRANT CLOSEOUTS

ESGP grants will be closed out by the Department in the following circumstances:

- (1) The Department will initiate closeout procedures after the Department determines, in consultation with the recipient, that there are no impediments to closeout and that all ESGP funds have been expended or returned to the Department.
- (2) Termination of grant for mutual convenience. Grant assistance provided under this Subchapter may be cancelled, in whole or in part, by the Department or the recipient, prior to the completion of the approved ESG Program, when both parties agree that the continuation of the program no longer is feasible or would not produce beneficial results commensurate with the further expenditure of funds. Termination of grant shall be in writing.
- (3) Termination for cause. The Secretary may terminate the recipient's entire grant, or the remaining balance thereof, in accordance with Rule .0604 of this Subchapter.

Authority G.S. 143-323; 143B-10; 159-34; 24 C.F.R. 576.81.

SECTION .0600 - COMPLIANCE AND REPORTING REQUIREMENTS

.0601 COMPLIANCE

Recipients shall have responsibility for ensuring that ESGP funds are expended as stated in their grant agreement and in conformance with all applicable federal and state laws, regulations, and guidelines, regardless of whether activities are carried out by the recipient or a subrecipient. The Department may prescribe procedures for ensuring compliance with the provisions of this Rule.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81.

.0602 REPORTING

(a) The Department may require recipients to provide interim performance reports in a form prescribed by the Department. Recipients will be notified a minimum of 20 days before the report is due.

(b) The recipient shall submit an Annual Performance Report to the Department as part of closeout procedures. The Department will notify grantees of the date the Annual Performance Report is due. The Annual Performance Report shall be in a form prescribed by the Department.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.85.

.0603 MONITORING BY THE DEPARTMENT

(a) The Secretary may evaluate activities conducted under this Subchapter and their effectiveness in meeting the objectives of the ESG program.

(b) The Secretary may conduct such evaluations using the Department personnel, or by contract or other arrangement with public or private agencies.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.89.

.0604 REMEDIES

When the Secretary determines on the basis of a review of a recipient's performance that the objectives of an ESG program described in the grant agreement had not been met, the Department may take one or more of the following actions as appropriate:

- (1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;
- (2) Condition a future grant;
- (3) Direct the recipient to stop the incurring of costs with grant amounts;
- (4) Require that some or all of the grant amounts be remitted to the Department;
- (5) Reduce the level of funds the recipient would otherwise be entitled to receive; or
- (6) Elect not to provide future grant funds to the recipient until appropriate actions are taken to ensure compliance.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.89.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Medical Care Commission (Di-

PROPOSED RULES

vision of Facility Services) intends to amend rules cited as 10 NCAC 3C .0301, .0305; and adopt rules cited as 10 NCAC 3C .0913 - .0920.

The proposed effective date of this action is June 1, 1991.

The public hearing will be conducted at 9:30 a.m. on March 15, 1991 at the DFS, Room 201, Council Building, 701 Barbour Drive, Raleigh, NC 27603.

Comment Procedures: Written comments should be submitted to Lynda McDaniel, 701 Barbour Drive, Raleigh, North Carolina 27603 by March 15, 1991. Oral comments may be given at the hearing.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3C - LICENSING OF HOSPITALS

SECTION .0300 - ADMINISTRATION

.0301 GOVERNING BOARD

(h) A hospital with one or more units, or portions of units, however described, utilized for psychiatric or substance abuse treatment shall adopt policies implementing the provisions of North Carolina General Statutes Chapter 122C Article 3 and Article 5 parts 2, 3, 4, 5, 7, and 8.

Statutory Authority G.S. 131E-79.

.0305 ADMISSION AND DISCHARGE

(g) No mentally competent adult shall be detained in the institution against his will, nor shall a child be detained against the will of a parent or legal guardian for any reason. This restriction shall not apply to persuasion of the patient in his own interest to consider the possible consequences of his actions, nor to the temporary detention of a mentally disturbed patient for the protection of himself and others, pending prompt legal disposition as may be provided for in G.S. 122C which is hereby adopted by reference pursuant to G.S. 150B-14(c). Documentation of the commitment process shall be retained for all involuntary commitments in accordance with the provisions of Rule 10 NCAC 3C .1405.

Statutory Authority G.S. 131E-79.

SECTION .0900 - GENERAL CLINICAL SERVICES

.0913 PSYCHIATRIC OR SUBSTANCE ABUSE SERVICES: APPLICABILITY OF RULES

The rules contained in 10 NCAC 3C .0913 - .0917 shall apply only to inpatient services unless otherwise specified.

Statutory Authority G.S. 131E-79.

.0914 DEFINITIONS APPLICABLE TO PSYCHIATRIC OR SUBSTANCE ABUSE SERVICES

(a) "Certified counselor" means an alcoholism, drug abuse or substance abuse counselor who is certified by the North Carolina Substance Abuse Professional Certification Board.

(b) "Certified substance abuse counselor/supervisor" means an individual who is a "certified counselor" as defined in 10 NCAC 3C .0914(a) and is designated by the North Carolina Substance Abuse Professional Certification Board as a qualified substance abuse supervisor.

(c) "Clinical/professional supervision" means regularly scheduled assistance by a qualified mental health professional or a qualified substance abuse professional to a staff member who is providing direct, therapeutic intervention to a client or clients. The purpose of clinical supervision is to ensure that each client receives appropriate treatment or habilitation which is consistent with accepted standards of practice and the needs of the client.

(d) "Direct care staff" means an individual who provides active direct care, treatment, or rehabilitation or habilitation services to clients on a continuous and regularly scheduled basis.

(e) "Psychiatric nurse" means an individual who is licensed to practice as a registered nurse in the State of North Carolina by the North Carolina Board of Nursing and who is a graduate of an accredited master's level program in psychiatric mental health nursing with two years of experience or has a master's degree in behavioral science with two years of supervised clinical experience, or has four years of experience in psychiatric mental health nursing.

(f) "Psychiatric social worker" means an individual who holds a master's degree in social work from an accredited school of social work and has two years of clinical social work experience.

(g) "Psychiatrist" means an individual who is licensed to practice medicine in North Carolina and who has completed an accredited training program in psychiatry.

(h) "Psychologist" means an individual licensed to practice psychology in North Carolina by the North Carolina State Board of Examiners of Practicing Psychologists.

(i) "Qualified mental health professional" means any one of the following: psychiatrist,

psychiatric nurse, practicing psychologist, psychiatric social worker, an individual with at least a master's degree in a related human service field and two years of supervised clinical experience in mental health services or an individual with a baccalaureate degree in a related human service field and four years of supervised clinical experience in mental health services.

(j) "Qualified substance abuse professional" means an individual who is:

- (1) certified by the North Carolina Substance Abuse Professional Certification Board; or
- (2) certified by the National Consortium of Chemical Dependency Nurses, Inc.; or
- (3) a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism and drug abuse counseling.

(k) "Restraint" means the limitation of one's freedom of movement and includes the following:

- (1) mechanical restraint which means restraint of a client with the intent of controlling behavior with mechanical devices which include, but are not limited to, cuffs, ankle straps, sheets or restraining shirts.
- (2) physical restraint which means restraint of a client until calm. As used in these Rules, the term physical restraint does not apply to the use of professionally recognized methods for therapeutic holds of brief duration (five minutes or less).

(l) "Restrictive facility" means a facility so designated by the Division of Facility Services which uses mechanical restraint or seclusion in accordance with G.S. 122C-60 in order to restrain a client's freedom of movement.

(m) "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior.

Statutory Authority G.S. 131E-79.

.0915 STAFFING FOR PSYCHIATRIC OR SUBSTANCE ABUSE SERVICES

(a) General.

- (1) A physician shall be present in the facility or on call 24 hours per day. The treatment of each patient shall be under the supervision of a physician.
- (2) Each facility shall determine its overall staffing requirements based upon the age categories (child, adolescent, adult, elderly), clinical characteristics, treatment requirements and numbers of patients.

(3) There shall be a sufficient number of appropriately qualified clinical and support staff to assess and address the clinical needs of the patients.

(4) Staff members shall have training or experience in the provision of care in each of the age categories assigned for treatment.

(b) Psychiatric Services.

(1) Staff coverage for psychiatric services shall include at least one each of the following: psychiatrist, psychiatric nurse, psychologist, and a psychiatric social worker.

(2) A qualified mental health professional shall be readily available by telephone or page and able to reach the facility within 30 minutes on a 24 hour basis.

(3) Each clinical or direct care staff member who is not a qualified mental health professional shall receive professional supervision from a qualified mental health professional.

(c) Substance Abuse Services.

(1) At least one registered nurse shall be on duty during each shift.

(2) Certified counselors or qualified substance abuse professionals shall be employed at the ratio of one staff member for each ten inpatients or fraction thereof. In documented instances of bona fide shortages of certified persons, uncertified individuals expecting to become certified may be employed for a maximum of 38 months without qualifications.

(3) The hospital shall have a minimum of two staff members providing care, treatment and services directly to patients on duty at all times and maintain a shift ratio of one staff member for each 20 or less inpatients with the following exceptions:

(A) When there are minor inpatients there shall be staff available on the ratio of one staff member for each 5 minor inpatients or fraction thereof during each shift from 7:00 a.m. - 11:00 p.m.

(B) When detox services are offered there shall be no less than one staff member for each nine inpatients or fraction thereof on each shift.

(4) A certified substance abuse counselor/supervisor shall be available in accordance with requirements of the North Carolina Substance Abuse Professional Certification Board, but shall be required no earlier than January, 1993.

Statutory Authority G.S. 131E-79.

.0916 PSYCHIATRIC OR SUBSTANCE ABUSE SERVICES RECORD REQUIREMENTS

(a) In addition to the general record keeping requirements of Rule 10 NCAC 3C .1404, specialized assessment and treatment plans for individuals undergoing psychiatric or substance abuse treatment are as follows:

- (1) Within 24 hours following admission each individual shall have a completed admission assessment. The initial assessment shall include the reason for admission, admitting diagnosis, mental status including suicide potential, diagnostic tests or evaluations, and a determination of the need for additional information to include the potential for the physical abuse of self or others and a family assessment when a minor is involved.
- (2) Within 72 hours following admissions a preliminary individual treatment plan shall be completed and implemented.
- (3) Within ten days following inpatient admission a comprehensive individual treatment plan shall be developed and implemented. For outpatient programs the plan shall be developed and implemented within 30 days of being admitted to treatment.
- (b) Individual treatment plans for psychiatric and substance abuse patients shall be developed in partnership with the patient or individual acting in behalf of the patient. Clinical responsibility for the development and implementation of the plan shall be clearly designated. Minimum components of the comprehensive treatment plan shall include diagnosis and time specific short and long term measurable goals, strategies for reaching goals, and staff responsibility for plan implementation. The plan shall be revised as medically or clinically indicated.
- (c) Progress notes shall be entered in each individual's record. Included is information which may have a significant impact on the individual's condition or expected outcome such as family conferences or major events related to the patient. Progress notes shall be recorded each shift for any inpatient psychiatric or substance abuse services, and on a per visit basis for outpatient psychiatric and substance abuse services.
- (d) For each individual to whom substance abuse services are provided, a written plan for aftercare services shall be developed which minimally includes:
 - (1) plan for delivering aftercare services, including the aftercare services which are provided; and

- (2) provision for agreements with individuals or organizations if aftercare services are not provided directly by the facility.

Statutory Authority G.S. 131E-79.

.0917 COMPLIANCE WITH STATUTORY REQUIREMENTS

(a) Facilities providing psychiatric or substance abuse services shall develop procedures to ensure the rights of psychiatric and substance abuse patients in accordance with North Carolina statutes addressing the rights of psychiatric and substance abuse patients. Statutes addressing such rights are as follows:

- (1) G.S. 122C-51. Declaration of policy on clients' rights;
 - (2) G.S. 122C-52. Right to confidentiality;
 - (3) G.S. 122C-53. Exceptions; client;
 - (4) G.S. 122C-54. Exceptions; abuse reports and court proceedings;
 - (5) G.S. 122C-55. Exceptions; care and treatment;
 - (6) G.S. 122C-56. Exceptions; research and planning;
 - (7) G.S. 122C-57. Right to treatment and consent to treatment;
 - (8) G.S. 122C-58. Civil rights and civil remedies;
 - (9) G.S. 122C-59. Use of corporal punishment;
 - (10) G.S. 122C-60. Use of physical restraints or seclusion;
 - (11) G.S. 122C-61. Treatment rights in 24-hour facilities;
 - (12) G.S. 122C-62. Additional rights in 24-hour facilities;
 - (13) G.S. 122C-65. Offenses relating to clients; and
 - (14) G.S. 122C-66. Protection from abuse and exploitation: reporting.
- (b) With the exception of the specific requirements in 10 NCAC 3C .0918, .0919 and .0920, facilities providing psychiatric or substance abuse services which have been accredited by the Joint Commission on Accreditation of Healthcare Organizations will be deemed to be in compliance with 10 NCAC 14P-14S addressing the rights of psychiatric and substance abuse patients.
- (c) Facilities providing psychiatric or substance abuse services which are not accredited by the Joint Commission on Accreditation of Healthcare Organizations are subject to the requirements in 10 NCAC 14P-14S.
- (d) Facilities providing psychiatric or substance abuse services shall develop procedures to protect confidentiality of information regarding

communicable disease and conditions in compliance with G.S. 130A-143.

Statutory Authority G.S. 131E-79.

.0918 SAFE ENVIRONMENT

Each hospital shall ensure that each patient lives and receives care in a safe environment. Employees and volunteers shall protect patients from harm, abuse, neglect and exploitation in accordance with G.S. 122C-66.

Statutory Authority G.S. 131E-79.

.0919 SECLUSION, RESTRAINT AND ISOLATION TIME OUT

(a) Each hospital shall develop policies and implement procedures for employing the use of seclusion, restraint and isolation time out.

(b) Each hospital must develop specific safeguards for any intervention that presents a significant risk to a patient.

Statutory Authority G.S. 131E-79.

.0920 REVIEW PROCEDURES

Each hospital shall establish procedures which shall include, but not be limited to, review of methods and procedures for protection of patients' rights; review of all human rights issues; review of the use of seclusion, restraint and isolation time-out; and review of all cases of alleged patient abuse.

Statutory Authority G.S. 131E-79.

TITLE 11 - 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 15 .0006.

The proposed effective date of this action is April 1, 1991.

The public hearing will be conducted at 10:00 a.m. on January 14, 1991 at the 3rd Floor Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, N. C. 27611.

Comment Procedures: Written comments may be sent to Janis Curtis, N. C. Medical Database Commission, 3901 Barrett Drive, Raleigh, N. C. 27609. Oral presentations may be made at the

public hearing. Anyone having questions should call Janis Curtis at (919) 733-7141 or Ellen K. Sprengel at (919) 733-4700.

CHAPTER 15 - MEDICAL DATABASE COMMISSION

.0006 DATA SUBMISSION

(a) Data Submission Requirements:

- (1) At a minimum, hospitals shall submit the required data within 45 calendar days following the close of the calendar quarter during which the patient was discharged or died; therefore, data for the calendar quarters ending March 31, June 30, September 30, and December 31 shall be submitted on or before May 15, August 14, November 14, and February 14, respectively. However, hospitals may submit data more frequently during the calendar quarter in which the patient was discharged or died.
- (2) Upon receipt of a written request for an extension from the data provider, the commission may, for good cause, extend the time for submitting data for a particular reporting period.

(b) Format for Data Submission:

- (1) All hospitals may submit UB-82 discharge data to the commission on one of three acceptable types of media: on paper UB-82 forms, on a magnetic tape, or on a personal computer (PC) diskette. Other types of media used to submit the required data, such as on-line transmission, must be approved by the commission.
- (2) On and after July 1, 1991, each hospital with 1,000 or more annual discharges, as reported on the most current hospital licensure application, must submit the required UB-82 discharge data on one of the acceptable electronic media specified in this Rule and in the format as required by the Commission. An exemption will be considered by the Commission if the hospital can demonstrate that it lacks the technical capability and computer resources to produce the required data electronically. The request for exemption must be made in writing by the hospital's chief executive officer and received by the Commission no later than June 15, 1991. Each hospital granted an exemption must submit an annual certification signed by the hospital's chief executive officer verifying that the hospital continues to meet the exemption criteria. The annual certification form received from the Com-

mission must be returned to the Commission no later than July 1 of each year.

- (3) ~~(2)~~ The physical specifications of the magnetic tape shall be any size reel, recorded in nine track, Extended Binary Coded Decimal Interchange Code (EBCDIC) mode or ASCII, with density equal to 1600 BPI or 6250 BPI, unlabeled or with IBM standard labels. Acceptable specifications for submission of data on a floppy disk shall be 5 1/4 inch IBM-PC compatible diskette.
- ~~(3)~~ (4) Data submitted via magnetic tape shall conform to the uniform record layout as required by the commission. Data submitted via PC diskette shall also conform to a uniform record layout as required by the commission. Copies of the required format may be obtained by contacting the Executive Director of the Medical Database Commission at the Department of Insurance, Post Office Box 26387, Raleigh, North Carolina, 27611.

(c) Edit Criteria:

- (1) Data elements that are considered critical fields for record editing purposes are Patient Control Number, Bill Type, Medicaid Provider Number, Zip Code, Date of Birth, Sex, Admission Date, Admission Type, Source of Admission, Patient Status, Statement Covers Period, Revenue Codes and Charges, Primary Payer, Principal Diagnosis, Attending Physician Identification. Records containing invalid UB-82 codes or all-blank fields for any of these data elements will be designated as error records.
- (2) The last revenue code listed must be 001, Total Charge, and this charge must equal the sum of charges for all other revenue codes reported.
- (3) The following data elements must contain valid codes if present: Primary Payer - Specific Carrier Identification, Other Diagnoses, Principal Procedure Code and Date, Other Procedure Codes and Dates, Other Physician Identification (if a procedure was performed).
- (4) Upon completion of the data error assessment, the commission or the designated contractor shall promptly notify each hospital whose records do not pass the critical edit checks. This notification shall identify the discharge records and the data items within them which do not pass the edits. Each hospital receiving an error notification report shall respond within 30

calendar days of the notification by making the necessary changes.

- (5) Upon receipt of a written request for an extension from the data provider, the commission may, for good cause, extend the time for submitting the necessary changes for a particular reporting period.
- (d) Data Submission Arrangements:
 - (1) Each hospital or its designated agent shall submit the required UB-82 data directly to the commission or to the designated contractor.
 - (2) Resubmissions of data as required by the commission or upon the initiative of a hospital will be accepted for the purposes of adding records, amending data elements or otherwise making modifications to a previous data submission. Resubmissions shall conform to the requirements of 11 NCAC 15 .0006(b).
- (e) Reimbursement for Data Submission: For UB-82 discharge records generated solely for submission to the commission due to the absence of a third party payer, hospitals shall be reimbursed 40 cents (\$.40) per discharge, regardless of the choice of medium for submission.

Statutory Authority G.S. 131E-212(b).

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

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

The proposed effective date of this action is June 1, 1991.

The public hearing will be conducted at 8:00 p.m. on January 24, 1991 at the Courtroom 1, E. W. Summersill Building, (New County Courthouse), 109 Old Bridge Road, Jacksonville, NC.

Comment Procedures: Notice is hereby given of a public hearing to be held by the North Carolina Department of Environment, Health, and Natural Resources on behalf of the Environmental Management Commission (EMC) concerning modifications to the State's surface water quality classifications and standards rules as follows.

This public hearing is being held for the purpose of receiving public comment on the proposal to modify the surface water classifications and standards rule for Outstanding Resource Waters (Title 15A NCAC 2B .0216). The EMC previously had approved changes to the subject rules during 1989. Most of these changes were made as part of a federally mandated review of water quality standards that must be completed every three years, known as the Triennial Review. Some revisions to North Carolina's Outstanding Resource Waters rule were adopted at the EMC's July 13, 1989 meeting. Additional changes to the Outstanding Resource Waters rule were adopted at the September 14, 1989 meeting. Several issues which were originally addressed during the public hearing proceedings for these rules changes have remained unresolved, as described briefly, below.

There are two types of changes being proposed. The first type consists of simply correcting mistakes, such as typographical errors, that have occurred during the rulemaking administrative process. The second type involves clarifying the EMC's clearly intended procedure for implementing marina requirements as was stated in the public record (but not in rules, at the time) during the rulemaking proceedings for reclassifying coastal Outstanding Resource Waters (see the proposed amendments for the Outstanding Resource Waters rule, 15A NCAC 2B .0216). The proposed amendments will not result in any changes in current policy or operating procedures. If adopted, these rules should become effective June 1, 1991.

Comments, data, statements and other information may be submitted in writing prior to, during or within thirty (30) days after the hearing or may be presented verbally at the hearing. So that all persons desiring to speak may do so, statements may be limited to three minutes at the discretion of the hearing officer. The statutory authority for these actions is as follows: N.C. General Statutes 143-214.1; 215.3(a)(1) and (3). Further information on the final proposals may be obtained by writing or calling: Gregory J. Thorpe, Ph.D.; Division of Environmental Management; P.O. Box 27687; Raleigh, North Carolina 27611; (919) 733-5083.

CHAPTER 2 - ENVIRONMENTAL
MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER
STANDARDS: MONITORING

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

.0216 OUTSTANDING RESOURCE WATERS

(c) Quality Standards for ORW.

(1) Freshwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site specific basis during the proceedings to classify waters as ORW. At a minimum, no new discharges or expansions of existing discharges will be permitted, and stormwater controls for all new development activities requiring a Sediment/Erosion Control Plan will be required as follows:

(A) Low Density Option: Developments which limit single family developments to one acre lots and other type developments to 12 percent built-upon area, have no stormwater collection system as defined in 15A NCAC 2H .1002(13), and have built-upon areas at least 30 feet from surface water areas will be deemed to comply with this requirement. Activities conforming to the requirements described in 15A NCAC 2H .1003(a) except for 15A NCAC 2H .1003(a)(2), (3) will also be deemed to comply with this requirement.

(B) High Density Development: Higher density developments will be allowed if stormwater control systems utilizing wet detention ponds as described in 15A NCAC 2H .1003(i), (k) and (l) are installed, operated and maintained which control the runoff from all built-upon areas generated from one inch of rainfall. The size of the control system must take into account the runoff from any pervious surfaces draining to the system.

More stringent requirements may be required by the Environmental Management Commission on a site specific basis.

(2) Saltwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site-specific basis during the proceedings to classify waters as ORW. At a minimum, new development will comply with the low density options as specified in the Stormwater Runoff Disposal rules [~~16~~ 15A NCAC 2H .1003 (a)(2)] within 575 feet of the mean high water

line of the designated ORW area. New non-discharge permits will be required to meet reduced loading rates and increased buffer zones, to be determined on a case-by-case basis. No dredge or fill activities will be allowed where significant shellfish or submerged aquatic vegetation bed resources occur, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas or maintenance dredging for activities such as agriculture. A public hearing is mandatory for any proposed permits to discharge to waters classified as ORW.

Additional actions to protect resource values will be considered on a site specific basis during the proceedings to classify waters as ORW and will be specified in Paragraph (e) of this Rule. These actions may include anything within the powers of the commission. The commission will also consider local actions which have been taken to protect a water body in determining the appropriate state protection options. Descriptions of boundaries of waters classified as ORW are included in Paragraph (e) of this Rule and in the Schedule of Classifications (15A NCAC 2B .0302 through .0317) as specified for the appropriate river basin and will also be described on maps maintained by the Division of Environmental Management.

(e) Listing of Waters Classified ORW with Specific Actions. Waters classified as ORW with specific actions to protect exceptional resource values are listed as follows:

- (5) In the Following designated waterbodies, the only type of new or expanded marina that will be allowed will be those marinas located in upland basin areas, except those with less than 30 slips, having no boats over 21 feet in length and no boats with heads. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.
- (6) In the following designated waterbodies, no new or expanded NPDES permitted discharges and no new or expanded marinas will be allowed, except those with less than 30 slips, having no boats over 21 feet in length and no boats with heads.

Statutory Authority G.S. 143-214.1.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Health Services, Department of Environment, Health, and Natural Resources intends to amend rules cited as 15A NCAC 18A .1720, .1957, .2601, .2604 - .2605, .2607 - .2610, .2612 - .2619, .2623 - .2635, .2637 - .2638, .2640 - .2641, .2643, 2701 - .2702, .2704 - .2706, .2708, .2710 - .2712, .2714, .2716, .2718, .2720, .2722 - .2725; 15A NCAC 21D .0706; repeal rule(s) cited as 15A NCAC 18A .2501 - .2507; and adopt rules cited as 15A NCAC 18A .2508 - .2537.

The proposed effective date of this action is May 1, 1991.

The public hearing schedule for the Commission is as follows:

January 15, 1991

10:00 a.m.

Ground Floor Hearing Room
Archdale Building
512 North Salisbury Street
Raleigh, North Carolina

January 16, 1991

2:00 p.m.

Auditorium

New Hanover County Health Department
2029 South 17th Street
Wilmington, North Carolina

January 23, 1991

2:00 p.m.

Auditorium

Rankin Health Center
1200 Blythe Boulevard
Charlotte, North Carolina

Comment Procedures: Any person may request copies of the proposed rules by contacting John P. Barkley, DEHNR, P.O. Box 27687, Raleigh, NC 27611-7687, (919) 733-7247. Written comments on these rules may be sent to Mr. Barkley at the above address or submitted at the public hearing. If you desire to speak at the public hearing, notify Mr. Barkley at least 3 days prior to the public hearing. At the discretion of the Chairman, the public may also be allowed to comment on the rules at the Commission meeting. Fiscal notes on applicable rules are available from Mr. Barkley.

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .1700 - PROTECTION OF WATER SUPPLIES

.1720 WATER SUPPLIES

(a) All water supplies for which requirements are established in Rules in 15A NCAC 18A shall be water supplies of a safe, sanitary quality supplied from a source located, constructed, maintained and operated in accordance with 15A NCAC 18C, ~~0600 through 2600~~ "Rules Governing Public Water Supplies", ~~or~~ and 15A NCAC 2C .0102, .0107, .0109, .0111, .0112, and .0113, "Well Construction Standards". All wells constructed prior to September 1, 1990 and not regulated under 15A NCAC 18C ~~0600 through 2600~~ shall comply with all of the requirements of 15A NCAC 2C .0102, .0107, .0109, .0111, .0112, and .0113, except that the following shall apply in the place of Rule .0107 (a)(1)(B), (a)(1)(C) and (a)(2) and shall be accepted as meeting the rules:

- (1) the well is located at least 25 feet from any watertight sewage or liquid waste collection and disposal facility, such as ductile iron pipe; and
- (2) the well may be located closer than 100 feet from any other sewage or liquid waste collection and disposal facility or any other source of existing or potential pollution or contamination, but shall be located at the maximum feasible distance from such facilities or sources and in no event less than 50 feet from such facilities or sources.

Statutory Authority G.S. 95-225; 130A-5(3); 130A-228; 130A-230; 130A-235; 130A-236; 130A-248; 130A-257.

SECTION .1900 - SEWAGE TREATMENT AND DISPOSAL SYSTEMS

.1957 DESIGN CRITERIA FOR DESIGN OF ALTERNATIVE SEWAGE SYSTEMS

(d) Individual aerobic sewage treatment units (ATUs) shall be sited, designed, constructed and operated in accordance with this Rule to serve a design unit with a design flow rate of up to 1500 gallons per day, as determined in Rule .1949(a) or .1949(b) of this Section. ATUs shall not be used, however, where wastes contain high amounts of grease and oil, such as restaurants and food service facilities. The strength of the influent wastewater shall be similar to domestic sewage with Biological Oxygen Demand (BOD) and suspended solids not to exceed 300 parts per million. ATUs shall comply with the current requirements of the National Sanitation Foun-

ation (NSF) Revised Standard Number 40 for Class I sewage treatment plants, and shall bear the NSF seal, the NSF listed model number and the serial number assigned to the manufacturer's plans and specifications approved by the state. NSF Standard 40 for Individual Aerobic Wastewater Treatment Plants is hereby adopted by reference in accordance with G.S. 150B-14(c). ATUs may only be permitted where the unit shall be operated and maintained by a certified wastewater treatment facility operator employed by or under contract to the county in which the unit is located, and in accordance with this Rule.

- (1) ATUs shall be constructed and installed in accordance with the plans which have been approved by the state and shall comply with all requirements of this Rule. Procedures for plan review and approval shall be in accordance with Rule .1953 of this Section.
- (2) The rated capacity of ATUs listed as complying with NSF Standard 40 shall not be less than the design daily flow as determined by Rule .1949(a) or .1949(b).
- (3) The following are minimum standards of design and construction of ATUs:
 - (A) Blockouts in concrete unit inlet openings shall leave a concrete thickness not less than one inch in the plant wall. Inlet and outlet blockouts shall be made for a minimum of four inch pipe and a maximum of six inch pipe. No blockouts or openings shall be permitted below the unit liquid level.
 - (B) The inlet in the unit shall be a straight pipe.
 - (C) The invert of the outlet shall be at least two inches lower in elevation than the invert of the inlet.
 - (D) Interior baffle walls in concrete units shall be reinforced by the placing of six-inch by six-inch No. 10 gauge welded reinforcing wire. The reinforcing wire shall be bent to form an angle of 90 degrees on the ends in order to form a leg not less than four inches long. When the wire is placed in the mold, the four inch legs shall lay parallel with the side wall wire and adjacent to it.
 - (E) Access openings shall be provided in the tank top. Access shall be provided for cleaning or rodding out the inlet pipe, for cleaning or clearing air or gas passage spaces, an entrance for inserting the suction hose in compartments required to be pumped out, for sampling the effluent, and for access to repair or maintain any system components requiring repair and

maintenance. All access openings shall have risers sealed to the top of the tank and extended at least to six inches above finished grade and designed and maintained to prevent surface water inflow. Rule .1950(i) of this Section shall also be met.

(F) Concrete units shall be constructed in accordance with Rule .1954(a)(9), (10), (11) and (12) and .1954(b)(4) of this Section.

(G) Fiberglass reinforced plastic units shall be constructed with materials capable of effectively resisting the corrosive influences of the liquid components of sewage, sewage gases, and soil burial.

(i) Units shall have the following minimum physical properties:

Ultimate tensile strength: 12,000 psi, when tested in accordance with ASTM D-638, Test for Tensile Properties of Plastics.

Flexural strength: 19,000 psi, when tested in accordance with ASTM D-790, Test for Flexural Properties of Plastics and Electrical Insulating Materials.

Flexural modulus of elasticity: 800,000 psi, when tested in accordance with ASTM D-790. The above referenced ASTM standards are hereby adopted by reference in accordance with G.S. 150B-14(c).

Vacuum test: Unit must withstand negative pressure of 2.5 psi (69.3 inches of water) without leakage or failure, when tested in accordance with ASTM D-4021, Standard Specifications for Glass-Fiber Reinforced Polyester

Underground Petroleum Storage Tanks.

Physical properties of at least one plant of each size class shall be determined by an independent testing laboratory, in accordance with the applicable ASTM standards, with results included with the specifications provided to the state for approval.

(ii) Composition of the finished unit shall be at least 30 percent fiberglass reinforcement by weight. Minimum wall thickness shall be one-fourth inch.

(iii) Interior and exterior surfaces shall have no exposed fibers or projections, no blisters larger than one-fourth inch in diameter, and no pores or indentations deeper than one-sixteenth inch. The tank shall be watertight.

(H) Prefabricated units other than precast reinforced concrete or fiberglass reinforced plastic units shall be approved on an individual basis as determined by the information furnished by the designer which indicates the unit will provide equivalent effectiveness as reinforced concrete or fiberglass reinforced plastic units.

(I) All units produced shall bear an imprint identifying the manufacturer, serial number assigned to the manufacturer's plans and specifications approved by the state, and the liquid or working capacity of the unit. The imprint shall be located to the right of the blockout or opening made for the outlet pipe on the outlet end of the tank. All units shall also be permanently marked with the date of manufacture adjacent to the unit imprint or on the top of the tank directly above the imprint.

(J) The design, construction, and operation of the unit shall prevent bypass of wastewater.

(K) All electrical circuits to the unit shall be provided with manual circuit disconnects within a watertight, corrosion-resistant, outside enclosure (NEMA 4X or equivalent) adjacent to the unit securely mounted at least 12 inches above the finished grade. Control panels provided by the manufacturer shall be installed in a watertight, corrosion-resistant enclosure (NEMA 4X or equivalent) adjacent to the unit or on the side of the facility readily visible from the unit and accessible by maintenance personnel. Conductors shall be conveyed to the disconnect enclosure and control panel

through waterproof, gasproof, and corrosion-resistant conduits. Splices and wire junctions, if needed, shall be made outside the unit in a watertight, corrosion-resistant enclosure (NEMA 4X or equivalent) securely mounted adjacent to the unit at least 12 inches above the finished grade. Wire grips, duct seal, or other suitable material shall be used to seal around wire and wire conduit openings inside the unit and disconnect enclosure. The unit shall have a warning device or devices to warn the user of a unit malfunction or a high water condition. The alarm shall be audible and visible by system users and weatherproof if installed outdoors in an enclosure (NEMA 4X or equivalent). The warning and alarm circuit or circuits shall be supplied ahead of any unit electrical control circuit overload and short circuit protective devices.

- (4) Pretreatment in a settling tank shall be required prior to an ATU serving a design unit with a design daily flow greater than 500 gallons, as determined in Rule .1949(a) or .1949(b) of this Section. The liquid capacity of the settling tank shall be at least equal to this design daily flow. This tank may either be a state-approved prefabricated septic tank or another tank specially designed for a specific individual aerobic sewage treatment plant and approved by the state along with the plans for the plant.

- (5) Ground absorption systems receiving effluent from approved ATUs may be used on sites classified as suitable or provisionally suitable for conventional, modified, or alternative systems in accordance with this Section. The following modifications to siting and design criteria shall be acceptable:

(A) The minimum horizontal setback requirements of Rule .1950(a) of this Section shall be met, except as follows:

- (i) Any private water supply source, except any uncased well or spring.....50 feet.
- (ii) Streams classified as WS-1.....70 feet.
- (iii) Waters classified as SA.....70 feet.
- (iv) Other coastal waters.....35 feet.
- (v) Any other stream, canal, marsh, or other surface waters.....35 feet.
- (vi) Any Class I or Class II reservoir.....70 feet, from normal pool elevation.

(vii) Any permanent storm water retention pond.....35 feet, from flood pool elevation.

(viii) Any other lake or pond.....35 feet, from normal pool elevation.

(B) The minimum vertical separation requirements of Rules .1955(m), .1956(1), .1956(2), .1956(6), .1957(b)(1), and .1957(b)(2) shall be met, except as follows:

(i) For any conventional or modified system to be installed where the separation between the bottom of the nitrification trench and any soil wetness condition is at least 12 inches, but less than 18 inches, and if more than six inches of this separation consists of Group I soils, a low-pressure pipe system shall not be required.

(ii) The restriction in Rule .1956(6)(a)(v) that saprolite be overlain by at least one foot of suitable or provisionally suitable naturally occurring soil shall not apply.

(iii) For new fill systems, the requirement in Rule .1957(b)(1) that no soil wetness condition shall exist within the first 12 inches below the naturally occurring soil surface may be met by the use of a ground water lowering system which meets the requirements of Rule .1956(2) of this Section.

Furthermore, a low pressure pipe system shall not be required for the minimum separation distance between the trench bottom and any unsuitable soil horizon, rock, or saprolite to be reduced to 18 inches and the minimum separation distance requirements between the trench bottom and any soil wetness condition to be reduced to 12 inches without the use of a low-pressure pipe system.

(iv) For existing fill systems, the requirement of Rule .1957(b)(2)(D) of this Section that the nitrification trenches be installed with at least 36 inches separating the trench bottom and any soil wetness condition or any unsuitable soil horizon, rock, or saprolite may be met without the use of a low-pressure pipe system. However, if a low-pressure pipe system is used, this minimum separation distance may be reduced to 18 inches.

(C) The maximum long-term acceptance rate may be increased by 25 percent for any ground absorption system in soils which are Groups I or II with suitable

structure and clay mineralogy. No other reductions in linear footage of nitrification trench or system area shall be applied, except where based on an adjusted design daily sewage flow rate granted for a non-residential establishment in accordance with Rule .1949(c) of this Section.

- (6) Prior to issuance of an improvement permit for an ATU, the county shall have on its staff or by contract a wastewater treatment facility operator(s) who is certified by the Wastewater Treatment Plant Operators Certification Commission to operate the unit.

The manufacturer or his licensed representative must certify that the unit has been properly installed and a contract covering operation and maintenance shall have been executed between the unit owner and the county prior to the issuance of an operation permit.

A condition of the operation permit shall be that a properly executed contract between the unit owner and the county shall be in effect for as long as the system is in use. Inspection/maintenance shall be performed by the county's certified operator(s) at the frequency specified in Table V(b).

A further condition of the operation permit shall be that the unit continue to perform in accordance with Class I effluent quality requirements of the National Sanitation Foundation (NSF) Revised Standard Number 40 effective on the date the improvement permit was issued.

- (7) Performance monitoring shall be carried out by the operator.

(A) During each inspection, the operator shall confirm proper mechanical performance, conduct a visual check for unusual color, clogging, oily film, odors and foam, measure settleable aeration chamber solids, and ascertain the need for solids pump out, filter backwash/cleaning, and other maintenance activities. The ground absorption system shall also be inspected and proper performance determined. The operator shall take the necessary steps to assure that needed maintenance is carried out.

(B) Semi-annually, samples will be taken and analyzed by a state-approved wastewater testing laboratory of the effluent for Biological Oxygen Demand, Suspended Solids, and pH, and of the aeration tank for mixed liquor suspended solids.

- (C) Performance monitoring results shall be reported to the local health department and the state quarterly.

Statutory Authority G.S. 130A-335(e) and (f); 130A-342.

SECTION .2500 - INTERIM PUBLIC SWIMMING POOLS

- .2501 DEFINITIONS (REPEALED)
- .2502 PUBLIC SWIMMING POOL OPERATION PERMITS (REPEALED)
- .2503 INSPECTIONS (REPEALED)
- .2504 DESIGN AND CONSTRUCTION STANDARDS (REPEALED)
- .2505 WATER QUALITY STANDARDS (REPEALED)
- .2506 REVOCATION OF PERMITS (REPEALED)
- .2507 APPEALS (REPEALED)

Statutory Authority S.L. 1989, c. 577.

.2508 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) Equipment replacement means replacement of individual components of the hydraulic and disinfection systems such as pumps, filters, and automatic chemical feeders.
- (2) Public swimming pool means public swimming pool as defined in G.S. 130A-280. Public swimming pools are divided into three types:
 - (a) Swimming pools are all public swimming pools except spas and wading pools.
 - (b) Spas are special facilities designed for recreational and therapeutic use which are not drained, cleaned, or refilled after each individual use. Spas may include, but not be limited to, units designed for hydrojet circulation, hot water, cold water mineral bath, air induction bubbles, or any combination thereof. Common terminology for spas includes "therapeutic pool", "hydrotherapy pool", "whirlpool", "hot spa", and "hot tub".
 - (c) Wading pools are small, shallow swimming pools not more than 18 inches deep designed for use by children.
- (3) Remodeled means renovations requiring disruption of major portions of the pool shell or deck, changes in the pool profile, or redesign of the pool hydraulic system. Remodeled does not include equipment replacement or repair.
- (4) Repair means repair of existing equipment, replastering or repainting of the pool inte-

rior, replacement of tiles or coping and similar maintenance activities.

Statutory Authority G.S. 130A-282.

.2509 PLAN REVIEW AND APPROVAL

(a) For public swimming pools which are constructed or remodeled on or after May 1, 1991, plans and specifications shall be prepared by a registered professional engineer or registered architect, and shall be approved by the Department prior to construction.

(b) The Department shall approve, disapprove, or provide written comments on plans and specifications for public swimming pools within 30 days of their receipt. If such action is not taken within 30 days, the plans and specifications shall be deemed approved.

(c) If construction is not initiated within one year from the date of approval, the approval shall be voided.

(d) Prior to issuance of the operation permit, the owner shall submit to the local health department a statement signed by a licensed contractor, registered architect, or a registered professional engineer stating that construction is complete and in accordance with approved plans and specifications and approved modifications. Periodic observations of construction and a final inspection for design compliance by the certifying licensed contractor, registered architect, or registered professional engineer or his representative shall be required for this statement.

Statutory Authority G.S. 130A-282.

.2510 PUBLIC SWIMMING POOL OPERATION PERMITS

(a) No public swimming pool shall commence or continue operation on or after May 1, 1990, unless the owner or operator has an operation permit issued by the Department for each public swimming pool. Unless suspended or revoked, the operation permit shall be valid for the period of operation specified in the application but in no event shall it be valid for more than 12 months. For public swimming pools which are constructed or remodeled on or after May 1, 1991, plans and specifications shall have been approved by the Department in accordance with Rule .2509. Compliance with the design and construction requirements in Rules .2512 - .2534 and approval of plans and specifications shall not be required for public swimming pools constructed or remodeled prior to May 1, 1991.

(b) On or after May 1, 1991, equipment replacement shall comply with Rules .2512 - .2534 and shall be approved by the Department prior

to installation. However, for swimming pools with existing turnover rates of less than four times in 24 hours, wading pools with existing turnover rates of less than 12 times in 24 hours, and spas with existing turnover rates of less than 48 times in 24 hours, pumps are not required to comply with Rule .2518 of this Section. Repairs do not require prior approval by the Department.

(c) These Rules shall not apply until May 1, 1992 to public swimming pools in counties or districts where a local board of health has adopted rules prior to July 5, 1989 that establish public swimming pool standards. On or after May 1, 1992, all public swimming pools must meet these Rules. Construction, remodeling, or equipment replacement permitted under local rules prior to May 1, 1992 shall not be required to meet the design and construction requirements of these Rules.

(d) A separate application for an operation permit must be submitted for each public swimming pool. The owner or operator shall apply annually to the Department for an operator's permit. A form must be obtained from the Department to provide the following information:

- (1) the owner's name, address, and phone number;
- (2) the operator's name, address, and phone number;
- (3) street address of the public swimming pool;
- (4) the physical location of the public swimming pool;
- (5) type of public swimming pool;
- (6) construction date;
- (7) proposed operating dates;
- (8) type of disinfection;
- (9) other pertinent information.

Statutory Authority G.S. 130A-282.

.2511 INSPECTIONS

Each public swimming pool shall be inspected by the Department at least once during the period of operation to determine compliance with the rules of this Section.

Statutory Authority G.S. 130A-282.

.2512 WATER SUPPLY

(a) The water supply serving the swimming pool and all plumbing fixtures including drinking fountains, lavatories, toilets, and showers, shall meet all requirements in 15A NCAC 18A .1700 or be an approved public water supply in accordance with 15A NCAC 18C. However, the Department may approve the use of water from

natural sources, including the use of saline water, for the swimming pool.

(b) Portions of the water distribution system serving the swimming pool and auxiliary facilities shall be protected against backflow. Water introduced into the pool, either directly or by the circulation system, shall be supplied through an air gap (American National Standards Institute A112.1.2-1979), a pipe-applied atmospheric vacuum breaker (ANSI/American Society of Sanitary Engineering No. 1001-1971), a pressure type anti-siphon vacuum breaker (ANSI/ASSE No. 1020-1976), or a reduced-pressure principle backflow preventer (ASSE No. 1013-1979, American Water Works Association No. C506-1978), or equivalent.

(c) Whenever an over-the-rim spout is used to introduce water into the swimming pool, it shall be shielded so as not to create a hazard. The open end of the spout shall have no sharp edges, shall not protrude more than two inches (5.1 cm) beyond the edge of the pool and shall be at least two pipe diameters above the deck or pool overflow level. The over-the-rim spout shall be located under the diving board or within six inches of a ladder or handrail.

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.2513 SEWAGE SYSTEMS AND OTHER WASTEWATER DISPOSAL

(a) Sewage shall be disposed of in a public sewer system or, in the absence of a public sewer system, by an approved, properly operating sanitary sewage system.

(b) There shall be no direct physical connection between the sewer system and any drain from the swimming pool or circulation system. Any swimming pool, deck drain or overflow from the circulation system, when discharged to the sewer system, storm drain or other approved natural drainage course, shall be discharged through a suitable air gap so as to preclude the possibility of back flow of sewage or other waste water into the swimming pool or the swimming pool piping system. Deck drain and overflow and backwash water discharged to the land surface or drainageways must comply with Environmental Management Commission Rule 15A NCAC 211 .0131. For purposes of this Rule, water from outside rinse showers shall not be considered sewage.

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.2514 MATERIALS OF CONSTRUCTION

(a) Pools and appurtenances shall be constructed of materials which are inert, non-toxic

to man, impervious, permanent, and enduring; which can withstand design stresses and which can provide a water-tight tank with a smooth and cleanable surface. Use of vinyl liners shall be prohibited.

(b) Corners formed by intersection of walls and floors shall be coved.

(c) Sand or earth bottoms shall be prohibited in swimming pool construction.

(d) Pool finish, including bottom and sides, shall be of white or light colored material.

(e) Pool surfaces in areas which are intended to provide footing for bathers including steps, ramps, and pool bottoms in areas with water less than three feet deep, shall be designed to provide a slip-resistant surface.

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.2515 DESIGN DETAILS

(a) Pools shall be designed and constructed to withstand all anticipated loadings for both full and empty conditions.

(b) A hydrostatic relief valve shall be provided for in-ground swimming pools unless a gravity drainage system is provided.

(c) Provisions shall be made for complete, continuous circulation of water through all areas of the swimming pool. Swimming pools shall have a circulation system with approved treatment, disinfection, and filtration equipment as required in these Rules.

(d) The minimum depth of water in the swimming pool shall be three feet (0.91 m) except for special purpose swimming pools or for restricted or recessed areas in swimming pools which are set aside primarily for the use of children and handicapped persons. Such areas when included as part of the swimming pool shall be separated from the swimming pool proper by a safety line supported by buoys and attached to the side walls. Wading facilities for infants and small children shall be physically separated from the swimming pool.

(e) The maximum depth at the shallow end of the swimming pool shall be 3.5 feet (1.07 m) except for competitive or special purpose swimming pools.

(f) Connections for safety lines shall be recessed in the walls in a manner which presents no hazard to swimmers.

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.2516 POOL PROFILE

(a) The vertical walls shall not exceed 11 degrees from plumb. Intersections of walls and

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floor shall be radiused. Hopper bottomed pools shall be prohibited.

(b) Safety ledges shall be prohibited.

(c) Underwater seats and benches may be installed in areas of the pool less than 3½ feet deep, provided they protrude no more than 18 inches into the pool; they are clearly marked by a contrasting color band on the leading edge; and that the deck is marked to indicate the presence of the underwater seat or bench.

(d) The slope of the bottom of any portion of any public swimming pool having a water depth of less than five feet (1.52 m) shall not be more than one foot vertical change in 10 feet (10 cm in one meter) of horizontal distance and the slope shall be uniform.

(e) In portions of pools with water depths greater than five feet (1.52 m), the slope of the bottom shall not be more than one foot vertical in three feet (33.3 cm in one meter) of horizontal distance.

(f) Design of diving areas shall be in accordance with Table 1A and B of Rule .2517 of this Section.

(g) Pools intended for diving shall conform to the minimum water depths, areas, slopes, and other dimensions shown in Table 1A and B in Rule .2517 of this Section. If a wall exists, then it shall conform with the 3:1 slope in the Point D dimension and the L1-2-3-4 dimensions.

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.2517 DIVING EQUIPMENT

(a) When diving equipment is installed, it shall be located in the diving area of the pool so as to provide the minimum dimensions as shown in Table 1A and B of this Rule and shall conform to the following specifications:

- (1) Diving equipment shall be designed for swimming pool use and shall be installed in accordance with the manufacturer's recommendations.
- (2) Installation instructions and specifications shall be provided with each unit.
- (3) A label shall be permanently affixed to the diving equipment and shall include:
 - (A) manufacturer's name and address;
 - (B) board equipment length;
 - (C) identification as to diving board;
 - (D) fulcrum setting specifications if applicable.
- (4) Diving equipment shall have slip-resistant tread surfaces.

(b) The tip of the diving equipment shall be located at Point "A" in Table 1A.

(c) There shall be a completely unobstructed clear vertical distance of thirteen feet above any diving board measured from the center of the front end of the board. This area shall extend horizontally at least eight feet behind, eight feet to each side, and sixteen feet ahead of Point A in Table 1A.

Table 1A

Maximum Board Length	Maximum Board Height Above Water
10	20" or less
12	20" to 30"
16	1 Mtr
16	3 Mtrs

Board Overhang (Pt. A)		Minimum Water Depths		
Max.	Min.	D1	D2	D3
4'	2'6"	7'9"	8'6"	8'0"
5'	4'0"	8'0"	9'0"	8'3"
6'	5'0"	8'6"	9'3"	8'6"
6'	5'0"	11'6"	12'0"	11'6"

KEY TO ABBREVIATIONS:

Pt A is the point on the water line of the pool directly beneath the end of the diving board.

D1 is the depth of the water measured from the water line to the beginning of the radius connecting the end wall with the floor at the deep end of the pool.

D2 is the depth of the water at the deepest point in the pool.

D3 is the depth of the water at the point where the deep end of the pool meets the transition to the shallow end of the pool.

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Table 1B

Maximum Board Length
10
12
16
16

Horizontal Distances					
L1	L2	L3	L4	L5	L6
3'	7'	5'0"	9'0"	24'	6'
3'	7'	10'3"	9'9"	30'	4'
5'	5'	11'6"	10'6"	32'	4'
5'	5'	7'6"	19'6"	37'	3'

Minimum Pool Width	Minimum Separation Distances	
	F	G
16'	8'	10'
20'	10'	10'
24'	12'	10'
28'	14'	12'

KEY TO ABBREVIATIONS:

L1 is the radius of the curve connecting the side wall to the floor at the deep end of the pool.

L2 is the distance between the center of the radius connecting the end wall to the floor at the deep end of the pool and the deepest point in the pool.

L3 is the distance between the deepest point in the pool and the beginning of the transition to the shallow end of the pool.

L4 is the length of the shallow end of the pool.

L5 is the total of L1 + L2 + L3 + L4.

L6 is the length of the shallow end of the pool.

F is the distance between the side wall of the pool and the centerline of the diving board.

G is the distance between the center lines of two adjacent diving boards.

(d) Public pools with diving facilities in excess of three meters in height, or pools designed for platform diving, shall be approved on a case-by-case basis.

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.2518 CIRCULATION SYSTEM

(a) Pools shall be equipped with a circulation system.

(b) The capacity of the circulation system shall be sufficient to clarify and disinfect the entire volume of swimming pool water four times in 24 hours. The system shall be operated 24 hours per day during the operating season.

(c) The piping of the circulation system shall be designed and installed so that the main drain or drains, and the lines from the perimeter overflow system or the automatic surface skimmers shall be connected to the suction line of the circulation pump.

(d) The circulation piping shall be designed and installed with the necessary valves and pipes so that the flow from the swimming pool can be from main drains or the surface overflow system. The circulation piping shall be designed such the flow of water from the swimming pool can be simultaneous from the surface overflow system and the main drains. Skimmer piping shall be sized to handle the maximum flow rate for the required number of skimmers, but in no case less than 50 percent of the design flow rate. Perimeter overflow system piping shall be sized to handle 50 per cent of the design flow rate. The main drain piping shall be sized to handle 50 per cent of the design flow rate.

(e) Piping shall be designed to reduce friction losses to a minimum and to carry the required quantity of water at a maximum velocity not to exceed six feet (1.83 m) per second for suction piping and not to exceed 10 feet (2.44 m) per second for discharge piping except for copper pipe where the velocity shall not exceed eight feet per second. Piping shall be of non-toxic material, resistant to corrosion, and able to withstand operating pressures. Exposed pipes and valves shall be identified by a color code or labels.

(f) The circulation system shall include a strainer to prevent hair, lint, and other debris from reaching the pump. A spare basket shall

be provided. Strainers shall be corrosion-resistant with openings not more than ¼ inch (6.4 mm) in size which shall provide a free flow area at least four times the cross-section area of pump suction line and shall be accessible readily for daily cleaning.

(g) A Vacuum cleaning system shall be provided to remove debris and foreign material which settles to the bottom of the swimming pool. Pools with more than two skimmers shall be provided with a vacuum cleaning system which is an integral part of the circulation system. Connections shall be located at intervals sufficient to reach the entire pool with a 50 foot hose. Skimmer vacuums may be used in pool with two or fewer skimmers provided the skimmer basket remains in place while the vacuum is in operation. The vacuum cleaning system shall be provided with valves and protective caps.

(h) A rate-of-flow indicator, reading in liters or gallons per minute, shall be installed on the filtered water line and located so that the rate of circulation is indicated. The indicator shall be capable of measuring flows which are at least 1½ times the design flow rate, shall be accurate within 10 per cent of true flow, and shall be easy to read. The indicator shall be installed in accordance with manufactured specifications.

(i) A pump or pumps shall be provided with adequate capacity to turn over the swimming pool water four times in 24 hours, and shall be so located as to eliminate the need for priming. If the pump or pumps, or suction piping is located above the overflow level of the pool, the pump or pumps shall be self-priming. The pump or pumps shall be capable of providing a flow adequate for the backwashing of filters. Unless headloss calculations are provided by the designing engineer, pump design shall be based on an assumed total dynamic head of 65 feet of water. Pumps three horsepower or smaller shall be NSF listed. Larger pumps for which NSF listing is not available shall be approved on a case by case basis.

(j) Inlets.

- (1) Inlets shall be provided and arranged to produce a uniform circulation of water and maintain a uniform disinfectant residual throughout the pool.
- (2) There shall be a minimum of four inlets for the smallest swimming pool. The number of inlets shall be based on one inlet for each 15 feet of perimeter, whether placed in the wall or in the floor.
- (3) When wall inlets are used, they shall be placed on 15 foot centers around the perimeter. When floor inlets are used, they

shall be spaced throughout the pool to accomplish a uniform recirculation.

- (4) Provision shall be made to permit adjustment of the flow through each inlet, either with an adjustable orifice or provided with replaceable orifices to permit adjustments of the flows.
 - (5) Wall inlets shall be submerged at least eight inches below the operating water level.
- (k) Drains.
- (1) Swimming pools shall be provided with at least two main drain outlets which shall be located at the deepest section of the pool and connected by "T" piping. Connecting piping shall be of the same diameter as the main drain pipe. The drain(s) shall be capable of permitting the pool to be emptied completely. Drains shall be spaced not more than 30 feet (9.1 m) apart, and not more than 15 feet (4.6 m) away from the side walls. Other systems which require suction outlets shall be provided with two drains with "T" connection pipe.
 - (2) If the suction outlet system, such as a filtration system, booster system, automatic cleaning system, or solar system, has a single suction outlet, or multiple suction outlets which can be isolated by valves, each suction outlet shall protect against bather entrapment in accordance with this Section.
 - (3) Outlet drain gratings shall have a total area of at least four times the area of the discharge pipe and shall be designed so as not to be readily removed by or create any hazard to bathers.
 - (4) The outlet grate open area shall be such that when maximum flow of water is being pumped through the floor outlet, the velocity through the open grate shall not be greater than one and one-half feet per second. Outlet grates shall be anchored and openings in grates shall be slotted and the maximum dimension of slots shall not be more than one-half inch. Where outlet fittings consist of parallel plates, of the anti-vortex type where the water enters the fittings from the sides, rather than through a grating facing upward, entrance velocities may be increased to six feet per second.
- (l) Surface Overflow Systems.
- (1) Swimming pools shall be provided with a surface overflow system which shall be an integral part of the circulation system and which shall consist of either a built-in-

place perimeter overflow system, a pre-fabricated perimeter overflow system, and/or recessed automatic surface skimmers.

- (2) Whenever a built-in-place perimeter overflow system or a re-fabricated perimeter overflow system is provided, it shall be designed and installed as follows:
 - (A) The system shall be capable of handling 50 percent of the circulation flow (based upon the required turnover rate--See Sec. D-9.02) without the overflow troughs being flooded for any appreciable period of time;
 - (B) A surge capacity shall be provided either in the system or by use of a surge tank; and the total surge capacity shall be at least equal to one gallon per square foot (41L per square meter) of swimming pool water surface area;
 - (C) The water level of the swimming pool shall be maintained at, or slightly higher, than the level of the overflow rim of their perimeter overflows, except for the time needed to transfer all of the water which may be in the surge capacity back into the swimming pool after a period of use; provided that this transfer time shall not be greater than 20 minutes;
 - (D) When installed the tolerance of the overflow rim shall not exceed $\frac{1}{4}$ inch (6.4 mm) as measured between the highest point and the lowest point of the overflow rim;
 - (E) During quiescence, the overflow system shall be capable of providing continuously and automatically a skimming action to the water at the surface of the swimming pool;
 - (F) The overflow troughs shall be installed completely around the perimeter of the swimming pool, except at steps, recessed ladders and stairs;
 - (G) The exposed surfaces of the overflow trough shall be capable of providing a firm and safe hand-hold; and
 - (H) The overflow trough shall be cleanable and shall be of such configuration as to minimize accidental injury.
- (3) Whenever a recessed automatic surface skimmer or skimmers are installed, they shall be designed and constructed in accordance with Section 8 of the National Sanitation Foundation's Standard No. 50 for circulation system components for swimming pools, spas, or hot tubs, which is hereby adopted by reference in accordance with G.S. 150B-14(c) or equivalent,

pertaining to recessed automatic surface skimmers and they shall be installed as follows:

- (A) The flow-through rate through any one recessed automatic surface skimmer shall be between 20 and 30 gallons per minute and not less than four gallons per minute per lineal inch (1.49 L per minute per centimeter) of skimming weir when the skimmer system is operated under its normal operating mode; piping shall be sized to allow a flow of 30 gallons per minute.
- (B) There shall be at least one recessed automatic surface skimmer for each 400 square feet (46 sq. m) of water surface area of the swimming pool or fraction thereof;
- (C) When two or more recessed automatic surface skimmers are required, they shall be so located as to minimize interference with each other and as to insure proper and complete skimming of the entire swimming pools water surface;
- (D) Skimmers shall not protrude into the swimming pool. Automatic surface skimmer or skimmers without a perimeter overflow system, shall be installed so that the operating level of the pool is no more than nine inches below the finished deck level so that the deck can be used as a handhold.
 - (m) Where flooded suction on the pump is not possible to prevent cavitation and loss of prime; skimmers shall have a device or other protection to prevent air entrainment in the suction line. The inlet to the equalizer line shall be provided with a grate.
 - (n) Nothing in this Section shall preclude the use of a roll-out or deck-level type of swimming pool. Such designs shall conform to the general provisions relating to surface overflow systems. The design of the curb and handhold shall conform to accepted standards, and approval by the Department shall be based on detailed review of this feature of construction and evaluated in the light of proposed use of the swimming pool.
 - (o) Nothing in this Section shall preclude the use of a surface overflow system which combines both a perimeter overflow system and a recessed automatic surface skimmer or skimmers.

Statutory Authority G.S. 130A-282.

.2519 FILTERS

- (a) All swimming pools shall be equipped with a filtration system for the purpose of clarifying the swimming pool water; said filtration system shall be an integral part of the circulation system

and shall consist of one or more units of sand type filters, of diatomaceous earth type filter, or of cartridge type filters.

(b) All filter units shall be designed and constructed in accordance with Section 5 of the National Sanitation Foundation's Standard No. 50, or equivalent.

(c) When a sand type filter or filters is installed on a swimming pool, it may be either a gravity or a pressure sand type filter, and it may be either a standard-rate sand type filter which shall be designed for filtration rates not in excess of three gallons per minute per square foot (122 L per minute per square meter) of sand bed area, or a high-rate sand type filter which shall be designed for filtration rates not in excess of 15 gallons per minute per square foot (612 L per minute per square meter) of sand bed area.

(d) When a sand type filter is installed on a swimming pool, it shall be designed and installed such that it may be backwashed at a rate not less than 15 gallons per minute per square foot (612 L per minute per square meter) of filter bed area or at a rate recommended by the manufacturer. The backwash water shall be discharged to waste. A sight glass or other means for viewing the clarity of the backwash water shall be provided.

(e) If the sand type filter is designed to be operated in conjunction with a coagulant, a chemical feeder shall be provided for adding the coagulant ahead of the filters.

(f) When a diatomaceous earth type filter is installed on a swimming pool, it may be either a pressure or vacuum type and it may be designed to operate either with or without continuous body feed. Diatomaceous earth filters which operate with continuous body feed shall be designed for filtration rates not in excess of 2.5 gallons per minute per square foot (102 L per minute per square meter) of filter area; and diatomaceous earth filters which operate without continuous body feed shall be designed for filtration rates not in excess of two gallons per minute per square foot (82 L per minute per square meter) of filter area.

(g) When a diatomaceous earth type filter is installed on a swimming pool, it shall be designed and installed with provisions for cleaning by one or more of the following methods:

- (1) backwashing at two gallons per minute per square foot minimum;
- (2) air-bump-assist backwashing;
- (3) spray wash, (either mechanical or manual); or
- (4) agitation.

(h) The water used in cleaning a diatomaceous earth type filter shall be discharged to waste, or in a manner approved by the Department.

(i) When a cartridge type filter is installed on a swimming pool, it shall be designed for filtration rates not in excess of 0.375 gallons per minute per square foot (15 L per minute per square meter) of effective filtration area.

(j) When a cartridge type filter is installed on a swimming pool, it shall be designed and installed with provisions being provided for cleaning or replacement as recommended by the manufacturer. Two sets of filter cartridges shall be provided to facilitate the cleaning and drying of one set while the filter is operating.

(k) All filters on swimming pools shall be designed and installed so as to provide easy accessibility for cleaning, operating, maintaining, and servicing. All filter tanks shall be so positioned as to provide adequate circulation of air beneath and around all sides, when necessary, to reduce corrosion and to facilitate cleaning. Whenever filter tanks are installed in the ground (i.e. buried), provisions shall be made so that the tanks are protected against corrosion and are installed in accordance with the recommendations of the manufacturer.

(l) Filters on swimming pools shall be equipped with an approved type pressure gauge or gauges.

(m) Filters on swimming pools shall be designed and installed with all the necessary valves and piping which may be needed to drain the filters completely.

(n) All pressure filters on swimming pools shall be designed and installed with an air-relief valve or valves which shall be located at or near the high point of the filters.

Statutory Authority G.S. 130A-282.

.2520 CHEMICAL FEEDERS

Chemical feeders as may be required to maintain the microbiological, chemical, and physical characteristics of the swimming pool water within prescribed limits shall be NSF listed. The use of chlorine gas for disinfection of public swimming pools is prohibited.

Statutory Authority G.S. 130A-282.

.2521 LADDERS, RECESSED STEPS, AND STAIRS

(a) If the vertical distance from the bottom of the swimming pool to the deck is over two feet (0.61 m), recessed steps, stairs, or ladders shall be provided at the shallow end of all swimming pools. Recessed steps or ladders shall be provided at the deep portion of all pools; and, if the swimming pool is over 30 feet (9.14 m) wide, such recessed steps or ladders shall be installed

on each side near the deep end. At least one ladder per recessed steps shall be provided in the shallow area for each 75 feet of shallow even perimeter, or fraction thereof. Where stairs are provided in the shallow area of the pool, one ladder may be deleted in the shallow area for each stairway provided.

(b) Pool Stairs - The design and construction of protruding and recessed pool stairs shall conform to the following:

- (1) Stair treads shall have a minimum unobstructed horizontal depth of 10 inches, and a minimum unobstructed surface area of 240 square inches.
- (2) Risers at the centerline of the treads shall have a maximum uniform height of 12 inches, with the bottom riser height allowed to vary plus or minus two inches from the uniform riser height.
- (3) Each set of stairs shall be provided with at least one handrail to serve all treads and risers.
 - (A) Handrails, if removable, shall be installed in such a way that they cannot be removed without the use of tools.
 - (B) The leading edge of handrails facilitating stairs and pool entry/exit shall be no more than 18 inches, plus or minus three inches, horizontally from the vertical plane of the bottom riser (where applicable).
 - (C) The outside diameter of handrails shall be between one inch and one and nine-tenths inches.
- (4) Contrasting color bands or lines at least two inches wide shall be applied to the front edge of stair treads.
- (5) Swimming pool ladders shall be corrosion-resistant and shall be equipped with slip-resistant treads. All ladders shall be so designed as to provide a handhold and shall be installed rigidly. There shall be a clearance of not more than five inches (12.7 cm), nor less than three inches (7.6 cm), between any ladder and the swimming pool wall. If the steps are inserted in the walls; or if step holes are provided, they shall be of such design that they may be cleaned easily and shall be arranged to drain into the swimming pool to prevent the accumulation of dirt thereon. Step holes shall have a minimum tread of five inches (12.7 cm) and a minimum width of 14 inches (35.6 cm).
- (6) When step holes or ladders are provided within the swimming pool, there shall be a handrail at each side extending over the

coping or edge of the deck. Ramps and stairs, including recessed steps, shall have at least one handrail.

- (7) When a diving board, or boards, are provided on swimming pools; supports, platforms, and steps for such diving board or boards shall be of substantial construction, and of sufficient strength to carry safely the maximum anticipated loads. Steps shall be of corrosion-resistant material, easy-to-clean, and of slip-resistant design. Handrails shall be provided at all steps and ladders leading to diving boards which are one meter or more above the water.

Statutory Authority G.S. 130A-282.

.2522 DECKS

(a) Outdoor swimming pools shall have a continuous deck extending completely around the swimming pool. The width of the deck or walkway shall provide at least six feet of clear walking space at all points. If the swimming area of the pool is 1600 square feet or longer, at least eight feet of clear walking space is required.

(b) Indoor swimming pools shall have a continuous deck or walkway extending completely around the swimming pool. The width of the deck shall provide at least five feet of clear walking space at all points.

(c) Wading pools shall have a continuous deck extending completely around the wading pool. The width of the deck or walkway shall provide at least four feet of clear walking space at all points.

(d) Spas shall have a continuous deck extending at least one-half way around the spa. The width of the deck or walkway shall provide at least four feet of clear walking space at all points.

(e) Whenever a diving board or slide is installed on a swimming pool, there shall be at least five feet (1.52 m) of unobstructed deck behind the diving board or slide.

(f) All deck areas and walkways shall be sloped at a grade of ¼ inch to ½ inch per foot to a deck drain or sheet drain to deck edge. Deck drains shall not be connected to the circulation system in any manner.

(g) All decks and walkways shall have a slip-resistant, impervious surface; except that non-porous resilient artificial recreational surfaces may be used if approved by the Department.

Statutory Authority G.S. 130A-282.

.2523 DEPTH MARKINGS AND SAFETY ROPES

(a) On swimming pools, the depth of the water shall be marked plainly, at or above, the water surface on the vertical wall of the swimming pool where possible, and on the edge of the deck next to the swimming pool. Depth markers shall be placed at the following locations:

- (1) at the points of maximum and minimum depths;
- (2) at the point of change of slope between deep and shallow portions (transition point);
- (3) if the pool is designed for diving, at appropriate points as to denote the water depths in the diving area;
- (4) at both ends of the pool.

(b) Depth markers shall be so spaced that the distance between adjacent markers is not greater than 25 feet (7.5 m) when measured peripherally.

(c) Depth markers shall be in arabic numerals at least four inches (10 cm) high and of a color contrasting with the background. Where depth markers cannot be placed on the vertical walls at or above the water level, other means shall be used; provided said markings shall be plainly visible to persons in the swimming pool.

(d) A minimum of ½ inch diameter safety rope shall be provided, at or near, the break in grade between the shallow and diving portions of a public swimming pool, with its position marked with colored floats at not greater than a five foot spacing.

Statutory Authority G.S. 130A-282.

.2524 LIGHTING, VENTILATION, AND ELECTRICAL REQUIREMENTS

(a) Electrical components of public swimming pools shall meet the requirements of the latest National Electrical Code (NEC) R, as published by the National Fire Protection Association, which are adopted by reference in accordance with G.S. 150B-14(c).

(b) Artificial lighting shall be provided at all indoor and outdoor pools which are to be used at night, or when daylight is insufficient.

(c) Lighting fixtures shall be of such number and design as to illuminate all parts of the pool, the water, the depth markers, and the entire pool area.

(d) Fixtures shall be installed so as to create no hazards such as burning, electrical shock, mechanical injury, or temporary blinding by glare to the bathers, so that lifeguards, when provided, can clearly see every part of the pool area without being blinded by glare. The illumination shall be sufficient so that the floor of the pool can be seen at all times the pool is in use.

(e) If underwater lighting is used, the illumination of the water surface will be deemed sufficient if the underwater lights provide at least 0.5 watts per square foot of water surface.

(f) Where underwater lighting is employed, area lighting shall be provided for the deck area. Where underwater lighting is not employed, and night swimming is permitted, area and pool lighting combined shall be provided in an amount of not less than two watts per square foot of pool area.

(g) Mechanical ventilation shall be required for all indoor pools.

Statutory Authority G.S. 130A-282.

.2525 HEATER AND TEMPERATURE REQUIREMENTS

(a) Gas heaters must be American Gas Association (AGA) design certified, display a rating data plate and AGA seal, and be certified as meeting the latest American National Standards Institute's (ANSI Z21.56) standard or other applicable and equivalent standards.

(b) Electric heaters shall be tested by a recognized agency and designed for the purpose intended. Current collectors having a separate ground shall be installed at each inlet and outlet of the electric heater.

(c) The maximum operating temperature of pool water shall never exceed 104 degrees Fahrenheit (40 degrees C).

(d) A thermostatic control shall be provided for the water temperature which ensures that this limit will not be exceeded. Such control shall be accessible only to the operator.

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.2526 DRESSING AND SANITARY FACILITIES

(a) Dressing and sanitary facilities shall be provided at all pools; except for pools at hotels, motels, condominiums, and apartments where pool use is restricted to residents or guests.

(b) Partitions between portions of the dressing room area, screen partitions, shower, toilet, and dressing room booths shall be of durable material; not subject to damage by water, and shall be designed so that a waterway is provided between partitions and floor to permit thorough cleaning of the walls and floor areas with hoses and brooms.

(c) Floors of the dressing facility shall be continuous throughout the areas. Floors shall have a slip-resistant surface that shall be relatively smooth, to insure complete cleaning. Floor drains shall be provided, and floors shall be

sloped not less than ¼ inch per foot toward the drains to insure positive drainage.

(d) Three-fourths inch hose bibs shall be provided such that all parts of the dressing facility interior can be reached with a 50 foot hose.

(e) The minimum criteria for dressing and sanitary facilities shall be based upon the maximum bather load.

(f) One water closet combination, one lavatory, and one urinal shall be provided for the first 100 male users. One additional water closet, lavatory, and urinal shall be provided for each additional 200 male users or major fraction thereof.

(g) Two water closets and two lavatories shall be provided for the first 100 female users. One additional water closet and lavatory shall be provided for each additional 100 female users or major fraction thereof.

(h) Showers shall be provided in the proportion of one for each 50 persons at the time of maximum bather load.

(i) The water heater and thermostatically-controlled mixing valves, where used, shall be inaccessible to users. The system shall be designed such that water temperature at the shower heads and lavatories cannot exceed 110 degrees Fahrenheit.

(j) Soap dispensers for providing either liquid or powdered soap shall be provided at each lavatory or inside shower. The dispenser shall be of all metal or plastic type, with no glass permitted in these units.

(k) If mirrors are provided, they shall be of unbreakable materials.

(l) Toilet paper holders shall be provided at each water closet combination.

Statutory Authority G.S. 130A-282.

.2527 SWIMMING POOL SLIDES

All swimming pool slides installed at a public swimming pool shall be labeled for use in public pools, and shall be installed in accordance with manufacturer's instructions.

Statutory Authority G.S. 130A-282.

.2528 FENCES

Swimming pools which are located outdoors shall be protected by a fence, wall, building, or other enclosure; or any combination thereof, which completely encloses the swimming pool area such that all of the following conditions are complied with:

(1) Constructed so as to afford no external handholds or footholds. However, the use

of chain link fences with a mesh size of 1 ¼ inches or less is permitted;

(2) A four foot (1.22 m) minimum height (from the inside and outside approach) is provided entirely around the swimming pool;

(3) The horizontal space between vertical members of the enclosure shall not exceed four inches; there shall be at least 30 inches between any horizontal bottom rails or stringers and the next horizontal rails or stringers.

(4) The height of any opening under the bottom of the enclosure shall not exceed two inches (5 cm);

(5) Openings under and through a fringe or barrier with the gate(s) closed shall be sized so that a 4½ inch diameter sphere cannot be passed through the openings;

(6) All gates and doors shall be equipped with self-closing and positive self-latching closure mechanisms which shall be located at a height at least three feet, and shall be equipped with locking devices. Gates provided to allow bathers access to the pool shall be located so as to open into the pool at a point where the water is less than five feet; and

(7) Gates provided specifically for access to equipment rooms shall be locked at all times when not in use by the pool operator.

Statutory Authority G.S. 130A-282.

.2529 USER LOADING

In determining the maximum number of persons allowed in the pool at any one time, the following criteria shall govern:

(1) A minimum of 24 square feet of water surface area per person shall be provided in the diving area. Three hundred square feet of pool area around each diving board or platform shall not be included in computing this area for the purpose of determining the allowable bather load.

(2) A minimum of 15 square feet of water surface area per person shall be provided in the shallow area.

Statutory Authority G.S. 130A-282.

.2530 SAFETY PROVISIONS

(a) Swimming pools shall have lifesaving equipment conspicuously and conveniently on hand at all times that conforms with the following:

(1) A light, strong pole not less than 12 feet long, including a body hook.

- (2) A minimum ¼ inch diameter throwing rope as long as one and one-half times the maximum width of the pool or 50 feet, whichever is less, to which has been firmly attached, a U.S. Coast Guard approved ring buoy.
 - (3) A telephone with posted names and telephone numbers of the nearest available police, fire, ambulance service, rescue or 911; if available.
- (b) When a public swimming pool does not have at least one lifeguard on duty, a sign shall be posted which has clearly legible letters of at least four inches (10 cm) in height stating: "WARNING-NO LIFEGUARD ON DUTY." In addition there shall be signs readily stating: "CHILDREN UNDER AGE SIXTEEN SHOULD NOT USE THE SWIMMING POOL WITHOUT AN ADULT IN ATTENDANCE", and: "ADULTS SHOULD NOT SWIM ALONE". Such signs shall be mounted permanently.

Statutory Authority G.S. 130A-282.

.2531 WADING POOLS

Wading pools shall be designed by a registered professional engineer or registered architect, and shall meet all design specifications for swimming pools and wading pools included in Rules .2512 - .2530 of this Section with the following exceptions:

- (1) No wading pool shall be directly or physically attached to any swimming pool. Wading pools shall be designed and constructed with the following characteristics:
- (2) Every wading pool shall be equipped with a circulation system which is separate from, and independent of, the circulation system of the swimming pool. Such circulation system shall at least consist of; a circulating pump, piping, a filter, a rate-of-flow meter, a disinfectant feeder, two inlets, two main drains with "T" connecting piping, and one automatic surface skimmer. Individual components of a wading pool system must meet the criteria of Rule .2518 of this Section.
- (3) The capacity of the circulation system shall be capable of filtering and disinfecting the entire volume of water in the wading pool 12 times in every 24 hours.
- (4) Wading pools shall be equipped with main drains located at the deepest point of the wading pool and covered by gratings which meet the requirements of Rule .2518(k)(4) of this Section.

- (5) Wading pools shall be equipped with a surface overflow system capable of removing floating material.
- (6) Wading pools shall not be deeper than 18 inches (61 cm) at the deepest point.
- (7) Wading pools' floor slope shall not exceed one foot in 12 feet.
- (8) Wading pools shall be located in the vicinity of the shallow end of the swimming pool, and shall be separated from the swimming pool by a fence or structure similar to that described in Rule .2528 of this Section; with an enclosure of at least three feet high which shall be equipped with self-closing and positive self-latching closure mechanisms, and shall be equipped with permanent locking devices.
- (9) Wading pools shall be designed to provide at least ten square feet per child.
- (10) Depth markers shall not be required at wading pools.

Statutory Authority G.S. 130A-282.

.2532 SPAS AND HOT TUBS

Spas and hot tubs shall be designed by a registered professional engineer or registered architect, and shall meet all design specifications for swimming pools and wading pools included in Rules .2512 - .2530 of this Section with the following exceptions:

- (1) The circulation system equipment shall provide a turnover rate for the entire water capacity at least once every 30 minutes.
- (2) The arrangement of water inlets and outlets shall produce a uniform circulation of water so as to maintain a uniform disinfectant residual throughout the spa.
- (3) A minimum of two inlets shall be provided with inlets added as necessary to maintain required flowrate.
- (4) Water outlets shall be designed so that each pumping system in the spa (filter systems or booster systems if so equipped) provides the following:
 - (a) Two bottom drains connected by "T" piping. Connecting piping shall be of the same diameter as the main drain outlet. Such drains shall be capable of emptying the spa completely. Bottom drains shall be equipped with antivortex plates that cannot be removed except with tools.
 - (b) Filtration systems shall provide at least one surface skimmer per 100 square feet, or fraction thereof of surface area.
- (5) Piping shall be large enough to permit the rated flow for filtering and cleaning without

- exceeding the total load developed by the pump at the rated flow.
- (6) The water velocity in spa or hot tub discharge piping shall not exceed ten feet per second (3.05 m/second); except for copper pipe where water velocity shall not exceed eight feet per second (2.44 m/second). Suction water velocity in any piping shall not exceed six feet per second (1.83 m/second).
 - (7) The recirculation system shall be a two-pump system. The first pump will provide the required turnover rate, filtration, and disinfection for the spa water. The second pump shall provide the water for the hydrotherapy turbulence of the water. Spa recirculation systems shall be separate from companion swimming pools. A single two-speed pump may be used to replace the two pump system provided the pump is designed and installed so as to provide for the required turnover rate, filtration and disinfection of the spa water at all times. The timer switch shall activate only the hydrotherapy portion of the pump.
 - (8) A timer switch shall be provided for the hydrotherapy turbulence system with a maximum of 15 minutes on the timer. The switch shall be placed such that bathers must leave the spa to reach the switch.
 - (9) The maximum operational water depth should be four feet (1.22 m) measured from the water line.
 - (10) The maximum depth of any seat or sitting bench should be two feet (61 cm) measured from the waterline.
 - (11) A minimum height between the top of the spa/hot tub rim and the ceiling shall be 7½ feet.
 - (12) Depth markers shall not be required at spas.
 - (13) Steps, step-seats, ladders or recessed treads shall be provided where spa and hot tub depths are greater than 24 inches (61 cm).
 - (14) Contrasting color bands or lines shall be used to indicate breaks in the floor level of the hot tub or spa.
 - (15) A spa or hot tub shall be equipped with at least one handrail (or ladder equivalent) for each 50 feet (15.2 m) of perimeter, or portion thereof, to designate points of entry and exit.
 - (16) A caution sign shall be mounted adjacent to the entrance to the spa or hot tub. It shall contain the following warnings in letters at least ½ inch in height:
 - (a) CAUTION:
 - (b) -Pregnant women; elderly persons, and persons suffering from heart disease, diabetes, or high or low blood pressure should not enter the spa/hot tub without prior medical consultation and permission from their doctor;
 - (c) -Do not use the spa/hot tub while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness or that raise or lower blood pressure;
 - (d) -Do not use alone;
 - (e) -Unsupervised use by children is prohibited;
 - (f) -Enter and exit slowly;
 - (g) -Observe reasonable time limits (that is, 10-15 minutes), then leave the water and cool down before returning for another brief stay;
 - (h) -Long exposure may result in nausea, dizziness, or fainting;
 - (i) -Keep all breakable objects out of the area.
 - (17) A sign shall be posted in the immediate vicinity of the spa or hot tub stating the location of the nearest telephone and indicating that emergency telephone numbers are posted at that location. Those emergency telephone numbers shall include the name and telephone number of the nearest available police, fire and/or rescue unit, physician, ambulance service, and hospital.
 - (18) A sign shall also be posted requiring a shower for each user prior to entering the spa or hot tub and prohibiting oils, body lotion, and minerals in the water.

Statutory Authority G.S. 130A-282.

.2533 EQUIPMENT ROOM

- (a) All filters, pumps, chemical feeding apparatus and other mechanical and electrical equipment shall be enclosed in a weatherproof structure with a minimum ceiling height of seven feet. The equipment room shall be separate from the enclosure of the swimming pool and shall be provided with a self-closing door with a permanent lock which must be kept locked when not in use by the pool operator. The equipment room door shall not open into the pool area.
 - (b) Lighting to allow the operator to read all gauges and control devices shall be provided.
 - (c) Valves and control devices shall be readily accessible and clearly visible.
 - (d) Drainage in and around the equipment room shall preclude the possibility of water entering or accumulating on any interior surface of the enclosure. Equipment room floors shall be relatively smooth and shall be sloped not less than ¼ inch per foot toward the drains.

(e) Chemicals shall not be stored in the equipment room.

(f) Forced, cross-draft ventilation which directs vented air away from the pool area is required. The switch for the ventilation equipment shall be connected to the switch for the equipment room light and shall be located outside of the door.

(g) A permanent means of access shall be provided to all equipment rooms.

(h) A 3/4 inch hose bib with an approved backflow prevention device shall be provided in the equipment room.

Statutory Authority G.S. 130A-282.

.2534 CHEMICAL ROOM

A separate chemical storage room which meets the following criteria shall be provided:

- (1) The chemical storage room shall be in a dry, weatherproof structure with a minimum ceiling height of seven feet.
- (2) The chemical storage room shall contain a minimum area of 24 square feet.
- (3) Forced, cross-draft ventilation which directs vented air away from the pool is required. The switch for the ventilation equipment shall be wired into the switch for the lights and shall be located outside of the door.
- (4) Walls, floors, ceilings, shelving, and doors shall be of impervious and non-combustible construction.
- (5) The chemical storage room shall not open into the pool area.
- (6) Chemical storage room shelving shall be at least six inches above the floor.

Statutory Authority G.S. 130A-282.

.2535 WATER QUALITY STANDARDS

Swimming pool water quality shall be maintained in accordance with the following:

- (1) The chemical quality of the water shall be maintained in and alkaline condition at all times with the pH between 7.2 and 7.8.
- (2) The clarity of the water shall be maintained such that the main drain grate is readily visible from the pool deck at all times.
- (3) Disinfection shall be provided for all pools by a chemical or other process that meets the criteria listed as follows:
 - (a) registered with the U.S. Environmental Protection Agency for pool water or potable water;
 - (b) provides a residual effect in the pool water which can be measured by simple portable field test equipment;

(c) will not impart any immediate or cumulative adverse physiological effects to pool bathers when used as directed;

(d) will not produce any undue safety hazard when stored or used as directed;

(e) will not damage or cause excessive wear of pool components or equipment.

(4) When chlorine is used as the disinfectant, a free chlorine residual of at least one part per million (ppm) but no more than four parts per million and a pH of between 7.2 and 7.8 shall be maintained throughout the pool whenever it is open or in use. Pools which use chlorine as the disinfectant must be stabilized with cyanuric acid except at indoor pools or where it can be shown that cyanuric acid is not necessary to maintain a stable free chlorine residual.

(5) When bromine or compounds of bromine are used as the disinfectant, a free bromine residual of at least two parts per million, but no more than five parts per million between 7.2 and 7.8 shall be maintained throughout the pool whenever it is open or in use.

(6) Automatic chemical feeders that are NSF listed shall be used when chlorine, bromine, or compounds of bromine are used as a disinfectant. Feeders shall be installed in accordance with NSF standards.

(7) When silver/cooper ion systems are used, the copper concentration in the pool water shall not exceed one part per million and a chlorine residual must be maintained in accordance with Paragraph (4) of this Rule.

(8) The use of chlorine in its elemental (gaseous) form for disinfection of public swimming pools is prohibited. Existing public swimming pools which were using elemental chlorine prior to May 1, 1991 will be allowed to continue the use of elemental chlorine until May 1, 1992 with the following provisions:

(a) Chlorine cylinders and chlorinating equipment shall be in a separate well-ventilated room or rooms. Such room or rooms shall not be below ground level, and shall be provided with vents near the floor which terminate out-of-doors. The door of the room, or rooms, shall not open directly to the swimming pool area or enclosure, and shall open to the outside.

(b) Chlorine cylinders whether in use or in storage shall be anchored to prevent them from falling over, and shall be on a scale when in use.

(c) A self contained air breathing apparatus suitable for use in high concentrations of

chlorine gas shall be provided, and such apparatus shall be stored in a special facility located outside the room or rooms in which the chlorinator and/or the chlorine cylinders are located or through which conduits carrying chlorine gas may pass; further such storage facility shall be capable of being secured from theft or vandalism and shall be under supervision of personnel who have been especially trained in the use of such apparatus.

- (d) An emergency evacuation plan shall be provided to facilitate evacuation of all persons from the area in the event of a chlorine leak. The evacuation plan shall include escape routes to direct people from potential sources of chlorine to safe areas uphill or upwind of the hazard.
- (e) An attendant familiar with the evacuation plan shall be present at all times the pool is in use.

Statutory Authority G.S. 130A-282.

.2536 REVOCATION OF PERMITS

The Department may suspend or revoke permits in accordance with G.S. 130A-23.

Statutory Authority G.S. 130A-282.

.2537 APPEALS

Appeals shall be made in accordance with G.S. 150B.

Statutory Authority G.S. 130A-282.

SECTION .2600 - SANITATION OF RESTAURANTS AND OTHER FOODHANDLING ESTABLISHMENTS

.2601 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Section:

- (1) "Approved" means determined by the Department to be in compliance with this Section. Food service equipment which meets National Sanitation Foundation standards or equal shall be considered as approved. Food which complies with requirements of the North Carolina Department of Agriculture or United States Department of Agriculture and the requirements of this Section shall be considered as approved.
- (2) "Department of Environment, Health, and Natural Resources" or "Department" means the North Carolina Department of Environment, Health, and Natural Resources.

The term also means the authorized representative of the Department.

- (3) "Drink stand" means ~~and includes~~ those establishments in which only beverages are prepared on the premises and are served in containers (glasses, mugs, etc.) other than single-service containers.
- (4) "Eating and cooking utensils" means any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation, or serving.
- (5) "Employee" means any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed at any time in a room in which food or drink is prepared or served.
- (6) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
- (7) "Food stand" means those food service establishments which prepare or serve foods and which do not provide seating facilities on the premises for customers. Establishments which only serve such items as dip ice cream, popcorn, candied apples, or cotton candy are not included.
- (8) "Hermetically sealed container" means a container designed and intended to be secure against the entry of micro-organisms and to maintain the commercial sterility of its contents after processing.
- (9) "Local Health Director" means the administrative head of a local health department or his authorized representative.
- (10) "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily moved.
- (11) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, or company.
- (12) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including Clostridium botulinum. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
- (13) "Private club" means a private club as defined in G.S. 130A-247(2).
- (14) "Pushcart" means a ~~self-propelled or nonself-propelled vehicle on which food or drink may be prepared, handled, or served.~~

mobile piece of equipment which serves only hot dogs and is to be propelled by the operator to the sales and service locations. The term does not include "motorized" vehicles except that operator propelled units that have been provided with small engines to assist operators in moving the unit are included.

(15) "Renovation" or "remodelling" means structural changes in food preparation areas, the increase in seating capacity or the addition of rooms, or changes related to the increase in seating capacity or the addition of rooms.

(16) ~~(15)~~ "Responsible person" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee is the responsible person.

(17) ~~(16)~~ "Restaurant" means all establishments and operations where food is prepared or served at wholesale or retail for pay or, any other establishment or operation where food is prepared or served that is subject to the provisions of G.S. 130A-248. The term does not include establishments which only serve such items as dip ice cream, popcorn, candied apples, or cotton candy.

(18) ~~(17)~~ "Sanitarian" means a person authorized to represent the Department of Environment, Health, and Natural Resources on the local or state level in making inspections pursuant to state laws and rules.

(19) ~~(18)~~ "Sanitize" means the approved bactericidal treatment by a process which provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

(20) ~~(19)~~ "Sewage" means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

(21) ~~(20)~~ "Single service" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one person use and then discarded.

(22) ~~(21)~~ "Temporary food or drink stand" means ~~and includes~~ those food or drink

stands which operate for a period of 15 days or less, in connection with a fair, carnival, circus, public exhibition, or other similar gathering.

(23) ~~(22)~~ "Temporary restaurant" means a restaurant, as defined in Paragraph ~~(16)~~ (17) of this Rule, that operates for a period of 15 days or less, in connection with a fair, carnival, circus, public exhibition, or other similar gathering.

Statutory Authority G.S. 130A-248.

.2604 REINSPECTIONS

(a) Upon request of the management, a reinspection will be made. In the case of establishments that have been closed for failure to comply with these Rules, ~~a survey an inspection to consider the issuance or reissuance of a permit shall be made at the earliest convenience of the sanitarian. and an inspection for the purpose of establishing the sanitation grade may be made at any time after the establishment has been in operation for at least two weeks.~~

(b) In the case of establishments which request an inspection for the purpose of raising the alphabetical grade, and which hold unrevoked permits, the sanitarian shall make an unannounced inspection after the lapse of a reasonable period of time, not to exceed 15 days, from the date of the request.

Statutory Authority G.S. 130A-248.

.2605 INSPECTION FORMS

The grading of restaurants, food stands, or drink stands shall be done on an inspection form furnished by the ~~environmental health section of the~~ Department of ~~Human Resources~~ to local health departments. The form shall provide for but not be limited to the following information:

- (1) the name and mailing address of the facility;
- (2) name of person to whom permit is issued;
- (3) the permit and score given;
- (4) standards of construction and operation as listed in Rules .0450 through .0475 of this Section;
- (5) the signature of the sanitarian;
- (6) date.

Statutory Authority G.S. 130A-248.

.2607 STANDARDS AND APPROVAL OF PLANS

(a) To insure that modern standards of sanitation are included in new and remodeled foodhandling establishments, the plans and specifications for those units shall be submitted for

review and approval to the appropriate local health agency prior to initiating construction. Plans and specifications for "franchised" or "chain" units should also be submitted to the Environmental Health Section, Division of Health Services, Department of Human Resources, P.O. Box 2091, Raleigh, North Carolina 27602-2091. prototype "franchised" or "chain" facilities shall also be submitted for review and approval to the Environmental Health Services Section, Division of Environmental Health.

(b) New construction shall comply with approved plans. ~~and should at least conform with minimum standards established in the North Carolina State Building Code as amended through July 1, 1984. A copy of the North Carolina State Building Code may be obtained from the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, North Carolina 27611.~~

Statutory Authority G.S. 130A-248.

.2608 SOURCES OF FOOD

All food shall be obtained from approved sources that comply with all laws relating to food and food labeling and shall be properly identified. ~~The use of food in hermetically sealed containers that was not processed in a commercial food processing establishment operated in compliance with G.S. 106-120 through 145 is prohibited. Copies of G.S. 106-120 through 145 as amended through July 1, 1984 may be obtained from the Food and Drug Protection Division, North Carolina Department of Agriculture, Constable Laboratory, 4000 Reedy Creek Road, Raleigh, North Carolina 27611. Food in hermetically sealed containers shall have been processed in a commercial food processing establishment operated in compliance with G.S. 106-120 through 145. Copies of G.S. 106-120 through 145 may be obtained from the Food and Drug Protection Division, North Carolina Department of Agriculture.~~ All food shall be clean, wholesome, free from adulteration and spoilage, safe for human consumption, and shall be handled, served, or transported in such a manner as to prevent contamination, adulteration, and spoilage. Only approved containers and utensils may be used. Foods that are spoiled or otherwise unfit for human consumption shall be immediately disposed of as garbage except as specified in .0483(4) of this Section.

Statutory Authority G.S. 130A-248.

.2609 REFRIGERATION; THAWING; AND PREPARATION OF FOOD

(a) All potentially hazardous foods requiring refrigeration shall be kept at or below 45! F (7! C), except when being prepared or served. An air temperature thermometer accurate to +1! F (+1.5!C) shall be provided in all refrigerators. ~~A storage temperature of 40! F (4! C) is recommended, especially for food and drink to be stored several days. All prepared custards and custard fillings, including custard-filled pastries which are not intended for hot service, should be cooled to 40! F (4! C).~~

(b) Thawing of potentially hazardous foods shall be done in refrigerated units at a temperature not to exceed 45! F (7! C), or under cold running water no warmer than 70! F (21! C), or as a part of the cooking process.

(c) Employees preparing food shall have used antibacterial soap, dips or hand sanitizers immediately prior to food preparation or shall use clean, plastic disposable gloves or sanitized utensils during food preparation. This requirement is in addition to all handwashing requirements in Section .2600 of these Rules. Food shall be prepared with the least possible manual contact, with suitable utensils and on preparation surfaces that have been cleaned and rinsed prior to use. Preparation surfaces which come in contact with potentially hazardous foods shall be sanitized as provided in Rule .2618(c) of this Section. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

(d) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140! F (60! C) except ~~that~~ as follows:

- (1) poultry, poultry stuffings, stuffed meats, and stuffings containing meat shall be cooked to heat all parts of the food to at least 165! F (74!C) with no interruption of the cooking process, and
- (2) ~~(e)~~ pork and any food containing pork shall be cooked to heat all parts of the food to at least 150! F (66! C), and
- (3) rare roast beef shall be cooked to an internal temperature of at least 130! F (54! C), and
- (4) rare beef steak shall be cooked to a temperature of 130! F (54! C) unless otherwise ordered by the immediate consumer.

(e) ~~(f)~~ Liquid, or uncooked frozen, dry eggs and egg products shall be used only for cooking and baking purposes.

(f) ~~(g)~~ Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165! F (74! C) or higher throughout before being served or before being placed in a hot food storage facility.

(g) ~~(h)~~ All potentially hazardous foods, except rare roast beef, shall be stored at temperatures of 140° F (60° C) or above; or 45° F (7° C) or below except during necessary periods of preparation and serving. Rare roast beef shall be stored at a temperature of at least 130° F (54° C) or above; or 45° F (7° C) or below.

(h) ~~(i)~~ All potentially hazardous food that is transported must be maintained at temperatures as noted in Subsection (h) of this Rule.

~~(j) When food in large containers is placed in the refrigerator, the center portions cool slowly because of the insulating effect of the food itself. Chilling on ice tables, frequent stirring, and the substitution of shallow containers, with food in layers not more than four inches thick, are some of the measures that should be taken to promote rapid cooling.~~

(i) ~~(k)~~ A metal stem-type thermometer accurate to +2° F (+1° C) shall be available to check food temperatures.

Statutory Authority G.S. 130A-248.

.2610 STORAGE: HANDLING: AND DISPLAY OF FOOD

(a) All unwrapped or unenclosed food and drink on display shall be protected in such manner that the direct line from the customer's mouth to the food shall be intercepted by glass or similar shields and shall be otherwise protected from public handling or other contamination, except that approved hand openings may be permitted on counter fronts. This requires standard counter protector installations for all cafeteria counters, salad bars, and similar type service to prevent contamination by customers' coughing and sneezing.

(b) Customer self-service is permitted only under the following conditions:

- (1) ~~Buffet-style or Smorgasbord Service.~~ This style of service is not acceptable on an unrestricted basis, unless protective shields, equivalent to cafeteria counter protectors, are provided to intercept contamination; however, ~~buffet style or smorgasbord service is acceptable without protective shields for meals of special groups or private parties. When food is served buffet or smorgasbord style: protective shields are not required for buffet style service which is provided to a club, organization or private individual as a planned event and from which the public is excluded. When food is served in this manner, the following requirements shall be met:~~

(A) Potentially hazardous foods shall be replaced at least hourly;

(B) Food containers shall be arranged conveniently so customers' clothing does not come in contact with food;

(C) Long-handled serving spoons, tongs, ~~etc.,~~ or other utensils shall be provided and used;

(D) Management shall not permit customers to touch foods on display.

(2) Family-style Service. In establishments featuring this style of service, patrons elect to participate in the family dining-table type of service. Ordinary serving dishes and utensils are acceptable.

(c) Foods, except raw vegetables which are to be cooked, shall be kept under cover when not in the process of preparation and serving. Meat and other potentially hazardous foods shall not be stored on the floor, or in direct contact with shelves and racks of cold storage boxes, or permitted to come in contact with dirty clothes, newspapers, pasteboard, previously-used paper, or other contaminated surfaces. If open dishes and pans containing food are stacked, food shall be protected with wax paper or foil. Food transported to a restaurant shall not be accepted unless properly wrapped, covered, or otherwise protected. Food and drink shall not be served to the general public in the kitchen. In the case of "drive-in" restaurants, all food shall be covered or wrapped before delivery to patrons' vehicles, to exclude vermin or insects, dust, and other contamination.

(d) Containers for onions, slaw, mustard, and other condiments shall have covers and be kept covered when not in use. Sugar should be dispensed with either pour-type dispensers or individual packages. Waiters and waitresses shall avoid unnecessary handling of food in the process of serving. ~~Good foodhandling methods and good personal hygiene are important in the protection of public health. Every opportunity to benefit from foodhandler courses, current literature, and modern practices should be used by the management and employees.~~

(e) The establishment shall be kept free of flies, rodents, roaches, ants, and other vermin. Animals and fowl shall not be permitted in a restaurant, provided that seeing eye dogs accompanying blind persons and service dogs accompanying handicapped persons shall be exempted. All supplementary means necessary for the elimination of flies, such as the installation of fly-repellant fans, and the routine use of approved insecticides shall be employed.

(f) Dustless methods of floor cleaning shall be used and all except emergency floor cleaning shall

be done during those periods when the least amount of food and drink is exposed, such as after closing, or between meals.

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.2612 SHELLFISH

(a) All shellfish and crustacea meat shall be obtained from sources in compliance with the Commission for Health Services' rules on shellfish and crustacea. Copies of 15A NCAC 18A .0100 as amended through July 1, 1984 may be obtained from the Division of Health Services, Department of Human Resources, P.O. Box 2091, Raleigh, North Carolina 27602-2091. Provided, that if the source of clams, oysters, or mussels is outside the state, the shipper's name is on the "Interstate Certified Shellfish Shippers List" as published monthly by the Shellfish Sanitation Branch, Food and Drug Administration, 200 "C" Street, S.W., Washington, D.C. 20204; and, provided that if the source of cooked crustacea meat is outside the state, the establishment in which the crustacea meat was packed is certified by the regulatory authority of the state or territory of origin, attested by the presence of an official permit number on the container.

(b) All shucked shellfish and all cooked crustacea meat shall be obtained and stored in the clean single-service shipping containers in which packed at the source. Each unit container shall be clearly identified with the name and address of the packer, repacker, or distributor; the certificate number of the packer or repacker; and the abbreviated name of the state. The re-use of single-service shipping containers and the storage of shucked shellfish in other containers are not permitted.

(c) All shellstock shall be obtained and stored in the containers in which packed at the source. Each unit container shall be clearly identified with a uniform tag or label bearing name and address of the shipper, the certificate number issued by the state regulatory authority, the abbreviated name of the state, the date of harvesting, the date of shipment or reshipment, the name of the waters from which the shellfish were taken, the kind and quantity of the shellstock in the container, and the name and address of the consignee. After each container has been emptied, the management shall remove the stub of the tag and retain it for a period of at least 60 days. All shellstock shall be stored in clean, well-drained bins or enclosures provided especially for that purpose and protected against contamination. With the exception of opening shellfish for immediate consumption on the premises, no shellfish shucking shall be per-

formed unless the establishment holds a valid certificate of compliance.

(d) The management shall keep on file for a period of 60 days the bills of sale for all shellfish and cooked crustacea meat (crab, lobster, crayfish, and shrimp) purchased.

(a) All shellfish and crustacea meat shall be obtained from sources in compliance with the Department's rules on shellfish and crustacea. Copies of 15A NCAC 18A .0300 through .0900 may be obtained from the Department of Environment, Health, and Natural Resources. Provided, that if the source of clams, oysters, or mussels is outside the state, the shipper's name is on the "Interstate Certified Shellfish Shippers List" as published monthly by the Shellfish Sanitation Branch, Food and Drug Administration, and provided that if the source of cooked crustacea meat is outside the state, it is certified by the regulatory authority of the state or territory of origin, attested by the presence of an official permit number on the container.

(b) All shucked shellfish and all cooked crustacea meat shall be obtained and stored in the original container. Each unit container shall be clearly identified with the name and address of the packer, repacker, and the abbreviated name of the state or territory. Shucked shellfish unit containers shall be dated in accordance with 15A NCAC 18A .0600.

(c) All shellstock shall be obtained and stored in the containers in which packed at the source. Each unit container shall be clearly identified with a uniform tag or label bearing the name and address of the shipper, the certificate number issued by the state or territory, regulatory authority, the abbreviated name of the state, the name of the waters from which the shellfish were taken, the kind and quantity of the shellstock in the container, and the name and address of the consignee.

(d) Shellstock shall be stored under refrigeration and in a manner to prevent cross-contamination to or from the shellstock. The re-use of single-service shipping containers and the storage of shucked shellfish in other containers are not allowed.

(e) After each container of shellstock has been emptied, the management shall remove the stub of the tag and retain it for a period of at least 90 days.

(f) With the exception of opening shellfish for immediate consumption on the premises, no shellfish shucking shall be performed unless the establishment holds a valid shellfish shucking permit.

(g) Shellstock washing facilities shall consist of an approved mechanical shellfish washer, or a

sink or slab with catch basin, indirectly drained into an approved sewage collection, treatment, and disposal system. The washing shall be done in a clean area, protected from contamination. A can wash facility shall not be used for the washing of shellstock or other foods.

(h) The cooking of shellfish shall be accomplished in an area meeting the requirements of this Section.

(i) Re-use of shells for the serving of food is prohibited. Shells shall be stored in a manner to prevent flies, insects, rodents, and odors.

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.2613 BARBECUE PLACES

The following standards shall be followed in the application of the restaurant sanitation requirements of this Rule in the grading of establishments preparing barbecue:

- (1) Barbecue Pits:
 - (a) Barbecue pits and barbecue machines shall be enclosed in a room protected from the weather, dust, flies, and animals. ~~Light should be ample to promote cleanliness.~~ The room shall be kept clean and free of garbage, rubbish, and other miscellaneous storage.
 - (b) Floors shall be constructed of easily cleanable concrete or equal and graded to drain.
 - (c) Floors, walls, and ceilings shall be kept clean and free of dust, cobwebs, or other accumulations.
 - (d) Water under pressure shall be provided in barbecue pit rooms for floor cleaning.
 - (e) Barbecue pit rooms shall be properly ventilated by ducts, doors, or equal in order that smoke and fumes may be removed.
 - (f) Spits, holders, or racks shall be thoroughly cleaned daily.

~~(2) Barbecue Chopping Rooms:~~

~~(2) (a) Barbecue shall be chopped or processed in a restaurant kitchen or in a room meeting the requirements of sanitation specified for restaurant kitchens, and the sanitary handling of food therein.~~

~~(b) All equipment, sinks, etc., necessary for effective cleaning shall be provided.~~

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.2614 OUTDOOR DINING

~~(a) Establishments desiring to operate so-called "roof garden" or "patio" dining rooms, in addition to conventional dining rooms, may be given written permission to do so if the sanitarian finds,~~

~~after a careful appraisal of the individual site, that all of the following supplementary requirements can be complied with:~~

- ~~(1) The dining area is fenced or otherwise protected to exclude animals, fowl, and pedestrian traffic.~~
- ~~(2) Toilet and lavatory facilities are accessible and convenient.~~
- ~~(3) The dining area is reasonably free from dust, smoke, soot, and objectionable odors.~~
- ~~(4) The immediate vicinity is free from sources of fly breeding and mosquito breeding.~~
- ~~(5) There are no outdoor food serving facilities or stations and no outdoor cooking facilities except as specified in (e) of this Rule.~~
- ~~(6) All necessary approved insect control measures will be instituted by the management to provide effective control of flies and mosquitoes.~~

~~(b) Whenever written permission is given for the operation of outdoor dining areas, it shall be understood that such permission will be withdrawn promptly if flies are found to be prevalent or the other requirements given in (a) of this Rule are violated.~~

~~(c) Equipment such as portable cooking or serving facilities may be used for service to special groups or private parties.~~

~~(a) No outdoor food serving facilities, stations, or cooking facilities shall be allowed except equipment such as portable cooking or serving facilities for service which is provided to a club, organization or private individual as a planned event and from which the public is excluded.~~

~~(b) This Rule shall not prohibit outdoor dining.~~

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.2615 MILK AND MILK PRODUCTS

(a) Only Grade "A" pasteurized milk and milk products shall be used. The term "milk products" means those products as defined in 15A NCAC 18A ~~1203 as amended through July 4, 1986, 1200.~~ Copies of 15A NCAC 18A ~~1203~~ 1200 may be obtained from the Division of Health Services, North Carolina Department of Human Resources, P.O. Box 2001, Raleigh, North Carolina 27602-2001. Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 27611-7687. Milk and milk products shall be served in the individual, original containers in which they were received from the distributor, so that the name and grade of the contents and the name of the milk distributor may be observed

readily by the consumers; provided that approved sanitary bulk milk dispensers may be used.

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.2616 REQUIREMENTS FOR EMPLOYEES

(d) Cooks and other kitchen employees shall wear clean outer clothing. ~~or other special dress (uniforms) when on duty.~~

~~(e) No person who has a contagious or infectious disease, wound, or boil shall be allowed to work in the restaurant in an area or capacity in which there is likelihood of transmission of disease to patrons or to fellow employees. No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or an acute respiratory infection with cough and nasal discharge, shall work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces, with disease-causing organisms or transmitting the illness to other persons.~~

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.2617 UTENSILS AND EQUIPMENT

~~(d) The National Sanitation Foundation has developed standards for many food service equipment items. Equipment which meets these standards or equal shall be accepted as meeting the requirements of this Section (See note in .0457 of this Section). Food service equipment shall meet National Sanitation Foundation standards which are adopted by reference, in accordance with G.S. 150B-14(c) or equal. If equipment is not National Sanitation Foundation listed, the owner or operator shall submit documentation to the Department that demonstrates that the equipment is at least equal to National Sanitation Foundation standards. The Department shall determine if the equipment is at least equal to National Sanitation Foundation standards.~~

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.2618 CLEANING OF EQUIPMENT AND UTENSILS

(d) Hand dishwashing facilities shall consist of an approved three-compartment sink of adequate size and depth, to submerge, wash, rinse and sanitize all utensils, with hot and cold running water service for each vat, splash back protection continuous with the sink and an integral part of the sink, and drainboards on each end ~~of ample~~

~~size~~ to accommodate the number of eating and drinking utensils involved.

(e) Separate facilities shall be required when necessary for the washing of glasses, and, when needed, separate facilities shall be required for the washing of pots, pans, vegetables, fish, meats, and poultry.

(f) When dishwashing machines are used, the machines shall be approved and shall be fitted with drainboards of ample capacity on each side, and include a countersunk sink or other approved means for pre-cleaning, pre-flushing, or pre-soaking of the utensils in the dirty dish lane. Thermometers indicating the wash and rinse water temperatures shall be provided and kept in good repair.

~~(g) Mechanical glass and dishwashing equipment shall be required when found necessary because of ineffective results with other facilities, or because of indicated volume.~~

~~(g) (h)~~ When dishwashing machines are used, the machines shall be approved on the basis of size, capacity, and type for the number of utensils to be washed. Under some conditions, as when volume is limited and time permits, glasses may be washed with power-driven brushes and passed through door-type machines, which are also used for dishwashing, for final rinse and bactericidal treatment. For this method, a motor-driven glass-washer and a single-vat sink may suffice.

~~(h) (i)~~ When only single-service eating and drinking utensils are used, at least a two-compartment sink of adequate size and depth with sufficient drainboard space on each end to accommodate the washing and drying of cooking equipment shall be provided. ~~in order to qualify for a permit or when a facility is renovated. For existing restaurants which use only single service eating and drinking utensils, a single vat sink with drainboard space on each end is acceptable if effective.~~

~~(i) (j)~~ Facilities for the heating of water shall be provided. Capacity of hot water heating facilities shall be based on number and size of sinks, capacity of dishwashing machines, and other food service and cleaning needs. Hot water storage tanks shall provide a minimum of 130° F (54° C) hot water when water is not used for sanitizing; when hot water is used for sanitizing, a minimum storage temperature of 140° F (60° C) hot water is required.

~~(j) (k)~~ No article, polish, or other substance containing any cyanide preparation or other poisonous material shall be used for the cleaning or polishing of eating or cooking utensils.

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.2619 METHODS OF BACTERICIDAL TREATMENT

(a) In a manual dishwashing operation after cleaning and rinsing, all multi-use eating and drinking utensils shall be ~~effectively~~ subjected to one of the following or other equivalent bactericidal processes:

(1) Immersion for at least one minute in the 3rd vat in clean hot water at a temperature of at least 170° F (77° C). A thermometer accurate to ± 3 ° F (± 1.5 ° C) shall be available and convenient to the vat. ~~It is recommended that, wherever practicable, bactericidal treatment should be obtained through the use of hot water.~~ Where hot water is used for bactericidal treatment, a booster heater of adequate capacity shall be provided for maintaining a water temperature of at least 170° F (77° C) in the 3rd vat at all times when utensils are being washed. The heating device may be integral with the immersion vat.

(2) Immersion for at least two minutes in the 3rd vat in ~~an effective~~ a chemical bactericide of ~~approved~~ a strength, ~~including~~ approved by the Department:

(A) for chlorine products, a solution containing at least 50 ppm of available chlorine at a temperature of at least 75° F (24° C);

(B) for iodophor products, a solution containing at least 12.5 ppm of available iodine and having a pH not higher than 5.0 and having a temperature of at least 75° F (24° C);

(C) for quaternary ammonium products, a solution containing at least 200 ppm of QAC and having a temperature of at least 75° F (24° C), provided that the product is labeled to show that it is effective in water having a hardness value at least equal to that of the water being used.

(3) ~~(D)~~ Other equivalent products and procedures approved by the ~~Division of health services~~ in 21 CFR 178.1010 "Sanitizing solutions" from the "Food Service Sanitation Manual" published by the US Food and Drug Administration. 21 CFR 178.1010 is adopted by reference in accordance with G.S. 150B-14(c).

(b) ~~(3)~~ A suitable testing method or equipment shall be available, convenient, and regularly used to test chemical sanitizers to insure minimum prescribed strengths.

(b) ~~If mechanical dishwashing or glasswashing equipment is used, such equipment shall be constructed and operated in accordance with National Sanitation Foundation Standards or equal.~~

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.2623 WATER SUPPLY

(a) ~~The water supply shall be from an approved source and shall be adequate and of a safe, sanitary quality.~~

(a) ~~(b)~~ The water supply used shall be located, constructed, maintained, and operated in accordance with the Commission for Health Services' rules governing water supplies. Copies of 15A NCAC 18A .1700 and 15A NCAC 18C as amended through July 1, 1984 may be obtained from the Division of Health Services, Department of Human Resources, P.O. Box 2091, Raleigh, North Carolina 27602-2091. A sample of water shall be collected by the sanitarian and submitted to the laboratory section of the Department of Human Resources or other approved laboratory for bacteriological examination at least once a year, in accordance with 15A NCAC 18A .1700.

(b) Prior to the issuance of a permit, non-community water supplies shall be listed with the Public Water Supply Section, Division of Environmental Health, and water samples for bacteriological analysis shall be collected by the sanitarian and submitted to the laboratory section of the Department or other laboratory certified by the Department for analysis, and at least annually thereafter for bacteriological analysis.

(c) Cross-connections with unapproved water supplies are prohibited. All plumbing fixtures for potable water shall be provided and installed as required by the North Carolina State Building Code as amended through July 1, 1986. Copies of the North Carolina State Building Code may be obtained from the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, North Carolina 27611. Hot and cold running water under pressure shall be provided to food preparation, utensil and handwashing areas, and any other areas in which water is required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all food preparation, utensil washing, hand washing, cleaning, or other water-using operations.

(d) Hot and cold running water under pressure shall be provided to food preparation areas, and any other areas in which water is required for cleaning.

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.2624 TOILET FACILITIES

(a) Every restaurant shall be provided with adequate toilet facilities for each sex conveniently located and readily accessible at all business

hours. Unless specified elsewhere in these Rules, all restaurants shall have toilets which are convenient and accessible to employees and customers. Toilets shall be in the proximity of the restaurant and under control of the management. ~~New construction should comply with North Carolina State Building Code requirements as amended through July 1, 1986 for handicapped persons. Copies of the North Carolina State Building Code may be obtained from the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, North Carolina 27611.~~ Floors and walls shall be constructed of non-absorbent, washable materials. ~~and should be light colored.~~ Floors, walls, and ceilings shall be kept clean and in good repair. Toilet rooms shall be well lighted ~~and vented as required by the North Carolina State Building Code,~~ provided with self-closing doors, and kept free of flies and storage. Windows shall be screened if used for ventilation. Fixtures shall be kept clean and in good repair. ~~It is recommended that masonry floors be provided with floor drains to facilitate cleaning.~~ Toilets for patrons shall be so located that the patrons do not pass through the kitchen to enter the toilet rooms. Intervening rooms or vestibules, if provided, shall be constructed and maintained in a manner comparable to the toilet rooms.

(b) ~~Appropriate signs~~ Signs shall be posted to advise the public of the locations and identities of the toilet rooms. Durable, legible signs which read that employees' must wash their hands before returning to work shall be posted or stenciled conspicuously in each employees' toilet room.

(c) All toilet wastes and other sewage shall be disposed of in a public sewer system or, in the absence of a public sewer system, by an approved sanitary sewage system.

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.2625 LAVATORY FACILITIES

(a) ~~Adequate and convenient lavatory~~ Lavatory facilities, including hot and cold running water and a combination supply faucet ~~(or tempered water) or tempered water~~ and sanitary towels ~~(or approved hand-drying devices) or approved hand-drying devices~~ and soap, shall be provided for employees and customers.

(b) For employees, at least one lavatory shall be provided in the kitchen area in addition to any lavatories which may be provided in employees' toilet rooms.

(c) Dishwashing vats, vegetable sinks, and pot sinks shall not be ~~acceptable~~ used as handwashing facilities.

(d) The lavatories ~~and adjacent areas~~ shall be ~~well lighted and~~ kept clean and in good repair.

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.2626 DISPOSAL OF WASTES

(a) All sewage and other liquid wastes shall be disposed of in a public sewer system or, in the absence of a public sewer system, by an approved, properly operating sanitary sewage system.

(b) Garbage shall be collected and stored in standard, water-tight garbage cans ~~(or other approved containers/methods) or other approved containers or methods~~ provided with tightfitting lids. ~~so as to exclude flies, rats, and animals.~~ Lids shall be kept in place, except for cans inside the kitchen which are being used frequently during normal operations. The contents of these cans shall be removed frequently and the cans thoroughly washed inside and outside. ~~The use of garbage can liners is recommended.~~

(c) Garbage and trash, including tin cans, resulting from the restaurant operations shall be removed from the building as frequently as may be necessary and disposed of in an approved manner.

(d) ~~Adequate facilities~~ Facilities shall be provided for the washing and storage of all garbage cans and mops. Cleaning facilities shall include combination faucet, hot and cold water, threaded nozzle, and curbed impervious pad sloped to drain ~~(or other approved facilities/methods) or other approved facilities or methods.~~

(e) Where containerized systems are used for garbage storage, facilities shall be provided for the cleaning of such systems.

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.2627 FLOORS

(c) ~~For new construction, the~~ The joints between walls and floors shall be rounded or provided with tight molding to expedite cleaning.

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.2628 WALLS AND CEILINGS

(a) Walls and ceilings of all rooms in which food is stored, handled, prepared, or served shall be kept clean and in good repair.

(b) The walls of kitchens and other rooms used for the preparation of food and the washing of utensils shall be smooth and washable; ~~and should be light colored~~ and ceilings shall be of the same construction, provided that acoustical ceiling material may be accepted where effective ventilation precludes the possibility of grease ab-

sorption. Acceptable wall materials include glazed tile and smooth painted, plastered brick, cinder blocks, slag blocks, and concrete blocks; wood or metal. Brick, cinder blocks, slag blocks, and concrete blocks are acceptable if glazed, tiled, plastered or filled so as to provide a smooth, easily-cleanable surface, regardless of color.

(c) ~~The walls and ceilings of all food storage rooms should be finished in a light color.~~

(c) ~~(d)~~ The walls and ceilings of the dining rooms and other food serving rooms shall be of sound construction. ~~and should be free of excessive decorations.~~ Artistic wall treatments with sections of brick or ornamental stone, natural wood finished, etc., are acceptable in dining rooms.

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.2629 DOORS AND WINDOWS

(a) All openings into the outer air shall be ~~ef-~~fectively screened unless other effective means are provided to keep the establishment ~~reasonably~~ free of flies.

(b) Outside doors shall be self-closing. ~~may be solid or screened, and preferably should open outward.~~

(c) ~~Effective air screens or air curtains are recommended at outside kitchen or service doors.~~

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.2630 LIGHTING

(a) ~~All rooms in which food is stored, prepared, or in which utensils are washed, shall be provided with at least 20 foot candles of light, either natural or artificial, on food preparation work levels and at utensil washing work levels. Lighting shall be adequate for all other necessary operations. Fixtures shall be kept clean and in good repair.~~

(b) ~~Light bulbs shall be shielded or located so as to minimize the possibility of broken bulbs or lamps falling into food.~~

(a) All rooms in which food is handled, or prepared, or in which utensils are washed, shall be provided with at least 70-foot candles of light on food preparation work levels and at utensil washing work levels. At least 30-foot candles of light at 30 inches above the floor shall be provided in all other areas and rooms including storage rooms and walk-in units. This shall not include dining and lounge areas except during cleaning operations. Fixtures shall be kept clean and in good repair.

(b) Light bulbs in food preparation, storage, and display areas shall be shatter-proof or shielded so as to preclude possibility of broken

bulbs or lamps falling into food. Shatter-proof or shielded bulbs need not be used in retail food storage areas where the integrity of the unopened packages will not be affected by broken glass falling onto them and the packages, prior to being opened, are capable of being cleaned.

(c) Heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

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.2631 VENTILATION

(a) ~~Ventilation shall be provided and installed as required by the North Carolina State Building Code. Copies of the North Carolina State Building Code may be obtained from the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, North Carolina 27611.~~

(b) ~~Ventilation equipment shall be kept clean and in good repair.~~

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.2632 STORAGE SPACES

(a) Storage spaces shall be kept clean and free from unnecessary articles and offensive or musty odors. The contents shall be neatly arranged to facilitate cleaning. All storage shall be at least 15 in. (38.1 cm.) above the floor or otherwise arranged so as to permit thorough cleaning.

(b) Dry beans, grits, flour, sugar, and similar food products ~~should~~ shall be stored in tightly covered containers, glass jars, or equal and labeled accordingly.

(c) Shelves in storage rooms ~~should~~ shall be constructed approximately 1 in. (2.54 cm.) from the wall, unless tightly stripped to eliminate cracks or roaches.

(d) Bulky items ~~should~~ shall be stored on slatted shelves or movable dollies.

(e) Foods shall not be stored under exposed sewer lines.

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.2633 PREMISES: MISCELLANEOUS

(a) The premises under control of the management shall be kept neat and clean at all times. Waste material ~~obsolete and unnecessary~~ un-used articles, tin cans, rubbish, and other litter shall not be permitted to accumulate on the premises. There shall be no fly or mosquito breeding places, rodent harborages, or undrained areas on the premises.

(b) None of the operations shall be conducted in any room used for domestic purposes. A do-

mestic kitchen shall not be used in connection with the operation of a restaurant.

(c) Soiled linens, coats, and aprons shall be kept in containers provided for this purpose. When poisons, such as insecticides and lye, etc., are used in a restaurant, a special area for storage of these materials shall be provided and plainly marked.

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.2634 REQUIREMENTS FOR FOOD STANDS

Food stands shall comply with all ~~sanitation requirements for restaurants as specified in .0450 to .0475~~ the requirements of this Section, with the following exceptions:

- (1) In ~~.0466~~ Rule .2624 of this Section, only toilets for employees shall be required. These shall be adequate and convenient and shall comply in every way to the standards for restaurant toilets.
- (2) In ~~.0467~~ Rule .2625 of this Section, only handwashing facilities for employees shall be required. In addition, for food stands in which the customer serves himself, a lavatory shall be provided for customers. These shall be adequate and convenient and comply with restaurant standards insofar as the rule is concerned.
- (3) In ~~.0460(d)~~ Rule .2618(d) of this Section, in order to qualify for a permit or when a facility is renovated, at least a two-compartment sink of adequate size conveniently located and depth with sufficient drainboard space on each end to accommodate the washing and drying of cooking equipment shall be required for the washing of all multi-use containers, cooking and preparation utensils, and equipment. For existing food stands, single vat sinks with drainboard space on each end are acceptable for washing of cooking and preparation utensils if effective.
- (4) In ~~.0451 and .0452~~ of this Section, all operations incident to the storage, preparation, and dispensing of food shall be conducted in a room or area protected from flies, dust, vermin, etc., and no free-standing booths, fountains, sandwich counters, etc. shall be permitted except in some establishment, permanent building, or business in which the foodhandling operations required may be carried out under satisfactory sanitary conditions. The requirements in Rule .2629 of this Section shall not apply to a foodstand within a mall, grocery store, or other multi-purpose building providing protection from

flies, dust, vermin or other sources of contamination.

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.2635 REQUIREMENTS FOR TEMPORARY FOOD STANDS

The following requirements shall be satisfied in order for temporary food stands to qualify for a permit under .2602 of this Section:

- (1) Temporary food stands shall be located in clean surroundings and kept in a clean and sanitary condition. They shall be so constructed and arranged that food, utensils, and equipment will not be exposed to insects, dust, and other contamination. Protection against flies and other insects shall be provided by screening or by effective use of fans. ~~Sawdust, shavings, or equal may be accepted as satisfactory floors.~~
- (2) Where food or griddles are exposed to the public or to dust or insects, they shall be protected by glass, or otherwise, on the front, top, and ends, and exposed only as much as may be necessary to permit handling and serving of the food.
- (3) All griddles, warmers, spatulas, refrigerators, and other utensils and equipment shall be cleaned routinely and maintained in a sanitary manner.
- (4) Running water under pressure shall be provided. The water supply shall be approved and of a safe, sanitary quality. Provisions shall be made for heating water for the washing of utensils and equipment. At least a single vat sink, large enough in which to wash cooking utensils, pots, and pans, must be provided. At least one drainboard or counter top space must be provided.
- (5) Facilities shall be provided for employees' handwashing. These may consist of a pan, soap, and single-use towels.
- (6) Convenient and approved toilet facilities shall be provided for use by employees. Public toilet facilities provided on the grounds are acceptable if reasonably convenient, adequate, and kept clean. Sewage shall be disposed of in an approved manner.
- (7) Adequate provision shall be made for the refrigeration of potentially hazardous foods and the proper storage of other foods and equipment. shall be refrigerated in accordance with Rule .2609 of this Section. All food shall be stored, handled, and displayed in accordance with Rule .2610(a) through (d) of this Section. Food service equipment shall be stored in accordance with Rule .2620 of this Section.

- (8) Garbage and refuse shall be collected and stored in standard water-tight garbage cans provided with tightfitting lids ~~(or other approved containers/methods)~~. or other approved containers or methods. Garbage and refuse shall be removed at least daily and disposed of in a sanitary manner. Waste water shall be so disposed of as not to create a nuisance. Each operator shall keep his immediate premises clean.
- (9) All food served shall be clean, wholesome, and free from adulteration. Potentially hazardous foods such as cream-filled pastries and pies, and salads such as potato, chicken, ham, crab, etc., shall not be served in a temporary food stand. Hamburgers shall be obtained from an approved market or plant in patties separated by clean paper, or other wrapping material, and ready to cook. Wrapped sandwiches shall be obtained from an approved source. Poultry shall be prepared for cooking in an approved market or plant. Drinks served shall be limited to packaged, canned, or bottled drinks, packaged milk, coffee, or carbonated beverages from approved dispensing devices.
- (10) Food prepared by local groups shall be prepared in an approved kitchen, and such groups shall maintain a record of the type and origin of such foods. These foods shall be prepared, transported, and stored in a sanitary manner protected from contamination and spoilage.
- (11) ~~No person who has a contagious or infectious disease, wound, or boil shall be allowed to work in the establishment in an area or capacity in which there is likelihood of transmission of disease to patrons or to fellow employees.~~ No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or an acute respiratory infection with cough and nasal discharge, shall work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces, with disease-causing organisms or transmitting the illness to other persons.

Statutory Authority G.S. 130A-248.

.2637 EMPLOYEES' COOK TENTS

(a) ~~Due to the lack of public health significance, employees' cook tents are exempt from this Section if they serve only show employees. Such tents shall be located away from public areas and~~

~~a sign reading "For Employees Only" shall be provided.~~

(b) ~~If employees' cook tents also serve the public, they shall meet the requirements for temporary restaurants or temporary food and drink stands, depending upon the type of service. If multi-use eating or drinking utensils are used in the establishment, the temporary restaurant rules shall apply. If only single service eating or drinking utensils are used, the temporary food or drink stand rules shall apply.~~

(a) Cooking facilities that serve only employees of the fair, carnival, circus, or other similar organizations are not subject to these Rules. Such tents shall be located away from public area and a sign reading "For Employees Only" shall be prominently displayed.

(b) If employee cooking facilities also serve the public, they shall meet all requirements for a temporary food service facility.

Statutory Authority G.S. 130A-248.

.2638 GENERAL REQUIREMENTS FOR PUSHCARTS AND MOBILE FOOD UNITS

(a) Approval shall be granted by the local health department which provides sanitation surveillance for the restaurant from which the pushcart or mobile food unit is to operate, if the local health department determines that the pushcart or mobile food unit complies with these Rules.

(b) The written approval (~~DHS Form 2901~~) shall be in the possession of the person operating the pushcart or mobile food unit. ~~Such carts or units shall be subject to inspection at least quarterly (DHS Form 2902) by Division of Health Services authorized sanitarians, but grade Grade cards will shall not be posted. however, lack of compliance with the restaurant rules may be sufficient cause for withdrawal of pushcart or mobile food unit approval by an authorized sanitarian.~~

(c) The local health department which issues approval shall be provided by individuals receiving approval a list of counties and locations where each pushcart or mobile food unit will operate.

(d) Individuals receiving approval to operate a pushcart or mobile food unit shall provide the local health department in each county in which food service operations are proposed a list of locations where they will operate. Such lists must be kept current.

(e) Prior to initiating food service operations in a particular jurisdiction, the operator of the pushcart or mobile food unit shall submit to that particular jurisdiction such carts or units for in-

spection or reinspection to determine compliance with this Section.

(f) Such carts or units shall operate in conjunction with a permitted restaurant and shall report at least daily to the restaurant for supplies, cleaning, and servicing.

(g) All foods shall be obtained from approved sources and shall be handled in a manner so as to be clean, wholesome, and free from adulteration.

(h) All potentially hazardous foods shall be maintained at 45 ! F(7! C) or below or 140! F (60! C) or above, or as required in .0451 of this Section. A metal stem-type thermometer accurate to +2! F (+1! C) shall be available to check food temperatures.

(i) Only single-service eating and drinking utensils shall be used in serving customers. Single-service items must be properly stored and handled.

(j) All garbage and other solid waste shall be stored and disposed of in an approved manner.

(k) Employees shall be clean as to their person and foodhandling practices. Clean outer clothing and hair restraints are required.

(l) ~~No person who has a contagious or infectious disease, wound, or boil shall be allowed to work in an area of capacity in which there is likelihood of transmission of disease to patrons or to fellow employees. No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or an acute respiratory infection with cough and nasal discharge, shall work with a pushcart or mobile food unit in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces, with disease-causing organisms or transmitting the illness to other persons.~~

(m) All equipment and utensils shall be easily cleanable and kept clean and in good repair.

(n) The pushcart or mobile food unit shall be kept in a clean and sanitary condition and be free of flies, roaches, rodents, and other vermin.

Statutory Authority G.S. 130A-248.

.2640 SPECIFIC REQUIREMENTS FOR MOBILE FOOD UNITS

(a) The mobile food unit shall be constructed and arranged so that food, drink, utensils, and equipment will not be exposed to insects, dust, and other contamination. Protection against flies and other insects shall be provided by screening or by effective use of fans. Where food or griddles are exposed to the public or to dust or insects, they shall be protected by glass, or oth-

erwise, on the front, top, and ends, and exposed only as much as may be necessary to permit the handling and serving of food.

(b) A mobile food unit shall have a potable water system under pressure. The system shall ~~be of sufficient capacity to furnish enough~~ hot and cold water for all food preparation, utensil cleaning, and handwashing. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled.

(c) Water heating facilities (~~hot water heater~~) must shall be provided.

(d) Handwashing lavatory with hot and cold water, combination supply faucet, soap, and single-service towels must shall be provided.

(e) At least a single vat equipment sink of adequate size and depth with sufficient drainboard space on each end to accommodate the washing and drying of cooking equipment shall be provided. However, in cases where no food is prepared on the mobile food unit and all utensils are ~~effectively~~ cleaned at the restaurant, the equipment sink is not required.

(f) Sewage disposal must be provided either by means of an approved sewage disposal system or approved sewage storage tanks. Sewage storage tanks must be maintained in a manner so as not to create a health hazard or nuisance and to prevent contamination of foods or water supply. Toilets are not required on the unit. Liquid waste that results from the operation of a mobile food unit shall be disposed of in an approved sewage disposal system or stored in a permanently installed sewage storage tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the sewage storage tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

(g) A servicing operations area must shall be established at a restaurant for the mobile food unit. Potable water servicing equipment shall be installed, stored, and handled ~~in a way that protects to protect~~ the water and equipment from contamination. The mobile food unit's sewage storage tank shall be thoroughly flushed and drained during servicing operation. All sewage shall be discharged to an approved sewage disposal system.

Statutory Authority G.S. 130A-248.

.2641 PROCEDURE WHEN INFECTION SUSPECTED

When suspicion arises as to the possibility of transmission of infection from any employee or by any food or drink, the local health director is authorized to require any or all of the following measures:

- (1) The immediate exclusion of the employee from employment in establishments covered by this Section;
- (2) The immediate closing of the establishment concerned until the local health director determines no further danger of disease outbreak exists;
- (3) Adequate medical examinations of the employee and of his associates, with such laboratory examination as may be indicated;
- (4) Retention by the management of portions of all suspected foods for sampling by the local health director; Such portions shall be collected, stored and handled as specified by the local health director.

When the local health department has reason to suspect the possibility of exposure to, or transmission of, infection within a foodhandling operation from any person or from any food or drink, the local health director shall act in accordance with the Communicable Disease Laws and Rules (G.S. 130A-133 through 148, 15A NCAC 19A).

Statutory Authority G.S. 130A-248.

.2643 APPEALS PROCEDURE

Appeals concerning the interpretation and enforcement of the rules in this Section shall be made in accordance with G.S. 150B. and 10 NCAC 1B.

Statutory Authority G.S. 130A-248.

SECTION .2700 - SANITATION OF MEAT MARKETS

.2701 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Department" of ~~Human Resources~~ means the ~~Secretary, or his~~ North Carolina Department of Environment, Health, and Natural Resources. The term also means the authorized representative of the Department.
- (2) "Employee" means any person who is employed in the handling ~~and/or~~ or processing of meat, meat food products, poultry, or poultry products, or in the cleaning of utensils or equipment.

(3) "Local Health Director" means the administrative head of a local health department or his authorized representative.

(4) "Meat" and "meat food products" mean meat and meat food products as defined in G.S. 106-549.15(14).

(5) "Meat market" means ~~and includes any place or establishment in which meat or meat food products or poultry or poultry products are prepared, stored, handled, or offered for sale at wholesale or retail.~~ a meat market as defined in G.S. 130A-228, except those places subject to G.S. 130A-229.

(6) "Person" means an individual, firm, association, organization, partnership, business trust, corporation, or company.

(7) "Poultry" and "poultry products" mean poultry and poultry products as defined in G.S. 106-549.51(25).

(8) "Renovation or remodeling" means structural changes in meat, meat food products, poultry or poultry product preparation areas, the addition of rooms, or changes related to the addition of rooms.

(9) ~~(8)~~ "Responsible person" means the individual present in a meat market who is the apparent supervisor of the meat market at the time of inspection. If no individual is the apparent supervisor, then any employee present is the responsible person.

(10) ~~(9)~~ "Sanitarian" means a ~~qualified~~ person authorized to represent the Department of ~~Human Resources~~ on the local or state level in making inspections pursuant to state laws and rules.

(11) ~~(10)~~ "Sanitize" means the approved bactericidal treatment by a process which ~~provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.~~ meets the temperature and chemical concentration levels in 15A NCAC 18A .2600.

Statutory Authority G.S. 130A-228.

.2702 PERMITS

(a) No person shall operate a meat market within the State of North Carolina who does not possess an unrevoked permit from the Department. ~~of Human Resources.~~

(b) No permit to operate shall be issued until a sanitary inspection by a representative of the Department ~~of Human Resources~~ shows that the establishment complies with these sections.

(c) Permits issued to one person are not transferable to others.

PROPOSED RULES

(d) Permits are issued by and inspections made by local health department sanitarians, who are authorized representatives of the Department of Human Resources.

(e) A permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the facility to maintain a minimum grade of C. A permit may otherwise be suspended or revoked in accordance with 130A-23. A new permit to operate shall be issued only after the establishment has been resurveyed by a sanitarian and found to comply with this Section. This resurvey will be conducted within a reasonable length of time after the request is made by the operator.

Statutory Authority G.S. 130A-228.

.2704 REINSPECTIONS

(a) Upon request of the management, a reinspection will be made. In the case of establishments that have been closed for failure to comply with these Rules, a survey an inspection to consider the issuance or reissuance of a permit shall be made at the earliest convenience of the sanitarian. and an inspection for the purpose of establishing the sanitation grade may be made at any time after the establishment has been in operation for at least two weeks.

(b) In the case of establishments which request an inspection for the purpose of raising the grade, and which hold unrevoked permits, the sanitarian shall make an unannounced inspection after the lapse of a reasonable period of time, not to exceed 30 days, for the purpose of establishing a new grade.

Statutory Authority G.S. 130A-228.

.2705 APPROVAL OF PLANS

Copies of plans of new meat markets as well as proposed major renovations to existing plants, should markets shall be submitted to the local health department for approval before construction is begun. This procedure is recommended to avoid mistakes and misunderstandings as to requirements.

Statutory Authority G.S. 130A-228.

.2706 INSPECTION FORMS

The grading of meat markets shall be done on an inspection form furnished by the environmental health section of the Department of Human Resources to local health departments. The forms shall include but need not be limited to the following information:

- (1) name and address of facility;
- (2) name of manager;

(3) score;

(4) standards of construction and operation as listed in Rules .0508 through .0526 of this Section;

(5) signature of authorized representative.

Statutory Authority G.S. 130A-228.

.2708 FLOORS

(a) All floors shall be of smooth materials and so constructed as to be easily cleanable and shall be kept in good repair.

(b) Floors in rooms used for the handling and storage of meat, meat food products, poultry or poultry products; rooms in which utensils or equipment are washed; walk-in refrigerators; dressing or locker rooms; and toilet rooms shall be of nonabsorbent materials such as concrete, terrazzo, tile, durable grades of linoleum or plastic, or equal; floors or nonrefrigerated dry storage areas need not be nonabsorbent; that floors of tight wood construction may be accepted in existing establishments.

(c) All floors shall be free of cleaning obstacles and shall be kept clean. The floor area shall be sufficient to accommodate all necessary operations.

(a) The floors of all utensil-washing rooms, toilet rooms and all rooms in which meat, meat food products, poultry or poultry products are stored, prepared, handled, or sold, shall be constructed to provide durable surfaces which are smooth, non-absorbent and easily cleanable. The floors shall be free of obstacles to cleaning, and shall be kept clean and in good repair. Nothing in this Section shall prohibit the use of approved anti-skid floor applications where needed for safety reasons.

(b) The joints between walls and floors shall be rounded or provided with tight molding.

(c) Exposed utility lines or pipes on the floor are prohibited.

(d) In all rooms in which water is routinely discharged to the floor, or in which floors are subjected to flooding-type cleaning; floors shall be of concrete, terrazzo, tile or equal, shall slope to drain and be provided with floor drains.

Statutory Authority G.S. 130A-228.

.2710 LIGHTING

(a) All rooms used for the handling of meat, meat food products, poultry or poultry products; all rooms in which utensils or equipment are washed; dressing or locker rooms; toilet rooms; and storage rooms shall be well lighted and ventilated, by either natural or artificial means.

(b) Toilet rooms shall be vented as required by the North Carolina State Building Code as amended through July 1, 1984. Copies of the North Carolina State Building Code may be obtained from the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, North Carolina 27611.

All rooms in which meat, meat food products, poultry or poultry products are handled or prepared, or in which utensils are washed, shall be provided with at least 70-foot candles of light on preparation work levels and at utensil washing work levels. At least 30-foot candles of light at 30 inches above the floor shall be provided in all other areas and rooms including storage rooms and walk-in units. Fixtures shall be kept clean and in good repair.

Statutory Authority G.S. 130A-228.

.2711 TOILET FACILITIES

(a) Every establishment shall be provided with adequate and convenient toilet facilities readily accessible at all business hours. ~~and shall conform with the North Carolina State Building Code.~~

(b) Toilet rooms shall not be used for storage. Doors shall be self-closing. Fixtures shall be kept clean and in good repair.

Statutory Authority G.S. 130A-228.

.2712 LAVATORY FACILITIES

(a) ~~Adequate and convenient lavatory facilities or other approved handwashing facilities conforming with the North Carolina State Building Code, including hot and cold running water and a mixing faucet, soap, and sanitary towels, or approved hand-drying devices, shall be provided for employees and shall be kept clean.~~

(b) Handwashing Lavatory facilities shall be provided in processing areas in addition to any lavatories which may be provided at employees' toilet rooms except where employees' toilets are immediately adjacent to the processing area.

(c) Sinks used for washing utensils and equipment shall not be accepted as a substitute for required handwashing lavatory facilities for employees.

(d) Durable, legible signs shall be posted or stenciled conspicuously in each employee's toilet room directing employees to wash their hands before returning to work.

Statutory Authority G.S. 130A-228.

.2714 WATER SUPPLY

(a) The water supply shall be from an approved source and shall be adequate and of a safe, sanitary quality.

(b) The water supply used shall be located, constructed, maintained, and operated in accordance with the Commission for Health Services' rules governing water supplies. Copies of 15A NCAC 18A .1700 and 15A NCAC 18C as amended through July 1, 1986 may be obtained from the Division of Health Services, Department of Human Resources, P.O. Box 2091, Raleigh, North Carolina 27602-2091. A sample of water from a private or public non-community water supply serving a meat market shall be collected by the sanitarian and submitted at least once a year to the laboratory section of the Department of Human Resources or other approved laboratory for bacteriological examination.

(c) Cross-connections with unapproved water supplies are prohibited. All plumbing fixtures for potable water shall be provided and installed as required by the North Carolina State Building Code as amended through July 1, 1986. Copies of the North Carolina State Building Code may be obtained from the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, North Carolina 27611.

(d) Hot water heating facilities shall be provided. Hot and cold running water under pressure shall be provided to food preparation areas, and any other areas in which water is required for cleaning.

(a) The water supply used shall be in accordance with 15A NCAC 18A .1700.

(b) Connections between potable and non-potable water supplies are prohibited.

(c) Hot and cold running water under pressure shall be provided to meat, meat food product, poultry, or poultry product preparation areas, utensils, and handwashing areas, and any other areas in which water is required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all meat and meat food products, poultry and poultry products preparation, utensil-washing, handwashing, cleaning or other water-using operations.

(d) Prior to the issuance of a permit, non-community water supplies shall be listed with the Public Water Supply Section, Division of Environmental Health, and water samples for bacteriological analysis shall be collected by the sanitarian and submitted to the Laboratory Section of the Department of Environment, Health, and Natural Resources or other laboratory certified by the Department for analysis, and at least annually thereafter for bacteriological analysis. Other tests of water quality, as indicated by pos-

sible sources of contamination, may be collected by the sanitarian.

Statutory Authority G.S. 130A-228.

.2716 SOLID WASTES AND BY-PRODUCTS

(a) All solid wastes containing food scraps or other decomposable materials shall, prior to disposal, be kept in leak-proof, nonabsorbent containers which shall be kept covered with tight-fitting lids when filled or stored, or not in continuous use; provided, that such containers need not be covered when stored in a special vermin-proofed room or enclosure.

(b) All dry rubbish (~~including scrap paper, cardboard, etc.~~) including scrap paper, cardboard, or similar items shall be stored in containers, rooms or areas in an approved manner.

(c) ~~The rooms,~~ Rooms, enclosures, areas, and containers shall be adequate provided for the storage of all solid wastes accumulating on the premises. ~~Adequate cleaning~~ Cleaning facilities shall be provided and each container, room or area shall be ~~thoroughly~~ cleaned after the emptying or removal of the waste.

(d) All solid wastes shall be disposed of with sufficient frequency and in such a manner as to prevent a nuisance.

Statutory Authority G.S. 130A-228.

.2718 MISCELLANEOUS

(a) Soiled work clothing and any cloths used in processing or for cleaning shall be kept in containers provided for this purpose.

(b) Suitable storage places shall be provided for mops, brushes, brooms, hose, cleaning compounds, and other items in routine use. ~~Mop sinks should be provided, and under no circumstances shall a sink used for the cleaning of utensils and equipment be used for emptying mop buckets or the washing or rinsing of mops.~~

(c) ~~It is recommended but not required that an approved angle jet drinking fountain be installed in the plant for the convenience of employees.~~

(c) ~~(d)~~ No part of the establishment shall be used for domestic purposes.

Statutory Authority G.S. 130A-228.

**.2720 UTENSILS AND EQUIPMENT:
CLEANING AND STORAGE**

(c) All utensils and equipment used in the handling, cutting, chopping, grinding, mixing, or other processing of meat, meat food products, poultry or poultry products shall be thoroughly cleaned at least once each day or more often if necessary, and rinsed with hot water. All such

utensils and equipment shall then be stored so as to drain, dry, and be protected from splash, dust, and other contamination. ~~Cutting blocks and boards may be cleaned by special methods. In place cleaning of fixed equipment shall be accepted when found effective.~~

(d) Utensils and equipment that have been used for the preparation of raw meat or raw poultry shall not be used for the preparation of cooked meat, ~~poultry or products such as pimento cheese,~~ cooked poultry or other ready-to-eat products unless such utensils and equipment have been thoroughly cleaned and sanitized.

Statutory Authority G.S. 130A-228.

.2722 BARBECUE MACHINES

Barbecue machines, if used, shall be located away from the main work areas in the meat market, as on a special table or at the end of a counter, and the following special requirements shall apply:

- (1) Provide a separate counter, table, or counter area for wrapping, and for sauce, containers, etc. ~~In markets which are too crowded to comply fully with this requirement, a separate room will be necessary and similar items.~~
- (2) Provide special utensils and containers which are not used for other purposes in the market.
- (3) Provide paper trays, or a single-service container for each item barbecued.
- (4) All wrappings, trays, etc., and all seasonings, sauces, etc., and similar items shall be stored in a clean dry place protected from dust.
- (5) All cooked meat and poultry shall be wrapped and refrigerated promptly at a temperature of 45 degrees F. or below, or kept hot (~~140 degrees F. or above.~~) at 140! F or above.
- (6) The barbecue machine shall be thoroughly cleaned at least once a day if used daily or after each day of use.
- (7) After cooked meat and poultry have been refrigerated, they shall not be returned to a warming unit. ~~(Warming units are designed to keep hot foods hot and do not have the heating capacity to heat cold foods to 140 degrees F.)~~

Statutory Authority G.S. 130A-228.

.2723 REFRIGERATION

~~Sufficient refrigeration~~ Refrigeration space shall be provided to ~~conveniently~~ accommodate the

volume of meat and meat food products, poultry and poultry products handled. All refrigerators, meat boxes, and display cases shall be provided with indicating thermometers and the temperature shall not exceed 45° F. at any time. All refrigerators, meat hooks, rails, shelves, meat boxes, and display cases shall be kept clean, free from objectionable odors, and in good repair. All treads, false floors, or other obstacles in the refrigerator shall be easily removable so that the floor of the refrigerator can be easily cleaned.

Statutory Authority G.S. 130A-228.

.2724 HANDLING AND STORAGE OF MEAT AND OTHER FOOD PRODUCTS

(a) All meat and meat food products and all poultry and poultry products shall have been inspected for wholesomeness, where required, under an official federal, state, or local regulatory program; and, in all cases, the source shall be identifiable from labeling on carcasses, cuts, unit packages, bulk packages, or from bills of sale.

(b) No meat or meat food products and no poultry or poultry products shall be accepted by any market unless it ~~has been adequately~~ is refrigerated, wrapped, boxed, or covered so as to prevent contamination. ~~during loading, transportation, and unloading of such products. Markets which receive shipments of poultry or poultry products after business hours shall provide an outside rack that is elevated and fenced to exclude animals, or shall arrange for access to the market.~~

(c) No meat or meat food products, or poultry or poultry products shall be kept outside refrigerators or refrigerated display cases, except during immediate processing, transfer, or sale. ~~with the exception of cured meats. Cured meats shall be handled and stored in a sanitary manner. All meat and meat food products shall be stored in refrigerators and display cases in a clean and orderly manner and without overloading. The storage of vegetables, fruits, or items other than meat or meat food products in walk-in boxes is undesirable. When the storage of such items prevents the satisfactory handling of meat, the practice shall be discontinued. Refrigeration shall not be required for cured shelf-stable meats.~~ No meat shall be stored directly on the refrigerator floor. Packed containers of poultry shall be stored in such manner as not to contaminate meat or meat food products.

(d) Meat or meat food products, or poultry or poultry products shall not be wrapped in newspaper, or other previously used wrapping paper. No spoiled or unwholesome meat or poultry shall be kept, offered for sale, or stored on the

premises. Used poultry crates shall not be used for the storage of meat.

(e) Employees shall handle meat and meat food products, or poultry or poultry products in a sanitary manner. Customers and other persons not directly employed in the market shall not be permitted to handle fresh meats and meat products, or poultry or poultry products intended for sale to the public. ~~No person shall be permitted to stand, sit, or lie on counters, chopping blocks, or other food contact surfaces.~~

(f) Fresh fish shall be adequately iced refrigerated at 32° F (0° C) or below and handled in a sanitary such manner as to prevent contamination.

(g) All shellfish and crustacea meat shall be obtained from sources in compliance with the Commission for Health Services' Department rules on shellfish and crustacea. Copies of 15A NCAC 18A .0100 as amended through July 1, 1984 may be obtained from the Division of Health Services, Department of Human Resources, P.O. Box 2091, Raleigh, North Carolina 27602-2091. 18B .0100 through .0900 may be obtained from the Department of Environment, Health, and Natural Resources, P.O. Box 28687, Raleigh, North Carolina 27611-7687. If the source of clams, oysters, or mussels is outside the state, the shipper's name shall be on the Interstate Certified Shellfish Shippers List as published monthly by the Shellfish Sanitation Branch, Food and Drug Administration, 200 "C" Street, S.W., Washington, D. C. 20204, and that if the source of cooked crustacea meat is outside the state, the establishment in which the crustacea meat was packed is certified by the state or territory of origin, attested by the presence of an official permit number on the container.

(h) Shucked oysters and clams and cooked crustacea meat shall be stored in the original shipping container on which appears the shipper's permit number. Shell oysters and clams shall be stored in a clean, well-drained room or bin provided especially for that purpose. If in bags, boxes, or barrels, the container shall bear a standard identification tag on which appears the name, address, and permit number of the shipper.

(i) When a meat market is located in the same room with a grocery store or other establishment, the area in which the meat is or meat food products or poultry or poultry products are stored, handled, and displayed shall be kept free from other merchandise, and the adjacent area shall be kept neat, clean and in such condition as not to adversely affect the sanitation of the meat or meat food products. free of vermin.

PROPOSED RULES

Statutory Authority G.S. 130A-228.

.2725 APPEALS PROCEDURE

Appeals concerning the interpretation and enforcement of the rules in this Section shall be made in accordance with G.S. 150B. ~~and 10 NCAC 1B.~~

Statutory Authority G.S. 130A-228.

CHAPTER 21 - HEALTH: PERSONAL HEALTH

SUBCHAPTER 21D - WIC/NUTRITION

SECTION .0700 - WIC PROGRAM FOOD DISTRIBUTION SYSTEM

.0706 AUTHORIZED WIC VENDORS

(e) An authorized WIC vendor may be disqualified from the WIC program for violation of 10 NCAC 8C .1106(b) or violation of any other state and federal WIC program rules for a period not to exceed three years in accordance with the following:

- (I) When a vendor commits a violation of the WIC program rules, he shall be assessed sanction points as set forth below:
- (D) 15 points for:
 - (i) charging more than current shelf price for WIC-approved foods more than once;
 - (ii) charging for foods in excess of those listed on WIC food instrument(s);
 - (iii) failure to allow monitoring of a store by WIC staff when required;
 - (iv) failure to provide WIC food instrument(s) for review when requested;
 - (v) failure to provide store inventory records when requested by WIC staff;
 - (vi) nonpayment of a claim made by the state agency;
 - (vii) ~~sending in~~ tendering for payment any food instrument(s) accepted by any other store;
 - (viii) intentionally providing false information on vendor records (application, price list, WIC food instrument(s), monitoring forms);

Statutory Authority G.S. 130A-361.

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Health Services, Department of Environment, Health, and Natural

Resources intends to amend rules cited as 15A NCAC 19A .0102 and .0201.

The proposed effective date of this action is May 1, 1991.

The public hearing schedule for the Commission will be as follows:

January 15, 1991
10:00 a.m.
Ground Floor Hearing Room
Archdale Building
512 North Salisbury Street
Raleigh, North Carolina

January 16, 1991
7:00 p.m.
Auditorium
New Hanover County Health Department
2029 South 17th Street
Wilmington, North Carolina

January 17, 1991
7:00 p.m.
Auditorium
Forsyth-Stokes Mental Health Center
725 Highland Avenue
Winston-Salem, North Carolina

January 22, 1991
7:00 p.m.
Auditorium
East Carolina University
Regional Development Institute
Corner of First and Reade Streets
Greenville, North Carolina

January 23, 1991
7:00 p.m.
Auditorium
Rankin Health Center
1200 Blythe Boulevard
Charlotte, North Carolina

January 24, 1991
6:00 p.m.
Lecture Hall
Mountain Area Health Education Center
501 Biltmore Avenue
Asheville, North Carolina

Comment Procedures: Any person may request copies of the proposed rules by contacting John P. Barkley, DEHNR, P.O. Box 27687, Raleigh, NC 27611-7687, (919) 733-7247. Written comments on these rules may be sent to Mr. Barkley

at the above address or submitted at the public hearing. If you desire to speak at the public hearing, notify Mr. Barkley at least three days prior to the public hearing. At the discretion of the Chairman, the public may also be allowed to comment on the rules at the Commission Meeting.

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19A - ACUTE COMMUNICABLE DISEASE CONTROL

SECTION .0100 - REPORTING OF COMMUNICABLE DISEASES

.0102 METHOD OF REPORTING

(a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 10 NCAC 7A .0106, the report shall be made to the local health director as follows:

- (3) Until January 1, 1994, reports of cases of confirmed HIV infection identified by anonymous tests that are conducted at local health departments HIV testing sites designated by the State Health Director pursuant to 15A NCAC 19A .0201(d)(10) shall be made on forms provided by the Division Department for that purpose. No communicable disease report card shall be required. Effective January 1, 1994, anonymous testing shall be discontinued and all cases of confirmed HIV infection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2).

Statutory Authority G.S. 130A-134; 130A-135; 130A-141.

SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

.0201 CONTROL MEASURES

(d) The following are the control measures for the Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection:

- (10) Local health departments that shall provide free testing for HIV infection shall offer free anonymous testing with individual pre- and post-test counseling. By June 1, 1991, the State Health Director shall designate twelve local health departments to provide anonymous testing. Beginning July 1, 1991, only cases of confirmed HIV infection identified by anonymous tests conducted at local health departments designated as anonymous testing sites pursuant to this Subparagraph

shall be reported in accordance with 15A NCAC 19A .0102(a)(3). All other cases of confirmed HIV infection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2). Effective January 1, 1994, anonymous testing shall be discontinued and all cases of confirmed HIV infection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2).

Statutory Authority G.S. 130A-144; 130A-148.

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 .0205.

The proposed effective date of this action is May 1, 1991.

The public hearing will be conducted at 10:00 a.m. on January 15, 1991 at the 3rd Floor Conference Room, Education Building, 116 W. 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 6C - PERSONNEL

SECTION .0200 - TEACHER EDUCATION

.0205 TEACHER EDUCATION PROGRAMS STATE REVIEW STANDARDS

(a) In order to receive approval by the SBE, a teacher education program must:

- (1) obtain successful NCATE review;
- (2) obtain successful state review of the specialty area(s) and professional studies;
- (3) demonstrate that its graduates have achieved a minimum 70 percent pass rate on the NTE (professional knowledge and specialty area); and
- (4) demonstrate that at least 95 percent of its graduates perform successfully in the initial certification program.

(b) For purposes of state review of specialty areas:

- (1) "professional studies" (professional education) means the portion of the total

preparation program that prepares students to work effectively in professional education roles, and it includes pedagogical, theoretical, and practicum studies.

- (2) "specialty studies" means the sequence of courses and experiences in the academic or professional area in which the student plans to teach, for the grade level at which the student plans to teach, and/or for the services that the candidate plans to provide.
- (c) Elements that are common to all specialty areas and that need be addressed only once in the self-study, deal with professional studies. The professional studies are designed to provide all potential educators with the generally accepted body of knowledge, theory and applications that is the basis for effective educational practice.
 - (1) Written evidence verifies that the state-approved professional studies guidelines for all certificated school personnel are adequately addressed.
 - (2) Written evidence verifies that the state-approved professional studies competencies common to all certificated school personnel are adequately addressed.
 - (3) Candidates for admission must meet minimum score requirements adopted by the SBE on Core Batteries I (Communication Skills) and II (General Knowledge) of the NTE before formal admission can occur. Undergraduate degree-seeking students may not complete more than one-half of the professional studies sequence (excluding student-teaching/internship) before being formally admitted into the teacher education program.
 - (4) Sequentially planned field experiences for undergraduate degree-seeking students begin early in the student's program and culminate in a continuous and extended minimum ten-week period of student teaching in the area in which the student seeks certification. All field experiences are supervised and formal evaluations involving faculty, cooperating teachers and students occur as appropriate.
 - (5) Preparation for entry certification at the advanced level includes supervised internship or field experiences appropriate to the role(s) for which students are being prepared. These experiences are the basis for applying theory to practice, developing competencies at a high proficiency level, and evaluating the candidate's performance.

(d) Elements that are specific to each specialty area and that must be addressed by each program for each level offered are as follows:

- (1) Specialty area design, guidelines and competencies. There is a well-designed and well-defined program of study that reflects stated goals and objectives and complies with state-approved guidelines and competencies for the specialty area.
 - (A) The goals and objectives of the specialty area are clearly stated in writing, are readily accessible to faculty, students and other consumers and reflect a clear conception of the role(s) in the public schools for which students are being prepared.
 - (B) An appropriate balance among general studies, specialty area studies and professional studies exists at the undergraduate level to assure a well-rounded education for students.
 - (C) The specialty area complies with state-approved guidelines for the certification area in which the student is being prepared.
 - (D) The specialty area complies with state-approved competencies for the certification area in which the student is being prepared.
 - (E) Master's sixth year (e.g., CAS, Ed.S.) and doctoral curricula are clearly delineated and differentiated from one another and from the undergraduate curriculum.
 - (F) Requirements for certification-only students are clearly described and comparable to those for degree-seeking students.
- (2) Faculty. There is a competent and appropriately specialized faculty assigned to the specialty area.
 - (A) Each faculty member teaching in the specialty area demonstrates competence in the area(s) of assignment.
 - (B) One appropriately specialized faculty member full-time to the institution must be assigned major responsibility for teaching in and coordinating each specialty area offered. To ensure diversity, there must be a sufficient number of additional faculty, appropriately specialized, to deliver the level(s) offered; e.g., undergraduate, master's, specialist. Each advanced degree program that leads to the doctorate has at least three full-time faculty who have earned the doctorate in the field of specialization for which the degree is offered.
 - (C) Among the credentials of the faculty delivering (e.g., teaching, directing, coordinating) the specialty area, there is evi-

dence of recent, substantive involvement with public school students, staff members and or programs.

(D) Among the credentials of adjunct/part-time faculty delivering the specialty area there is evidence of recent, substantive involvement with the institution via students, other faculty and/or program development.

(3) Resources. Adequate resources are available and used to accomplish the objectives for each specialty area.

(A) Specialized books and periodicals, current curriculum guides, textbooks and courses of study adopted by local school systems and the SBE, instructional media, equipment and other forms of technology, testing materials and supplies for the production of teacher-made materials and library resources for the specialty area are available and adequate in number to serve the student population.

(B) Instructional resources for the specialty area are organized for accessibility and there is evidence of use by both students and faculty.

(C) Appropriate and sufficiently-equipped classroom space is provided to meet the needs of each specialty area.

(D) Adequate facilities, including sufficient office space, are provided to serve the needs of staff and faculty, to counsel students, and to work effectively with local school personnel.

(4) Evaluation. The specialty area engages in program review and evaluation to ensure quality. An annual review of the specialty area is conducted and the resulting data are applied, as appropriate, for program improvement.

(e) The SBE will monitor annually the following legislative policies:

- (1) certification of methods faculty;
- (2) maintenance of a 70 percent pass rate on the professional knowledge (Core Battery III) and the appropriate specialty area test, if available, on the NTE; and
- (3) successful performance by 95 percent of each program's graduates in the initial certification program.

(f) The NCATE review required under Paragraph (a)(1) of this Rule must be completed by December 31, 1992. If an IHE either has not been visited by NCATE or has been denied accreditation by NCATE by December 31, 1992, the IHE shall not be eligible, beginning January 1, 1993, to admit students to programs that lead

to certification. An appeal by an IHE concerning denial of accreditation by NCATE will not extend this deadline beyond December 31, 1992. The SBE will place on provisional status until notice of the accreditation decision is received an IHE that has been visited by NCATE by December 31, 1992, but which has not received notice of the accreditation decision. Notwithstanding the provisions of this Paragraph, students who have been formally admitted before January 1, 1993 into a program that leads to certification may complete that program and be eligible to be recommended for certification on the condition that they complete such programs not later than June 30, 1995.

Authority G.S. 115C-12(9)a; N.C. Constitution, Article IX, Sec. 5.

TITLE 21 - OCCUPATIONAL LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board of Architecture intends to amend rules cited as 21 NCAC 2 .0104, .0108, .0205, .0302; and adopt rules cited as 21 NCAC 2 .0216 - .0217.

The proposed effective date of this action is May 1, 1991.

The public hearing will be conducted at 10:00 a.m. on January 16, 1991 at the North Carolina Board of Architecture, 501 North Blount Street, Raleigh, NC 27604.

Comment Procedures: Any person interested in these rules may present oral comments relevant to the action proposed at the public rule-making hearing or deliver written comments to the Board office not later than Monday, January 14, 1991. Anyone planning to attend the hearing should notify the Board office by noon Monday, January 14, 1991 whether they wish to speak on the proposals and whether they will speak in favor of or against the proposals. Speakers will be limited to ten minutes.

CHAPTER 2 - BOARD OF ARCHITECTURE

SECTION .0100 - GENERAL PROVISIONS

.0104 PROCEDURE

(b) Books and Records. The following records shall be kept in the Board office under the responsible charge of the executive director and constitute the official records of the Board:

- (1) Minutes and Reports. There will be a book to contain all minutes and official reports in proper order;
- (2) Other Documents. Other documents will be filed and arranged so as to properly care for the applicant's papers, bills and receipts, general correspondence, material concerning the laws and procedure of other states and all other papers which are to be temporarily or permanently preserved. ~~There will be a general ledger to show both receipts and disbursements.~~

of misleading or deceptive firm names include but are not limited to the following:

- (1) Use of the plural in any form when the number of architects in a firm does not warrant such use or,
- (2) Use of the name of an employee unless that employee is a partner or shareholder or,
- (3) Use of the name of deceased architect in order to benefit from his reputation, when that architect was not a former partner, officer or shareholder in the present firm, or
- (4) Use of a name which is deceptively similar to that of existing firm name.

(b) Associate. The word "associate" may be used only with reference to a licensee who is a principal or regular employee of the firm. The plural form may be used only when justified by the number of licensees in addition to those licensees whose proper names are included in the firm name. Where a firm includes among its officers or employees, one or more duly licensed professional engineer, the word "engineer" or "engineers" may be used in the same manner to identify individual engineers and engineering services as the term "architect" is used to identify individual architects and architectural services. Names of all architectural firms, whether sole proprietorships, partnerships or professional corporations, shall be approved in writing by the Board before adopted or used by such firm.

(c) Misleading Names. In order to avoid duplication or confusion of firm names, and to prevent use of firm names which might be misleading to the public, all names or titles of architectural firms, whether sole proprietorships, partnerships, or corporations, shall be approved in writing by the Board, before adopted or used by such firm. Provided, however, that this Rule shall not be construed to require any firm to seek approval of, or to change, any name duly adopted in conformity with Board rules in effect at the date of such adoption.

Statutory Authority G.S. 83A-6; 83A-9; 83A-12; 55B-5.

.0216 ANNUAL LISTING OF PARTNERSHIP

(a) By December 31 of each year, each partnership engaged in the practice of architecture in North Carolina shall submit a list of all resident and non-resident partners of the partnership.

(b) One annual listing by a representative of the partnership shall satisfy the requirements of Paragraph (a) of this Rule for all partners of the firm; however, each partner shall remain responsible for compliance with the rules.

Statutory Authority G.S. 83A-5; 83A-6.

.0108 FEES

Fees required for individual and corporate applications, examinations, initial registration, renewal of registration, reciprocal registration, copies of the roster, and other publications and of services provided by of the Board, are payable in advance to the Board. by certified check or money order.

Current amounts are:

Initial Application	
Individual	
Residents	\$25.00
Nonresidents	\$50.00
Corporate	\$50.00
Examination	At Cost
	(See rule .0301)
Re-examination	\$15.00
Annual license renewal	
Individual	\$40.00
Corporate	\$50.00
Late renewal Penalty	\$50.00
Reciprocal registration	\$75.00

Such fees will be established by the Board in public meeting, and will be within the limits set forth in G.S. 83A-4.

Statutory Authority G.S. 83A-4.

SECTION .0200 - PRACTICE OF ARCHITECTURE

.0205 NAME OF FIRM

(a) ~~Non licensed Individual. No name of any architectural office or firm may include the proper name of any individual officer or employee who is not a licensed architect, engineer, land surveyor, or landscape architect. A licensee shall not engage in the practice of architecture under a professional or firm name which is misleading or deceptive in any way as to the legal form of the firm or the persons who are partners. Officers or shareholders in the firm. Examples~~

(c) Changes in the information required by Paragraph (a) of this Rule shall be filed with the Board office within 30 days after the change occurs.

Statutory Authority G.S. 83A-6; 83A-9.

.0217 ARCHITECT EMERITUS

Upon request, a licensee may apply for architect emeritus status. Such request must be accompanied by a renewal application and the annual renewal fee on or before the first day of July in each year. An architect who is granted such status may use only the title "architect emeritus," and may not actively engage in the practice of architecture nor seal any documents as an architect.

Statutory Authority G.S. 83A-12.

SECTION .0300 - EXAMINATION PROCEDURES

.0302 WRITTEN EXAMINATION

(a) Licensure Examination. All applicants for architectural registration in North Carolina by written examination must pass the Architectural Registration Examination (ARE), administered in North Carolina, prepared by the National Council of Architectural Registration Boards (NCARB).

(1) Description. The nature of the examination is to place the candidate in areas relating to actual architectural situations whereby his abilities to exercise competent value judgements will be tested and evaluated.

(2) Qualifications. The prequalifications necessary for an applicant's admission to the Architectural Registration examination (ARE) are as follows:

(A) be of good moral character as defined in North Carolina General Statute 83A-1(5);

(B) be at least 18 years of age;

(C) hold a degree in architecture from a college or university where the degree program has been approved by the Board, or professional education equivalents as outlined and defined in the North Carolina Board of Architecture's Table of Equivalents for Education and Experience, Appendix A; Beginning July 1, 1991, the professional education qualification shall be a NAAB (National Architectural Accrediting Board) accredited professional degree in architecture.

(D) have three years practical training or experience in the offices of registered architects or its equivalent as outlined and defined in the North Carolina Board of Architecture's Table of Equivalents for Education and Experience, Appendix A. All applicants who apply for architectural registration subsequent to July 1, 1987 shall be required to follow the Intern Development Program (IDP) through the National Council of Architectural Registration Boards or an equivalent program approved by the North Carolina Board of Architecture in order to satisfy the requirements of this Section. In the case of any applicant certifying to the Board that he or she had accrued sufficient training credits under the requirements of the current Appendix A prior to July 1, 1987, so that 12 or fewer months of training remained to be acquired, then the current Appendix A shall continue in effect for such applicant.

(b) Content. The ARE comprises nine divisions as follows:

- Division A: Pre-design
- Division B: Site Design
- Division C: Building Design
- Division D: Structural - General
- Division E: Structural - Lateral Forces
- Division F: Structural - Long Span
- Division G: Mechanical, Plumbing, Electrical & Life Safety Systems
- Division H: Materials and Methods
- Division I: Construction Documents & Services

Retention of credit. Transfer credits for parts of the examination passed prior to the 1983 Architectural Registration Examination (ARE), shall be as established by the Board. Information as to transfer credits will be provided, when appropriate, to candidates as an inclusion with the application forms.

(c) Retention of Credit. Applicants who had passed portions of the previous registration examinations (Professional Examination - Section A, Professional Examination - Section B and Qualifying Test) will receive the transfer credit set forth below and need only take those divisions of ARE for which no transfer credit has been received. To be eligible for transfer credits for any portion of the Professional Examination - Section B, the applicant must have passed three parts of that examination in one sitting, in or after December, 1980.

PROPOSED RULES

Transfer credits to the ARE from the previous NCARB examinations are as follows:

Division I

Previous Examinations Passed

Professional Examination,
Section B, Parts I & II

Professional Examination,
Section A (Design/Site)

Professional Examination,
Section B, Part III

Qualifying Test
Section A

(History and Theory of Architecture are incorporated into all divisions of the ARE).

Qualifying Test,
Section B

Qualifying Test,
Section D

Qualifying Test,
Section C

Professional Examination,
Section B, Part IV

Credit to ARE Divisions

Division A

Divisions B & C

Divisions D, E, F, G and H

NO CREDIT

Divisions D, E, F

Division G

Division H

(c) ~~(d)~~ Practical Training. Practical training means practical experience and diversified training as defined in the North Carolina Board of Architecture's Table of Equivalents for Education and Experience, Appendix A. However, the Board reserves the right to judge each case on its own merits.

(d) ~~(e)~~ Personal Audience. The candidate may be required to appear personally before the examining board or a designated representative of the Board and afford the Board an opportunity to judge his natural endowments for the practice of architecture, his ethical standards, and by questions gain further knowledge of his fitness for the practice of architecture. The time for this audience will be set by the examining body.

(e) ~~(f)~~ Grading. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB.

(1) To achieve a passing grade on the ARE, an applicant must receive a passing grade of 75 in each division. Grades from the individual divisions may not be averaged. Applicants will have unlimited opportunities to retake divisions which they fail, but all divisions, previously failed, must be retaken at one time at a subsequent examination.

(2) In order to insure fairness in grading and to preserve anonymity until after the examinations have been graded, each candidate will receive a number that will be unique for each candidate. This number shall be placed by the candidate on all papers and exhibits.

(f) ~~(g)~~ Time and place. Beginning in 1983, the Board will administer the ARE over a four day period to all applicants eligible, in accordance with the requirements of this Rule. The place and exact dates will be announced in advance of the examination.

Statutory Authority G.S. 83A-1; 83A-6; 83A-7.

FINAL RULES

12	.0801 - .0814	Repealed
	.0815 - .0816	** Adopted
	.0818 - .0833	** Adopted
16	.0101 - .0107	** Adopted

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A	NCAC	2B	.0305	** Amended
			.0315	** Amended
		2H	.0105	* Correction
			.0205	* Correction
			.1203	* Correction
		2K	.0104	Temp. Amended
				Expires 04-29-91
			.0222 - .0223	Temp. Adopted
				Expires 04-29-91
		3B	.0501	Amended
			.0901	Amended
			.0907	Amended
		3C	.0311	Amended
		4A	.0005	Temp. Amended
				Expires 04-29-91
		4B	.0026 - .0027	Temp. Adopted
				Expires 04-29-91
		5B	.0012	Temp. Adopted
				Expires 04-29-91
		10C	.0305	** Amended
		10F	.0327	** Amended
			.0340	** Amended
			.0347	Amended
		10H	.0302	** Amended
		13A	.0005	* Correction
			.0006	Amended
			.0009 - .0010	* Correction
			.0012 - .0013	* Correction
		13B	.0502	Amended
		18A	.1201 - .1206	Amended
			.1934	Amended
			.1957	** Amended
			.1959	Amended
			.1962	Amended
			.2304	Amended
		18D	.0304	Amended
		21B	.0301	Amended
		21D	.0706	Amended
		21E	.0301 - .0302	Amended
		21F	.0902 - .0903	Repealed
		24A	.0101 - .0102	Amended
			.0201 - .0203	Amended
			.0204	* Correction
			.0301 - .0305	Amended
			.0401 - .0405	Amended
			.0501 - .0502	Amended
		24B	.0001	Amended
			.0004	Amended
		26B	.0001 - .0005	Amended

DEPARTMENT OF REVENUE

FINAL RULES

17	NCAC	6B	.3513	Amended
			.4103	Amended
			.4105	Amended
		6C	.0110	Amended

DEPARTMENT OF TRANSPORTATION

19A	NCAC	2D	.0637	Amended
		2E	.0201 - .0203	Amended
			.0206 - .0208	Amended
			.0210 - .0212	Amended
			.0602 - .0603	Amended
			.0607	Adopted

BOARD OF COSMETIC ART EXAMINERS

21	NCAC	14B	.0603	Adopted
		14K	.0002	Amended
			.0007	Amended

BOARD OF PHYSICAL THERAPY EXAMINERS

21	NCAC	48A	.0001	Amended
		48B	.0002	** Amended
		48C	.0101	Amended
		48D	.0003	Amended
			.0005 - .0006	Amended
		48E	.0103	Amended
		48F	.0002	Amended

ARRC OBJECTIONS

The Administrative Rules Review Commission (ARRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to ARRC as provided in G.S. 143B-30.2(d).

ECONOMIC AND COMMUNITY DEVELOPMENT

Credit Union Division

4 NCAC 6C .0203 - Fields of Membership ARRC Objection 8/16/90
Agency Revised Rule Obj. Removed 9/20/90

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Environmental Health

15A NCAC 18C .0102 - Definitions ARRC Objection 10/18/90
15A NCAC 18C .1532 - Variances and Exemptions ARRC Objection 10/18/90
15A NCAC 18C .1534 - Max Contaminant Levels for Coliform Bacteria ARRC Objection 10/18/90
15A NCAC 18C .2001 - General Requirements ARRC Objection 10/18/90
15A NCAC 18C .2002 - Disinfection ARRC Objection 10/18/90
15A NCAC 18C .2003 - Filtration ARRC Objection 10/18/90
15A NCAC 18C .2004 - Analytical and Monitoring Requirements ARRC Objection 10/18/90
15A NCAC 18C .2005 - Criteria for Avoiding Filtration ARRC Objection 10/18/90

Environmental Management

15A NCAC 2H .1203 - Public Notice ARRC Objection 8/16/90
Agency Revised Rule Obj. Removed 9/20/90
15A NCAC 2N .0703 - Initial Abatement Measures and Site Check ARRC Objection 11/14/90
15A NCAC 2N .0704 - Initial Site Characterization ARRC Objection 11/14/90

Marine Fisheries

15A NCAC 3C .0311 - Cancellation ARRC Objection 9/20/90
Agency Revised Rule Obj. Removed 10/18/90
15A NCAC 3N .0001 - Scope and Purpose ARRC Objection 8/16/90
Agency Revised Rule Obj. Removed 9/20/90
15A NCAC 3O .0203 - Shellfish Lease Application Processing ARRC Objection 8/16/90
Agency Revised Rule Obj. Removed 9/20/90

Solid Waste Management

15A NCAC 13B .1003 - Eligible Purposes ARRC Objection 8/16/90
Agency Revised Rule Obj. Removed 9/20/90
15A NCAC 13B .1005 - Priority Factors ARRC Objection 8/16/90
Agency Revised Rule Obj. Removed 9/20/90

Wildlife Resources Commission

15A NCAC 10H .0302 - Minimum Standards ARRC Objection 9/20/90
Agency Revised Rule Obj. Removed 10/18/90

ARRC OBJECTIONS

HUMAN RESOURCES

Facility Services

<i>10 NCAC 3R .2113 - Definitions Agency Revised Rule</i>	<i>ARRC Objection 9/20/90 Obj. Removed 9/21/90</i>
<i>10 NCAC 3R .2115 - Need for Services Agency Revised Rule</i>	<i>ARRC Objection 9/20/90 Obj. Removed 9/21/90</i>
<i>10 NCAC 3V .0303 - Insurance Required</i>	<i>ARRC Objection 11/14/90</i>

Individual and Family Support

<i>10 NCAC 42C .3301 - Existing Building</i>	<i>ARRC Objection 11/14/90</i>
<i>10 NCAC 42D .1401 - Qualifications of Administrator/Co-Administrator</i>	<i>ARRC Objection 11/14/90</i>

INSURANCE

Agent Services Division

<i>11 NCAC 6A .0702 - Prelicensing Education Schools Agency Revised Rule</i>	<i>ARRC Objection 8/16/90 Obj. Removed 9/20/90</i>
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Financial Evaluation Division

<i>11 NCAC 11B .0607 - Application - Employers Agency Returned Rule Without Change</i>	<i>ARRC Objection 8/16/90 9/20/90</i>
<i>11 NCAC 11B .0610 - Application - Groups Agency Returned Rule Without Change</i>	<i>ARRC Objection 8/16/90 9/20/90</i>

LICENSING BOARDS AND COMMISSIONS

Medical Examiners

<i>21 NCAC 32M .0007 - Termination of NP Approval</i>	<i>ARRC Objection 11/14/90</i>
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Physical Therapy

<i>21 NCAC 48C .0102 - Responsibilities Agency Returned Rule Unchanged</i>	<i>ARRC Objection 9/20/90 No Action 10/18/90</i>
<i>21 NCAC 48C .0501 - Exemption for Students Agency Returned Rule Unchanged</i>	<i>ARRC Objection 9/20/90 No Action 10/18/90</i>

Plumbing and Heating Contractors

<i>21 NCAC 50 .1203 - Disposition of Petitions</i>	<i>ARRC Objection 11/14/90</i>
<i>21 NCAC 50 .1207 - Request to Participate</i>	<i>ARRC Objection 11/14/90</i>

PUBLIC EDUCATION

Elementary and Secondary Education

<i>16 NCAC 6C .0312 - Certificate Suspension and Revocation Agency Revised Rule</i>	<i>ARRC Objection 8/16/90 Obj. Removed 9/20/90</i>
<i>16 NCAC 6D .0105 - Use of School Day Objection Reconsidered and Failed Clincher Motion Passed Agency Filed Rule for Codification in the NCAC</i>	<i>ARRC Objection 6/21/90 7/19/90 9/28/90</i>

ARRC OBJECTIONS

STATE PERSONNEL

25 NCAC 1B .0107 - Personnel Commission Meetings	ARRC Objection	9/20/90
25 NCAC 1B .0108 - Commission Staff	ARRC Objection	9/20/90
25 NCAC 1B .0109 - Commission Actions	ARRC Objection	9/20/90
25 NCAC 1B .0110 - Motions	ARRC Objection	9/20/90
25 NCAC 1B .0111 - Voting	ARRC Objection	9/20/90
25 NCAC 1B .0112 - Abstention	ARRC Objection	9/20/90
25 NCAC 1B .0113 - Duties of the Chairman	ARRC Objection	9/20/90
25 NCAC 1B .0114 - Order of Business	ARRC Objection	9/20/90
25 NCAC 1B .0115 - Spécial Meetings	ARRC Objection	9/20/90
25 NCAC 1B .0116 - Duties of Chairman Between Meetings of the Comm	ARRC Objection	9/20/90
25 NCAC 1B .0117 - Standing/Special Committees	ARRC Objection	9/20/90
25 NCAC 1B .0118 - Minutes	ARRC Objection	9/20/90
25 NCAC 1B .0119 - Notice of Commission Action	ARRC Objection	9/20/90
25 NCAC 1B .0120 - Appointment of Vice-Chairman	ARRC Objection	9/20/90
Agency Withdrew Rules .0107 - .0120		10/18/90
25 NCAC 1L .0201 - Purpose	ARRC Objection	9/20/90
25 NCAC 1L .0202 - Policy	ARRC Objection	9/20/90
Agency Withdrew Rules .0201 - .0202		10/18/90
25 NCAC 1L .0206 - Anti-Discrimination	ARRC Objection	9/20/90
Agency Revised Rule	Obj. Removed	9/21/90
25 NCAC 1L .0207 - Testing and Examination	ARRC Objection	9/20/90
Agency Revised Rule	Obj. Removed	9/21/90

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Local Government Commission

20 NCAC 3 .1003 - Petition for Hearing	ARRC Objection	9/20/90
Agency Revised Rule	Obj. Removed	9/20/90
20 NCAC 3 .1004 - Hearing Officer		
Agency Withdrew Rule		9/20/90

This Section of the Register lists the recent decisions issued by the North Carolina Supreme Court, Court of Appeals, Superior Court (when available), and the Office of Administrative Hearings which invalidate a rule in the North Carolina Administrative Code.

10 NCAC 1B .0202(c) - REQUEST FOR DETERMINATION

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 1B .0202(c) void as applied in *New Hanover Memorial Hospital, Inc., Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0792).

10 NCAC 1B .0202(c) - REQUEST FOR DETERMINATION

Brenda B. Becton, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 1B .0202(c) void as applied in *High Point Regional Hospital, Inc., Petitioner v. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0770).

10 NCAC 3R .0317(g) - WITHDRAWAL OF A CERTIFICATE

Robert Roosevelt Reilly, Jr., Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Dawn Health Care, a North Carolina General Partnership, Petitioner v. Department of Human Resources, Certificate of Need Section, Respondent* (90 DHR 0296).

10 NCAC 3R .0317(g) - WITHDRAWAL OF CERTIFICATE

Michael Rivers Morgan, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Autumn Corporation, Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0321 and 90 DHR 0318).

10 NCAC 26I .0101 - PURPOSE: SCOPE/NOTICE OF CHANGE IN LEVEL OF CARE

10 NCAC 26I .0102 - REQUESTS FOR RECONSIDERATION AND RECIPIENT APPEALS

10 NCAC 26I .0104 - FORMAL APPEALS

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rules 10 NCAC 26I .0101, 10 NCAC 26I .0102 and 10 NCAC 26I .0104 void as applied in *Linda Alfred, Petitioner v. North Carolina Department of Human Resources, Division of Medical Assistance, Respondent* (90 DIIR 0940).

10 NCAC 42W .0003(c) - COUNTY DEPT OF SOCIAL SERVICES RESPONSIBILITIES

10 NCAC 42W .0005 - REPORTING CASES OF RAPE AND INCEST

The North Carolina Court of Appeals per. Judge Robert F. Orr, declared Rules 10 NCAC 42W .0003(c) and 10 NCAC 42W .0005 void as applied in *Rankin Whittington, Daniel C. Hudgins, Dr. Takey Crist, Dr. Gwendolyn Boyd and Planned Parenthood of Greater Charlotte, Inc., Plaintiffs v. The North Carolina Department of Human Resources, David Flaherty, in his capacity as Secretary of the North Carolina Department of Human Resources, The North Carolina Social Services Commission, and C. Barry McCarty, in his capacity as Chairperson of the North Carolina Social Services Commission, Defendants* [100 N.C. App. _____ (1990)].

NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

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5	Correction	Chiropractic Examiners	10
6	Council of State	General Contractors	12
7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Electrical Contractors	18
10	Human Resources	Foresters	20
11	Insurance	Geologists	21
12	Justice	Hearing Aid Dealers and Fitters	22
13	Labor	Landscape Architects	26
14A	Crime Control and Public Safety	Landscape Contractors	28
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16	Public Education	Medical Examiners	32
17	Revenue	Midwifery Joint Committee	33
18	Secretary of State	Mortuary Science	34
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- AO - Administrative Order
- AG - Attorney General's Opinions
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