

The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

EXECUTIVE ORDER

FINAL DECISION LETTERS

PROPOSED RULES

Administrative Hearings

Environment, Health, and Natural Resources

Human Resources

Justice

Medical Examiners, Board of

Nursing, Board of

Public Education

RECEIVED

FINAL RULES

JUN 21 1991

List of Rules Codified

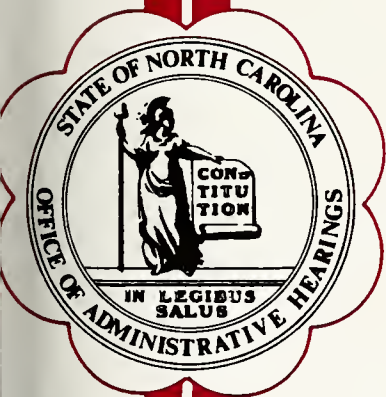
CAW LIBRARY

ARRC OBJECTIONS

RULES INVALIDATED BY JUDICIAL DECISION

ISSUE DATE: JUNE 14, 1991

Volume 6 • Issue 6 • Pages 247-325



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 27447, Raleigh, N. C. 27611-7447, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

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

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

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 1 page or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 53 volumes totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

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

NOTE

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

CITATION TO THE NORTH CAROLINA REGISTER

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

North Carolina Register. Published bi-monthly by the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447, 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 27447, Raleigh, North Carolina 27611-7447, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

NORTH CAROLINA REGISTER



*Office of Administrative Hearings
P. O. Drawer 27447
Raleigh, NC 27611-7447
(919) 733 - 2678*

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

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

ISSUE CONTENTS

I. EXECUTIVE ORDER

Executive Order 145247

II. FINAL DECISION LETTERS

Voting Rights Act.....248

III. PROPOSED RULES

Administrative Hearings

Hearings Division310

Environment, Health, and

Natural Resources

Coastal Management.....299

Environmental Management.....271

Forest Resources300

Wildlife Resources

Commission301

Human Resources

Medical Assistance250

Justice

State Bureau of Investigation...250

Licensing Boards

Medical Examiners, Bd. of.....304

Nursing, Bd. of.....305

Public Education

Elementary and Secondary.....303

IV. FINAL RULES

List of Rules Codified.....314

V. ARRC OBJECTIONS.....318

VI. RULES INVALIDATED BY

JUDICIAL DECISION.....322

VII. CUMULATIVE INDEX324

NORTH CAROLINA REGISTER

Publication Schedule

(April 1991 - December 1992)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
04/01/91	03/11/91	03/18/91	05/01/91	08/01/91
04/15/91	03/22/91	04/01/91	05/15/91	08/01/91
05/01/91	04/10/91	04/17/91	05/31/91	09/01/91
05/15/91	04/24/91	05/01/91	06/14/91	09/01/91
06/03/91	05/10/91	05/17/91	07/03/91	10/01/91
06/14/91	05/23/91	05/31/91	07/14/91	10/01/91
07/01/91	06/10/91	06/17/91	07/31/91	11/01/91
07/15/91	06/21/91	06/28/91	08/14/91	11/01/91
08/01/91	07/11/91	07/18/91	08/31/91	12/01/91
08/15/91	07/25/91	08/01/91	09/14/91	12/01/91
09/03/91	08/12/91	08/19/91	10/03/91	01/01/92
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
01/02/92	12/09/91	12/16/91	01/31/92	05/01/92
01/15/92	12/20/91	12/31/91	02/14/92	05/01/92
02/03/92	01/10/92	01/17/92	03/04/92	06/01/92
02/14/92	01/24/92	01/31/92	03/15/92	06/01/92
03/02/92	02/10/92	02/17/92	04/01/92	07/01/92
03/16/92	02/24/92	03/02/92	04/15/92	07/01/92
04/01/92	03/11/92	03/18/92	05/01/92	08/01/92
04/15/92	03/25/92	04/01/92	05/15/92	08/01/92
05/01/92	04/10/92	04/17/92	05/31/92	09/01/92
05/15/92	04/24/92	05/01/92	06/14/92	09/01/92
06/01/92	05/11/92	05/18/92	07/01/92	10/01/92
06/15/92	05/25/92	06/01/92	07/15/92	10/01/92
07/01/92	06/10/92	06/17/92	07/31/92	11/01/92
07/15/92	06/24/92	07/01/92	08/14/92	11/01/92
08/03/92	07/13/92	07/20/92	09/02/92	12/01/92
08/14/92	07/24/92	07/31/92	09/13/92	12/01/92
09/01/92	08/11/92	08/18/92	10/01/92	01/01/93
09/15/92	08/25/92	09/01/92	10/15/92	01/01/93
10/01/92	09/10/92	09/17/92	10/31/92	02/01/93
10/15/92	09/24/92	10/01/92	11/14/92	02/01/93
11/02/92	10/12/92	10/19/92	12/02/92	03/01/93
11/16/92	10/23/92	10/30/92	12/16/92	03/01/93
12/01/92	11/06/92	11/13/92	12/31/92	04/01/93
12/15/92	11/24/92	12/01/92	01/14/93	04/01/93

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

EXECUTIVE ORDER

**EXECUTIVE ORDER NUMBER 145
REALLOCATING THE COMMUNITY
PENALTIES PROGRAM FROM THE
DEPARTMENT OF CRIME
CONTROL AND PUBLIC SAFETY TO THE
DEPARTMENT OF CORRECTION**

Upon examination of the functions, powers, and duties of the Department of Crime Control and Public Safety related to the administration of the Community Penalties Program, it appears to be necessary for efficient administration and in the best interest of the State for the Community Penalties Program provided by Article 11, Part 6 of Chapter 143B of the North Carolina General Statutes to be reallocated from the Department of Crime Control and Public Safety to the Department of Correction;

TIHEREFORE, pursuant to authority vested in me as Governor by Article III, Section 5(10) of the Constitution and North Carolina General Statutes Sections 143A-8 and 143B-12, it is **ORDERED**:

The Community Penalties Program provided by Article 11, Part 6 of Chapter 143B of the North Carolina General Statutes, is hereby reallocated from the Department of Crime Control and Public Safety to the Department of Correction in the manner described for a Type I transfer in North Carolina General Statute 143A-6.

Done in Ralcigh, this the 30th day of May, 1991.

VOTING RIGHTS ACT FINAL DECISION LETTERS

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

U.S. Department of Justice
Civil Rights Division

JRD:LLT:TGL:rac
DJ 166-012-3
91-0843

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

May 14, 1991

Robert C. Cogswell, Jr., Esq.
City Attorney
P. O. Box 1513
Fayetteville, North Carolina 28302-1513

Dear Mr. Cogswell:

This refers to fifteen annexations (Ordinance Nos. 90-2-324, 90-2-325, 90-5-326 to 330, 90-6-331 to 334, 90-10-335, and 90-11-336 to 338) and the designation of the annexed areas to election districts for the City of Fayetteville in Cumberland 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 March 21, 1991.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. 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

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

JRD:LLT:AS:lrj
DJ 166-012-3
91-0939

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

May 22, 1991

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

Dear Mr. McCarley:

This refers to three annexations [Ordinance Nos. 2286, 2287, and 2288 (1991)] and the designation of the annexed areas to election District 5 for the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on March 28, 1991.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. 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 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources/Division of Medical Assistance intends to amend rule(s) cited as 10 NCAC 50B .0204.

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

The public hearing will be conducted at 1:30 p.m. on July 15, 1991 at the North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 297, Raleigh, N.C. 27603.

Comment Procedures: Written comments concerning this amendment must be submitted by July 15, 1991, to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina 27603, ATTN.: Bill Hottel, APA Coordinator. Oral comments may be presented at the hearing. In addition, a fiscal impact statement is available upon written request from the same address.

CHAPTER 50 - MEDICAL ASSISTANCE

SUBCHAPTER 50B - ELIGIBILITY DETERMINATION

SECTION .0200 - APPLICATION PROCESS

.0204 EFFECTIVE DATE OF ASSISTANCE

(a) Medicaid coverage shall be effective as follows:

- (1) The month of application; or
- (2) As much as three months prior to the month of application when the client received medical services covered by the program and was eligible during the month or months of medical need; or
- (3) If the client applies prior to meeting a non-financial requirement, Medicaid shall begin no earlier than the calendar month in which all non-financial requirements are met; or
- (4) For pregnancy related services under M-PW, the first month following the month of application in which countable income is equal to or less than the income standard. month of application or as much as three months prior to the month of application in which all eligibility requirements are met in the month or months.

Authority G.S. 108A-54; 42 C.F.R. 435.914; 42 C.F.R. 435.919.

TITLE 12 - DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina State Bureau of Investigation Division of Criminal Information intends to repeal rule(s) cited as 12 NCAC 4A .0101, .0104 - .0105, .0306 - .0308; 4B .0101 - .0105, .0201 - .0202, .0204 - .0207; 4C .0101 - .0106, .0201 - .0203, .0205 - .0210; and adopt rule(s) cited as 12 NCAC 4E .0101 - .0109, .0201 - .0203, .0301 - .0307, .0401 - .0403; 4F .0101 - .0102, .0201 - .0203, .0301 - .0303, .0401 - .0408, .0501 - .0502, .0601, .0701, .0801; 4G .0101 - .0102, .0201 - .0204, .0301 - .0303, .0401.

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

The public hearing will be conducted at 9:00 a.m. on July 16, 1991 at The Division of Criminal Information, Administrative Office, 407 N. Blount Street, Raleigh, North Carolina 27601.

Comment Procedures: Written comments and arguments should be submitted prior to July 16, 1991 to the Division of Criminal Information, 407 N. Blount Street, Raleigh, North Carolina 27601. Persons desiring to speak at the hearing are requested to notify the Division of Criminal Information at (919) 733-3171 prior to July 16, 1991.

CHAPTER 4 - DIVISION OF CRIMINAL INFORMATION

SUBCHAPTER 4A - ORGANIZATIONAL RULES

SECTION .0100 - GENERAL PROVISIONS

.0101 NAME AND LOCATION (REPEALED)

Statutory Authority G.S. 114-10; 114-10.1.

.0104 FUNCTION OF POLICE INFORMATION NETWORK (REPEALED)

Statutory Authority G.S. 114-10; 114-10.1.

.0105 DEFINITIONS (REPEALED)

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0300 - STATISTICAL AND FIELD SUPPORT DIVISION

.0306 UCR MANUAL AND FORMS

PROPOSED RULES

(REPEALED)

**.0307 INTERNAL RECORDS KEEPING
SYSTEM (IRKS) (REPEALED)**

Statutory Authority G.S. 114-10; 114-10.1.

**.0308 INCIDENT BASE MANUALS AND
FORMS (REPEALED)**

Statutory Authority G.S. 114-10; 114-10.1.

**SUBCHAPTER 4B - POLICE INFORMATION
NETWORK STANDARDS: AGREEMENTS: AND
MANAGEMENT CONTROL**

**SECTION .0100 - STANDARDS AND
AGREEMENTS**

- .0101 CERTIFICATION OF TERMINAL
OPERATORS (REPEALED)**
- .0102 REVOCATION OF PIN CERTIFICATION
(REPEALED)**
- .0103 POLICE INFORMATION NETWORK
TERMINAL OPERATOR'S MANUALS
(REPEALED)**
- .0104 USER'S AGREEMENT (REPEALED)**
- .0105 RENTAL AGREEMENT (REPEALED)**

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0200 - MANAGEMENT CONTROL

- .0201 DIRECTOR OF PIN (REPEALED)**
- .0202 POLICE INFORMATION NETWORK
ADVISORY POLICY BOARD (REPEALED)**

Statutory Authority G.S. 114-10; 114-10.1.

- .0204 MANAGEMENT CONTROL BY
CRIMINAL JUSTICE AGENCY OR
BOARD (REPEALED)**
- .0205 PIN TERMINAL OPERATOR
(REPEALED)**
- .0206 EMPLOYMENT SCREENING
(REPEALED)**

Statutory Authority G.S. 114-10; 114-10.1.

- .0207 ELIGIBILITY FOR PIN TERMINAL
(REPEALED)**

Statutory Authority G.S. 114-10; 114-10.1.

SUBCHAPTER 4C - SECURITY AND PRIVACY

**SECTION .0100 - PROGRAM AND AGENCY
SECURITY**

- .0101 PROTECTION OF POLICE
INFORMATION NETWORK CENTRAL
SITE (REPEALED)**
- .0102 PROTECTION OF POLICE
INFORMATION NETWORK TERMINAL**

SITE (REPEALED)

- .0103 DATA STORAGE ENTRY (REPEALED)**
- .0104 TERMINAL AND AGENCY
IDENTIFICATION (REPEALED)**
- .0105 INFORMATION COLLECTED AND
STORED (REPEALED)**
- .0106 EXCLUDED INFORMATION
(REPEALED)**

Statutory Authority G.S. 114-10; 114-10.1.

**SECTION .0200 - ACCESS AND
DISSEMINATION OF COMPUTERIZED
CRIMINAL INFORMATION**

- .0201 ACCESS TO PIN INFORMATION
(REPEALED)**
- .0202 RESEARCH USE AND ACCESS OF
COMPUTERIZED CRIMINAL
INFORMATION (REPEALED)**
- .0203 LIMITS ON CRIMINAL JUSTICE
RESEARCH (REPEALED)**

Statutory Authority G.S. 114-10; 114-10.1.

- .0205 INDIVIDUAL'S REVIEW OF
COMPUTERIZED CRIMINAL
INFORMATION (REPEALED)**

Authority G.S. 114-10; 114-10.1; 40 F.R. 22114.

- .0206 DISSEMINATION OF CRIMINAL
HISTORY INFORMATION (REPEALED)**
- .0207 AUDIT (REPEALED)**

*Authority G.S. 114-10; 114-10.1; 28 C.F.R. 1B
20.21; 28 C.F.R. 1C 20.33.*

- .0208 USE OF CCH FOR LICENSING AND
EMPLOYMENT PURPOSES (REPEALED)**
- .0209 RESTRICTIVE USE OF CCH FOR
LICENSING OR EMPLOYMENT
(REPEALED)**
- .0210 DISSEMINATION OF DRIVER
HISTORY INFORMATION (REPEALED)**

*Authority G.S. 114-10; 114-10.1; 28 C.F.R. 1C
20.33.*

**SUBCHAPTER 4E - ORGANIZATIONAL RULES
AND FUNCTIONS**

SECTION .0100 - GENERAL PROVISIONS

- .0101 NAME AND LOCATION**
 - (a) The name of this agency shall be the North Carolina State Bureau of Investigation Division of Criminal Information.
 - (b) The acronym used for this agency shall be DCI.
 - (c) The Administrative Office of DCI is located at 407 North Blount Street, Raleigh, North

Carolina, 27601. The telephone number for the agency is (919) 733-3171.

Statutory Authority G.S. 114-10; 114-10.1.

.0102 FUNCTION OF DCI

(a) DCI is responsible for the collection, storage and dissemination of information that will assist criminal justice and law enforcement agencies in the performance of their duties. DCI serves as a central telecommunications center linking local, state and national criminal justice and law enforcement agencies for the purposes of collecting, organizing and retrieving data on crimes and criminals. The central computer network operates 24 hours a day, seven days a week.

(b) The DCI computer provides linkage with the following computer systems:

- (1) National Crime Information Center (NCIC);
- (2) National Law Enforcement Telecommunications System (NLETS); and
- (3) North Carolina Division of Motor Vehicles (DMV).

(c) Subscribers to DCI are provided with the capability to:

- (1) transmit or receive any law enforcement related message to any terminal connected to DCI;
- (2) enter into and retrieve information from DCI's recovered vehicle and state wanted persons files. The means is also provided to inquire into DCI's certified operator, certification enrollment, Uniform Crime Reporting (UCR) and Incident Base (I-Base) files;
- (3) enter into and retrieve information from NCIC's stolen and recovered property, wanted person and missing person files;
- (4) access NCIC's criminal history data referred to as the Interstate Identification Index (III);
- (5) obtain, on a need-to-know basis, the record of an individual by inquiring into the state Computerized Criminal History (CCH) file maintained by DCI, or CCII files maintained by other states and the Federal Bureau of Investigation (FBI) through the NCIC Interstate Identification Index (III);
- (6) communicate with terminals in other states through NLETS with the capability to exchange registration information, criminal history record information, and other law enforcement related information;

- (7) obtain information on North Carolina automobile registration, driver's license information and driver's history by accessing state maintained files; and

- (8) obtain registration information on all North Carolina registered boats, and to inquire about aircraft registration and aircraft tracking.

(d) DCI is responsible for the administration of the Uniform Crime Reporting/Incident Base Program in North Carolina. Under these programs, DCI collects, analyzes and publishes statewide crime statistics for comparison purposes, legislative proposals, budgetary analysis, crime pattern comparison, planning and statistical research purposes.

(e) DCI maintains information on management and evidence tracking services for the North Carolina Department of Justice.

Statutory Authority G.S. 114-10; 114-10.1.

.0103 AUTHORITY

The Division of Criminal Information, through the statutory authority granted the North Carolina Attorney General in G.S. 114-10.1, is empowered to adopt the necessary regulations and to take the appropriate steps to enforce these procedures.

Statutory Authority G.S. 114-10; 114-10.1.

.0104 ORGANIZATION

(a) Administratively DCI is supervised by an SBI Assistant Director, who is responsible to the Director of the State Bureau of Investigation. The SBI Assistant Director for DCI approves rules, regulations, and policies established for the Division and is also responsible for each of the five sections: Administrative Services, Computer Operations, Computer Systems, Identification, and Crime Reporting and Field Services.

(b) The Administrative Services Section is responsible for the business management, accounting, mail, terminal billing, statistical research and publications, and other administrative functions.

(c) The Computer Operations Section is responsible for monitoring the central site mainframe computer on a 24 hour basis and must insure that DCI is functionally able to discharge its assigned duties at all times.

(d) The Computer Systems Section is responsible for the design, development, and maintenance of current computer software programs and new software requirements.

(e) The Identification Section has the primary responsibility of collecting, compiling and auto-

inating criminal history record information submitted by North Carolina criminal justice agencies.

(f) The Crime Reporting and Field Services Section is responsible for receiving, reviewing and entering the state's crime data from law enforcement agencies, providing specialized training programs to criminal justice agencies throughout the state, and performing field audits of law enforcement and criminal justice agencies to determine compliance with DCI and NCIC requirements.

(g) Where applicable the SBI Assistant Director for DCI is responsible for insuring compliance to federal rules and regulations mandated by NCIC.

Statutory Authority G.S. 114-10; 114-10.1.

.0105 ADVISORY POLICY BOARD

(a) The DCI Advisory Policy Board shall consist of not less than 13 members selected by the SBI Assistant Director for DCI for recommendation to the Director of the SBI with approval by the North Carolina Attorney General. Members shall serve for a term of two years. Membership shall consist of four police chiefs, four sheriffs, one representative each from the State Highway Patrol, Administrative Office of the Courts, Department of Correction, Division of Motor Vehicles (Enforcement), and the SBI Assistant Director for DCI. The SBI Assistant Director for DCI may serve as Chairman of the Board. The Board shall meet at least twice each year on dates and at locations determined by the SBI Assistant Director for DCI. If any Advisory Policy Board member or their designated representative is absent for two consecutive meetings, that member shall relinquish membership on the Board for the remainder of that term. Notification of such loss of membership shall be made by the SBI Assistant Director for DCI. The SBI Assistant Director for DCI may designate a replacement member to serve for the remainder of that term.

(b) The Board shall advise and make recommendations to the SBI Assistant Director for DCI regarding the philosophy, rule making, organization and operation of DCI. Minutes of each Advisory Policy Board meeting shall be recorded and mailed to each criminal justice agency in North Carolina.

(c) The Advisory Policy Board shall also determine and recommend all penalties applicable to any agency or agency employee with regard to a violation of any of DCI's rules.

(d) The Advisory Policy Board shall hear all appeals by agencies or individuals that have violated DCI's rules. The appeal shall be conducted as an informal hearing.

(e) The Advisory Policy Board shall provide advice to the SBI Assistant Director for DCI when requested pursuant to the provisions of Subchapter 4F Rule .0407 of this Chapter.

(f) The Advisory Policy Board shall hear requests for reinstatement of services suspended pursuant to Subchapter 4G Rule .0101(1)(e) of this Chapter.

Statutory Authority G.S. 114-10; 114-10.1.

.0106 DCI WORKING GROUP

(a) The DCI Working Group shall include representatives from interested law enforcement and criminal justice agencies.

(b) The Working Group shall meet at the discretion of the SBI Assistant Director for DCI for the purpose of presenting proposals, changes, enhancements, and updates regarding the DCI on-line network, or any of its other services.

(c) The Working Group shall also offer suggestions and/or recommendations to be considered by the Advisory Policy Board and the DCI for incorporation into the DCI's policies or operations.

Statutory Authority G.S. 114-10; 114-10.1.

.0107 DEFINITIONS

The following definitions shall apply throughout Chapter 4 of this Title:

- (1) "Administration of Criminal Justice" means the performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, and correctional supervision or rehabilitation of accused criminal offenders. The administrative of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.
- (2) "Administrative Message" means messages that may be used by DCI terminal operators to exchange official information of an administrative nature between in-state law enforcement/criminal justice agencies and out-of-state agencies by means of NLETS.
- (3) "Authorized Requestor" means any person who is authorized and/or approved to receive state and/or national criminal history data by virtue of being:
 - (a) a member of an approved law enforcement/criminal justice agency; or

- (b) any DCI or NCIC authorized non-criminal justice agency pursuant to local ordinance or a state or federal law.
- (4) "Automated Fingerprint Identification System" (AFIS) means a computer based system for reading, encoding, matching, storage and retrieval of fingerprint minutiae and images.
- (5) "CCH" means computerized criminal history.
- (6) "Criminal History Record Information" (CHRI) means information collected by and maintained in the files of criminal justice agencies concerning individuals, consisting of identifiable descriptions, notations of arrest, detentions, indictments or other formal criminal charges. This also includes any disposition, sentencing, correctional supervision, and release information. This term does not include identification information such as fingerprint records to the extent that such information does not indicate formal involvement of the individual in the criminal justice system.
- (7) "Criminal Justice Agency" means the courts, a government agency, or any subunit thereof which performs the administration of criminal justice pursuant to statute or executive order and which allocates over 50 percent of its annual budget to the administration of criminal justice.
- (8) "Criminal Justice Board" means a board composed of heads of law enforcement/criminal justice agencies which have management control over a communications center.
- (9) "DCI" means Division of Criminal Information.
- (10) "DCI Manual" means a manual containing guidelines for users on the operation of the DCI equipment and providing explanations as to what information may be accessed through the DCI.
- (11) "Direct Access" means an authorized agency has access to the DCI network through a DCI terminal or through a computer interface.
- (12) "Disposition" means information on any action which results in termination or indeterminate suspension of the prosecution of a criminal charge.
- (13) "Driver's History" means information maintained on individual operators to include name, address, date of birth, license issuance and expiration information or control number issuance information, and moving vehicle violation convictions.
- (14) "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means.
- (15) "DMV" means the North Carolina Division of Motor Vehicles.
- (16) "Expunge" means to remove criminal history record information from the DCI and FBI computerized criminal history and identification files pursuant to state statute.
- (17) "Full Access" means the ability of a terminal to access those programs developed and administered by the DCI for local law enforcement and criminal justice agencies specifically including state and national CCH and driver history access.
- (18) "Full-certification" means being operator certified with the ability and knowledge to use the DCI terminal accessing those programs which are developed and administered by DCI for local law enforcement and criminal justice agencies.
- (19) "Hardware" means the physical computer equipment or devices and the peripheral equipment forming the DCI information processing system including the Automated Fingerprint Identification System (AFIS).
- (20) "Hot Files" means DCI/NCIC files which contain information on stolen and recovered property and wanted/missing persons as entered by agencies across the nation.
- (21) "Inappropriate Message" means any message which is incomplete, unnecessary, excessive, abusive, or not in keeping with the rules and regulations of DCI.
- (22) "Incident Base" is a system used to collect criminal offense and arrest information for each criminal offense reported.
- (23) "Indirect Access" means access to DCI through another agency's direct access terminal.
- (24) "In-service Certification" means an operator's certification program provided by local departments and approved by DCI to certify and/or re-certify their employees.
- (25) "Interstate Identification Index (III)" means the FBI's files containing identifying information on persons who have been arrested in the United States for which fingerprints have been submitted to and retained by the FBI.
- (26) "Interface" means a method (either software or hardware) to communicate between two computers or computer systems.
- (27) "IRKS" means an internal records keeping system which DCI makes available to North Carolina criminal justice agencies. Included in IRKS is a jail record keeping system (JRKS).

- (28) "JRKS" means a jail record keeping system that aids agencies in accounting for their jail detainees.
- (29) "Limited Access" means the ability of a terminal to access those programs which are developed and administered by the DCI for local law enforcement and criminal justice agencies specifically excluding state and national CCH and driver history access.
- (30) "NCIC" means the National Crime Information Center which is maintained in Washington, D.C. by the FBI.
- (31) "Need-to-know" means for purposes of the administration of criminal justice or for purposes of criminal justice agency employment.
- (32) "NLETS" means National Law Enforcement Telecommunications System, which is maintained in Phoenix, Arizona.
- (33) "Non-criminal Justice Agency" means any agency or organization which is not eligible for full access to DCI.
- (34) "Non-criminal Justice Information" means information that does not directly pertain to the necessary operation of a law enforcement/criminal justice agency.
- (35) "Official Record Holder" means the eligible agency that maintains the master documentation and all investigative supplements of the hot file entry.
- (36) "Operator Identifier" means a unique identifier assigned by DCI to all certified operators which is used for gaining access to the DCI network and for the identification of certified operators.
- (37) "Ordinance" means a rule or law promulgated by a governmental authority especially one adopted and enforced by a municipality or other local authority.
- (38) "ORI" means originating routing identifier, which is a unique alpha numeric identifier assigned by NCIC to each authorized criminal justice agency, identifying that agency in all computer transactions.
- (39) "Re-certification" means renewal of an operator's initial certification every 24 months.
- (40) "Right-to-know" means for the purpose of an individual to inspect his or her own record or for other purposes as set forth by statute or court order.
- (41) "Secondary Dissemination" means the transfer of CCH information to another agency in addition to the inquiring agency.
- (42) "Servicing Agreement" means an agreement between a terminal agency and a non-terminal agency to provide DCI terminal services.
- (43) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States.
- (44) "Statute" means a law enacted by a state's legislative branch of government.
- (45) "Switched Message" means messages that may be used by DCI terminal personnel to exchange official information between law enforcement/criminal justice agencies within North Carolina.
- (46) "Terminal" means a video screen with a typewriter keyboard used by DCI to accomplish message switching, DMV inquiries, functional messages, and DCI, NCIC, NLETS on-line file transactions.
- (47) "UCR" means a Uniform Crime Reporting program to collect a summary of criminal offense and arrest information.
- (48) "Unapproved need-to-know" means any reason for requesting criminal or driver's history data which is not within the scope of authorized purpose codes as defined in the DCI on-line manual.
- (49) "User Agreement" means an agreement between a terminal agency and DCI whereby the agency agrees to meet and fulfill all DCI rules and regulations.

Statutory Authority G.S. 114-10; 114-10.1.

.0108 FORMS

(a) DCI maintains and supplies a variety of forms for the gathering of statistical information, the orderly housing of records, and participation in the fingerprinting process. Forms maintained and supplied by DCI are as follows:

- (1) Uniform Crime Reporting (UCR), and Incident Base (I-Base). This is a series of forms used to collect local criminal offense and arrest information for statistical analysis and publication;
- (2) Internal Records Keeping System (IRKS). These forms are specifically designed to provide a basic system of documenting criminal investigation and arrest activity;
- (3) Jail Records Keeping System (JRKS). This is a system of forms designed to enable agencies to adequately account for jail detainees and their belongings;
- (4) Fingerprint Cards. These forms are provided to allow agencies to submit fingerprint cards on individuals processed through the criminal justice system to the SBI pursuant to statute.

(b) These forms with the exception of fingerprint cards, are furnished by DCI to agencies participating in the UCR and I-Base pro-

grams and may be obtained by sending a completed preformatted screen over the DCI terminal or by contacting the Administrative Office of DCI listed in Rule .0101 Paragraph (c) of this Section.

(c) Fingerprint cards and forms may be obtained by sending a completed preformatted screen over the DCI terminal or by mailing a completed order form to the address indicated on the form ordered.

Statutory Authority G.S. 114-10; 114-10.1.

.0109 MANUALS

(a) DCI furnishes manuals relating to statistical information and record keeping. These manuals are provided upon request to any criminal justice agency and are also available for inspection at the Administrative Office of DCI listed in Rule .0101 Paragraph (c) of this Section. These manuals are listed as follows:

- (1) Uniform Crime Reporting. The UCR Manual (published and provided by the FBI) describes how to accumulate and submit information collected through the Uniform Crime Reporting Program; and
 - (2) Incident Base. The Incident Base Manual provides descriptions of UCR classification and scoring procedures, descriptions of Incident Base submission requirements, a listing of all codes used in Incident Base reporting, and examples of forms and their completion requirements.
- (b) DCI also prepares and updates the terminal operator's manual and hereby adopts by reference, in accordance with the provisions of Subsection (c) of G.S. 150B-14, the terminal operator's manual including any future updates, changes, or modifications.

(c) DCI also maintains an on-line manual system. Information contained in the on-line manuals can be accessed from each DCI terminal. The information which can be obtained is limited to those functions which have been authorized for that terminal.

(d) A listing of the manual is available for inspection by the public during normal business hours only at DCI's Administrative Office as listed in Rule .0101 Paragraph (c) of this Section.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0200 - REQUIREMENTS FOR ACCESS

.0201 ELIGIBILITY FOR FULL OR LIMITED ACCESS TO THE DCI NETWORK

(a) Eligibility for a full access DCI terminal or a computer interface with DCI is restricted to

agencies which have obtained an NCIC ORI and have complied with Rule .0202 of this Section.

(b) Eligibility for a limited access DCI terminal or computer interface with DCI is restricted to agencies which have obtained an NCIC limited access ORI and have complied with Rule .0202 of this Section.

(c) Any agency in this state desiring an ORI shall make a written request to the SBI Assistant Director for DCI. Accompanying the written request shall be a copy of the state or local law which establishes such agency and describes the agency's functions and authority. The SBI Assistant Director for DCI shall, on the basis of his findings, obtain an FBI/NCIC ORI. If the request is denied by the FBI, the Assistant Director for DCI shall provide written findings to the requesting agency outlining the necessary elements to obtain an ORI.

Statutory Authority G.S. 114-10; 114-10.1.

.0202 MANAGEMENT CONTROL REQUIREMENTS

Each full access DCI terminal, computer interface with the DCI, and those personnel who operate the terminal must be under the direct and immediate management control of a criminal justice agency, criminal justice board or an NCIC/DCI approved non-criminal justice agency. The degree of management control shall be such that the agency head, board or approved agency has the authority to:

- (1) set policies and priorities concerning the use and operation of terminals or computers accessing DCI;
- (2) hire, supervise, suspend or dismiss those personnel who will be connected with the operation or use of the terminal or computers accessing DCI;
- (3) restrict unauthorized personnel from access or use of equipment accessing DCI; and
- (4) assure compliance with all rules and regulations of DCI in the operation of equipment or use of all information received.

Statutory Authority G.S. 114-10; 114-10.1.

.0203 NON-TERMINAL ACCESS

(a) A non-terminal criminal justice agency may gain access to the DCI network through a criminal justice agency which has direct access to the network. The servicing agency (agency providing access) shall enter into a Servicing Agreement with the non-terminal agency (agency receiving service) as described in Rule .0304 of this Subchapter.

(b) Any servicing agency which fails to enforce penalties that are placed upon the non-terminal agency will be in violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102 (c) of this Chapter.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0300 - STANDARDS AND AGREEMENTS

.0301 STANDARDS

(a) DCI shall be authorized to set standards and criteria that must be met whereby agencies are granted access to records maintained or housed through DCI.

(b) All local, state and federal agencies who operate a DCI terminal or who have access to the on-line files, must abide by the standards and criteria established by DCI.

(c) DCI retains the right to change or modify established standards, criteria or policy set forth in this Chapter, as circumstances warrant.

(d) The terminal, printer, (SU/DSU), modem and manual shall remain under the ultimate jurisdiction of DCI and shall be subject to removal if these procedures are violated.

Statutory Authority G.S. 114-10; 114-10.1.

.0302 NCIC NLETS REGULATIONS

(a) DCI is the NCIC Control Terminal Agency (CTA) for North Carolina. As the CTA, DCI is required to adhere to the NCIC User Agreement.

(b) DCI adopts by reference, in accordance with the provisions of Subsection (c) of G.S. 150B-14, the NCIC User Agreement including any future updates or changes.

(c) DCI is the NLETS Control Terminal Agency for North Carolina. As the CTA, DCI is required to adhere to the NLETS User Agreement.

(d) DCI adopts by reference, in accordance with the provisions of Subsection (c) of G.S. 150B-14, the NLETS User Agreement including any future updates or changes.

Statutory Authority G.S. 114-10; 114-10.1.

.0303 USER AGREEMENT

(a) Each eligible agency under Rule .0201 of this Subchapter requesting a DCI terminal shall sign a User Agreement certifying that the agency head has read and understands the requirements for security within DCI, and that the agency head will uphold the agreement and abide by these procedures. The User Agreement outlines man-

agerial control, physical security, system discipline, data collection and storage, and system access requirements.

(b) A current copy of the User Agreement may be reviewed at 407 North Blount Street, Raleigh, North Carolina or in the DCI Manual.

(c) Each eligible agency under Rule .0201 of this Subchapter with an interface to DCI's computer shall sign a User Agreement as stated in Paragraph (a) of this Rule. An interface agency shall require all agencies connected through their computer to DCI to sign a User Agreement and notify those agencies of their responsibilities to comply with all DCI regulations. A copy of all such agreements shall be provided to DCI.

(d) DCI shall be notified by the interface agency of any cancellation of services to connected agencies.

Statutory Authority G.S. 114-10; 114-10.1.

.0304 USER ACCESS FEE AGREEMENT

(a) The governing bodies of each jurisdiction having a DCI terminal or an interface to DCI shall enter into an agreement with DCI agreeing to assume user costs established by DCI beginning on the day of installation. This agreement may be modified periodically as DCI finds it necessary to reflect increased costs associated with the utilization of the network.

(b) DCI maintains four types of user access fee agreements:

- (1) municipal access fee agreement;
- (2) county access fee agreement;
- (3) state purchase order; and
- (4) federal purchase order.

(c) Failure to pay the user access fee within the prescribed time may result in the termination of services. Termination of service shall be preceded by a late notice allowing sufficient time to make payment.

Statutory Authority G.S. 114-10; 114-10.1.

.0305 SERVICING AGREEMENT

(a) Any authorized agency pursuant to Rule .0201 of this Subchapter with direct access to DCI's computer which provides access to a non-terminal agency shall enter into a written Servicing Agreement with the serviced agency. The agreement shall include but not be limited to the following information:

- (1) the necessity for valid and accurate information being submitted for entry into DCI;
- (2) the necessity for documentation to substantiate data entered into DCI;

- (3) the necessity of adopting timely measures for entering, correcting or canceling data in DCI;
- (4) DCI validation requirements;
- (5) the importance of confidentiality of information provided by DCI;
- (6) liabilities;
- (7) the ability to confirm a hit 24 hours a day; and
- (8) the necessity of using the ORI of the official record holder in record entries and updates.

(b) DCI will provide a sample Servicing Agreement to any agency entering into said agreement.

(c) The Servicing Agreement must be signed by the servicing agency and the non-terminal agency, must be notarized, and a copy must be forwarded to DCI.

(d) DCI shall be notified of any cancellations or changes made in servicing agreements.

Statutory Authority G.S. 114-10; 114-10.1.

.0306 MANAGEMENT CONTROL AGREEMENT

(a) A written Management Control Agreement shall be entered into between the law enforcement management control agency or board and the communications center when management control will be under a criminal justice board. The agreement shall state that the Board is composed of law enforcement/criminal justice agency heads and that requirements pursuant to Rule .0202 of this Subchapter are in effect.

(b) DCI will provide a sample of the Management Control Agreement to requesting agencies.

Statutory Authority G.S. 114-10; 114-10.1.

.0307 DISCLOSURE AGREEMENT

(a) A written Disclosure Agreement shall be entered into between DCI and any individual or agency seeking access to DCI maintained criminal justice information for purposes of research.

(b) The Disclosure Agreement shall state that each participant and employee of every program of research with authorized access to computerized information is aware of the issues of privacy, the limitations regarding the use of accessed information, and that they agree to abide by DCI's regulations concerning these issues pursuant to Subchapter 4F Rule .0407 of this Chapter.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0400 - OPERATION OF DCI TERMINAL

.0401 DCI TERMINAL OPERATOR

(a) A DCI terminal operator is a person who has been certified through the DCI certification process as stated in Rule .0402 of this Section.

(b) An individual is eligible to attend certification class and become a DCI terminal operator only if employed by and under the management control of an agency as described in Rule .0202 of this Subchapter.

(c) A background investigation shall be conducted, by the employing agency, on all employees assigned as DCI operators. Such investigation shall include a state and national fingerprint search for a criminal record. Any individual who has been convicted of a felony or in the judgement of the agency head or the SBI Assistant Director for DCI, has been convicted of a misdemeanor involving fraud, misrepresentation, or deceit shall not be eligible to become certified as a DCI terminal operator or is subject to revocation of operator certification by DCI.

(d) Persons certified at the time of the adoption of these Rules will be exempt from the background investigation and fingerprint search.

Statutory Authority G.S. 114-10; 114-10.1.

.0402 CERTIFICATION OF TERMINAL OPERATORS

(a) Authorized agency personnel, who are assigned the duty of operating the DCI terminal, shall be certified by DCI within 120 days of employment with certification renewed at least every 24 months.

(b) DCI issues three types of certification:

- (1) "Full-certification" certifies a person with the ability and knowledge to use those programs which are developed and administered by DCI for local law enforcement and criminal justice agencies. To obtain an initial full-certification, authorized personnel must attend not less than 28 hours of instruction concerning the proper use and control of information obtained from a DCI terminal;
- (2) "Re-certification" renews a full certification at least every 24 months after the initial certification is issued. Re-certification may be obtained by attending the two day re-certification class if initial certification has not expired or if an individual has obtained a 30 day extension. If the initial certification has expired, he/she must attend the entire initial certification classroom instruction. An individual may retain their original certification date if re-certification class is

attended up to 90 days prior to the expiration date; and

- (3) "In-service certification" certifies and/or re-certifies a person through an in-service training program provided by their department. In order for an agency to obtain an "In-service Certification Program", the agency must submit a written proposal to DCI outlining the certification program to be provided to their personnel. DCI personnel and the Advisory Policy Board will review the proposal and provide a written response of approval or denial. If the program is approved, a copy of the lesson plans, a list of personnel certified through such program, transaction codes to be authorized by terminal, and other information relating to the program shall be provided to DCI. The instructor for the agency must complete the law enforcement instructor certification course.
- (c) Enrollment will be necessary in order for DCI instructors to admit a student in a DCI certification or re-certification class. Enrollment procedures shall be as follows:
 - (1) A search of the certification class files shall be performed to determine whether a class has any vacancies;
 - (2) If there is a vacancy, an enrollment form signed by the department head, or when applicable, by a communications supervisor, which lists the individuals to be enrolled in the specific training class shall be submitted to DCI no later than five working days before the class is scheduled to begin. If for some reason all personnel cannot be accommodated, DCI will promptly contact the department head or supervisor with an explanation of why all personnel cannot be accommodated in the class requested;
 - (3) A search of the certification class files shall be performed by the agency enrolling personnel to verify that the requested personnel have been enrolled in the class requested; and
 - (4) Late enrollment may be made by the department head or when applicable, by a communications supervisor, by either sending a switch message to terminal PIH or by faxing a copy of a properly completed late enrollment form to DCI via phone number (919) 733-8378. Late enrollment by switch message must include the name and social security number of personnel to be enrolled in the class. Employees should not be sent to class

until a confirmation of receipt and space availability has been received from DCI. The employee must bring a completed enrollment form signed by the agency head or when applicable, by the communications supervisor, to class if the enrollment is by switch message.

(d) New personnel hired or personnel newly assigned the duties of a terminal operator shall receive an indoctrination and hands-on training on the basic functions and terminology of the DCI system by their own agency prior to attending certification class. Such personnel may operate a terminal accessing DCI while obtaining indoctrination if such personnel are directly supervised by a certified operator.

(e) Following the instruction on full certification, in-service certification or re-certification classes, a test will be administered and a minimum grade of 80 percent must be attained in order for a person to become operator certified.

(f) DCI will notify the employee's supervisor of the grade attained. If 80 percent or more has been attained, the employee is certified upon receipt of notice whether verbal or written.

(g) Any agency which allows an individual to operate a terminal or interface terminal accessing DCI who is not certified or who is not within the 120 day training period and directly supervised by a certified operator will be in violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(b) of this Chapter.

(h) Any agency personnel using a certified operator's identifier other than their own to gain access to DCI will be in violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(c) of this Chapter.

Statutory Authority G.S. 114-10; 114-10.1.

.0403 SUSPENSION AND REVOCATION OF OPERATOR CERTIFICATION

(a) DCI may suspend or revoke an operator's certification for willfully or repeatedly violating the rules of this Chapter in accordance with Subchapter 4G.

(b) DCI may revoke an operator's certification based upon a request from the operator's agency head. Sufficient evidence showing cause for revocation shall be documented by the employer and submitted to the Assistant Director for DCI.

(c) If DCI revokes or suspends an operator's certification, written notice of the revocation or suspension will be sent by certified mail to the operator and to his agency head. An operator whose certification has been revoked or suspended may request an informal hearing before the Advisory Policy Board. A request for a

hearing must be submitted to the SBI Assistant Director for DCI within 30 days from the date of notification of revocation or suspension. An operator requesting an informal hearing may have his/her certification reinstated until the results of the informal hearing are known. DCI shall notify the operator and his agency head of the results of the informal hearing and inform the parties of their right of appeal under G.S. 150B-23.

(d) Any operator who has had his/her certification revoked and not reinstated by the Advisory Policy Board, or by the Office of Administrative Hearings shall not be eligible to obtain DCI certification for a period of one year from revocation. The individual must meet the requirements of Rule .0402 of this Section prior to obtaining certification.

(e) DCI maintained operator records, compiled as a result of audits including probationary, suspension, or revocation status, will be made available to employing law enforcement/criminal justice agencies upon request.

Statutory Authority G.S. 114-10; 114-10.1.

SUBCHAPTER 4F - SECURITY AND PRIVACY

SECTION .0100 - SECURITY AT LOCAL SITES

.0101 SECURITY OF DCI EQUIPMENT

(a) Agency heads who have management control of the DCI terminal shall institute controls for maintaining the sensitivity and confidentiality of all information provided by or through DCI. These controls will include, but are not limited to, the following:

- (1) the DCI terminal and printer shall be located in a secure area accessible only to authorized personnel;
- (2) the DCI terminal operator's manual and changes thereto shall be located in a secure area accessible only by authorized personnel; and
- (3) the DCI terminal equipment must be safeguarded from damage by excessive dirt, employee misuse, fire, floods and power failure.

If any damage occurs, it will be reported to the DCI computer center by telephone, or by switch message to the DCI central site. Users will be liable for payment for repairs resulting from negligence, abuse or misuse.

(b) Failure to maintain a secure site will be a violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(a) of this Chapter.

Statutory Authority G.S. 114-10; 114-10.1.

.0102 OFFICIAL USE OF DCI INFORMATION

(a) The DCI Communications Network is for appropriate criminal justice and law enforcement purposes only. All traffic generated over the system shall be made in the performance of the employee's or agency's official duties as they relate to the administration of criminal justice.

(b) An inappropriate message is one which contains information that is unnecessary, excessive or abusive in nature. Some examples of inappropriate messages are requests for checks on wanted persons when such information can be found in the wanted person file, messages which give inadequate descriptions thereby preventing appropriate action from being taken, messages which provide lengthy lists of property stolen which should be entered into the DCI/NCIC hot files, or any messages which recruit personnel.

(c) The transmission of inappropriate messages over the DCI network is a practice that should not be engaged in.

(d) Non-criminal justice information is any message of a personal nature or a subject matter totally unrelated to the administration of criminal justice.

(e) The transmission of non-criminal justice information over the DCI network is a violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(d) of this Chapter.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0200 - DCI/NCIC HOT FILES

.0201 DOCUMENTATION

(a) Law enforcement and criminal justice agencies have the capability to enter stolen/recovered property and wanted/missing persons into the DCI/NCIC hot files. Any record entered into the hot files must be documented. The documentation required is:

- (1) a theft report of items of stolen property;
- (2) an active warrant for the entry of wanted persons;
- (3) a missing person report and, if a juvenile, a written statement from a parent, spouse, family member, or legal guardian verifying the date of birth and confirming that a person is missing; or
- (4) a medical examiner's report for an unidentified dead person entry.

(b) Requirements further defined in the on-line manual must still be followed.

Statutory Authority G.S. 114-10; 114-10.1.

.0202 VALIDATIONS

(a) DCI/NCIC requires that law enforcement and criminal justice agencies validate all record entries, with the exception of articles, made into the hot files. This process ensures that each hot file record is complete, accurate and up-to-date.

(b) Validation is accomplished by reviewing the original entry and current supporting documents. In addition to this review, the stolen vehicle, stolen boat, wanted person and missing person files require consultation with any appropriate complainant, victim, prosecutor, court, motor vehicle registry files or other appropriate source or individual pursuant to the procedure in the DCI on-line manual.

(c) Any records containing inaccurate data shall be modified and records which are no longer current or, can not be substantiated by a source document, shall be removed from the hot files.

(d) Any agency which does not properly validate their records and notify DCI of the completion of their validation, pursuant to the procedure in the DCI on-line manual, will have their records cancelled for that month. The agency head will be notified by mail of the cancellation. An agency may re-enter the cancelled records once the records have been validated.

Statutory Authority G.S. 114-10; 114-10.1.

.0203 HIT CONFIRMATION

(a) Any agency entering record information into the DCI/NCIC hot files, or which has a servicing agency enter record information for their agency, is required to provide hit confirmation 24 hours a day. Hit confirmation of DCI/NCIC records means that an agency receiving a positive DCI/NCIC response from an inquiry must communicate with the official record holder to confirm the following before taking a person or property into custody:

- (1) ensure that the person or property inquired upon is identical to the person or property identified in the record;
- (2) ensure that the warrant, missing person report, or theft report is still outstanding; and
- (3) obtain a decision regarding the extradition of a wanted person, information regarding the return of the missing person to the appropriate authorities, or information regarding the return of stolen property to its rightful owner.

(b) The official record holder must respond within ten minutes of receiving a hit confirmation request with the desired information or a notice of the specific amount of time necessary to confirm or reject the record.

(c) DCI may cancel an agency's record from the DCI/NCIC hot files for failure to respond to a hit confirmation request within ten minutes.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0300 - SUBMISSION OF DATA FOR CRIMINAL HISTORY RECORDS

.0301 ARREST FINGERPRINT CARD

(a) Agencies must submit an SBI and an FBI fingerprint card on every individual charged with the commission of a felony. The fingerprint cards must contain the following information on the arrestee in order to be processed by the SBI and FBI:

- (1) ORI number and address of arresting agency;
- (2) complete name;
- (3) date of birth;
- (4) race;
- (5) sex;
- (6) date of arrest;
- (7) criminal charges; and
- (8) a set of rolled-inked fingerprint impressions, including palm prints on the SBI fingerprint card.

Any fingerprint cards received by DCI which do not meet these requirements will be returned to the submitting agency to be corrected and resubmitted.

(b) The arrest information contained on the arrest fingerprint card is added to the NC CCH files. After processing through the SBI files, the FBI criminal fingerprint card is forwarded to the FBI for processing.

(c) Criminal fingerprint cards may be submitted in the following ways:

- (1) first class mail addressed to:
North Carolina State Bureau of Investigation
Division of Criminal Information
407 North Blount Street
Raleigh, North Carolina 27601-1009
Attention: Identification Section;
- (2) deliver in person:
North Carolina State Bureau of Investigation
Identification Section
Governor Morehead School
Building I6A
3320 Old Garner Road
Raleigh, North Carolina 27626-0500; and
- (3) inter agency state courier service mail pickup located at each county seat addressed to the address in Subparagraph (c)(1) of this Rule.

(d) SBI arrest fingerprint cards and CHRI shall be maintained actively in the SBI files on an individual until:

- (1) the individual attains the age of 80 years;
- (2) submission of post-mortem fingerprints; or
- (3) court ordered expungement.

Statutory Authority G.S. 15A-502; 15A-1383.

.0302 FINAL DISPOSITION INFORMATION

(a) Final disposition information shall be submitted to the SBI by the Clerk of Court, or the Administrative Office of the Courts. The agency which submitted the arrest fingerprint card must include the following information on the final disposition report before it can be processed by the Clerk of Court:

- (1) ORI number and address of arresting agency;
- (2) complete name;
- (3) date of birth;
- (4) race;
- (5) sex;
- (6) date of arrest;
- (7) all offenses charged against the defendant;
- (8) officer's name;
- (9) officer's title; and
- (10) date form filled out.

Any final disposition information received by DCI which does not meet these requirements will be returned to the appropriate agency to be corrected and resubmitted.

(b) The final disposition information is added to the CCH files.

(c) Final disposition information may be submitted pursuant to the procedure listed in Rule .0301 Paragraph (c) of this Section.

Statutory Authority G.S. 15A-1381; 15A-1382; 15A-1383.

.0303 PRISON FINGERPRINT CARD

(a) Incarceration information shall be submitted to the SBI by the NC Department of Correction (DOC) on all subjects admitted to prison. Two fingerprint cards must be submitted and contain the following information in order to be processed by the SBI and FBI:

- (1) ORI number;
- (2) complete name;
- (3) date of birth;
- (4) race;
- (5) sex;
- (6) date of admission;
- (7) charges convicted of;
- (8) DOC number;
- (9) sentence information; and

- (10) a set of rolled-in inked fingerprint impressions, including palm prints on the SBI fingerprint cards.

Any incarceration information received by DCI which does not meet these requirements will be returned to DOC to be corrected and resubmitted.

(b) The incarceration information contained on the prison fingerprint card is added to the NC CCH files. After processing through the SBI files, the FBI criminal card is forwarded to the FBI for processing.

(c) Incarceration information may be submitted pursuant to the procedure listed in Rule .0301 Paragraph (c) of this Section.

Statutory Authority G.S. 15A-502; 15A-1383.

SECTION .0400 - COMPUTERIZED CRIMINAL HISTORY ACCESS AND USE REQUIREMENTS

.0401 DISSEMINATION OF CCH RECORDS

(a) Except as provided by Rules .0402 .0404, .0406, of this Section criminal history record information obtained from or through DCI, NCIC, or NLETS shall not be disseminated to anyone outside of those agencies eligible under Subchapter 4E Rule .0201(a) of this Chapter. Any agency assigned an ORI number with a suffix of "P" shall not obtain criminal history record information. Any agency requesting criminal history record information which has not received an ORI pursuant to Subchapter 4E Rule .0201(a) of this Chapter should be denied access and referred to the SBI Assistant Director for DCI.

(b) Criminal history record information is available to eligible agency personnel only on a "need-to-know" or "right-to-know" basis as defined in Subchapter 4E Rule .0107 of this Chapter.

(c) The use or dissemination of computerized criminal history for unauthorized purposes will be in violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(k) and (l) of this Chapter.

(d) Each criminal justice agency obtaining criminal history record information through DCI shall maintain a log of dissemination on all positive responses (indicating a criminal record) for a period of not less than one year from the date the record was obtained. The documentation log must contain the following information:

- (1) date of inquiry;
- (2) name or initials of terminal operator;
- (3) name or record subject;
- (4) state identification number (SID) or FBI number of the record subject;

- (5) message key used to obtain information;
- (6) purpose (actual need i.e.: criminal investigation, taxi cab permit, etc.);
- (7) name of person requesting information; and

(8) name of secondary dissemination, if any.

(e) Dissemination logs shall be available for audit or inspection by the SBI Assistant Director for DCI or his designee at such time as they may require, as provided in Section .0800, Rule .0801 of this Subchapter.

(f) Direct or indirect access agencies with a DCI terminal responding to an out-of-state request for criminal history record information through NLETS shall only respond with criminal history record information received within their jurisdiction and maintained in their files. Out-of-state agencies requesting a statewide criminal record check should be directed to use the state automated file.

(g) Agencies that fail (failure is defined as more than 10 percent deficient) to record all required data on the log of dissemination as required in Paragraph (d) of this Rule will be in violation of Subchapter 4G Rule .0102(m) of this Chapter.

(h) Agencies that fail (failure is defined as more than 10 percent deficient) to maintain a log of dissemination of "positive" criminal history record information obtained through DCI for a period of one year as required in Paragraph (d) of this Rule will be in violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(n) of this Chapter.

Statutory Authority G.S. 114-10; 114-10.1.

.0402 ACCESSING OF CCH RECORDS

(a) Any accessing of or inquiry into the CCH records must be made with the proper message key only and must be for the intended transaction or purpose for which the message key is designed.

(b) Any accessing of or inquiry into the III using an improper message key resulting in a record being routed to a terminal and displayed on the screen shall be a violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(i) of this Chapter.

(c) Any dissemination by a certified operator for an unauthorized purpose or to an unauthorized requestor shall be a violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(K) of this Chapter.

Statutory Authority G.S. 114-10; 114-10.1.

.0403 USE OF CCH FOR CRIMINAL JUSTICE EMPLOYMENT

(a) DCI processes criminal justice applicant fingerprint cards required pursuant to statute.

(b) Agencies must submit two applicant fingerprint cards on each individual containing the following information in order to be processed by the SBI and FBI:

- (1) complete name;
- (2) date of birth;
- (3) race;
- (4) sex;
- (5) position applied for;
- (6) hiring agency; and
- (7) a set of rolled-inked fingerprint impressions.

Any fingerprint cards received by DCI which do not meet these requirements will be returned to the submitting agency to be corrected and resubmitted.

(c) All criminal justice applicant fingerprint cards and the resulting record response are returned to the appropriate agencies and are not maintained by DCI.

Statutory Authority G.S. 114-16; 114-19.

.0404 INDIVIDUAL'S RIGHT TO REVIEW HIS/HER OWN CRIMINAL HISTORY RECORD

(a) An individual may obtain a copy of his or her own criminal history record by submitting a written request to the North Carolina State Bureau of Investigation, Division of Criminal Information, Identification Section, 407 North Blount Street, Raleigh, North Carolina 27601-1009. The written request must be accompanied by a certified check or money order in the appropriate amount payable to the North Carolina Department of Justice, and must contain proof of identity to include:

- (1) complete name and address;
- (2) race;
- (3) sex;
- (4) date of birth;
- (5) social security number; and
- (6) a set of rolled-inked fingerprint impressions.

This procedure guarantees positive identification and insures that the individual receives a copy of his or her own record as currently maintained in the SBI Identification file including CCH and AFIS.

(b) The accuracy and completeness of an individual's record may be challenged by submitting the written exceptions form available from the DCI.

(c) Upon receipt of the written exceptions form, the Identification Section Supervisor shall initiate an internal record audit of the challenger's

record to determine its accuracy. If any inaccuracies or omissions are discovered, the Identification Section will make appropriate additions, deletions or alterations to the record. Notice of any changes made will be given to the challenger, and to any agency to which the inaccurate or incomplete information has been disseminated. The challenger shall be informed in writing of the results of the audit.

(d) If the audit fails to disclose any inaccuracies, or if the challenger wishes to contest the results of the audit, he is entitled to an administrative hearing pursuant to G.S. 150B-23.

Statutory Authority G.S. 114-10; 114-10.1.

**.0405 USE OF CCH/LICENSING/
NON-CRIMINAL JUSTICE
EMPLOYMENT PURPOSES**

(a) Criminal justice agencies authorized under Subchapter 4E Rule .0201 of this Chapter which issue licenses or approves non-criminal justice employment and want to use computerized criminal history information maintained by DCI for licensing, permit, and non-criminal justice employment purposes shall submit to the SBI Assistant Director for DCI a written request listing the types of licenses, permits, and employment for which they desire to use computerized criminal history information. A copy of the local ordinance(s) and/or a reference to the North Carolina General Statute(s) giving authority to issue a particular permit or license must be included in the written request.

- (1) Authorization to use computerized criminal history information for licensing, permit, or employment purposes may be given only after the SBI Assistant Director for DCI and the North Carolina Attorney General's Office have evaluated and granted authorization based upon the authority of the North Carolina General Statutes and/or local ordinance pertaining to the issuance of that particular license or permit for employment;
- (2) Upon authorization, a written notice will be submitted to the requesting agency authorizing that agency to use computerized criminal history information maintained by DCI for specified licensing permit or employment purposes;
- (3) After notice of authorization has been given, the agency's terminal, if applicable, will receive the capability to use the purpose code "E" in the purpose field of the computerized criminal history inquiries for employment licensing. Once an agency has received this capability, it shall

be required to use the purpose code "E", the proper two character code, and an abbreviation of the ultimate recipient of the records name. A log of all primary and any secondary dissemination must also be kept for one year on all positive responses received from this type of inquiry.

(b) Criminal justice agencies may also gain access by submission of non-criminal justice applicant fingerprint cards. Approval must be obtained pursuant to the procedure in Paragraph (a) of this Rule and a Fee for Service Agreement must be signed prior to the release of criminal history information. Two applicant fingerprint cards must be submitted on each individual accompanied by a check or money order if the agency has not signed the DCI Billing Agreement. The fingerprint cards must contain the following information on the applicant in order to be processed by the SBI and FBI: complete name, date of birth, race, sex, reason fingerprinted to include the N.C.G.S., position applied for, the licensing/employing agency, and a set of rolled-inked fingerprint impressions. The fingerprint cards shall be returned to the agency denoting a prior record or with a no record response.

(c) Requests from non-criminal justice agencies or individuals to use criminal history information maintained by DCI for licensing and employment purposes shall be treated as a fee for service request pursuant to G.S. 114-19.1. All such requests shall be submitted in writing to the SBI Assistant Director for DCI who shall recommend approval or disapproval as appropriate. The Assistant Director may consult with the Advisory Policy Board if he deems it necessary prior to making a final recommendation to the Department of Justice.

- (1) Upon being approved, the requesting agency shall submit its requests to the Division of Criminal Information, attention: Identification Section, 407 North Blount Street, Raleigh, North Carolina 27601. Each request shall include sufficient documentation to establish and verify identity such as complete name, race, sex, date of birth, and social security number. Each request shall include a reasonable fee established for such requests in the form of a certified cashier's check or money order; and
- (2) Criminal history information accessible by authorization of this Section shall be North Carolina criminal history information only.

Statutory Authority G.S. 114-10; 114-10.1; 114-19.1.

**.0406 RESTRICTIVE USE/CCH/LICENSING/
NON-CRIMINAL JUSTICE EMP
PURPOSES**

(a) Use of computerized criminal history information maintained by the DCI for licensing permits or non-criminal justice employment purposes shall only be authorized for those criminal justice and non-criminal justice agencies who have complied with Rule .0405 of this Section.

(b) The following requirements and restrictions shall be applicable to all agencies who have received approval to use computerized criminal history information for licensing, permits, or non-criminal justice employment purposes. Each such agency shall be responsible for their full and prompt implementation:

- (1) in no case shall computerized criminal history information obtained be used or disseminated for any other purpose;
- (2) in no case shall computerized criminal history information obtained be released to or reviewed by anyone other than the agencies authorized by the SBI Assistant Director for DCI;
- (3) the only data in the computerized criminal history files which can be used in an agency's determination of issuing or denying a license, permit or employment are those crimes stipulated in the referenced ordinance or statutory authority as grounds for disqualification. All criminal history arrest information held by DCI will be released regardless of disposition status. Each agency shall be responsible for reviewing each statutory authority and knowing what data can and cannot be used for grounds in denying or issuing a particular license or permit for employment;
- (4) Prior to denial of a license, permit, or employment due to data contained in a computerized criminal history record, a fingerprint card of the applicant shall be submitted to the SBI, DCI Identification Section for verification that the record belongs to the applicant;
- (5) If the information in the record is used to disqualify an applicant, the official making the determination of suitability for licensing or employment shall provide the applicant the opportunity to complete, or challenge the accuracy of the information contained in the record. The applicant must be afforded a reasonable time to

correct, complete or to decline to correct or complete the information. An applicant should not be presumed to be guilty of any charge/arrest for which there is no final disposition stated on the record or otherwise determined. Applicants wishing to correct, complete or otherwise challenge a record must avail themselves of the procedure set forth in Rule .0404 Paragraph (c) of this Section. Improper use of CCH data in denial or revocation of a license or permit is a violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(j) of this Chapter.

(c) A "no-hit" on a computerized criminal history inquiry does not necessarily mean that the individual does not have a record. If the requesting agency desires a more complete check on an applicant, a fingerprint card of the applicant should be submitted to DCI.

Statutory Authority G.S. 114-10; 114-10.1; 114-19.1.

**.0407 RESEARCH USE/ACCESS/
COMPUTERIZED CRIMINAL HISTORY
RECORDS**

(a) Researchers who wish to use criminal justice information maintained by DCI shall first submit to the SBI Assistant Director for DCI a completed research design that guarantees adequate protection of security and privacy. Authorization to use computerized criminal history records may be given after the SBI Assistant Director for DCI has approved the research design.

(b) Prior to making a decision whether or not to authorize a particular researcher access to CCH, the SBI Assistant Director for DCI may consult with the DCI Advisory Policy Board.

(c) In making a determination, the Assistant Director and the Advisory Policy Board must insure that an individual's right to privacy will not be violated by the research program, that the program is calculated to prevent injury or embarrassment to any individual, that the results outweigh any disadvantages that are created for the North Carolina criminal justice system if the research information is provided, that the criminal justice community benefit from the research and use, and that the requestor be responsible for cost.

(d) For purposes of this Section, a researcher shall be defined as a non-criminal justice/private agency or a criminal justice agency wishing to access criminal history data for a statistical purpose.

Statutory Authority G.S. 114-10; 114-10.1; 114-19.1.

.0408 LIMITATION REQUIREMENTS

Research designs must preserve the anonymity of all subjects. The following requirements shall be applicable to all such programs of research and each criminal justice agency and/or researcher shall be responsible for their full and prompt implementation:

- (1) In no case shall computerized criminal history records furnished for purposes of any program of research be used to the detriment of the person(s) to whom such information relates.
- (2) In no case may computerized criminal history records furnished for purposes of any program of research be used for any other purpose; nor may such information be used for any program of research other than that authorized by the SBI Assistant Director for DCI.
- (3) Each researcher or anyone having access to the computerized criminal history shall, prior to having such access, sign a Disclosure Agreement with the SBI Assistant Director for DCI incorporating the requirements of Subchapter 4E Rule .0307 of this Chapter.
- (4) In every case the authorization for access to computerized criminal history records shall assure that the criminal justice agency and the SBI Assistant Director for DCI has full and complete rights to monitor the program of research to assure compliance with this Regulation. Such monitoring rights shall include the right of DCI staff and the DCI Advisory Policy Board to audit and review such monitoring activities and also to pursue their own monitoring activities.
- (5) Each program of research shall preserve the right of DCI and the criminal justice agency involved to examine and verify the data generated as a result of the program, and, if a material error or omission is found to have occurred, to order that the data not be released for any purpose unless corrected to the satisfaction of the agency and DCI.

Statutory Authority G.S. 114-10; 114-10.1; 114-19.1.

SECTION .0500 - REMOVAL OF CRIMINAL HISTORY RECORD INFORMATION

.0501 EXPUNGEMENTS

(a) Criminal history record information may be expunged from NC CCH files when the

petitioner follows the guidelines outlined in the NC General Statutes.

(b) Upon the receipt of a valid court ordered expungement, the Identification Section of DCI will expunge the appropriate CHRI as directed by the court order. The court order will be forwarded to the FBI for processing and all agencies which have inquired on the record within the past 90 days will be advised of the court order.

(c) The cost of the expungement shall be taxed against the petitioner with all funds received applied toward the cost of processing expungements.

Statutory Authority G.S. 15A-145; 15A-146; 90-96; 90-113.14.

.0502 PURGES

(a) DCI will purge criminal history record information on deceased subjects upon the receipt of two sets of post mortem fingerprints. Deceased records are retained at DCI for one year and then are transferred to the State Records Center and retained there for five years.

(b) DCI will also purge criminal history record information when an individual attains the age of 80 years. Once purged, these records are retained for one year and then transferred to the State Records Center and retained there for five years.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0600 - AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM

.0601 AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM

(a) Agencies which meet the requirements of Subchapter 4E Rule .0201(a) of this Chapter have the capability to access the SBI's Automated Fingerprint Identification System for criminal justice purposes.

(b) Direct access may be obtained by submitting a letter of request to the SBI Assistant Director for DCI.

(c) The following data is available and may be used to make comparisons and/or obtain CCH data:

- (1) fingerprint classification;
- (2) fingerprint minutiae;
- (3) fingerprint images; and
- (4) state identification number.

(d) When the state identification number is used to obtain CCH data, dissemination requirements outlined in Rule .0401 Paragraphs (c) and (d) of this Subchapter must be followed.

Statutory Authority G.S. 15A-502; 114-16.

SECTION .0700 - DRIVER HISTORY

.0701 DISSEMINATION OF DRIVER HISTORY INFORMATION

(a) Driver history information obtained from or through DCI shall not be disseminated to anyone outside those agencies eligible under Subchapter 4E Rule .0201(a) of this Chapter unless obtained for the following purposes:

- (1) in the decision of issuing permits or licenses if statutory authority stipulates the non-issuance or denial of a permit or license to an individual who is a habitual violator of traffic laws or who has committed certain traffic offenses and those licensing purposes have been authorized by DCI and the Attorney General's Office;
- (2) by governmental agencies to evaluate perspective or current employees for positions involving the operation of public owned vehicles; or
- (3) by a defendant's attorney of record in accordance with G.S. 15A-141.

(b) The dissemination of driver history information to an unauthorized requestor by a certified operator will be a violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(f) of this Chapter.

(c) Each direct access agency disseminating driver history information to a non-criminal justice agency for any of the purposes listed in Paragraph (a) of this Rule shall maintain a log of dissemination for one year containing the following information:

- (1) date of inquiry for obtaining driver's history;
- (2) name of terminal operator;
- (3) name of record subject;
- (4) driver's license number;
- (5) name of individual and agency requesting or receiving information; and
- (6) purpose of inquiry.

(d) Driver history records obtained for any purpose listed in Paragraph (a) of this Rule shall be used for only that official internal purpose and shall not be redisseminated or released for any other purpose.

(e) Driver history information obtained from or through DCI shall not be released to the individual of the record. If an individual wishes to review or challenge their own driving record, they should contact the Division of Motor Vehicles in Raleigh, North Carolina.

(f) Any unauthorized use of driver's history by authorized agency personnel other than a certified operator is a violation of this Rule and sub-

ject to the provisions of Subchapter 4G Rule .0102(g) of this Chapter.

(g) Agencies failing to maintain (failure is defined as more than 10 percent deficient) a log of dissemination on driver's histories obtained through DCI for the purposes and time limits outlined herein shall be in violation of this Rule and subject to the provisions of Subchapter 4G Rule .0102(h) of this Chapter.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0800 - AUDITS

.0801 AUDITS

(a) DCI must biannually audit criminal justice information entered, modified, cancelled, cleared and disseminated by DCI terminal users. Agencies subject to audit include all agencies which have direct or indirect access to information obtained through DCI.

(b) DCI shall send designated representative(s) to selected law enforcement and criminal justice agency sites to audit:

- (1) criminal history dissemination logs;
- (2) security safeguards and procedures adopted for the filing, dissemination, or destruction of criminal history records;
- (3) secure location and access of DCI terminals;
- (4) documentation establishing the accuracy and validity of records entered into DCI/NCIC wanted, missing person, and property files; and
- (5) fingerprint submissions of arrestees.

(c) The audits will be conducted to ensure that the agencies are complying with DCI's regulations, as well as federal and state statutes on security and privacy of criminal history record information.

(d) DCI may, at its discretion, conduct audits of Incident Base agencies to insure compliance with applicable rules, regulations, and acceptable reporting standards.

Statutory Authority G.S. 114-10; 114-10.1.

SUBCHAPTER 4G - PENALTIES AND ADMINISTRATIVE HEARINGS

SECTION .0100 - DEFINITIONS AND PENALTY PROVISIONS

.0101 DEFINITIONS

The following definitions shall apply throughout Chapter 4 of this Title:

(1) Agency Penalties:

- (a) "Warning" means a letter of warning mailed to the agency head setting forth the

administrative procedure that has been violated. It will also state what penalty will be imposed if the agency is found in violation again within one year from the date of the audit report.

- (b) "Reprimand" means a letter of reprimand will be mailed to the agency head setting forth the administrative procedure that has been violated and the number of times this administrative procedure has been violated. It will also state what penalty will be imposed if the agency is found in violation again within one year from the date of the audit report. A copy of this reprimand letter shall be forwarded to the head of the governmental body that the agency serves, i.e., city manager, county manager.
- (c) "Limited Operational Time" means the amount of operational time will be proportionate to the number of certified operators.
- (d) "Probation" means an agency will be placed in a probationary status for a period of one year from the date of the audit report. The agency will be subject to a re-audit after 90 days from the date of the report. A re-audit does not clear the probationary status.
- (e) "Suspended Services" means an agency's direct access to the SBI/DCI computer system will be suspended after the Advisory Policy Board's finding of fault and the agency head must then appear before the Advisory Policy Board to respond to the cited violation. This suspension may be limited to certain files or may include a complete suspension of access, depending on the administrative procedure violated. The agency will be subject to a re-audit after 90 days of reinstatement of limited or full access. Further violations of the same regulation, within one year from the date of the suspension, or failure to appear before the Advisory Policy Board to respond to the cited violation will be grounds to cancel the User Agreement with the agency.
- (2) Individual Penalties:
 - (a) "Warning" means a letter of warning will be mailed to the certified operator with a copy of each warning letter to the agency head. This warning letter shall set forth the administrative procedure that has been violated and it will also state what penalty will be imposed if the operator is found in violation again within one year from the date of the audit report.

- (b) "Probation" means an operator's certification will be placed in a probationary status for a period of one year from the date of the audit report. The agency will be subject to a re-audit after 90 days from the date of the audit report. A copy of the probationary letter will be mailed to the operator's agency head and to the operator.
- (c) "Suspend Certification" means the operator will not be permitted to operate the DCI terminal for a period of 90 days. A copy of the suspension letter will be mailed to the operator's agency head and to the operator. The agency will be subject to a re-audit after 90 days of reinstatement of an operator's certification.
- (d) "Revoke" means the operator's certification will be revoked for one year or as otherwise provided in the rules.

Statutory Authority G.S. 114-10; 114-10.1.

.0102 PENALTY PROVISIONS

- (a) Insecure location of DCI terminal. (12 NCAC 4F .0101):
 - (1) First Offense - Agency Penalty (warning) with conditions that the terminal be secured within 48 hours.
 - (2) Second Offense - Agency Penalty (reprimand) with conditions that the SBI Assistant Director for DCI and agency head must establish an agreed time period within which the terminal can be secured.
 - (3) Third Offense - Agency Penalty (suspend services) suspend access to computerized criminal history and drivers history data until the terminal is secured.
- (b) Uncertified operator. (12 NCAC 4E .0402):
 - (1) First Offense - Agency Penalty (reprimand).
 - (2) Second Offense - Agency Penalty (probation) and operational time will be limited.
 - (3) Third Offense - Agency Penalty (suspend services) full service removed for six months from the date of the hearing. Probation is extended for one year from date of reinstatement.
 - (4) Fourth Offense - Agency Penalty (suspend services) removal of terminal.
- (c) Unauthorized use of DCI certified operator identifier. (12 NCAC 4E .0402):
 - First Offense - Individual Penalty (revoke) and/or seek criminal prosecution under any applicable state or federal law for unauthorized access to a computer system.

(d) Transmission of non-criminal justice related information over DCI terminal. (12 NCAC 4F .0102):

- (1) First Offense - Individual Penalty (warning).
- (2) Second Offense - Individual Penalty (probation) and Agency Penalty (warning is on same operator).
- (3) Third Offense - Individual Penalty (suspend certification) and Agency Penalty (reprimand if on same operator as second offense).
- (4) Fourth Offense - Individual Penalty (revoke) and Agency Penalty (probation is on same operator as third offense).

(e) Failure by the servicing agency (agency with direct access) to comply with the penalties that are placed upon the non-terminal (indirect access) agency. (12 NCAC 4E .0203):

First and Subsequent Offenses - Servicing agency (agency providing direct access) will receive the same penalty that should have been imposed upon the non-terminal (indirect access) agency.

(f) Dissemination of driver's history by a certified operator to an unauthorized requestor. (12 NCAC 4F .0701):

- (1) First Offense - Individual Penalty (probation).
- (2) Second Offense - Individual Penalty (suspend) and Agency Penalty (warning).
- (3) Third Offense - Individual Penalty (revoke).

(g) Unauthorized use of driver's history by authorized personnel other than certified operator. (12 NCAC 4F .0701):

- (1) First Offense - Agency Penalty (warning) and the agency shall submit a written response to SBI/DCI of a plan and date by which departmental training is complete to prevent further violation of this Rule.
- (2) Second Offense - Agency Penalty (reprimand).
- (3) Third Offense - Agency Penalty (suspend) driver's history for six months.

(h) Failure (if entire agency is more than 10 percent deficient) to maintain a log of dissemination on "positive" driver's history obtained through DCI for a period of one year from the date the record was received. (12 NCAC 4F .0701):

- (1) First Offense - Individual Penalty (warning to each operator that contributed) with a re-audit after 90 days.
- (2) Second Offense - Individual Penalty (probation) and Agency Penalty (warning).

(3) Third Offense - Individual Penalty (suspend certification) and Agency Penalty (reprimand).

(4) Fourth Offense - Individual Penalty (revoke) and Agency Penalty (probation).

(i) Failure to utilize proper CCH message key accessing III whether or not resulting in an unauthorized dissemination. (12 NCAC 4F .0401, .0402, .0404, .0405, and .0407):

- (1) First Offense - Individual Penalty (warning) with condition of agency re-audit after 90 days.
- (2) Second Offense - Individual Penalty (probation) and the agency shall submit a written response to the SBI/DCI of a plan and date by which training is complete to prevent further violation of this Rule.
- (3) Third Offense - Individual Penalty (suspend certification) and Agency Penalty (reprimand).
- (4) Fourth Offense - Individual Penalty (revoke).

(j) Improper use of CCH data in denial or revocation of a license or permit. (12 NCAC 4F .0406):

- (1) First Offense - Agency Penalty (reprimand).
- (2) Second Offense - Agency Penalty (probation).
- (3) Third Offense - Agency Penalty (suspend services) suspend access to computerized criminal history non-criminal justice purposes for a period of six months.
- (4) Fourth Offense - Agency Penalty (suspend services) suspend access to computerized criminal history non-criminal justice purposes for one year. After one year of suspension the agency must seek reinstatement by appearing before the Advisory Policy Board.

(k) Dissemination of CCH by a certified operator for an unauthorized purpose or to an unauthorized requestor. (12 NCAC 4F .0401, .0404, .0405, and .0407):

- (1) First Offense - Individual Penalty (probation).
- (2) Second Offense - Individual Penalty (suspend certification) and Agency Penalty (warning).
- (3) Third Offense - Individual Penalty (revoke).

(l) Unauthorized use or dissemination of CCH by authorized personnel other than the certified operator. (12 NCAC 4F .0401, .0404, .0405, and .0407):

- (1) First Offense - Agency Penalty (reprimand) and the agency shall submit a written response to SBI/DCI of a plan

and date by which training is complete to prevent further violation of this Rule.

- (2) Second Offense - Agency Penalty (suspend services) CCH services for a period of 90 days.
- (3) Third Offense - Agency Penalty (suspend services) CCH services for a period of six months.
- (m) Failure (if the entire agency is more than 10 percent deficient) to log all of the required fields on the CCH dissemination log. (12 NCAC 4F .0401):
 - (1) First Offense - Individual Penalty (warning) with a re-audit after 90 days.
 - (2) Second Offense - Individual Penalty (probation) and Agency Penalty (warning).
 - (3) Third Offense - Individual Penalty (suspend certification) and Agency Penalty (reprimand).
 - (4) Fourth Offense - Agency Penalty (probation).
- (n) Failure (if the entire agency is more than 10 percent deficient) to maintain a log of dissemination on "positive" criminal history record information obtained through DCI for a period of one year from the date the record was received. (12 NCAC 4F .0401):
 - (1) First Offense - Individual Penalty (warning) to each operator that contributed and Agency Penalty (warning) with re-audit after 90 days.
 - (2) Second Offense - Individual Penalty (probation) and Agency Penalty (reprimand) and agency head must submit a letter to DCI on a monthly basis (for 12 consecutive months) verifying that a self audit has been conducted. Failure to submit this verification letter will be considered a breach of the users agreement.
 - (3) Third Offense - Individual Penalty (suspend certification) and Agency Penalty (suspend services) suspend CCH for six months.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0200 - APPEALS

.0201 INCORPORATION OF G.S. CONCERNING ADMINISTRATIVE HEARINGS

General Statutes 150B-22 and 150B-23 are hereby incorporated into these procedures by reference including any and all future additions, modifications, changes and deletions.

Statutory Authority G.S. 114-10; 114-10.1.

.0202 NOTICE OF VIOLATION

(a) Upon determination that a violation of these procedures has occurred, DCI shall officially inform the offending agency or employee by letter with return receipt requested. If the violation is such that an operators certification could be suspended or revoked thereby affecting employment, the notice to the operator shall be by certified mail.

(b) The official notification shall set forth the specific nature of the violation and will also cite the administrative procedure in question.

(c) The official notification shall also state the specific steps involved in the event the agency or employee desires an informal hearing. These specific steps and time frames are as follows:

- (1) any request for an informal hearing to appeal the imposition of a penalty contained in these procedures must be made within 30 days from the date the official notification of the violation is received from DCI;
- (2) the request for an informal hearing must be in writing and signed by the agency head if an agency penalty or by the employee if an individual penalty and addressed to the SBI Assistant Director for DCI, 407 North Blount Street, Raleigh, North Carolina 27601;
- (3) the request shall contain a clear and specific statement that the agency or individual is requesting an informal hearing. It should also contain a clear and specific statement of the reasons why DCI should not invoke a penalty; and
- (4) if a request for an informal hearing is not submitted within 30 days from the date the official notice is received, the imposed penalty will become final and absolute on the 31st day following.

Statutory Authority G.S. 114-10; 114-10.1.

.0203 RIGHTS OF AGENCY OR EMPLOYEE

(a) Any agency or employee charged with violating DCI procedures shall be entitled to avail themselves of the appeals process as stated in N.C.G.S. 150B-22 and 150B-23.

(b) Any agency or employee charged with violating any DCI procedures shall be entitled to a fair and impartial hearing in accordance with the principles of due process.

Statutory Authority G.S. 114-10; 114-10.1.

.0204 OBLIGATIONS OF DCI

(a) DCI shall respond in a speedy fashion regarding all notices and responses due any agency

or employee that has violated a procedure or that is in the appeals process.

(b) DCI shall be responsible for maintaining an atmosphere of fairness, procedural correctness and dignity to the hearing process over which it has jurisdiction. The Division shall also have the right to insist that any agency or individual involved in the appeals process conduct themselves in a professional and dignified manner.

(c) DCI shall at all times be mindful of the fact that it is a service organization charged with a specific responsibility on behalf of the people of North Carolina and shall at no time demean, abuse, or politicize any of its functions in the area of audits, imposition of penalties, or its handling of the appeals process. The Division shall also have the right to expect that any agency or individual will also respect the integrity of the appeals process and refrain from any politicizing of the issues involved.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0300 - INFORMAL HEARINGS

.0301 STRUCTURE OF INFORMAL HEARING BOARD

(a) Upon notification that an agency or individual intends to request an informal hearing regarding the imposition of a penalty, the SBI Assistant Director for DCI shall convene a board to hear the matter.

(b) The Board convened to hear the matter shall be the DCI Advisory Policy Board presided over by a Hearing Officer appointed by the SBI Assistant Director for DCI.

(c) The Advisory Policy Board, is empowered to decide any and all issues brought before it relevant to the hearing.

Statutory Authority G.S. 114-10; 114-10.1.

.0302 INFORMAL HEARING PROCEDURE

(a) The informal hearing before the DCI Advisory Policy Board shall be conducted pursuant to the G.S. 150B-22.

(b) The Hearing Officer, shall preside over the hearing and shall inform the participants regarding the format for the proceeding. The Hearing Officer, in the course of his or her remarks shall state the specific Administrative Procedure(s) that has allegedly been violated and the resultant penalty to be applied.

(c) The facts of the issue shall then be presented first by the audit team that discovered the violation followed by the sited agency and/or individual. The individual members of the Advisory Policy Board shall, at the end of each

presentation of the facts, be allowed to direct questions to the speaker regarding what he or she has stated.

(d) Any agency or individual appearing before the Advisory Policy Board for a hearing may utilize the services of an attorney as their spokesman.

(e) After all presentations have been made, the auditor and all persons representing the appealing agency or individual shall leave the hearing room and the Board shall then enter into its deliberations. If the Board so determines it shall recommend that the imposed penalty be modified or dismissed.

(f) The SBI Assistant Director for-DCI, at his or her discretion may modify the penalty upon the recommendation of the Board.

Statutory Authority G.S. 114-10; 114-10.1.

.0303 NOTIFICATION OF RESULTS AND RIGHT OF APPEAL

(a) DCI shall notify all of the parties of the results of the hearing within two weeks. The notification shall be by letter signed by the SBI Assistant Director for DCI.

(b) The notifications shall inform the parties of their right to appeal the informal hearing decision to the Office of Administrative Hearings pursuant to G.S. 150B-23.

Statutory Authority G.S. 114-10; 114-10.1.

SECTION .0400 - FORMAL HEARINGS

.0401 FORMAL HEARINGS

(a) An agency or individual cited with a violation of DCI's Administrative Procedures may elect to have a formal hearing instead of following the informal hearing procedures.

(b) Formal hearings shall be conducted through the Office of Administrative Hearings pursuant to G.S. 150B-23.

Statutory Authority G.S. 114-10; 114-10.1.

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

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission (Division of Environmental Management) intends to amend rules cited as 15A NCAC 2B .0101, .0104, .0202, .0211, .0301 - .0311, .0313, .0315 - .0317.

PROPOSED RULES

The proposed effective date of this action is March 1, 1992.

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

August 14, 1991

7:00 p.m.

Auditorium

Montgomery Community College
Old Biscoe Road
Troy, N.C.

August 15, 1991

7:00 p.m.

Ground Floor Hearing Room
Archdale Building
512 North Salisbury Street
Raleigh, N.C.

August 19, 1991

7:00 p.m.

Health Career Auditorium
Guilford Technical Community College
Jamestown, N.C.

August 20, 1991

7:00 p.m.

Auditorium
Catawba Valley Community College
Hickory, N.C.

August 21, 1991

7:00 p.m.

Humanities Lecture Hall
UNC - Asheville
Asheville, N.C.

August 22, 1991

7:00 p.m.

Tri-County Community College
Murphy, N.C.

August 26, 1991

7:00 p.m.

Courtroom
New Chowan County Courthouse
South Broad Street
Edenton, N.C.

August 27, 1991

7:00 p.m.

Bryan Auditorium, Morton Hall
UNC - Wilmington
601 South College Road
Wilmington, N.C.

A fiscal note has been prepared and may be obtained from the agency.

Comment Procedures: Notice is hereby given of a series of public hearings to be held by the North Carolina Department of Environment, Health, and Natural Resources on behalf of the Environmental Management Commission (EMC) concerning the proposed reclassification of all of the State's surface raw drinking water supply waters in order to make the water supply classifications consistent with water supply watershed protection rules (water quality standards and management requirements) adopted by the EMC on December 13, 1990 in accordance with G.S. 143-214.5. In addition to the notice being given on the proposed changes to the reclassification of the State's surface water supplies, notice is also hereby given of proposed revisions to the surface water supply protection rules previously adopted by the EMC on December 13, 1990 in accordance with G.S. 143-214.5.

The purpose of the eight public hearings being noticed herein is to receive public comment on the proposed reclassifications of each surface water supply, including any more detailed information, such as verification of previously undocumented land use or point source discharge activities, that may have an influence on the final classification assignment and to receive public comment on new proposed revisions to the surface water supply protection rules adopted by the Commission on December 13, 1990. These proposed revisions to the State's surface water supply classifications and water supply protection rules will, if adopted, result in modifications to the North Carolina rules governing procedures for assignment of water quality standards, the classifications and water quality standards applicable to surface waters of North Carolina and assignment of stream classifications (15A NCAC 2B .0100, .0200 and .0300). THESE CLASSIFICATIONS AND ASSOCIATED WATER SUPPLY PROTECTION RULES REPRESENT A SIGNIFICANT CHANGE FROM PREVIOUS PRACTICES SINCE LOCAL GOVERNMENTS MUST ADOPT ORDINANCES TO EITHER LIMIT DEVELOPMENT DENSITY OR REQUIRE STORMWATER CONTROLS WITHIN WATER SUPPLY WATERSHEDS OR PROTECTED AREAS WITHIN THEIR JURISDICTION.

Additional information concerning the proposed reclassifications and rules revisions is presented in the Explanation of Notice provided herein. IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS OR

PROPOSED RULES

PARTIES READ AND FULLY UNDERSTAND THIS ENTIRE NOTICE including the Explanation of the Notice and the proposed rules revisions as described herein. Furthermore, IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS OR PARTIES MAKE THEIR VIEWS AND OPINIONS KNOWN, preferably in writing, TO THE EMC WHETHER THEY BE IN FAVOR OF OR OPPOSED TO ANY OR ALL PROVISIONS OF THE PROPOSED WATER SUPPLY RECLASSIFICATIONS AND RULES REVISIONS NOTICED HEREIN. In addition, interested and potentially affected persons or parties should provide documentation of perceived economic, environmental and social costs or benefits including any information, such as verification of previously undocumented land use or point source discharge activities, that may have an influence on the final classification assignment. It is very important that all interested and potentially affected persons or parties make their views known to the EMC whether in favor of or opposed to any and all provisions of the proposed water supply reclassifications and rules revisions being noticed herein, since THE EMC MAY ADOPT MORE OR LESS STRINGENT WATER SUPPLY PROTECTION CLASSIFICATIONS, STANDARDS OR MANAGEMENT REQUIREMENTS THAT MAY DIFFER FROM THOSE BEING NOTICED HEREIN BY BEING MORE OR LESS STRINGENT, IF THE EMC DETERMINES THAT THE FINAL ADOPTED RULES ARE A LOGICAL OUTGROWTH OF THE NOTICE, THE PUBLIC HEARINGS AND THE HEARING COMMENTS RECEIVED, IN ACCORDANCE WITH THE EMC's AUTHORITY PURSUANT TO N.C.G.S. 150B-12 TO MAKE CHANGES IN FINAL RULES WITHOUT RENOTICE AND REHEARING AS LONG AS THE FINAL RULES ARE A LOGICAL OUTGROWTH OF THE PUBLIC HEARING AND PUBLIC COMMENT PROCEEDINGS.

All persons interested in or potentially affected by this matter are invited to attend the public hearings being noticed herein. Comments, data, statements and other information may be submitted in writing prior to, during or within thirty (30) days after the date of the last public hearing. Written public comments will be accepted, therefore, through September 30, 1991 inclusive. Comments may also be presented orally at the hearings. So that all persons desiring to speak may have an opportunity to do so, the length of verbal statements may be limited at the discretion of the hearing officers. The statutory authority for these actions is as follows: N.C. General Statutes 143-214.1, 143-214.5, 143-215.3(a)(1) and (3). The proposed effective date of the final adopted water supply classifications and standards rules is March 1, 1992. ALL INTERESTED AND PO-

TENTIALLY AFFECTED PERSONS OR PARTIES ARE STRONGLY ENCOURAGED TO READ THIS ENTIRE NOTICE INCLUDING THE EXPLANATION OF NOTICE PROVIDED HEREIN AND TO OBTAIN ADDITIONAL INFORMATION ON THESE PROPOSALS BY WRITING OR CALLING: Stephen Zoufaly; Division of Environmental Management; P.O. Box 29535; Raleigh, North Carolina 27626-0535; (919) 733-5083.

EXPLANATION OF NOTICE:

In June of 1989, the NC General Assembly adopted House Bill 156 (the Water Supply Watershed Protection Act codified at G.S. 143-214.5) which mandates that the Environmental Management Commission (1) adopt statewide minimum water supply watershed protection rules (classifications and associated standards and management strategies) by January 1, 1991; and (2) reclassify all of the State's surface water supply waters in accordance with these rules by January 1, 1992.

In order to meet the first statutory deadline of G.S. 143-214.5, the EMC adopted surface water supply protection rules on December 13, 1990. These rules were originally proposed in a public notice published on June 15, 1990 in volume 5, issue 6 of the North Carolina Register, pages 420-427. The water supply protection rules adopted by the EMC on December 13, 1990 included changes to the rules that were noticed on June 15, 1990. The rules that were adopted on December 13, 1990, including the changes which were made as a logical outgrowth of the public hearings held in August of 1990, are being noticed in their entirety herein in order to receive further public comments on their content, and are shown in italics in this notice. Those parts of the rules that were adopted on December 13, 1990 (as shown by italics) that represent either deletions from or additions to the existing rules (15A NCAC 2B .0100, .0200 and .0300) are shown by either crossed-through italics or underscored italics, respectively.

There are also new revisions being proposed for the water supply protection rules that were adopted on December 13, 1990. The new proposed revisions are shown in bold print with deletions from and additions to the existing and adopted rules below indicated by crossed-through and underscored language, respectively. In any case, existing rule language that is proposed to remain unchanged is printed in a normal fashion. All of the revisions to these rules indicated in ei-

ther italics or bold print if they are adopted by the EMC as proposed are expected to become effective on March 1, 1992.

There are two types of changes being proposed as new revisions to the rules. As indicated previously, new proposed revisions are shown in bold print. The first type of revisions are clarifications of language. Examples of this type of change are the addition of the specific references to stormwater discharges in 15A NCAC 2B .0101(c) and the proposed revisions of the narrative descriptions for point source discharges for WS-II, WS-III and WS-IV classifications in 15A NCAC 2B .0211, Subparagraphs (d)(2), (e)(2) and (f)(2), respectively.

The second type of new proposed revisions are more substantive changes which involve several major issues. Determining what constitutes "existing development" for the purposes of implementing these rules; that is, determining at what point in their development planned or proposed projects may be "grandfathered" under these rules, is one such major issue. A definition of existing development which is intended to address this issue is proposed at 15A NCAC 2B .0104(s). As this definition is currently proposed, existing development would include projects already completed or in progress, projects with a recorded plat or areas that have been zoned as of the closing date of the public hearings for the January 1, 1992 reclassification proceedings (September 30, 1991). The rule goes on to state that existing development is only required to comply with these rules to the "maximum extent practicable". For projects that are already completed or in progress, no modifications would be expected. For a recorded platted project that does not conform to the water supply requirements, it would be the responsibility of local government to determine if there are practicable options that could be required to bring the project more in line with the requirements. For large areas that are zoned but mainly undeveloped, there is a much greater ability to conform to the water supply requirements. In this case, the "maximum extent practicable" clause is intended to respect the uses that have been zoned (industrial, for example) even if it would not otherwise be allowed, but the density of development of that use should conform to the rules. If this would require local governments to allow stormwater detention ponds and they would prefer the low density option, they would be expected to rezone to the lower density. Projects with a site specific development plan approved by local government under existing zoning in compliance with G.S. 160A-385(b) prior to September

30, 1991 could be developed as approved. **SPECIFIC COMMENTS ON THE IMPLEMENTATION OF THE DEFINITION OF EXISTING DEVELOPMENT AS PROPOSED IN 15A NCAC 2B .0104(s) ARE BEING SOLICITED, WHETHER IN FAVOR OF OR OPPOSED TO THE PROPOSED IMPLEMENTATION PROCEDURE DESCRIBED HEREIN.**

Another major issue for which comments are being solicited is the definition of the critical area for a water supply reservoir [15A NCAC 2B .0202(14)]. The definition of the critical area for a water supply reservoir was adopted by the EMC on December 13, 1990 as an area extending either one mile from the normal pool elevation of the reservoir in which the intake was located or to the ridge line of the watershed (whichever distance is shortest). This is an adopted provision of the water supply protection rules and is not a new proposal. The definition of the critical area for a water supply reservoir was originally proposed (as noticed in the North Carolina Register on June 15, 1990) as an area extending ½ mile, rather than 1 mile, from the normal pool elevation of the reservoir and the adoption of the 1 mile critical area for reservoirs continues to be controversial. Therefore, **THE EMC IS SPECIFICALLY SOLICITING COMMENTS ON THE DEFINITION OF CRITICAL AREA FOR WATER SUPPLY RESERVOIRS, WHETHER THE COMMENTS ARE IN FAVOR OF OR OPPOSED TO THE DEFINITION AS DESCRIBED HEREIN.**

Other noteworthy new proposed rules revisions include: (1) proposed exemptions for minor occurrences of nonconforming activities which could be allowed by the EMC on a case-by-case basis after reclassification [15A NCAC 2B .0104(1)]; (2) specific reference to best management practices that are required by law or by rule for highway construction, agricultural and silvicultural activities [15A NCAC 2B .0104, Subparagraphs (m), (q) and (u), respectively]; (3) a requirement for a 10 foot minimum vegetated buffer or equivalent control to be maintained in WS-I watersheds and critical areas of WS-II, WS-III and WS-IV watersheds for agricultural activities [15A NCAC 2B .0104(q)]; (4) a revision of the maximum built upon area allowed with stormwater controls under the high density option for WS-III watersheds outside the critical area [15A NCAC 2B .0211(e)(3)(B)(IV)]; (5) a revision addressing the expansion of existing discharges [15A NCAC 2B .0104(r)]; and (6) clarification addressing new industrial connections and expansions to existing municipal discharges with a pretreatment program in WS-IV watersheds or protected areas [15A NCAC 2B

.0211(f)(2)]. COMMENTS ARE BEING SOLICITED BY THE EMC ON THE ENVIRONMENTAL, ECONOMIC AND SOCIAL COSTS AND BENEFITS OF ANY AND ALL OF THE PROVISIONS OF THESE RULES, WHETHER THE COMMENTS ARE IN FAVOR OF OR OPPOSED TO THESE RULES AND WHETHER THE COMMENTS ARE ON THE NEW PROPOSED REVISIONS (shown in **bold print**), THE PROVISIONS OF THE RULES ADOPTED BY THE EMC ON DECEMBER 13, 1990 (shown in *italics*) OR ON THE EXISTING WATER SUPPLY PROTECTION RULES (shown in normal typeface). COMMENTS ARE ALSO BEING SOLICITED ON THE PROPOSED RECLASSIFICATIONS OF EACH SURFACE WATER SUPPLY, ESPECIALLY INCLUDING INFORMATION THAT MAY HAVE AN INFLUENCE ON THE FINAL CLASSIFICATION ASSIGNMENT. Water supply reclassifications are proposed for surface waters of the Broad River Basin, Cape Fear River Basin, Catawba River Basin, French Broad River Basin, Hiwassee River Basin, Little Tennessee River Basin, Lumber River Basin, Neuse River Basin, New River Basin, Pasquotank River Basin, Roanoke River Basin, Savannah River Basin, Tar-Pamlico River Basin, Watauga River Basin and the Yadkin River Basin. COMMENTS ARE BEING EXPRESSLY SOLICITED BY THE EMC ON ANY AND ALL OF THE PROVISIONS OF THIS NOTICE, WHETHER THE COMMENTS ARE IN FAVOR OF OR OPPOSED TO ANY OR ALL PROVISIONS OF THESE RULES. The EMC is soliciting these comments so that THE EMC MAY ADOPT MORE OR LESS STRINGENT WATER SUPPLY PROTECTION AND MANAGEMENT REQUIREMENTS THAT MAY DIFFER FROM THOSE BEING PROPOSED HEREIN IF THE EMC DETERMINES THAT THE FINAL ADOPTED RULES ARE A LOGICAL OUTGROWTH OF THE PUBLIC NOTICE, HEARINGS AND PUBLIC COMMENTS RECEIVED.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0100 - PROCEDURES FOR ASSIGNMENT OF WATER QUALITY STANDARDS

.0101 GENERAL PROCEDURES

(c) Freshwater Classifications.

- (3) Class WS-I; waters protected as water supplies which are in natural and ~~uninhabited~~ undeveloped watersheds; point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter; local ~~nonpoint source~~

control programs to control nonpoint sources and stormwater discharges of pollution are required; suitable for all Class C uses;

- (4) ~~(3)~~ Class WS-I; WS-II; waters protected as water supplies which are generally in natural and uninhabited or predominantly undeveloped (not urbanized) watersheds; no point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter; except those existing discharges qualifying for a General Permit according to the requirements of 15A NCAC 2H .0134 specifically approved by the Commission at the time of classification; and local land management nonpoint source control programs to control nonpoint source sources and stormwater discharges of pollution are required; suitable for all Class C uses;

- (5) ~~(4)~~ Class WS-II; WS-III; waters protected as water supplies which are generally in low to moderately developed (urbanized) watersheds; point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter; discharges are restricted to domestic wastewater (sewage) or industrial non-process waters specifically approved by the Commission; local land management nonpoint source control programs to control nonpoint source sources and stormwater discharges of pollution are required; suitable for all Class C uses;

- (6) ~~(5)~~ Class WS-III; water supply segment with no categorical restrictions on watershed development or discharges; Class WS-IV; waters protected as water supplies which are generally in moderately to highly developed watersheds; point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter; local ~~nonpoint source control~~ programs to control nonpoint source sources and stormwater discharges of pollution are required; suitable for all Class C uses;

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

.0104 CONSIDERATIONS IN ASSIGNING AND IMPLEMENTING WATER SUPPLY CLASSIFICATIONS

- (a) In determining the suitability of waters for use as a source of water supply for drinking, culinary or food processing purposes after approved treatment, the Commission will be guided by the

physical, chemical, and bacteriological maximum contaminant levels specified by Environmental Protection Agency regulations adopted pursuant to the Public Health Service Act, 42 U.S.C. 201 et seq., as amended by the Safe Drinking Water Act, 42 U.S.C. 300(f) et seq. In addition, the Commission will be guided by the requirements for unfiltered and filtered water supplies and the maximum contaminant levels specified in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1100, .1200 and .1500 and comments provided by the Division of Environmental Health.

(b) In considering the reclassification of waters as Class WS-I, the Commission will evaluate local land use management programs to protect the quality of these waters from nonpoint sources of pollution. Local land use management programs and modifications to these programs must be approved by the Commission and will be kept on file by the Division of Environmental Management and Division of Environmental Health. Waters formerly classified as A-I will be considered to be protected as required for unfiltered water supplies by the Commission of Health Services (15A NCAC 18C .1100) until alternative plans are submitted for approval. All local governments that have land use authority within water supply watersheds and the critical and protected areas of Class WS-IV water supplies will adopt and enforce ordinances that at a minimum meet the requirements of G.S. 143-214.5 and this Subchapter. Local governments may adopt and enforce more stringent controls. Local management programs and modifications to these programs must be approved by the Commission and will be kept on file by the Division of Environmental Management, Division of Environmental Health and the Division of Community Assistance. In considering the reclassification of waters for water supply purposes the Commission will evaluate local land use management programs in order to protect the quality of these waters from existing and future point and nonpoint sources of pollution.

(c) In considering the reclassification of waters as Class WS-II, the Commission will evaluate local land use management programs to protect the quality of these waters from existing and future nonpoint sources of pollution. Local management programs and modifications to these programs must be approved by the Commission and will be kept on file by the Division of Environmental Management and Division of Environmental Health. All waters used for water supply purposes shall be classified to the most appropriate water supply classification as determined by the Commission.

(d) In considering the reclassification of waters as Class WS-III, for water supply purposes, the Commission will take into consideration the relative proximity, quantity, composition, natural dilution and diminution of potential sources of pollution to determine that risks posed by all significant pollutants are adequately considered.

(e) For the purpose of the January 1, 1992 reclassification process, development projects in progress as demonstrated by significant resources having been expended on building the project or projects platted by January 1, 1991 will be deemed to be existing. Local governments should, as practicable, bring nonconforming uses into compliance with the water supply rules.

(f) Wherever in this Subchapter it is provided that local governments assume responsibility for operation and maintenance of engineered stormwater controls (controls), this shall be construed to require responsible local governments to inspect such controls at least once per year to determine whether the controls are performing as designed and intended. Records of inspections shall be maintained on forms approved or supplied by the Division. Local governments may require payment of reasonable inspection fees by entities which own the controls, as authorized by law. In the event inspection shows that a control is not performing adequately, the local government shall order the owning entity to take corrective actions. If the entity fails to take sufficient corrective actions, the local government may impose civil penalties and pursue other available remedies in accordance with law. The availability of new engineered stormwater controls as an alternative to lower development density and other measures under the provisions of this Subchapter and local ordinances approved by the Commission shall be conditioned on the posting of adequate financial assurance, in the form of a cash deposit with or bond made payable to the responsible local government, or other acceptable security. The establishment of a stormwater utility by the responsible local government shall be deemed adequate financial assurance. The purpose of the required financial assurance is to assure that maintenance, repairs or reconstruction necessary for adequate performance of the controls may be made by the owning entity or the local government which may choose to assume ownership and maintenance responsibility.

(g) Where higher density developments are allowed, stormwater control systems must use wet detention ponds as described in 15A NCAC 2H .1003(g)(2), (i), (k) and (l). Where engineered stormwater control structures are required for nonresidential development, these structures must be handled on a project-by-project basis.

(h) Where no practicable alternative exists, discharge from groundwater remediation projects addressing water quality problems will be allowed in all water supply classifications.

(i) To further the cooperative nature of the water supply watershed management and protection program provided for herein, local governments with jurisdiction over portions of classified watersheds and local governments which derive their water supply from within such watersheds are encouraged to establish joint water quality monitoring and information sharing programs, by interlocal agreement or otherwise. Such cooperative programs shall be established in consultation with the Division.

(j) Where no practicable alternative exists other than surface water discharge, previously unknown existing unpermitted wastewater discharges will incorporate the best possible technology treatment as deemed appropriate by the Division.

(k) The Commission may designate water supply watersheds or portions thereof as critical water supply watersheds and impose management requirements that are more stringent than the minimum statewide water supply watershed management requirements.

(l) Variances or Exemptions may be allowed by the Commission on a case-by-case basis for minor occurrences of nonconforming activities prior to reclassification in order to obtain a higher classification or by the Commission at the request of a local government on a case-by-case basis after reclassification. Discharges of treated wastewater existing at the time of reclassification may be required to meet more stringent effluent limits as determined by the Division. Consideration of all practicable alternatives to surface water discharge must be documented. Upon reclassification, all new activities must comply with the water supply rules of this Subchapter.

(m) The construction of new roads and bridges and non-residential development should minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices (BMPs) to minimize water quality impacts. To the extent practicable, the construction of new roads in the critical area should be avoided. The Department of Transportation shall use BMPs as outlined in their document entitled "Water Supply Watershed Best Management Practices".

(n) Activities within water supply watersheds are also governed by the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1100, .1200 and .1500. Proposed expansions of treated wastewater discharges to water supply waters must be approved by the Division of Environmental Health.

(o) Local governments are responsible for correctly delineating the approximate normal pool elevation for backwaters of water supply reservoirs for the purposes of determining the critical and protected area boundaries as appropriate. Local governments must submit to the Division the boundaries of the critical and protected areas using 1:24,000 scale U.S.G.S. topographical maps. All revisions (expansions or deletions) to these areas must be submitted to the Division and approved by the Commission prior to local government revision.

(p) During the 1992 statewide reclassification of water supply watershed classifications, the Commission shall examine each water supply watershed where any new sanitary landfill for the disposal of nonhazardous solid waste is proposed to be located, and there was pending on June 30, 1990 a petition for reclassification of such waters to a more protective classification, to determine whether more restrictive standards should be established for the siting of such new sanitary landfills. The Commission, in the reclassification, may establish standards more restrictive than those in 15A NCAC 2B .0211 when required to protect the water supply from inappropriate additional sources of potential contamination due to proposed new sanitary landfills within the water supply watershed.

(q) Local governments will encourage participation in the Agricultural Cost Share Program. Agricultural activities are required to implement the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624). The following shall be required within WS-I watersheds and the critical areas of WS-II, WS-III and WS-IV watersheds: agricultural activities shall maintain a minimum 10 foot vegetated buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated as a solid blue line on U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps; and animal operations greater than 100 animal units shall employ Best Management Practices [as defined by Rule .0202(6) of this Subchapter] recommended by the Soil and Water Conservation Commission.

(r) In areas where some category of a new wastewater discharge is prohibited, expansions of existing discharges of that category will be allowed if there is no increase in pollutant loading.

(s) Existing development, as defined for the purposes of these Rules means projects already completed or in progress as demonstrated by significant resources having been expended on building the project, or projects with a recorded plat or areas zoned as of the closing date of the

public hearings for the January 1, 1992 reclassifications. Existing development is only required to comply with these Rules to the maximum extent practicable. Redevelopment is allowed, although the requirements of these Rules shall be complied with to the maximum extent practicable.

(t) Commencement of new activities within the water supplies by local and State government and individuals as of the closing date of the public hearings for the January 1, 1992 reclassifications shall comply with the requirements and intent of these Rules. When a local government permits activities subsequent to the closing date of the public hearings for the January 1, 1992 reclassifications and, as a result of permitting such activities, the area within that local government's jurisdictions is no longer in compliance with the management requirements of the classification proposed by the Commission, more stringent management requirements shall be implemented in the remainder of the jurisdiction in a manner which at least compensates for the inadequacies of the local program which resulted from permitting such activities.

(u) Silviculture activities are required to implement the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC II .0101 - .0209).

(v) Local governments shall, as the existing laws allow, develop, implement, and enforce comprehensive nonpoint source and stormwater discharge control programs to reduce water pollution from activities within water supply watersheds such as development, forestry, landfills, mining, on-site sanitary sewage systems which utilize ground adsorption, toxic and hazardous materials, transportation, and water based recreation.

(w) When the Commission assumes a local water supply protection program all local permits authorizing construction and development activities as regulated by statewide minimum water supply watershed protection rules of this Subchapter must be approved by the Commission prior to local government issuance.

(x) Local government must notify in writing and obtain permission from the Commission or its designees, prior to local government approval, all activities (such as platting, zoning, building permits, subdivision ordinances or activities that will require a variance) within the affected water supply area that are inconsistent with the statewide minimum water supply protection rules of this Subchapter.

(y) A model local water supply watershed management and protection ordinance, as approved by the Commission in accordance with G.S.

143-214.5, is on file with the Office of Administrative Hearings and may be obtained at no charge by writing to: Director, Division of Environmental Management, Post Office Box 29535, Raleigh, North Carolina 27626-0535.

Statutory Authority G.S. 143-214.1; 143-214.5; 143-215.3 (a)(1).

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

.0202 DEFINITIONS

The definition of any word or phrase used in these rules shall be the same as given in Article 21, Chapter 143 of the General Statutes of North Carolina. The following words and phrases, which are not defined in this article, will be interpreted as follows:

- (1) Acute toxicity to aquatic life means lethality or other harmful effects sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to a short-term exposure (relative to the life cycle of the organism) to a specific chemical or mixture of chemicals (as in an effluent). Short-term exposure for acute tests is generally 96 hours or less. Acute toxicity will be determined using the most appropriate of the following procedures:
 - (a) for specific chemical constituents or compounds, acceptable levels will be equivalent to a concentration of one-half or less of the Final Acute Value (FAV) as determined according to "Guidelines for Deriving Numerical Water Quality Criteria for the Protection of Aquatic Life and its Uses" published by the Environmental Protection Agency and referenced in the Federal Register (50 FR 30784, July 29, 1985).
 - (b) for specific chemical constituents or compounds, acceptable levels will be equivalent to a concentration of one-third or less of the lowest available LC50 value.
 - (c) for effluents, acceptable levels are defined as no statistically measurable lethality (99 percent confidence level using Students t test) during a specified exposure period. Concentrations of exposure will be determined on a case-by-case basis.
 - (d) in instances where detailed dose response data indicate that acceptable levels are significantly different from those defined in this Rule, the Director may determine on a case-by-case basis an alternate ac-

- ceptable level through statistical analyses of the dose response curve.
- (2) Acute to Chronic Ratio (ACR) means the ratio of acute toxicity expressed as an LC50 for a specific toxicant or an effluent to the chronic value for the same toxicant or effluent.
 - (3) Agricultural uses include the use of waters for stock watering, irrigation, and other farm purposes.
 - (4) Approved treatment, as applied to water supplies, means treatment accepted as satisfactory by the authorities responsible for exercising supervision over the quality of water supplies.
 - (5) Average (except bacterial) means arithmetical average and includes the analytical results of all samples taken during the specified period; all sampling shall be done as to obtain the most representative sample under prevailing conditions:
 - (a) Daily Average for dissolved oxygen, shall be of at least four samples;
 - (b) Weekly Average means the average of all daily composite samples obtained during the calendar week; if only one grab sample is taken each day, the weekly average is the average of all daily grab samples; a minimum of three daily grab samples is needed to calculate a weekly average;
 - (c) Monthly Average means the average of all daily composites (or grab samples if only one per day) obtained during the calendar month.

The definitions in this Paragraph do not affect the monitoring requirements for NPDES permits but rather are to be used by the Division along with other methodologies in determining violations of water quality standards. Arithmetical averages as defined by this Rule, and not confidence limits nor other statistical descriptions, will be used in all calculations of limitations which require the use of averages pursuant to this Rule and 40 CFR 122.41(l)(4)(iii).
 - (6) Best Management Practice (BMP) means a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
 - (7) Best usage of waters as specified for each class means those uses as determined by the Environmental Management Commission in accordance with the provisions of Article 21, Chapter 143-214.1, General Statutes of North Carolina.
 - (8) Bioaccumulative means substances which are taken up, concentrated, and retained by an organism from its environment.
 - (9) Buffer means a natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.
 - (10) Built-upon area means that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)
 - (11) ~~(9)~~ Chronic toxicity to aquatic life means any harmful effect sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to long-term exposure (relative to the life cycle of the organism) or exposure during a substantial portion of the duration of a sensitive period of the life cycle to a specific chemical substance or mixture of chemicals (as in an effluent). In absence of extended periods of exposure, early life stage or reproductive toxicity tests may be used to define chronic impacts.
 - (12) ~~(10)~~ Chronic value for aquatic life means the geometric mean of two concentrations identified in a controlled toxicity test as the No Observable Effect Concentration (NOEC) and the Lowest Observable Effect Concentration (LOEC).
 - (13) ~~(11)~~ Concentrations are the mass of a substance per volume of water and for the purposes of this Section will be expressed as milligrams per liter (mg/l), micrograms per liter (ug/l), or nanograms per liter (ng/l).
 - (14) Critical area means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one mile upstream from and draining to the intake (or other appropriate downstream location associated with the water supply) located directly in the stream or river (run-of-the-river), or to the ridge line of the watershed (whichever comes first).

Since W/S-I watersheds are uninhabited and undeveloped, establishment of a critical area is not required. Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one mile.

(15) ~~(12)~~ Critical habitat areas are defined for the purposes of the rules of this Section as those waters which are considered to be essential for the continued existence of an endangered or threatened species, and which are so designated by the NC Wildlife Resources Commission for animals or the NC Department of Agriculture for plants.

(16) ~~(13)~~ Designated Nonpoint Source Agency means those agencies specified by the Governor in the North Carolina Nonpoint Source Management Program, as approved by the Environmental Protection Agency.

(17) Development means any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

(18) ~~(14)~~ Discharge is the addition of any man-induced waste effluent either directly or indirectly to state surface waters.

(19) ~~(15)~~ Division means the Division of Environmental Management or its successors.

(20) Domestic wastewater discharge means the discharge of sewage, non-process industrial wastewater, other domestic wastewater or any combination of these items. Unless excepted by the Director, domestic wastewater includes liquid waste generated by domestic water using fixtures and appliances, from any residence, place of business, or place of public assembly even if it contains no sewage. Examples of domestic wastewater include once-through non-contact cooling water, seafood packing facility discharges and wastewater from restaurants.

(21) ~~(16)~~ Effluent channel means a discernable confined and discrete conveyance which is used for transporting treated wastewater to a receiving stream or other body of water as provided in Rule .0215 of this Section.

(22) ~~(17)~~ Existing uses mean uses actually attained in the water body, in a significant and not incidental manner, on or after November 28, 1975, whether or not they are included in the water quality standards, which either have been actually available to the public or are uses deemed attainable by the Environmental Management Commission.

At a minimum, uses shall be deemed attainable if they can be achieved by the imposition of effluent limits and cost-effective and reasonable best management practices (BMPs) for nonpoint source control.

(23) ~~(18)~~ Fishing means the taking of fish by sport or commercial methods as well as the consumption of fish or shellfish or the propagation of fish and such other aquatic life as is necessary to provide a suitable environment for fish.

(24) ~~(19)~~ Freshwater means all waters that under natural conditions would have a chloride ion content of 500 mg/l or less.

(25) Hazardous material means any substance listed as such in: SARA Section 302 Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

(26) Industrial discharge means the discharge of industrial process treated wastewater or wastewater other than sewage and includes:

(a) wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;

(b) wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;

(c) stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or

(d) wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

(27) ~~(20)~~ LC50 means that concentration of a toxic substance which is lethal (or immobilizing, if appropriate) to 50 percent of the organisms tested during a specified exposure period. The LC50 concentration for toxic materials shall be determined for appropriate sensitive species under aquatic conditions characteristic of the receiving waters.

(28) Local government means a city or county in singular or plural as defined in G.S. 160A-1(2) and G.S. 158A-10.

(29) ~~(21)~~ Lower piedmont and coastal plain waters mean those waters of the Catawba River Basin below Lookout Shoals Dam; the Yadkin River Basin below the junction of the Forsyth, Yadkin, and Davie County lines and all of the waters of Cape Fear; Lumber; Roanoke; Neuse; Tar-Pamlico; Chowan; Pasquotank; and White Oak River Basins, except tidal salt waters which are assigned S classifications.

(30) ~~(22)~~ MF is an abbreviation for the membrane filter procedure for bacteriological analysis.

(31) ~~(23)~~ Mixing zone means a region of the receiving water in the vicinity of a discharge within which dispersion and dilution of constituents in the discharge occurs and such zones shall be subject to conditions established in accordance with 15A NCAC 2B .0204(b).

(32) ~~(24)~~ Mountain and upper piedmont waters mean all of the waters of the Hiwassee; Little Tennessee, including the Savannah River drainage area; French Broad; Broad; New; and Watauga River Basins and those portions of the Catawba River Basin above Lookout Shoals Dam and the Yadkin River Basin above the junction of the Forsyth, Yadkin, and Davie County lines.

(33) ~~(25)~~ Nonpoint source pollution means pollution which enters waters mainly as a result of precipitation and subsequent runoff from lands which have been disturbed by man's activities and includes all sources of water pollution which are not required to have a permit in accordance with G.S. 143-215.1(c).

(34) Non-process discharge means industrial effluent not directly resulting from the manufacturing process. An example would be non-contact cooling water from a compressor.

(35) ~~(26)~~ Nutrient sensitive waters mean those waters which are so designated in the classification schedule in order to limit the discharge of nutrients (usually nitrogen and phosphorus). They are designated by "NSW" following the water classification.

(36) ~~(27)~~ Offensive condition means any condition or conditions resulting from the presence of sewage, industrial wastes or other wastes within the waters of the state or along the shorelines thereof which shall either directly or indirectly cause foul or noxious odors, unsightly conditions, or breeding of abnormally large quantities of mosquitoes or other insect pests, or shall damage private or public water supplies or other structures, result in the development of gases which destroy or damage surrounding property, herbage or grasses, or which may cause the impairment of taste, such as from fish flesh tainting, or affect the health of any person residing or working in the area.

(37) ~~(28)~~ Primary Nursery Areas (PNAs) are tidal saltwaters which provide essential habitat for the early development of commercially important fish and shellfish and are

so designated by the Marine Fisheries Commission.

(38) ~~(29)~~ Primary recreation includes swimming, skin diving, skiing, and similar uses involving human body contact with water where such activities take place in an organized or on a frequent basis.

(39) Protected area means the area adjoining and upstream of the critical area in a WS-IV water supply watershed in which protection measures are required. The boundaries of the protected areas are defined as extending five miles upstream and draining to water supply reservoirs (measured from the normal pool elevation) or to the ridge line of the watershed (whichever comes first); or 10 miles upstream and draining to the intake located directly in the stream or river (run-of-the-river), or to the ridge line of the watershed (whichever comes first). Local governments may extend the protected area. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the protected area if these landmarks are immediately adjacent to the appropriate outer boundary of five or 10 miles. In some cases the protected area will encompass the entire watershed.

(40) Residential development means buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc.

(41) ~~(30)~~ Secondary recreation includes wading, boating, other uses not involving human body contact with water, and activities involving human body contact with water where such activities take place on an infrequent, unorganized, or incidental basis.

(42) ~~(31)~~ Sensitive species for aquatic toxicity testing is any species utilized in procedures accepted by the Commission or its designee in accordance with Rules .0211(b)(3)(L) or .0212(b)(3) ~~(L)~~ (M) of this Section, or the following genera:

- (a) Daphnia;
- (b) Ceriodaphnia;
- (c) Salmo;
- (d) Pimephales;
- (e) Mysidopsis;
- (f) Champia;
- (g) Cyprinodon;
- (h) Arbacia;
- (i) Penacus;
- (j) Menidia;
- (k) Notropis;
- (l) Salvelinus;

- (m) *Oncorhynchus*;
- (n) *Selenastrum*.

Other genera may be accepted by the Commission or its designee on a case-by-case basis.

(43) ~~(32)~~ Shellfish culture includes the use of waters for the propagation, storage and gathering of oysters, clams, and other shellfish for market purposes.

(44) Sludge/residuals means any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

(45) ~~(33)~~ Source of water supply for drinking, culinary or food-processing purposes means any source, either public or private, the waters from which are used for human consumption, or used in connection with the processing of milk, beverages, food, or other purpose which requires water meeting the Maximum Contaminant Levels (MCLs) in the North Carolina Rules Governing Public Water Supplies, ~~10 NCAC 10D .1600~~ 15A NCAC 18C .1500 as well as MCLs promulgated by the Environmental Protection Agency pursuant to the Public Health Service Act, 42 U.S.C. 201 et seq., as amended by the Safe Drinking Water Act, 42 U.S.C. 300(f) (g)-1 et seq.

(46) ~~(34)~~ Swamp waters mean those waters which are classified by the Environmental Management Commission and which are topographically located so as to generally have very low velocities and certain other characteristics which are different from adjacent streams draining steeper topography. They are designated by "Sw" following the water classification.

(47) ~~(35)~~ Tidal salt waters mean all tidal waters which are classified by the Environmental Management Commission which generally have a natural chloride ion content in excess of 500 parts per million and include all waters assigned S classifications.

(48) ~~(36)~~ Toxic substance or toxicant means any substance or combination of substances (including disease-causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical

deformities in such organisms or their offspring or other adverse health effects.

(49) ~~(37)~~ Trout waters are those waters which have conditions which will sustain and allow for trout propagation and survival of stocked trout on a year-round basis. These waters are classified by the Commission after considering the requirements of Rule .0101(b) and (c) of this Subchapter and include all waters designated by "Tr" in the water classification.

(50) ~~(38)~~ Waste disposal includes the use of waters for disposal of sewage, industrial waste or other waste after approved treatment.

(51) ~~(39)~~ Water quality based effluent limits and best management practices are limitations or best management practices developed by the Division for the purpose of protecting water quality standards and best usage of surface waters consistent with the requirements of General Statute 143-214.1 and the Federal Water Pollution Control Act as amended.

(52) ~~(40)~~ Waters with quality higher than the standards means all waters for which the determination of waste load allocations (pursuant to Rule .0206 of this Section) indicates that water quality is sufficiently greater than that defined by the standards such that significant pollutant loading capacity still exists in those waters.

(53) Watershed means the entire land area contributing surface drainage to a specific point.

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

.0211 FRESH SURFACE WATER CLASSIFICATIONS AND STANDARDS

(c) Class WS-1 Waters.

(1) Best Usage of Waters. Source of water supply for drinking, culinary, or food-processing purposes for those users desiring maximum protection of their water supplies, and any other best usage specified for Class C waters;

(2) Conditions Related to the Best Usage. Waters of this class are protected water supplies within natural and ~~uninhabited undeveloped~~ undeveloped or predominantly undeveloped (not urbanized) watersheds with no permitted point source discharges (except those specified in Rule .0104 of this Subchapter); except those existing discharges qualifying for a General Permit according to the requirements of 15A NCAC 2H

~~.0134 specifically approved by the Commission at the time of classification;~~ waters within this class must be relatively unimpacted by nonpoint sources of pollution; ~~local~~ land use management programs are required to protect waters from nonpoint source pollution; ~~silviculture and agriculture activities are allowed and are required to employ Best Management Practices (BMPs) as defined by Rule .0202(6) of this Section~~ recommended by the Designated Nonpoint Source Agency ~~as defined by Rule .0202(15) of this Section~~ except agricultural BMPs are required only to the extent State cost share funds and technical assistance are available; ~~silviculture activities must occur pursuant to 15A NCAC II .0101 - .0209; watersheds must be protected and the waters, following treatment required by the Division of Health Services, Environmental Health, will meet the Maximum Contaminant levels~~ Level concentrations considered safe for drinking, culinary, and food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules Governing Public Water Supplies, ~~40 NCAC 10D .1600; 15A NCAC 18C .1500;~~ sources of water pollution which preclude any of these uses on either a short-term or long-term basis will be considered to be violating a water quality standard; The Class WS-I classification may be used to protect portions (e.g. tributaries or headwaters) of Class WS-II, WS-III and WS-IV water supplies. For reclassifications occurring after the January 1, 1992 statewide reclassification, the higher classification will not be considered by the Commission unless all local governments having jurisdiction in the affected area(s) have adopted a resolution and effective appropriate ordinances to protect the watershed or the Commission acts to protect a watershed when one or more local governments has failed to adopt necessary protection measures.

(3) Quality Standards Applicable to Class WS-I Waters:

- (A) Nonpoint Source Pollution: ~~only that pollution which will not none that would~~ adversely impact the waters for use as a water supply or any other designated use;
- (B) Organisms of coliform group: total coliforms not to exceed 50/100 ml (MF count) as a monthly geometric mean value in watersheds serving as unfiltered water supplies;

- (C) Phenolic compounds: not greater than 1.0 ug/l (phenols) to protect water supplies from taste and odor problems from chlorinated phenols;
- (D) Sewage, industrial wastes: none, except those specified in either Subparagraph (2) of this Paragraph, or Rule .0104 of this Subchapter;
- (E) Solids, total dissolved: not greater than 500 mg/l;
- (F) Total hardness: not greater than 100 mg/l as calcium carbonate;
- (G) Toxic and other deleterious substances:
 - (i) Water quality standards (maximum permissible ~~levels~~ concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-I waters:
 - (I) Barium: 1.0 mg/l;
 - (II) Chloride: 250 mg/l;
 - (III) Manganese: ~~50~~ 200 ug/l;
 - (IV) Nickel: 25 ug/l;
 - (V) Nitrate nitrogen: 10.0 mg/l;
 - (VI) 2,4-D: 100 ug/l;
 - (VII) 2,4,5-TP (Silvex): 10 ug/l;
 - (VIII) Sulfates: 250 mg/l;
 - (ii) Water quality standards (maximum permissible ~~levels~~ concentrations) to protect human health through water consumption and fish tissue consumption for carcinogens in Class WS-I waters:
 - (I) Beryllium: 6.8 ng/l;
 - (II) Benzene: 1.19 ug/l;
 - (III) Carbon tetrachloride: 0.254 ug/l;
 - (IV) Chlorinated benzenes: 488 ug/l;
 - (V) Dioxin: 0.000013 ng/l;
 - (VI) Hexachlorobutadiene: 0.445 ug/l;
 - (VII) Polynuclear aromatic hydrocarbons: 2.8 ng/l;
 - (VIII) Tetrachloroethane (1,1,2,2): 0.172 ug/l;
 - (IX) Tetrachloroethylene: 0.8 ug/l;
 - (X) Trichloroethylene: 3.08 ug/l;
 - (XI) Vinyl Chloride: 2 ug/l;
 - (XII) Aldrin: 0.127 ng/l;
 - (XIII) Chlordane: 0.575 ng/l;
 - (XIV) DDT: 0.588 ng/l;
 - (XV) Dieldrin: 0.135 ng/l;
 - (XVI) Heptachlor: 0.208 ng/l.
- (d) Class WS-II Waters.
 - (1) Best Usage of Waters. Source of water supply for drinking, culinary, or food-processing purposes for those users desiring maximum protection for their water supplies where a WS-I classification is not ~~attainable~~ feasible and any other best us-

age specified for Class C waters; ~~this classification may also be used to protect critical portions of the watershed of Class WS-III waters;~~

- (2) Conditions Related to Best Usage. Waters of this class are protected as water supplies which are generally in low to moderately developed (urbanized) watersheds; only domestic wastewater discharges (excluding municipal dischargers required to have a pretreatment program according to 15A NCAC 2H .0901) and industrial non-process discharges predominantly undeveloped with no permitted point source discharges of wastewater except those discharges existing at the time of reclassification which qualify for a General Permit pursuant to the requirements of 15A NCAC 2H .0127 specifically approved by the EMC are permitted in these watersheds; Commission; new discharges qualifying for a General Permit pursuant to 15A NCAC 2H .0131 (Swimming Pool Filter Backwash Facilities) are allowed; local governments must have land use management programs to protect these watersheds from pollution due to land development and other nonpoint sources; will encourage participation in the Agricultural Cost Share Program and will be aware of and, as the existing laws allow, develop, implement, and enforce a comprehensive nonpoint source control program to reduce water pollution from activities within the watershed such as commercial and residential development, forestry, landfills, mining, on-site sanitary sewage systems which utilize ground adsorption, toxic and hazardous materials, transportation, and water based recreation; predominantly undeveloped watersheds; discharges existing at the time of reclassification which qualify for a General Permit pursuant to 15A NCAC 2H .0127 are allowed in the entire watershed; new swimming pool filter backwash facilities and stormwater discharges are allowed in the entire watershed; new domestic and industrial discharges of treated wastewater are not allowed in the entire watershed; the waters, following treatment required by the Division of Health Services, Environmental Health, will meet the Maximum Contaminant levels Level concentrations considered safe for drinking, culinary, and food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules

Governing Public Water Supplies, ~~40 NCAC 10D .1600; 15A NCAC 18C .1500;~~ sources of water pollution which preclude any of these uses on either a short-term or long-term basis will be considered to be violating a water quality standard; The Class WS-II classification may be used to protect portions (e.g. tributaries or headwaters) of Class WS-III and WS-IV water supplies. For reclassifications occurring after the January 1, 1992 statewide reclassification, the higher classification will not be considered by the Commission unless all local governments having jurisdiction in the affected area(s) have adopted a resolution and effective appropriate ordinances to protect the watershed or the Commission acts to protect a watershed when one or more local governments has failed to adopt necessary protection measures.

- (3) Quality Standards Applicable to Class WS-II Waters:
 - (A) Sewage and Industrial Wastes: none except for non-process industrial discharges specifically approved by the Commission; those specified in either Subparagraph (2) of this Paragraph, or Rule .0104 of this Subchapter;
 - (B) Nonpoint Source and Stormwater Pollution: only that pollution which will not none that would adversely impact the waters for use as a water supply or any other designated use;
 - (i) Nonpoint Source and Stormwater Pollution Control Criteria For Entire Watershed:
 - (I) Development must be limited to one dwelling unit per two acres or six percent built-upon area on average in the watershed; stormwater controls may be used if local government desires additional protection for development, however, this shall not be used to supersede the density limit of one dwelling unit per two acres or six percent built-upon area;
 - (II) Land within the watershed will be deemed compliant with the density requirements if the following two conditions are met: The density of all existing development meets the density requirement when densities are averaged throughout the entire watershed area at the time of classification; All new development meets this density requirement on a project by project basis;

(III) Clustering of development is allowed on a project basis with the following conditions: Overall density of the project meets associated density or stormwater control requirements; Built-upon areas may only occur in upland areas of projects that are not immediately adjacent to water supply waters; Remainder of tract to remain in vegetated or natural state;

(IV) A maximum of 10 percent of each jurisdiction's portion of the watershed outside of the critical area may be developed with new non-residential development projects of up to 70 percent built-upon surface area. Each project must to the maximum extent practicable minimize built-upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts;

(V) If local governments require engineered stormwater controls for additional protection, then they will assume ultimate responsibility for operation and maintenance of the required controls as outlined in Rule .0104(f) of this Subchapter;

(VI) Minimum 100 foot vegetative buffer is required along all perennial waters indicated as a solid blue line on U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps; the first 25 feet, as a minimum, is recommended to remain in a natural or undisturbed state; however, nothing in this Section shall stand as a bar to desirable artificial streambank or shoreline stabilization;

(VII) No new development is allowed in the buffer; public projects such as road crossings and greenways may be allowed where no practicable alternative exists; these activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of BMPs;

(VIII) Maintain inventory of all hazardous materials used and stored in the watershed; spill/failure containment plan and appropriate safeguards against contamination are required; waste minimization and appropriate recycling of materials is encouraged;

(IX) No new discharging landfills are allowed;

(ii) Critical Area Nonpoint Source and Stormwater Pollution Control Criteria:

(I) No new industrial development is allowed;

(II) No new engineered stormwater controls are allowed;

(III) (II) No new permitted sites for land application of sludge/residuals or petroleum contaminated soils are allowed;

(IV) (III) No new landfills are allowed;

(C) Odor producing substances contained in sewage or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as will not cause: taste and odor difficulties in water supplies which cannot be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class;

(D) Phenolic compounds: not greater than 1.0 ug/l (phenols) to protect water supplies from taste and odor problems ~~from~~ due to chlorinated phenols;

(E) Sewage: none which will have an adverse effect on human health or is not effectively treated to the satisfaction of the Commission and in accordance with the requirements of the Division of ~~Health Services, Environmental Health,~~ North Carolina Department of ~~Human Resources, Environment, Health, and Natural Resources;~~

(F) Total hardness: not greater than 100 mg/l as calcium carbonate;

(G) Total dissolved solids: not greater than 500 mg/l;

(H) Toxic and other deleterious substances:

(i) Water quality standards (maximum permissible ~~levels~~) concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-II waters:

(I) Barium: 1.0 mg/l;

(II) Chloride: 250 mg/l;

(III) Manganese: 200 ug/l;

(IV) Nickel: 25 ug/l;

(V) Nitrate nitrogen: 10.0 mg/l;

(VI) 2,4-D: 100 ug/l;

(VII) 2,4,5-TP: 10 ug/l;

(VIII) Sulfates: ~~250.0~~ 250 mg/l;

(ii) Water quality standards (maximum permissible ~~levels~~) concentrations) to protect human health through water consumption and fish tissue consumption

tion for carcinogens in Class WS-II waters:

- (I) Beryllium: 6.8 ng/l;
- (II) Benzene: 1.19 ug/l;
- (III) Carbon tetrachloride: 0.254 ug/l;
- (IV) Chlorinated benzenes: 488 ug/l;
- (V) Dioxin: 0.000013 ng/l;
- (VI) Hexachlorobutadiene: 0.445 ug/l;
- (VII) Polynuclear aromatic hydrocarbons: 2.8 ng/l;
- (VIII) Tetrachloroethane (1,1,2,2): 0.172 ug/l;
- (IX) Tetrachloroethylene: 0.8 ug/l;
- (X) Trichloroethylene: 3.08 ug/l;
- (XI) Vinyl Chloride: 2 ug/l;
- (XII) Aldrin: 0.127 ng/l;
- (XIII) Chlordane: 0.575 ng/l;
- (XIV) DDT: 0.588 ng/l;
- (XV) Dieldrin: 0.135 ng/l;
- (XVI) Heptachlor: 0.208 ng/l;

(e) Class WS-III Waters.

- (1) Best Usage of Waters. Source of water supply for drinking, culinary, or food-processing purposes for those users where a more protected sources are protective WS-I or WS-II classification is not feasible and any other best usage specified for Class C waters;
- (2) Conditions Related to Best Usage. Waters of this class are protected as water supplies which are generally in low to moderately developed watersheds with a limited number of domestic wastewater discharges (excluding municipal discharges required to have a pretreatment program according to 15A NCAC 2H .0904) and industrial non-process discharges specifically approved by the Commission; those discharges qualifying for a General Permit pursuant to the requirements of 15A NCAC 2H .0127 are allowed otherwise no new discharges in critical area; local governments will encourage participation in the Agricultural Cost Share Program and will be aware of and, as the existing laws allow, develop, implement, and enforce a comprehensive nonpoint source control program to reduce water pollution from activities within the watershed such as commercial and residential development, forestry, landfills, mining, onsite sanitary sewage systems which utilize ground adsorption, toxic and hazardous materials, transportation, and water based recreation; Waters of this class are protected as water supplies which are generally in low to moderately developed watersheds; discharges that qualify for a General Per-

mit pursuant to 15A NCAC 2H .0127 and other stormwater discharges are allowed in the entire watershed; treated domestic wastewater discharges are allowed in the entire watershed but no new domestic wastewater discharges are allowed in the critical area; no industrial wastewater discharges are allowed in the entire watershed; the waters, after following treatment required by the Division of Health Services, Environmental Health, will meet the Maximum Contaminant Levels Level concentrations considered safe for drinking, culinary, or food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules Governing Public Water Supplies, 10 NCAC 10D .1600; 15A NCAC 18C .1500; sources of water pollution which preclude any of these uses on either a short-term or long-term basis will be considered to be violating a water quality standard; The Class WS-III classification may be used to protect portions (e.g. tributaries or headwaters) of Class WS-IV water supplies. For reclassifications occurring after the January 1, 1992 statewide reclassification, the higher classification will not be considered by the Commission unless all local governments having jurisdiction in the affected area(s) have adopted a resolution and effective appropriate ordinances to protect the watershed or the Commission acts to protect a watershed when one or more local governments has failed to adopt necessary protection measures.

(3) Quality Standards Applicable to Class WS-III Waters:

(A) Industrial Wastes: none except for those specified in either Subparagraph (2) of this Paragraph or Rule .0104 of this Subchapter;

(B) Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use;

(i) Nonpoint Source and Stormwater Pollution Control Criteria For Entire Watershed:

(I) Development must be limited to one dwelling unit per acre or twelve percent built-upon on average in watershed outside of the critical area;

(II) Land within the watershed will be deemed compliant with the density requirements if the following two conditions are met: The density of all

existing development meets the density requirement when densities are averaged throughout the entire watershed area; All new development meets these density requirements on a project by project basis;

(III) Clustering of development is allowed on a project basis as follows: Overall density of the project meets associated density or stormwater control requirements; Built-upon areas may only occur in upland area of project that is not immediately adjacent to water supply waters; Remainder of tract to remain in vegetated or natural state;

(IV) If new development exceeds one dwelling unit per acre or twelve percent built-upon area then development must control runoff from the first inch of rainfall; development not to exceed ~~30~~ 50 percent built-upon area;

(V) A maximum of 10 percent of each jurisdiction's portion of the watershed outside of the critical area may be developed with new non-residential projects of up to 70 percent built-upon surface area. Each project must to the extent practicable minimize built-upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts; if the local government opts for high density development then appropriate engineered stormwater controls (wet detention basins) must be employed for the new non-residential development which exceeds the low density requirements;

(VI) If local governments choose to allow development requiring engineered stormwater controls, then they will assume ultimate responsibility for operation and maintenance of the required controls as outlined in Rule .0104(f) of this Subchapter;

(VII) Minimum 100 foot vegetative buffer is required along all perennial waters indicated as a solid blue line on U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps; the first 25 feet, as a minimum, is recommended to remain in a natural or undisturbed state; however, nothing in this Section shall stand as a bar to desirable artificial streambank or shoreline stabilization;

(VIII) No new development is allowed in the buffer; public projects such as road crossings and greenways may be allowed where no practicable alternative exists; these activities should minimize built-upon surface area, divert runoff away from surface waters and maximize the utilization of BMPs;

(IX) Maintain inventory of all hazardous materials used and stored in the watershed; spill failure containment plan and appropriate safeguards against contamination are required; waste minimization and appropriate recycling of materials is encouraged;

(X) No new discharging landfills are allowed;

(ii) Critical Area Nonpoint Source and Stormwater Pollution Control Criteria:

(I) No new industrial development is allowed;

(II) New development limited to one dwelling unit per two acres or six percent built-upon area;

(III) If new development exceeds one dwelling unit per two acres or six percent built-upon area then development must control runoff from the first one inch of rainfall; development not to exceed 30 percent built-upon area;

(IV) No new permitted sites for land application of sludge/residuals or petroleum contaminated soils are allowed;

(V) No new landfills are allowed;

(C) ~~(A)~~ Odor producing substances contained in sewage, non-process industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as will not cause: taste and odor difficulties in water supplies which cannot be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class;

(D) ~~(B)~~ Phenolic compounds: not greater than 1.0 ug/l (phenols) to protect water supplies from taste and odor problems from due to chlorinated phenols; specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;

~~(E)~~ ~~(C)~~ Sewage, non-process industrial wastes, or other wastes: none which will

have an adverse effect on human health or which are not effectively treated to the satisfaction of the Commission and in accordance with the requirements of the Division of ~~Health Services, Environmental Health~~, North Carolina Department of ~~Human Resources, Environment, Health, and Natural Resources~~; any discharger ~~or industrial users subject to pretreatment standards~~ may be required upon request by the Commission to disclose all chemical constituents present or potentially present in their wastes and chemicals which could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water supplies classified WS-III; these facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances;

(F) ~~(D)~~ Total hardness: not greater than 100 mg/l as calcium carbonate;

(G) ~~(E)~~ Total dissolved solids: not greater than 500 mg/l;

(H) ~~(F)~~ Toxic and other deleterious substances:

(i) Water quality standards (maximum permissible ~~levels~~ concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-III waters:

- (I) Barium: 1.0 mg/l;
- (II) Chloride: 250 mg/l;
- (III) Manganese: 200 ug/l;
- (IV) Nickel: 25 ug/l;
- (V) Nitrate nitrogen: 10.0 mg/l;
- (VI) 2,4-D: 100 ug/l;
- (VII) 2,4,5-TP (Silvex): 10 ug/l;
- (VIII) Sulfates: ~~250.0~~ 250 mg/l;

(ii) Water quality standards (maximum permissible ~~levels~~ concentrations) to protect human health through water consumption and fish tissue consumption for carcinogens in Class WS-III waters:

- (I) Beryllium: 6.8 ng/l;
- (II) Benzene: 1.19 ug/l;
- (III) Carbon tetrachloride: 0.254 ug/l;
- (IV) Chlorinated benzenes: 488 ug/l;
- (V) Dioxin: 0.000013 ng/l;
- (VI) Hexachlorobutadiene: 0.445 ug/l;
- (VII) Polynuclear aromatic hydrocarbons: 2.8 ng/l;
- (VIII) Tetrachloroethane (1,1,2,2): 0.172 ug/l;
- (IX) Tetrachloroethylene: 0.8 ug/l;

(X) Trichloroethylene: 3.08 ug/l;

(XI) Vinyl Chloride: 2 ug/l;

(XII) Aldrin: 0.127 ng/l;

(XIII) Chlordane: 0.575 ng/l;

(XIV) DDT: 0.588 ng/l;

(XV) Dieldrin: 0.135 ng/l;

(XVI) Heptachlor: 0.208 ng/l;

(f) Class WS-IV Waters.

(1) Best Usage of Waters. Source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I, WS-II or WS-III classification is not feasible and any other best usage specified for Class C waters;

(2) Conditions Related to Best Usage. Waters of this class are protected as water supplies which are generally in moderately to highly developed watersheds or protected areas with a limited number of domestic wastewater discharges and industrial discharges specifically approved by the Commission; those discharges qualifying for a General Permit pursuant to the requirements of 15A NCAC 2H .0127 are allowed otherwise no new industrial discharges are allowed in the critical area; local governments will encourage participation in the Agricultural Cost Share Program and will be aware of and, as the existing laws allow, develop, implement, and enforce a comprehensive nonpoint source control program to reduce water pollution from activities within the watershed such as commercial and residential development, forestry, landfills, mining, on-site sanitary sewage systems which utilize ground adsorption, toxic and hazardous materials, transportation, and water based recreation; Waters of this class are protected as water supplies which are generally in moderately to highly developed watersheds or protected areas; discharges which qualify for a General Permit pursuant to 15A NCAC 2H .0127, other stormwater discharges and domestic wastewater discharges are allowed in the protected and critical areas; treated industrial wastewater discharges are allowed in the protected and critical areas but no new industrial wastewater discharge is allowed in the critical area except new industrial connections and expansions to existing municipal discharges with a pretreatment program pursuant to 15A NCAC 2H .0904 are allowed; the waters, following treatment required by the Division of Environmental Health, will meet the Maximum Contaminant Level concentrations

considered safe for drinking, culinary, or food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500; sources of water pollution which preclude any of these uses on either a short-term or long-term basis will be considered to be violating a water quality standard;

(3) Quality Standards Applicable to Class WS-IV Waters:

(A) Industrial Wastes: no new discharges allowed within the critical area;

(B) Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use;

(i) Nonpoint Source and Stormwater Pollution Control Criteria For Entire Watershed Or Protected Area:

(I) Development must be limited to two dwelling units per acre or 24 percent built-upon area on average in the protected area outside of critical area;

(II) Land within the critical and protected area will be deemed compliant with the density requirements if the following two conditions are met: The density of all existing development meets the density requirement when densities are averaged throughout the entire area; All new development meets these density requirements on a project by project basis;

(III) Clustering of development is allowed on a project by project basis with the following conditions: Overall density of the project meets associated density or stormwater control requirements; Built-upon areas may only occur in upland area of project that is not immediately adjacent to water supply waters; Remainder of tract to remain in vegetated or natural state;

(IV) If new development exceeds two dwelling units per acre or 24 percent built-upon area then development must control the runoff from the first inch of rainfall; new development not to exceed 70 percent built-upon area;

(V) If local governments choose to allow development requiring engineered stormwater controls, then they will assume ultimate responsibility for operation and maintenance of the re-

quired controls as outlined in Rule .0104(f) of this Subchapter;

(VI) Minimum 100 foot vegetative buffer is required along all perennial waters indicated as a solid blue line on U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps; the first 25 feet, as a minimum, is recommended to remain in a natural or undisturbed state; however, nothing in this Section shall stand as a bar to desirable artificial streambank or shoreline protection;

(VII) No new development is allowed in the buffer; public projects such as road crossings and greenways may be allowed where no practicable alternative exists; these activities should minimize built-upon surface area, divert runoff away from surface waters and maximize the utilization of BMPs;

(VIII) Maintain inventory of all hazardous materials used and stored in the critical and protected areas; spill/failure containment plan and appropriate safeguards against contamination are required; waste minimization and appropriate recycling of materials is encouraged;

(ii) Critical Area Nonpoint Source and Stormwater Pollution Control Criteria:

(I) New development limited to one dwelling unit per acre or 12 percent built-upon area;

(II) If new development exceeds one dwelling unit per acre or 12 percent built-upon then development must control runoff from the first inch of rainfall; new development not to exceed 30 percent built-upon area;

(III) No new permitted sites for land application of sludge/residuals or petroleum contaminated soils are allowed;

(IV) No new landfills are allowed;

(C) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies which cannot be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class;

(D) Phenolic compounds: not greater than 1.0 ug/l (phenols) to protect water supplies

from taste and odor problems due to chlorinated phenols; specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;

(E) Sewage, industrial wastes, or other wastes: none which will have an adverse effect on human health or which are not effectively treated to the satisfaction of the Commission and in accordance with the requirements of the Division of Environmental Health, North Carolina Department of Environment, Health, and Natural Resources; any discharges or industrial users subject to pretreatment standards must upon request by the Commission, disclose all chemical constituents present or potentially present in their wastes and chemicals which could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water supplies classified WS-IV; these facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances;

(F) Total hardness: not greater than 100 mg/l as calcium carbonate;

(G) Total dissolved solids: not greater than 500 mg/l;

(H) Toxic and other deleterious substances:

(i) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-IV waters:

(I) Barium: 1.0 mg/l;

(II) Chloride: 250 ug/l;

(III) Manganese: 200 ug/l;

(IV) Nickel: 25 ug/l;

(V) Nitrate nitrogen: 10.0 mg/l;

(VI) 2,4-D: 100 ug/l;

(VII) 2,4,5-TP (Silvex): 10 ug/l;

(VIII) Sulfates: 250 mg/l;

(ii) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for carcinogens in Class WS-IV waters:

(I) Beryllium: 6.8 ng/l;

(II) Benzene: 1.19 ug/l;

(III) Carbon tetrachloride: 0.254 ug/l;

(IV) Chlorinated benzenes: 488 ug/l;

(V) Dioxin: 0.000013 ng/l;

(VI) Hexachlorobutadiene: 0.445 ug/l;

(VII) Polynuclear aromatic hydrocarbons: 2.8 ng/l;

(VIII) Tetrachloroethane (1,1,2,2): 0.172 ug/l;

(IX) Tetrachloroethylene: 0.8 ug/l;

(X) Trichloroethylene: 3.08 ug/l;

(XI) Vinyl Chloride: 2 ug/l;

(XII) Aldrin: 0.127 ng/l;

(XIII) Chlordane: 0.575 ng/l;

(XIV) DDT: 0.588 ng/l;

(XV) Dieldrin: 0.135 ng/l;

(XVI) Heptachlor: 0.208 ng/l;

(g) ~~(f)~~ Class B Waters.

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

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0301 CLASSIFICATIONS: GENERAL

(a) Schedule of Classifications. The classifications assigned to the waters of the State of North Carolina are set forth in the schedules of classifications and water quality standards assigned to the waters of the river basins of North Carolina, 15A NCAC 2B .0302 to .0317 which are on file in the Office of the Attorney General of North Carolina. These classifications are based upon the existing or contemplated best usage of the various streams and segments of streams in the basin, as determined through studies and evaluations and the holding of public hearings for consideration of the classifications proposed.

(b) Stream Names. The names of the streams listed in the schedules of assigned classifications were taken as far as possible from United States Geological Survey topographic maps. Where topographic maps were unavailable, U.S. Corps of Engineers maps, U.S. Department of Agriculture soil maps, and North Carolina highway maps were used for the selection of stream names.

(c) Classifications. The classifications assigned to the waters of North Carolina are denoted by the letters WS-I, WS-II, WS-III, WS-IV, B, C, SA, SB, and SC in the column headed "class." A brief explanation of the "best usage" for which the waters in each class must be protected is given as follows:

Fresh Waters

Class WS-I:

waters protected as water supplies which are in natural and ~~uninhabited~~ undeveloped watersheds; point source discharges of

PROPOSED RULES

	<u>treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter; local non-point source control programs to control nonpoint sources <u>source and stormwater discharge of pollution are required; suitable for all Class C uses;</u></u>		
Class WS- I <u>II</u> :	waters protected as water supplies which are <u>generally</u> in natural and uninhabited or predominantly undeveloped (not urbanized) watersheds; <u>point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter; no point source discharges are permitted, except those existing discharges qualifying for a General Permit according to the requirements of 15A NCAC 2H .0131 specifically approved by the Commission at the time of classification; and local land management nonpoint source control programs to control nonpoint source and stormwater discharge of pollution are required; suitable for all Class C uses;</u>	Class WS-III:	suitable for all Class C uses; water supply segment with no categorical restrictions on watershed development or discharges; suitable for all Class C uses;
		Class WS-IV:	<u>waters protected as water supplies which are generally in moderately to highly developed watersheds; point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter; local non-point source control programs to control nonpoint source and stormwater discharge of pollution are required; suitable for all Class C uses;</u>
		Class B:	primary recreation and any other usage specified by the "C" classification;
		Class C:	aquatic life propagation and survival, fishing, wildlife, secondary recreation, and agriculture.
		Tidal Salt Waters	
		Class SA:	shellfishing for market purposes and any other usage specified by the "SB" and "SC" classification;
		Class SB:	primary recreation and any other usage specified by the "SC" classification;
		Class SC:	aquatic life propagation and survival, fishing, wildlife, and secondary recreation.
		Supplemental Classifications	
		Trout Waters:	Suitable for natural trout propagation and maintenance of stocked trout;
		Swamp Waters:	Waters which have low velocities and other natural characteristics which are different from adjacent streams;
		NSW:	Nutrient Sensitive Waters which require limitations on nutrient inputs;
Class WS- II <u>III</u> :	waters protected as water supplies which are <u>generally</u> in low to moderately developed (urbanized) watersheds; <u>point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter; discharges are restricted to primarily domestic wastewater or industrial non-process waters specifically approved by the Commission; local land management nonpoint source control programs to control nonpoint source and stormwater discharge of pollution are required;</u>		

HQW: High Quality Waters which are waters that are rated as excellent based on biological and physical/chemical characteristics through division monitoring or special studies, native and special native trout waters (and their tributaries) designated by the Wildlife Resources Commission, primary nursery areas (PNA) designated by the Marine Fisheries Commission and other functional nursery areas designated by the Wildlife Resources Commission or other appropriate agencies, critical habitat areas designated by the Wildlife Resources Commission or the Department of Agriculture, all water supply watersheds which are either classified as WS-I or WS-II or those for which a formal petition for reclassification as WS-I or WS-II has been received from the appropriate local government and accepted by the Division of Environmental Management and all Class SA waters.

ORW: Outstanding Resource Waters which are unique and special waters of exceptional state or national recreational or ecological significance which require special protection to maintain existing uses.

(d) Water Quality Standards. The water quality standards applicable to each classification assigned are those established in 15A NCAC 2B .0200, Classifications and Water Quality Standards Applicable to the Surface Waters of North Carolina, as adopted by the North Carolina Environmental Management Commission.

(e) Index Number.

(1) Reading the Index Number. The index number appearing in the column so designated is an identification number assigned to each stream or segment of a stream, indicating the specific tributary

progression between the main stem stream and the tributary stream.

(2) Cross-Referencing the Index Number. The inclusion of the index number in the schedule is to provide an adequate cross reference between the classification schedules and an alphabetic list of streams.

(f) Classification Date. The classification date indicates the date on which enforcement of the provisions of Section 143-215.1 of the General Statutes of North Carolina became effective with reference to the classification assigned to the various streams in North Carolina.

(g) Reference. Copies of the schedules of classifications adopted and assigned to the waters of the various river basins may be obtained at no charge by writing to:

Director
Division of Environmental Management
~~Department of Natural Resources~~
~~and Community Development~~
Department of Environment, Health,
and Natural Resources
Post Office Box ~~27687~~ 29535

Raleigh, North Carolina ~~27611~~ 27626-0535

(h) Places where the schedules may be inspected:

Division of State Library
Archives -- State Library Building
109 E. Jones Street
Raleigh, North Carolina.

(i) Unnamed Streams.

(1) Any stream which is not named in the schedule of stream classifications carries the same classification as that assigned to the stream segment to which it is tributary except:

(A) unnamed streams specifically described in the schedule of classifications; or

(B) unnamed freshwaters tributary to tidal saltwaters will be classified "C"; or

(C) after November 1, 1986, any newly created areas of tidal saltwater which are connected to Class SA waters by approved dredging projects will be classified "SC" unless case-by-case reclassification proceedings are conducted.

(2) The following river basins have different policies for unnamed streams entering other states or for specific areas of the basin:

Iliwassee River Basin (Rule .0302); Little Tennessee River Basin and Savannah River Drainage Area (Rule .0303); French Broad River Basin (Rule .0304); Watauga River Basin (Rule .0305); Broad River Basin (Rule .0306); New River Basin (Rule .0307); Catawba River Basin (Rule

.0308); Yadkin-Pee Dee River Basin (Rule .0309); Lumber River Basin (Rule .0310); Roanoke River Basin (Rule .0313); Tar-Pamlico River Basin (Rule .0316); Pasquotank River Basin (Rule .0317).

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

.0302 HIWASSEE RIVER BASIN

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

- (1) August 9, 1981;
- (2) February 1, 1986;
- (3) March 1, 1989;
- (4) August 1, 1990;
- (5) March 1, 1992.

(e) The Schedule of Classifications and Water Quality Standards for the Hiwassee River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0303 LITTLE TENN RIVER BASIN AND SAVANNAH RIVER DRAINAGE AREA

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

- (1) February 16, 1977;
- (2) March 1, 1977;
- (3) July 13, 1980;
- (4) February 1, 1986;
- (5) October 1, 1987;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) July 1, 1990;
- (9) August 1, 1990;
- (10) March 1, 1991;

(11) March 1, 1992.

(h) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0304 FRENCH BROAD RIVER BASIN

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

- (1) September 22, 1976;
- (2) March 1, 1977;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) August 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) May 1, 1987;
- (9) March 1, 1989;
- (10) October 1, 1989;
- (11) January 1, 1990;
- (12) August 1, 1990;
- (13) March 1, 1992.

(g) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate

appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0305 WATAUGA RIVER BASIN

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

- (1) August 12, 1979;
- (2) February 1, 1986;
- (3) October 1, 1987;
- (4) August 1, 1989;
- (5) August 1, 1990;
- (6) December 1, 1990;
- (7) March 1, 1992.

(f) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0306 BROAD RIVER BASIN

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

- (1) March 1, 1977;
- (2) February 12, 1979;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) February 1, 1986;
- (6) March 1, 1992.

(d) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I,

WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0307 NEW RIVER BASIN

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

- (1) August 10, 1980;
- (2) April 1, 1983;
- (3) February 1, 1986;
- (4) August 1, 1989;
- (5) August 1, 1990;
- (6) March 1, 1992.

(e) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0308 CATAWBA RIVER BASIN

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

- (1) March 1, 1977;
- (2) August 12, 1979;
- (3) April 1, 1982;
- (4) January 1, 1985;

- (5) August 1, 1985;
- (6) February 1, 1986;
- (7) March 1, 1989;
- (8) May 1, 1989;
- (9) March 1, 1990;
- (10) August 1, 1990;
- (11) March 1, 1992.

(g) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0309 YADKIN-PEE DEE RIVER BASIN

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

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) October 1, 1988;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) August 1, 1990;
- (9) March 1, 1992.

(g) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified

from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0310 LUMBER RIVER BASIN

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

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) September 14, 1980;
- (4) April 12, 1981;
- (5) April 1, 1982;
- (6) February 1, 1986;
- (7) July 1, 1990;
- (8) August 1, 1990;
- (9) March 1, 1992.

(e) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0311 CAPE FEAR RIVER BASIN

(b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;
- (9) December 1, 1985;

- (10) February 1, 1986;
- (11) July 1, 1987;
- (12) October 1, 1987;
- (13) March 1, 1988;
- (14) June 1, 1988;
- (15) July 1, 1988;
- (16) January 1, 1990;
- (17) August 1, 1990;
- (18) March 1, 1992.

(g) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0313 ROANOKE RIVER BASIN

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

- (1) May 18, 1977;
- (2) July 9, 1978;
- (3) July 18, 1979;
- (4) July 13, 1980;
- (5) March 1, 1983;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) July 1, 1991;
- (9) March 1, 1992.

(e) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than

WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0315 NEUSE RIVER BASIN

(b) The Neuse River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) September 14, 1980;
- (4) August 9, 1981;
- (5) January 1, 1982;
- (6) April 1, 1982;
- (7) December 1, 1983;
- (8) January 1, 1985;
- (9) August 1, 1985;
- (10) February 1, 1986;
- (11) May 1, 1988;
- (12) July 1, 1988;
- (13) October 1, 1988;
- (14) January 1, 1990;
- (15) August 1, 1990;
- (16) December 1, 1990;
- (17) July 1, 1991;
- (18) March 1, 1992.

(h) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0316 TAR-PAMLICO RIVER BASIN

PROPOSED RULES

(c) The Tar-Pamlico River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) November 1, 1978;
- (3) June 8, 1980;
- (4) October 1, 1983;
- (5) June 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) August 1, 1988;
- (9) January 1, 1990;
- (10) August 1, 1990;
- (11) March 1, 1992.

(g) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

.0317 PASQUOTANK RIVER BASIN

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

- (1) March 1, 1977;
- (2) May 18, 1977;
- (3) December 13, 1979;
- (4) January 1, 1985;
- (5) February 1, 1986;
- (6) January 1, 1990;
- (7) August 1, 1990;
- (8) March 1, 1992.

(f) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective March 1, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III or WS-IV, depending on the characteristics of the watershed, as defined

in the revised water supply protection regulations (15A NCAC 2B .0100, .0200 and .0300) which became effective on March 1, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or associated with an intake which is no longer in use.

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

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend rule(s) cited as 15A NCAC 2D .0524, .0525, .0914, .1002, and .1104; 2H .0610.

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

The public hearing will be conducted at 7:00 p.m. on July 16, 18, 22, 1991 at the following locations:

July 16, 1991
Commissioner's Meeting Rm.
Durham Co. Courthouse
200 Main St.
Durham, NC

July 18, 1991
Health Dept. Conf. Rm.
Ira McDowell Govt. Complex
2222 S. Fayetteville St.
Asheboro, NC

July 22, 1991
Charlotte-Mecklenburg Govt. Ctr.
Room A118 600 E. 4th St.
Charlotte, NC

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Any person desiring to comment for more than three minutes is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The hearing officer may limit oral presentation lengths if many people want to speak to five minutes. The record

of proceedings will remain open for 30 days following the hearing to receive additional written statements. To be included, the statement must be received by the Department within 30 days after the hearing date.

Addition information concerning the hearing or the proposals may be obtained by contacting:

Mr. Thomas C. Allen
Division of Environmental Management
P. O. Box 29535
Raleigh, North Carolina 27626-0535
(919) 733-3340

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0500 - EMISSION CONTROL STANDARDS

.0524 NEW SOURCE PERFORMANCE STANDARDS

(a) Sources of the following types when subject to new source performance standards promulgated in 40 CFR Part 60 shall comply with the emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedure provisions, and any other provisions, as required therein, rather than with any otherwise-applicable regulation in this Section ~~or Section .0900 of this Subchapter~~ which would be in conflict therewith, but sources emitting volatile organic compounds that are located in an ozone nonattainment area shall comply with the more stringent of the following requirements or the requirements in Section .0900 of this Subchapter:

Statutory Authority G.S. 143-215.3 (a) (1); 143-215.107 (a) (5).

.0525 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

(a) Sources emitting pollutants of the following types when subject to national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedure provisions, and any other provisions, as required therein, rather than with any otherwise-

applicable regulation in this Section ~~or Section .0900 of this Subchapter~~ which would be in conflict therewith, but sources emitting volatile organic compounds that are located in an ozone nonattainment area shall comply with the more stringent of the following requirements or the requirements in Section .0900 of this Subchapter:

Statutory Authority G.S. 143-215.3 (a) (1); 143-215.107 (a) (5).

SECTION .0900 - VOLATILE ORGANIC COMPOUNDS

.0914 DETERMINATION OF VOC EMISSION CONTROL SYSTEM EFFICIENCY

(b) The following procedures shall be used to determine efficiency:

(2) The efficiency of any capture system used to transport the volatile organic compound emissions from their point of origination to the control equipment shall be computed using accepted engineering practice and in a manner approved by the Director, a method contained in 55 FR 26814, June 29, 1990, pages 26887 to 26909 (Appendix B of 40 CFR 52.741).

Statutory Authority G.S. 143-215.3 (a) (1); 143-215.68; 143-215.107 (a) (5).

SECTION .1000 - MOTOR VEHICLE EMISSION CONTROL STANDARD

.1002 APPLICABILITY

(b) The emission standards will become effective in the following counties on the dates indicated below:

County	Effective Date
Mecklenburg	April 1, 1991
Wake	April 1, 1991
Forsyth	July 1, 1991
Guilford	July 1, 1991
Durham	July 1, 1992
Gaston	July 1, 1992
Davidson	January 1, 1993
Cabarrus	January 1, 1993
Randolph	July 1, 1993
Orange	July 1, 1993
Union	July 1, 1993

Statutory Authority G.S. 20-128.2(a); 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(6); 143-215.107(a)(7).

PROPOSED RULES

SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS

.1104 TOXIC AIR POLLUTANT GUIDELINES

(a) A facility shall not emit any of the following toxic air pollutants in such quantities that may cause or contribute beyond the premises (contiguous property boundary) to any significant ambient air concentration that may adversely affect human health. In determining these significant ambient air concentrations, the division shall be guided by the following list of acceptable ambient levels in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure (except for asbestos):

	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	15-minute (Acute Irritants)
(6) arsenic and <u>inorganic</u> <u>arsenic compounds</u>	2.3x10 ⁻⁷			
(73) styrene		1.34	<u>10.6</u>	42.5

Statutory Authority G.S. 143-215.3 (a) (1); 143-215.107 (a) (3), (4) (5); 143B-282.

SUBCHAPTER 21I - PROCEDURES FOR PERMITS: APPROVALS

SECTION .0600 - AIR QUALITY PERMITS

.0610 PERMIT REQUIREMENTS FOR TOXIC AIR POLLUTANTS

(h) A permit to emit toxic air pollutants shall not be required for any facility whose actual emissions from all sources are no more than the following:

	1b/yr	1b/day	1b/hr	1b/15 min.
(9) arsenic and <u>inorganic</u> <u>arsenic compounds</u>	0.016			
(92) styrene		27	<u>2.7</u>	2.7

Statutory Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282.

tacting: Dedra Blackwell, Division of Coastal Management, P. O. Box 27687, Raleigh, NC 27611-7687, (919) 733-2293.

Notice is hereby given in accordance with G.S. 150B-12 that the EHNR - Division of Coastal Management intends to amend rule(s) cited as 15A NCAC 7H .0208, .0306 and 15A NCAC 7J .0204.

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

The public hearing will be conducted at 4:00 p.m. on July 25, 1991 at the Duke University Marine Laboratory, Beaufort, NC.

Comment Procedures: All persons interested in this matter is invited to attend the public hearing. The Coastal Resources Commission will receive written comments up to the date of the hearing. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. Additional information concerning the hearing or the proposals may be obtained by con-

CHAPTER 7 - COASTAL MANAGEMENT

SUBCHAPTER 7H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0200 - THE ESTUARINE SYSTEM

.0208 USE STANDARDS

(b) Specific Use Standards

- (1) Navigation channels, canals, and boat basins must be aligned or located so as to avoid primary nursery areas highly productive shellfish beds, beds of submerged vegetation, or significant areas of regularly or irregularly flooded coastal wetlands.
- (J) Maintenance excavation in canals, channels and boat basins within primary nursery areas, highly productive shellfish beds, beds of submerged vegetation or significant areas of regularly or irregularly flooded wetlands should be avoided. However, when essential to maintain a

traditional and established use, maintenance excavation may be approved if the applicant meets all of the following criteria as shown by clear and convincing evidence accompanying the permit application. This Rule does not affect restrictions placed on permits issued after March 1, 1991.

- (i) The applicant can demonstrate and document that a water-dependent need exists for the excavation; and
- (ii) There exists a previously permitted channel which was constructed or maintained under permits issued by the State and/or Federal government. If a natural channel was in use, or if a human-made channel was constructed before permitting was necessary, there must be clear evidence that the channel was continuously used for a specific purpose; and
- (iii) Excavated material can be removed and placed in an approved disposal area without significantly impacting adjacent nursery areas, shellfish beds, submerged vegetation or wetlands; and
- (iv) The original depth and width of a human-made or natural channel will not be increased to allow a new or expanded use of the channel.

Statutory Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124.

SECTION .0300 - OCEAN HAZARD AREAS

.0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(1) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under Subchapter 7H, Rule .0308(a)(2).

Statutory Authority G.S. 113A-107; 113A-113(b)(6); 113A-124.

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

SECTION .0200 - APPLICATION PROCESS

.0204 PROCESSING THE APPLICATION

(b) Application processing will begin when an application is accepted as complete. Before an application will be accepted as complete, the following requirements must be met;

(6) the application fee must be paid as set out in this Subparagraph:

(A) Major development permit - a check or money order payable to the Department for two hundred fifty dollars (\$250.00).

(B) Minor development permit - a check or money order payable to the permit-letting agency in the amount of ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00). Monies so collected may be used only in the administration of the permit program;

Statutory Authority G.S. 113-229; 113A-119; 113A-122(c); 113A-124.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Department of EHNRR, Division of Forest Resources intends to adopt rule(s) cited as 15A NCAC 9C .1007.

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

The public hearing will be conducted at 2:00 p.m. on July 31, 1991 at the Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC.

Comment Procedures: All interested persons are invited to attend. Oral comments will be received at the Public Hearing limited to three minutes per speaker. Written comments will be accepted for five working days after the Public Hearing and should be addressed to the Urban Forestry Program Director, Division of Forest Resources, P. O. Box 27687, Raleigh, NC 27611. Questions can be directed to the Program Director at 919-733-2162.

Editor's Note: This rule has been filed as a temporary rule effective May 31, 1991, for a period of 180 days to expire on November 27, 1991.

CHAPTER 9 - DIVISION OF FOREST RESOURCES

SUBCHAPTER 9C - DIVISION PROGRAMS

SECTION .1000 - URBAN AND COMMUNITY FORESTRY

.1007 AMERICA THE BEAUTIFUL GRANT PROGRAM

The expanded Forestry Title of the 1990 Farm Bill includes authorization of President Bush's America the Beautiful tree planting program. Congress appropriated funds for the Department of Agriculture, and these funds are allocated to the states through the U.S. Forest Service. The Division allocates funds to communities and organizations through matching, competitive grants. The following procedure is used to allocate grants:

- (1) A request for proposals, which advises of participation requirements, is advertised statewide through available means. Proposals are sent to the Urban Forestry Program Director, Division of Forest Resources, P. O. Box 27687, Raleigh, NC 27611.
- (2) Funding criteria are established in the Request for Proposals. All proposals received are reviewed, evaluated and a priority ranking assigned based on a system developed by the Division with input from the North Carolina Urban Forestry Council and Extension Forest Resources, and conforming to Urban and Community Forestry federal assistance management guidelines. These guidelines are adopted by reference in accordance with G.S. 150B-14(c).
- (3) Recommended grantees are forwarded to the Department for final approval.
- (4) Grants are awarded based on the highest rating in priority until funds are exhausted. In case of a tie between communities that causes the fund to be exceeded, a prorated cost share will be granted, not to exceed available funds.
- (5) Grant recipients are advised as to length of grant period and timetable to submit verification of compliance including the 50 percent match. If grant objectives are not met, the entire amount, or unused portion, must be returned.
- (6) The Division will establish a system to account for work accomplished by grant recipients. Full use will be made of all Federal granting procedures. Complete documentation of all costs related to the grant project must be provided to the Division by the termination date of the grant period.
- (7) Tree planting projects must meet minimum standards contained in the Forestry Handbook, 2nd Edition, for the Society of American Foresters, 1984. This is a standard reference contained in larger libraries and many professional offices.

- (8) Grant recipients must provide the Division with copies of landscape designs, street tree management plans, and other similar activities as verification of such activities.
- (9) Communities are encouraged to use private consultants to help meet the needs for technical assistance and to ensure professional standards are implemented on projects. Reasonable consultant costs can be included in the grant request.

Statutory Authority G.S. 113-16; 143B-279.2.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10F .0324, .0330; 10I .0003 - .0005.

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

The public hearing will be conducted at 10:00 a.m. on July 15, 1991 at the Archdale Building, Room 386, 512 North Salisbury Street, Raleigh, NC 27604-1188.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from July 1, 1991 to July 30, 1991. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0324 DAVIDSON COUNTY

(a) Regulated Area. This Rule applies only to ~~that portion~~ those portions of High Rock Lake and Beaver Dam Creek Cove located on Badin Lake which ~~lies~~ lie within the boundaries of Davidson County.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching

ramp while on the waters of High Rock Lake in Davidson County.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area established with the approval of the Executive Director, or his representative, on the waters of High Rock Lake in Davidson County.

(d) Speed Limit Near Bridges. No person shall operate a vessel at greater than no-wake speed within 50 yards of any highway bridge over the waters of High Rock Lake in Davidson County.

(e) Speed Limit at Mouth of Cove. Those waters within 50 yards on either side of the mouth of Beaver Dam Creek Cove located on Badin Lake as delineated by appropriate markers.

(f) ~~(f)~~ Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Executive Director, or his representative, on the waters of High Rock Lake in Davidson County.

(g) ~~(f)~~ Placement and Maintenance of Markers. The Board of Commissioners of Davidson County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers, if applicable. With regard to marking High Rock Lake, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.

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

.0330 CARTERET COUNTY

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

- (1) that portion of the Intracoastal Waterway within 200 feet on each side of the entrance to Sea Gate Marina;
- (2) the waters of Money Island Slough beginning at the east end of Money Island near the Anchorage Marina Basin and ending at the west end of Money Island where Brooks Avenue deadends at the slough;
- (3) the waters of Taylor Creek located within the territorial limits of the Town of Beaufort;
- (4) the waters of Pelletier Creek beginning at the entrance to Pelletier Creek at the Intracoastal Waterway and ending at U.S. Highway 70;
- (5) the waters of Bogue Sound in Morehead City between Sugar Loaf Island and the seawall on the south side of Evans,

Shepard and Shackelford Streets and bounded on the east by the State Ports Authority and on the west by the eastern right-of-way margin of South 13th Street extended;

- (6) the waters of Gallant's Channel from the US 70 crossing over the Grayden Paul bridge to Taylor's Creek;
- (7) the waters of Cedar Island Bay and Harbor from U.S. 70 to Cedar Island Bay Channel Light 8;

(8) the waters of Radio Island Creek.

(b) Speed Limit. It is unlawful to operate a motorboat or vessel at a speed greater than no-wake speed while on the waters of the regulated areas designated in Paragraph (a) of this Rule.

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

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

SUBCHAPTER 101 - ENDANGERED AND THREATENED SPECIES

.0003 ENDANGERED SPECIES LISTED

(b) The following species of resident wildlife are designated as state-listed endangered species:

(3) Fish:

None Listed At This Time

- (A) Blotchside Logperch (Percina burtoni)
- (B) Cutlips Minnow (Exoglossum maxillingua)
- (C) Dusky Darter (Percina sciera)
- (D) Orangefin Madtom (Noturus gilberti)
- (E) Paddlefish (Polyodon spatula)
- (F) Rustyside Sucker (Moxostoma hamiltoni)
- (G) Stonecat (Noturus flavus)

Statutory Authority G.S. 113-134; 113-291.2; 113-292; 113-333.

.0004 THREATENED SPECIES LISTED

(b) The following species of resident wildlife are designated as state-listed threatened species:

(3) Fish:

None Listed At This Time

- (A) American Brook Lamprey (Lampetra appendix)
- (B) Banded Sculpin (Cottus carolinae)
- (C) Carolina Pygmy Sunfish (Elassoma boehlkei)
- (D) Freshwater Drum (Aplodinotus grunniens)
- (E) Logperch (Percina caprodes)
- (F) Rosyface Chub (Hybopsis rubrifrons)
- (G) Sharphead Darter (Etheostoma acuticeps)
- (H) Striped Shiner (Notropis chrysocephalus)
- (I) Waccamaw Darter (Etheostoma perlongum)

Statutory Authority G.S. 113-134; 113-291.2; 113-292; 113-333.

.0005 SPECIAL CONCERN SPECIES LISTED

The following species of resident wildlife are designated as state-listed special concern species:

(3) Fish:

None Listed At This Time

- (A) Atlantic Sturgeon (Acipenser oxyrhynchus)
- (B) Bigeye Jumprock (Moxostoma ariommum)
- (C) Bluefin Killifish (Lucania goodei)
- (D) Blueside Darter (Etheostoma jessiae)
- (E) Bridle Shiner (Notropis bifrenatus)
- (F) Broadtail Madtom (Noturus n. sp.) (Lumber River and its tributaries and Cape Fear River and its tributaries)
- (G) Carolina Darter (Etheostoma collis)
- (H) Carolina Madtom (Noturus furiosus) (Neuse River and its tributaries)
- (I) Highfin Carpsucker (Carpionodes velifer)
- (J) Kanawha Minnow (Phenacobius teretulus)
- (K) Lake Sturgeon (Acipenser fulvescens)
- (L) Least Brook Lamprey (Lampetra aepyptera)
- (M) Least Killifish (Heterandria formosa)
- (N) Longhead Darter (Percina macrocephala)
- (O) Mooneye (Hiodon tergisus)
- (P) Mountain Madtom (Noturus eleutherus)
- (Q) Olive Darter (Percina squamata)
- (R) Pinewoods Darter (Etheostoma mariae)
- (S) River Carpsucker (Carpionodes carpio)
- (T) River Redhorse (Moxostoma carinatum) (Pee Dee River and its tributaries)
- (U) Riverweed Darter (Etheostoma podostemone)

(V) Rosyside Dace (Clinostomus funduloides ssp.) (Little Tennessee River and its tributaries)

(W) Sandhills Chub (Semotilus lumbee)

(X) Sharpnose Darter (Percina oxyrhyncha)

(Y) Tennessee Snubnose Darter (Etheostoma simoterum)

(Z) Thinlip Chub (Hybopsis sp.) (Lumber River and its tributaries and Cape Fear River and its tributaries)

(AA) Turquoise Darter (Etheostoma inscriptum)

(BB) Waccamaw Killifish (Fundulus waccamensis)

(CC) Wounded Darter (Etheostoma vulneratum)

(DD) Yellowfin Shiner (Notropis lutipinnis) (Savannah River and its tributaries and Little Tennessee River and its tributaries)

Statutory Authority G.S. 113-134; 113-291.2; 113-292; 113-333.

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 6B .0001 - .0002.

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

The public hearing will be conducted at 10:00 a.m. on July 15, 1991 at the Third Floor Conference Room, Education Building, 116 West Edenton Street, Raleigh, NC 27603-1712.

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

CHAPTER 6 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 6B - STUDENT TRANSPORTATION SYSTEM

.0001 SCHOOL BUS DRIVERS

(a) In order to be eligible for employment by a LEA as a school bus driver, a person must meet the requirements of G.S. 20-11(a), 20-218(a) and 115C-245. In addition, the person must:

- (1) furnish the local superintendent with a health certificate which complies with G.S. 115C-323;
 - (2) have both natural hands and both natural feet, with full use of arms, legs, hands and feet;
 - (3) have at least 20/40 vision in each eye, with or without corrective lens; and
 - (4) successfully complete the prescribed course in school bus driver training.
- (b) A person may not serve as a school bus driver if the person:
- (1) has tampered with the governor or any wires and related parts thereof;
 - (2) has willfully damaged and/or abused the bus;
 - (3) has tampered with, removed or abused any of the safety equipment installed on the bus so as to make the equipment inoperable or unusable; ~~or~~
 - (4) has added to or improvised the standard equipment, which may jeopardize the safety of the pupil passengers; or
 - (5) is involved in a school bus accident as a result of driver negligence, as determined by local review.
- (c) A person who is disqualified under Paragraph (b) of this Rule or under LEA policy may apply through the principal after six months for reinstatement. If the principal approves the application, the person must again complete the entire training and certification procedure before being qualified to operate a school bus.

Statutory Authority G.S. 115C-240(c).

.0002 SCHOOL BUS PASSENGERS

(a) LEAs shall provide instruction in school bus safety to all children during the first five days of school and regularly thereafter during the school year. The LEAs shall include in the instruction basic skills and knowledge vital to safety in school bus transportation.

(b) LEAs shall provide seating for all school bus passengers entitled to transportation according to the rated seating capacity for each specific bus. The LEAs shall not allow the number of passengers being transported to exceed the official rated capacity for the type and model bus being used. All riders must be seated before a bus may leave a stop; overcrowding and standees are prohibited.

(c) LEAs shall establish uniform procedures for transporting children with special needs to include:

- (1) recommendation by school-based committee;

- (2) inclusion in the written individualized education plan; and
- (3) approval by the transportation director and superintendent.

Statutory Authority G.S. 115C-240(c).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board of Medical Examiners intends to amend rule(s) cited as 21 NCAC 32H .0402 and .0406.

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

The public hearing will be conducted at 2:00 p.m. on July 16, 1991 at the Division of Facility Services, Room 201, Council Building, 701 Barbour Drive, Raleigh, NC 27603.

Comment Procedures: Written comments concerning the rules should be submitted as soon as possible, but no later than July 16, 1991 to Mr. Jackie Sheppard, 701 Barbour Drive, Raleigh, NC 27603. Oral comments may be presented at the hearing.

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

SUBCHAPTER 32H - MOBILE INTENSIVE CARE

SECTION .0400 - TRAINING AND PERFORMANCE OF MOBILE INTENSIVE CARE PERSONNEL

.0402 EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC PERFORMANCE

EMT-Ps trained in approved training programs, certified by the Board of Medical Examiners to perform medical acts, and functioning in an approved mobile intensive care program may do any of the following in accordance with the protocols established by their sponsor hospital:

- (1) While at the scene of a medical emergency where the capability of continuous two-way voice communication, or the capability of continuous two-way voice communication supplemented by a telemetered electrocardiogram, is maintained with a physician or approved MICN located in the sponsor hospital, and upon order of such physician or MICN:

PROPOSED RULES

- (a) establish an intravenous line in a peripheral vein and administer any intravenous solution approved by the Board of Medical Examiners for use by EMT-Ps;
 - (b) obtain blood for laboratory analysis;
 - (c) administer parenterally, orally, sublingually, or topically any of the drugs approved by the Board of Medical Examiners for use by EMT-Ps;
 - (d) perform pulmonary ventilation by means of an esophageal obturator airway, esophageal gastric tube airway, pharyngo-tracheal lumen airway, or endotracheal tube;
 - (e) perform defibrillation or cardioversion;
 - (f) use gas-powered or hand-powered nebulizers;
 - (g) decompress a tension pneumothorax by use of a catheter-flutter-valve device;
 - (h) use positive end expiratory pressure respirators;
 - (i) perform cricothyrotomy for relief of upper airway obstruction;
 - (j) perform gastric suction by intubation;
 - (k) perform urinary catheterization; ~~and~~
 - (l) perform external cardiac pacing; ~~and~~
 - (m) establish an intraosseous infusion line in appropriate patients under 60 months of age administer any intravenous fluid or drugs approved by the Board of Medical Examiners for use by EMT-Ps.
- (2) When confronted with a pulseless non-breathing patient, perform cardiopulmonary resuscitation, defibrillation, pulmonary ventilation by means of an esophageal obturator airway, esophageal gastric tube airway, pharyngo-tracheal lumen airway, or endotracheal tube, and administer appropriate cardiac drugs prior to contacting the sponsor hospital.
 - (3) Establish an intravenous line in a peripheral vein and administer any intravenous solution approved by the Board of Medical Examiners for use by EMT-Ps prior to contacting the sponsor hospital. If the intravenous line is not successfully established after two attempts, the EMT-P must contact the sponsor hospital prior to making another attempt.

Statutory Authority G.S. 143-514.

.0406 EMERGENCY MED TECHNICIANS:

ADVANCED INTERMEDIATE PERFORMANCE

EMT-AIs trained in approved training programs, certified by the Board of Medical Examiners to perform medical acts, and functioning in an approved mobile intensive care program may

do any of the following in accordance with the protocols established by their sponsor hospital:

- (1) While at the scene of a medical emergency where the capability of continuous two-way voice communication is maintained with a physician or approved MICN located in the sponsor hospital, and upon order of such physician or MICN:
 - (a) establish an intravenous line in a peripheral vein and administer any intravenous solution approved by the Board of Medical Examiners for use by EMT-AIs;
 - (b) obtain blood for laboratory analysis;
 - (c) administer parenterally, orally, sublingually, or topically any of the drugs approved by the Board of Medical Examiners for use by EMT-AIs;
 - (d) administer subcutaneously 1:1000 epinephrine to treat systemic allergic reactions;
 - (e) perform pulmonary ventilation by means of an esophageal obturator airway, esophageal gastric tube airway, pharyngo-tracheal lumen airway or endotracheal tube;
 - (f) perform defibrillation; ~~and~~
 - (g) perform external cardiac pacing; ~~and~~
 - (h) establish an intraosseous infusion line in appropriate patients under 60 months of age and administer any intravenous fluid or drugs approved by the Board of Medical Examiners for use of EMT-Ps.
- (2) When confronted with a pulseless non-breathing patient, perform cardiopulmonary resuscitation, defibrillation, pulmonary ventilation by means of an esophageal obturator airway, esophageal gastric tube airway, pharyngo-tracheal lumen airway or endotracheal tube and administer appropriate cardiac drugs prior to contacting the sponsor hospital.

Statutory Authority G.S. 143-514.

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board of Nursing intends to amend rule(s) cited as 21 NCAC 36 .0211, .0223, .0401 and .0404.

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

The public hearing will be conducted at 4:00 p.m. on July 18, 1991 at the North Carolina Board

of Nursing Office, 3724 National Drive, Suite 201, Raleigh, NC 27602.

Comment Procedures: Any person wishing to present oral testimony relevant to proposed rules may register at the door before the hearing begins and present hearing officer with a written copy of testimony. Written statements may be directed five days prior to the hearing date to the North Carolina Board of Nursing, P. O. Box 2129, Raleigh, NC 27602.

CHAPTER 36 - BOARD OF NURSING

SECTION .0200 - LICENSURE

.0211 EXAMINATION

(a) An applicant meets the educational qualifications to write the examination for licensure to practice as a registered nurse by:

(1) graduating from a board approved nursing program designed to prepare a person for registered nurse licensure:

(A) applicants graduating before July 1, 1981 have no time restrictions on writing the examination;

(B) applicants graduating after July 1, 1981 must write the examination within three years of graduation.

(2) graduating from a nursing program outside the United States or Canada that is designed to prepare graduates for the equivalent of licensure as a registered nurse, and submitting the certificate issued by the Commission on Graduates of Foreign Nursing Schools as evidence of the required educational qualifications.

(b) An applicant meets the educational qualifications to write the examination for licensure to practice as a licensed practical nurse by:

(1) graduating from a Board approved nursing program designed to prepare a person for practical nurse licensure:

(A) applicants graduating before July 1, 1981 have no time restrictions on writing the examination; and

(B) applicants graduating after July 1, 1981 must write the examination within three years of graduation.

(2) graduating from a nursing program outside the United States or Canada that is designed to prepare graduates for the equivalent of licensure as a licensed practical nurse, and submitting evidence from a Board approved evaluation agency of the required educational qualifications and evidence of English proficiency from a Board approved agency or service; or

(3) graduating within the past three years from a Board approved nursing program designed to prepare graduates for registered nurse licensure, and failing to pass the examination for registered nurse licensure; or

(4) completing a Board approved course of study such as offered by the U.S. Navy for Hospital Corpsman. Applicants must write the examination within three years of completing active duty/selected reserve duty as a military Hospital Corpsman. The Board approved course of study includes:

(A) a course equivalent to the U.S. Navy Hospital Corpsman Basic (Class "A") course;

(B) Advancement Examination for Navy Hospital Corpsman Third Class or an equivalent examination;

(C) college level human lifespan growth and development course; and

(D) a nursing course provided by the Navy or another approved agency that includes maternal-child nursing theory and clinical, the legal role of the LPN, the nursing process, and nutrition.

(c) An application to the Board of Nursing for examination shall be submitted at least 60 days prior to the examination. In instances where the 60 day deadline cannot be met, the Board may grant an exception upon request from the director of the nursing educational program in which the applicant is enrolled or from the applicant. An admission card with specific information as to time, date, and place of examination will be mailed to the applicant approximately 14 days prior to the date of the examination.

(d) Those applicants who qualify for examination in accordance with G.S. 90-171.29 will be issued a Status A temporary license as provided for in G.S. 90-171.33. A temporary license may be withheld in accordance with G.S. 90-171.37.

(e) The examinations for licensure developed by the National Council of State Boards of Nursing, Inc. shall be the examinations for licensure as a registered nurse or as a licensed practical nurse in North Carolina.

(1) These examinations shall be administered in accordance with the contract between the Board of Nursing and the National Council of State Boards of Nursing, Inc.

(2) The examination for licensure as a registered nurse shall be administered in February and July on dates determined by the National Council of State Boards of Nursing, Inc.

- (3) The examination for licensure as a licensed practical nurse shall be administered in April and October on dates determined by the National Council of State Boards of Nursing, Inc.
 - (4) Scores on the examination shall be reported, by mail only, to the individual applicant and to the director of the program from which the applicant was graduated. Aggregate results from the examination(s) may be published by the Board.
 - (5) The passing standard score for each of the five tests comprising the examination for registered nurse licensure, up to and including the February 1982 examination is 350. For the examination offered in July 1982 and through July 1988, the passing score is 1600. Beginning February 1989, the passing score for registered nurse licensure is reported as "PASS".
 - (6) The passing score for the examination for practical nurse licensure, up to and including the April 1988 is 350. Beginning October 1988, the passing score for practical nurse licensure is reported as "PASS".
 - (f) Applicants who meet the qualifications for licensure will be issued a certificate of registration and a license to practice nursing for the remainder of the year.
 - (g) Applicants for North Carolina license may take the examination for licensure developed by the National Council of State Boards of Nursing, Inc. in another jurisdiction of the United States, providing:
 - (1) the Board of Nursing in that jurisdiction consents to proctor the applicant;
 - (2) arrangements are made through the North Carolina Board of Nursing sufficiently in advance of the examination date to meet application requirements in both jurisdictions; and
 - (3) the applicant pays any service fee charged by the proctoring Board.
 - (h) The North Carolina Board of Nursing may proctor an examination upon request of another state Board of Nursing at the regularly scheduled examination sessions if space is available. The applicant shall submit a service fee for such proctoring.
- Statutory Authority G.S. 90-171.23(15); 90-171.29; 90-171.30.*
- .0223 CONTINUING EDUCATION PROGRAMS**
- (a) Definitions.
 - (1) Continuing education in nursing is a non-degree oriented, planned, organized learning experience taken after completion of a basic nursing program. In addition, a course(s) or component(s) of a course(s) within an academic degree-oriented program which prepares a nurse to perform advanced skills but does not result in the awarding of a degree from a North Carolina nursing program may be considered continuing education as defined in Paragraph (a)(3) of this Rule.
 - (2) Programs offering an educational experience designed to enhance the practice of nursing are those which include one or more of the following:
 - (A) enrichment of knowledge;
 - (B) development or change of attitudes; or
 - (C) acquisition or improvement of skills.
 - (3) Programs are considered to teach nurses advanced skills when:
 - (A) the skill taught is not generally included in the basic educational preparation of the nurse; and
 - (B) the period of instruction is sufficient to assess or provide necessary knowledge from the physical, biological, behavioral and social sciences, and includes supervised clinical practice to ensure that the nurse is able to practice the skill safely and properly.
 - (4) Student status may be granted to an individual who does not hold a North Carolina nursing license but who participates in a clinical component of a continuing education programs in North Carolina when:
 - (A) the individual possesses a current unencumbered license to practice nursing in a jurisdiction other than North Carolina;
 - (B) the course offering is approved by the Board; meets one of the following criteria:
 - (i) is part of an academic degree-granting nursing program which has approval in a jurisdiction other than North Carolina or national accreditation; or
 - (ii) is offered through an in-state academic institution which has Board approval for basic nursing education program(s) or national accreditation for advanced nursing education program(s); or
 - (iii) is approved by the Board as a continuing education offering, thereby meeting the criteria as defined in Paragraph (b) of this Rule.
 - (C) the individual receives supervision by a qualified preceptor or member of the fac-

- ulty who has a valid license to practice as a registered nurse in North Carolina;
- (D) the course of instruction has a specified period of time not exceeding twelve months;
- (E) the individual is not employed in nursing practice in North Carolina during participation in the program; and
- (F) the Board has been given advance notice of the name of each student, the jurisdiction in which the student is licensed, the license number, and the expiration date.
- (b) Criteria for voluntary approval of continuing education programs in nursing.
 - (1) Planning the educational program shall include:
 - (A) definition of learner population; for example, registered nurse, licensed practical nurse, or both;
 - (B) identification of characteristics of the learner; for example, clinical area of practice, place of employment, and position; and
 - (C) assessment of needs of the learner; for example, specific requests from individuals or employers, pre-tests, or audits of patient records.
 - (2) Objectives shall:
 - (A) be measurable and stated in behavioral terms;
 - (B) reflect the needs of the learners;
 - (C) state desired outcomes;
 - (D) serve as criteria for the selection of content, learning experiences and evaluation of achievement;
 - (E) be achievable within the time allotted; and
 - (F) be applicable to nursing.
 - (3) Content shall:
 - (A) relate to objectives;
 - (B) reflect input by qualified faculty; and
 - (C) contain learning experiences appropriate to objectives.
 - (4) Teaching methodologies shall:
 - (A) utilize pertinent educational principles;
 - (B) provide adequate time for each learning activity; and
 - (C) include sharing objectives with participants.
 - (5) Resources shall include:
 - (A) faculty who have knowledge and experience necessary to assist the learner to meet the program objectives and are in sufficient number not to exceed a faculty-learner ratio in a clinical practicum of 1:10. If higher ratios are desired, sufficient justification must be provided; and
 - (B) physical facilities which ensure that adequate and appropriate equipment and space are available and appropriate clinical resources are available.
 - (6) Evaluation must be conducted:
 - (A) by the provider to assess the participant's achievement of program objectives and content and will be documented; and
 - (B) by the learner in order to assess the program and resources.
 - (7) Records shall be maintained by the provider for a period of three years and shall include a summary of program evaluations, roster of participants, and course outline. The provider shall award a certificate to each participant who successfully completes the program.
- (c) Approval process.
 - (1) The provider shall:
 - (A) make application on forms provided by the Board no less than 60 days prior to the proposed enrollment date;
 - (B) present written documentation as specified in (b)(1) through (b)(7) of this Rule; and
 - (C) notify the Board of any significant changes relative to (b)(1) through (b)(7) of this Rule; for example, changes in faculty or total program hours.
 - (2) Approval is granted for a two year period. Any request to offer an approved program by anyone other than the original provider must be made to the North Carolina Board of Nursing.
 - (3) If a course is not approved, the provider may appeal in writing for reconsideration within 30 days after notification of the disapproval. If the course is not approved upon reconsideration, the provider may request a hearing at the next regularly scheduled meeting of the Board.
 - (4) Site visits may be made by the Board as deemed appropriate to determine compliance with the criteria as specified in Paragraph (b) of this Rule.
 - (5) The Board shall withdraw approval from a provider if the provider does not maintain the quality of the offering to the satisfaction of the Board or if there is misrepresentation of facts within the application for approval.
 - (6) Approval of continuing education programs will be included in published reports of Board actions. A list of approved programs will be maintained in the Board's file.

Statutory Authority G.S. 90-171.23(b); 90-171.42.

SECTION .0400 - UNLICENSED PERSONNEL:
NURSE AIDES

.0401 ROLES OF UNLICENSED PERSONNEL

(a) Definitions. As used in Section .0400:

(1) "Nursing care activities" means activities performed by unlicensed personnel which are delegated by licensed nurses in accordance with Paragraphs (b) and (c) of this Rule.

(2) "Patient care activities" means activities performed by unlicensed personnel when health care needs are incidental to the personal care required and are not delegated by a licensed nurse.

(b) ~~(a)~~ The licensed nurse, Registered and Practical, may delegate nursing care activities to unlicensed personnel, regardless of title, that are appropriate to the level of knowledge and skill of the unlicensed personnel and are within the legal scope of practice for unlicensed personnel. The licensed practical nurse assumes responsibility for delegating to and supervising unlicensed personnel in situations in which a registered nurse or other individual authorized by law is available for direct participation in client care as necessary to coordinate, assess, plan, implement, and evaluate that care. The registered nurse, or the licensed practical nurse, is responsible for supervision of the nursing care activities of the unlicensed personnel and maintains legal accountability and responsibility for nursing care given by all personnel to whom that care is delegated.

(c) ~~(b)~~ Those activities which may be delegated to unlicensed personnel are determined by the following variables:

- (1) knowledge and skills of the unlicensed personnel, which include both basic educational preparation (Level I) and training added through additional educational preparation and training (Level II);
- (2) verification of clinical competence of the unlicensed personnel;
- (3) stability of the client's condition which involves predictability, absence of risk of complication, and rate of change, and thereby excludes delegation of nursing care activities which require nursing assessment or judgment by a licensed nurse during the performance of the activity;
- (4) the variables in each service setting which include but are not limited to:

- (A) the complexity and frequency of nursing care needed by a given client population;
- (B) the proximity of clients to staff;
- (C) the number and qualifications of staff;
- (D) the accessible resources; and
- (E) established policies, procedures, practices, and channels of communication which lend support to the types of nursing activities being delegated, or not delegated, to unlicensed personnel.

Statutory Authority G.S. 90-171.20 (2) (4) (7)d., e., g.; 90-171.43 (4); 90-171.55; 42 U.S.C.S. 1395i-3 (1987).

.0404 REGISTRATION

(a) The Board of Nursing shall maintain a list of nurse aides in the Nurse Aide Registry who are qualified in accordance with the requirements of Rule .0403 of this Section.

(b) All nurse aides, regardless of working title, employed or assigned in a service agency for the purpose of providing nursing care activities shall, upon successful completion of a nurse aide training and competency evaluation program or a nurse aide competency evaluation program, submit an application to the Board of Nursing for placement on the Nurse Aide Registry. The application shall be submitted with an annual fee. Employers are encouraged, whenever possible, to submit the fee for their nurse aides. The Board will establish a process which facilitates the payment of the fee by the employer.

(c) A nurse aide employed as of January 1, 1990 in a nursing facility or home health agency, as mandated by 42 U.S.C.S. 1395i-3 (1987), shall successfully complete a Board of Nursing approved training and competency evaluation program prior to submitting an application to the Board of Nursing for placement on the Nurse Aide Registry.

(d) A nurse aide employed in a service agency as of January 1, 1991 shall successfully complete a Board of Nursing approved training and competency evaluation program or an approved competency evaluation program prior to submitting an application to the Board of Nursing for placement on the Nurse Aide Registry.

(e) Each nurse aide who has performed nursing care activities for monetary compensation during the preceding 24 months shall renew his/her registration on a biennial basis the listing biennially on forms provided by the Board.

(f) A nurse aide who has not performed nursing care activities but has performed patient care activities for monetary compensation during the

preceding 24 months may renew the listing after successful completion of a Nurse Aide I Competency Evaluation Program.

(g) ~~(f)~~ Any nurse aide who has had a continuous period of 24 months during which no nursing care activities or patient care activities were performed for monetary compensation, shall successfully complete a new training and competency evaluation program and submit an application to be placed on the Nurse Aide Registry.

(h) ~~(g)~~ The Division of Facility Services, or any other employing agency, is responsible for investigating complaints related to nurse aides. If, following a timely review and investigation of allegations of client neglect or abuse or misappropriation of client property, the agency determines that the nurse aide has neglected or abused the client or misappropriated client property, the agency shall notify the Board of Nursing within ten business days. The investigating agency's findings indicating a nurse aide has neglected or abused a client or misappropriated client property shall be available to the public upon inquiry to the Nurse Aide Registry. Any information disclosed concerning such a finding shall include the findings and a statement whether the individual has disputed the findings.

Statutory Authority G.S. 90-171.20 (2) (4) (7)d., e., g.; 90-171.43 (4); 90-171.55; 42 U.S.C.S. 1395i-3 (1987).

TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS

Notice is hereby given in accordance with G.S. 150B-12 that the Office of Administrative Hearings intends to amend rule(s) cited as 26 NCAC 3 .0002 - .0004, .0009, .0013, .0019, .0026, and .0030.

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

The public hearing will be conducted at 10:00 a.m. on July 18, 1991 at Hearing Room #1, Lee House, 422 North Blount Street, Raleigh, NC.

Comment Procedures: Comments may be submitted in writing or in person at the public hearing or in writing prior to July 18, 1991, to Elaine R. Steinbeck, APA Coordinator, P. O. Drawer 27447, Raleigh, NC 27611-7447.

CHAPTER 3 - HEARINGS DIVISION

.0002 DEFINITIONS AND CONSTRUCTION

(a) The definitions contained in G.S. 150B-2 are incorporated herein by reference. In addition, the following definitions apply:

- (1) "Chief Administrative Law Judge" means the person appointed according to G.S. 7A-752.
- (2) "File or Filing" means to place the paper or item to be filed into the care and custody of the chief hearings clerk of the Office of Administrative Hearings, and acceptance thereof by him, except that the administrative law judge may permit the papers to be filed with him in which event the administrative law judge shall note thereon the filing date. All documents filed with the Office of Administrative Hearings, except exhibits, shall be in duplicate in letter size 8 1/2" by 11".
- (3) "Service or Serve" means personal delivery or, unless otherwise provided by law or rule, delivery by first class United States Postal Service mail or a licensed overnight express mail service, postage prepaid and addressed to the party to the person to be served at his or her last known address. A certificate of service by the person making the service shall be appended to every document requiring service under these Rules. Service by mail or licensed overnight express mail is complete upon placing the item to be served, enclosed in a wrapper addressed to the person to be served, in an official depository of the United States Postal Service or upon delivery, postage prepaid and wrapped in a wrapper addressed to the person to be served, to an agent of the overnight express mail service.

(b) The rules of statutory construction contained in Chapter 12 of the General Statutes shall be applied in the construction of these Rules.

Statutory Authority G.S. 7A-752; 150B-11; 150B-23.

.0003 COMMENCEMENT OF CONTESTED CASE: NOTICE

(a) A contested case in the Office of Administrative Hearings is commenced by the filing of a petition as required by G.S. 150B-23. ~~together with a Certificate of Service establishing service of a copy of the petition on all other parties.~~

(b) Within five days of filing a petition ~~found sufficient by the Office of Administrative Hearings~~ to commence a contested case, the Chief Administrative Law Judge shall assign an administrative law judge to the case. Within ten

days of the filing of a petition commencing a contested case, the chief hearings clerk of the Office of Administrative Hearings shall serve a Notice of Contested Case Filing and Assignment upon all who are parties to the dispute. The notice shall contain the following:

- (1) Name of case and date of filing;
- (2) Name, address, and telephone number of the administrative law judge; and
- (3) ~~Copy of petition to adverse party if not previously served by petitioner; and~~
- (4) (3) A request that the party send within ten ~~30~~ days a copy of the document constituting the agency action that caused the filing of the petition.

Statutory Authority G.S. 150B-11; 150B-23; 150B-33.

.0004 ORDER FOR PREHEARING STATEMENTS

The administrative law judge may serve all parties with an Order for Prehearing Statements together with, or after service of, the Notice of Contested Case Filing and Assignment. The parties thus served shall, within 30 days of service, file the requested statements setting out the party's present position on the following:

- (1) The nature of the proceeding and the issues to be resolved;
- (2) A brief statement of the facts and reasons supporting the party's position on each matter in dispute;
- (3) ~~A list of facts, conclusions, or exhibits to which the party will stipulate;~~
- (4) (3) A list of proposed witnesses with a brief description of his or her proposed testimony;
- (5) (4) A description of what discovery, if any, the party will seek to conduct prior to the contested case hearing and an estimate of the time needed to complete discovery;
- (6) ~~Whether the party will order a transcript;~~
- (7) (5) Venue considerations; and
- (6) Estimation of length of the hearing;
- (7) The name, address, and telephone number of the party's attorney, if any; and
- (8) Other special matters.

Statutory Authority G.S. 150B-33.

.0009 NOTICE OF HEARING

(a) The Office of Administrative Hearings shall give the parties in a contested case a Notice of Hearing not less than 15 days before the hearing; which notice shall contain the following:

- (1) Date, time, place, and nature of the hearing;

- (2) Name, address, and telephone number of the presiding administrative law judge;
- (3) A citation to the relevant statutes or rules involved;
- (4) A short and plain statement of the factual allegations or issues to be determined;
- (5) Notification of the right of a party to represent himself, to be represented by an attorney, or to be represented by a person authorized to do so by specific State Statute or federal law;
- (6) A citation to the rules of the Office of Administrative Hearings pertaining to contested case hearings and to the contested case provisions of G.S. Chapter 150B and notification of how copies may be obtained;
- (7) A brief description of the procedure to be followed at the hearing;
- (8) A statement advising the parties to bring to the hearing all documents, records, and witnesses they need to support their positions;
- (9) A statement that subpoenas may be available to compel the attendance of witnesses or the production of documents, referring the parties to Rule .0013 of this Chapter relating to subpoenas;
- (10) A statement advising the parties that a notice of representation, containing the name of counsel or other representatives, if any, must be filed with the administrative law judge within ten days of the date of service of the Notice of Hearing; and
- (11) A statement advising the parties that failure to appear at the hearing may result in the allegations of the Notice of Hearing being taken as true, or the issues set out being deemed proved, and a statement which explains the possible results of the allegations being taken as true or the issues deemed proved.

(b) The Office of Administrative Hearings shall give notice to all parties with a Notice of Hearing either personally or by certified mail or, if those methods are unavailing, in accordance with G.S. 1A-1, Rule 4(j)(1). In the event that notice is accomplished by certified mail, the delivery date on the return receipt shall be the date of notice.

The content and the manner of service of the Notice of Hearing shall be as specified in G.S. 150B-23 (b) and (c).

Statutory Authority G.S. 150B-23.

.0013 SUBPOENAS

(a) Requests for Subpoenas for the attendance and testimony of witnesses or for the production

of documents, either at a hearing or for the purposes of discovery, shall be issued in accordance with G.S. 150B-27 and G.S. 1A-1, Rule 45, made in writing to the administrative law judge, shall identify any documents sought with specificity, shall include the full name and home or business address of all persons to be subpoenaed and, if known, the date, time, and place for responding to the subpoena. Upon receiving a written request or upon his own motion, the administrative law judge shall issue the requested subpoenas.

(b) A subpoena shall be served in the manner provided by the Rules of Civil Procedure, G.S. 150B-27 and G.S. 1A-1, Rule 45. The cost of service, fees, and expenses of any witnesses subpoenaed shall be paid by the party at whose request the witness appears. A party seeking an order imposing sanctions for failure to comply with any subpoena issued under this Rule must prove proper service of the subpoena.

(c) Objections to subpoenas shall be heard in accordance with G. S. 150B-27 and G. S. 1A-1, Rule 45. Objection to Subpoena.

(1) Upon receipt of a written request for the revocation of a subpoena, the administrative law judge shall schedule and conduct a hearing on the motion. The administrative law judge shall quash the subpoena if he finds that it is invalid according to law on grounds of relevancy, lack of particularity, or for any other legal insufficiency.

(2) In the case of objections to a subpoena, which objections do not require revocation, the administrative law judge may modify the subpoena if it is unreasonable or oppressive, taking into account the issues, costs, or other burdens of compliance when compared with the value of the testimony or evidence sought for the presentation of the party's case, and whether or not there are alternative methods of obtaining the desired testimony or evidence.

Statutory Authority G.S. 150B-27; 150B-33.

.0019 RIGHTS AND RESPONSIBILITIES OF PARTIES

(a) All parties shall have the right to present evidence, rebuttal testimony, and argument with respect to the issues of law and policy, and to cross-examine witnesses, including the author of a document prepared by, on behalf of, or for use of the agency and offered in evidence.

(b) A party shall have all evidence to be presented, both oral and written, available on the

date for hearing. Requests for subpoenas, depositions, or continuances shall be made within a reasonable time after their need becomes evident to the requesting party. In cases when the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the administrative law judge or agreed upon at a prehearing conference.

(c) The administrative law judge shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the administrative law judge shall simultaneously send a copy to all other parties.

(d) All parties have the continuing responsibility to notify the Office of Administrative Hearings of their current address and telephone number.

(e) ~~(d)~~ A party need not be represented by an attorney. If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.

(f) ~~(e)~~ With the approval of the administrative law judge, any person may offer testimony or other evidence relevant to the case. Any non-party offering testimony or other evidence may be questioned by parties to the case and by the administrative law judge.

(g) Prior to issuing a recommended decision, the administrative law judge may order any party to submit proposed findings of fact and written arguments.

Statutory Authority G.S. 150B-25; 150B-33.

.0026 ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION

(a) An administrative law judge shall issue a recommended decision or order in a contested case within 45 days after the later of the date the administrative law judge receives ~~all~~ any proposed findings of fact and written arguments submitted by the parties and the date the contested case hearing ends. The administrative law judge shall serve a copy of the decision on each party. When an administrative law judge issues a recommended decision, the Office of Administrative Hearings shall promptly ~~forward~~ serve a copy of the official record ~~in the case to~~ on the agency making the final decision by hand delivery or certified mail.

(b) A recommended decision shall be based exclusively on:

- (1) competent evidence and arguments presented during the hearing and made a part of the official record;
- (2) stipulations of fact;

- (3) matters officially noticed;
 - (4) any proposed findings of fact and written arguments submitted by the parties under G.S. 150B-34(b) Paragraph (g) of Rule .0019; and
 - (5) other items in the official record that are not excluded by G.S. 150B-29(b).
- (c) A recommended decision shall fully dispose of all issues required to resolve the case and shall contain:
- (1) an appropriate caption;
 - (2) the appearances of the parties;
 - (3) a statement of the issues;
 - (4) references to specific statutes or rules at issue;
 - (5) findings of fact;
 - (6) conclusions of law based on the findings of fact and applicable constitutional principles, statutes, rules, or federal regulations;
 - (7) in the discretion of the administrative law judge, a memorandum giving reasons for his findings of fact and conclusions of law;
 - (8) a statement identifying the agency that will make the final decision; and

- (9) a statement that each party has the right to file exceptions to the recommended decision with the agency making the final decision and has the right to present written arguments on the decision to the agency making the final decision.

(d) For good cause shown, the Chief Administrative Law Judge may extend the 45-day time limit for issuing a recommended decision. An administrative law judge who needs an extension must submit a request for extension to the Chief Administrative Law Judge before the 45-day period has expired.

Statutory Authority G. S. 150B-34.

.0030 FINAL DECISIONS IN CONTESTED CASES

A copy of a final decision issued by an administrative law judge shall be served on each party in accordance with G. S. 150B-36. Service shall be in the manner specified in 26 NCAC 3 .0009(b).

Statutory Authority G.S. 150B-36.

FINAL RULES

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

*Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Rules filed with changes are noted with ** Amended, ** Adopted. Please contact this office if you have any questions.*

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

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

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

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES CODIFIED

JUNE 1991

AGENCY			ACTION TAKEN
<u>DEPARTMENT OF AGRICULTURE</u>			
2	NCAC	48A .1110	Amended
		48C .0001	Amended
		.0002	** Amended
		.0004	Amended
		.0005	** Amended
		.0006	Amended
		.0018	Amended
		.0023	Amended
		.0028	Adopted
		48F .0304	Amended
		.0306	** Adopted
<u>DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT</u>			
4	NCAC	3G .0203	** Adopted
		.0502	** Adopted
		.0601	** Adopted
		6C .0408	Adopted
		19R .0100 - .0600	Transferred and Recodified to 10 NCAC 51F .0100 - .0600 Eff. May 1, 1991.
<u>DEPARTMENT OF CORRECTION</u>			
5	NCAC	2F .2502 - .2503	Amended
OFFICES OF THE GOVERNOR/LIEUTENANT GOVERNOR			

FINAL RULES

- 9 NCAC 2B Executive Order Number 139
Eff. March 28, 1991
Executive Order Number 140
Eff. April 22, 1991
Executive Order Number 141
Eff. April 17, 1991

DEPARTMENT OF HUMAN RESOURCES

- | | | | | |
|----|------|-----|---------------|---|
| 10 | NCAC | 3C | .0301 | Amended |
| | | | .0305 | ** Amended |
| | | | .0913 | Adopted |
| | | | .0914 - .0917 | ** Adopted |
| | | 3H | .1107 | ** Adopted |
| | | 3J | .2401 | ** Amended |
| | | 3T | .0102 | ** Amended |
| | | | .0202 - .0203 | Amended |
| | | | .0501 | ** Amended |
| | | | .0601 - .0602 | Amended |
| | | | .0603 | ** Adopted |
| | | | .0802 | ** Amended |
| | | | .0803 | Amended |
| | | | .1101 - .1103 | ** Adopted |
| | | | .1104 - .1106 | Adopted |
| | | | .1107 | ** Adopted |
| | | | .1108 | Adopted |
| | | | .1109 | ** Adopted |
| | | | .1110 - .1111 | Adopted |
| | | | .1112 - .1114 | ** Adopted |
| | | | .1115 | Adopted |
| | | | .1201 - .1202 | ** Adopted |
| | | | .1203 - .1205 | Adopted |
| | | | .1206 | ** Adopted |
| | | | .1207 | Adopted |
| | | | .1208 | ** Adopted |
| | | | .1209 - .1211 | Adopted |
| | | 39D | .0101 | Amended |
| | | | .0202 | ** Amended |
| | | | .0210 | Adopted |
| | | | .0404 | Amended |
| | | | .0408 - .0409 | ** Amended |
| | | | .0411 - .0412 | ** Adopted |
| | | | .0413 | Adopted |
| | | 44B | .0402 | ** Amended |
| | | | .0502 | ** Amended |
| | | | .0507 - .0508 | ** Amended |
| | | | .0510 | ** Amended |
| | | | .0519 | Amended |
| | | 51F | .0100 - .0600 | Transferred and Recodified from
4 NCAC 19R .0100 - .0600
Eff. May 1, 1991 |

DEPARTMENT OF LABOR

- | | | | | |
|----|------|----|-------|------------|
| 13 | NCAC | 7C | .0101 | Amended |
| | | 16 | .0101 | Adopted |
| | | | .0102 | ** Adopted |
| | | | .0201 | ** Adopted |

FINAL RULES

.0202	Adopted
.0203 - .0206	** Adopted
.0207 - .0208	Adopted
.0301	** Adopted
.0302	Adopted
.0303	** Adopted

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A	NCAC	7J	.0409	Amended
		10C	.0305	Temp. Amended
				Expires 11-01-91
		13A	.0009	* Correction
		18A	.2517 - .2518	* Correction
			.2523	* Correction
			.2528	* Correction
			.2532	* Correction
			.2535	* Correction
			.2609	* Correction
			.2612	* Correction
			.2623	* Correction
			.2640	* Correction
			.2724	* Correction

DEPARTMENT OF REVENUE

17	NCAC	11	.0101	Amended
			.0102	Repealed
			.0103	Amended
			.0201 - .0202	Amended
			.0203 - .0204	Repealed
			.0205	Amended
			.0206	Repealed
			.0207 - .0209	Amended
			.0210	Repealed
			.0211 - .0212	Amended
			.0215	Amended
			.0217 - .0219	Adopted

DEPARTMENT OF TRANSPORTATION

19A	NCAC	3D	.0801	Amended
-----	------	----	-------	---------

DEPARTMENT OF STATE TREASURER

20	NCAC	3	.0305	Amended
----	------	---	-------	---------

COMMISSION FOR AUCTIONEERS

21	NCAC	4B	.0201	* Correction
			.0602	** Amended

BOARD OF COSMETIC ART EXAMINERS

21	NCAC	14I	.0302	** Amended
		14L	.0210	** Amended

BOARD OF DENTAL EXAMINERS

21	NCAC	16D	.0101	Amended
----	------	-----	-------	---------

FINAL RULES

BOARD OF LANDSCAPE ARCHITECTS

21 NCAC 26 .0105

Amended

BOARD OF MEDICAL EXAMINERS

21 NCAC 32L .0001

Temp. Amended

Expires 06-01-91

.0005

Temp. Amended

Expires 06-01-91

.0009

Temp. Amended

Expires 06-01-91

DEPARTMENT OF COMMUNITY COLLEGES

23 NCAC 2D .0109

** Amended

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).

AGRICULTURE

Plant Industry

<i>2 NCAC 48F .0306 - Collection and Sale of Venus Flytrap</i>	<i>ARRC Objection 4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 4/18/91</i>

ECONOMIC AND COMMUNITY DEVELOPMENT

Banking Commission

<i>4 NCAC 3G .0203 - Expiration and Renewal</i>	<i>ARRC Objection 3/21/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 4/18/91</i>
<i>4 NCAC 3G .0502 - Annual Report</i>	<i>ARRC Objection 3/21/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 4/18/91</i>
<i>4 NCAC 3G .0601 - Revocation or Suspension; Hearings</i>	<i>ARRC Objection 3/21/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 4/18/91</i>

Hazardous Waste Management Commission

<i>4 NCAC 18 .0309 - Final Site</i>	<i>ARRC Objection 1/18/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action 2/25/91</i>
	<i>ARRC Objection 4/18/91</i>

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Adult Health

<i>15A NCAC 16A .0804 - Financial Eligibility</i>	<i>ARRC Objection 1/18/91</i>
<i>No Response from Agency</i>	<i>2/25/91</i>
<i>Agency Responded</i>	<i>No Action 3/21/91</i>
<i>No Response from Agency</i>	<i>No Action 4/18/91</i>
<i>15A NCAC 16A .0806 - Billing the HIV Health Services Program</i>	<i>ARRC Objection 1/18/91</i>
<i>No Response from Agency</i>	<i>2/25/91</i>
<i>Agency Responded</i>	<i>No Action 3/21/91</i>
<i>No Response from Agency</i>	<i>No Action 4/18/91</i>

Coastal Management

<i>15A NCAC 7J .0409 - Civil Penalties</i>	<i>ARRC Objection 1/18/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action 2/25/91</i>
<i>Rule Returned to Agency</i>	<i>No Action 4/18/91</i>
<i>Agency Filed Rule with OAH</i>	<i>Rule Eff. 6/1/91</i>
<i>15A NCAC 7J .1109 - Permit Fee</i>	<i>ARRC Objection 1/18/91</i>
<i>Agency Withdrew Rule</i>	<i>2/25/91</i>

Environmental Health

<i>15A NCAC 18A .2537 - Appeals</i>	<i>ARRC Objection 3/21/91</i>
-------------------------------------	-------------------------------

ARRC OBJECTIONS

<i>Agency Responded</i>	<i>No Action</i>	<i>4/18/91</i>
<i>15A NCAC 18A .2616 - Requirements for Employees</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>15A NCAC 18A .2618 - Cleaning of Equipment and Utensils</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>4/18/91</i>
<i>15A NCAC 18A .2711 - Toilet Facilities</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>4/18/91</i>

HUMAN RESOURCES

Facility Services

<i>10 NCAC 3C .0914 - Defs Applicable/Psychiatric/Substance Abuse Svcs</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3J .2401 - Requirement for Operations Manual</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .0102 - Definitions</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .0603 - Home Health Aide Services</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .1101 - Administration</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .1112 - Design and Construction</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .1114 - Plumbing</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .1206 - Hospice Inpatient Fire and Safety Requirements</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

Individual and Family Support

<i>10 NCAC 42B .1201 - Personnel Requirements</i>	<i>ARRC Objection</i>	<i>1/18/91</i>
<i>No Response from Agency</i>		<i>2/25/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>3/21/91</i>
<i>10 NCAC 42C .2001 - Qualifications of Administrator</i>	<i>ARRC Objection</i>	<i>1/18/91</i>
<i>No Response from Agency</i>		<i>2/25/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>3/21/91</i>
<i>10 NCAC 42C .2002 - Qualifications of Supervisor-in-Charge</i>	<i>ARRC Objection</i>	<i>1/18/91</i>
<i>No Response from Agency</i>		<i>2/25/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>3/21/91</i>
<i>10 NCAC 42C .2006 - Qualifications of Activities Coordinator</i>	<i>ARRC Objection</i>	<i>1/18/91</i>
<i>No Response from Agency</i>		<i>2/25/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>3/21/91</i>
<i>10 NCAC 42C .3301 - Existing Building</i>	<i>ARRC Objection</i>	<i>11/14/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>12/20/90</i>
<i>10 NCAC 42D .1401 - Qualifications of Administrator/Co-Administrator</i>	<i>ARRC Objection</i>	<i>11/14/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>12/20/90</i>

Social Services

<i>10 NCAC 24A .0303 - Sel/County Board Members/Social Svcs Comm</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>10 NCAC 39D .0202 - Conciliation Procedure</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 39D .0408 - Participation Expenses</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 39D .0409 - One-Time Work Related Expenses</i>	<i>ARRC Objection</i>	<i>4/18/91</i>

ARRC OBJECTIONS

<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 39D .0411 - Supportive Svcs//Available in Non-JOBs Counties</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

JUSTICE

NC Criminal Justice Education

<i>12 NCAC 9B .0301 - Certification of Instructors</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>12 NCAC 9B .0302 - General Instructor Certification</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

LABOR

Migrant Housing

<i>13 NCAC 16 .0201 - Conduct of Preoccupancy Inspections</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>13 NCAC 16 .0301 - Provisional Occupancy</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>13 NCAC 16 .0302 - Provisional Occupancy Denied</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>13 NCAC 16 .0303 - Inspection of Provisionally Occupied Housing</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

LICENSING BOARDS AND COMMISSIONS

Auctioneer's Commission

<i>21 NCAC 4B .0602 - Advertising</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

Cosmetic Art Examiners

<i>21 NCAC 14I .0302 - Library</i>	<i>ARRC Objection</i>	<i>2/25/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>3/21/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>21 NCAC 14L .0210 - Effect on Student-Teacher Ratio</i>	<i>ARRC Objection</i>	<i>2/25/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>3/21/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

Dental Examiners

<i>21 NCAC 16C .0310 - Reexamination</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Withdrew Rule</i>		<i>4/18/91</i>
<i>21 NCAC 16D .0101 - Eligibility Requirements</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

Medical Examiners

<i>21 NCAC 32B .0309 - Personal Interview</i>	<i>ARRC Objection</i>	<i>2/25/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>3/21/91</i>

SECRETARY OF STATE

Securities Division

18 NCAC 6 .1210 - Securities Exchgs/Autod Quot. Sys. Approved/Admin	ARRC Objection 12/20/90
Agency Responded to Objection	No Action 1/18/91

25 NCAC 1D .0509 - Severance Salary Continuation	ARRC Objection	1/18/91
Agency's Response Unacceptable		2/25/91

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 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 Allred, Petitioner v. North Carolina Department of Human Resources, Division of Medical Assistance, Respondent* (90 DHR 0940).

10 NCAC 42W .0003(e) - 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(e) 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. 603, 398 S.E.2d 40 (1990)].

16 NCAC 6D .0105 - USE OF SCHOOL DAY

The North Carolina Supreme Court, per Associate Justice Henry E. Frye, held invalid Rule 16 NCAC 6D .0105 as decided in *The State of North Carolina; The North Carolina State Board of Education; and Bob Etheridge, State Superintendent of Public Instruction, Plaintiffs v. Whittle Communications and The Thomasville City Board of Education, Defendant-Counterclaimants and The Davidson County Board of Education, Defendant-Intervenor and Counterclaimant v. The State of North Carolina; The North Carolina State Board of Education; and Bob Etheridge, State Superintendent of Public Instruction; and Howard S. Haworth; Barbara M. Tapscott; Kenneth R. Harris; Teena Smith Little; W.C. Meekins Jr.; Mary B. Morgan; Patricia H. Neal; Cary C. Owen; Donald D. Pollock; Prezell R. Robinson; Norma B. Turnage; State Treasurer Harlan E. Boyles; and Lt. Governor James C. Gardner; in their official capacities as members of The North Carolina State Board of Education, Counterclaim Defendants* [328 N.C. 456, 402 S.E.2d 556 (1991)].

15A NCAC 7H .0308 - SPECIFIC USE STANDARDS

The North Carolina Court of Appeals, per Judge Sidney S. Eagles Jr., held that it was error for the Coastal Resources Commission to fail to follow the required notice and comment procedure prior to the adoption of temporary rule 15A NCAC 7H .0308(a)(1)(M), but that the CRC followed proper procedures when it adopted the text of the temporary rule as a permanent rule [15A NCAC 7H .0308(a)(1)(M)]. *Conservation Council of North Carolina v. Haste* [102 N.C. App. 411, 402 S.E.2d 447 (1991)].

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.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Architecture	2
2	Agriculture	Auctioneers	4
3	Auditor	Barber Examiners	6
4	Economic and Community Development	Certified Public Accountant Examiners	8
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
15A	Environment, Health, and Natural Resources	Marital & Family Therapy	31
16	Public Education	Medical Examiners	32
17	Revenue	Midwifery Joint Committee	33
18	Secretary of State	Mortuary Science	34
19A	Transportation	Nursing	36
20	Treasurer	Nursing Home Administrators	37
*21	Occupational Licensing Boards	Occupational Therapists	38
22	Administrative Procedures	Opticians	40
23	Community Colleges	Optometry	42
24	Independent Agencies	Osteopathic Examination and Registration (Repealed)	44
25	State Personnel	Pharmacy	46
26	Administrative Hearings	Physical Therapy Examiners	48
		Plumbing, Heating and Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Practicing Counselors	53
		Practicing Psychologists	54
		Professional Engineers and Land Surveyors	56
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work	63
		Speech and Language Pathologists and Audiologists	64
		Veterinary Medical Board	66

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

CUMULATIVE INDEX

CUMULATIVE INDEX (April 1991 - March 1992)

1991 - 1992

Pages	Issue
1 - 44.....	1 - April
44 - 99.....	2 - April
100 - 185.....	3 - May
186 - 226.....	4 - May
227 - 246.....	5 - June
247 - 325.....	6 - June

- AO - Administrative Order
- AG - Attorney General's Opinions
- C - Correction
- FR - Final Rule
- GS - General Statute
- JO - Judicial Orders or Decision
- M - Miscellaneous
- NP - Notice of Petitions
- PR - Proposed Rule
- SO - Statements of Organization
- TR - Temporary Rule

ADMINISTRATIVE HEARINGS

Hearings Division, 310 PR

AGRICULTURE

Plant Industry, 102 PR

CORRECTION

Division of Prisons, 35 FR, 87 FR, 209 FR

ECONOMIC AND COMMUNITY DEVELOPMENT

Alcoholic Beverage Control Commission, 4 PR

Community Assistance, 104 PR

Credit Union Division, 231 PR

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Coastal Management, 299 PR

Environmental Management, 197 PR, 271 PR

Forest Resources, 300 PR

Health: Epidemiology, 28 PR

Health Services, 9 PR

Marine Fisheries, 122 PR

Wildlife Resources Commission, 84 PR, 170 PR, 198 PR, 301 PR

FINAL DECISION LETTERS

Voting Rights Act, 48, 230, 248

FINAL RULES

List of Rules Codified, 89 FR, 215 FR, 314 FR

GOVERNOR/LT. GOVERNOR

Executive Orders, 1, 45, 100, 186, 227, 247

HUMAN RESOURCES

Aging, Division of, 72 PR

Facility Services, 104 PR

Medical Assistance, 9 PR, 112 PR, 188 PR, 232 PR, 250 PR

Mental Health, Developmental Disabilities and Substance Abuse Services, 5 PR, 49 PR

Social Services, 116 PR

INSURANCE

Actuarial Services, 119 PR

Special Services Division, 84 PR

JUSTICE

Private Protective Services, 121 PR

State Bureau of Investigation, 250 PR

LICENSING BOARDS

Architecture, Board of, 30 PR, 232 PR

Certified Public Accountant Examiners, 201 PR

Medical Examiners, Board of, 304 PR

Nursing, Board of, 305 PR

Pharmacy, Board of, 201 PR

Physical Therapy Examiners, Board of, 33 PR

Practicing Psychologists Examiners, 203 PR

Real Estate Commission, 171 PR

PUBLIC EDUCATION

Elementary and Secondary, 29 PR, 199 PR, 303 PR

REVENUE

Individual Income Tax Division, 234 FR

Property Tax Commission, 210 FR

SECRETARY OF STATE

Securities Division, 85 PR

STATE PERSONNEL

State Personnel Commission, 172 PR

TRANSPORTATION

Division of Motor Vehicles, 213 FR



NORTH CAROLINA ADMINISTRATIVE CODE

The full publication consists of 53 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication are available at one-half the new subscription price.

PRICE LIST FOR THE SUBSCRIPTION YEAR

Volume	Title	Chapter	Subject	New Subscription*	Quantity	Total Price
1 - 52	Full Code		All titles	\$750.00		
1	1	1 - 37	Administration	90.00		
2	2	1 - 24	Agriculture	75.00		
3	2	25 - 52	Agriculture	75.00		
4	3	1 - 4	Auditor	10.00		
5	4	1 - 2	ECD (includes ABC)	45.00		
6	4	3 - 20	ECD	90.00		
7	5	1 - 2	Correction	60.00		
8	5	3 - 4	Correction	30.00		
9	6	1 - 4	Council of State			
	7	1 - 12	Cultural Resources	60.00		
10	8	1 - 9	Elections	10.00		
11	9	1 - 4	Governor	45.00		
12	10	1 - 2	Human Resources	30.00		
13	10	3A - 3K	Human Resources	90.00		
14	10	3L - 3R	Human Resources (includes CON)	45.00		
15	10	3S - 3U	Human Resources	30.00		
16	10	4 - 6	Human Resources	30.00		
17	10	7	Human Resources	30.00		
18	10	8 - 9	Human Resources	30.00		
19	10	10	Human Resources	30.00		
20	10	11 - 14	Human Resources	60.00		
21	10	15 - 17	Human Resources	45.00		
22	10	18	Human Resources	75.00		
23	10	19 - 30	Human Resources	90.00		
24	10	31 - 33	Human Resources	30.00		
25	10	34 - 41	Human Resources	60.00		
26	10	42	Human Resources	45.00		
27	10	43 - 51	Human Resources	90.00		
28	11	1 - 15	Insurance	90.00		
29	12	1 - 12	Justice	90.00		
30	13	1 - 6	Labor	30.00		
31	13	7	OSHA	45.00		
32	13	8 - 15	Labor	45.00		
33	14A	1 - 11	Crime Control and Public Safety	45.00		
34	15A	1 - 2	EHNR (includes EMC)	90.00		
35	15A	3 - 6	EHNR	45.00		
36	15A	7	Coastal Management	45.00		
37	15A	8 - 9	EHNR	30.00		
38	15A	10	Wildlife	45.00		

Continued

Volume	Title	Chapter	Subject	New Subscription*	Quantity	Total Price
39	15A	11 - 18	EHNR	90.00	_____	_____
40	15A	19 - 26	EHNR		_____	_____
			(includes Breathalyzer)	75.00	_____	_____
41	16	1 - 6	Education	30.00	_____	_____
42	17	1 - 6	Revenue	75.00	_____	_____
43	17	7 - 11	Revenue	60.00	_____	_____
44	18	1 - 7	Secretary of State	30.00	_____	_____
45	19A	1 - 6	Transportation	90.00	_____	_____
46	20	1 - 9	Treasurer	45.00	_____	_____
47	21	1 - 16	Licensing Boards	75.00	_____	_____
48	21	17 - 37	Licensing Boards	75.00	_____	_____
49	21	38 - 70	Licensing Boards		_____	_____
	22	1 - 2	Administrative Procedures	75.00	_____	_____
50	23	1 - 2	Community Colleges	10.00	_____	_____
51	24	1 - 2	Independent Agencies	10.00	_____	_____
52	25	1	State Personnel	60.00	_____	_____
53	26	1 - 4	Administrative Hearings	10.00	_____	_____
(North Carolina Subscribers add 5% sales tax)				Total	_____	_____

(Make checks payable to Office of Administrative Hearings.)

* This price includes the title in its current form plus supplementation for the subscription year.

Subscription years are January 1 through December 31.

MAIL TO:

OFFICE OF ADMINISTRATIVE HEARINGS
POST OFFICE DRAWER 27447
RALEIGH, NORTH CAROLINA 27611-7447

Office of Administrative Hearings
P. O. Drawer 27447
Raleigh, North Carolina 27611-7447

FOLD HERE

NORTH CAROLINA REGISTER ORDER FORM

Please enter my subscription for the *North Carolina Register* to start with the _____ issue.
(\$105.00)/year subscription)

Renew *North Carolina Register*

Check Enclosed ☐ Please bill me

Please make checks payable to Office of Administrative Hearings

NAME _____ ADDRESS _____
CITY _____ STATE _____ ZIP _____
PHONE _____

Return to Office of Administrative Hearings - fold at line, staple at bottom and affix postage.)

CHANGE OF ADDRESS:

1. Present Address

NAME

ADDRESS

CITY

STATE

ZIP

2. New Address

NAME

ADDRESS

CITY

STATE

ZIP

Office of Administrative Hearings

P. O. Drawer 27447

Raleigh, North Carolina 27611-7447

RECEIVED
JAN 14 1991



FIRST CLASS MAIL

585
UNIV. OF NORTH CAROLINA
LAW LIBRARY
VAN HECKE-WETTACH 064-A
CHAPEL HILL

NC 27599