

The **NORTH CAROLINA REGISTER**

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Environment, Health, and Natural Resources

Housing Finance Agency

Human Resources

Pharmacy, Board of

State Personnel

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ISSUE DATE: JANUARY 2, 1992

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INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 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 letters of 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 five pages or less, plus fifteen cents (\$0.15) per 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 subscription 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, page number and date. 1:1 NCR 101-201, April 1, 1981 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1981.

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER

Publication Schedule

(October 1991 - December 1992)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing	Earliest Date for Adoption by Agency	Last Day to Submit to RRC	* Earliest Effective Date

10/15/91	09/24/91	10/01/91	10/30/91	11/14/91	11/20/91	01/02/92
11/01/91	10/11/91	10/18/91	11/16/91	12/01/91	12/20/91	02/03/92
11/15/91	10/24/91	10/31/91	11/30/91	12/15/91	12/20/91	02/03/92
12/02/91	11/07/91	11/14/91	12/17/91	01/01/92	01/20/92	03/02/92
12/16/91	11/21/91	12/02/91	12/31/91	01/15/92	01/20/92	03/02/92
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01/15/92	12/20/91	12/31/91	01/30/92	02/14/92	02/20/92	04/01/92
02/03/92	01/10/92	01/17/92	02/18/92	03/04/92	03/20/92	05/01/92
02/14/92	01/24/92	01/31/92	02/29/92	03/15/92	03/20/92	05/01/92
03/02/92	02/10/92	02/17/92	03/17/92	04/01/92	04/20/92	06/01/92
03/16/92	02/24/92	03/02/92	03/31/92	04/15/92	04/20/92	06/01/92
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05/15/92	04/24/92	05/01/92	05/30/92	06/14/92	06/20/92	08/03/92
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07/15/92	06/24/92	07/01/92	07/30/92	08/14/92	08/20/92	10/01/92
08/03/92	07/13/92	07/20/92	08/18/92	09/02/92	09/20/92	11/02/92
08/14/92	07/24/92	07/31/92	08/29/92	09/13/92	09/20/92	11/02/92
09/01/92	08/11/92	08/18/92	09/16/92	10/01/92	10/20/92	12/01/92
09/15/92	08/25/92	09/01/92	09/30/92	10/15/92	10/20/92	12/01/92
10/01/92	09/10/92	09/17/92	10/16/92	10/31/92	11/20/92	01/04/93
10/15/92	09/24/92	10/01/92	10/30/92	11/14/92	11/20/92	01/04/93
11/02/92	10/12/92	10/19/92	11/17/92	12/02/92	12/20/92	02/01/93
11/16/92	10/23/92	10/30/92	12/01/92	12/16/92	12/20/92	02/01/93
12/01/92	11/06/92	11/13/92	12/16/92	12/31/92	01/20/93	03/01/93
12/15/92	11/24/92	12/01/92	12/30/92	01/14/93	01/20/93	03/01/93

* The "Earliest Effective Date" is computed assuming that the agency follows the publication schedule above, that the Rules Review Commission approves the rule at the next calendar month meeting after submission, and that RRC delivers the rule to the Codifier of Rules five (5) business days before the 1st business day of the next calendar month.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Banking Commission intends to adopt rule(s) cited as 4 NCAC 3C .0807, .1103 - .1105; 3H .0102 - .0103; amend rule(s) 4 NCAC 3C .0801 - .0804, .0901, .0903, .1001, .1501 - .1502, .1601; 3D .0302 - .0304; and repeal rule 4 NCAC 3H .0001.

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

The public hearing will be conducted at 9:00 a.m. on February 6, 1992 in Room 6155, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina.

Reason for Proposed Action:

Adoptions:

Subchapter 3C (Banks)

Rule .0807 - Gives banks more specific guidance on information which must be provided in an application for approval of a subsidiary.

Rule .1103 - Provides a much needed definition of capital and determines certainly what constitutes impairment of capital stock for statutory purposes.

Rule .1104 - Response to a specific requirement at G.S. 53-2(4) that the Commission promulgate a rule to maintain at least a 50% capital surplus.

Rule .1105 - Details for greater certainty the "Notice of Impairment" process required by statute.

Subchapter 31I (Bank Holding Companies)

Rule .0102 - Provides a comprehensive application process for interstate banking acquisitions pursuant to statutory requirements.

Rule .0103 - Provides a comprehensive registration for holding companies consistent with statute.

Amendments:

Subchapter 3C (Banks)

Rule .0801 - .0804 - These rules are being amended to revise the address and punctuation changes.

Rule .0901 and .0903 - Permits bank holding companies to house bank records in view of the in-

creased frequency of doing business in the holding company structure. Additionally, it eliminates an inconsistency in the retention requirements at Rule .0903 and relocates a reference to trust records to Subchapter 3D which deals with the regulation of trust departments.

Rule .1001(3) - Clarifies that an appraisal must identify a specific loan transaction for greater certainty.

Rule .1001(5) - Clarifies that a "stock power" must be in place for each stock certificate held as collateral.

Rule .1501(c) - Utilizes a reference to "depository" financial institutions consistent with current federal loan regulation.

Rule .1502(1) - Adds our address for purposes of notification.

Rule .1601(19) - Responds to the requirement that the Commission set by Rule fees for its various application processes.

Subchapter 3D (Trust)

Rule .0302(k) - Consistent with changes in federal regulation, this revised Rule will allow transactions between trust accounts under certain circumstances.

Rule .0303 - Clarifies that a bank engaged in the trust business must maintain a permanent record of surcharges and such charges of one thousand dollars (\$1,000) must be approved by the trust committee.

Rule .0304 - In order to operate more consistently with national bank regulation of trust departments, this Rule now simply make a cross-reference to 12 C.F.R. 9.18 with regard to common trust funds.

Repeals:

Subchapter 31I (Bank Holding Companies)

Rule .0001 - It is being repealed and replaced by Rules 3H .0102 and .0103.

Comment Procedures: Comments must be submitted in writing not later than Monday, February 3, 1992. Written comments should be directed to:
L. McNeil Chestnut, General Counsel
North Carolina Banking Commission

Post Office Box 29512
Raleigh, North Carolina 27626-0512.

CHAPTER 3 - BANKING COMMISSION

SUBCHAPTER 3C - BANKS

SECTION .0800 - MISCELLANEOUS REPORTS
AND APPROVALS

.0801 OATH OF DIRECTORS

Form 2 incorporates a statutory oath required to be executed by each director of a state bank. The form requires the signature under oath of each director and his address. It must be executed in duplicate annually within 30 days after the election of a director. The forms can be obtained from and one copy must be filed with:

The Commissioner of Banks
P.O. Box 951
Raleigh, North Carolina 27602.
The Commissioner of Banks
430 N. Salisbury Street
Dobbs Bldg. Box 29512
Raleigh, N.C. 29626-0512

Statutory Authority G.S. 53-80; 53-81; 53-92;
150B-11(1).

.0802 DEPOSITORY BANKS

Form 3 contains a request to the Commissioner of Banks to approve the proposed depositories of a bank. It is required to be filed in duplicate annually by the board of directors of each state bank. The form may be obtained from and should be filed with:

The Commissioner of Banks
P.O. Box 951
Raleigh, North Carolina 27602.
The Commissioner of Banks
430 N. Salisbury Street
Dobbs Bldg. Box 29512
Raleigh, N.C. 29626-0512

Statutory Authority G.S. 53-84; 53-92;
150B-11(1).

.0803 OTHER REAL ESTATE

Form 16-A contains a request for the Commissioner of Banks to approve holding for one year real estate acquired by foreclosure, etc., that had not been disposed of by the end of the previous year. It is required to be filed in duplicate annually by the board of directors of any state bank owning such real estate. The form may be obtained from and should be filed with:

The Commissioner of Banks
P.O. Box 951
Raleigh, North Carolina 27602.

The Commissioner of Banks
430 N. Salisbury Street
Dobbs Bldg. Box 29512
Raleigh, N.C. 29626-0512

Statutory Authority G.S. 53-43-(3)c; 53-92;
150B-11(1).

.0804 SUSPENSION OF INVESTMENT
AND LOAN LIMITATION

Form 17 contains a request for the Commissioner of Banks to approve the suspension of a bank's investment limitation or its loan limitation to a particular borrower for a period of 120 days. The form incorporates the required resolution of the bank's board of directors and must be accompanied by financial statements of the borrower(s) and must be filed in triplicate. This report and the information contained therein is confidential and neither the report nor any of its contents shall be made available to the public. The form may be obtained from and filed with:

The Commissioner of Banks
P.O. Box 951
Raleigh, North Carolina 27602.
The Commissioner of Banks
430 N. Salisbury Street
Dobbs Bldg. Box 29512
Raleigh, N.C. 29626-0512

Statutory Authority G.S. 53-49; 53-92; 53-99;
150B-11(1).

.0807 SUBSIDIARY INVESTMENT
APPROVAL

Banks that desire to create or invest in a corporation, partnership, firm or other company which will engage in business not closely related to banking and which shall be either partially or wholly owned by the bank must first obtain the approval of the Commissioner of Banks. The application for approval shall be by letter which must include the following:

- (1) A copy of the articles of incorporation, articles of partnership or other instrument creating or governing the business entity;
- (2) A description of the proposed activities and by whom these activities will be conducted;
- (3) The proposed investment in the enterprise expressed both in dollar amount and as a percentage of the bank's unimpaired capital funds;
- (4) The amount of the bank's investment in all existing subsidiaries, partnership and companies as of the date of the letter of application;
- (5) The amount of the bank's unimpaired capital fund on the date of the letter of ap-

plication as the same is defined at G.S. 53-1(9);

- (6) A copy of any contract or agreement for a lease, rental or other commitment by the enterprise that would create a contingent liability upon the firm (or the bank);
- (7) Copies of any licenses or other permits which the enterprise or its employees are required to obtain prior to engaging in a regulated activity. If such licenses are not available on the date of the letter of application the same must be submitted prior to final approval; and
- (8) The application fee as determined by 4 NCAC 3C .1601(a)(8).

Statutory Authority G.S. 53-47; 53-104; 150B-11(1).

SECTION .0900 - OPERATIONS

.0901 BOOKS AND RECORDS

Each bank, or its parent holding company, shall keep in permanent form, and available for examination by the representatives of the Commissioner of Banks, books and records which reflect all the transactions of the bank in its true financial condition. Such records shall be so kept as to permit and facilitate a speedy examination, which will, in turn, reflect such financial condition to the representatives of the Commissioner of Banks. Without implying that these are the only books and records to be kept, but, on the contrary, that these are necessary books and records, as well as other books and records usually kept, the following are required to be kept ~~in~~ at the bank, or at its parent holding company, unless another storage site is approved by the Commissioner of Banks:

- (1) Each commercial bank or branch thereof in which notes or other forms of similar obligations are retained must keep an alphabetical liability ledger. The direct liability ledger must be kept in balance with the general ledger control. In a commercial bank whose automated record system is not able to produce an alphabetical liability ledger the bank must be able to produce an alphabetical listing of borrowers showing all of a customer's loan or customer account numbers and the amount outstanding under each number when called upon by the Commissioner of Banks or his duly authorized agent. In addition to the direct liability ledger, each commercial bank or branch thereof in which notes or other forms of similar obligations are retained must keep an alphabetical indirect liability ledger

showing a customer's indirect obligations by loan name or account number and the balance outstanding under each account. Where the total of the direct and indirect lines do not exceed ten thousand dollars (\$10,000), the indirect line may be omitted from the indirect liability ledger. The indirect liability ledger must be updated at least monthly. Each commercial bank shall have the ability to produce both the direct and indirect liability ledgers in hard copy form upon call by the Commissioner of Banks or his duly authorized agent.

- (2) ~~Records~~ A permanent reconciliation record must be kept, showing the monthly reconciliation of each account with correspondent banks. A signed review of such reconciliations must be made by some officer or employee of the bank other than the person composing same.
- (3) A permanent record must be kept of all stocks and bonds bought or sold. Also, there must be retained for review by examiners all original invoices of purchases and sales of securities. The record must show dates of purchases and sales, interest rates, maturities, par value, cost value, all write-ups or write-downs, a full description of the security, from whom purchased, to whom sold, selling price, and when, where and why pledged or deposited. This record must be maintained in balance with the general ledger control.
- (4) A permanent record must be kept of all articles deposited for safekeeping. This record must be maintained so as to make it possible to easily verify or trace any article deposited. Receipts must be given and taken for all articles deposited or delivered. An inventory of parcels is not required.
- (5) A permanent record must be kept of all items charged off. All chargeoffs must be authorized or approved by the executive committee or by the board of directors and such action recorded in their minutes. This record, among other things, must show the date of the chargeoff, a description of the asset and the amount. The record must be supported by the actual charged off items, or the final disposition of any item. In this record must also be recorded all recoveries, giving dates and amounts. ~~This Rule shall also apply to trust department chargeoffs which may be authorized and approved by the trust committee of the board of directors.~~
- (6) A real estate record must be kept on all parcels owned, including the banking house.

This record must show when, from whom, and how the property was acquired; date, cost price, book value, detailed income and detailed expenses. This record should be supported by appraisals, title certificates showing assessed value, tax receipts, and insurance policies.

- (7) Proper minutes, showing clearly its action, must be kept for each committee, board of directors, board of managers, and stockholders' meetings. All minutes must be signed by the chairman and the secretary of this meeting.
- (8) A permanent daily record must be kept of all cash items held over from the day's business, including all checks that would cause an overdraft if handled in the regular way. This record must show the name of the account on whom the item is drawn or is obligated for payment, the reason the item is being held, the date the item was placed in the cash items account, and the amount of the item. This record must be a daily record showing only those items held over at the end of each day's business and be kept in balance with the general ledger or control figure.

(9) A detailed record of income and expenses must be kept, balanced monthly, and a report thereof made to the executive committee or board of directors, and the receipt of same noted in their minutes.

(10) In the discretion of the Commissioner of Banks, he may require the preparation or maintenance of further books or records by specific banks or branches thereof.

(11) Each industrial bank, when preparing a report of condition and income, must include and make a part of this report a list of those whose obligations to the bank, whether the obligations are direct or indirect, and including paper purchased by the bank, are in excess of ten percent of capital, surplus and undivided profits. In lieu of this list, the bank must maintain a liability ledger in accordance with Subsection (1) of this Rule. Any commercial bank making installment loans may, with reference to such installment loans, make the report specified in this section in lieu of the liability ledger required under Subsection (1) of this Rule.

Statutory Authority G.S. 53-92; 53-110; 150B-11(1).

.0903 RETENTION: REPRODUCTION AND DISPOSITION OF BANK RECORDS

(a) Each bank or branch thereof shall keep and retain in some safe and secure place the books, ledgers, records, and documents hereinafter set forth for the periods specified.

<u>Bank Records to be Retained</u>	<u>Minimum Retention Period</u>
<u>ACCOUNTING</u>	
1. Daily Reserve Calculation and Averages	3 years
2. Difference Records (Over/Short)	2 years
3. Paid Bills and Invoices	3 years
4. Quarterly Report of Condition and Income and Supporting Work Papers	5 years
<u>ADMINISTRATIVE</u>	
1. Documentation of Charged-off Assets	10 years
2. Escheat Reports and Records	10 years
3. Minute Books of Meetings of Stockholders, Directors, and Executive Committee	Permanent
<u>AUDIT</u>	
1. Audit Reports (Internal and External) and Directors' Examinations	3 years
2. Audit Work Papers (Internal)	3 years
<u>BANK PROPERTIES</u>	

PROPOSED RULES

- | | |
|---|----------------|
| 1. Fixed Assets-Evidence of Ownership (After Acquisition) | 5 years |
| 2. Fixed Assets-Leases (After Termination) | 5 years |
| 3. Real Estate-Construction Records | 5 years |
| 4. Real Estate-Deeds | Until conveyed |
| 5. Real Estate-Leases (After Termination) | 5 years |

CAPITAL

- | | |
|---|-----------|
| 1. Capital Stock Certificate Books, Stubs, or Interleaves | Permanent |
| 2. Capital Stock Ledger | Permanent |
| 3. Capital Stock Transfer Register | Permanent |
| 4. Proxies | 3 years |

COLLECTIONS

- | | |
|---|-------------------------------------|
| 1. Collection Registers (Incoming and Outgoing) | 3 years after item paid or returned |
| 2. Receipts and Advices (After Closed) | 1 year |

CREDIT CARDS

- | | |
|---|-----------|
| 1. Borrowing Authority Resolutions (After Closed) | 3 years |
| 2. Customer Application (After Closed) | 1 year |
| 3. Disclosure and Compliance Documents | 25 months |
| 4. Merchants' Agreement (After Closed) | 2 years |
| 5. Posting or Transaction Journal | 2 years |
| 6. Sales Tickets or Drafts | 3 years |
| 7. Statement of Account | 5 years |

DEMAND DEPOSIT AND TRANSACTION ACCOUNTS

- | | |
|---|-----------------|
| 1. Checks and Debits | 5 years |
| 2. Daily Report on Overdrafts | 2 years |
| 3. Deposit Resolutions (After Closed) | 3 years |
| 4. Deposit Tickets and Credits | 5 years |
| 5. Ledgers, Statements, or Stubs | 5 years |
| 6. Letters of Administration | 5 years |
| 7. Posting or Transaction Journals | 2 years |
| 8. Powers of Attorney | 5 years |
| 9. Return Item Records | 1 year |
| 10. Signature Cards (After Closed) | 5 years |
| 11. Stop Payment Orders | 1 year |
| 12. Tax Waivers | 1 year |
| 13. Undelivered Statements | 1 year |
| 14. Unidentified or Unclaimed Deposit Records | Until escheated |

DUE FROM BANKS

- | | |
|------------------------------------|------------|
| 1. Advise of Entry (After Cleared) | 3 months |
| 2. Drafts (After Paid) | 5 years |
| 3. Draft Register or Carbon Copy | Until paid |
| 4. Reconcilements | 25 years |
| 5. Statements | 3 years |

GENERAL LEDGER

- | | |
|---|----------|
| 1. Daily Statement of Condition | 5 years |
| 2. General Journal (If Book of Original Entries, with Descriptions) | 15 years |
| 3. General Ledgers | 15 years |
| 4. General Ledger Tickets | 5 years |

INSURANCE

- | | |
|--|---------|
| 1. Bankers Blanket Bond and Excess | 5 years |
| 2. General Casualty Liability Policies Expired | 5 years |

INTERNATIONAL

- | | |
|--------------------------------------|-------------------------------------|
| 1. Bankers Acceptances | 3 years |
| 2. Collection Records | 3 years after item paid or returned |
| 3. Letters of Credit and Documents | 3 years after expiration |
| 4. Transfer Orders (Wire or Written) | 1 year |

INVESTMENTS

- | | |
|---|---------|
| 1. Accrual and Bond Amortization or Accretion Records (After Period Ends) | 3 years |
| 2. Brokers' Confirmations, Invoices, Statements | 3 years |
| 3. Ledgers | 3 years |

LEASE RECEIVABLES (OTHER THAN REAL ESTATE)

- | | |
|---|---------|
| 1. Lease Agreements and Documents (After Termination) | 5 years |
| 2. Rental Payment Records | 5 years |
| 3. Record of Disposition of Property | 5 years |

LEGAL JUDICIAL AUTHORIZATION

- | | |
|---|----------|
| 1. Attachments and/or Garnishments | 10 years |
| 2. Court Case Records (After Final Disposition) | 10 years |
| 3. Probate Court Appointment (After Closed) | 10 years |

LOANS (COMMERCIAL, CONSUMER, MORTGAGE)

- | | |
|---|-------------------------------|
| 1. Appraisals, Financing Statements, and Title Opinions Pertaining to Collateral | Until paid |
| 2. Borrowing Resolutions | 3 years after payment of debt |
| 3. Credit Files (Financial Statements, Applications, Correspondence) (After Paid) | 2 years |
| 4. Collateral Records (After Released) | 5 years |
| 5. Interest Rebate Records | 1 year |

PROPOSED RULES

- | | |
|--|------------|
| 6. Liability Cards and/or Ledgers (After Closed) | 3 years |
| 7. Loan Ledger Cards or History Sheets (After Paid) | 3 years |
| 8. Loan Proceeds Disbursement Records | Until paid |
| 9. Loans Paid Record | 3 years |
| 10. Mortgage Files and Supporting Documents (After Paid) | 2 years |
| 11. Note and/or Loan Register (After Paid) | 3 years |
| 12. Posting or Transaction Journal | 2 years |

MAIL

- | | |
|--|--------|
| 1. Insurance Records of Registered and Certified | 1 year |
| 2. Registered and Certified Records (In and Out) | 1 year |
| 3. Return Receipt Record | 1 year |

MISCELLANEOUS

- | | |
|---|--|
| 1. Cash and Security Vault Records-Opening, Closing | 6 months |
| 2. Taxes>Returns and Supporting Papers | 3 years or until cleared by IRS and Dept. of Revenue |
| 3. Travelers Checks-Applications | 1 year |

MONEY TRANSFER

- | | |
|--|--------|
| 1. Copy of Incoming and Outgoing Transfers | 1 year |
| 2. General Correspondence | 1 year |
| 3. Receipts and Advices (After Closed) | 1 year |
| 4. Transfer Request Records | 1 year |

NIGHT DEPOSITORY

- | | |
|--------------------------------------|--------|
| 1. Customer Agreement (After Closed) | 1 year |
| 2. Customer Receipt | 1 year |
| 3. Daily Inventory | 1 year |

OFFICIAL CHECKS

- | | |
|--|-------------------------|
| 1. Official Checks (Dividend, Cashiers, Expense, Loan) and Money Orders (After Paid) | 5 years |
| 2. Official Check Register or Carbon Copy | Until paid or escheated |
| 3. Certified Checks or Receipts (After Paid) | 5 years |
| 4. Certified Check Register or File Copy | Until paid or escheated |
| 5. Affidavits and Indemnity pertaining to Issuance of Duplicate Checks | Permanent |

PROOF AND TRANSIT

PROPOSED RULES

- | | |
|--|----------|
| 1. Advice of Correction | 6 months |
| 2. Cash Tickets | 6 months |
| 3. Outgoing Cash Letters and Accompanying
Items (Microfilm) | 2 years |
| 4. Proof Sheets, Tapes, and Listings | 2 years |

SAFE DEPOSIT

- | | |
|--|-----------|
| 1. Access Records (After Closed) | 3 years |
| 2. Box History Card | Permanent |
| 3. Contracts and Agreements (After Closed) | 3 years |
| 4. Forced Entry Records | 10 years |

SAFEKEEPING AND CUSTOMER SECURITIES

- | | |
|--|---------|
| 1. Broker Confirmations, Invoices, Statements | 3 years |
| 2. Buy and Sell Orders | 3 years |
| 3. Customer Contracts and Agreements
(After Closed) | 3 years |
| 4. In and Out Records (Movement of Securities) | 3 years |
| 5. Safekeeping Receipts (After Closed) | 3 years |

SAVINGS AND TIME DEPOSITS

- | | |
|---|----------------------------|
| 1. Certificates of Deposit Paid | 5 years |
| 2. Certificates of Deposit Records
(Register, Ledger, Copy) | Until paid or
escheated |
| 3. Daily Report of Overdrafts | 2 years |
| 4. Debits and Withdrawals | 5 years |
| 5. Deposit and Credit Tickets | 5 years |
| 6. Deposit Resolution (After Closed) | 3 years |
| 7. Ledgers or Statements | 5 years |
| 8. Posting or Transaction Journal | 1 year |
| 9. Signature Cards, Contracts, and Agreements
(After Closed) | 5 years |
| 10. Undelivered Statements | 1 year |
| 11. Unidentified or Unclaimed Deposit Records | Until escheated |

TELLERS

- | | |
|--|----------|
| 1. Balance Sheets, Recaps, or Records | 1 year |
| 2. Cash Item Report | 1 year |
| 3. Machine Tapes, Cash Ticket Copies,
Posting or Transaction Journals | 6 months |

TRUST (Corporate)

- | | |
|--|----------------------------------|
| 1. Account Ledger or Record | 7 years after
account closed |
| 2. Posting or Transaction Journal | 7 years |
| 3. Bonds of Indemnity | Permanent |
| 4. Stock Certificates (Cancelled) | until returned to
corporation |
| 5. Dividend Checks -- Paid | 5 years |
| 6. Dividend Check Register or Carbon Copy | Until paid |
| 7. Bonds and Coupons --
Cancelled or Cremation Certificates | 7 years after
paid or until |

PROPOSED RULES

8. Resolutions and Authorizations

returned to
corporation
7 years after
account closed

TRUST (Employee Benefit)

1. Accountings

6 years after
account closed

2. Agreements, Authorizations and Resolutions

6 years after
account closed

3. Account Ledger or Record

6 years after
account closed

4. Disbursement Checks

6 years

5. Check Register or Carbon Copy

Until Paid

6. Bonds of Indemnity

Permanent

TRUST (Personal)

1. Accountings

3 years after
account closed

2. Agreements and Authorizations

5 years after
account closed

3. Account Ledger or Record

7 years after
account closed

4. Minutes of Committee Meetings

Permanent

5. Receipts for Assets Delivered

3 years after
account closed

6. Tax Return

10 years or
until IRS clears

7. Disbursement Checks

5 years

8. Check Register or Carbon Copy

Until paid

9. Bonds of Indemnity

Permanent

(b) Nothing in these Rules shall prohibit any bank or branch thereof from keeping and maintaining any and all of its records for a longer period of time than the minimum time set forth as the minimum retention period.

(c) Paragraph (a) of this Rule sets forth state minimum records retention requirements and does not necessarily include nor cover records required to be kept by federal agencies such as federal bank supervisory agencies, wage hour, and other federal agencies. Banks will also observe the requirements of such federal agencies in retention of records required by such agencies.

(d) Nothing in these Rules shall prohibit any bank or branch thereof from causing any or all of its records, whether permanent records or records designated to be retained for a minimum period of time, to be recorded, copied, or reproduced by any photographic, photostatic, or miniature photographic process which is in common and general use and which correctly, accurately, and permanently copies, reproduces, or forms a medium for copying or reproducing the original records on a film or other durable material as provided by Paragraph (4) of Subsection (b) of G.S. 53-110, as amended.

Statutory Authority G.S. 53-92; 53-104; 53-110; 150B-11(1).

SECTION .1000 - LOAN ADMINISTRATION AND LEASING

.1001 CREDIT INFORMATION

Each bank or branch thereof where notes are retained must have the following information:

- (1) Current financial statements, dated within the preceding 18 months, and properly cer-

tified, must be on file from those directly liable to the bank in an amount of ten thousand dollars (\$10,000.00) or more, which obligations are unsecured, to the extent of ten thousand dollars (\$10,000.00), or secured only by endorsements. This applies, also, to the endorser where such endorsements are the basis of credit.

- (2) This Subpart does not apply to loans secured by real property:
 - (a) A written appraisal of all collateral to loans must be made by the executive committee or loan committee of the bank or branch, or other reliable persons familiar with the value of the collateral, and must be kept on file where the note is lodged. All appraisals must be renewed every 12 months, except as required in (2)(d) of this Rule.
 - (b) The appraisal must include:
 - (i) name of borrower,
 - (ii) date made,
 - (iii) value of collateral,
 - (iv) signatures of at least two persons making the appraisal except as permitted in (2)(e) of this Rule,
 - (v) brief description of collateral,
 - (vi) amount of prior lien,
 - (vii) original amount or outstanding balance of the loan.
 - (c) No appraisal is required:
 - (i) on collateral to notes of less than twenty thousand dollars (\$20,000.00);
 - (ii) on loans fully secured by obligations of the United States or the State of North Carolina;
 - (iii) on loans fully secured by deposits in the bank making the loan;
 - (iv) on loans fully secured by the cash surrender or loan value of life insurance policies;
 - (v) on loans fully secured by bonded warehouse receipts;
 - (vi) on loans fully secured by listed securities, unless such loans are within the provisions of the Securities Exchange Act of 1934 as defined by Regulation "U," as amended, of the Board of Governors of the Federal Reserve System; On a loan of this type, an appraisal must be made and kept on file until the loan is paid;
 - (vii) on floor plan loans to dealers fully secured by new automobiles, stationwagons, vans, and trucks;
 - (viii) on discounted notes for a dealer where the note is given as the purchase price of an automobile, television set, washing machine, or property of a like character.
 - (d) Appraisals need not be renewed annually:
 - (i) where an automobile, stationwagon, or house trailer is the sole collateral to a loan;
 - (ii) where a truck or van not exceeding 8,000 pounds empty weight is the sole collateral to a loan.
 - (e) Appraisals may be signed by only one person:
 - (i) where an automobile or stationwagon is the sole collateral to a loan;
 - (ii) where a truck or van not exceeding 8,000 pounds empty weight is the sole collateral to a loan.
- (3) All real estate given as security to loans of twenty thousand dollars (\$20,000.00) or over, whether directly or indirectly pledged, must be appraised either by two members of the executive or loan committee who are familiar with real estate values in the community where the property is located, or by two bank employees who are familiar with real estate values in the community where the property is located and who are not involved in the loan transaction secured by the property being appraised, or singularly by a State-licensed real estate appraiser or State-certified real estate appraiser or a person certified as a real estate appraiser by an appraisal trade organization. The person making an appraisal as provided by this Rule must be selected by the bank. The appraisal must be independent in that the appraiser is not involved in the loan transaction secured by the property being appraised and has no interest, financial or otherwise, in the property. The appraisal must be in writing, must be dated, must be signed as required in this Subparagraph by the person(s) making the appraisal, and be on file with the loan documents. The appraisal must state the basis or approach used to determine the value of the property. A bank's appraisal form must show the amount of the loan, identify the loan transaction for which the appraisal was made, the current balance of any prior liens, if any, disclosed by the attorney's title certificate, segregate values of improvements from values of land, and describe the property so it may be easily identified. If a professional appraisal form is used which does not have all of the required information in this Subparagraph, the bank must complete and attach its own appraisal form, signed by one of its employees, to the outside appraisal report disclosing the required information.
- (4) For loans secured by real property, a certificate of title furnished by a competent attorney at law or title insurance issued by a company licensed by the Commissioner of Insurance must accompany each deed of trust or mortgage given as security on loans of twenty thousand dollars (\$20,000) or over. Provided that any loan which is based primarily on the borrower's general creditworthiness and projected income,

whether or not accompanied by a deed of trust or mortgage, is not considered a loan secured by real property, and the first sentence of this Subparagraph shall not apply to any such loan.

- (5) Where stock certificates, or similar securities, are accepted as collateral to loans, they each certificate must be endorsed and witnessed in ink, or accompanied by a stock power of attorney signed and witnessed in ink. Where such collateral is in the name of another, other than the maker or endorser of the note, there must be on file in the bank written authority from the owner permitting the hypothecation of the collateral.
- (6) Loans made directly to corporations must be supported by certified copies of resolutions of the board of directors of the corporation, authorizing the making of such loans.
- (7) Loans made directly to partnerships must be supported by a declaration by the partners showing the composition of the partnership and unless all partners sign the note, the authority of the partner(s) executing the note to bind the partnership.
- (8) Full credit information on all unlisted securities, now owned or hereafter purchased or acquired, must be secured and kept on file in the bank.

Statutory Authority G.S. 53-92; 53-110; 150B-11(1).

SECTION .1100 - CAPITAL

.1103 CAPITAL STOCK

(a) Definition. For the purpose of this Section, the terms capital stock and common capital stock shall be considered one and the same and shall consist of the par value of all classes of common stock times the number of shares issued and outstanding.

(b) Par Value. All classes of common stock issued by a bank shall have a stated par value.

(c) Impairment. A bank's capital stock will be deemed impaired when the payment of expenses, losses or other charges to its capital accounts shall reduce the bank's total equity capital to an amount less than its capital stock.

Statutory Authority G.S. 53-1(3)d; 53-2(4); 53-42; 53-104; 150B-11(1).

.1104 MAINTENANCE OF CAPITAL SURPLUS

Each bank doing business under Chapter 53 shall at all times maintain a paid in surplus of not

less than 50 percent of common capital stock as the same is defined at 4 NCAC 3C .1103(a).

Statutory Authority G.S. 53-2(4); 53-104; 150B-11(1).

.1105 NOTICE OF IMPAIRMENT

The Commissioner of Banks will notify by certified mail the Chairman of the Board of any bank whose capital has become impaired pursuant to 4 NCAC 3C .1103(c). The impairment must be made good within 60 days of receipt of the notice by assessment upon the shareholders and a special meeting of shareholders must be immediately called for that purpose. A copy of the notice of the shareholders' meeting must be provided to the Commissioner of Banks. Immediately following this special meeting, the secretary of the board shall provide the Commissioner with a copy of the minutes which must reflect the amount of assessments and time within which the same must be paid together with an indication of the steps which the board will take to collect any assessment which is not timely paid.

Pursuant to G.S. 53-42, the Commissioner of Banks may immediately take possession of a bank which has not paid in the deficiency in its capital stock.

Statutory Authority G.S. 53-42; 53-104; 150B-11(1).

SECTION .1500 - AUTOMATION AND DATA PROCESSING

.1501 CUSTOMER-BANK COMMUNICATION TERMINALS

(a) A state bank may make available for use by its customers one or more electronic devices or machines through which the customer may communicate to the bank a request to withdraw money either from his account or from a previously authorized line of credit, or an instruction to receive or transfer funds for the customer's benefit. The device may receive or dispense cash in accordance with such a request or instruction, subject to verification by the bank. These devices may be unmanned or manned by a bona fide third party under contract to the bank. The bank for a reasonable period of time may provide one of its employees to instruct and assist customers in the operation of the device. Any transactions initiated by such a device shall be subject to verification by the bank either by direct wire transmission or otherwise.

(b) Use of such devices at locations other than the main office or a branch office of the bank does not constitute branch banking. A bank

shall provide insurance protection under its bonding program for transactions involving such devices.

(c) No device for which notice must be given under this Rule may be established or used by a state bank at a distance greater than 50 miles from the bank's main office or closest branch, whichever is nearer, unless such device or machine is available to be shared at a reasonable cost by one or more local (i.e., within the trade area of the device or machine) depository financial institutions authorized to receive deposits, such as a commercial bank, a savings and loan association, or a credit union.

(d) Written notice must be given to the Commissioner's office 30 days before changing any of the operations described in a notice previously given pursuant to this Paragraph. One or more state banks sharing one or more devices or machines may give a single notice to the Commissioner's office, provided that the notice includes the information listed in Subparagraph (1) of Rule .1502 of this Section for each shared device or machine. The Commissioner reserves the right to adopt different reporting procedures as warranted by the circumstances of a particular network of devices or machines.

(e) No notice need be given for any device or machine which is used only to transfer funds for goods or services received, and through which neither cash is dispensed nor cash or checks left for subsequent deposit; is used solely to verify a customer's credit for purposes of check cashing or of a credit card transaction; or is a part of a bank's authorized main office or branch.

Statutory Authority G.S. 53-62; 53-92; 53-104; 150B-11(1).

.1502 LIMITATIONS

The establishment and use of these devices is subject to the following limitations:

- (1) Contents of Notice. Written notice must be given to the Commissioner of Banks' office 30 days before any such device is put into operation and mailed to

The Commissioner of Banks

430 N. Salisbury Street

Dobbs Bldg. Box 29512

Raleigh, North Carolina 27626-0512

The notice must describe with regard to the device or machine:

- (a) the location;
 - (b) a general description of the area where it is located--e.g., shopping center, gasoline station, supermarket--and the manner of installation--e.g., free standing, exterior wall, separate interior booth;
 - (c) the manner of operation, including whether the device is on-line;
 - (d) the kinds of transactions which will be performed;
 - (e) whether the device will be manned, and, if so, by whose employees;
 - (f) whether the device will be shared, and, if so, under what terms and with what other institutions and their locations;
 - (g) the manufacturer and, if owned, the purchase price or, if leased, the lease payments and the name of the lessor;
 - (h) the distance from the nearest banking office and from the nearest similar device of the reporting bank;
 - (i) the distance from the nearest banking office and nearest similar device of another commercial bank, which will not share the facility, and the name of such other bank or banks; and
 - (j) consumer protection procedures, including the disclosure of rights and liabilities of consumers and protection against wrongful or accidental disclosure of confidential information.
- (2) To the extent consistent with the antitrust laws, state banks are permitted, but not required, to share such devices with one or more financial institutions.

Statutory Authority G.S. 53-62; 53-92; 53-104; 150B-11(1).

SECTION .1600 - FEES

.1601 FEES, COPIES AND PUBLICATION COSTS

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

- | | |
|--|--------------|
| (1) Application for the Formation of a New Bank | \$ 10,000.00 |
| (2) Application for Authority to Decrease Capital Stock | \$ 250.00 |
| (3) Application to Merge or Consolidate Banks (fee is per bank) | \$ 4,000.00 |
| (4) Application for Reorganization Into a Bank Holding Company Through an Interim Bank (fee is per bank) | \$ 4,000.00 |
| (5) Application for Reorganization | \$ 4,000.00 |

PROPOSED RULES

(6) Application for Conversion of a National Bank to State Charter	\$ 5,000.00
(7) Application for Voluntary Liquidation	\$ 3,000.00
(8) Application for Authority to Create and Invest in a Subsidiary	\$ 750.00
(9) Application for Approval of Change in Bank Control or Management	\$ 1,000.00
(10) Petition for Authority to Exceed Investment or Loan Limitations	\$ 250.00
(11) Application for Authority to Establish a Branch Bank	\$ 1,000.00
(12) Application for Authority to Relocate a Main Office or Branch	\$ 750.00
(13) Application for Authority to Create a Limited Service Facility	\$ 1,000.00
(14) Application for Authority to Convert a Branch to a Limited Service Facility	\$ 500.00
(15) Authority to Close a Branch	\$ 1,000.00
(16) Request for Replacement Charter Certificate	\$ 25.00
(17) Request for Certificate of Good Standing	\$ 25.00
(18) Application for Conversion of a Savings and Loan Association to a State Bank	\$ 7,500.00
(19) <u>Application to Form a Nondepository Trust Company</u>	<u>\$ 10,000.00</u>

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

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

(1) Publications:

(A) Annual Report of Consumer Finance Licensees	\$ 4.00
(B) Annual Report of State-chartered Banks	\$ 5.00
(C) Annual Report of Special Services	\$ 3.50
(D) North Carolina Administrative Code - Chapter 3 Banking Commission and Related Regulations	\$ 7.50
(E) Annual Subscription for Official Notice-Maximum Rate of Interest Allowed on Certain Loans	\$ 10.00

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

(d) Any new publication or any publication not set forth in Subparagraph (c)(1) of this Rule may be purchased at a price of twenty-five cents (\$0.25) per page.

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

SUBCHAPTER 3D - BANKS ACTING IN A FIDUCIARY CAPACITY

SECTION .0300 - TRUST DEPARTMENT

.0302 ADMINISTRATION OF FIDUCIARY POWERS

(a) The trust department shall be separate and apart from every other department of the bank. The trust department may utilize personnel and facilities of other departments of the bank and other departments of the bank may utilize the personnel and facilities of the trust department only to the extent not prohibited by law.

(b) Board of Directors

(1) The Board of directors is responsible for the proper exercise of fiduciary powers by the bank. All matters pertinent thereto, including the determination of policies, the investment and disposition of property held in a fiduciary capacity, and the direction and review of the actions of all officers, employees, and committees uti-

lized by the bank in the exercise of its fiduciary powers, are the responsibility of the Board. In discharging this responsibility, the Board of directors may assign, by action duly entered in the minutes, the administration of such of the bank's fiduciary powers as it may consider proper to assign to such director(s), officers(s), or employee(s), who are qualified and competent to administer fiduciary duties and responsibilities, as it may designate and may appoint such committees of director(s) and/or officer(s) as it deems advisable to supervise the trust department.

(2) No fiduciary account shall be accepted without the prior approval of the Board, or of the director(s), officer(s), or committee(s) to whom the Board may have designated the performance of that responsibility. A written record shall be made of such acceptances and of the

relinquishment or closing out of all fiduciary accounts. Upon the acceptance of an account for which the bank has investment responsibility, a prompt review of the assets shall be made. The Board shall also ensure that at least once during every calendar year thereafter, and within 15 months of the last review, all the assets held in or for each fiduciary account where the bank has investment responsibilities are reviewed to determine the advisability of retaining or disposing of such assets.

(c) All officers and employees taking part in the operation of the trust department shall be adequately bonded.

(d) Every bank exercising fiduciary powers shall designate, employ, or retain competent legal counsel who shall be readily available to pass upon fiduciary matters and to advise the bank and its trust department.

(e) Trust assets of a negotiable nature held by the bank in its own vaults shall be placed in the joint custody of at least two or more bonded officers or employees designated by the Board of directors.

(f) Funds received or held by a bank as fiduciary awaiting investment or distribution shall be promptly invested, distributed, or may be deposited, unless prohibited by the instrument creating the trust, in the commercial or savings or other departments of the bank; provided that it shall first set aside under control of the trust department as collateral security, such securities as may be found listed in G.S. 142-34 as being eligible for the investment in sinking funds of the State of North Carolina equal in market value of such deposited funds, or readily marketable commercial bonds having not less than a recognized "A" rating equal to 125 percent of the funds so deposited. Securities delivered to the trust department and pledged to secure fiduciary deposits shall at all times be kept separate and apart from the other assets of the trust department and proper records shall be kept by the trust department in connection therewith. If such funds are deposited in a bank insured under the provisions of the Federal Deposit Insurance Corporation, the above collateral security will be required only for that portion of uninvested balances of each trust which are not fully insured under the provision of that corporation.

(g) Investments by a bank as fiduciary in a savings account or accounts or in its certificate or certificates of deposit shall be secured by the pledge of securities in the same manner and to the same extent as required by Subsection (f) of this Rule for demand deposits.

(h) Agency accounts shall not be overdrawn nor advances made thereto unless the instrument establishing the agency specifically authorizes the bank as agent to borrow money. Advances, or overdrafts, to trusts or agencies shall not be made from funds belonging to other trusts or agencies. Where it is deemed necessary in the proper administration of a trust to make temporary advances, such advances shall be made from funds belonging to the bank and shall at no time exceed 50 percent of the estimated income of that trust for a six months' period. Any advance exceeding this amount shall be made in the form of a loan from the bank or otherwise, and such loan shall be expressly authorized by the trust instrument or properly approved by the courts.

(i) Funds received or held by a bank as fiduciary shall not be invested by it in stock or obligation of, or property acquired from, the bank or its directors, officers, or employees, or their interests, or in stock or obligations of, or property acquired from, affiliates of the bank. This requirement contemplates that the bank will not invest trust funds in the obligations of any organizations in which officers, directors, or employees of the bank have such an interest as might affect the exercise of the best judgment of the management of the bank in investing trust funds.

(j) No trustee shall directly or indirectly buy or sell any property for the trust from or to itself as an affiliate, or from or to a director, officer, or employee of such trustee or of an affiliate, or from or to a relative, employee, partner or other business associate.

(k) Assets held by a bank as fiduciary or agent ~~shall not~~ may be sold or transferred from one trust or agency to another trust or agency, unless such transfer is expressly ~~authorized~~ prohibited by the instrument creating the trust or agency from which and to which the transfer is made, and unless the transaction is ~~fair~~ unfair to ~~both accounts~~ either account.

(l) A committee of at least three directors or stockholders shall be appointed annually to examine, or to superintend the examination of the assets and liabilities of the trust department of each bank engaging in trust business, and to report to the Board of directors the result of such examination. The committee, with the approval of the board of directors, may provide for such examination by a certified public accountant, or by the auditing department of the bank. A copy of such report of examination, which is herein required to be made, attested, and verified under oath by the signatures of at least three members of such committee, shall forthwith be filed with the Commissioner of Banks.

(m) Funds received or held by a bank as fiduciary shall not be invested collectively except as provided in Rule .0304 of this Subchapter.

Statutory Authority G.S. 36A-63; 36A-66; 36A-68; 53-43(6); 53-92; 53-104; 150B-11(1).

.0303 BOOKS AND RECORDS; SURCHARGES

(a) Books and Records. Each bank engaging in trust business must keep in the trust department:

- (1) a separate and distinct set of books and records showing in proper detail all receipts and disbursements of funds, receipts, purchases and sales of assets, and other transactions engaged in, in connection with trust business; and showing at all times the ownership of all moneys, funds, investments and property held by the bank;
- (2) files containing the original instruments creating each trust or properly authenticated copies thereof;
- (3) a permanent record of minutes for each committee, showing clearly its action. All minutes shall be signed by the chairman and the Secretary and shall be read and approved at the next meeting of the committee.

(b) Surcharges. Banks engaging in a trust business must also keep in the trust department a permanent record of surcharges. Any surcharge of one thousand dollars (\$1,000) or more must be expressly approved by the Trust Committee.

Statutory Authority G.S. 36A-71; 53-92; 53-110; 150B-11(1).

.0304 COLLECTIVE INVESTMENT

(a) The purpose of this Regulation is to permit the use of common trust funds and for the collective investment of funds held for fiduciary purposes as hereinafter set forth; and the operation of such funds as investment trusts for other than such fiduciary purposes is hereby prohibited.

(a) Funds held by a bank as fiduciary may be invested collectively in one or more common trust funds. Such funds shall be organized and administered in accordance with the provisions of 12 C.F.R. 9.18, the same which is herein incorporated by reference except that any reference in the aforesaid statute to the Comptroller of the Currency shall, for the purposes of banks organized under the laws of North Carolina, be deemed to refer to the Commissioners of Banks.

(b) Types of Funds Authorized. Funds held by a bank as fiduciary may be invested collectively in a fund or funds established and main-

tained in accordance with the provisions of this Regulation, as follows:

- (1) in a common trust fund maintained by the bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as executor, administrator, guardian, trustee, or custodian under a Uniform Gifts to Minors Act;
- (2) in a fund consisting solely of assets of retirement, pension, profit-sharing, stock bonus, or other trusts which are exempt from federal income taxation under the Internal Revenue Code, provided that such fund is exempt from taxation under applicable Internal Revenue Code provisions, regulations, and rulings.

(b) Pursuant to G.S. 150B-14(c), any reference to 12 C.F.R. 9.18 shall automatically include any later amendment and edition to that regulation.

(c) Governing Provisions. Collective investment of funds or other property by banks under Subsection (b) of this Regulation (referred to in this Regulation as "collective investment funds") shall be administered as follows:

- (1) Each collective investment fund shall be established and maintained in accordance with a written plan (referred to herein as the plan) which shall be approved by a resolution of the bank's board of directors, approved in writing by competent legal counsel, and filed with the State Commissioner of Banks. The plan shall contain appropriate provisions not inconsistent with the regulations of the State Banking Commission as to the manner in which the fund is to be operated, including provisions relating to the investment powers and a general statement of the investment policy of the bank with respect to the fund; the allocation of income, profits and losses; the terms and conditions governing the admission or withdrawal of participations in the fund; the auditing of accounts of the bank with respect to the fund; the basis and method of valuing assets in the fund; setting forth specific criteria for each type of asset; the minimum frequency for valuation of assets of the fund; the period following each such valuation date during which the valuation may be made; which period in usual circumstances should not exceed 10 business days; the basis upon which the fund may be terminated; and such other matters as may be necessary to define clearly the rights of participants in the fund. Except as otherwise provided in

Paragraph (c)(15) of this Rule, fund assets shall be valued at market value unless such value is not readily ascertainable, in which case a fair value determined in good faith by the fund trustees may be used. A copy of the plan shall be available at the principal office of the bank for inspection during all banking hours, and upon request a copy of the plan shall be furnished to any person.

- (2) Property held by the bank in its capacity as trustee of retirement, pension, profit-sharing, stock bonus, or other trusts which are exempt from federal income taxation under any provision of the Internal Revenue Code may be invested in collective investment funds established under the provisions of Subsection (b)(1) or (2) of this Regulation, subject to the provisions herein contained pertaining to such funds.
- (3) All participations in the collective investment fund shall be on the basis of a proportionate interest in all of the assets. In order to determine whether the investment of funds received or held by the bank as fiduciary in a participation in a collective investment fund is proper, the bank may consider the collective investment fund as a whole and shall not, for example, be prohibited from making such investment because any particular asset is non-income producing.
- (4) Not less frequently than once during each period of three months a bank administering a collective investment fund shall determine the value of the assets in the fund as of the date set for the valuation of assets. No participation shall be admitted to or withdrawn from the fund except on the basis of such valuation and as of such valuation date. No participation shall be admitted to or withdrawn from the fund unless a written request for or notice of intention of taking such action shall have been entered on or before the valuation date in the fiduciary records of the bank and approved in such manner as the Board of directors shall prescribe. No such request or notice may be cancelled or countermanded after the valuation date. If a fund described in Paragraph (b)(2) of this Rule is to be invested in real estate or other assets which are not readily marketable, the bank may require a prior notice period, not to exceed one year, for withdrawals.
- (5) Audit and Reports

(A) A bank administering a collective investment fund shall at least once during each period of 12 months cause an adequate audit to be made of the collective investment fund by auditors responsible only to the Board of Directors of the bank. In the event such audit is performed by independent public accountants, the reasonable expenses of such audit may be charged to the collective investment fund.

(B) A bank administering a collective investment fund shall at least once during each period of 12 months prepare a financial report of the fund which shall be filed with the Commissioner of Banks within 90 days after the end of the fund's fiscal year. This report, based upon the audit, shall contain a list of investments in the fund showing the cost and current market value of each investment; a statement for the period since the previous report showing purchases, with cost; sales, with cost, sales price, and profit or loss and any other investment changes; income and disbursements; and an appropriate notation as to any investments in default.

(C) The financial report may include a description of the fund's value on previous dates, as well as its income and disbursements during previous accounting periods. No predictions or representations as to future results may be made. In addition, as to funds described in Subsection (1) of Subsection (b) of this Regulation, neither the report nor any other publication of the bank shall make reference to the performance of funds other than those administered by the bank.

(D) A copy of the financial report shall be furnished; or notice shall be given that a copy of such report is available and will be furnished without charge upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each participating account. A copy of such financial report may be furnished to prospective customers. The cost of printing and distribution of these reports shall be borne by the bank. In addition, a copy of the report shall be furnished upon request to any person for a reasonable charge. The fact of the availability of the report for any fund described in Subsection (1) of Subsection (b) of this Regulation may be given publicity solely in connection with the promotion of the fiduciary services of the bank.

- (E) Except as herein provided, the bank shall not advertise or publicize its collective investment fund(s) described in Subsection (1) of Subsection (b) of this Regulation.
- (6) When participations are withdrawn from a collective investment fund, distributions may be made in cash or ratably in kind, or partly in cash and partly in kind, provided that all distributions as of any one valuation date shall be made on the same basis.
- (7) If for any reason an investment is withdrawn in kind from a collective investment fund for the benefit of all participants in the fund at the time of such withdrawal and such investment is not distributed ratably in kind, it shall be segregated and administered or realized upon for the benefit ratably of all participants in the collective investment fund at the time of withdrawal.
- (8) Transactions With Bank
- (A) No bank shall have any interest in a collective investment fund other than in its fiduciary capacity. Except for temporary net cash overdrafts or as otherwise specifically provided herein, it may not lend money to a fund, sell property to, or purchase property from a fund. No assets of a collective investment fund may be invested in stock or obligations, including time or savings deposits, of the bank or any of its affiliates. Provided, that such deposits may be made of funds awaiting investment or distribution. Subject to all other provisions of this part, funds held by a bank as fiduciary for its own employees may be invested in a collective investment fund. A bank may not make any loan on the security of a participation in a fund. If because of a creditor relationship or otherwise the bank acquires an interest in a participation in a fund, the participation shall be withdrawn on the first date on which such withdrawal can be effected. However, in no case shall an unsecured advance until the time of the next valuation date to an account holding a participation be deemed to constitute the acquisition of an interest by the bank.
- (B) Any bank administering a collective investment fund may purchase for its own account from such fund any defaulted fixed income investment held by such fund, if in the judgment of the Board of directors the cost of segregation of such investment would be greater than the difference between its market value and its principal amount plus interest and penalty charges due. If the bank elects to so purchase such investment, it must do so at its market value or at the sum of cost, accrued unpaid interest, and penalty charges, whichever is greater.
- (9) Restrictions. Except in the case of collective investment funds described in Subsection (b)(2) of this Regulation:
- (A) No funds or other property shall be invested in a participation in a collective investment fund if as a result of such investment the participant would have an interest aggregating in excess of 10 percent of the then market value of the fund. Provided, that in applying this limitation if two or more accounts are created by the same person or persons and as much as one-half of the income or principal of each account is payable or applicable to the use of the same person or persons, such accounts shall be considered as one.
- (B) No investment for a collective investment fund shall be made in stocks, bonds, or other obligations of any one person, firm, or corporation if as a result of such investment the total amount invested in stocks, bonds, or other obligations issued or guaranteed by such person, firm, or corporation would aggregate in excess of 10 percent of the then market value of the fund. Provided, that this limitation shall not apply to investments in direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest.
- (C) A bank administering a collective investment fund shall maintain, in cash and readily marketable investments, such percentage of the assets of the fund as is necessary to provide adequately for the liquidity needs of the fund and to prevent inequities among fund participants.
- (10) The reasonable expenses incurred in servicing mortgages held by a collective investment fund may be charged against the income account of the fund and paid to servicing agents, including the bank administering the fund.
- (11) Reserve Account
- (A) A bank may (but shall not be required to) transfer up to five percent of the net income derived by a collective investment fund from mortgages held by such fund during any regular accounting period to a reserve account. Provided, that no such transfers shall be made which would cause

the amount in such account to exceed one percent of the outstanding principal amount of all mortgages held in the fund. The amount of such reserve account, if established, shall be deducted from the assets of the fund in determining the fair market value of the fund for the purposes of admissions and withdrawals.

- (B) At the end of each accounting period, all interest payments which are due but unpaid with respect to mortgages in the fund shall be charged against such reserve account to the extent available and credited to income distributed to participants. In the event of subsequent recovery of such interest payments by the fund, the reserve account shall be credited with the amount so recovered.
- (12) A bank administering a collective investment fund shall have the exclusive management thereof. The bank may charge a fee for the management of the collective investment fund provided that the fractional part of such fee proportionate to the interest of each participant shall not, when added to any other compensations charged by a bank to a participant, exceed the total amount of compensations which would have been charged to said participant if no assets of said participant had been invested in participations in the fund. The bank shall absorb the costs of establishing or reorganizing a collective investment fund.
- (13) No bank administering a collective investment fund shall issue any certificate or other document evidencing a direct or indirect interest in such fund in any form.
- (14) No mistake made in good faith and in the exercise of due care in connection with the administration of a collective investment fund shall be deemed to be a violation of this part if promptly after the discovery of the mistake the bank takes whatever action may be practicable in the circumstances to remedy the mistake.
- (15) Short-term investment funds established under Paragraph (b) of this Rule may be operated on a cost, rather than market value, basis for purposes of admissions and withdrawals, if the plan of operation satisfies the following conditions:
 - (A) Investments must be limited to bonds, notes or other evidences of indebtedness which are payable on demand (including variable amount notes) or which have a maturity date not exceeding 91 days from the date of purchase. However, 20 per-

cent of the value of the fund may be invested in longer term obligations;

- (B) The difference between the cost and anticipated principal receipt on maturity must be accrued on a straightline basis;
- (C) Assets of the fund must be held until maturity under usual circumstances; and
- (D) After effecting admissions and withdrawals, not less than 20 percent of the value of the remaining assets of the fund must be composed of cash, demand obligations and assets that will mature on the fund's next business day.
- (d) Other Funds. In addition to the investments permitted under Subsection (b) of this Regulation, funds or other property received or held by a bank as fiduciary may be invested collectively as follows:
 - (1) in a single real estate loan, a direct obligation of the United States, or an obligation fully guaranteed by the United States or in a single fixed amount security, obligation, or other property, either real, personal, or mixed, of a single issuer. Provided, that the bank owns no participation in the loan or obligation and has no interest in any investment therein except in its capacity as fiduciary.
 - (2) in a common trust fund maintained by the bank for the collective investment of cash balances received or held by a bank in its capacity as trustee, executor, administrator, or guardian, which the bank considers to be individually too small to be invested separately to advantage. The total investment for such fund must not exceed one hundred thousand dollars (\$100,000); the number of participating accounts is limited to 100, and no participating account may have an interest in the fund in excess of ten thousand dollars (\$10,000). Provided, that in applying these limitations if two or more accounts are created by the same person or persons and as much as one-half of the income or principal of each account is presently payable or applicable to the use of the same person or persons, such account shall be considered as one;
 - (3) in any investment specifically authorized by court order, or authorized by the instrument creating the fiduciary relationship, in the case of trusts created by a corporation, its subsidiaries and affiliates or by several individual settlers who are closely related;
 - (4) in such other manner as shall be approved in writing by the Commissioner of Banks.

Statutory Authority G.S. 36A-92; 53-92; 53-104; 150B-11(1).

SUBCHAPTER 3H - APPLICATIONS BY REGIONAL BANK HOLDING COMPANIES

SECTION .0100 - ADMINISTRATIVE

~~.0001~~ .0101 APPLICATION FEES (REPEALED)

The application fees for acquisitions by regional bank holding companies in North Carolina under the North Carolina Regional Reciprocal Banking Act shall be three thousand dollars (\$3,000) for the Regional Bank Holding Company plus two thousand dollars (\$2,000) for each North Carolina bank and/or bank holding company to be acquired.

Statutory Authority G.S. 53-214(b).

.0102 REGIONAL BANK HOLDING COMPANY ACQUISITIONS

Regional bank holding companies may acquire North Carolina banks or bank holding companies upon written approval of the Commissioner of Banks.

- (1) Application. An application to acquire a North Carolina bank or bank holding company must be submitted in writing on Form 60 which may be obtained from the Commissioner of Banks. The application, together with the prescribed fee, must be filed with:

The Commissioner of Banks
430 N. Salisbury Street
Dobbs Bldg. Box 29512
Raleigh, N.C. 27626-0512

- (2) Application fees. The application fees for acquisition by a regional bank holding company in North Carolina under the North Carolina Regional Reciprocal Banking Act shall be three thousand dollars (\$3,000) for the regional bank holding company plus two thousand dollars (\$2,000) for each North Carolina bank and/or bank holding company being acquired.

- (3) Notice of filing/written comments. Within 30 days of acceptance of a completed application for filing, the Commissioner of Banks will publish a notice of the filing of the application as set forth in G.S. 53-211(d). Within 14 days of the published notice, any interested person may submit written comments and information concerning the ap-

plication to the Commissioner of Banks. All written comments received during the comment period will become a part of the official record compiled with respect to the application. The Commissioner of Banks may extend the comment period if he determines that there are extenuating circumstances.

- (4) Examination by Commissioner. Upon receipt of a completed application, the Commissioner of Banks will conduct an examination into all the facts connected with the proposed acquisition in accordance with Articles 17 and 18 of Chapter 53.
- (5) Action by Commissioner. No final decision may be made by the Commissioner of Banks until the comment period has expired. The final decision of the Commissioner of Banks on an application will be in writing and include findings of fact and conclusions of law.
- (6) Notification of Commissioner's action. The applicant and all persons who have made written requests for such notice will be given notice of the Commissioner of Banks' final decision on each application.

Statutory Authority G.S. 53-211; 53-214(b); 150B-11(1).

.0103 BANK HOLDING COMPANY REGISTRATION

Bank holding companies controlling North Carolina federally chartered or state chartered banks, or which control nonbank subsidiaries (direct or indirect) having offices located in the state shall register with the Commissioner of Banks on Form 61. Initial registrations shall be completed no later than 180 days after becoming a bank holding company as set forth in G.S. 53-227 and annual registrations shall be completed not later than July 1st of each year thereafter, continuing until such time that the bank holding company no longer meets the registration requirements as set forth in G.S. 53-227. Forms may be obtained from and should be filed along with associated fees with:

The Commissioner of Banks
430 N. Salisbury Street
Dobbs Bldg. Box 29512
Raleigh, N.C. 27626-0512

Statutory Authority G.S. 53-227; 53-230; 150B-11(1).

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Certificate of Need Section, Division of Facility Services, Department of Human Resources intends to repeal rule(s) cited as 10 NCAC 3R .2214.

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

The public hearing will be conducted at 2:00 p.m. on January 22, 1992 at Room 201, 701 Barbour Drive, Raleigh, N.C.

Reason for Proposed Action: The 1992 State Medical Facilities Plan distinguishes between dialysis stations for in-center maintenance patients, home dialysis patients, and patients needing isolation. This rule does not make this distinction and therefore is proposed to be repealed.

Comment Procedures: Written comments concerning the repeal of the rule should be submitted as soon as possible but no later than February 1, 1992 to Jackie Sheppard at 701 Barbour Drive. Oral comments may be presented at the hearing.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3R - CERTIFICATE OF NEED REGULATIONS

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

.2214 REQUIRED PERFORMANCE STANDARDS

(a) A proposal involving an increase in the number of dialysis stations in an existing renal dialysis facility shall not be approved unless, prior to the submittal of the application, the average utilization of all existing stations at the site at which the proposed stations are to be operated is at least 9-6 dialysis procedures per station per week for the number of the facility's current in-center dialysis patients who reside within 30 miles of the facility.

(b) A proposal involving the establishment of a new renal dialysis facility or center shall not be approved unless the utilization of all machines proposed to be operated is reasonably projected to be at a continuous rate of at least 9-6 dialysis procedures per station per week at the end of the first two operating years following completion of the proposed project.

(c) A proposal involving an increase in the number of dialysis stations in an existing renal dialysis facility shall not be approved unless the average utilization of all machines proposed to be operated is reasonably projected to be at a continuous rate of at least 9-6 dialysis procedures per station per week at the end of the first operating year following completion of the proposed project.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Child Day Care Commission intends to amend rule(s) cited as 10 NCAC 3U .0102, .0401, .0403, .2101, .2609.

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

The public hearing will be conducted at 10:00 - 11:00 a.m. on February 6, 1992 at the Council Building, Room 201, 701 Barbour Drive, Raleigh, N.C.

Reason for Proposed Action: At the request of the N.C. Child Day Care Commission and to amend certain rules to conform to the provisions of recently enacted legislation.

Comment Procedures: Any interested person may present his or her views and comments either in advance in writing to APA Coordinator, Division of Facility Services, P.O. Box 29530, Raleigh, NC 27626-0530; or in writing or orally at the hearing. Any person may request permission to be heard or request information about the proposed rules by writing or calling Dolores Whittemore, Child Day Care Section, P.O. Box 29530, Raleigh, NC 27626-0530; telephone (919) 733-4801.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3U - CHILD DAY CARE STANDARDS

SECTION .0100 - PURPOSE AND DEFINITIONS

.0102 DEFINITIONS

The terms and phrases used in this Subchapter shall be defined as follows except when the content of the rule clearly requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Age appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (2) "Agency" means the Child Day Care Section, Division of Facility Services, Department of Human Resources, located at 701 Barbour Drive, Raleigh, North Carolina 27603.
- (3) "Appellant" means the person or persons who request a contested case hearing.
- (4) "A" license means the license issued to day care operators who meet the minimum requirements for the legal operation of a child day care facility pursuant to G.S. 110-91 and applicable rules in this Subchapter.
- (5) "AA" license means the license issued to day care operators who meet the higher voluntary standards promulgated by the Child Day Care Commission as codified in Section .1600 of this Subchapter.
- (6) "Child Care Program" means a provider of child day care services and may consist of a single center or home, or a group of centers or homes or both, which are operated by one owner or supervised by a common sponsor.
- (7) "Day care center" means any day care facility as defined in G.S. 110-86(3) which is authorized to provide day care to 13 or more children when any child present is preschool-aged according to the definition of preschool-aged child in this Rule.
- (8) "Day Care Home" means any child day care home as defined in G.S. 110-86(4) which provides day care on a regular basis of at least once per week for more than four hours, but less than 24 hours per day. Child care arrangements excluded from the definition of day care facility in G.S. 110-86(3) are excluded as day care homes.
- (9) "Department" means the Department of Human Resources.
- (10) "Division" means the Division of Facility Services within the Department of Human Resources.
- (11) "Drop-in care" means a child day care arrangement where children attend on an intermittent, unscheduled basis.
- (12) "Group" means the children assigned to a specific caregiver, or caregivers, to meet the staff-child ratios set forth in G.S. 110-91(7) and this Subchapter, using space which is identifiable for each group.
- (13) "Large child day care center" or "large center" means any day care center which is authorized to provide care to 80 or more children.
- (14) "Large child day care home" or "large home" means any day care facility as defined in G.S. 110-86(3) which is authorized to routinely provide care to a maximum of 12 children when any child present is preschool-aged or, when all children present are school-aged, to a maximum of 15 children. ~~Provided the appropriate child/staff ratios are not exceeded, the~~ The large home may exceed these maximum capacities and may exceed the staff/child ratio limitations and the maximum group sizes specified in Rule .2607 of this Subchapter by no more than two children:
 - (a) during the school year for no more than one hour immediately after school; and
 - (b) during the two week period preceding and the two week period following the public school year.
- (15) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a day care center.
- (16) "Licensing Manual" means the document published by the Child Day Care Section which contains the procedures and standards required by North Carolina law, the commission, and the department for licensure of child day care centers. The licensing manual may be obtained from the section at the address given in Paragraph (1) of this Rule.
- (17) "Medium child day care center" or "medium center" means any day care center which is authorized to provide day care to at least 30 but no more than 79 children.
- (18) "Operator" means the person or entity held responsible by law as the owner of a child day care business. The terms "operator", "sponsor" or "licensee" are used interchangeably.
- (19) "Part-time care arrangement" means a child care arrangement as defined in G.S. 110-86 which provides care on less than a full-time basis. Examples of part-time care arrangements are certain drop-in, before/after school, and seasonal programs.
- (20) "Passageway" means a hall or corridor.
- (21) "Preschool (formerly preschool-aged) child" means any child under 13 years of age who does not fit the definition of school-aged child in this Rule.
- (22) "Provisional License" means the type of license issued to a center which does not conform in every respect with the standards for an "A" license.
- (23) "Registrant" means the person or entity that is granted permission by the State of North Carolina to operate a day care home.

- (24) "School-aged child" means any child who is at least five years old on or before October 16 of the current school year and who is attending, or has attended, a public or private grade school or kindergarten.
- (25) "Section" means the Child Day Care Section, Division of Facility Services, Department of Human Resources. The section is located at the address given in Paragraph (1) of this Rule.
- (26) "Small day care center" or "small center" means any day care center which is authorized to provide day care for a maximum of 29 children.
- (27) "Small day care home" or "small home" means the child care arrangements defined in G.S. 110-86(4) which are subject to the registration requirements set forth in Section .1700 of this Subchapter.
- (28) "Special Provisional License" means the type of license which may be issued a day care operator pursuant to the conditions of G.S. 110-88 (6a) when child abuse or neglect has occurred in the center.
- (29) "Substitute" means any person who temporarily assumes the duties of a regular staff person for a time period not to exceed two consecutive months.
- (30) "Teacher" means the caregiver who has responsibility for planning and implementing the daily program of activities for each group of children.
- (31) "Temporary care arrangement" means any child day care arrangement required to be regulated pursuant to G.S. 110-86 which provides either drop-in care or care on a seasonal or other part-time basis.
- (32) "Temporary license" means the license which may be issued when a licensed center changes location or changes ownership or when application for licensing of a new facility has been made in accordance with Rule .0403(a)(2) of this Subchapter.
- (33) "Volunteer" means a person who works in a day care center or day care home and is not monetarily compensated by the center or home.

Statutory Authority G.S. 110-88; 143B-168.3.

SECTION .0400 - ISSUANCE OF PROVISIONAL AND TEMPORARY LICENSES

.0401 PROVISIONAL LICENSE

(a) A provisional license may be issued in accordance with the provisions of G.S. 110-88(6) for any period of time not to exceed twelve consecutive months for any of the following reasons:

- (1) To allow a specific time period for correcting a violation of the building, fire, or sanitation requirements, provided that the appropriate inspector documents that the violation is not hazardous to the health or safety of the children but nevertheless necessitates a provisional classification until corrected.
- (2) To allow a specific time period for the center to comply fully with all licensing requirements other than building, fire, or sanitation, and to demonstrate that compliance will be maintained, provided that conditions at the center are not hazardous to the health or safety of the children or staff.
- (3) To allow time for the applicant or licensee to obtain a declaratory ruling pursuant to Section .2000 of this Subchapter.
- ~~(4) To allow an applicant to open a facility even though a license has not been issued, provided the applicant made initial application for a day care license at least four weeks prior to the scheduled opening date, has complied with the Section's requests for information to demonstrate potential compliance with the General Statutes and the rules of this Subchapter, and the Section has not determined that the applicant is ineligible for a license.~~
- (b) The provisional license may be issued upon the section's determination that the applicant or licensee is making a reasonable effort to conform to such requirements.
- (c) The provisional license and the document describing the reasons for its issuance shall be posted in a prominent place in the center.
- (d) A licensee may obtain an administrative hearing on the issuance of a provisional license in accordance with Section .2000 of this Subchapter.

Statutory Authority G.S. 110-88(6); 143B-168.3.

.0403 TEMPORARY LICENSES

- (a) A temporary license may be issued in accordance with the provisions of G.S. 110-88(10):
 - (1) to the operator of a previously licensed facility when a change in ownership or location occurs, provided the operator applied for a license, pursuant to Section .0300, and Rule .0204(a) or (b) of this Subchapter, prior to the change in status; or
 - (2) to allow an applicant to open a facility, provided the applicant made initial application for a day care license at least four weeks prior to the scheduled opening date.

has complied with the Section's requests for information to demonstrate potential compliance with the General Statutes and the rules of this Subchapter, and the Section has not determined that the applicant is ineligible for a license.

(b) The temporary license shall be posted in a prominent place in the center.

(c) The temporary license shall expire after 90 days, or upon the issuance of a license or provisional license to the operator, whichever is earlier.

(d) An operator may obtain an administrative hearing on the denial of a temporary license in accordance with Section .2000 of this Subchapter.

Statutory Authority G.S. 110-88(10); 143B-168.3.

SECTION .2100 - CHURCH DAY CARE CENTER REQUIREMENTS

.2101 CENTERS OPERATING UNDER G.S. 110-106

(a) At least 30 days prior to the first day of operation of a new church day care center, the prospective operator shall send a "Letter of Intent to Operate" to the section. That letter shall include the name, address, and telephone number of the operator and the center, if known; the proposed number and age range of children to be served; and the center's scheduled opening date. A representative of the section shall contact the prospective operator no later than seven calendar days after the Letter of Intent is received to advise the operator of the applicable requirements and procedures.

(b) Church day care centers shall comply with all day care center requirements in this Subchapter except for the rules regarding age-appropriate activities in Rules .0505 - .0511(a) and .2508; and Rules .0704, .0707 - .0711, ~~and~~ Paragraphs (a) through (d) of Rule .0714, Paragraphs (b), (c) and (f) of Rule .2510, and Paragraphs (b), (c) and (g) of Rule .2606 regarding staff qualifications and training requirements. The requirements regarding qualifications for staff contained in G.S. 110-91(8) do apply to centers operating under the provisions of G.S. 110-106. Compliance shall be documented at least annually using the same forms and in the same manner as for all other centers.

(c) The section shall notify the operator in writing as to whether the center complies or does not comply with the requirements.

Statutory Authority G.S. 110-106; 143B-168.3.

SECTION .2600 - REQUIREMENTS FOR LARGE DAY CARE HOMES

.2609 OTHER CAREGIVING REQUIREMENTS

(a) Meals and snacks shall be served in accordance with the requirements of Section .0900 of this Subchapter except that Rules .0901(b) and .0902(a) do not apply.

(b) All food shall be prepared and served in a sanitary manner. All food shall be served on an individual sanitary plate or other appropriate container. Snack foods may be placed on an individual napkin or paper towel. No food shall be placed directly on a countertop, table top or other such surface.

(c) No more than one child shall be fed with the same utensil or drink from the same cup or glass.

(d) ~~The requirements related to written discipline policies and inappropriate discipline techniques as specified in~~ of Rule .1801 shall apply to large homes.

(e) Diapers shall be changed whenever they are soiled or wet.

(f) Children shall be toilet trained according to individual readiness.

(g) Each preschool-age child shall be given time and a place to rest or nap comfortably each day. Each preschool-age child shall have an individual bed, crib, cot or two-inch mat with clean linens.

(h) A comfortable place with clean linens shall be made available to each school-aged child who wants to rest or who is ill.

Statutory Authority G.S. 110-91(1),(2),(10); 143B-168.3.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services intends to amend rule(s) cited as 10 NCAC 14K .0351, .0403; 14M .0704, .0711; 18Q .0520; and adopt rule(s) cited as 10 NCAC 18Q .0542 - .0552.

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

The public hearing will be conducted at 1:00 p.m. on February 5, 1992 at the Murdoch Center, Administration Building, Conference Room, 32nd Street, Butner, N.C. 27509.

Reason for Proposed Action: 10 NCAC 14K .0351, .0403; 14M .0704, .0711; 18Q .0520 - To comply with new building code requirements. 10 NCAC 18Q .0542 - .0552 - To reinstate Standards for area programs and their contract agencies, which were inadvertently repealed.

Comment Procedures: Any interested person may present his comments by oral presentation or by submitting a written statement. Persons wishing to make oral presentations should contact Charlotte Tucker, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 325 N. Salisbury St., Raleigh, N.C. 27603. (919) 733-4774 by February 3, 1992. Written comments must be sent to the above address and must state the rules to which the comments are addressed. Time limits for oral remarks may be imposed by the Commission Chairman. Fiscal information on these Rules is also available from the same address.

CHAPTER 14 - MENTAL HEALTH: GENERAL

SUBCHAPTER 14K - CORE LICENSURE RULES FOR MENTAL HEALTH: MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES: AND SUBSTANCE ABUSE FACILITIES

SECTION .0300 - FACILITY AND PROGRAM MANAGEMENT

.0351 ADMINISTRATION AND PRESCRIPTION OF MEDICATION

Whenever a facility administers medication, documentation in the client record shall include the following:

- (1) ~~(3)~~ individualized record of medication administered only by program staff, privileged in accordance with 10 NCAC 14K .0319, including record of doses administered;
- (2) ~~(4)~~ written approval of the legally responsible person of a minor or an incompetent adult is required before administering over-the-counter non-prescription medications;
- (3) ~~(5)~~ for minors seeking treatment without parental consent, a physician or other person authorized to prescribe legend drugs must approve the use of over-the-counter non-prescription medications during the time when the minor is in the care of the facility; and
- (4) ~~(6)~~ documentation of medication administration errors and adverse drug reactions, and immediate notification of prescribing physician; and

(5) In addition, if the medication has been prescribed by a facility physician:

- (a) ~~(1)~~ written medication orders signed by the prescriber; and
- (b) ~~(2)~~ assessment by physician of client's drug therapy regimen for appropriateness, at least every six months, except methadone, which shall be reviewed with the client every three months.

Statutory Authority G.S. 90-21.5; 90-171.20 (7), (8); 90-177.44; 122C-26; 143B-147.

SECTION .0400 - PHYSICAL PLANT

.0403 COMPLIANCE WITH BUILDING CODE REQUIREMENTS

(a) As used in this Rule the term "new facility" refers to a facility which has not been licensed previously and for which an initial license is being sought. The term does not refer only to a "new" building but will apply to an "old" building if the building houses a facility for which an initial license is being sought.

(b) Each new facility specified in (d), (e), (f), (g), (h) and (i) of this Rule, with the exception of private home respite, alternative family living and apartment models, and supervised independent living, shall be in compliance with the current edition of Section 11X of Volume I of the N.C. State Building Code.

(c) Each new facility specified in (d), (e), (f), (g), (h) and (i) of this Rule, with the exception of private home respite, alternative family living and apartment models shall be in compliance with the current edition of Volume II, III and IV of the N.C. State Building Code.

(d) In addition to Building Code requirements specified in (b) of this Rule, new facilities specified in (1), (2), ~~and~~ (3) and (4) of this Paragraph shall meet the requirements of the current edition of Volume I-B of the N.C. State Building Code as follows:

- (1) ~~Mental retardation or other developmental disability facilities:~~ Developmental Disability group home facilities:
 - (A) ~~group homes for adults with mental retardation or other developmental disabilities~~ serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance; and
 - (B) ~~group homes for children with mental retardation or other developmental disabilities~~ serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance; and

(C) group homes for individuals with ~~mental retardation or other~~ developmental disabilities and with behavior disorders serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance; and

~~(D) community center-based respite for individuals with mental retardation, other developmental disabilities, developmental delays or at risk for these conditions serving five or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance.~~

(2) Developmental Disability respite facilities: small community center-based respite for individuals with developmental disabilities, developmental delays or at risk for these conditions serving three or fewer clients of whom one, two or three are non-ambulatory or unable to respond on their own to emergency conditions:

(A) Building requirements of 512.2 FAMILY DAY CARE HOMES, Vol. I, N.C. Building Code shall be met.

(B) Mobile homes shall not be permitted.

(3) ~~(2)~~ Mental health facilities:

(A) group homes and residential acute treatment for adult and elderly individuals who are mentally ill serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance; and

(B) residential treatment for children and adolescents serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance.

(4) ~~(3)~~ Substance abuse facilities:

(A) nonhospital medical detoxification for individuals who are substance abusers serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance;

(B) social setting detoxification for individuals who are alcoholics serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance; and

(C) halfway houses for individuals who are substance abusers serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance.

(e) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities

specified in (1) and (2) of this Paragraph shall meet the requirements of the current edition of Volume I, Section ~~510~~ 513 of the N.C. State Building Code as follows:

(1) ~~Mental retardation or other~~ Developmental disability facilities:

(A) group homes for adults with ~~mental retardation or other~~ developmental disabilities serving five or fewer clients all of whom are non-ambulatory or unable to respond and evacuate without assistance, certifiable for Medicaid reimbursement and staffed 24 hours per day with at least two staff awake at all times;

(B) group homes for adults with ~~mental retardation or other~~ developmental disabilities serving more than six clients and fewer than ten clients who are ambulatory and able to respond on their own to emergency conditions;

(C) group homes for adults with ~~mental retardation or other~~ developmental disabilities serving six or fewer clients of whom one, two or three are non-ambulatory or unable to respond on their own to emergency conditions;

(D) group homes for children with ~~mental retardation or other~~ developmental disabilities serving five or fewer clients all of whom are non-ambulatory or unable to respond and evacuate without assistance, certifiable for Medicaid reimbursement, and staffed 24 hours per day with at least two staff awake at all times;

(E) group homes for children with ~~mental retardation or other~~ developmental disabilities serving six or fewer clients of whom one, two or three are non-ambulatory or unable to respond on their own to emergency conditions;

(F) group homes for individuals with ~~mental retardation or other~~ developmental disabilities and behavior disorders serving five or fewer clients all of whom are non-ambulatory or unable to respond and evacuate without assistance, certifiable for Medicaid reimbursement, and staffed 24 hours per day with at least two staff awake at all times;

(G) group homes for individuals with ~~mental retardation or other~~ developmental disabilities and with behavior disorders serving six or fewer of whom one, two or three are non-ambulatory or unable to respond on their own to emergency conditions;

(H) supervised independent living boarding homes for adults with ~~mental retardation~~

or other developmental disabilities serving more than six clients and fewer than ten clients who are ambulatory and able to respond on their own to emergency conditions; and

- (1) community center-based respite for individuals with ~~mental retardation, other~~ developmental disabilities, developmental delays or at risk for these conditions serving six or fewer clients of whom one, two or three are non-ambulatory or unable to respond on their own to emergency conditions.
- (2) Mental health facilities: residential treatment for individuals serving seven to nine clients who are ambulatory and able to respond on their own and evacuate the facility without assistance.
- (f) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1), (2) and (3) of this Paragraph shall meet the requirements of the current edition of Volume I, Section 409, Institutional Occupancy (I) of the N.C. State Building Code as follows:
 - (1) ~~Mental retardation or other developmental~~ Developmental disability facilities:
 - (A) specialized community residential services for individuals with ~~mental retardation or other~~ developmental disabilities;
 - (B) group homes for adults with ~~mental retardation or other~~ developmental disabilities serving six or fewer clients of whom more than three are non-ambulatory or unable to respond on their own to emergency conditions;
 - (C) group homes for individuals with ~~mental retardation or other~~ developmental disabilities and with behavior disorders serving six or fewer clients of whom more than three are non-ambulatory or unable to respond on their own to emergency conditions;
 - (D) group homes for children with ~~mental retardation or other~~ developmental disabilities serving six or fewer clients of whom more than three are non-ambulatory or unable to respond on their own to emergency conditions; and
 - (E) community center-based respite for individuals with ~~mental retardation, other~~ developmental disabilities, developmental delays or at risk for these conditions serving five or fewer clients of whom more than three are non-ambulatory or unable to respond on their own to emergency conditions.
 - (2) Mental health facilities:

- (A) inpatient psychiatric facilities for individuals who are mentally ill;
- (B) residential acute treatment for adult and elderly individuals who are mentally ill; and

- (C) residential treatment for children and adolescents serving ten or more clients.
- (3) Substance abuse facilities:
 - (A) inpatient hospital treatment for individuals who are substance abusers; and
 - (B) nonhospital medical detoxification for individuals who are substance abusers.
- (g) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1), (2), (3) and (4) of this Paragraph shall meet the requirements of the current edition of Volume I, Section 405, Business Occupancy (B) of the N.C. State Building Code as follows:
 - (1) ~~Mental retardation or other developmental~~ Developmental disability facilities: adult developmental activity programs for individuals with substantial ~~mental retardation, developmental disabilities or~~ severe physical disabilities; ~~or other substantial developmental disabilities;~~
 - (2) Mental health facilities:
 - (A) psychosocial rehabilitation programs for individuals who are chronically mentally ill;
 - (B) day treatment for children and adolescents who are emotionally disturbed; and
 - (C) partial hospitalization programs (PHP) for adult and elderly individuals who are acutely mentally ill.
 - (3) Substance abuse facilities:
 - (A) outpatient treatment for individuals who are substance abusers;
 - (B) outpatient detoxification for individuals who are substance abusers; and
 - (C) outpatient methadone services for individuals who are narcotic abusers.
 - (4) Facilities serving one or more disability:
 - (A) sheltered workshops; and
 - (B) day activity facilities for adult and elderly individuals who are mentally ill and or substance abusers.
 - (h) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1) and (2) of this Paragraph shall meet the requirements of the current edition of Volume I, Section 406, Educational Occupancy (E) of the N.C. State Building Code as follows:
 - (1) ~~Mental retardation or other developmental~~ Developmental disability facilities: before/after school and summer developmental day services for children with ~~mental retardation or other~~ developmental disabilities; and

(2) Mental health facilities: day treatment for children and adolescents who are emotionally disturbed.

(i) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1) and (2) of this Paragraph shall meet the requirements of the current edition of Volume I, General Construction, Section 411, Residential Occupancy (R) of the N.C. State Building Code as follows:

(1) Substance abuse facilities:

- (A) social setting detoxification for more than six individuals who are alcoholics;
- (B) residential treatment or rehabilitation for more than six individuals who are substance abusers; and
- (C) halfway houses for more than six individuals who are substance abusers.

(2) Facilities serving one or more disability: residential therapeutic (habilitative) camps for children and adolescents.

(j) Volume I (General Construction) is available at a cost of ten dollars (\$10.00); Volume I-B (Uniform Residential Building Code) at a cost of two dollars (\$2.00); Volume II (Plumbing) at a cost of three dollars (\$3.00); Volume III (Heating and Air Conditioning) at a cost of four dollars and fifty cents (\$4.50); and Volume IV (Electrical) at a cost of fifteen dollars (\$15.00) from the N.C. Department of Insurance, P.O. Box 26387, Raleigh, N.C. 27611.

(k) The material which is adopted by reference in this Rule is adopted in accordance with the provisions of G.S. 150B-14(c).

Statutory Authority G.S. 122C-26; 143B-147.

SUBCHAPTER 14M - LICENSURE RULES FOR MENTAL RETARDATION/DEVELOPMENTAL DISABILITIES FACILITIES

SECTION .0700 - COMMUNITY RESPITE SERVICES FOR INDIVIDUALS WITH MENTAL RETARDATION; OTHER DEVELOPMENTAL DISABILITIES: DEVELOPMENTAL DELAYS OR AT RISK FOR THESE CONDITIONS

.0704 PROGRAM DIRECTOR

(a) Each governing body shall designate a program director.

(b) The Program Director shall have ~~an educational background~~ a degree from an accredited college or university in social work, education, nursing, psychology or related health field; or an educational background in one of the aforementioned fields; or shall have at least two years' direct service experience in human service programs.

Statutory Authority G.S. 122C-26; 143B-147.

.0711 CENTER-BASED RESPITE: STAFF REQUIRED

(a) In a community center-based respite which serves four or more clients, a minimum of two staff members shall be on duty, during ~~During~~ waking hours, when five or fewer clients are in the facility. ~~a minimum of two staff members shall be on duty.~~ If more than five clients are being served, a staff to client ratio of 1:5 minimum ratio of one staff member for each additional five or fewer clients shall be maintained.

(b) In a community center-based respite which serves three or fewer clients, a minimum of two staff members shall be on duty, during waking hours, unless emergency backup procedures are sufficient to allow only one staff member on duty.

~~(c)~~ (b) During sleeping hours, a minimum of two staff members shall be available in the immediate area unless emergency backup procedures are sufficient to allow only one staff member on duty. In such instances, minimum acceptable emergency procedures shall include the following:

- (1) written agreements with emergency medical transport services;
- (2) availability of on-call emergency backup that can arrive at the facility within 20 minutes; and
- (3) notification to parents or the legally responsible person that only one staff member may be on duty during sleeping hours.

~~(d)~~ (e) On occasions when only one client is in the facility, a minimum of one staff member shall be on duty during waking and sleeping hours.

~~(e)~~ (f) Each facility shall operate 24 hours per day, seven days per week, 12 months per year.

~~(f)~~ (g) Waking and sleeping hours of the facility shall be designated and posted by the Program Director. The Program Director shall designate when the hours are in effect.

Statutory Authority G.S. 122C-26; 143B-147.

CHAPTER 18 - MENTAL HEALTH: OTHER PROGRAMS

SUBCHAPTER 18Q - GROUP HOMES FOR ADULTS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

SECTION .0500 - COMMUNITY RESPITE SERVICES FOR INDIVIDUALS WITH MENTAL RETARDATION, OTHER DEVELOPMENTAL DISABILITIES, DEVELOPMENTAL DELAYS OR AT RISK FOR THESE CONDITIONS

.0520 INTRODUCTION

(a) Community respite is a residential support service which provides periodic relief for a family or family substitute on a temporary basis. While overnight service is available, community respite may be provided to individuals for periods of less than 24 hours on a day or evening basis.

(b) Attention to the client's everyday nutritional, recreational, emotional, ~~spiritual~~ developmental and physical needs are elements of respite care. The service is primarily a family support service rather than an habilitative service; however, such activities as training, therapy and medical treatment, if provided, are ancillary to the provision of respite care.

(c) The following three models are examples of respite services:

- (1) center-based respite is a residential service in which the individual is served at a designated facility which has potential for overnight care. While an overnight capacity is always a part of this service, a respite center may, in addition, provide respite services to individuals for periods of less than twenty-four hours on a day or evening basis;
- (2) private home respite is a residential service in which the area program or its contract agency contracts with community citizens to serve individuals in their own home on an overnight basis; or
- (3) companion ~~sitter~~ respite is a support service in which a trained respite provider is scheduled to care for the individual in a variety of settings, including the individual's own home. This service is or other location not subject to licensure.

Statutory Authority G.S. 143B-147.

.0542 PROGRAM DIRECTOR

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0704.

Statutory Authority G.S. 143B-147.

.0543 FAMILY SERVICES COORDINATOR

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0706.

Statutory Authority G.S. 143B-147.

.0544 AGE OF STAFF MEMBERS

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0705.

Statutory Authority G.S. 143B-147.

.0545 LENGTH OF STAY

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0708.

Statutory Authority G.S. 143B-147.

.0546 PERSONAL CARE

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0707.

Statutory Authority G.S. 143B-147.

.0547 RESPITE ACTIVITIES

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0709.

Statutory Authority G.S. 143B-147.

.0548 MEDICAL STATEMENT

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0710.

Statutory Authority G.S. 143B-147.

**.0549 PRIVATE HOME SERVICES:
PROVIDER APPLICATION**

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0713.

Statutory Authority G.S. 143B-147.

**.0550 PRIVATE HOME SERVICES:
PROVIDER TRAINING**

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0714.

Statutory Authority G.S. 143B-147.

**.0551 PRIVATE HOME SERVICES:
AGREEMENT WITH PROVIDERS**

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0715.

Statutory Authority G.S. 143B-147.

**.0552 PRIVATE HOME SERVICES: RESPITE
SERVICE RESPONSIBILITIES**

Each community respite service not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10 NCAC 14M .0716.

Statutory Authority G.S. 143B-147.

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Notice is hereby given in accordance with G.S. 150B-21.2 that DHHR Division of Medical Assistance intends to amend rule(s) cited as 10 NCAC 26H .0101.

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

The public hearing will be conducted at 1:30 p.m. on January 17, 1992 at the North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 132, Raleigh, N.C. 27603.

Reason for Proposed Action: To pay state-operated nursing care facilities reasonable costs.

Comment Procedures: Written comments concerning this amendment must be submitted by February 1, 1992, 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 26 - MEDICAL ASSISTANCE

SUBCHAPTER 26H - REIMBURSEMENT PLANS

SECTION .0100 - REIMBURSEMENT FOR NURSING FACILITY SERVICES

.0101 REIMBURSEMENT PRINCIPLES

All certified nursing facilities participating in the North Carolina Medicaid Program are reimbursed on a prospective basis as set forth hereunder, except that state-operated facilities will be reimbursed their reasonable and allowable costs in accordance with the Medicare principles of reimbursement and with the provisions of Rules .0103 and .0104 of this plan. This plan is developed in accordance with the requirements of 42 CFR 447 Subpart C - Payment for Inpatient Hospital and Long-Term Care Facility Services. Providers must comply with all federal regulations and with the provisions of this plan.

Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 C.F.R. 447, Subpart C.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services/Department of Environment, Health, and Natural Resources intends to amend rules cited as 15A NCAC 18A .1004, .1510, .1802, .1809, .1812, .2202, .2624, .2629 - .2630; 18C .1508, .1510, .1515 - .1518, .1523, .1527; 19A .0202; 19B .0203, .0302, .0304, .0309, .0311, .0320 - .0321; 21F .0701; 24A .0202, .0303; adopt rules cited as 15A NCAC 18A .3001 - .3018; 18C .1536, .2101 - .2105; 21E .0501; and repeal rule cited as 15A NCAC 19B .0305.

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

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

January 22, 1992

7:30 p.m.

Willis Building Auditorium
Eastern North Carolina Regional
Development Institute
Corner of First and Reade Streets
Greenville, NC

January 23, 1992

7:30 p.m.

Auditorium
Forsyth-Stokes Mental Health Center
725 Highland Avenue
Winston-Salem, NC

January 27, 1992

1:30 p.m.

First Floor Auditorium
Highway Building
1 South Wilmington Street
Raleigh, NC

January 28, 1992

7:30 p.m.

Elevated Lecture Room
Simpson Administration Building
Asheville-Buncombe Technical
Community College
340 Victoria Road
Asheville, NC

Reasons for Proposed Actions:

15A NCAC 18A .1004 - the changes in this rule will allow purchasers of summer camps to obtain permits immediately. Additionally, it will allow the local health department to place conditions on the permit, notifying all parties that certain actions must be done or that certain limits (such as in number of people) must be maintained.

15A NCAC 18A .1510 - needs to be amended to allow for the "dry cell" concept to be used in the construction of new local confinement facilities (jails). This proposal was requested by the N.C. Jail Standards Task Force. The amendment would make this rule consistent with the rules of the Social Services Commission.

15A NCAC 18A .1802 - the changes in this rule will allow purchasers of hotels, motels, etc., to receive permits immediately, yet still get repairs made. It will also allow the local health department to place conditions on permits, giving notice to everyone of actions that need performing and limits (such as number of persons) that should be maintained.

15A NCAC 18A .1809 - the changes in this rule will correct an error of omission made in a previous rule change.

15A NCAC 18A .1812 - the changes in this rule will bring the rule into accordance with the recent changes in G.S. 72-7.

15A NCAC 18A .2202 - the changes in this rule will allow purchasers of bed and breakfast homes to obtain permits immediately. Additionally, it will allow the local health department to place conditions on the permit, notifying all parties that certain actions must be taken or certain limits (such as number of people) must be maintained.

15A NCAC 18A .2624, .2629 - the changes in these rules will allow toilet rooms in malls, restaurants, airports, schools, coliseums, etc., to be built with baffle walls as opposed to self-closing doors. This is a trend in large, public buildings.

15A NCAC 18A .2630 - the changes in this rule will bring the lighting requirements in line with the recommendations of the Illuminating Engineering Society and with other states.

15A NCAC 18A .3001 - .3018 - these rules are being presented in response to changes made by the Legislature in G.S. 130A-248.

15A NCAC 18C .1508, .1510, .1515 - .1518, .1523, .1527, .1536 - these rule changes provide for the new and revised monitoring requirements for inorganic chemicals, synthetic organic chemicals, and volatile organic chemicals. These Rule changes are needed to meet primary requirements for the State Public Water System Supervision Program.

These Rules affect the expenditures or revenues of local funds. A fiscal note was submitted to the Fiscal Research Division on November 26, 1991, OSBM on November 26, 1991, N.C. League of Municipalities on December 4, 1991, and N.C. Association of County Commissioners on December 4, 1991.

15A NCAC 18C .2101 - .2105 - the 1991 North Carolina General Assembly ratified Senate Bill 449, creating General Statute 130A-328 entitled "Community water system operating permit and permit fee." Since the statute contains the fee amounts, these rules are needed to facilitate the collection of the fees and the issuance of the required operating permits.

These Rules affect the expenditures or revenues of local funds. A fiscal note was submitted to the Fiscal Research Division on August 20, 1991, OSBM on August 20, 1991, N.C. League of Municipalities on August 20, 1991, and N.C. Association of County Commissioners on August 20, 1991.

15A NCAC 19A .0202 - this change is necessary to improve the effectiveness of our HIV partner notification program by restricting the use of forms for partner notification to persons tested anonymously and to permit recovery of the cost of HIV testing from Medicaid and other third party payors, particularly for prenatals.

15A NCAC 19B .0203 - to make blood permits expiration consistent with breath permits.

15A NCAC 19B .0301, .0304 - .0305, .0309, .0311, .0320, .0321 - to implement new statewide program designated by 1991 General Assembly (North Carolina Legislative Session 1991, Chapter 689, Section 233.1 and 354), and Rule .0304 makes Rule .0305 unnecessary, and Rule .0309 was not amended when Rules were recodified and Rule .0311 same as Rule .0304.

15A NCAC 21E .0501 - the purpose of this legislation is to authorize the Department to provide newborn screening services and for the Commission for Health Services to adopt regulations for

newborn screening and to authorize the Department to charge for this service.

15A NCAC 21F .0701 - this rule is being amended to put back into the Code the common program practice of rostering these individual applicants.

15A NCAC 24A .0202 - this change is needed to comply with recent statutory changes.

15A NCAC 24A .0303 - this proposed rule amendment would make it clear to medical service providers that the payment programs of EHNH do not pay Medicaid co-payments. The Department does not authorize payments for services received by Medicaid clients unless acting as a Medicaid provider itself and receiving reimbursement from Medicaid.

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Written comments may be presented at the public hearing or submitted to John P. Barkley, Department of Justice, P.O. Box 629, Raleigh, NC 27602-0629, (919) 733-4618. If you desire to speak at the public hearing, notify John P. Barkley at least 3 days prior to the public hearing. Oral presentation lengths may be limited depending on the number of people that wish to speak at the public hearing. Only persons who have made comments at a public hearing or who have submitted written comments will be allowed to speak at the Commission meeting. Comments made at the Commission meeting must either clarify previous comments or address proposed changes from staff pursuant to comments made during the public hearing process.

IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS, GROUPS, BUSINESSES, ASSOCIATIONS, INSTITUTIONS, OR AGENCIES MAKE THEIR VIEWS AND OPINIONS KNOWN TO THE COMMISSION FOR HEALTH SERVICES THROUGH THE PUBLIC HEARING AND COMMENT PROCESS, WHETHER THEY SUPPORT OR OPPOSE ANY OR ALL PROVISIONS OF THE PROPOSED RULES. THE COMMISSION MAY MAKE CHANGES TO THE RULES AT THE COMMISSION MEETING IF THE CHANGES COMPLY WITH G.S. 150B-21.2(f).

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .1000 - SANITATION OF SUMMER CAMPS

.1004 PERMITS

(a) No person shall operate a summer camp within the State of North Carolina who does not possess an unrevoked permit or transitional permit from the Department. No permit to operate shall be issued until an inspection by a sanitarian shows that the establishment complies with this Section. Permits issued to one person are not transferable to others. Permits or transitional permits are issued by and inspections made by ~~sanitarians~~ the Department.

(b) If camp food service is provided by a caterer, the overall responsibility for food service sanitation remains with the camp management.

(c) Upon transfer of ownership of an existing summer camp, the Department shall complete an inspection. If the establishment satisfies all the requirements of the rules, a permit shall be issued. If the establishment does not satisfy all the requirements of the rules, a permit shall not be issued. However, if the Department determines that the noncompliant items are construction or equipment problems that do not represent an immediate threat to the public health, a transitional permit may be issued. The transitional permit shall expire 90 days after the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of the transitional permit, the owner or operator shall have corrected the noncompliant items and obtained a permit, or the summer camp shall not continue to operate.

(d) The Department may impose conditions on the issuance of a permit or transitional permit. Conditions may be specified for one or more of the following areas:

- (1) The number of persons served.
- (2) The categories of food served.
- (3) Time schedules in completing minor construction items.
- (4) Modification or maintenance of water supplies.
- (5) Use of facilities for more than one purpose.
- (6) Continuation of contractual arrangements upon which basis the permit was issued.
- (7) Submission and approval of plans for renovation.
- (8) Any other conditions necessary for the summer camp to remain in compliance with this Section.

(e) ~~(e)~~ A permit or transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the facility to maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or revoked in accordance with 130A-23. A new permit to operate shall be issued only after the establish-

ment has been ~~resurveyed~~ reinspected by a ~~sanitarian~~ the Department and found to comply with this Section. This ~~resurvey~~ will reinspection shall be conducted within a reasonable length of time after the request is made by the operator.

Statutory Authority G.S. 130A-248.

SECTION .1500 - SANITATION OF LOCAL CONFINEMENT FACILITIES

.1510 TOILET, HANDWASHING AND BATHING FACILITIES

(a) Each cell shall be provided with access to toilet and handwashing facilities, and soap and individual towels shall be provided. The fixtures shall be kept clean and in good repair.

(b) Each cell block or section shall be provided with bathing facilities which shall be easily cleanable and shall be kept clean.

(c) Convenient toilet facilities shall be provided for kitchen workers.

(d) Handwashing facilities with hot and cold water and mixing faucet shall be provided in kitchens and any food preparation areas in addition to any lavatories which may be provided at workers' toilet rooms.

(e) A supply of hot water adequate to meet all requirement for hot water in these Rules shall be provided.

(f) Plumbing shall comply with the North Carolina State Building Code, Volume II.

Statutory Authority G.S. 153A-226.

SECTION .1800 - SANITATION OF LODGING PLACES

.1802 PERMITS

(a) No person shall operate a lodging place within the State of North Carolina who does not possess an unrevoked permit or transitional permit from the Department.

(b) No permit to operate shall be issued until a sanitary inspection by a representative of the Department shows that the establishment complies with these Rules. ~~Permits issued to one person are not transferable to others.~~

(c) Upon transfer of ownership of an existing lodging place, the Department shall complete an inspection. If the establishment satisfies all the requirements of the rules, a permit shall be issued. If the establishment does not satisfy all the requirements of the rules, a permit shall not be issued. However, if the Department determines that the noncompliant items are construction or equipment problems that do not represent an immediate threat to the public health, a transitional permit may be issued. The transitional

permit shall expire 90 days after the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of a transitional permit, the owner or operator shall have corrected the noncompliant items and obtained a permit, or the lodging place shall not continue to operate.

(d) The Department may impose conditions on the issuance of a permit or a transitional permit. Conditions may be specified for one or more of the following areas:

- (1) The number of bedrooms or persons housed.
- (2) The amount of laundry or warewashing equipment on the premises.
- (3) Time schedules in completing minor construction items.
- (4) Modification or maintenance of water supplies.
- (5) Use of facilities for more than one purpose.
- (6) Continuation of contractual arrangements upon which basis the permit was issued.
- (7) Submission and approval of plans for renovation.
- (8) Any other conditions necessary for a lodging place to remain in compliance with this Section.

(e) ~~(e)~~ Permits or transitional permits are issued by and inspections made by sanitarians. the Department.

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

Statutory Authority G.S. 130A-248.

.1809 LAVATORIES AND BATHS

(a) Baths, lavatories, and toilets shall be provided for each room or unit in establishments constructed on or after December 1, 1988. Such fixtures shall be kept clean and in good repair.

(b) All lavatory and bathing facilities shall include hot and cold running water under pressure, individual towels, and soap. Floors and walls shall be constructed of smooth, non-absorbent, washable materials.

(c) Floors, walls, and ceilings shall be kept clean and in good repair.

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

Statutory Authority G.S. 130A-248.

.1812 BEDROOMS

(a) Bedrooms shall have adequate lighting and ventilation, either natural or artificial. Lighting shall be adequate for reading and to enable thorough cleaning. Where natural ventilation only is provided, windows shall equal at least one-eighth of the floor area. Windows shall be kept clean and in good repair. In the absence of windows, adequate air conditioning and adequate artificial lighting constitutes satisfactory compliance.

(b) Approved window coverings shall be provided to insure privacy for guests, and shall be kept clean and in good repair.

(c) Two sheets shall be provided for each bed. The lower sheet shall be of sufficient length to fold under both ends of the mattress where contour sheets are not used. The upper sheet shall be of sufficient length to fold under the mattress at the lower end, and to fold over the cover for at least six inches at the top end. All sheets shall be of sufficient width to tuck under the mattress and shall be clean for each new occupant. All bed linens and furnishings shall be kept clean and in good repair.

(d) The floors, walls, and ceilings of bedrooms, closets, and storage areas shall be kept clean and in good repair. Furniture, shades, curtains, carpets and other accessories shall be kept clean and in good repair.

(e) All lodging establishments shall be kept free of ~~animals, fowl, bedbugs, rodents, roaches, flies and other vermin pests.~~ Bedrooms having outside openings shall be effectively screened unless air conditioned.

Statutory Authority G.S. 130A-248.

SECTION .2200 - SANITATION OF BED AND BREAKFAST HOMES

.2202 PERMITS

(a) No person shall operate a bed and breakfast home within the State of North Carolina who does not possess an unrevoked permit from the Division.

(b) No permit to operate shall be issued to a person until ~~a sanitary survey by a sanitarian~~ an inspection by the Division shows that the home complies with the rules of this Section.

~~(c) A permit issued to one person is not transferable to another person. Upon transfer of ownership of an existing bed and breakfast home, the Division shall complete an inspection. If the establishment satisfies all the requirements of the rules, a permit shall be issued. If the establishment does not satisfy all the requirements of the rules, a permit shall not be issued. However, if the Department determines that the noncompliant items are construction or equipment problems that do not represent an immediate threat to the public health, a transitional permit may be issued. The transitional permit shall expire 90 days from the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of the transitional permit, the owner or operator shall have corrected the noncompliant items and obtained a permit, or the bed and breakfast home shall not continue to operate.~~

~~(d) The Division may impose conditions on the issuance of a permit or transitional permit. Conditions may be specified for one or more of the following areas:~~

- ~~(1) The number of bedrooms or persons served.~~
- ~~(2) The amount of laundry or warewashing equipment on the premises.~~
- ~~(3) Time schedules in completing minor construction items.~~
- ~~(4) Modification or maintenance of water supplies.~~
- ~~(5) Use of facilities for more than one purpose.~~
- ~~(6) Continuation of contractual arrangements upon which basis the permit was issued.~~
- ~~(7) Submission and approval of plans for renovation.~~
- ~~(8) Any other conditions necessary for a bed and breakfast home to remain in compliance with this Section.~~

~~(e) (4)~~ A permit is issued by and inspections are made by local and state sanitarians who are authorized representatives of the Division.

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

Statutory Authority G.S. 130A-250.

SECTION .2600 - SANITATION OF
RESTAURANTS AND OTHER
FOODHANDLING ESTABLISHMENTS

.2624 TOILET FACILITIES

(a) Every restaurant shall be provided with toilet facilities for each sex conveniently located and readily accessible at all business hours. Unless specified elsewhere in these Rules, all restaurants shall have toilets which are convenient and accessible to employees and customers. Toilets for patrons shall be so located that the patrons do not pass through the kitchen to enter the toilet rooms. Intervening rooms or vestibules, if provided, shall be constructed and maintained in accordance with this Rule. Toilets shall be in the proximity of the restaurant and under control of the management. New construction shall comply with North Carolina State Building Code requirements for handicapped persons. The North Carolina State Building Code has been adopted by reference in accordance with G.S. 150B-14(c). Copies of the North Carolina State Building Code may be obtained from the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, North Carolina 27611. Floors and walls shall be constructed of non-absorbent, washable materials. Floors, walls, and ceilings shall be kept clean and in good repair. Toilet rooms shall be provided with self-closing doors, and kept free of flies and storage. Windows shall be screened if used for ventilation. Fixtures shall be kept clean and in good repair.

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

(c) Screens and doors are not required for toilet rooms at stadiums or facilities in which toilet rooms open into the interior of a building and the exterior doors of the building are self-closing.

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

Statutory Authority G.S. 130A-248.

.2629 DOORS AND WINDOWS

(a) ~~All openings~~ Except as specified in Rule .2624(c) of this Section, outside doors shall be self-closing and all windows into the outer air shall be screened unless other effective means are provided to keep the establishment free of flies.

(b) ~~Outside doors shall be self-closing.~~

Statutory Authority G.S. 130A-248.

.2630 LIGHTING

(a) All ~~rooms~~ areas in which food is handled, or prepared, or in which utensils are washed, shall be provided with at least ~~70 foot-candles~~ 50 foot-candles of light on food preparation work levels and at utensil washing work levels. At least ~~30 foot-candles~~ 10 foot-candles of light at 30 inches above the floor shall be provided in all other areas, ~~and rooms~~ including storage rooms and walk-in units. This shall not include dining and lounge areas except during cleaning operations. Fixtures shall be kept clean and in good repair.

(b) Light bulbs in food preparation, storage, and display areas shall be shatter-proof or shielded so as to preclude the possibility of broken bulbs or lamps falling into food. Shatter-proof or shielded bulbs need not be used in food storage areas where the integrity of the unopened packages will not be affected by broken glass falling onto them and the packages, prior to being opened, are capable of being cleaned.

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

Statutory Authority G.S. 130A-248.

SECTION .3000 - BED AND BREAKFAST INNS

.3001 DEFINITIONS

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

(1) "Approved" means determined by the Department to be in compliance with this Section. Food which complies with the requirements of the North Carolina Department of Agriculture or the United States Department of Agriculture and the requirements of this Section shall be considered as approved.

(2) "Bathroom" means a room with at least one shower or tub, water closet and lavatory.

(3) "Department of Environment, Health, and Natural Resources" or "Department" means the North Carolina Department of Environment, Health, and Natural Resources. The term also means the authorized representative of the Department.

(4) "Permittee" means the person in charge who resides in, and owns or rents the Bed and Breakfast Inn.

- (5) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, or company.
- (6) "Potentially hazardous food" means any food or ingredient, natural or synthetic in a form capable of supporting the growth of infectious or toxigenic microorganisms including *Clostridium botulinum*. This includes raw or heat treated foods of animal origin, raw seed sprouts, and treated food of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (A_w) value of 0.85 or less.
- (7) "Sanitarian" means a person authorized to represent the Department on the local or state level in making inspections pursuant to state law and rules.

Statutory Authority G.S. 130A-248.

.3002 PERMITS

- (a) No person shall operate a bed and breakfast inn within the State of North Carolina who does not possess an unrevoked permit from the Department.
- (b) No permit to operate shall be issued to a person until an inspection by the Department shows that the bed and breakfast inn complies with the rules of this Section.
- (c) A permit issued to one person is not transferable to another person.
- (d) Upon transfer of ownership of an existing bed and breakfast inn, the Department shall complete an inspection. If the establishment satisfies all the requirements of the rules, a permit shall be issued. If the establishment does not satisfy all the requirements of the rules, a permit shall not be issued. However, if the Department determines that the noncompliant items are construction or equipment problems that do not represent an immediate threat to the public health, a transitional permit may be issued. The transitional permit shall expire 90 days after the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of the transitional permit, the owner or operator shall have corrected the noncompliant items and obtained a permit, or the bed and breakfast inn shall not continue to operate.
- (e) The Department may impose conditions on the issuance of a permit or transitional permit. Conditions may be specified for one or more of the following areas:

- (1) The number of seats or persons served.

- (2) The categories of food served.
- (3) Time schedules in completing minor construction items.
- (4) Modification or maintenance of water supplies.
- (5) Use of facilities for more than one purpose.
- (6) Continuation of contractual arrangements upon which basis the permit was issued.
- (7) Submission and approval of plans for renovation.
- (8) Any other conditions necessary for a bed and breakfast inn to remain in compliance with this Section.
- (f) A permit is issued by and inspections are made by local and state authorized representatives of the Department.
- (g) A permit or transitional permit shall be immediately revoked in accordance with G.S. 130A-248(b) for failure of the facility to maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or revoked in accordance with 130A-23. A new permit to operate shall be issued only after the establishment has been reinspected by the Department and found to comply with this Section. This reinspection will be conducted within a reasonable length of time, not to exceed 15 days after the request is made by the permittee.

Statutory Authority G.S. 130A-248.

.3003 INSPECTIONS; VISITS; POSTING OF GRADE CARDS

- (a) The Department shall make bed and breakfast inn inspections at least once every six months.
- (b) An inspection for the purpose of establishing a sanitation grade shall be made within 30 days from the date the permit is issued.
- (c) Whenever an inspection of a bed and breakfast inn is made, the Department shall remove the existing grade card, issue a grade card, and post the new grade card in a conspicuous place where it may be readily observed by the public upon entering the facility. The permittee shall be responsible for keeping the grade card posted at the location designated by the Department at all times.
- (d) Reinspections for the purpose of raising the alphabetical grade shall be conducted after a reasonable period of time, not to exceed 15 days, from the date of the request.

Statutory Authority G.S. 130A-248.

.3004 INSPECTION FORMS

The grading of bed and breakfast inns shall be done on an inspection form prepared and furnished by the Department.

Statutory Authority G.S. 130A-248.

.3005 GRADING

(a) The grading of bed and breakfast inns shall be based on the standards of construction and operation set out in Rules .3006 to .3016 of this Section.

(b) The sanitation grading of all bed and breakfast inns shall be based on a system of scoring wherein establishments receiving a score of at least 90 percent shall be awarded Grade A; all those receiving a score of at least 80 percent and less than 90 percent shall be awarded Grade B; all those receiving a score of at least 70 percent and less than 80 percent shall be awarded a Grade C. Permits for bed and breakfast inns receiving a score of less than 70 percent shall be immediately revoked.

Statutory Authority G.S. 130A-248.

.3006 FOOD SOURCES AND PROTECTION

(a) All food shall be clean, wholesome, free from adulteration and spoilage, safe for human consumption and shall be handled, served, or transported in such a manner as to prevent contamination, adulteration or spoilage. Only Grade "A" milk shall be used.

(b) Foods that are spoiled or otherwise unfit for human consumption shall be immediately disposed of as garbage.

(c) Potentially hazardous foods shall be kept at or below 45 degrees F (7 degrees C), except when being prepared or served. An air temperature thermometer accurate to plus or minus 3 degrees F (plus or minus 1½ degrees C) shall be provided in all refrigerators.

(d) Thawing of potentially hazardous food shall be done in refrigerated units at a temperature not to exceed 45 degrees F (7 degrees C) or under cold running water no warmer than 70 degrees F (24 degrees C), or as a part of the cooking process.

(e) Employees preparing food shall have used anti-bacterial soap, dips, or hand sanitizers immediately prior to food preparation or shall use clean, plastic disposable gloves or sanitized utensils during food preparation. This requirement is in addition to all handwashing requirements in Rule .3007 of this Section.

(f) Preparation surfaces which come in contact with potentially hazardous food shall be sanitized as provided in Rule .3008 of this Section.

(g) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140 degrees F (60 degrees C) with no interruptions of the cooking process, except as follows:

(1) poultry shall be cooked to heat all parts to at least 165 degrees F (74 degrees C), and

(2) pork shall be cooked to heat all parts of the food to at least 150 degrees F (66 degrees C), and

(3) potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165 degrees F (74 degrees C) or higher throughout before being served or placed in hot food storage.

(h) Raw eggs or foods containing uncooked eggs shall not be served. Pasteurized egg products may be substituted for raw eggs.

(i) A metal stem-type thermometer accurate to plus or minus 2 degrees F (plus or minus 1 degree C) shall be available to check food temperatures.

(j) Food once served to a customer shall not be served again and not left for the next customer. Packaged food, other than potentially hazardous food, that is still packaged and is still wholesome may be reserved.

(k) Pets shall not be allowed at any time in any room or area in which food is prepared or stored. Pets, unless caged and restricted from the immediate eating area, shall not be allowed in any room or area in which food is served.

Statutory Authority G.S. 130A-248.

.3007 FOOD SERVICE PERSONS

(a) All food service personnel shall wear clean outer clothing and shall be clean as to their person and methods of foodhandling. No employee shall use tobacco in any form while engaged in the washing of eating and cooking utensils or in the preparation, handling, or serving of food.

(b) Employees shall wash their hands thoroughly in an approved handwashing lavatory, before starting work, after each visit to the toilet, and as often as may be necessary to remove soil and contamination. The kitchen sink shall not be used for handwashing.

(c) Employees engaged in the preparation of food shall wear hairnets, caps, or other hair restraints to prevent the contamination of food or food contact surfaces. Wigs and hair spray do not constitute compliance with this Rule.

(d) No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or disease with sudden onset and severe

symptoms including cough or nasal discharge, shall work in a food service area in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with disease-causing organisms or transmitting the illness to other persons. If the operator has reason to suspect that any person has contracted any disease transmissible through food, or has become a carrier of such disease, the operator shall notify the local health department immediately.

.3308 FOOD SERVICE UTENSILS AND EQUIPMENT AND THEIR CLEANING

(a) Multi-use eating and drinking utensils shall be washed, rinsed, sanitized and air-dried after each usage. Domestic kitchen equipment may be used. Domestic kitchen equipment shall include a domestic dishwasher and a domestic two-compartment sink. However, in lieu of a dishwasher and two-compartment sink, a three-compartment sink may be used. Sanitization shall take place in a dishmachine which is constructed, operated, and maintained in accordance with National Sanitation Foundation standards or equal or shall take place in the sink by immersion in one of the following methods:

- (1) for at least one minute in clean hot water at least 170 degrees F (77 degrees C), or
- (2) at least two minutes in a clean, tested solution containing:
 - (A) at least 50 parts per million of available chlorine of at least 75 degrees F (24 degrees C); or
 - (B) at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and a temperature of at least 75 degrees F (24 degrees C); or
 - (C) at least 200 parts per million of quaternary ammonium products and having a temperature of at least 75 degrees F (24 degrees C) provided that the product is labeled to show that it is effective in water having a hardness value of at least equal to that of the water being used.

(b) All eating, drinking, and food preparation utensils shall be air-dried.

(c) All multi-use utensils except baking sheets and similar cooking utensils, not used for table service, that are used in the storage, preparation, or serving of food shall be cleaned and sanitized after each use. Baking sheets and similar cooking utensils, not used for table service, which are continually subjected to high temperatures do not require sanitizing after each use, but shall be kept clean and maintained in good repair.

(d) For utensils and equipment which are either too large or impractical to sanitize in the sink or dishwashing machine, a spray-on or wipe-on

sanitizer may be used. When spray-on or wipe-on sanitizers are used, the chemical strength shall be twice that required for sanitizing multi-use eating and drinking utensils.

(e) Food service equipment shall be easily cleanable and kept in good repair. All surfaces with which food or drink comes in contact shall consist of smooth, not readily corrodible, non-toxic material such as stainless steel, phenolic resin, marble slabs, or tight wood in which there are no open cracks or joints that will collect food particles and slime, and be readily accessible for cleaning. A separate lavatory, including hot and cold running water, and combination supply faucet or tempered water shall be provided. Soap and sanitary towels shall be provided. By January 1, 1997, potentially hazardous foods shall be kept in refrigeration units that meet National Sanitation Foundation standards or equal.

(f) All equipment and fixtures shall be kept clean. Cooking surfaces of equipment shall be cleaned at least once each day. Non-food contact surfaces of equipment shall be cleaned at such intervals as to keep them in a sanitary condition.

(g) No polish or substance containing cyanide or other poisonous materials shall be used for the cleaning or polishing of eating or cooking utensils.

(h) Disposable utensils shall be purchased only in sanitary containers, shall be stored there in a dry place until used and shall be handled in a sanitary manner. Disposable articles shall be made from non-toxic materials and shall be used only once.

(i) Storage facilities, including residential kitchen cabinets, shall be kept clean and free of pests.

Statutory Authority G.S. 130A-248.

.3309 LAVATORIES AND BATHROOMS

(a) At least one bathroom shall be provided for every two bedrooms.

(b) All lavatory and bathing facilities shall include hot and cold running water under pressure, individual towels and soap. Fixtures shall be kept clean and in good repair. Floors and walls shall be constructed of smooth, non-absorbent, washable materials.

(c) Floors, walls, and ceilings shall be kept clean and in good repair.

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

Statutory Authority G.S. 130A-248.

.3010 WATER SUPPLY

(a) Water supplies shall meet the requirements in 15A NCAC 18A .1700.

(b) The water supply used shall be located, constructed, maintained, and operated in accordance with the Commission for Health Services' rules governing water supplies. Copies of 15A NCAC 18A .1700 and 15A NCAC 18C may be obtained from the Division of Environmental Health, Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 27611-7687. At least once per year, a sample of water shall be collected by the Department and submitted to the Division of Laboratory Services or other laboratory certified by the Department to perform bacteriological examinations.

(c) Cross-connections with unapproved water supplies are prohibited. Hot and cold running water under pressure shall be provided to food preparation, utensil and handwashing areas, bathrooms and any other areas in which water is required for cleaning in sufficient quantity to carry out all water using operations.

(d) Facilities for the heating of water shall be provided. The capacity of the hot water heating facilities shall be based on the number of bathrooms, the capacity of the dishwashing machines and other food service and cleaning needs.

Statutory Authority G.S. 130A-248.

.3011 DRINKING WATER FACILITIES

(a) Facilities for the dispensing of drinking water shall be of approved sanitary design. If water cooling equipment is installed, it shall be of the type in which ice does not come in contact with water. If drinking fountains are provided, they shall be of the approved angle-jet type. Common dippers or common drinking glasses or cups shall not be used.

(b) For room service, glasses, pitchers, or multi-use tubs, or single-service cups and single-service tubs, may be used, provided all multi-use utensils are washed thoroughly, subjected to approved bactericidal treatment, and stored and handled in a manner to prevent contamination. For the washing, bactericidal treatment, and storage of multi-use utensils, facilities meeting the requirements of Rule .3008 of this Section shall be provided. Single-service cups, tubs, or similar items shall be stored and handled in a manner to prevent contamination.

(c) Ice shall be manufactured from an approved water supply and shall be stored and handled in such a manner as to prevent contamination.

Where ice is made on the premises, the machines shall be located in a protected place; long-handled scoops shall be provided; and machines, equipment, utensils and the room or area in which the machines are located, shall be kept clean.

(d) Ice storage bins shall not be used for any other purpose.

Statutory Authority G.S. 130A-248.

.3012 BEDS: LINEN

(a) Mattresses shall be kept clean and in good repair.

(b) Clean bed linen, in good repair, shall be provided for each guest who is provided accommodations and shall be changed between guests. Clean linen shall be stored in cabinets or on shelves in linen storage areas. Soiled linen shall be handled and stored separately from clean linen.

Statutory Authority G.S. 130A-248.

.3013 VERMIN CONTROL: PREMISES

(a) All bed and breakfast inns shall be kept free of roaches, flies, and other pests. The premises shall be kept neat, clean, drained and free of litter and rodent harborages. Unless air conditioning is provided, all windows opening to the outside shall be screened to prevent the entrance of flies and other pests, and doors opening to the outside shall be self-closing.

(b) Only pesticides that have been registered shall be used and only for the specific use for which they have been approved by the Environmental Protection Agency. Such pesticides shall be used as directed on the label and shall be handled and stored to avoid health hazards and not be accessible to young children.

Statutory Authority G.S. 130A-248.

.3014 STORAGE: MISCELLANEOUS

(a) Storage rooms or spaces shall be kept clean.

(b) Household cleaning agents such as bleaches, detergents, and polishes shall be stored out of the reach of children.

(c) Medications under the control of the inn keeping staff shall be stored in a separate cabinet, closet, or box not accessible to children.

Statutory Authority G.S. 130A-248.

**.3015 FLOORS: WALLS: CEILINGS:
LIGHTING: VENTILATION**

(a) Floors, walls, ceilings, and windows shall be kept clean and in good repair. Floors and

walls in rooms in which food is stored, prepared, handled, or served, or in which utensils are washed, and in toilet rooms, shall be non-absorbent and easily cleanable.

(b) Furniture, fixtures, draperies, lighting fixtures, ventilation equipment and other accessories shall be kept clean and in good repair.

Statutory Authority G.S. 130A-248.

.3016 DISPOSAL OF GARBAGE AND TRASH

(a) All putrescible waste shall be placed in garbage cans which are provided with approved liners such as plastic garbage bags. Rubbish, litter and other items not used in the operation of the establishment shall not be permitted to accumulate on the premises.

(b) Garbage shall be collected and stored in standard water-tight garbage cans or other approved containers or methods and provided with tight-fitting lids. Lids shall be kept in place, except for cans inside the kitchen which are being used frequently during normal operations. The contents of these cans shall be removed frequently and the cans shall be washed.

Statutory Authority G.S. 130A-248.

.3017 SEVERABILITY

If any provision of this Section, or the application thereof to any person or circumstance, is held invalid, the remainder of these Rules, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Statutory Authority G.S. 130A-248.

.3018 APPEALS PROCEDURE

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

Statutory Authority G.S. 130A-248.

SUBCHAPTER 18C - WATER SUPPLIES

SECTION .1500 - WATER QUALITY STANDARDS

.1508 INORGANIC CHEMICAL SAMPLING AND ANALYSIS

(a) Analyses for the purpose of determining compliance with Rule .1510, .1511, .1512, and .1507(a) of this Section are required as follows:

(1) Analyses for all community water systems utilizing surface water sources shall be completed within one year following the effective date of the National Primary

Drinking Water Regulations (40 C.F.R. 141.23, eff. June 24, 1977). These analyses shall be repeated at yearly intervals.

(2) Analyses for all community water systems utilizing only ground water sources shall be completed within two years following the effective date of the National Primary Drinking Water Regulations (40 C.F.R. 141.23, eff. June 24, 1977). These analyses shall be repeated at three year intervals.

(3) For non-community water systems, whether supplied by surface or ground sources, analyses for nitrate shall be completed by July 1, 1980. These analyses shall be repeated at intervals determined by the Department.

(4) The Department has the authority to determine compliance or initiate enforcement action based upon analytical results and other information compiled by its authorized representatives and agencies.

(b) If the result of an analysis made pursuant to (a) or (f) of this Rule indicates that the level of any contaminant listed in .1510 of this Section exceeds the maximum contaminant level, the supplier of water shall notify the Division within seven days and initiate three additional analyses at the same sampling point within one month.

(c) When the average of four analyses made pursuant to (b) of this Rule, rounded to the same number of significant figures as the maximum contaminant level for the substance in question, exceeds the maximum contaminant level, the supplier of water shall notify the Department pursuant to .1525 of this Section and give notice to the public pursuant to .1523 of this Section. Monitoring after public notification shall be at a frequency designated by the Secretary and shall continue until the maximum contaminant level has not been exceeded in two successive samples or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

(d) The provisions of (b) and (c) of this Rule notwithstanding, compliance with the maximum contaminant level for nitrate shall be determined on the basis of the mean of two analyses. When a level exceeding the maximum contaminant level for nitrate is found, a second analysis shall be initiated within 24 hours, and if the mean of the two analyses exceeds the maximum contaminant level, the supplier of water shall report his findings to the Department pursuant to .1525 of this Section and shall notify the public pursuant to .1523 of this Section.

(e) Analyses conducted to determine compliance with Rules .1510, .1511, .1512, and .1507 of this Section shall be made in accordance with

methods adopted by the United States Environmental Protection Agency and codified as 40 C.F.R. 141.23(f)(1) through (10) and 40 C.F.R. 143.4(b)(5), (6), and (8) which are hereby adopted by reference as amended through May 2, 1986. A list of these methods is available from the Public Water Supply Section, Division of Environmental Health, P.O. Box 29536, Raleigh, North Carolina 27626-0536.

(f) In addition to complying with Paragraphs (a) through (e) of this Rule systems monitoring for fluoride must comply with the requirements of this Paragraph:

- (1) Where the system draws water from one source, the system shall take one sample at the entry point to the distribution system. Where the system draws water from more than one source, the system must sample each source at the entry points to the distribution system. If the system draws water from more than one source and sources are combined before distribution the system must sample at an entry point to the distribution system during periods representative of the maximum fluoride levels occurring under normal operating conditions.
- (2) The Division may alter the frequencies for fluoride monitoring required by (a) of this Rule considering the following factors:
 - (A) Reported concentrations from previously required monitoring;
 - (B) The degree of variation in reported concentrations; and
 - (C) Other factors which may affect fluoride concentrations such as changes in the water system's configuration, operating procedures, source of water, and changes in stream flows.
- (3) Monitoring may be decreased from the frequencies in (a) of this Rule if the Division determines that the water system is unlikely to exceed the maximum contamination level. Such determination shall be made by the Division and the owner notified in writing after the sampling results from each source have been received and

evaluated. Evaluation of these results and the factors in (f)(2) of this Rule will provide the basis for the determination. A copy shall be provided to the administrator. In no case shall monitoring be reduced to less than one sample every 10 years. For systems monitoring once every 10 years, the Division shall review monitoring results to determine whether more frequent monitoring is necessary.

- (4) Analyses for fluoride under this Rule shall only be used for determining compliance if conducted by laboratories that within the last 12 months have analyzed performance evaluation samples to within \pm or $-$ 10 percent of the reference value at fluoride concentrations from 1.0 mg/l to 10.0 mg/l.
- (5) Compliance with the maximum contaminant level shall be determined based on each sampling point. If any sampling point is determined to be out of compliance, the water system is deemed to be out of compliance.

(g) An adjacent water system shall conform to the following sampling schedule rather than the schedule set forth in Paragraph (a) of this Rule. A water supplier shall submit samples every three years from each section of the water system supplied from a separate source.

The provisions of 40 C.F.R. 141.23 are hereby adopted by reference in accordance with G.S. 150B-21.6 and shall include subsequent amendments and editions. A copy may be obtained from the Public Water Supply Section, P.O. Box 29536, Raleigh, NC 27626-0536. In addition, two or more water systems that are adjacent and are owned or operated by the same supplier of water and that together serve 15 or more service connections or 25 or more persons shall conform to the following sampling schedule. A water supplier shall submit samples every three years from each section of the water system supplied from a separate source.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1510 MAXIMUM CONTAMINANT LEVELS FOR INORGANIC CHEMICALS

(a) The maximum contaminant level for nitrate is applicable to both community water systems and non-community water systems except as provided by in Paragraph (d). The levels for the other inorganic chemicals apply only to community water systems. Compliance with maximum contaminant levels for inorganic chemicals is calculated pursuant to Rule .1508 of this Section.

(b) The following are the maximum contaminant levels for inorganic chemicals other than fluoride:

Contaminant	Level; milligrams per liter
Arsenic-----	0.05
Barium-----	1

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Cadmium-----	0.010
Chromium-----	0.05
Lead-----	0.05
Mercury-----	0.002
Nitrate (as N)-----	10
Selenium-----	0.01
Silver-----	0.05

(c) The maximum contaminant level for fluoride is 4.0 mg/l.

(d) At the discretion of the Department, nitrate levels not to exceed 20 mg/l may be allowed in a non-community water system if the supplier of water demonstrates to the satisfaction of the Department that:

- (1) Such water will not be available to children under 6 months of age; and
- (2) There will be continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of exposure; and
- (3) Local and state public health authorities will be notified annually of nitrate levels that exceed 10 mg/l; and
- (4) No adverse health effects shall result.

(a) The provisions of 40 C.F.R. 141.11 are hereby adopted by reference in accordance with G.S. 150B-21.6 and shall include subsequent amendments and editions. A copy may be obtained from the Public Water Supply Section, P.O. Box 29536, Raleigh, NC 27626-0526.

(b) The provisions of 40 C.F.R. 141.62 are hereby adopted by reference in accordance with G.S. 150B-21.6 and shall include subsequent amendments and editions. A copy may be obtained from the Public Water Supply Section, P.O. Box 29536, Raleigh, NC 27626-0526.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1515 ORGANIC CHEMICALS OTHER THAN TTHM, SAMPLING AND ANALYSIS

(a) An analysis of substances for the purpose of determining compliance with 15A NCAC 18C .1517(1) and (2) shall be made as follows: The provisions of 40 C.F.R. 141.24 are hereby adopted by reference in accordance with G.S. 150B-21.6 and shall include subsequent amendments and editions; however, 40 C.F.R. 141.24(b) is not adopted. A copy may be obtained from the Public Water Supply Section, P.O. Box 29536, Raleigh, NC 27626-0536.

- (1) For all community water systems utilizing surface water sources, analyses shall be completed within one year following the effective date of the National Primary Drinking Water Regulations (40 C.F.R. 141.24, eff. June 24, 1977). Samples analyzed shall be collected during the period of the year designated by the Secretary as the period when contamination by pesticides is most likely to occur. These analyses shall be repeated at intervals specified by the Secretary but in no event less frequently than at three year intervals.
- (2) For community water systems utilizing only ground water sources, analyses shall be completed by those systems specified by the Secretary.
- (3) The Department has the authority to determine compliance or initiate enforcement action based upon analytical results

and other information compiled by their sanctioned representatives and agencies.

(b) If the result of an analysis made pursuant to (a) of this Rule indicates that the level of any contaminant listed in 15A NCAC 18C .1517 (1) and (2) exceeds the maximum contaminant level, the supplier of water shall report to the Department within seven days 48 hours and initiate three additional analyses within one month.

(c) When the average of four analyses made pursuant to (b) of this Rule, rounded to the same number of significant figures as the maximum contaminant level for the substance in question, exceeds the maximum contaminant level, the supplier of water shall report to the Department and give notice to the public pursuant to .1523 and .1525 of this Section. Monitoring after public notification shall be at a frequency designated by the Secretary and shall continue until the maximum contaminant level has not been exceeded in two successive samples or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

(d) Analyses made to determine compliance with Rule .1517(1) and (2) of this Section shall be made in accordance with methods adopted by the United States Environmental Protection Agency and codified as 40 C.F.R. 141.24(c) and (f), which are hereby incorporated by reference including subsequent amendments and editions. A list of these methods is available from the

Public Water Supply Section, Division of Environmental Health, P.O. Box 29536, Raleigh, North Carolina 27626-0536. There is no cost for this material.

(e) Analysis made to determine compliance with 15A NCAC 18C .1518(a) shall be conducted as follows:

- (1) Ground-water systems shall sample at points of entry to the distribution system representative of each well after any application of treatment. Ground-water systems must sample every three months for one year for each entry point to the distribution system except as provided in Paragraph (e)(6)(i) of this Rule; sampling shall be conducted at the same location or a more representative location each quarter. Surface water systems shall sample at points in the distribution system located beyond any point of treatment application. Surface water systems must sample each source every three months except as provided in Paragraph (e)(6)(ii) of this Rule. Sampling shall be conducted at the same location or a more representative location each quarter for both surface and ground water systems. If a ground or surface system draws water from more than one source and sources are combined before distribution, the system shall sample at an entry point to the distribution system during periods of normal operating conditions.
- (2) All community water systems and non-transient, non-community water systems serving more than 10,000 people shall analyze samples beginning no later than June 1, 1988. All community water systems and non-transient, non-community water systems serving from 3,300 to 10,000 people shall analyze samples beginning no later than the quarter which begins January 1, 1989. All other community and non-transient, non-community water systems shall analyze samples beginning no later than the quarter which begins January 1, 1991.
- (3) The Department or the United States Environmental Protection Agency may require confirmation samples for positive or negative results. If a confirmation sample is required, then the sample result shall be averaged with the first sampling result and the average used for the compliance determination in accordance with (e)(7) of this Rule. The Department may delete results of obvious sampling errors from this calculation.

- (4) Analysis for vinyl chloride is required only for ground water systems that have detected one or more of the following two-carbon organic compounds: Trichloroethylene, Tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, or 1,1-dichloroethylene. The analysis for vinyl chloride is required at each distribution or entry point at which one or more of the two-carbon organic compounds were found. If the first analysis does not detect vinyl chloride, the Department may reduce the frequency of vinyl chloride monitoring to once every three years for that sample location or other sample locations which are more representative of the same source. Surface water systems may be required to analyze for vinyl chloride at the discretion of the Department.
- (5) The Department or individual public water systems may composite up to five samples for one or more public water systems. Compositing of samples is to be done in the laboratory by the procedures listed in this Subparagraph. Samples shall be analyzed within 14 days of collection. If any organic contaminant listed in 15A NCAC 18C .1518(a) is detected in the original composite sample, a sample from each source that made up the composite sample shall be reanalyzed individually within 14 days from sampling. The sample for reanalysis cannot be the original sample but can be a duplicate sample. If duplicates of the original samples are not available, new samples shall be taken from each source used in the original composite and analyzed for volatile organic chemicals. Reanalysis shall be accomplished within 14 days of the second sample. To composite samples, the following procedure shall be applied:
 - (i) To composite samples prior to GC analysis:
 - (A) Add 5 ml or equal larger amounts of each sample (up to 5 samples are allowed) to a 25 ml glass syringe. Special precautions shall be made to maintain zero headspace in the syringe.
 - (B) The samples shall be cooled at 4°C during this step to minimize volatilization losses.
 - (C) Mix well and draw out a 5-ml aliquot for analysis.

- (D) Follow sample introduction, purging, and desorption steps described in the method.
- (E) If less than five samples are used for compositing, a proportionately smaller syringe may be used.
- (ii) To composite samples prior to GC/MS analysis:
 - (A) Inject 5-ml or equal larger amounts of each sample (up to 5 samples are allowed) into a 25-ml purging device using the sample introduction technique described in the method.
 - (B) The total volume of the sample in the purging device shall be 25 ml.
 - (C) Purge and desorb as described in the method.
- (6) The monitoring frequency for sampling specified in Paragraph (e)(1) of this Rule, shall be as follows:
 - (i) For ground water systems:
 - (A) When volatile organic chemicals are not detected in the first sample (or any subsequent samples that may be taken) and the system is not vulnerable as defined in Paragraph (e)(6)(iv) of this Rule, monitoring may be reduced to one sample and shall be repeated every five years.
 - (B) When volatile organic chemicals are not detected in the first sample (or any subsequent sample that may be taken) and the system is vulnerable as defined in Paragraph (e)(6)(iv) of this Rule, monitoring of one sample must be repeated every 3 years for systems with more than 500 connections, and monitoring of one sample must be repeated every 5 years for systems with 500 connections or less.
 - (C) If volatile organic chemicals are detected in the first sample (or any subsequent sample that may be taken), regardless of vulnerability, monitoring shall be repeated every 3 months, as required under Paragraph (e)(1) of this Rule.
 - (ii) For surface water systems:
 - (A) When volatile organic chemicals are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is not vulnerable as defined in Paragraph (e)(6)(iv), monitoring is only required when the Department deems it necessary.
 - (B) When volatile organic chemicals are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is vulnerable as defined in Paragraph (e)(6)(iv) of this Rule, monitoring shall be repeated every 3 years for systems with more than 500 connections and monitoring shall be repeated every 5 years for systems with 500 connections or less.
 - (C) When volatile organic chemicals are detected in the first year of quarterly sampling (or any other subsequent sample that may be taken), regardless of vulnerability, monitoring shall be repeated every 3 months as required under Paragraph (e)(1) of this Rule.
 - (iii) The Department may reduce the frequency of monitoring to once per year for a groundwater system or surface water system detecting volatile organic chemicals at levels consistently less than the maximum contaminant level for three consecutive years.
 - (iv) Vulnerability of each public water system shall be determined by the Department based upon an assessment of previous monitoring results, the number of persons served by public water system, proximity of a smaller system to a larger system, proximity to commercial or industrial use, disposal, or storage of volatile synthetic organic chemicals, and protection of the water source.
 - (v) A system is deemed to be vulnerable for a period of 3 years after any positive measurement of one or more contaminants listed in either 15A NCAC 18C .1516(d) and (h) or .1518(a) except for trihalomethanes and other demonstrated disinfection by-products.
 - (7) Compliance with 15A NCAC 18C .1518(a) shall be determined based on the results of running annual average of quarterly sampling for each sampling location. If one location's average is greater than the maximum contaminant level, then the system shall be deemed to be out of compliance. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, only that part of the system that exceeds any maximum contaminant level as specified in 15A NCAC 18C .1518(a) will be deemed out of compliance. The Department may reduce the public notice requirement to that portion of the system which is out of compliance. If any one sample results would cause the

annual average to be exceeded; then the system shall be deemed to be out of compliance immediately. For systems that only take one sample per location because no volatile organic chemicals were detected, compliance shall be based on that one sample.

- (8) Analyses made to determine compliance with this Paragraph shall be made in accordance with methods adopted by the United States Environmental Protection Agency and codified as 40 C.F.R. 141.24(g)(10) which are hereby adopted by reference in accordance with G.S. 150B-14(c). A list of these methods is available from the Public Water Supply Section.

- (9) The Department may accept monitoring data collected after January 1, 1983, for purposes of compliance, if the data is consistent with the other requirements in (e) of this Rule. The Department may use that data to represent the initial monitoring if the system is determined by the Department not to be vulnerable under the requirements of this Rule. In addition, the results of the United States Environmental Protection Agency's Ground Water Supply Survey may be used in a similar manner for systems supplied by a single well.

- (10) The Department may increase required monitoring where necessary to detect variations within the system.

(f) The Department may determine compliance or initiate enforcement action based upon analytical results and other information compiled by the Department's sanctioned representatives and agencies.

Authority G.S. 130A-311 through 130A-327; P.L. 93-523; 40 C.F.R. 141.

1516 SPECIAL MONITORING FOR INORGANIC AND ORGANIC CHEMICALS

(a) All community and non-transient, non-community water systems shall begin monitoring for the contaminants listed in Paragraph (d) in this Rule as follows:

- (1) A system serving more than 10,000 persons shall begin monitoring no later than June 1, 1988.
- (2) A system serving from 3,300 to 10,000 persons shall begin monitoring no later than the quarter beginning January 1, 1989.

- (3) A system serving less than 3,300 shall begin monitoring no later than the quarter beginning January 1, 1991.

(b) Surface water systems shall sample in the distribution system representative of each water source or at entry points to the distribution system after any application of treatment; the minimum number of samples is one year of quarterly samples per water source. Ground water systems shall sample at points of entry to the distribution system representative of each well after any application of treatment; the minimum number of samples is one sample per entry point to the distribution system.

(c) The Department may require confirmation samples for positive or negative results.

(d) Community water systems and non-transient, non-community water systems shall monitor for the following contaminants except as provided in Paragraph (e) of this Rule:

- (1) Chloroform
- (2) Bromodichloromethane
- (3) Chlorodibromomethane
- (4) Bromoform
- (5) trans-1,2-Dichloroethylene
- (6) Chlorobenzene
- (7) m-Dichlorobenzene
- (8) Dichloromethane
- (9) cis-1,2-Dichloroethylene
- (10) o-Dichlorobenzene
- (11) Dibromomethane
- (12) 1,1-Dichloropropene
- (13) Tetrachloroethylene
- (14) Toluene
- (15) p-Xylene
- (16) o-Xylene
- (17) m-Xylene
- (18) 1,1-Dichloroethane
- (19) 1,2-Dichloropropane
- (20) 1,1,2,2-Tetrachloroethane
- (21) Ethylbenzene
- (22) 1,3-Dichloropropane
- (23) Styrene
- (24) Chloromethane
- (25) Bromomethane
- (26) 1,2,3-Trichloropropane
- (27) 1,1,1,2-Tetrachloroethane
- (28) Chloroethane
- (29) 1,1,2-Trichloroethane
- (30) 2,2-Dichloropropane
- (31) o-Chlorotoluene
- (32) p-Chlorotoluene
- (33) Bromobenzene
- (34) 1,3-Dichloropropene
- (35) Ethylene dibromide (EDB)
- (36) 1,2-Dibromo-3-Chloropropane (DBCP)

(e) Community water systems and non-transient, non-community water systems shall

monitor for EDB or DBCP only if the Department determines they are vulnerable to contamination by either or both of these substances. For the purpose of this Paragraph, a vulnerable system means a system which is potentially contaminated by EDB and DBCP, including surface water systems where these two compounds are applied, manufactured, stored, disposed of, or shipped upstream, and ground-water systems in areas where the compounds are applied, manufactured, stored, disposed of, or shipped in the ground-water recharge basin, or ground-water systems that are in proximity to underground storage tanks that contain leaded gasoline.

(f) Analysis under this Rule shall be made in accordance with methods adopted by the United States Environmental Protection Agency and codified as 40 C.F.R. 141.40(g) which are hereby incorporated by reference including subsequent amendments and editions. A list of these methods is available from the Public Water Supply Section, Division of Environmental Health, P.O. Box 29536, Raleigh, North Carolina 27626-0536. There is no cost for this material.

(g) Public water systems may use monitoring data collected any time after January 1, 1983, provided the monitoring program was consistent with the requirements of this Rule. In addition the results of the U.S. Environmental Protection Agency's Ground Water Supply Survey may be used for systems supplied by a single well.

(h) The Department may require monitoring for the following compounds:

- (1) 1,2,4-Trimethylbenzene
- (2) 1,2,4-Trichlorobenzene
- (3) 1,2,3-Trichlorobenzene

- (4) n-Propylbenzene
- (5) n-Butylbenzene
- (6) Naphthalene
- (7) Hexachlorobutadiene
- (8) 1,3,5-Trimethylbenzene
- (9) p-Isopropyltoluene
- (10) Isopropylbenzene
- (11) Tert-butylbenzene
- (12) Sec-butylbenzene
- (13) Fluorotrichloromethane
- (14) Dichlorodifluoromethane
- (15) Bromochloromethane

(i) All community and non-transient, non-community water systems shall repeat the monitoring no less frequently than every five years from the dates specified in Paragraph (a) of this Rule.

(j) The Department or a water supplier may composite up to five samples when monitoring for substances in (d) and (h) of this Rule.

(a) The provisions of 40 C.F.R. 141.40 are hereby adopted by reference in accordance with G.S. 150B-21.6 and shall include subsequent amendments and editions, except that 40 C.F.R. 141.40(n)(10) is not adopted. A copy may be obtained from the Public Water Supply Section, P.O. Box 29536, Raleigh, NC 27626-0526.

(b) To comply with the monitoring requirements of this Rule a community water system or non-transient, non-community water system serving fewer than 150 service connections shall take a single water sample to be analyzed for inorganic and organic chemicals.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

1517 MAXIMUM CONTAMINANT LEVELS FOR ORGANIC CHEMICALS

The following are the maximum contaminant levels for organic chemicals. The maximum contaminant levels for organic chemicals in (1) and (2) of this Rule apply to all community water systems. Compliance with the maximum contaminant levels in (1) and (2) is calculated pursuant to 15A NCAC 18C 1515. The maximum contaminant level for total trihalomethanes in (3) of this Rule applies to all community water systems and non-transient, non-community water systems which add a disinfectant (oxidant) to the water in any part of the drinking water treatment process. Compliance with the maximum contaminant level for total trihalomethanes is calculated pursuant to 15A NCAC 18C 1513 and 15A NCAC 18C 1533:

	Level, milligrams per liter
(1) Chlorinated hydrocarbons:	
Endrin (1,2,3,4,10, 10-hexachloro-6,7, epoxy-1,1, 4a,5,6,7,8,8a octa-hydro-1,4-endo; endo-5,8 - dimethano naphthalene):	0.0002
Lindane (1,2,3,4,5,6 hexachloro-cyclohexane, gamma isomer):	0.004
Methoxychlor (1,1,1 Trichloro-2,2 until - bis (p-methoxyphenyl) ethane):	0.1
Toxaphene [C(10)H(10)Cl(8) Technical	0.005

- chlorinated camphene, 67-69 percent chlorine).
- (2) Chlorophenoxy:
 2,4-D; (2,4-Dichlorophenoxyacetic acid). 0.1
 2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid). 0.01
- (3) Total trihalomethanes (the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform)). 0.10

The provisions of 40 C.F.R. 12 are hereby adopted by reference in accordance with G.S. 150B-21.6 and shall include subsequent amendments and editions. However, the maximum contaminant level for total trihalomethanes shall apply to all community water systems and non-transient, non-community water systems regardless of population which add a disinfectant (oxidant) to the water in any part of the drinking water treatment process. A copy may be obtained from the Public Water Supply Section, P.O. Box 29536, Raleigh, NC 27626-0536.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1518 MAXIMUM CONTAMINANT LEVELS FOR ORGANIC CONTAMINANTS

(a) The following maximum contaminant levels for organic contaminants apply to community water systems and non-transient non-community water systems:

CAS No.	Contaminant	Maximum contaminant level in mg/l
71-43-2	Benzene	0.005
75-01-4	Vinyl Chloride	0.002
56-23-5	Carbon tetrachloride	0.005
107-06-2	1,2-Dichloroethane	0.005
79-01-6	Trichloroethylene	0.005
75-35-4	1,1-Dichloroethylene	0.007
71-55-6	1,1,1-Trichloroethane	0.20
106-46-7	para-Dichlorobenzene	0.075

(b) Central treatment using granular activated carbon (except for vinyl chloride) and central treatment using packed tower aeration are identified as the best available technology for achieving compliance with the maximum contaminant levels for synthetic organic chemicals.

(c) Compliance with this Rule is not required until January 9, 1990 in accordance with 40 C.F.R. 141.60.

The provisions of 40 C.F.R. 141.61 are hereby adopted by reference in accordance with G.S. 150B-21.6 and shall include subsequent amendments and editions. A copy may be obtained from the Public Water Supply Section, P.O. Box 29536, Raleigh, NC 27626-0536.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1523 PUBLIC NOTIFICATION REQUIREMENTS

(a) The supplier of water shall provide notice to consumers served by a public water system when the system fails to comply with a maximum contaminant level or treatment technique established by this Subchapter or which fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption granted under this Subchapter as follows:

(1) For a community water system:

(A) Notice shall be given by publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure. If the area is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area; and

(B) In addition, notice shall be given by mail delivery (by direct mail or with the water bill) or by hand delivery, no later than 45 days after the violation or failure. Notices shall be repeated at least once every three months for as long as the violation or failure exists. Mail or hand delivery shall not be required if the Department determines that the supplier of water has corrected the violation or failure within the 45-day period. The Department shall acknowledge the correction of the violation or failure in writing within the 45-day period.

(C) When the area of the community water system is not served by a daily or weekly newspaper of general circulation, notice shall be given within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Notice by hand delivery or posting must begin as soon as possible but no later than 72 hours after the violation or failure for acute violations (as defined in Paragraph (a)(1)(D) of this Rule); or 14 days after the violation or failure for any other violation. Posting shall continue for as long as the violation or failure exists. Notice by hand delivery shall be repeated at least once every three months for as long as the violation or failure exists.

(D) For violations of the maximum contaminant levels of contaminants specified by the Department as posing an acute risk to human health and including:

(i) Violation of the maximum contaminant level for nitrate as defined in 40 C.F.R. §141.11(b) and determined according to 40 C.F.R. §141.23(d) which are hereby adopted by reference pursuant to G.S. 150B-11(c);

(ii) Violation of the maximum contaminant level for total coliform, when fecal coliforms or *E. coli* are present in the water distribution system, as specified in Rule 1535 of this Subchapter; and

(iii) Occurrence of a water borne disease outbreak in an unfiltered system subject to the requirements of 15A NCAC 18C .2001 through .2006, after December 30, 1991;

notice shall be given by furnishing a copy of the notice to the radio and television stations serving the area of the community water system as soon as possible but in no case later than 72 hours after the violation.

(2) For a non-community water system notice shall be given within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Notice by hand delivery or posting must begin as soon as possible but no later than 72 hours after the violation or failure for acute violations (as defined in Paragraph (a)(1)(D) of this Rule); or 14 days after the violation or failure for any other violation. Posting shall continue for as long as the violation or failure exists. Notice by hand delivery shall be repeated at least once every three months for as long as the violation or failure exists.

(b) The supplier of water shall provide notice to consumers served by a public water system when the supplier fails to perform monitoring required by this Section; fails to comply with a testing procedure established by this Subchapter or is subject to a variance or an exemption granted under this Subchapter, as follows:

(1) For a community water system:

(A) Notice shall be given within three months of the violation by publication in a daily newspaper of general circulation in the area served by the system. If the area is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area; and

(B) In addition, after publication notice shall be given by mail delivery (by direct mail or with the water bill) or by hand delivery at least once every three months for as long as the violation exists or a variance or exemption remains in effect.

(C) When the area of the community water system is not served by a daily or weekly newspaper of general circulation notice shall be given within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting shall continue for as long as the violation exists or a variance or exemption remains in effect. Notice by hand delivery shall be repeated at least once every three months for as long as the violation exists or the variance or exemption remains in effect.

(2) For a non-community water system notice shall be given within three months of the violation or the granting of the variance or exemption, by hand delivery or by

continuous posting in conspicuous places within the area served by the system. Posting shall continue for as long as the violation exists, or a variance or exemption remains in effect. Notice by hand delivery shall be repeated at least once every three months for as long as the violation exists or a variance or exemption remains in effect.

(c) The supplier of water for a community water system shall give a copy of the most recent public notice for any outstanding violation of any maximum contaminant level, or any treatment technique requirement, or any variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

(d) Each notice required by this Rule shall provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct such violation, the necessity for seeking alternative water supplies, if any, and any preventive measure the consumer should take until the violation is corrected. Each notice shall be conspicuous, easily readable, and shall not contain unnecessary technical language or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water system as a source of additional information concerning the notice. Multi-lingual notice shall be given if 30 percent or more of the consumers served by the system are non-English speaking.

(e) When providing information on potential adverse health effects required by Paragraph (d) of this Rule in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting of the continued existence of variances or exemptions, or notices of failure to comply with a variance or exemption schedule, the supplier of water shall include the language specified in 40 C.F.R. §141.32(e) and (f) which is hereby incorporated by reference including subsequent amendments and editions. Copies of the required notice language may be obtained from the Public Water Supply Section, Division of Environmental Health, P. O. Box 29536, Raleigh, North Carolina 27626-0536. There is no cost for this material.

(f) If the supplier of water does not provide notice as required by this Rule, the Department may give public notice if the Department meets all requirements of this Rule. However, the supplier of water shall remain responsible for providing the required notice and may be subject

to action by the Department for violation of the notice requirements.

(g) The provisions of this Rule do not apply to 15A NCAC 18C .1511, .1512, and .1507(a).

The provisions of 40 C.F.R. 141.32 are hereby adopted by reference in accordance with G.S. 150B-21.6 and shall include subsequent amendments and editions, except that multi-lingual notice shall be given if 30 percent or more of the consumers served by the system are non-English speaking. A copy may be obtained from the Public Water Supply Section, P.O. Box 29536, Raleigh, NC 27626-0536.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1527 CERTIFIED LABORATORIES

(a) For the purpose of determining compliance with the requirements of this Section, samples may be considered only if they have been analyzed by a laboratory certified by the Environmental Protection Agency or the Division of Laboratory Services Laboratory Certification Branch. ~~except that~~ However, measurements for turbidity, free chlorine residual, temperature and pH may be performed by any person acceptable to the Department.

(b) Nothing in this Section shall be construed to preclude the Department or any duly designated representative from taking samples or from using the results from such samples to determine compliance by a supplier of water with the applicable requirements of this Section.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1536 TREATMENT TECHNIQUES

The provisions of 40 C.F.R. 141. Subpart K are hereby adopted by reference in accordance with G.S. 150B-21.6 and shall include subsequent amendments and editions. A copy may be obtained from the Public Water Supply Section, P.O. Box 29536, Raleigh, NC 27626-0536.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

SECTION .2100 - OPERATING PERMITS

.2101 PERMITS

(a) Operating permits are required for all community water systems as of January 1, 1992.

(b) Permits shall be valid for one year from the date of issuance.

(c) Community water systems which are constructed or which begin operation after January

1, 1992 shall obtain a permit prior to providing water to any connections. The permit shall be effective on the date that water service to the first customer begins and shall be valid for one year.

Statutory Authority G.S. 130A-328.

.2102 APPLICATION FOR PERMIT

(a) An application for the issuance or renewal of an operating permit for a community water system shall be made on forms provided by the Department. An application shall include the following information:

- (1) Name and identification number of the community water system;
- (2) Name, address and social security number or tax identification number of the supplier of water;
- (3) Name, address and certification number of the certified operator in responsible charge of the community water system;
- (4) Name of each certified laboratory which provides analyses of water samples; and
- (5) Population served by the community water system.

(b) The fee for issuance or renewal of an operating permit is set forth in G.S. 130A-328.

(c) Payment shall be made by check, payable to the Department of Environment, Health, and Natural Resources and shall accompany the application.

(d) Applications for operating permits shall not be processed prior to the receipt of the required fees.

(e) An operating permit shall be renewed annually.

Statutory Authority G.S. 130A-328.

.2103 INITIAL PERMIT PERIOD

(a) Notwithstanding Rule .2102(c) of this Section for systems in existence prior to January 1, 1992, the initial operating permit shall be valid for one year beginning January 1, 1992.

(b) Fees for the period beginning January 1, 1992 and ending December 31, 1992 shall be payable in two installments:

- (1) One half of the fee set forth in G.S. 130A-328 shall be due by March 1, 1992. Failure to pay this portion of the fee by March 1, 1992 shall result in assessment of an administrative penalty pursuant to G.S. 130A-22(b) equal to one-fourth of the fee set forth in G.S. 130A-328. Failure to pay the fee and the administrative penalty by April 15, 1992 shall result in an additional penalty of ten dollars

(\$10.00) per day for each day that the fee and the penalty are not paid.

- (2) One half of the fee set forth in G.S. 130A-328 shall be due by September 1, 1992. Failure to pay this portion of the fee by November 1, 1992 shall result in assessment of an administrative penalty pursuant to G.S. 130A-22(b) equal to one-fourth of the fee set forth in G.S. 130A-328. Failure to pay the fee and the administrative penalty by December 15, 1992 shall result in an additional penalty of ten dollars (\$10.00) per day for each day that the fee and the penalty are not paid.

Statutory Authority G.S. 130A-328.

.2104 RENEWAL FEES

Payment for permit renewal shall be due 60 days prior to the expiration of the prior year's permit. Failure to pay the fee by the permit expiration date shall result in assessment of an administrative penalty pursuant to G.S. 130A-22(b) equal to one-half of the fee set forth in G.S. 130A-328. Failure to pay the fee and the administrative penalty within 45 days after permit expiration shall result in an additional administrative penalty of ten dollars (\$10.00) per day for each day that the fee and the penalty are not paid.

Statutory Authority G.S. 130A-328.

.2105 REVOCATION

(a) The Department may revoke or suspend an operating permit when it is found that a supplier of water has:

- (1) Failed to pay the annual fee;
- (2) Failed to submit a complete permit application or provided fraudulent or misleading information in a permit application; or
- (3) Failed to comply with rules governing community water systems set forth in 15A NCAC 18C.

(b) Action to revoke or suspend an operating permit shall not preclude the Department from seeking other remedies authorized by Part 2, Article 1 of Chapter 130A of the General Statutes.

Statutory Authority G.S. 130A-328.

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19A - COMMUNICABLE DISEASE CONTROL

SECTION .0200 - CONTROL MEASURES FOR
COMMUNICABLE DISEASES

.0202 CONTROL MEASURES - HIV

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

- (1) Infected persons shall:
 - (a) refrain from sexual intercourse unless condoms are used; exercise caution when using condoms due to possible condom failure;
 - (b) not share needles or syringes;
 - (c) not donate or sell blood, plasma, platelets, other blood products, semen, ova, tissues, organs, or breast milk;
 - (d) have a skin test for tuberculosis;
 - (e) notify future sexual intercourse partners of the infection; if the time of initial infection is known, notify persons who have been sexual intercourse and needle partners since the date of infection; and, if the date of initial infection is unknown, notify persons who have been sexual intercourse and needle partners for the previous year.
- (2) The attending physician shall:
 - (a) give the control measures in Paragraph (1) of this Rule to infected patients, in accordance with 15A NCAC 19A .0210;
 - (b) ~~give the patient a form provided by the Division of Epidemiology and encourage its use for listing partners for whom notification is required in Subparagraph (1)(e) of this Rule; the physician shall encourage the patient to arrange an appointment with a Division of Epidemiology AIDS HIV/STD counselor regarding partner notification and to complete the form, and either take it to the Division of Epidemiology AIDS counselor or mail it to the Division so that the Division may undertake counseling of the partners to prevent further transmission; The Division of Epidemiology shall destroy the list after it has counseled the partners or after a reasonable attempt has been made to do so;~~
 - (c) If the attending physician knows the identity of the spouse of an HIV-infected patient and has not, with the consent of the infected patient, notified and counseled the spouse appropriately, the physician shall list the spouse on a form provided by the Division of Epidemiology and shall mail the form to the Division; the Division will undertake to counsel the spouse; the attending physician's responsibility to

notify exposed and potentially exposed persons is satisfied by fulfilling the requirements of Subparagraph (2)(b) and (c) of this Rule;

- (d) advise infected persons concerning proper clean-up of blood and other body fluids;
- (e) advise infected persons concerning the risk of perinatal transmission and transmission by breastfeeding.
- (3) The attending physician of a child who is infected with HIV and who may pose a significant risk of transmission in the school or day care setting because of open, oozing wounds or because of behavioral abnormalities such as biting shall notify the local health director. The local health director shall consult with the attending physician and investigate the circumstances.
 - (a) If the child is in school or scheduled for admission and the local health director determines that there may be a significant risk of transmission, the local health director shall consult with an interdisciplinary committee, which shall include appropriate school personnel, a medical expert, and the child's parent or guardian to assist in the investigation and determination of risk. The local health director shall notify the superintendent or private school director of the need to appoint such an interdisciplinary committee.
 - (i) If the superintendent or private school director establishes such a committee within three days of notification, the local health director shall consult with this committee.
 - (ii) If the superintendent or private school director does not establish such a committee within three days of notification, the local health director shall establish such a committee.
 - (b) If the child is in school or scheduled for admission and the local health director determines, after consultation with the committee, that a significant risk of transmission exists, the local health director shall:
 - (i) notify the parents;
 - (ii) notify the committee;
 - (iii) assist the committee in determining whether an adjustment can be made to the student's school program to eliminate significant risks of transmission;
 - (iv) determine if an alternative educational setting is necessary to protect the public health;
 - (v) instruct the superintendent or private school director concerning appropriate

- protective measures to be implemented in the alternative educational setting developed by appropriate school personnel; and
- (vi) consult with the superintendent or private school director to determine which school personnel directly involved with the child need to be notified of the HIV infection in order to prevent transmission and ensure that these persons are instructed regarding the necessity for protecting confidentiality.
 - (c) If the child is in day care and the local health director determines that there is a significant risk of transmission, the local health director shall notify the parents that the child must be placed in an alternate child care setting that eliminates the significant risk of transmission.
 - (4) When health care workers or other persons have a needlestick or nonsexual non-intact skin or mucous membrane exposure to blood or body fluids that poses a significant risk of HIV transmission, the following shall apply:
 - (a) When the source person is known:
 - (i) The attending physician or occupational health care provider responsible for the exposed person, if other than the attending physician of the person whose blood or body fluids is the source of the exposure, shall notify the attending physician of the source that an exposure has occurred. The attending physician of the source person shall discuss the exposure with the source and shall test the source for HIV infection unless the source is already known to be infected. The attending physician of the exposed person shall be notified of the infection status of the source.
 - (ii) The attending physician of the exposed person shall inform the exposed person about the infection status of the source, offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred, and, if the source person was HIV infected, give the exposed person the control measures listed in Subparagraphs (1)(a) through (c) of this Rule. The attending physician of the exposed person shall instruct the exposed person regarding the necessity for protecting confidentiality.
 - (b) When the source person is unknown, the attending physician of the exposed person shall inform the exposed person of the risk of transmission and offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred.
 - (c) A health care facility may release the name of the attending physician of a source person upon request of the attending physician of an exposed person.
 - (5) The attending physician shall notify the local health director when the physician, in good faith, has reasonable cause to suspect a patient infected with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission.
 - (6) When the local health director is notified pursuant to Paragraph (5) of this Rule, of a person who is mentally ill or mentally retarded, the local health director shall confer with the attending mental health physician or appropriate mental health authority and the physician who notified the local health director to develop an appropriate plan to prevent transmission.
 - (7) The Director of Health Services of the North Carolina Department of Correction and the prison facility administrator shall be notified when any person confined in a state prison is determined to be infected with HIV. If the prison facility administrator, in consultation with the Director of Health Services, determines that a confined HIV infected person is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the administrator and the Director shall develop and implement jointly a plan to prevent transmission, including making appropriate recommendations to the unit housing classification committee.
 - (8) The local health director shall ensure that the health plan for local jails include education of jail staff and prisoners about HIV, how it is transmitted, and how to avoid acquiring or transmitting this infection.
 - (9) Health care workers with HIV infection who have secondary infections or open skin lesions which would place patients at risk shall not provide direct patient care. Otherwise, these control measures do not require restrictions in the workplace of persons with HIV infection.
 - (10) Local health departments shall provide ~~free~~ testing for HIV infection with individual pre- and post-test counseling at no charge to the patient. By August 1, 1991, the State Health Director shall designate a minimum

of 16 local health departments to provide anonymous testing. Beginning September 1, 1991, only cases of confirmed HIV infection identified by anonymous tests conducted at local health departments designated as anonymous testing sites pursuant to this Subparagraph shall be reported in accordance with 15A NCAC 19A .0102(a)(3). All other cases of confirmed HIV infection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2). Effective September 1, 1994, anonymous testing shall be discontinued and all cases of confirmed HIV infection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2). Persons with positive tests who were tested anonymously shall be given a form provided by the Division of Epidemiology and encouraged to arrange an appointment with a Division of Epidemiology HIV/STD counselor regarding partner notification and to list their partners for whom notification is required in Subparagraph (1)(c) of this Rule on the form, and either take it to the Division of Epidemiology HIV/STD counselor or mail it to the Division so that the Division may undertake counseling of the partners to prevent further transmission. The Division of Epidemiology shall destroy the list after it has counseled the partners or after a reasonable attempt has been made to do so.

- (11) Appropriate counseling for HIV testing shall include individualized pre- and post-test counseling which provides risk assessment, risk reduction guidelines, appropriate referrals for medical and psychosocial services, and, when the person tested is determined to be infected with HIV, control measures.
- (12) A person charged with an offense that involves nonconsensual vaginal, anal, or oral intercourse, or that involves vaginal, anal, or oral intercourse with a child 12 years old or less shall be tested for HIV infection if:
 - (a) probable cause has been found or an indictment has been issued;
 - (b) the victim notifies the local health director and requests information concerning the HIV status of the defendant; and
 - (c) the local health director determines that the alleged sexual contact involved in the offense would pose a significant risk of transmission of HIV if the defendant were HIV infected. If in custody of the Department of Correction, the person shall be tested by the Department of Correction

and if not in custody, the person shall be tested by the local health department. The Department of Correction shall inform the local health director of all such test results. The local health director shall inform the victim of the results of the test, counsel the victim appropriately, and instruct the victim regarding the necessity for protecting confidentiality.

- (13) A local health department or the Department may release information regarding an infected person pursuant to G.S. 130A-143(3) only when the local health department or the Department has provided direct medical care to the infected person and refers the person to or consults with the health care provider to whom the information is released.
- (14) Notwithstanding Rule .0201(d) of this Section, a local or state health director may require, as a part of an isolation order issued in accordance with G.S. 130A-145, compliance with a plan to assist the individual to comply with control measures. The plan shall be designed to meet the specific needs of the individual and may include one or more of the following available and appropriate services:
 - (a) substance abuse counseling and treatment;
 - (b) mental health counseling and treatment; and
 - (c) education and counseling sessions about HIV, HIV transmission, and behavior change required to prevent transmission.

Statutory Authority G.S. 130A-133; 130A-135; 130A-144; 130A-145; 130A-148(h).

SUBCHAPTER 19B - INJURY CONTROL

SECTION .0200 - BLOOD ALCOHOL TEST REGULATIONS

.0203 APPROVED PERMITS

- (a) A blood analyst performing chemical analyses of blood in accordance with the description set out in the application for an initial, renewal, or modified permit shall be deemed to be performing such analyses in a manner approved by the Director.
- (b) All initial, modified, and renewal permits shall be valid for a period of ~~one year~~ two years.

Statutory Authority G.S. 20-139.1(b).

SECTION .0300 - BREATH ALCOHOL TEST REGULATIONS

.0302 LIMITATION OF PERMIT

(a) Permits may be limited in scope to the methods or instruments for performing chemical analyses in which the individual applying for a permit has demonstrated competence. This limitation may be upon the basis of the methods or instruments that received primary emphasis in the particular course of instruction attended by the applicant in the event that successful completion of the course is offered as proof of ability to perform chemical analyses. Initial and renewal permits shall state the date upon which they are to become effective and the date upon which they are to expire. The expiration date shall be no more than ~~13~~ 24 months after the effective date.

(b) Permits granted under this Section, initial and renewals, shall be valid only during the period the permittee is employed by a law enforcement agency, the Injury Control Section or a member of its instructional staff, or by some other federal, state, county or municipal agency with the responsibility of administering chemical analyses to drivers charged with implied consent offenses.

Statutory Authority G.S. 20-139.1(b).

.0304 CONDITIONS FOR RENEWAL OF PERMIT

(a) Permits shall be subject to renewal at expiration, or at such time prior to expiration as is convenient for the Director, upon demonstration by the permittee of:

- (1) continuing ability to perform accurate and reliable chemical analyses;
- (2) ability to satisfactorily explain the method of operation of the breath-testing instrument for which he is applying for a renewal permit to operate;
- (3) continued employment by a law enforcement agency, the Injury Control Section or a member of its instructional staff, or by some other federal, state, county or municipal agency with the responsibility of administering chemical analyses to drivers charged with implied consent offenses; and
- (4) proof of good character, if desired by the Director.

(b) Individuals successfully completing a chemical test for alcohol ~~retraining recertification~~ course conducted by the Injury Control ~~Branch~~ Section shall be deemed to have met the requirements of (a) (1) and (2) of this Rule for the first and ~~second~~ subsequent renewal of permits. ~~Subsequent renewal of permits shall be based on recertification requirements as may be required by the Director.~~

(c) Individuals desiring ~~third or subsequent first~~ and subsequent renewal permits, after expiration of their permits, shall successfully complete the following Injury Control Section course requirements prior to the granting of renewal permits, unless an exception is granted by the Director:

- (1) Chemical Tests for Alcohol Recertification Course if the permit has been expired less than six months;
- (2) ~~Chemical Tests for Alcohol Retraining Course if the permit has been expired six months but less than twenty four months; and~~
- (3) (2) Chemical Tests for Alcohol Operators Course if the permit has been expired ~~twenty four~~ six months or longer.

(d) ~~Individuals desiring first or second renewal permits, after expiration of their permits, shall successfully complete the following Injury Control Section course requirements prior to the granting of renewal permits, unless an exception is granted by the Director:~~

- (1) ~~Chemical Tests for Alcohol Retraining Course if the permit has been expired less than twelve months; and~~
- (2) ~~Chemical Tests for Alcohol Operators Course if the permit has been expired twelve months or longer.~~

Statutory Authority G.S. 20-139.1(b).

.0305 EXPIRATION DATES OF RENEWAL PERMITS (REPEALED)

~~Renewal permits shall state the date upon which they are to become effective and the date upon which they are to expire. The expiration date of the first renewal permit shall be no more than 19 months after the effective date. The expiration date of subsequent renewal permits shall be no more than two years after the effective date.~~

Statutory Authority G.S. 20-139.1(b).

.0309 QUALIFICATIONS OF MAINTENANCE PERSONNEL

(a) Preventive maintenance on all breath-testing instruments shall be performed by a chemical analyst who has successfully completed the chemical tests for alcohol technical supervisor's school or a maintenance course for a specific instrument, as conducted by the Injury Control Section, unless an exception is granted by the Director.

(b) Chemical analysts qualifying under this Rule shall be granted certificates by the Director authorizing the performance of preventive maintenance on specific models of breath-testing instruments.

- (1) Certificates shall be granted for an indefinite period but shall be valid only during the period that the chemical analyst possesses a current valid permit to perform chemical analyses of the breath on the specific models of breath-testing instruments for which preventive maintenance is being performed.
- (2) Certificates shall be subject to revocation under the same provisions specified under Rule ~~.0330~~ .0308 of this Section for revocation of permits to perform chemical analyses.
- (3) The Director shall have the same evaluation authority over holders of certificates as he possesses over permittees under Rule ~~.0329~~ .0307 of this Section.

Statutory Authority G.S. 20-139.1(b).

.0311 LOG

Each permittee shall keep a log identifying each individual who refuses to submit to a chemical analysis, and recording the name, results, and other identifying information for each individual submitting to a chemical analysis. Logs shall be kept on forms provided by the Department and a copy shall be forwarded monthly to the Director. Any log identifying a blood analysis shall not be submitted until the result is recorded.

(a) Logs shall be kept on forms provided by the Department. Each permittee shall keep a monthly log identifying each individual who submits to or refuses a chemical analysis by completing all identifying information. If no chemical analysis is performed during the month, the permittee shall enter name, permit number, agency, month and write "NONE" across the form. All monthly logs shall be forwarded to the Director and are due by the end of the following month unless otherwise specified in Paragraph (b) of this Rule. However, any log identifying a blood analysis shall not be submitted until the result is recorded.

(b) A permittee who performs chemical analyses of the breath utilizing an automated breath-test instrument placed in service for the statewide program administered by the Injury Control Section of the Department shall not be required to comply with Paragraph (a) of this Rule.

Statutory Authority G.S. 20-16.5(j); 20-139.1(b).

.0320 INTOXILYZER: MODEL 5000

The operational procedures to be followed in using the Intoxilyzer, Model 5000 are:

- (1) Insure observation period requirements have been met;
- (2) Insure instrument displays proper time and date;
- (3) ~~Insure alcoholic breath simulator thermometer shows proper operating temperature and insure simulator is properly connected to instrument;~~
- (4) (3) Press "START TEST", when "INSERT CARD" appears, insert test record;
- (5) ~~When "INSERT CARD" appears, insert test record;~~
- (6) (4) Enter appropriate information;
- (7) (5) Insure instrument displays expected results from the alcoholic breath simulator;
- (8) (6) When "PLEASE BLOW" appears, collect breath sample;
- (9) (7) When "PLEASE BLOW" appears, collect breath sample;
- (10) (8) When test record ejects, remove and record times and results.

If the alcohol concentrations differ by more than 0.02, a third or subsequent test shall be administered as soon as feasible by repeating steps (1) through (10). ~~(6), (7) if necessary, and (8).~~

Statutory Authority G.S. 20-139.1(b).

.0321 PREVENTIVE MAINTENANCE: INTOXILYZER: MODEL 5000

The preventive maintenance procedures for the Intoxilyzer Model 5000 to be followed at least once every four months are:

- (1) Verify alcoholic breath simulator thermometer shows ~~proper operating temperature and insure simulator is properly connected to instrument: 34 degrees, plus or minus 2 degree centigrade;~~
- (2) Verify instrument displays proper time and date;
- (3) Press "START TEST", when "INSERT CARD" appears, insert test record;
- (4) ~~When "INSERT CARD" appears, insert test record;~~
- (5) (4) Enter appropriate information;
- (6) (5) Verify instrument displays expected results from the alcoholic breath simulator;
- (7) (6) When "PLEASE BLOW" appears, collect breath sample;
- (8) (7) When "PLEASE BLOW" appears, collect breath sample;
- (9) (8) When test record ejects, remove and record ~~simulator times and results;~~
- (10) ~~Repeat steps (1) through (9);~~
- (9) Verify Diagnostic Program;
- (11) (10) Verify alcoholic breath simulator solution is being changed every ~~45 days~~ four

months or after 25 125 tests, whichever occurs first.

A signed original of the preventive maintenance checklist shall be kept on file for at least three years.

Statutory Authority G.S. 20-139.1(b)(b4).

CHAPTER 21 - HEALTH: PERSONAL HEALTH

SUBCHAPTER 21E - CHILD HEALTH

SECTION .0500 - SCREENING OF NEWBORNS

.0501 SUBMISSION OF BLOOD SPECIMENS FOR SCREENING OF NEWBORNS

(a) Health care providers shall draw blood specimens from every infant born in North Carolina and shall submit such specimens to the North Carolina State Laboratory for Public Health for testing for the following metabolic and other hereditary and congenital disorders:

- (1) phenylketonuria (PKU),
- (2) galactosemia,
- (3) primary hypothyroidism,
- (4) congenital adrenal hyperplasia,
- (5) sickle cell disease (non-white infants only).

(b) Notwithstanding Paragraph (a) of this Rule, parents or guardians may object to screening in accordance with G.S. 130A-125(b).

Statutory Authority G.S. 130A-125.

SUBCHAPTER 21F - CHILDREN'S SPECIAL HEALTH SERVICES: CHILDREN AND YOUTH SECTION

SECTION .0700 - ROSTERS

.0701 QUALIFICATIONS

(a) There shall be two categories of rostered physicians under Children's Special Health Services:

- (1) In order to be accorded full rostering status, an applicant must be a resident of North Carolina, licensed to practice medicine in the state, have hospital privileges in the community of his/her practice, and be board-certified in pediatrics. Physicians who are not board-certified in pediatrics may be fully rostered if they are board-certified in a specialty with pediatric training in that specialty, and:
 - (A) meet the applicable membership criteria of the American Academy of Pediatrics for that specialty, or
 - (B) meet substantially equivalent credentialing requirements for a pediatric subspecialty in a specialty.

(2) A physician may be conditionally rostered if that physician serves an area not adequately served by a fully rostered physician. A conditionally rostered physician shall meet all of the requirements set forth in Paragraph (a)(1) of this Rule for a fully rostered physician, except for the requirements that a physician be board-certified in pediatrics and meet the applicable membership criteria of the American Academy of Pediatrics for that specialty or meet substantially equivalent credentialing requirements for a pediatric subspecialty in a specialty. However, the physician shall possess pediatric experience in a specialty and provide services necessary for the care of children in an area that is not adequately served. The status of the conditionally rostered physician shall be reviewed every three years.

(b) Physicians rostered by the Program prior to September 1, 1989 shall be considered fully rostered.

(c) The orthodontist/prosthodontist applicant for rostering must be a resident of North Carolina, licensed to practice dentistry in the state, board eligible or certified by the American Board of Orthodontics or by the American Board of Prosthodontics, respectively, and a member of a Children's Special Health Services oral facial clinic team.

(d) The speech/language pathologist or audiologist applicant for rostering must be a resident of North Carolina, licensed to practice in the state in accordance with G.S. Chapter 90, Article 22, and certified by the American Speech and Hearing Association. In addition, the applicant must be practicing 20 hours per week with at least 12 hours in direct patient contact, and within the previous two years, an average of one-half or more of the patients served have been children.

Statutory Authority G.S. 130A-124.

CHAPTER 24 - GENERAL PROCEDURES FOR PUBLIC HEALTH PROGRAMS

SUBCHAPTER 24A - PAYMENT PROGRAMS

SECTION .0200 - ELIGIBILITY DETERMINATIONS

.0202 DETERMINATION OF FINANCIAL ELIGIBILITY

(a) A patient must meet the financial eligibility requirements of this Subchapter to be eligible for benefits provided by any of the payment programs, except as provided in Paragraph (b) of

this Rule. Financial eligibility for all state funded payment programs shall be determined through application of the General Assembly's financial eligibility scales for non-medicaid medical programs. The definition of annual net income in Rule .0203 of this Subchapter and the definitions of family in Rule .0204 of this Subchapter shall be used in applying the General Assembly's financial eligibility scales and the federal poverty scale for payment program eligibility purposes.

(b) A person shall be financially eligible for the federal AIDS Drug Reimbursement Program if the person's net income is at or below 85 percent of the federal poverty level.

(c) The financial eligibility requirements of this Subchapter shall not apply to:

- (1) Migrant Health Program;
- (2) Children's Special Health Services when the requirements of 15A NCAC 21F .0800 are met;
- (3) School Health Program financial eligibility determinations performed by a local health department which has chosen to use the financial eligibility standards of the Department of Public Instruction's free lunch program;
- (4) Prenatal outpatient services sponsored through local health department delivery funds, 15A NCAC 21C .0200; or through Perinatal Program high risk maternity clinic reimbursement funds, 15A NCAC 21C .0300;
- (5) Diagnostic assessments for infants up to 12 months of age with sickle cell syndrome.

(d) Except as provided in Paragraph (e) of this Rule, once an individual is determined financially eligible for payment program benefits, the individual shall remain financially eligible for a period of one year after the date of application for financial eligibility unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter or his family's financial resources or expenses during that period. If there is a change, financial eligibility for payment program benefits must be redetermined. Financial eligibility must be redetermined at least once a year.

(e) For purposes of the Kidney Program, once an individual is determined to be financially eligible, if the application for financial eligibility was received by the Department in the fourth quarter of the fiscal year, the individual shall remain financially eligible for benefits under the Kidney Program until the end of the next fiscal year unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter

or his family's financial resources or expenses during that period.

(f) If the most current financial eligibility form on file with the Department shows that the patient was financially eligible on the date an authorization request was received, the authorization request may be approved so long as the authorized service does not extend more than 90 days after the term of eligibility expires.

Statutory Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-177; 130A-205.

SECTION .0300 - ELIGIBILITY PROCEDURES

.0303 PAYMENT LIMITATIONS

(a) Payment program payments will be made for authorized services only when funds are available.

(b) During the last six months of the fiscal year, the State Health Director may limit payment program benefits that can be authorized when the total amount of outstanding authorizations, plus the estimated authorizations for the remainder of the fiscal year, less estimated cancellations, exceeds 100 percent of the program's cash balance. The State Health Director shall rescind the limitations at the end of the fiscal year, or prior to the end of the fiscal year if sufficient funds become available to authorize full program benefits for the remainder of the fiscal year.

(c) Payment program benefits shall be available only for services or appliances which are not covered by another third party payor or which cannot be paid for out of funds received in settlement of a civil claim. However, payment program benefits shall be available for Children's Special Health Services sponsored clinic patients who cannot reasonably be examined or treated by a Medicaid provider or an authorized provider for another third party payor because of transportation problems, a need for emergency care, or similar exceptional situations. All exceptions must be approved by the Children's Special Health Services program's medical director. Also, Children's Special Health Services may make payments for services provided to Medicaid patients when acting as a Medicaid provider under an agreement making the program eligible for reimbursement from Medicaid. Providers shall take reasonable measures to collect other third party payments. For the purposes of this Subchapter, third party payor means any person or entity that is or may be indirectly liable for the cost of services or appliances furnished to a patient. Third party payors include, without limitation, the following:

- (1) School services, including physical or occupational therapy, speech and language pathology and audiology services, and nursing services for special needs children;
- (2) Medicaid;
- (3) Medicare, Part A and Part B;
- (4) Insurance;
- (5) Social Services;
- (6) Worker's compensation;
- (7) CHAMPUS; and
- (8) Head Start programs.

(d) The Department shall not pay Medicaid co-payments or in any other way supplement Medicaid payments.

(e) ~~(d)~~ If prior to the Department's payment for particular services or appliances, the provider, the patient, or a person responsible for the patient receives partial or total payment for the services or appliances from a third party payor, or receives funds in settlement of a civil claim, the Department shall pay only the amount, if any, by which the Department's payment rate exceeds the amount received by the person. For the purpose of this Rule the Department's payment rate means the rate of reimbursement established in 15A NCAC 24A .0400.

(f) ~~(e)~~ Notwithstanding Paragraph ~~(d)~~ (e) of this Rule, when the provider, the patient or a person responsible for the patient receives other third party payments equal to or exceeding the Department's payment rate, the Department shall pay the difference between the other third party payments and the provider's charge for an adopted child that meets the requirements of 15A NCAC 21F .0801. The Department's payment shall not exceed the payment rate in Section .0400 of the Subchapter.

(g) ~~(f)~~ If after the Department makes payment for particular services or appliances, the provider, the patient, or a person responsible for the patient receives partial or total payment for the services or appliances from a third party payor, or receives funds in settlement of a civil claim which are available to pay for the services or appliances, the person receiving the payment shall reimburse the Department to the extent of the amount received by the person without exceeding the amount of the Department's prior payment to the provider. This reimbursement shall be made to the Department within 45 days after receipt of the third party payment.

(h) ~~(g)~~ Notwithstanding Paragraph ~~(f)~~ (g) of this Rule, if after the Department makes payment for particular services or appliances for an adopted child that meets the requirements of 15A NCAC 21F .0801, the provider receives partial or total payment from a third party payor, the provider shall only be required to reimburse the Depart-

ment the amount by which the total of payments exceeds the provider's charge.

(i) ~~(h)~~ If the Department requests a refund of a payment made to a provider, the refund shall be made to the Department within 45 days after the date of the refund request.

Statutory Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-177; 130A-205.

TITLE 21 - LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Pharmacy intends to amend and adopt rule(s) cited as 21 NCAC 46 .1403, .1503, .1806, and .2504.

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

The public hearing will be conducted at 2:00 p.m. on January 28, 1992 at the Institute of Pharmacy, 109 Church Street, Chapel Hill, N.C.

Reason for Proposed Action: Rule .1403 - This amendment is necessary to ensure all subsections of Rule are consistent.

Rule .1503 - This amendment allows an applicant credit for actual hours of experience obtained in clinical programs and allows a maximum of 500 hours credit for experience obtained outside clinical programs.

Rule .1806 - This amendment allows the transfer of prescription information without direct communication between two pharmacists if both pharmacies are under common ownership or have a contractual agreement.

Rule .2504 - This adoption is necessary to ensure patients are adequately informed about their prescription medications.

Comment Procedures: Persons wishing to present oral data, views or arguments on a proposed rule or rule change may file a notice with the Board at least 10 days prior to the public hearing at which the person wishes to speak. Comments should be limited to 10 minutes. The Board's address is P. O. Box 459, Carrboro, NC 27510. Any person may file written submission of comments or argument at any time up to and including February 3, 1992.

CHAPTER 46 - BOARD OF PHARMACY

SECTION .1400 - HOSPITALS; OTHER HEALTH FACILITIES

.1403 DRUG INVENTORIES AND EMERGENCY KITS

(a) ~~Definitions and Purpose.~~ Auxiliary drug inventories are intended as a supplementary source for drugs when the pharmacy is closed or the pharmacist is not available. Emergency drugs kits are intended for use in a life-threatening crisis, not as convenient supply. Acquiring drugs from the pharmacy ~~by a nurse~~ when the pharmacy is not open as specified in this Rule should be rare and occur only if the drug desired is not available in the auxiliary drug inventory. The use of auxiliary drug inventories is required to prevent frequent entries into the pharmacy by non-pharmacy personnel.

(b) ~~Access to Drugs.~~ Except as provided in (c) of this Rule, only a pharmacist may have access to the institutional pharmacy inventory of drugs. Only ~~specifically~~ authorized persons, as determined by the pharmacist-manager, may obtain access to the auxiliary drug inventory by key or combination lock, and the inventory shall be sufficiently secure to deny access to unauthorized persons. The pharmacist-manager shall, in connection with the appropriate committee of the institution, develop inventory listings of those drugs to be included in such inventories and shall insure that:

- (1) The listed drugs are available therein and are properly labeled;
- (2) Only prepackaged drugs are available therein, in amounts sufficient for immediate therapeutic requirements;
- (3) Whenever access to such inventory shall have been gained, written licensed prescriber's orders and proofs of use, if applicable, are provided;
- (4) After each use of the auxiliary drug inventory, the pharmacy shall be notified in accordance with written policies;
- (5) The contents of the auxiliary drug inventory are checked by an authorized a responsible person in accordance with written policies and procedures of the institution and inventoried at least monthly by pharmacy personnel; and
- (6) Written policies and procedures are established to implement the requirements of this Rule.

(c) ~~Limited Access by Nurse.~~ When the pharmacist is absent from the institution, ~~a registered nurse,~~ an authorized person, in accordance with written policies and procedures of the institution, may obtain from an institutional

pharmacy inventory of drugs, a drug or medication necessary to administer to a bona fide patient in carrying out treatment and medication orders as prescribed by a licensed prescriber, when such drug is not available in floor supplies to meet the immediate need. This authorized person shall leave in the pharmacy, on a suitable form, a record of any drugs removed, showing the name of the patient, the name of the drug, the dosage size, the amount taken, the date and time, and the signature of the authorized person. A system shall be developed by the pharmacist-manager and used by all ~~applicable personnel~~ authorized persons to document the entry. Such records shall be kept for three years. This Paragraph shall not preclude the use of technical personnel approved by the pharmacist-manager from being present in the pharmacy at other than regular service hours and performing certain clerical, repackaging and distributive functions in connection with a system of institutional drug distribution according to written policies and procedures if the drugs so handled are not permitted to leave the pharmacy until all work so performed has been checked and certified as being correct by the pharmacist. This Paragraph shall not preclude the use of an emergency drug kit or auxiliary drug inventory as provided for in this Rule.

(d) ~~Kits.~~ Emergency drugs shall be stored in a container secured by a non-reusable, easily breakable seal, hereinafter referred to as the "emergency drug kit." The contents of the emergency drug kit shall be determined by the pharmacy and therapeutics committee or equivalent, and controlled substances in Schedules II through V shall not be allowed except as provided in Paragraph (5) of this Rule. The emergency drug kit shall be periodically reviewed and examined by a pharmacist not less than quarterly. The contents of the emergency drug kit shall be in compliance with all applicable federal, state and local laws, rules and regulations. A current list of the contents shall be attached to the exterior of the emergency drug kit. Storage and use of the emergency drug kit shall comply with the following:

- (1) Storage of the emergency drug kit shall be in a secure, readily available location under the supervision of ~~the nursing staff~~ authorized persons.
- (2) After the emergency drug kit is used and its seal broken, the pharmacy must be notified in accordance with written policies and procedures of the institution. The kit shall be replenished by ~~a responsible~~ an authorized person in accordance with written policies and procedures of the

institution. Drugs and other articles used in the restocking and resealing of the emergency drug kit shall be under the supervision of the pharmacist. The emergency drug kits shall be checked by ~~a responsible an authorized~~ person in accordance with written policies and procedures of the institution.

(3) The supplier shall indicate on the emergency drug kit in a clearly visible place an expiration date which in no case shall be later than the date of the first item to expire.

(4) Items used from the emergency drug kit shall be entered on the patient's clinical record according to the standard procedure of the institution.

(e) ~~Kits with Controlled Substances.~~ For the purpose of complying with state and federal law, emergency drugs that are controlled substances must be stored in a separate emergency kit. Such controlled substances emergency drug kit shall meet all of the requirements of this Rule applying to emergency drug kits and, in addition, be in compliance with the rules and regulations relative to controlled substances emergency drug kits.

Statutory Authority G.S. 90-85.6; 90-85.21.

SECTION .1500 - ADMISSION REQUIREMENTS: EXAMINATIONS

.1503 EXPERIENCE IN PHARMACY

(a) An applicant for license must show that he has received 1500 hours of practical experience under the supervision of a licensed pharmacist which has been acquired after the satisfactory completion of two years of college work. ~~No more than 640 hours of this experience may be acquired concurrent with pharmacy college attendance in clinical pharmacy programs or demonstration projects which have been approved by the Board.~~ At least 1000 hours of this experience must be acquired in a community or hospital pharmacy or other place approved by the Board in the manner prescribed in (b) of this Rule. No period of experience of less than two consecutive weeks of not less than 30 hours per week, or more than 50 hours per week of actual hours worked with a maximum of ten hours per day, will be credited toward this requirement. Experience obtained in clinical programs through schools approved by the Board or concurrent with pharmacy school attendance is acceptable only for actual hours certified by the school. Experience obtained in government, the pharmaceutical industry or other nontraditional lo-

cations is acceptable up to a maximum of 500 hours.

(b) All practical pharmacy experience to be acceptable must be acquired under the general conditions approved by the Board as follows:

(1) All practical pharmacy experience must be validated through registration in the internship program administered by the Board.

(2) Persons working under the supervision of registered pharmacists and expecting to qualify for the registered pharmacist examination must notify the Board within five days of the beginning and the ending of such employment.

(3) The Board shall not allow credit for claims of practical experience required under the pharmacy laws, unless such claims can be corroborated by records on file in the Board's office showing the beginning and ending of the practical experience claimed as supplied by the applicant during this training period.

(4) Practical experience shall be credited only when it has been obtained in a location holding a pharmacy permit, or a location approved by the Board for that purpose.

(c) The pharmacist intern, or student, and the pharmacist preceptor, or supervising pharmacist, shall at all times comply with the Board's rules and the laws governing the practice of pharmacy and the distribution of drugs. Failure of the pharmacist intern to do so is grounds to disqualify the period of experience from counting toward the minimum requirements. A pharmacist preceptor who causes or permits a pharmacist intern to violate the Board's rules or the laws governing the practice of pharmacy and the distribution of drugs forfeits his right to supervise such experience for a period of time determined by the Board.

(d) The Board may accept training in pharmacy gained in another state pursuant to internship registration in this or another state if the Board is satisfied that such training is equivalent.

Statutory Authority G.S. 90-85.14; 90-85.15; 90-85.38.

SECTION .1800 - PRESCRIPTIONS

.1806 TRANSFER OF PRESCRIPTION INFORMATION

(a) The transfer of original prescription information for the purpose of refill dispensing is permissible between pharmacies subject to the following requirements:

- (1) the transfer is communicated directly between two pharmacists and not by only one pharmacist gaining access to an information file containing data for several locations, unless all locations accessed are under common ownership or accessed pursuant to contractual agreement of the pharmacies;
 - (2) the transferring pharmacist invalidates the prescription and any remaining refills by marking the word "void" or its equivalent on the face of the prescription;
 - (3) the transferring pharmacist records the name and address of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information on the reverse of the invalidated prescription;
 - (4) the transferring pharmacist records the date of the transfer and the name of the pharmacist transferring the information.
- (b) The pharmacist receiving the transferred prescription information shall reduce to writing the following:
- (1) The word "transfer" on the face of the transferred prescription.
 - (2) All information required to be on a prescription, including:
 - (A) Date of issuance of original prescription;
 - (B) Number of refills authorized on original prescription;
 - (C) Date and time of transfer;
 - (D) Number of valid refills remaining and date of last refill;
 - (E) Pharmacy's name, address and original prescription number from which the prescription information was transferred;
 - (F) Name of transferring pharmacist; and
 - (G) Manufacturer or brand of drug dispensed.
 - (c) The transferred prescription, as well as the original, must be maintained for a period of three years from the date of last refill.
 - (d) Dispensing is permitted only within the original authorization for refills and no dispensing on such transfer can occur beyond that authorized on the original prescription. Any dispensing beyond that originally authorized or one year, whichever is less, can occur only on a new prescription.
 - (e) The requirements of (a) and (b) of this Rule may be facilitated by use of a computer or data system without reference to an original prescription document. The system must be able to identify transferred prescriptions and prevent subsequent prescription refills at that pharmacy.

(f) This Rule applies to the transfer of prescriptions issued by prescribers in other states, provided that the pharmacist receiving the prescription is reasonably satisfied that a viable physician-patient relationship exists and dispensing the drug is in the patient's best interests.

(g) All records pertinent to this Rule shall be readily retrievable.

Statutory Authority G.S. 90-85.6(a); 90-85.32.

SECTION .2500 - MISCELLANEOUS PROVISIONS

.2504 PATIENT COUNSELING

(a) "Patient Counseling" shall mean the effective communication by the pharmacist of information, as defined in this Rule, to the patient or caregiver in order to improve therapeutic outcomes by maximizing proper use of prescription medications and devices. Specific areas of patient counseling shall include, but are not limited to:

- (1) name and description of the medication;
- (2) route, dosage, administration, and continuity of therapy;
- (3) special directions for use by the patient as deemed necessary by the pharmacist;
- (4) side effects or interactions that may be encountered, which may interfere with the proper use of the medication or device as was intended by the prescriber, and the action required if they occur.

(b) In order to counsel patients effectively, the pharmacist shall make a reasonable effort to obtain, record, and maintain, if significant, patient information, including, but not limited to:

- (1) name, address, telephone number;
- (2) date of birth (age), gender;
- (3) medical history:
 - (A) Disease state(s),
 - (B) Allergies/drug reactions,
 - (C) Current list of medications and devices;
- (4) pharmacist comments.

(c) A pharmacist shall provide patient counseling as follows:

- (1) a pharmacist shall counsel the patient or caregiver "face to face" when possible or appropriate. If this is not possible, a pharmacist shall make a reasonable effort to counsel the patient or caregiver;
- (2) alternative forms of patient information may be used to supplement patient counseling;
- (3) patient counseling, as described in this Rule, shall also be required for outpatient and discharge patients of hospitals and institutions;

- (4) patient counseling, as described in this Rule, shall not be required for inpatients of a hospital or institution where a nurse or other licensed health care professional is authorized to administer the medication(s); and
- (5) the pharmacist shall maintain appropriate patient-oriented reference materials (i.e. USP-DI, Facts and Comparisons, Patient Drug Facts, etc.) for use by the patient upon request.
- (d) Pharmacies that distribute prescription medication by mail, and where the practitioner-pharmacist-patient relationship does not exist, shall provide counseling services for recipients of such medication, which shall include:
 - (1) use of USP Pictogram auxiliary labels on all mailed prescriptions;
 - (2) contracting with local pharmacists to provide patient counseling. The local pharmacists shall be sufficient in number and demographic distribution to provide available and adequate patient counseling. The contract between the pharmacy and the local pharmacist shall contain provisions for:
 - (A) patient counseling, with an exchange of patient medication records between the pharmacy and the local pharmacist;
 - (B) emergency or immediate need prescription services through the local pharmacist;
 - (C) outreach efforts through the local pharmacist for homebound recipients;
 - (D) notification to recipients by the pharmacy of the name, address, and telephone number of the local pharmacist and the patient counseling services provided;
 - (E) furnishings by the pharmacy to the local pharmacist of publicity materials describing the patient counseling services provided;
 - (F) payment of a fee from the pharmacy to the local pharmacist for providing patient counseling services;
 - (G) provisions for fair dealing.

Statutory Authority G.S. 90-85.6; 90-85.32; P.L. 101-508 §4401(a)(3).

TITLE 24 - INDEPENDENT AGENCIES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Housing Finance Agency intends to adopt rule(s) cited as 24 NCAC 1N .0201 - .0204.

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

The public hearing will be conducted at 10:00 a.m. on January 17, 1992 at the North Carolina Housing Finance Agency, 3300 Drake Circle, Suite 200, Raleigh, NC 27611.

Reason for Proposed Action: To implement the reverse mortgage counseling requirements established by the Reverse Mortgage Act, General Statute Chapter 53, Article 21.

Comment Procedures: Written comments must be submitted to the APA Coordinator by February 1, 1992. Oral comments may be presented at the hearing.

Editor's Note: Rule .0202 has been filed as a temporary rule effective November 28, 1991 for a period of 180 days to expire on May 26, 1992.

CHAPTER 1 - N.C. HOUSING FINANCE AGENCY

SUBCHAPTER 1N - HOUSING COUNSELING

SECTION .0100 - RESERVED FOR FUTURE CODIFICATION

SECTION .0200 - TRAINING FOR REVERSE MORTGAGE COUNSELORS

.0201 PURPOSE

The purpose of this Section is to help ensure that individuals providing counseling required under the state's Reverse Mortgage Act (General Statutes Chapter 53, Article 21) have received training that permits them to effectively fulfill their responsibilities.

Statutory Authority G.S. 53-269; 122A-5; 122A-5.1.

.0202 STANDARDS FOR COUNSELOR TRAINING

(a) All borrowers applying for a reverse mortgage must receive counseling from an organization with staff that has completed a training program approved by the agency.

(b) The agency will periodically, but no less than once per year, publish a schedule of training programs that meet the standard for counselor training established in this Rule. The schedule may be obtained from the North Carolina Housing Finance Agency, 3300 Drake Circle, Suite 200, Raleigh, North Carolina 27607 or by calling the agency at (919) 781-6115.

(c) Training programs approved by the agency may be offered by:

- (1) The agency directly;
- (2) The agency in cooperation with the North Carolina Division of Aging or other state agencies;
- (3) The U.S. Department of Housing and Urban Development (HUD); or
- (4) A third party contractor approved by the agency.

(d) The curriculum of approved training programs must at least address, but is not limited to, the following issues:

- (1) The financial implications of entering into a reverse mortgage;
- (2) The consequences of the reverse mortgage for the borrower's taxes, estate, and eligibility for assistance under federal and state programs;
- (3) Other home equity conversion options, in addition to reverse mortgages, that may be available to borrowers including sale-lease back financing, low interest and deferred payment loans, and property tax deferral;
- (4) Options, other than home equity conversion, that are available to the borrower, including other housing alternatives and social service, health and financial options; and
- (5) Other information the agency may require.

Statutory Authority G.S. 53-269; 122A-5; 122A-5.1.

.0203 NOTIFICATION OF THE COMMISSIONER OF BANKS

The agency will provide the Commissioner of Banks with the names of all persons that have satisfied the counselor training requirements identified in Rule .0202(d) of this Section.

Statutory Authority G.S. 53-269; 122A-5; 122A-5.1.

.0204 FEES

(a) The agency may charge reasonable fees to cover the costs of developing and implementing training programs. The fees may include, but are not limited to, registration fees for training programs and charges for the cost of training materials.

(b) The fees to be charged will be identified in training announcements and materials.

Statutory Authority G.S. 53-269; 122A-5; 122A-5.1.

TITLE 25 - OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-21.2 that the Office of State Personnel intends to amend rule(s) cited as 25 NCAC 1D .0611.

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

The public hearing will be conducted at 9:00 a.m. on February 4, 1992 at the Personnel Development Center, 101 W. Peace Street, Raleigh, North Carolina.

Reason for Proposed Action: To provide guidance and clarification to agencies in implementing the Reallocation Policy, this proposed amendment indicates that the amount of increase is to be determined consistent with the employee's related experience, training, performance increases, work unit equity & other related considerations.

Comment Procedures: Interested persons may present statements either orally or in writing at the Public Hearing or in writing prior to the hearing by mail addressed to Barbara Coward, Office of State Personnel, 116 W. Jones Street, Raleigh, North Carolina 27603.

CHAPTER 1 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 1D - COMPENSATION

SECTION .0600 - REALLOCATION

.0611 REALLOCATION/SALARY RATE

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

- (1) Salaries at the hiring rate shall be increased to the new hiring rate.
- (2) Salaries at the minimum rate shall be increased to the minimum rate of the new range, and may be increased further in accordance with Paragraph (3) of this Rule.
- (3) Salaries within the range may remain the same; or if funds are available and where appropriate, individual salary increases may be considered, ~~based on the employee's directly related training and experience which exceeds the minimum~~

~~qualifications for the position, but not to exceed five percent for each salary grade provided by the reallocation. The amount of increase shall be determined consistent with the employee's related training and experience and take into consideration prior performance increases, work unit equity, and any other salary related considerations. Salary equity within the work unit and other management needs must be given consideration when making such requests.~~

(b) However, if an employee has been reduced to a lower salary grade through demotion, reassignment, reallocation or salary range revision, but without a corresponding reduction in salary, and the employee's position is later assigned to a higher grade as a result of reallocation, the number of grades in the original reduction shall be considered to have been compensated and shall not be considered in Paragraph (a) of this Rule salary setting procedure. (Example: If an employee is demoted with no change in salary and reallocated back to the same level, the salary shall remain unchanged and treated as if the demotion had not occurred; or if reallocated back to a level higher than before the demotion, the difference in the grade before the demotion and the new higher grade will be the basis for determining the reallocation increase.)

(c) If the reduction in grade occurred as much as 24 months previously, the agency may give consideration to granting a salary increase within the provisions of this policy. Factors to be considered are the nature of the change in duties and responsibilities and the need to maintain equity of salaries within the work unit.

(d) Only with the prior approval of the State Personnel Director and in extreme circumstances relating to critical positions and well-documented labor market conditions will salary increases be considered which equate to more than five percent for each grade provided by the reallocation. Personnel forms must include the justification.

(e) If the employee is to receive a performance salary increase on the same day as the reallocation, the performance increase shall be given before a reallocation increase is considered.

(f) When an employee's position is assigned to a lower grade, one of the following options will be implemented:

- (1) When reduction in level of the position results from management's removal of duties and responsibilities from the employee because of change in demonstrated motivation, capability, acceptance of responsibility, or lack of performance, the effect is the same as a demotion and the salary must be reduced at least to the maximum as required by the policy on demotion.
- (2) When reduction in level of the position results from position redesign because of management decisions on program changes, reorganization, or other management needs not associated with the employee's demonstrated motivation, capability, acceptance of responsibility or lack of performance, the salary of the employee may remain above the new maximum as long as the employee remains in the same classification or is promoted to a higher level position. No further increases, other than legislative increases, may be granted as long as the salary remains above the maximum.
- (3) When reduction in level of the position results from a change in the labor market or some other reason not related to change in the duties and responsibilities of the position, though the position must be reallocated to the approved classification and grade, management may elect to maintain the employee's current classification and grade by working the employee against the lower level position, so long as the employee continues to occupy the same position or is in the same classification.
- (4) Once the position is vacated, it shall be filled at the lower level.
- (g) It is a management responsibility to avoid creation of salary inequities among employees. Each case must be evaluated to determine which of the salary administration alternatives is most appropriate, based on the circumstances as documented to the Office of State Personnel, on appropriate forms, by the employing agency.
- (h) When an employee's position is assigned to the same grade level, the employee's salary shall remain unchanged.

Statutory Authority G.S. 126-4.

LIST OF RULES CODIFIED

The List of Rules Codified is a listing of rules that were filed with OAH in the month indicated.

Key:

<i>Citation</i>	= Title, Chapter, Subchapter and Rule(s)
<i>AD</i>	= Adopt
<i>AM</i>	= Amend
<i>RP</i>	= Repeal
<i>With Chgs</i>	= Final text differs from proposed text
<i>Eff. Date</i>	= Date rule becomes effective
<i>Temp. Expires</i>	= Rule was filed as a temporary rule and expires on this date

NORTH CAROLINA ADMINISTRATIVE CODE

NOVEMBER 1991

TITLE	DEPARTMENT	TITLE	DEPARTMENT
1	Administration	21	Occupational Licensing Boards
2	Agriculture	14 -	Cosmetic Art Examiners
4	Economic and Community Development	19 -	Electrolysis Examiners
7	Cultural Resources	21 -	Licensing of Geologists
10	Human Resources	22 -	Hearing Aid Dealers and Fitters
11	Insurance	28 -	Landscape Architects
12	Justice	56 -	Professional Engineers and Land Surveyors
15A	Environment, Health, and Natural Resources	58 -	Real Estate Commission
		24	Independent Agencies
		1 -	Housing Finance
		25	State Personnel

Citation	AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
1 NCAC 30F .0101	•				01 01 92	
.0103	•			•	01 01 92	
.0202	•				01 01 92	
.0301	•			•	01 01 92	
.0302 - .0303	•				01 01 92	
.0305	•				01 01 92	
.0401	•				01 01 92	
.0403	•			•	01 01 92	
2 NCAC 9B .0016		•		•	04 01 92	
9C .0701	•			•	04 01 92	
.0702	•				04 01 92	
.0703	•			•	04 01 92	
.0704	•				04 01 92	
48B .0114 - .0115		•			01 01 92	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
2	NCAC	48B	.0121		•			01/01/92	
			.0122		•		•	01/01/92	
			.0125	•			•	01/01/92	
			.0126 - .0130	•				01/01/92	
			.0131	•			•	01/01/92	
			.0132	•				01/01/92	
	48D	.0006			•			01/01/92	
4	NCAC	6C	.0101		•			01/01/92	
			.0103			•		01/01/92	
			.0210			•		01/01/92	
			.0302		•			01/01/92	
			.0404		•			01/01/92	
	16A	.0101			•			12/06/91	
	16D	.0202			•			12/06/91	
7	NCAC	2E	.0202		•			01/01/92	
10	NCAC	3J	.2905		•		•	01/01/92	
	14S	.0102				•		01/01/92	
		.0103			•		•	01/01/92	
	19F	.0104			•			01/01/92	
		.0108				•		01/01/92	
		.0402			•			01/01/92	
		.0504			•			01/01/92	
		.0508				•		01/01/92	
	26H	.0108		•			•	01/01/92	
	50B	.0208		•				01/01/92	
	50C	.0201 - .0203				•		01/01/92	
11	NCAC	11C	.0131	•				01/01/92	06/29/92
12	NCAC	9B	.0224		•			01/01/92	
	10B	.0201		•				01/01/92	
		.0204			•			01/01/92	
		.0205			•		•	01/01/92	
		.0206		•				01/01/92	
		.0301			•			01/01/92	
		.0302 - .0303			•		•	01/01/92	
		.0305			•			01/01/92	
		.0307			•			01/01/92	
		.0405 - .0406			•			01/01/92	
		.0408			•			01/01/92	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
12	NCAC	10B	.0505 - .0509		•			01 01 92	
			.0601		•		•	01 01 92	
			.0603 - .0607		•			01 01 92	
			.0703 - .0705		•			01 01 92	
			.0803		•			01 01 92	
			.0901		•		•	01 01 92	
			.0905		•		•	01 01 92	
			.0906		•			01 01 92	
			.0908		•		•	01 01 92	
			.0909		•			01 01 92	
			.0910	•				01 01 92	
			.1001 - .1006		•			01 01 92	
			.1101		•			01 01 92	
			.1103 - .1105		•			01 01 92	
			.1202		•			01 01 92	
			.1204 - .1205		•			01 01 92	
			.2104		•		•	01 01 92	
15A	NCAC	2B	.0309		•		•	01 01 92	
		7J	.0402		•			01 01 92	
		10B	.0106		•			01 01 92	
			.0401 - .0402		•			01 01 92	
			.0403 - .0404		•		•	01 01 92	
			.0405 - .0406		•			01 01 92	
			.0409	•				01 01 92	
		10H	.0102		•			01 01 92	
		13B	.1501		•			12 06 91	
			.1503		•			12 06 91	
			.1508		•			12 06 91	
			.1512		•			12 06 91	
		15	Transferred and Recodified to 18 NCAC 8					11 27 91	
		19A	.0202		•		•	01 01 92	
		19H	.0601		•			01 01 92	
			.0701		•			01 01 92	
			.0901		•		•	01 01 92	
			.0910		•			12 06 91	
			.1202		•			01 01 92	
		21C	.0303		•			12 06 91	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
15A	NCAC	21C	.0307		•			12/06/91	
		21D	.0107		•			12/06/91	
			.0201 - .0202		•			12/06/91	
			.0304		•			12/06/91	
			.0402		•			12/06/91	
			.0602		•			12/06/91	
			.0902		•			12/06/91	
			.0911		•			12/06/91	
			.1001		•			12/06/91	
21	NCAC	14A	.0104		•			12/06/91	
		14G	.0003		•			01/01/92	
	19		.0101	•			•	01/01/92	
			.0201	•				01/01/92	
			.0201 - .0202	•				12/01/91	02/01/92
	21		.0106		•			01/01/92	
			.0107		•		•	01/01/92	
			.1001	•			•	01/01/92	
			.1002	•				01/01/92	
	22B		.0603	•			•	01/01/92	
	22C		.0101			•		01/01/92	
			.0903			•		01/01/92	
	22F		.0001		•			01/01/92	
			.0003		•		•	01/01/92	
			.0008		•			01/01/92	
			.0013 - .0014		•		•	01/01/92	
	22I		.0006		•			01/01/92	
	22J		.0015	•			•	01/01/92	
	22L		.0001	•			•	01/01/92	
			.0002 - .0011	•				01/01/92	
			.0012	•			•	01/01/92	
			.0013 - .0015	•				01/01/92	
	28		.0107		•			01/01/92	
	56		.0901		•		•	01/01/92	
			.1603		•			01/01/92	
			.1604		•		•	01/01/92	
	58D		.0102		•			01/01/92	
			.0203		•			01/01/92	
			.0206		•			01/01/92	

LIST OF RULES CODIFIED

	Citation			AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
21	NCAC	58D	.0210	•			•	01 01 92	
24	NCAC	1N	.0202	•				11 28 91	
25	NCAC	1D	.2101 - .2104			•		01 01 92	
			.2105		•		•	01 01 92	
			.2106 - .2108	•				01 01 92	
	1L		.0302	•			•	01 01 92	
			.0303	•				01 01 92	
			.0304	•			•	01 01 92	
			.0305	•				01 01 92	
			.0306	•			•	01 01 92	
			.0307	•				01 01 92	

RRC OBJECTIONS

The Rules Review Commission (RRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to RRC as provided in G.S. 143B-30.2(d).

Temporary Rules are noted by "". These Rules have already gone into effect.*

ADMINISTRATION

State Construction

<i>1 NCAC 30F .0101 - Authority</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0103 - Definitions</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0202 - Pre-Bid Conferences and Site Reviews</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0301 - Definitions</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0302 - Overall Job Performance</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0303 - Interim Contractor Evaluation</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0305 - Report Compilation</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0401 - Post-Occupancy Evaluation</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0403 - Appeals of Assigned Eval or Disqual from Bidding</i>	<i>RRC Objection</i>	<i>10/17/91</i>

AGRICULTURE

Plant Industry

<i>2 NCAC 9M .0001 - Manufacturer Registration</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48A .1701 - Definitions</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48A .1702 - Noxious Weeds</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48A .1703 - Regulated Areas</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48A .1704 - Regulated Articles</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48E .0101 - Definitions</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>RRC Objection</i>	<i>10/17/91</i>

ECONOMIC AND COMMUNITY DEVELOPMENT

Credit Union Division

<i>4 NCAC 6C .0311 - Surety Bond and Insurance Coverage</i>	<i>RRC Objection</i>	<i>11/21/91</i>
<i>4 NCAC 6C .0401 - Delinquent Loans and Loan Losses</i>	<i>RRC Objection</i>	<i>11/21/91</i>
<i>4 NCAC 6C .0402 - Charge-Off of Uncollectible Loans</i>	<i>RRC Objection</i>	<i>11/21/91</i>
<i>4 NCAC 6C .0403 - Real Estate Loans</i>	<i>RRC Objection</i>	<i>11/21/91</i>
<i>4 NCAC 6C .1301 - Liquidity Reserves</i>	<i>RRC Objection</i>	<i>11/21/91</i>

Employment and Training

<i>* 4 NCAC 20B .0903 - Allocation of Grants</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>No Response from Agency</i>		<i>9/19/91</i>
<i>No Response from Agency</i>		<i>10/17/91</i>
<i>* 4 NCAC 20B .0905 - Eligibility</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>No Response from Agency</i>		<i>9/19/91</i>

RRC OBJECTIONS

<i>No Response from Agency</i>		10/17/91
* 4 NCAC 20B .0907 - Cost Limitations/Categories	ARRC Objection	8/22/91
<i>No Response from Agency</i>		9/19/91
<i>No Response from Agency</i>		10/17/91
* 4 NCAC 20B .0908 - Reporting	ARRC Objection	8/22/91
<i>No Response from Agency</i>		9/19/91
<i>No Response from Agency</i>		10/17/91
* 4 NCAC 20B .0909 - Performance Standards	ARRC Objection	8/22/91
<i>No Response from Agency</i>		9/19/91
<i>No Response from Agency</i>		10/17/91
* 4 NCAC 20B .0911 - Fund Availability	ARRC Objection	8/22/91
<i>No Response from Agency</i>		9/19/91
<i>No Response from Agency</i>		10/17/91

EDUCATION

Elementary and Secondary Education

16 NCAC 6B .0001 - School Bus Drivers	ARRC Objection	9/19/91
<i>Agency Revised Rule</i>	Obj. Removed	10/17/91
16 NCAC 6D .0103 - Graduation Requirements	ARRC Objection	9/19/91
<i>No Response from Agency</i>		10/17/91
* 16 NCAC 6E .0301 - Driver Training	ARRC Objection	8/22/91
<i>Agency Responded</i>		9/19/91
<i>Agency Revised Rule</i>	Obj. Removed	10/17/91

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Adult Health

15A NCAC 16A .0804 - Financial Eligibility	ARRC Objection	1/18/91
<i>No Response from Agency</i>		2/25/91
<i>Agency Responded</i>	No Action	3/21/91
<i>No Response from Agency</i>	No Action	4/18/91
15A NCAC 16A .0806 - Billing the HIV Health Services Program	ARRC Objection	1/18/91
<i>No Response from Agency</i>		2/25/91
<i>Agency Responded</i>	No Action	3/21/91
<i>No Response from Agency</i>	No Action	4/18/91

Coastal Management

15A NCAC 7J .0301 - Who is Entitled to a Contested Case Hearing	ARRC Objection	9/19/91
<i>No Response from Agency - Rule Returned to Agency</i>		10/17/91
15A NCAC 7J .0302 - Petition for Contested Case Hearing	ARRC Objection	9/19/91
<i>No Response from Agency - Rule Returned to Agency</i>		10/17/91
15A NCAC 7J .0402 - Criteria for Grant or Denial of Permit Applications	RRC Objection	10/17/91
15A NCAC 7M .0201 - Declaration of General Policy	RRC Objection	10/17/91
15A NCAC 7M .0202 - Policy Statements	RRC Objection	10/17/91
15A NCAC 7M .0303 - Policy Statements	RRC Objection	10/17/91
15A NCAC 7M .0403 - Policy Statements	RRC Objection	10/17/91
15A NCAC 7M .0901 - Declaration of General Policy	RRC Objection	10/17/91

Environmental Management

15A NCAC 2D .1102 - Applicability	ARRC Objection	8/22/91
	No Action	9/19/91

RRC OBJECTIONS

<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>15A NCAC 2D .1208 - Operator Training Requirements</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
	<i>No Action</i>	<i>9/19/91</i>
<i>Agency Withdrew Rule</i>		<i>10/17/91</i>

Forest Resources

<i>15A NCAC 9C .1007 - America the Beautiful Grant Program</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

Health: Epidemiology

<i>15A NCAC 19A .0202 - Control Measures - HIV</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>15A NCAC 19H .0702 - Research Requests</i>	<i>RRC Objection</i>	<i>11/21/91</i>

Wildlife

<i>15A NCAC 10A .1001 - Particular Offenses</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

HUMAN RESOURCES

Aging

<i>10 NCAC 22M .0101 - Scope of Care Management</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 22M .0102 - Definitions</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 22M .0103 - Target Population</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 22M .0203 - Assessment and Reassessment</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 22M .0204 - Care Planning</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 22N .0101 - Definitions for Confidentiality of Client Data</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 22N .0205 - Security of Records</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 22N .0208 - Client Access to Records</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>

Children's Services

<i>10 NCAC 411 .0304 - Receiving Info: Initiating Prompt Invest of Rpts</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 411 .0406 - Responsibility for Training of Team Members</i>	<i>ARRC Objection</i>	<i>7/18/91</i>
<i>Pending Correction</i>		<i>8/22/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>

Economic Opportunity

<i>* 10 NCAC 51F .0102 - Definitions</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>No Response from Agency</i>		<i>9/19/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>10/17/91</i>
<i>* 10 NCAC 51F .0202 - Ineligible Activities</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>No Response from Agency</i>		<i>9/19/91</i>

RRC OBJECTIONS

<i>Agency Responded</i>	<i>No Action</i>	<i>10/17/91</i>
* <i>10 NCAC 51F .0402 - Eligibility Requirements</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>No Response from Agency</i>		<i>9/19/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>10/17/91</i>
* <i>10 NCAC 51F .0501 - Grant Agreement</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>No Response from Agency</i>		<i>9/19/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>10/17/91</i>

Facility Services

<i>10 NCAC 3C .1927 - Brain Injury Extended Care Phys Services</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 3J .2905 - Personal Hygiene Items</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>10 NCAC 3J .3202 - Health Screening Form</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 3J .3926 - Health Screening Form</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 3U .0604 - General Safety Requirements</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>Agency Revised Rules</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 3U .0804 - Infectious and Contagious Diseases</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>Agency Revised Rules</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

Individual and Family Support

<i>10 NCAC 42H .0908 - Competency Requirements</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 42H .0909 - Time Frames for Completing Competency Req.</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 42H .0911 - Selection of Aides</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 42H .0913 - Quality Assurance Requirements</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>

Medical Assistance

<i>10 NCAC 26H .0108 - Reimbursement Methods/State-Operated Facilities</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>10 NCAC 50B .0305 - Deprivation</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>8/22/91</i>

Mental Health: General

<i>10 NCAC 14K .0103 - Definitions</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14K .0320 - Incident Reporting</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14K .0337 - Emergency Care Permission</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14K .0351 - Administration of Medication</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14M .0206 - Day Services</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14M .0209 - Community Resources</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14M .0409 - Community Resources</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

RRC OBJECTIONS

<i>10 NCAC 14O .0310 - Provision of Appropriate Activities</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14P .0101 - Scope</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14P .0102 - Definitions</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14Q .0101 - Policy/Rights Restrictions/Interventions</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14R .0104 - Seclusion/Restraint/Isolation Time Out</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
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<i>10 NCAC 14S .0103 - Living Environment</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>10 NCAC 18A .0127 - Certification</i>	<i>RRC Objection</i>	<i>10/17/91</i>
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<i>10 NCAC 18A .0135 - Appeals and Waivers</i>	<i>RRC Objection</i>	<i>10/17/91</i>
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<i>10 NCAC 18M .0704 - Staff Requirements</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>10 NCAC 18Q .0809 - Agreement Between Resident and Program</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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Criminal Information

<i>12 NCAC 4E .0103 - Advisory Policy Board</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4E .0104 - Definitions</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4E .0106 - Manuals</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4E .0203 - Non-Terminal Access</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4E .0301 - User Agreement</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4E .0403 - Suspension/Revocation of Operator Certification</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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21 NCAC 2 .0211 - Unauthorized Practice	RRC Objection	10/17/91
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21 NCAC 2 .0601 - Committee on Investigations	ARRC Objection	9/19/91
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Certified Public Accountant Examiners

* 21 NCAC 8G .0313 - Firm Name	RRC Objection	10/17/91
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Electrolysis Examiners

* 21 NCAC 19 .0202 - App/Licensure/Electrologist Practicing/1/1/92	RRC Objection	11/21/91
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Practicing Psychologists

21 NCAC 54 .1701 - Information Required	ARRC Objection	8/22/91
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21 NCAC 54 .2103 - Reinstatement	ARRC Objection	8/22/91
Agency Revised Rule	Obj. Removed	9/19/91

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Office of State Personnel

25 NCAC 1L .0301 - Purpose	RRC Objection	11/21/91
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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.

15A NCAC 7J .0301 - WHO IS ENTITLED TO A CONTESTED CASE HEARING

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 07J .0301(b) void as applied in *Lucy R. Hanson, Stanley P. and Jean C. Szwed, Petitioners v. N.C. Department of Environment, Health, and Natural Resources, Division of Coastal Management, Respondent* (91 EHR 0551, 91 EHR 0557).

15A NCAC 21D .0802(b)(2) - AVAILABILITY

Robert Roosevelt Reilly Jr., Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 21D .0802(b)(2) void as applied in *Wilson's Supermarket #12, Petitioner v. Department of Environment, Health, and Natural Resources, Respondent* (91 EHR 0795).

15A NCAC 21D .0805 - DECISION

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 21D .0805 void as applied in *Glenn E. Davis/Davis Grocery, Petitioner v. N.C. Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, WIC Section, Respondent* (91 EHR 0694).

NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

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