

# *The* **NORTH CAROLINA REGISTER**

**IN THIS ISSUE . . . . .**

**EXECUTIVE ORDERS**

**IN ADDITION**

**Final Decision Letters**

**PROPOSED RULES**

**Cosmetic Art Examiners**

**Environment, Health, and Natural Resources**

**Human Resources**

**Insurance**

**Public Education**

**Transportation**

RECEIVED

**LIST OF RULES CODIFIED**

NOV 20 1992

**RRC OBJECTIONS**

LAW LIBRARY

**RULES INVALIDATED BY JUDICIAL DECISION**

**CONTESTED CASE DECISIONS**

**ISSUE DATE: November 16, 1992**

**Volume 7 • Issue 16 • Pages 1641-1720**



# INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

## NORTH CAROLINA REGISTER

The *North Carolina Register* is published twice a month 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 notices of public hearings filed under G.S. 150B-21.2 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. Individual issues may be purchased for eight dollars (\$8.00).

Requests for subscription to the North Carolina Register should be directed to the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, N. C. 27611-7447.

## ADOPTION AMENDMENT, AND REPEAL OF RULES

The following is a generalized statement of the procedures to be followed for an agency to adopt, amend, or repeal a rule. For the specific statutory authority, please consult Article 2A of Chapter 150B of the General Statutes.

Any 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 (or instructions on how a member of the public may request a hearing); a statement of procedure for public comments; the text of the proposed rule or the statement of subject matter; the reason for the proposed action; a reference to the statutory authority for the action and the proposed effective date.

Unless a specific statute provides otherwise, at least 15 days must elapse following publication of the notice in the *North Carolina Register* before the agency may conduct the public hearing and at least 30 days must elapse before the agency can take action on the proposed rule. An agency may not adopt a rule that differs substantially from the proposed form published as part of the public notice, until the adopted version has been published in the *North Carolina Register* for an additional 30 day comment period.

When final action is taken, the promulgating agency must file the rule with the Rules Review Commission (RRC). After approval by RRC, the adopted rule is filed with the Office of Administrative Hearings (OAH).

A rule or amended rule generally becomes effective 5 business days after the rule is filed with the Office of Administrative Hearings for publication in the North Carolina Administrative Code (NCAC).

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency or before filing with OAH for publication in the NCAC.

## TEMPORARY RULES

Under certain emergency conditions, agencies may issue temporary rules. Within 24 hours of submission to OAH, the Codifier of Rules must review the agency's written statement of findings of need for the temporary rule pursuant to the provisions in G.S. 150B-21.1. If the Codifier determines that the findings meet the criteria in G.S. 150B-21.1, the rule is entered into the NCAC. If the Codifier determines that the findings do not meet the criteria, the rule is returned to the agency. The agency may supplement its findings and resubmit the temporary rule for an additional review or the agency may respond that it will remain with its initial position. The Codifier, thereafter, will enter the rule into the NCAC. A temporary rule becomes effective either when the Codifier of Rules enters the rule in the Code or on the sixth business day after the agency resubmits the rule without change. The temporary rule is in effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin rule-making procedures on the permanent rule at the same time the temporary rule is filed with the Codifier.

## NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% of is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-21.18.

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

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 53 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication are available.

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

## CITATION TO THE NORTH CAROLINA REGISTER

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

FOR INFORMATION CONTACT: Office of Administrative Hearings, ATTN: Rules Division, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447, (919) 733-2678.

# NORTH CAROLINA REGISTER



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

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

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

## ISSUE CONTENTS

<b>I. EXECUTIVE ORDERS</b>	
Executive Orders 179-181 . . . . .	1641
<b>II. IN ADDITION</b>	
Final Decision Letters . . . . .	1644
<b>III. PROPOSED RULES</b>	
Environment, Health, and Natural Resources	
Wildlife Resources Commission . .	1658
Human Resources	
Facility Services . . . . .	1647
Medical Assistance . . . . .	1649
Insurance	
Medical Database Commission . .	1650
Licensing Board	
Cosmetic Art Examiners . . . . .	1669
Public Education	
Elementary and Secondary . . . . .	1666
Transportation	
Highways, Division of . . . . .	1669
<b>IV. LIST OF RULES</b>	
CODIFIED . . . . .	1671
<b>V. RRC OBJECTIONS</b> . . . . .	1684
<b>VI. RULES INVALIDATED BY JUDICIAL DECISION</b> . . . . .	1688
<b>VII. CONTESTED CASE DECISIONS</b>	
Index to ALJ Decisions . . . . .	1689
Text of Selected Decisions	
92 EHR 0303 . . . . .	1705
<b>VIII. CUMULATIVE INDEX</b> . . . . .	1718

**NORTH CAROLINA REGISTER**  
*Publication Schedule*  
 (August 1992 - December 1993)

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
*****	*****	*****	*****	*****	*****	*****
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
01/04/93	12/09/92	12/16/92	01/19/93	02/03/93	02/20/93	04/01/93
01/15/93	12/22/92	12/31/92	01/30/93	02/14/93	02/20/93	04/01/93
02/01/93	01/08/93	01/15/93	02/16/93	03/03/93	03/20/93	05/03/93
02/15/93	01/25/93	02/01/93	03/02/93	03/17/93	03/20/93	05/03/93
03/01/93	02/08/93	02/15/93	03/16/93	03/31/93	04/20/93	06/01/93
03/15/93	02/22/93	03/01/93	03/30/93	04/14/93	04/20/93	06/01/93
04/01/93	03/11/93	03/18/93	04/16/93	05/01/93	05/20/93	07/01/93
04/15/93	03/24/93	03/31/93	04/30/93	05/15/93	05/20/93	07/01/93
05/03/93	04/12/93	04/19/93	05/18/93	06/02/93	06/20/93	08/02/93
05/14/93	04/23/93	04/30/93	05/29/93	06/13/93	06/20/93	08/02/93
06/01/93	05/10/93	05/17/93	06/16/93	07/01/93	07/20/93	09/01/93
06/15/93	05/24/93	06/01/93	06/30/93	07/15/93	07/20/93	09/01/93
07/01/93	06/10/93	06/17/93	07/16/93	07/31/93	08/20/93	10/01/93
07/15/93	06/23/93	06/30/93	07/30/93	08/14/93	08/20/93	10/01/93
08/02/93	07/12/93	07/19/93	08/17/93	09/01/93	09/20/93	11/01/93
08/16/93	07/26/93	08/02/93	08/31/93	09/15/93	09/20/93	11/01/93
09/01/93	08/11/93	08/18/93	09/16/93	10/01/93	10/20/93	12/01/93
09/15/93	08/24/93	08/31/93	09/30/93	10/15/93	10/20/93	12/01/93
10/01/93	09/10/93	09/17/93	10/16/93	10/31/93	11/20/93	01/04/94
10/15/93	09/24/93	10/01/93	10/30/93	11/14/93	11/20/93	01/04/94
11/01/93	10/11/93	10/18/93	11/16/93	12/01/93	12/20/93	02/01/94
11/15/93	10/22/93	10/29/93	11/30/93	12/15/93	12/20/93	02/01/94
12/01/93	11/05/93	11/15/93	12/16/93	12/31/93	01/20/94	03/01/94
12/15/93	11/24/93	12/01/93	12/30/93	01/14/94	01/20/94	03/01/94

\* 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.



**EXECUTIVE ORDER NUMBER 179  
COORDINATING COMMITTEE ON THE  
AMERICANS WITH DISABILITIES ACT**

**WHEREAS**, the Americans with Disabilities Act ("ADA") was enacted by the United States Congress on July 26, 1990 to expand the civil rights of individuals with disabilities in the areas of employment, transportation, public accommodations and communications; and

**WHEREAS**, the primary objective of the ADA is to require employers and public service providers to eliminate barriers, practices, or policies that may deprive individuals with disabilities of the full use and enjoyment of public buildings, employment, transportation, accommodations, and communications; and

**WHEREAS**, it is anticipated that the process of removing such barriers would best be effectuated by developing a comprehensive statewide process;

**NOW, THEREFORE**, by the authority vested in me by the Constitution and laws of North Carolina, **IT IS ORDERED**:

Section 1. ESTABLISHMENT

There is hereby established the Coordinating Committee on the ADA.

Section 2. PURPOSE

The Committee shall bring representatives from every state agency together to coordinate each agency's self-evaluation and compliance planning under ADA.

Each agency shall develop and implement forthwith its ADA Compliance Plan. Individuals with disabilities must have full access to public buildings, employment, transportation, accommodations, and communications as soon as possible.

Section 3. DUTIES

The Committee shall be responsible for the following:

- (a) coordinating agency compliance with the ADA as it relates to other federal and state laws and regulations affecting individuals with disabilities;

- (b) informing and advising state agencies about their obligations under the ADA such as self evaluations, job task analyses, procedures to handle requests for accommodations, facility and communications accessibility, transportation, and deadlines for action;
- (c) facilitating the adoption and publication of formal and informal grievance procedures within each agency to promptly and equitably resolve complaints of agency noncompliance with the ADA; with particular emphasis on the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, as appropriate and authorized by law;
- (d) supervising the implementation and periodic revision of an ADA Transition Plan for each agency regarding the removal of environmental and communication barriers in state facilities, whether owned or leased;
- (e) providing a forum for speakers to inform the Committee and others in state government about developments concerning acceptable accommodations, cost/effectiveness data for equipment and transportation alternatives, hiring practices and caselaw; and
- (f) ensuring that its decisions and those of its member agencies in creating their ADA Compliance Plans are made with the input of representatives of organizations which serve disabled persons.

Section 4. MEMBERSHIP

The following individuals or their designees shall serve as members of the Committee:

- (1) Lieutenant Governor
- (2) Secretary of State
- (3) Attorney General
- (4) State Treasurer
- (5) Superintendent of Public Instruction
- (6) Commissioner of Insurance
- (7) Commissioner of Agriculture
- (8) Commissioner of Labor
- (9) State Auditor

- (10) President Pro Tempore of the Senate
- (11) Speaker of the House of Representatives
- (12) Chief Justice of the Supreme Court
- (13) President of the University of North Carolina System
- (14) President of the System of Community Colleges
- (15) Secretary of Economic and Community Development
- (16) Secretary of Environment, Health and Natural Resources
- (17) Secretary of Crime Control and Public Safety
- (18) Secretary of Cultural Resources
- (19) Secretary of Human Resources
- (20) Secretary of Transportation
- (21) Secretary of Correction
- (22) Secretary of Administration
- (23) Secretary of Revenue
- (24) Director of the Office of State Personnel

**Section 5. CHAIRPERSON**

The Chairperson shall be the Deputy Secretary for Programs in the Department of Administration, who shall serve at the Governor's pleasure. The Chairperson may designate smaller subcommittees, divided according to expertise, to work on pertinent topics and report to the full Committee.

**Section 6. MEETINGS**

The Committee shall meet not less than quarterly at the call of the chairperson.

**Section 7. QUORUM**

A simple majority of the members present shall constitute a quorum for the purpose of conducting business.

A vote will require a simple majority of the members of the Committee.

**Section 8. ANNUAL REPORT**

The Committee shall prepare a report to the Governor on or before October 1, 1993 and annually thereafter.

**Section 9. ADMINISTRATION**

Members of the Coordinating Committee shall

receive necessary travel and subsistence expenses in accordance with the provisions of N.C.G.S. 120-3.1 or 138-5.

The Department of Administration shall provide administrative and staff support services required by the Coordinating Committee. While no one from the Governor's Advocacy Council for Persons with Disabilities shall be a member of the Committee, the GACPD shall support the Committee's work with technical assistance and as an information clearinghouse.

**Section 10. EFFECTIVE DATE**

This Executive Order shall be effective immediately.

Done this the 22nd day of October, 1992.

**EXECUTIVE ORDER NUMBER 180  
TRANSFERRING THE GOVERNOR'S  
EXTRADITION SECRETARY TO  
THE DEPARTMENT OF JUSTICE**

**HAVING** found that the duties of the Governor's Extradition Secretary, now located in the Office of the Governor, can be more economically, efficiently and effectively performed by that office being removed from the Office of the Governor and transferred to and relocated in the Department of Justice under the supervision of the Attorney General;

**THEREFORE**, pursuant to the authority and powers given by Article III, Section 5(10) of the Constitution and North Carolina General Statutes 143A-8 and 143B-12, **IT IS ORDERED:**

Section 1. The Governor's Extradition Secretary, now located in the Office of the Governor, is hereby removed from and transferred to and relocated in the Department of Justice.

Section 2. Reports of the transfer shall be made as required by N.C.G.S. 143B-12(b). My Chief of Staff is directed to do the same.

Section 3. This Order shall become effective immediately.

Done in Charlotte, North Carolina, this the 27th day of October, 1992.

**EXECUTIVE ORDER NUMBER 181  
AMENDING EXECUTIVE ORDER  
NUMBER 178  
WAIVING CERTAIN PENALTIES  
PURSUANT TO  
CHAPTER 166A OF THE GENERAL  
STATUTES OF NORTH CAROLINA**

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

Executive Order Number 178 is hereby amended as follows:

Section 4 of said Executive Order is hereby deleted in its entirety and the following language substituted therefor.

**Section 4.**

This Order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

This Executive Order shall become effective immediately.

Done in Raleigh, this the 27th day of October, 1992.

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

U.S. Department of Justice

Civil Rights Division

Voting Section

P.O. Box 66128

Washington, D.C. 20035-6128

JRD:MAP:NT:lrj

DJ 166-012-3

92-3491

September 28, 1992

DeWitt F. McCarley, Esq.

City Attorney

P. O. Box 7207

Greenville, North Carolina 27825-7207

Dear Mr. McCarley:

This refers to the procedures for conducting the November 3, 1992, special bond election for the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on July 31, 1992.

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

Sincerely,

John R. Dunne

Assistant Attorney General

Civil Rights Division

By:

Steven H. Rosenbaum

Chief, Voting Section



U.S. Department of Justice

Civil Rights Division

Voting Section

P.O. Box 66128

Washington, D.C. 20035-6128

JRD:MAP:TGL:gmh

DJ 166-012-3

92-3776

October 15, 1992

Mr. Alex K. Brock

Executive Secretary-Director

State Board of Elections

P. O. Box 1166

Raleigh, North Carolina 27602-1166

Dear Mr. Brock:

This refers to Chapter 927 (1992), which specifies procedures for the establishment of voting precincts; Chapter 933 (1992), which allows for absentee voting in a municipal incorporation referendum; Chapter 973 (1992), which concerns voter registrar qualifications; Chapter 1032 (1992), which changes the registration deadline for elections, enables a county board of elections to establish special satellite voting places for elderly or disabled voters, and amends the campaign financing law; Chapter 1044 (1992), which establishes a system of voter registration by mail and mandates a system of voter registration at Division of Motor Vehicles Offices in the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on August 19, 1992.

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

We note that the provisions of Chapter 927, with regard to the alteration of precinct boundaries, and Chapter 1032, with regard to the establishment of satellite voting places, are considered to be enabling. Accordingly, local jurisdictions covered by Section 5 are not relieved of their responsibility of obtaining Section 5 preclearance for changes adopted pursuant to these provisions. 28 C.F.R. 51.15.

Sincerely,

John R. Dunne

Assistant Attorney General

Civil Rights Division

By:

Steven H. Rosenbaum

Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

JRD:GS:CGM:lrj  
DJ 166-012-3  
92-3846

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

October 22, 1992

George A. Weaver, Esq.  
Lee, Reece & Weaver  
P. O. Box 2047  
Wilson, North Carolina 27894-2047

Dear Mr. Weaver:

This refers to the change in the method of absentee voting for the November 3, 1992, general election to the E-Z Vote Absentee System in Wilson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on August 25, 1992.

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

Sincerely,

John R. Dunne  
Assistant Attorney General  
Civil Rights Division

By:

Steven H. Rosenbaum  
Chief, Voting Section

**TITLE 10 - DEPARTMENT OF HUMAN  
RESOURCES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Division of Facility Services intends to amend rules cited as 10 NCAC 3R .2113 and .2115.*

*The proposed effective date of this action is February 1, 1993.*

*The public hearing will be conducted at 2:00 p.m. on December 18, 1992 at the Council Building, Room 201, 701 Barbour Drive, Raleigh, NC 27603.*

*Reason for Proposed Action: To amend the CON rules to be consistent with the actions taken by the NC State Health Coordinating Council in the development of the rules for the 1993 SMFP.*

*Comment Procedures: Written comments should be submitted to Jackie Sheppard, 701 Barbour Drive, Raleigh, North Carolina 27603, by December 16, 1992.*

**CHAPTER 3 - FACILITY SERVICES**

**SUBCHAPTER 3R - CERTIFICATE OF  
NEED REGULATIONS**

**SECTION .2100 - CRITERIA AND  
STANDARDS FOR AMBULATORY  
SURGICAL SERVICES**

**.2113 DEFINITIONS**

The following definitions will apply to all rules in this Section:

- (1) "Ambulatory surgical case" means an individual who receives one or more ambulatory surgical procedures in an ambulatory surgical operating room during a single operative encounter.
- (2) "Ambulatory surgical services" means those surgical services provided to patients as part of an ambulatory surgical program within a licensed ambulatory surgical facility or a general acute care hospital licensed under G. S. Chapter 131E, Article 5, Part A.
- (3) "Ambulatory surgical facility" means a

- (4) facility as defined in G.S. 131E-176(1).
- (5) "Ambulatory surgical program" means a program as defined in G.S. 131E-176(1a).
- (5) "Ambulatory surgical procedure" means a surgical procedure performed in a surgical operating room which requires local, regional or general anesthesia and a period of post-operative observation of less than 24 hours. Ambulatory surgical procedures exclude those procedures which are generally performed more than 50 percent of the time in a physician's office.
- (6) "Ambulatory surgical operating room" means a dedicated or shared operating room in a licensed ambulatory surgical facility, or a general acute care hospital licensed under G.S. 131E, Article 5, Part A, that is fully equipped to perform surgical procedures and is constructed to meet the specifications and standards, including fire and life safety code requirements, appropriate to the type of facility as utilized by the Construction Section of the Division of Facility Services. Ambulatory surgical operating rooms exclude operating rooms dedicated for the performance of inpatient surgical procedures, cast rooms, procedures rooms that do not meet operating room specifications, suture rooms, YAG laser rooms, and cystoscopy and endoscopy procedure rooms that do not meet the specifications of an operating room.
- (7) "Existing ambulatory surgical operating rooms" mean only the ambulatory surgical operating rooms in ambulatory surgical facilities and hospitals reported on the License Application for Ambulatory Surgical Facilities and Programs and Part III of Hospital Licensure Renewal Application Form submitted to the Licensure Section of the Division of Facility Services and licensed and certified prior to the beginning of the review period.
- (8) "Approved ambulatory surgical operating rooms" mean only the ambulatory surgical operating rooms that have been approved for a certificate of need by the Certificate of Need Section prior to date on which the applicant's proposed project was submitted to the Agency but have not been licensed and certified, and ambulatory surgical operating rooms which the

Certificate of Need Section determined were not subject to certificate of need review and are under construction prior to the date the applicant's proposal was submitted to the Agency.

- (9) "Dedicated ambulatory surgical operating room" means an ambulatory surgical operating room used solely for the performance of ambulatory surgical procedures.
- (10) "Shared surgical operating room" means an ambulatory surgical operating room that is used for the performance of both ambulatory and inpatient surgical procedures.
- (11) "Specialty area" means an area of medical practice in which there is an approved medical specialty certificate issued by a member board of the American Board of Medical Specialties and includes, but is not limited to, the following: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, urology, orthopedics, and oral surgery.
- (12) "Practical utilization" is ~~5.4~~ 4.3 surgical cases per day for a dedicated ambulatory surgical operating room and ~~4.3~~ 3.5 surgical cases per day for a shared surgical operating room. ~~Practical utilization for Academic Medical Center Teaching Hospitals will be determined on a case-by-case basis.~~
- (13) "Service area" means ~~an area within 20 to 40 road miles of the ambulatory surgical facility, a single or multi-county area as designated in 10 NCAC 3R .3020.~~

Statutory Authority G.S. 131E-177.

## 2115 NEED FOR SERVICES

(a) In projecting utilization for existing, approved, and proposed ambulatory surgical programs, a program shall be considered to be open five days per week and 52 weeks a year.

(b) A proposal to establish a new ambulatory surgical facility or increase the number of ambulatory surgical operating rooms in an existing ambulatory surgical facility or hospital shall not be approved unless the applicant documents that the average number of ambulatory surgical cases per ambulatory surgical operating room in the applicant's proposed ambulatory surgical program are projected to be at practical utilization during the fourth quarter of the third year of operation following completion of the project.

~~(e) An applicant shall document the need for a new ambulatory surgical facility or an increase in the number of ambulatory surgical operating rooms by demonstrating that the number of existing and approved ambulatory surgical operating rooms in the proposed service area is not sufficient to meet the projected need for ambulatory surgical services in the proposed service area; or, alternatively, that the proposed project is needed because access to ambulatory surgical services by the medically underserved residents of the proposed service area is restricted by the charges for the ambulatory surgical services or the admissions policies of the existing or approved ambulatory surgical programs in the proposed service area.~~

~~(1) To demonstrate that the number of existing and approved ambulatory surgical operating rooms in the proposed service area is not sufficient to meet the projected need for ambulatory surgical services in the proposed service area, the applicant shall document:~~

~~(A) that each existing ambulatory surgery program that performs ambulatory surgery in the same specialty area is currently at 80 percent or more of practical utilization and is projected to be at practical utilization prior to the completion of the proposed project, and~~

~~(B) that each approved ambulatory surgery program that performs ambulatory surgery in the same specialty area is projected to be at practical utilization prior to the completion of the proposed project, and~~

~~(C) all assumptions used in projecting the number of ambulatory surgical cases in the new or expanded ambulatory surgical program and the need for the additional operating rooms in the proposed service area;~~

~~(2) To alternatively demonstrate that the proposed project is needed because access to ambulatory surgical services by the medically underserved residents of the proposed service area is restricted, the applicant shall document:~~

~~(A) that the facility or program will charge at least 30 percent less for similar ambulatory surgical procedures than is charged by each existing or approved ambulatory surgical program, including assurances that uninsured persons, underinsured~~



- persons, Medicare and Medicaid recipients will be better served, or
- (B) ~~that the facility or program will establish a significantly less restrictive admissions policy for ambulatory surgical services than used by each existing or approved ambulatory surgical program, including assurances that uninsured persons, underinsured persons, Medicare and Medicaid recipients will be better served, and~~
- (C) ~~all assumptions used in determining that current access to the medically underserved is restricted and that projected access will be improved.~~

Statutory Authority G.S. 131E-177.

\* \* \* \* \*

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the DHR/Division of Medical Assistance intends to amend rule cited as 10 NCAC 26H .0202.

**The** proposed effective date of this action is February 1, 1993.

**The** public hearing will be conducted at 1:30 p.m. on December 16, 1992 at the North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 132, Raleigh, NC 27603.

**Reason for Proposed Action:** Amendment will set reimbursement to UNC Hospitals on a cost basis for inpatient and outpatient services.

**Comment Procedures:** Written comments concerning this amendment must be submitted by December 16, 1992, to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603 ATTN: Clarence Ervin, 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 .0200 - HOSPITAL INPATIENT REIMBURSEMENT PLAN

### .0202 RATE SETTING METHODS

(a) An annual rate is determined for each hospital to be effective for dates of service beginning each July 1. Rates are derived from cost reports for a base-year period or from previous appeal decisions. The initial base-year is the cost-reporting period ending in 1981. Services provided prior to July 1, 1986 are reimbursed at rates not to exceed the rates effective July 1, 1985.

(b) The prospective rate is the sum of the operating rate component and the capital rate component. The capital rate component is the higher of the base-year capital per diem cost or the most recent capital rate as adjusted upon previous appeal. The base-year capital cost per diem is computed by dividing total capital costs allocated to inpatient services by total inpatient days. The operating rate component is determined by inflating the Medicaid base-year operating cost per diem to the rate year. The base-year operating cost per diem is computed by subtracting the capital cost per diem from the total base-year Medicaid cost per diem. Base-year Medicaid costs include inpatient routine, special care, and ancillary services, malpractice insurance, interns' and residents' services, and other covered inpatient services.

(c) Inflation factors for the operating rate components are based on the National Hospital Market Basket Index and the most recent actual and projected cost data available from the North Carolina Office of State Budget and Management.

(d) The prospective rate for a new hospital is set at the lower of:

- (1) The all-hospital mean rate; or
- (2) Seventy-five percent of the hospital's projected average gross inpatient revenue per day during the first year of operations.

This provision applies to a hospital if a cost report covering at least twelve months of normal operations has not been filed. This rate is the base-year rate until a desk-reviewed cost report covering at least twelve months of normal operations is available.

(e) Out-of-state hospital services are reimbursed according to the rates established by the Medicaid Agency of the State in which the hospital is located. If a usable rate cannot be obtained, services are reimbursed at 75 percent of billed charges or a negotiated rate not to exceed reasonable cost.

(f) The initial base-year for psychiatric hospitals is the cost reporting period ending in 1989, or

1990 if a full year cost report is available as of April 1, 1991. The total base-year per diem cost for a hospital is limited to the median per diem cost in the base-year of all psychiatric hospitals. The limit does not apply to or reduce any amortization of start-up costs of an individual hospital. State-operated hospitals are not included in the calculation of the median per diem cost.

(g) To assure compliance with the separate upper payment limit for State-operated facilities, the hospitals operated by the Department of Human Resources and the University of North Carolina Hospitals will be reimbursed their reasonable costs in accordance with the provisions of the Medicare Provider Reimbursement Manual.

(h) This plan intends to encourage the use of lower-cost hospitals for routine illnesses. Hospitals with rates at or below the all-hospital mean will be reimbursed at the full prospective rate without day limits. Hospitals with rates higher than the mean rate of all hospitals will be reimbursed at the full prospective rate up to an annual days limit. Days in excess of the limit will be reimbursed at the mean rate of hospitals below the all-hospital mean. This reimbursement limitation will be eliminated for claims paid in April, 1991 and thereafter if and when:

- (1) the Health Care Financing Administration, U.S. Department of Health and Human Services, approves amendments submitted to HCFA by the Director of the Division of Medical Assistance on or about March 14, 1991 as #MA 91-10 and #MA 91-11, wherein the Director proposes amendment of the State Plan to eliminate the "Annual Days Limit" to the Plan, and
- (2) the Director of the Division of Medical Assistance determines that sufficient funds are available pursuant to Rule .0206(b)(3) of this Section or otherwise for this purpose.

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 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Department of Insurance intends to amend rules cited as 11 NCAC 15 .0002, .0004 - .0006 and .0010.

The proposed effective date of this action is February 1, 1993.

The public hearing will be conducted at 10:00 a.m. on December 2, 1992 at the Medical Database Commission, 112 Cox Ave., Suite 208, 2nd Floor Board Room, Raleigh, N.C. 27605.

Reason for Proposed Action: To comply with the provisions of G.S. 131E-212(b) (9).

Comment Procedures: Written comments may be sent to Jim Hazelrigs, Medical Database Commission, 112 Cox Avenue, Raleigh, N.C. 27605. Oral presentations may be made at the public hearing. Anyone having questions should call Jim Hazelrigs at (919) 733-7141 or Ellen Sprenkel at (919) 733-4529.

## CHAPTER 15 - MEDICAL DATABASE COMMISSION

### .0002 DEFINITIONS

As used in this Chapter, unless specifically stated otherwise, the following words have the following meanings:

- (1) Act. The North Carolina Medical Database Commission Act, G.S. 131E-210 through 213.
- (2) Aggregate data. A grouping or categorization of the raw data such that the unit of observation is something other than an individual discharge. Reports of aggregate data with small cell counts will be edited to prevent potential identification of individual patients.
- (3) Ambulatory surgery billing form. Either the UB-82 or HCFA 1500 claim form required by the payor of services for ambulatory surgical services billing.
- (4) Ambulatory surgical case. An individual who receives one or more ambulatory surgical procedures in an ambulatory surgical operating room during a single operative encounter.
- (5) Ambulatory surgical facility. As defined in G.S. 131E-176(1).
- (6) Ambulatory surgical program. As defined in G.S. 131E-176(1a).
- (7) Ambulatory surgical services. Those surgical services provided to patients as part of an ambulatory surgical program

- within a licensed ambulatory surgical facility or a general acute care hospital licensed under G.S. 131E, Article 5, Part A.
- (8) ~~(3)~~Case mix data. Case specific discharge data which describe socio-demographic characteristics of the patient; total and component charges; principal and other diagnoses; treatment and services provided to the patient; as well as duration and status of the patient's stay in the hospital. Case mix data refers to the actual data elements abstracted from the UB-82 claim form as well as classifications resulting from groupings of specific data elements, e.g., DRG category.
- (9) ~~(4)~~Charge data. Charge data shall consist of the UB-82 data elements and codes specified in 11 NCAC 15 .0005.
- (a) Hospital inpatient reporting will consist of UB-82 data elements and codes; and
- (b) Hospital ambulatory surgical programs and ambulatory surgical facilities reporting cases of ambulatory/outpatient surgery will consist of either or both the UB-82 or HCFA 1500 data elements and codes.
- (10) ~~(5)~~Commission. The Medical Database Commission established under G.S. 131E-211.
- (11) ~~(6)~~Compilations. The arrangement of data collected by and furnished to the Commission by any corporation, association, or entity acting under agreement with the Commission for release and dissemination to the public.
- (12) ~~(7)~~Data Provider. The legal entity responsible for submitting data to the Commission as specified in ~~11 NCAC 15~~ this Chapter.
- (13) ~~(8)~~Dataset. The full collection of the data submitted by each data provider for a particular reporting period in the possession of the Commission or the contractor designated by the Commission to collect and process the data.
- (14) ~~(9)~~Executive Director. The chief operating officer of the Commission.
- (15) HCFA. The Health Care Financing Administration of the U.S. Department of Health and Human Services, or any successor agency.
- (16) ~~(10)~~Health Care Provider. Any person, organization, or entity that renders health care services, e.g., hospital, as defined in 11 NCAC 15 .0002.
- (17) ~~(11)~~Hospital. Any facility licensed by the North Carolina Division of Facility Services under G.S. 131E-77 (Hospital Licensure Act) or under G.S. 122C-23 (Licensure of Facilities for the Mentally Ill, the Mentally Retarded and Substance Abusers), but does not include:
- (a) a facility with all of its beds designated for medical type "LTC" (long term care);
- (b) a facility with the majority of its beds designated for medical type "PSY-3" (mental retardation); or
- (c) a facility operated by the North Carolina Department of Corrections.
- (18) Billing Forms.
- (a) ~~(12)~~Uniform hospital billing form. Form UB-82/HCFA-1450, the hospital billing form developed by the National Uniform Billing Committee or its successor.
- (b) Ambulatory surgery billing form. Either the UB-82 or HCFA 1500 form required by the payor of services for ambulatory surgical services billing.
- (19) ~~(13)~~Raw data. Patient specific records including those which have been stripped of all patient identifying information.
- (20) Reporting facility. Any of the hospitals, ambulatory surgical facilities, nursing homes, physicians, or other health care providers from which collection of information is authorized in 11 NCAC 15 .0001 and for which administrative rules are published and currently apply.

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

#### .0004 UNIFORM BILLING FORM

- (a) All hospitals shall complete the uniform hospital billing form for every inpatient discharged after June 30, 1987, from any bed other than one designated medical type "LTC" regardless of the source of payment. For patients discharged after June 30, 1987 who were admitted prior to July 1, 1987, hospitals shall submit to the Commission either an admit-through-discharge claim or the complete set of interim claims necessary to reflect the total length of stay and charges.
- (b) The information submitted to the Commission shall be reported only for the primary payer, including Medicare, Medicaid, other government programs, private insurance, health maintenance organizations, self-insured, private pay patients.



and others. Claims for secondary payers will be considered duplicate information and should not be submitted to the Commission.

(c) Unless otherwise indicated in ~~these rules,~~ this Section, completion of the uniform hospital billing form for inpatient cases shall be in accordance with the instructions and definitions in the manual developed by the National Uniform Billing Committee as adopted and finalized by the North Carolina Uniform Billing Committee. A copy of the manual is available for reference by contacting the Executive Director ~~of the Medical Database Commission at the Department of Insurance, Post Office Box 26387, 112 Cox Avenue, Suite 208,~~ Raleigh, North Carolina, ~~27611, 27605.~~

(d) All hospital ambulatory surgical programs and all ambulatory surgical facilities shall complete either the UB-82 or the HCFA 1500 form for every ambulatory surgical patient "released" from care after September 30, 1993. The choice of form will be dictated by the requirements of the payor for whom the bill is prepared for the case involved, however, the HCFA 1500 form will be prepared in cases where the payor has not stipulated which billing form to use.

(e) The UB-82 and the HCFA 1500 forms will be completed in accordance with the instructions and definitions issued by the Commission. A copy of these instructions is available for reference by contacting the Executive Director at 112 Cox Avenue, Suite 208, Raleigh, North Carolina, 27605.

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

#### **.0005 DESCRIPTION OF DATA TO BE SUBMITTED**

(a) In accordance with all pertinent state and federal regulations on patient confidentiality, the following UB-82 data elements must be submitted to the Commission for every inpatient discharged regardless of payer:

DATA ELEMENT	DESCRIPTION
(1) Patient Control Number	Form locator 3 - As stated in the North Carolina UB-82 manual.
(2) Bill Type	Form locator 4 - As stated in the North Carolina UB-82 manual.
(3) Medicaid Provider Number	Form locator 8 - The number assigned to the provider by Medicaid or as assigned by the Commission.
(4) Zip Code of Patient Address	Form locator 11 - Only the zip code portion of this field is required. Code as stated in the North Carolina UB-82 manual.



- |      |  |   |
|------|--|---|
| (5)  | Patient Birth Date   | Form locator 12 - As stated in the North Carolina UB-82 manual.   |
| (6)  | Patient Sex  | Form locator 13 - As stated in the North Carolina UB-82 manual.   |
| (7)  | Admission Date   | Form locator 15 - As stated in the North Carolina UB-82 manual.   |
| (8)  | Admission Type   | Form locator 17 - As stated in the North Carolina UB-82 manual.   |
| (9)  | Source of Admission  | Form locator 18 - As stated in the North Carolina UB-82 manual.   |
| (10) | Patient Status   | Form locator 21 - As stated in the North Carolina UB-82 manual.   |
| (11) | Discharge Date (Statement Covers Period)                                   | Form locator 22 - As stated in the North Carolina UB-82 manual.   |
| (12) | All Revenue Codes and Associated Charges                                   | Form locators 51 and 53 - As stated in the North Carolina UB-82 manual.   |
| (13) | Payer Identification   | Form locator 57A - Classification code and specific carrier identification code for primary payer.                            |
| (14) | Certificate/Social Security/ Health Insurance Claim/ Identification Number | Form locator 68 - As stated in the North Carolina UB-82 manual.   |
| (15) | Insurance Group Number   | Form locator 70 - As stated in the North Carolina UB-82 manual.   |
| (16) | Principal Diagnosis  | Form locator 77 - As stated in the North Carolina UB-82 manual.   |
| (17) | Other Diagnoses<br>(4 others maximum)                                      | Form locators 78-81 - As stated in the North Carolina UB-82 manual.   |
| (18) | Principal Procedure and Date   | Form locator 84 - As stated in the North Carolina UB-82 manual.   |
| (19) | Other Procedures and Dates   | Form locators 85 & 86 - As stated in the North Carolina UB-82 manual.   |
| (20) | Attending Physician Identification   | Form locator 92 - Only the State license number of this field is required. Code as stated in the North Carolina UB-82 manual. |
| (21) | Other Physician Identification   | Form locator 93 - Only the State license number of this field is required. Code as  |

stated in the North Carolina  
UB-82 manual.

(b) In accordance with all pertinent State and federal laws or regulations on patient confidentiality, the following UB-82 data elements must be submitted to the Commission for every ambulatory surgical patient released regardless of payor:

<u>DATA ELEMENT</u>	<u>DESCRIPTION</u>
(1) <u>Patient Control Number</u>	<u>Form locator 3 - As stated in the North Carolina UB-82 Manual.</u>
(2) <u>Bill Type</u>	<u>Form locator 4 - As stated in the North Carolina UB-82 Manual.</u>
(3) <u>Medicaid Provider Number</u>	<u>Form locator 8 - The number assigned to the provider by Medicaid or as assigned by the Commission.</u>
(4) <u>Zip Code of Patient Address</u>	<u>Form locator 11 - Only the zip code portion of this field is required. Code as stated in the North Carolina UB-82 Manual.</u>
(5) <u>Patient Birth Date</u>	<u>Form locator 12 - As stated in the North Carolina UB-82 Manual.</u>
(6) <u>Patient Sex</u>	<u>Form locator 13 - As stated in the North Carolina UB-82 Manual.</u>
(7) <u>Admission Date</u>	<u>Form locator 15 - As stated in the North Carolina UB-82 Manual.</u>
(8) <u>Admission Type</u>	<u>Form locator 17 - As stated in the North Carolina UB-82 Manual.</u>
(9) <u>Source of Admission</u>	<u>Form locator 18 - As stated in the North Carolina UB-82 Manual.</u>
(10) <u>Patient Status</u>	<u>Form locator 21 - As stated in the North Carolina UB-82 Manual.</u>
(11) <u>Discharge Date (System Covers Period)</u>	<u>Form locator 22 - As stated in the North Carolina UB-82 Manual.</u>
(12) <u>All Revenue Codes and Associated Charges</u>	<u>Form locators 51 and 53 - As stated in the North Carolina UB-82 Manual.</u>
(13) <u>Payer Identification</u>	<u>Form locator 57A - Classification code and specific carrier identification.</u>
(14) <u>Certificate/Social Security/Health Insurance Claim/Identification Number</u>	<u>Form locator 68 - As stated in the North Carolina UB-82 Manual.</u>
(15) <u>Insurance Group Number</u>	<u>Form locator 70 - As stated in the North Carolina UB-82 Manual.</u>

- |  |  |
|--|--|
| (16) <u>Principal Diagnosis</u>                          | <u>Form locator 77 - As stated in the North Carolina UB-82 Manual.</u>   |
| (17) <u>Other Diagnoses</u><br><u>(4 others maximum)</u> | <u>Form locators 78-81 - As stated in the North Carolina UB-82 Manual.</u>   |
| (18) <u>Principal Procedure and Date</u>                 | <u>Form locator 84 - As stated in the North Carolina UB-82 Manual.</u>   |
| (19) <u>Other Procedures</u>                             | <u>Form locators 85 &amp; 86 - As stated in the North Carolina UB-82 Manual.</u>   |
| (20) <u>Attending Physician</u>                          | <u>Form locator 92 - Only the State Identification number license is required. Code as stated regardless of payer.</u>       |
| (21) <u>Other Physician Identification</u>               | <u>Form locator 93 - Only the State number of this field is required. Code as stated in the North Carolina UB-82 Manual.</u> |

(c) In accordance with all pertinent State and federal laws or regulations on patient confidentiality, the following HCFA 1500 data elements must be submitted to the Commission for every ambulatory surgical patient released.

- | <u>DATA ELEMENT</u>                                 | <u>DESCRIPTION</u>  |
|---|---|
| (1) <u>Type Coverage</u>                            | <u>Form locator 1 - as stated in the Commission issued ambulatory surgery data submission manual.</u>                               |
| (2) <u>Insured's ID Number</u>                      | <u>Form locator 1a - as stated in the Commission issued ambulatory surgery data submission manual.</u>                              |
| (3) <u>Patient's Date of Birth</u>                  | <u>Form locator 3 - as stated in the Commission issued ambulatory surgery data submission manual.</u>                               |
| (4) <u>Sex</u>                                      | <u>Form locator 3 - as stated in the Commission issued ambulatory surgery data submission manual.</u>                               |
| (5) <u>Zip code of Patient Address</u>              | <u>Form locator 5 - only the zip code is required as stated in the Commission issued ambulatory surgery data submission manual.</u> |
| (6) <u>Diagnosis or Nature of Illness or Injury</u> | <u>Form locator 21 - using the ICD-9-CM code and stated in the Commission issued ambulatory surgery data submission manual.</u>     |
| (7) <u>Dates of Service</u>                         | <u>Form locator 24A - as stated in the Commission issued ambulatory surgery data submission manual.</u>                             |
| (8) <u>Place of Service</u>                         | <u>Form locator 24B - as stated in the Commission issued ambulatory surgery data submission manual.</u>                             |
| (9) <u>Type of Service</u>                          | <u>Form locator 24C - as stated in the Commission issued ambulatory surgery data submission manual.</u>                             |

- |  |   |
|--|---|
| (10) <u>Procedures, Services, Supplies</u> | Form locator <u>24D</u> - as stated in the Commission issued ambulatory surgery data submission manual. |
| (11) <u>Diagnosis Code</u>                 | Form locator <u>24E</u> - as stated in the Commission issued ambulatory surgery data submission manual. |
| (12) <u>Charges</u>                        | Form locator <u>24F</u> - as stated in the Commission issued ambulatory surgery data submission manual. |
| (13) <u>Days or Units</u>                  | Form locator <u>24G</u> - as stated in the Commission issued ambulatory surgery data submission manual. |
| (14) <u>Federal Tax ID</u>                 | Form locator <u>25</u> - as stated in the Commission issued ambulatory surgery data submission manual.  |
| (15) <u>Patient's Account No.</u>          | Form locator <u>26</u> - as stated in the Commission issued ambulatory surgery data submission manual.  |
| (16) <u>Total Charge</u>                   | Form locator <u>28</u> - as stated in the Commission issued ambulatory surgery data submission manual.  |
| (17) <u>Physician's PIN Number</u>         | Form locator <u>33</u> - as stated in the Commission issued ambulatory surgery data submission manual.  |

(b)(d) Any hospital or ambulatory surgical facility which does not have a Medicaid provider number shall contact the Commission for assignment of an identification number. This number shall be used in the Medicaid Provider Number field for all UB-82 records submitted to the Commission.

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

#### .0006 DATA SUBMISSION

(a) Data Submission Requirements:

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

(b) Format for Data Submission:

- (1) All hospitals and ambulatory surgical facilities may submit UB-82 and HCFA

1500 (ambulatory surgery only), discharge data to the Commission on one of three acceptable types of media: on paper UB-82 forms, and HCFA 1500 forms (ambulatory surgery only), on a magnetic tape, or on a personal computer (PC) diskette. Other types of media used to submit the required data, such as on-line transmission, must be approved by the Commission.

- (2) On and after July 1, 1991, each hospital with 1,000 or more annual discharges, as reported on the most current hospital licensure application, must submit the required UB-82 inpatient discharge data on one of the acceptable electronic media specified in this Rule and in the format as required by the Commission. An exemption will be considered by the Commission if the hospital can demonstrate that it lacks the technical capability and computer resources to produce the required data electronically. The request for exemption must be made in writing by the hospital's chief executive officer. ~~and received by the Commis-~~



~~sion no later than June 15, 1991.~~ Each hospital granted an exemption must submit an annual certification signed by the hospital's chief executive officer verifying that the hospital continues to meet the exemption criteria. The annual certification form received from the Commission must be returned to the Commission no later than July 1 of each year.

- (3) The physical specifications of the magnetic tape shall be any size reel, recorded in nine track, Extended Binary Coded Decimal Interchange Code (EBCDIC) mode or ASCII, with density equal to 1600 BPI or 6250 BPI, unlabeled or with IBM standard labels. Acceptable specifications for submission of data on a floppy disk shall be 5 1/4 inch IBM-PC compatible diskette.
- (4) Data submitted via magnetic tape shall conform to the uniform record layout as required by the Commission. Data submitted via PC diskette shall also conform to a uniform record layout as required by the Commission. Copies of the required format may be obtained by contacting the Executive Director of the Medical Database Commission at ~~the Department of Insurance, Post Office Box 26387, 112 Cox Avenue, Suite 208, Raleigh, North Carolina, 27611~~ 27605.

(c) Edit Criteria:

- (1) Data elements that are considered critical fields on the UB-82 form for record editing purposes are Patient Control Number, Bill Type, Medicaid Provider Number, Zip Code, Date of Birth, Sex, Admission Date, Admission Type, Source of Admission, Patient Status, Statement Covers Period, Revenue Codes and Charges, Primary Payer, Principal Diagnosis, Attending Physician Identification. Records containing invalid UB-82 codes or all-blank fields for any of these data elements will be designated as error records.
- (2) Data elements that are considered critical fields on the HCFA 1500 form for record editing purposes are Insured's I.D. Number, Medicaid Provider number, Zip Code, Date of Birth, Sex, Dates of Service, place of service, type of service, procedures defined with

CPT/HCPCS codes with modifiers, principle diagnosis codes, principle and secondary surgical procedure, patient's account number, physician's PIN. Records containing invalid HCFA 1500 form codes or all blank fields for any of these data elements will be designated as error records.

- (3) ~~(2)~~The last revenue code listed must be 001, Total Charge, and this charge must equal the sum of charges for all other revenue codes reported.
  - (4) ~~(3)~~On the UB-82 form for inpatient cases, the following data elements must contain valid codes if present: Primary Payer - Specific Carrier Identification, Other Diagnoses, Principal Procedure Code and Date, Other Procedure Codes and Dates, Other Physician Identification (if a procedure was performed).
  - (5) For ambulatory surgery cases the following data elements must contain valid codes if present:
    - (A) reported on UB-82: Primary Payer - Specific Carrier Identification, Other Diagnoses, Principal Procedure Code and Date, Other Procedure Codes and Dates, Identification of Surgeon performing the procedure.
    - (B) reported on HCFA 1500: Type coverage and insured ID number, specific carrier identification, procedures, services or supplies in CPT4 or HCPC code, dates of service, Physician PIN.
  - (6) ~~(4)~~Upon completion of the data error assessment, the Commission or the designated contractor shall promptly notify each hospital or ambulatory surgical facility whose records do not pass the critical edit checks. This notification shall identify the discharge records and the data items within them which do not pass the edits. Each hospital receiving an error notification report shall respond within 30 calendar days of the notification by making the necessary changes.
  - (7) ~~(5)~~Upon receipt of a written request for an extension from the data provider, the Commission may, for good cause, extend the time for submitting the necessary changes for a particular reporting period.
- (d) Data Submission Arrangements:

- (1) Each hospital or ambulatory surgical facility or its designated agent shall submit the required UB-82 data directly to the Commission or to the designated contractor.
- (2) Resubmissions of data as required by the Commission or upon the initiative of a hospital or ambulatory surgical facility will be accepted for the purposes of adding records, amending data elements or otherwise making modifications to a previous data submission. Resubmissions shall conform to the requirements of 11 NCAC 15 .0006(b).

(e) Reimbursement for Data Submission:

For UB-82 and HCFA 1500 discharge records generated solely for submission to the Commission due

the absence of a third party payer, hospitals or ambulatory surgical facilities shall be reimbursed

40 cents (\$0.40) per discharge, regardless of the choice of medium for submission.

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

**.0010 CONFIDENTIALITY OF DATA**

(a) The Commission shall ensure that any contract entered into with other parties for the purposes of processing and analysis of data collected under this regulation shall contain assurances that such other parties shall also comply with the provisions of pertinent state and federal regulations on patient confidentiality.

(b) The Patient Control Number (UB-82 form locator 3) and the Certificate/Social Security/Health Insurance Claim/Identification Number (UB-82 form locator 68) and Insured's I.D. Number (HCFA 1500 form locator 1a) and the Patient Account Number (HCFA 1500 form locator 26) shall be used only for the purpose of establishing an audit trail in the event that it is necessary to retrieve the primary source document for validation of the abstracted data. Data collected under these regulations and disclosed to other parties shall be purged of Patient Control Numbers, Certificate/Social Security/Health Insurance Claim/Identification Numbers and Dates of Birth prior to disclosure.

(c) Raw data submitted to the Commission or to the designated contractor ~~by hospitals~~ by data providers pursuant to the act shall be privileged and confidential, and shall not be disclosed in any manner. The foregoing includes, but shall not be limited to, disclosure, inspection or copying under the State's Public Record Act. However, these

prohibitions shall not apply to the reports prepared for release and dissemination by the Commission.

(d) For compilations released, the Commission will develop procedures to prevent small cell counts from potentially identifying an individual patient.

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

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

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10A .0401 - .0402; 10B .0115; 10F .0305, .0314, .0320 - .0321, .0330, .0340.*

*The proposed effective date of this action is February 1, 1993.*

*Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): A request for a public hearing must be in writing and submitted to the Director's office, 512 N. Salisbury Street, Raleigh, NC 27604-1188 by December 1, 1992.*

**Reasons for Proposed Actions:**

*15A NCAC 10A .0401 - .0402 - To make agency procedures comply with statutory provisions.*

*15A NCAC 10B .0115 - To delete administrative rules which are redundant and/or conflict with local laws.*

*15A NCAC 10F .0305 - To remove no wake zones from the Intracoastal Waterway in which the U.S. Army Corps of Engineers does not approve no wake zones.*

*15A NCAC 10F .0314 - To remove a no wake zone from the Intracoastal Waterway in which the U.S. Army Corps of Engineers does not approve no wake zones.*

*15A NCAC 10F .0320 - To remove a no wake zone from that portion of Swansboro Harbor located in the Intracoastal Waterway in which the U.S. Army Corps of Engineers does not approve no wake*

zones.

*15A NCAC 10F .0321 - To remove a no wake zone from the Intracoastal Waterway in which the U.S. Army Corps of Engineers does not approve no wake zones.*

*15A NCAC 10F .0330 - To remove a no wake zone from the Intracoastal Waterway in which the U.S. Army Corps of Engineers does not approve no wake zones.*

*15A NCAC 10F .0340 - To remove a no wake zone from the Intracoastal Waterway in which the U.S. Army Corps of Engineers does not approve no wake zones.*

**C**omment Procedures: Interested persons may present their views in writing from November 16, 1992 to December 16, 1992. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

## CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

### SUBCHAPTER 10A - WILDLIFE RESOURCES COMMISSION

#### SECTION .0400 - PETITIONS FOR RULE

##### .0401 FORM AND CONTENTS OF PETITION

(a) A petition for rule must be a written communication, specifically designated as a "Petition for Rule," petition requesting rulemaking, addressed to the Executive Director, Wildlife Resources Commission, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611, 27604-1188, and must contain:

- (1) name and address of the petitioner;
- (2) name and address of the person, group or organization, if any, on behalf of which the petition is made, together with the representative capacity of the petitioner;
- (3) identification of the rule ~~or regulation~~ sought to be adopted, amended or repealed; if such is the purpose of the petition;
- (4) suggested language for any ~~original or amendatory rule or regulation proposed for adoption, or a clear and concise~~

rule sought to be adopted or amended  
and a statement of its desired effect;  
and

~~(5) date upon which the rule, amendment or repeal is proposed to become effective; and~~

~~(5)~~ ~~(6)~~ signature of the petitioner.

(b) In addition to the foregoing, the petition may contain expression of any reasons in support or arguments in favor of the regulatory action proposed. Any tables, charts, maps, publications, photographs or other supporting materials which the petitioner deems pertinent to the proposal may be included by way of exhibits or attachments.

*Statutory Authority G.S. 150B-20.*

##### .0402 ACTION ON PETITION

(a) The Executive Director shall cause the petition ~~for rule requesting rulemaking~~ to be marked or stamped with the date of its receipt by him, which date shall constitute the date of its submission. The Executive Director shall then refer the petition requesting rulemaking to the Wildlife Resources Commission for its consideration.

(b) Within ~~30~~ 120 days following submission of the petition ~~for rule, the Executive Director requesting rulemaking, the Wildlife Resources Commission~~ shall:

- (1) deny the petition in writing, stating the reason or reasons for such denial; or
- (2) initiate ~~rule-making~~ rulemaking proceedings in accordance with ~~G.S. 143B-18 and 150B-12, or in accordance with G.S. 150B-13; G.S. 150B-20.~~
- ~~(3) take such action as may be suggested by the petition for rule; or~~
- ~~(4) take such other action as he may deem appropriate.~~

(c) The Wildlife Resources Commission shall notify the person who submitted the petition of the action taken by the Commission. Any denial of a petition ~~for rule requesting rulemaking~~ shall be sent to the petitioner at the address therein indicated by registered mail, "return receipt requested."

*Statutory Authority G.S. 150B-20.*



SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

**.0115 SHINING LIGHTS IN DEER AREAS**

(a) It having been found upon sufficient evidence that certain areas frequented by deer are subject to substantial unlawful night deer hunting, or that residents in such areas have been greatly inconvenienced by persons shining lights on deer, or both, the shining of lights on deer in such areas is limited by Paragraphs (b) and (c) of this Rule, subject to the exceptions contained in Paragraph (d) of this Rule.

(b) No person shall, between the hours of 11:00 p.m. and one-half hour before sunrise, intentionally shine a light upon a deer or intentionally sweep a light in search of deer in the indicated portions of the following counties:

- (1) Beaufort -- entire county;
- (2) Bladen -- entire county;
- (3) Brunswick -- entire county;
- (4) Camden -- entire county;
- (5) Chowan -- entire county;
- (6) Currituck -- entire county;
- (7) Duplin -- entire county;
- (8) Franklin -- entire county;
- (9) Gates -- entire county;
- (10) Greene -- entire county;
- (11) Hertford -- entire county;
- (12) Hoke -- entire county;
- (13) Hyde -- entire county, except that part of the county described in Paragraph (c) of this Rule;
- (14) Jones -- entire county;
- (15) Lenoir -- entire county;
- (16) Martin -- entire county;
- (17) Nash -- entire county;
- (18) Pamlico -- entire county;
- (19) Pasquotank -- entire county;
- (20) Pender -- entire county;
- (21) Perquimans -- entire county;
- (22) Pitt -- entire county;
- (23) Richmond -- entire county;
- (24) Sampson -- entire county;
- (25) Tyrrell -- entire county;
- (26) Vance -- entire county;
- (27) Wake -- entire county;
- (28) Warren -- entire county;
- (29) Washington -- entire county;
- (30) Wayne -- entire county.

(c) No person shall, between the hours of one-half hour after sunset and one-half hour before sunrise, intentionally shine a light upon a deer or intentionally sweep a light in search of deer in the indicated portions of the following counties:

- (1) Alamance -- entire county;
- (2) Alexander -- entire county;
- (3) Alleghany -- entire county;
- (4) Anson -- entire county;
- (5) Ashe -- entire county;
- (6) Avery -- that portion south and east of Highway 221;
- (7) Burke -- entire county;
- (8) Cabarrus -- entire county;
- ~~(9) Caldwell -- entire county;~~
- (9) ~~(10)~~ Caswell -- entire county;



- (10) ~~(11)~~ Catawba -- entire county;
  - (11) ~~(12)~~ Chatham -- entire county;
  - (12) ~~(13)~~ Clay -- entire county;
  - (13) ~~(14)~~ Cleveland -- entire county;
  - (14) ~~(15)~~ Cumberland -- entire county;
  - (15) ~~(16)~~ Davidson -- entire county;
  - (16) ~~(17)~~ Davie -- entire county;
  - (17) ~~(18)~~ Durham -- entire county;
  - (18) ~~(19)~~ Edgecombe -- entire county;
  - (19) ~~(20)~~ Forsyth County -- entire county;
  - (20) ~~(21)~~ Gaston -- entire county;
  - (21) ~~(22)~~ Granville -- entire county;
  - (22) ~~(23)~~ Guilford -- entire county;
  - (23) ~~(24)~~ Halifax -- entire county;
  - (24) ~~(25)~~ Harnett -- entire county;
  - (25) ~~(26)~~ Henderson -- entire county;
  - (26) ~~(27)~~ Hyde -- that part bounded on the north by a line running parallel with and 1000 yards in a northward direction from that part of SR 1304 that leads from Hodges' Fork to Rose Bay, on the east by the Mattamuskeet National Wildlife Refuge boundary, on the southeast by US 264, and on the west and southwest by a line running parallel with and 1000 yards in a west or southwest direction from the centerline of SR 1304;
  - (27) ~~(28)~~ Iredell -- entire county;
  - (28) ~~(29)~~ Johnston -- entire county;
  - (29) ~~(30)~~ Lee -- entire county;
  - (30) ~~(31)~~ Lincoln -- entire county;
  - (31) ~~(32)~~ McDowell -- entire county;
  - (32) ~~(33)~~ Mecklenburg -- entire county;
  - (33) ~~(34)~~ Mitchell -- entire county;
  - (34) ~~(35)~~ Montgomery -- entire county;
  - (35) ~~(36)~~ Northampton -- entire county;
  - (36) ~~(37)~~ Orange County -- entire county;
  - (37) ~~(38)~~ Person -- entire county;
  - (38) ~~(39)~~ Polk -- entire county;
  - (39) ~~(40)~~ Randolph -- entire county;
  - (40) ~~(41)~~ Robeson County -- entire county;
  - (41) ~~(42)~~ Rockingham -- entire county;
  - (42) ~~(43)~~ Rowan -- entire county;
  - (43) ~~(44)~~ Rutherford -- entire county;
  - ~~(45) Scotland -- that part lying west of US 401 north of Laurinburg and north of US 74 west of Laurinburg;~~
  - (44) ~~(46)~~ Stanly -- entire county;
  - (45) ~~(47)~~ Stokes -- entire county;
  - (46) ~~(48)~~ Surry -- entire county;
  - (47) ~~(49)~~ Transylvania -- entire county;
  - (48) ~~(50)~~ Union -- entire county;
  - (49) ~~(51)~~ Watauga -- entire county;
  - ~~(52) Wilkes -- entire county;~~
  - ~~(53) Yadkin -- entire county;~~
  - (50) ~~(54)~~ Yancey -- entire county.
- (d) Paragraphs (b) and (c) of this Rule shall not be construed to prevent:
- (1) the lawful hunting of raccoon or opossum during open season with artificial lights designed or commonly used in taking raccoon and opossum at night;
  - (2) the necessary shining of lights by landholders on their own lands;
  - (3) the shining of lights necessary to normal travel by motor vehicles on roads or highways; or
  - (4) the use of lights by campers and others who are legitimately in such areas for other reasons and

who are not attempting to attract or to immobilize deer by the use of lights.

*Statutory Authority G.S. 113-134; 113-291.1; S.L. 1981, Ch. 410; S.L. 1981 (Second Session 1982), Ch. 1180.*

## SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

### SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

#### .0305 BRUNSWICK COUNTY

(a) Regulated Areas. This Rule applies to the waters and portions of waters described as follows:

- (1) Lockwoods Folly River. An area bounded on the north by the north bank of Lockwoods Folly River, on the south by Mud Flats in the Lockwoods Folly River and extending 300 feet north and 300 feet south of Varnums Landing at Genoes Point.
- (2) Calabash River. An area located on the Calabash River beginning 100 feet west of the Billy Cox Landing and extending 100 feet east of Captain Harry's Landing.
- (3) State Port Authority Small Boat Harbor. Beginning at the Intracoastal Waterway on the easterly side of the North Carolina State Port Authority Small Boat Harbor; thence runs along and with the easterly boundary of the said boat harbor basin and along the northerly boundary and westerly boundary thereof to a point at the intersection of the westerly boundary of said boat harbor with the highwater mark of the Intracoastal Waterway; runs thence in an easterly direction with the highwater mark of the Intracoastal Waterway to the place and point of beginning, and being the entire small boat harbor in Southport.

~~(4) Intracoastal Waterway:~~

~~(A) Southport:~~

- ~~(i) That portion of the Intracoastal waterway, which intersects the entrance to the "Old Yacht Basin" at the city of Southport, for a distance of 350 feet to be marked at each end by appropriate markers.~~
- ~~(ii) That portion of the ICW which intersects the entrance to the Southport Marina at the city of~~

~~Southport for a distance of approximately 300 yards to be marked at each end by appropriate markers.~~

~~(B) Holden Beach. That portion of the Inland Waterway at the Town of Holden Beach from a point opposite Rothschild Street easterly to a point approximately 100 yards east of Coneh Street to be marked at each end by appropriate markers.~~

~~(C) Inlet View Marina. That portion of the Intracoastal Waterway within 500 feet of Inlet View Marina, located between Ocean Isle Beach and Seaside.~~

~~(D) Tanglewood Area Boat Ramp. That portion of the Intracoastal Waterway within 100 yards of the Tanglewood Area boat ramp located on the north side of the said waterway opposite Holden Beach.~~

~~(5) Shallotte River. The portion of the Shallotte River beginning at its intersection with the Intracoastal Waterway and extending from the northern boundary of the Intracoastal Waterway for a distance of 500 feet to the north, to be marked by appropriate markers.~~

~~(6) Big Davis Creek. That part of Big Davis Creek within 100 yards of Sportman Inn at Blue Water Point Marina near Long Beach.~~

~~(7) Town of Ocean Isle Beach. Those waters in the canals, both natural and concrete, which are located on the south side of the Intracoastal Waterway in the Town of Ocean Isle Beach.~~

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

(c) Placement and Maintenance of Markers. The Board of Commissioners of Brunswick County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

**.0314 NEW HANOVER COUNTY**

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

- (1) that area bounded on the north by the bridge of US 74-76 crossing the Intracoastal Waterway, on the south by a line parallel to the center line of said highway and intersecting Intracoastal Waterway marker number 127, on the west by the high-water line of Wrightsville Sound, and on the east by a line perpendicular to the center line of said highway and intersecting marker number 27 in Motts Channel;
- (2) that area of Motts Channel between marker number 27 at the Intracoastal Waterway on the west and marker number 16 at the entrance from Banks Channel on the east;
- (3) that area bounded on the west by the bridge of US 76 crossing Bradley Creek, on the north and south by the banks of said creek, on the east by a line parallel to the center line of the aforesaid highway, said line being 1,000 feet, more or less, eastwardly therefrom and intersecting the westernmost port (black) marker in Bradley Creek Channel;
- (4) that part of Lee's Cut between the Intracoastal Waterway and the eastern boundary of the Lee's Cut-Channel Walk property at Wrightsville Beach.
- ~~(5) that part of Myrtle Grove Sound at the Dolphin Bay boat docks extending 150 yards to either side of Intracoastal Waterway marker No. 157.~~
- (5) ~~(6)~~ the unnamed channel lying between the shore west of Bahama Drive in the Town of Wrightsville Beach and an unnamed island located approximately 500 feet northeast of the US 74 bridge over Banks Channel.
- (6) ~~(7)~~ those waters of the Northeast Cape Fear River between the US Hwy. 117 bridge and the Seaboard Coastline Railroad bridge.

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

(c) Placement and Maintenance of Markers. The Board of Commissioners of New Hanover County is designated a suitable agency for placement and maintenance of the markers implement-

ing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

**.0320 ONSLOW COUNTY**

(a) Regulated Areas. This Rule applies to the following waters and portions of waters:

- (1) Old Settler's Beach: those waters of Onslow County contained within the canals located in the Old Settler's Beach subdivision extended from the Pender County line northwardly or northeasterly to the canal adjacent to or near the property of Topsail Island Developers, Inc., and more specifically those canals extending along the cul-de-sac lots from the Pender County line northwardly or northeasterly to the most northwardly of said canals above referred to, said canals extended from First Street to the canal lying northwardly or northeasterly of Ninth Street, to include those waters of the approach canal at Old Settler's Beach from marker number 53 in the Intracoastal Waterway south to Broadway Street;
- (2) New River: those waters of New River, near Jacksonville, between a point 100 yards upstream, and 300 yards downstream, of the Seaboard Coast Line Railroad trestle; and those waters of the New River between the Old Bridge Street and US 17 (Riverview Street) bridges and upstream from the US 17 bridge along the south shore to a point 50 yards beyond the Jacksonville Marina;
- (3) Wheeler's Point: those waters in the creek from Wheeler's Point northerly to SR 1558 near the town of Sneads Ferry;
- (4) Swansboro Harbor: those waters of White Oak River and Swansboro Bay ~~west of a line 25 yards east of and parallel with the NC 24 bridge, east of a line running through markers 46C and 47A at Casper's Marina, and north of an east-west line intersecting the northern point of the island lying immediately west of marker 46B.~~ between the Atlantic Intracoastal Waterway and the NC Highway 24 bridge, Swansboro.

(b) Speed Limit. No person shall operate any



motorboat or vessel at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Onslow County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

### .0321 PENDER COUNTY

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

- (1) the canal adjoining Old Point Development;
- (2) the First Finger Canal in New Topsail Beach;
- ~~(3) that portion of the Intracoastal Waterway within 2000 feet of the Sears Landing (Surf City) Drawbridge;~~
- ~~(4) that portion of the Intracoastal Waterway within 200 yards of Scotts Hill Marina;~~
- (3) ~~(5)~~ those waters of the Northeast Cape Fear River between the U.S. Highway 117 bridge and the Seaboard Coastline Railroad bridge.

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

(c) Placement and Maintenance of Markers. The Board of Commissioners of Pender County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

### .0330 CARTERET COUNTY

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

- ~~(1) that portion of the Intracoastal Waterway within 200 feet on each side of the entrance to Sea Gate Marina;~~
- (1) ~~(2)~~ the waters of Money Island Slough beginning at the east end of Money Island near the Anchorage Marina Basin and ending at the west end of Money Island where Brooks Avenue deadends

at the slough;

- (2) ~~(3)~~ the waters of Taylor Creek located within the territorial limits of the Town of Beaufort;
- (3) ~~(4)~~ the waters of Pelletier Creek beginning at the entrance to Pelletier Creek at the Intracoastal Waterway and ending at U.S. Highway 70;
- (4) ~~(5)~~ the waters of Bogue Sound in Morehead City between Sugar Loaf Island and the seawall on the south side of Evans, Shepard and Shackelford Streets and bounded on the east by the State Ports Authority and on the west by the eastern right-of-way margin of South 13th Street extended;
- (5) ~~(6)~~ the waters of Gallant's Channel from the US 70 crossing over the Grayden Paul bridge to Taylor's Creek;
- (6) ~~(7)~~ the waters of Cedar Island Bay and Harbor from U.S. 70 to Cedar Island Bay Channel Light 8;
- (7) ~~(8)~~ the waters of Radio Island Creek.

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

(c) Placement and Maintenance of Markers. The Board of Commissioners of Carteret County, with respect to the regulated areas designated in Subparagraphs (1), (2), (4), (6), (7) and (8) of Paragraph (a) of this Rule, and the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated in Subparagraph (3) of Paragraph (a) of this Rule, and the Board of Commissioners of Morehead City, with respect to Subparagraph (5) of Paragraph (a) of this Rule, are designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

### .0340 CURRITUCK COUNTY

(a) Regulated Areas. This Rule applies to the waters and portion of waters described as follows:

- (1) Bell's Island. The waters contained in all the canals on Bell's Island.
- ~~(2) Intracoastal Waterway. The portion of the Intracoastal Waterway within the "slow speed" zone established by the United States Army Corps of Engineers on both sides of the U.S. Highway 158~~



~~bridge at Coinjock.~~

- (2) ~~(3)~~ Walnut Island Subdivision. The waters in all the canals in the Walnut Island subdivision in the Village of Grandy.
- (3) ~~(4)~~ Neal's Creek Landing. Those waters of Currituck Sound within 50 yards of Neal's Creek Landing as delineated by appropriate markers.
- (4) ~~(5)~~ Tull's Bay.
  - (A) Those waters of Tull's Creek within 50 yards upstream and 50 yards downstream of and within the canal leading to Tull's Bay Marina as delineated by appropriate markers.
  - (B) Those waters which constitute the canals of the Tull's Bay Colony subdivision and 50 yards north along the Mississippi Canal from its intersection with Elizabeth Canal.

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

(c) Placement and Maintenance of Markers. The Board of Commissioners of Currituck County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10F .0310, .0313.*

*The proposed effective date of this action is February 1, 1993.*

*The public hearing will be conducted at 10:00 a.m. on December 1, 1992 at the Archdale Building, Room 332, 512 N. Salisbury Street, Raleigh, NC 27604-1188.*

### **Reasons for Proposed Actions:**

*15A NCAC 10F .0310 - To establish no wake zone*

*in a bay where speeding boats are causing a safety hazard.*

*15A NCAC 10F .0313 - To establish a no wake zone on a portion of a canal to eliminate safety hazards caused by speeding boats.*

**Comment Procedures:** Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from November 16, 1992 to December 16, 1992. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

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

### **SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY**

#### **SECTION .0300 - LOCAL WATER SAFETY REGULATIONS**

##### **.0310 DARE COUNTY**

(a) Regulated Areas. This Rule applies to the following waters and portions of waters:

- (1) Manteo. Doughs Creek adjacent to Shallowbag Bay and all canals situated within the territorial limits of the Town of Manteo.
- (2) Hatteras. The waters of Hatteras Harbor and Muddy Creek bounded on the north and south by the high-water mark, on the west by a straight line between channel markers number 20 and 17, and on the east by the mouth of Muddy Creek at Sandy Bay;
- (3) Mann's Harbor. The waters of Ferry Dock Road Canal;
- (4) Nags Head
  - (A) Those waters contained within the canals of Old Nags Head Cove Development;
  - (B) The Roanoke Sound inlets at Pond Island on either side of Marina Drive extending north from US 64-264;
- (5) Wanchese.
  - (A) The waters of Wanchese Harbor;
  - (B) The Canal from its beginning where it connects with the Roanoke Sound south of the dead end road SR 1141 extending northwest roughly parallel

- to SR 1141 and SR 1142, then westward roughly parallel to NC 345, and finally curving to the southwest roughly parallel to the C.B. Daniels Road to its end.
- (6) Stumpy Point Canal. That portion of Stumpy Point Canal beginning at the Wildlife Resources Commission boating access area and extending inland for a distance of 3,600 feet;
  - (7) Stumpy Point Basin. That portion of the Stumpy Point Basin, at the head of the Stumpy Point Bay, which is next to Highway 264 in the dock area and designated by the appropriate markers.
  - (8) ~~(7)~~ Town of Southern Shores. The waters contained in the canals and lagoons within the territorial limits of the Town of Southern Shores;
  - (9) ~~(8)~~ Colington Harbour. The waters contained in the canals of Colington Harbour.

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

(c) Placement and Maintenance of Markers. Subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers, the following agencies are designated suitable agencies for placement and maintenance of markers implementing this Rule as to the regulated areas listed in the several Subparagraphs of Paragraph (a) of this Rule:

- (1) the Board of Commissioners of the Town of Manteo as to the areas indicated in Subparagraph (1);
- (2) the Board of Commissioners of Dare County as to the areas indicated in Subparagraphs (2) through (6) and (8);
- (3) the Board of Commissioners of the Town of Southern Shores as to the areas indicated in Subparagraph (7).

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

### **.0313 HYDE COUNTY**

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

- (1) Swan Quarter Canal near the Town of Swan Quarter;
- (2) Carawan Canal;
- (3) The waters within 50 yards of all public boat launching areas providing access to Pamlico Sound;

- (4) Far Creek near the Town of Engelhard;
- (5) Fodrey Canal. That portion of Fodrey Canal beginning at its entrance at the number 3 beacon and extending inland for a distance of 300 yards.

(b) Speed Limit. No person shall operate a motorboat or vessel at greater than no-wake speed on the regulated areas described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Hyde County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

## **TITLE 16 - DEPARTMENT OF PUBLIC EDUCATION**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Education intends to repeal rules cited as 16 NCAC 6G .0101 - .0102; and amend rules cited as 16 NCAC 6G .0301 - .0302.*

*The proposed effective date of this action is March 1, 1993.*

*The public hearing for 16 NCAC 6G .0101 - .0102 will be conducted at 9:30 a.m. and for 16 NCAC 6G .0301 - .0302 will be conducted at 10:30 a.m. on December 10, 1992 at the 3rd Floor Board Room, Education Bldg., 116 West Edenton Street, Raleigh, NC 27603-1712.*

### ***Reasons for Proposed Actions:***

*16 NCAC 6G .0101 - .0102 - Responsibility for these items has been transferred to the Department of Community Colleges.*

*16 NCAC 6G .0301 - .0302 - Amendments make minor conforming changes as a result of recent legislation.*

*Comment Procedures: Any interested person may submit oral comments at the hearing or written comments by December 21, 1992.*

CHAPTER 6 - ELEMENTARY AND  
SECONDARY EDUCATION

SUBCHAPTER 6G - EDUCATION AGENCY  
RELATIONS

SECTION .0100 - PRIVATE BUSINESS AND  
TRADE SCHOOLS AND  
CORRESPONDENCE SCHOOLS

.0101 LICENSING PROCEDURES

(a) Any person who desires to operate a private business and trade school in the state or a private correspondence school which solicits students from this state must obtain a license from the Department. The Department will issue a license on the basis of a completed application on forms supplied by the Department.

(b) The applicant must meet the requirements of G.S. 115C-576 and must include with its application:

- (1) copies of inspection reports or letters from proper officials to show that the building is safe and sanitary and meets all governmental regulations such as fire, building and sanitation codes; and
- (2) a certified check or money order in an amount determined annually by the SBE and payable to the State Treasurer.

(c) A school may renew its license by submitting a renewal application, on forms supplied by the Department, by June 1 of each year. The fee for a renewal license is determined annually by the SBE.

(d) The school must designate a director or administrator, who is directly responsible for the operations of the school. The director or administrator must meet the following qualifications:

- (1) be a graduate of an approved college or university; and
- (2) have teaching experience in one or more of the major subjects taught in the school.

Statutory Authority G.S. 115C-570(c).

.0102 BUSINESS SCHOOL  
REQUIREMENTS

(a) Business schools may award the associate in applied science degree. The credit hours or clock hour equivalents for this degree are as follows:

Curriculum Area	Hours Required
Accounting	108

Advanced secretarial	54
Airline secretarial	54
Automated accounting	72
Business administration	108
Electronic data processing	54
Executive secretarial	90
Fashion merchandising	54
General business	54
Junior accounting	72
Legal secretarial	90
Medical secretarial	90
Professional accounting	108
Professional secretarial	108
Secretarial	72
Stenographic	54
Transportation management	108

(b) The Department will consider approving other courses at the written request of schools. The Superintendent of Public Instruction may award interim approval upon receipt of a certified statement of the school's intent to furnish qualified instructional personnel and necessary instructional equipment when it begins initial instruction and/or it furnishes "hands on" training. The applicant must have been duly licensed and in continuous operation for at least five years. The applicant must certify that it will return all funds paid by prospective enrollees if the course is not offered upon the advertised beginning date.

Statutory Authority G.S. 115C-570(c).

SECTION .0300 - PERFORMANCE-BASED  
ACCOUNTABILITY PROGRAM

.0301 LOCAL SCHOOL IMPROVEMENT  
PLANS

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

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

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

- (1) establish local student performance goals for any remaining state accreditation performance standards that it does



- not currently meet;
  - (2) establish some local student performance goals that are higher than the performance standards in state accreditation; and
  - (3) establish, for school years after the LEA's first year of participation, student performance goals in additional curricula areas and/or in additional grade levels not addressed in state accreditation.
- (d) LEAs that currently meet all or most of the performance standards of the state accreditation plan may also:
- (1) develop student performance goals in additional curricula areas not currently addressed in state accreditation; and
  - (2) add additional indicators such as California Achievement Test scores at grades 4, 5 and 7.
- (e) The indicators that are included in the state accreditation performance standards, along with Scholastic Aptitude Test scores, are required for measuring and assessing student performance. Additional end of course and end of grade tests will be added to these indicators as they are developed.
- (f) LEAs may, but are not required to include as indicators for measuring and assessing student performance and satisfactory performance factors such as:
- (1) post-secondary plans;
  - (2) enrollment in Algebra 1; and
  - (3) college enrollees who require remediation.
- (g) LEAs that develop an evaluation instrument or approach other than the teacher performance appraisal instrument must describe that instrument or approach in the local school improvement plan.

*Statutory Authority G.S. 115C-238.1.*

#### **.0302 DIFFERENTIATED PAY**

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

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

(b) ~~(e)~~ After an LEA that uses the school-based performance model for differentiated pay attains local school goals, the local board of education, upon recommendation of the principal and superin-

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

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

*Statutory Authority G.S. 115C-238.1.*



**TITLE 19A - DEPARTMENT OF  
TRANSPORTATION**

**SECTION .0300 - PLANNING AND  
RESEARCH**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Transportation intends to amend rules cited as 19A NCAC 2B .0309, .0312.*

*The proposed effective date of this action is March 1, 1993.*

*Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): A demand for a public hearing must be made in writing and mailed to N.C. Department of Transportation, P.O. Box 25201, Raleigh, NC 27611, Attn: Emily Lee. The demand must be received within 15 days of this Notice.*

**Reasons for Proposed Actions:**

*19A NCAC 2B .0309 - Directs inquiries regarding planning funds to Manager of Statewide Planning rather than Planning & Research.*

*19A NCAC 2B .0312 - Change reflects funding changes for Federal-aid matching funds pursuant to ISTEA formula. Federal funds have decreased from 85% to 80%, local funds required have increased from 15% to 20%.*

*Comment Procedures: Any interested person may submit written comments on the proposed rules by mailing the comments to: N.C. Department of Transportation, P.O. Box 25201, Raleigh, NC 27611, Attn: Emily Lee within 30 days after the proposed rule is published or until the date of any public hearing held on the proposed rule, whichever is longer.*

*Fiscal Note: These Rules affect the expenditures or revenues of local funds. A fiscal note was submitted to the Fiscal Research Division of October 21, 1992, OSBM on October 21, 1992, N.C. League of Municipalities on October 21, 1992, and N.C. Association of County Commissioners on October 21, 1992.*

**CHAPTER 2 - DIVISION OF HIGHWAYS**

**SUBCHAPTER 2B - HIGHWAY PLANNING**

**.0309 SOURCE AND PURPOSE - PL FUNDS**

The North Carolina Department of Transportation is responsible for administering the Metropolitan Planning Funds established by the 1973 Federal-Aid Highway Act. These funds are for the purpose of carrying out the provisions of 23 U.S.C. 134, relating to transportation planning in urban areas. Funds are apportioned to the state in the ratio which the population in urbanized areas bears to the total population in such urbanized areas in all the states as shown by the latest available census. Inquiries about these funds should be directed to Manager of ~~Planning and Research~~, Statewide Planning, North Carolina Division of Highways, Raleigh, 27611.

*Authority 23 U.S.C. 104(f); 23 U.S.C. 134; G.S. 136-18(12); 143B-350(f),(g).*

**.0312 MATCHING - PL FUNDS**

The federal share payable on account of work performed using PL funds shall be ~~85~~ 80 percent. The remaining ~~15~~ 20 percent is local money provided by the urbanized area and may be in the form of "like work."

*Authority 23 U.S.C. 104(f); 23 U.S.C. 134; G.S. 136-18(12); 143B-350(f),(g).*

**TITLE 21 - OCCUPATIONAL  
LICENSING BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. State Board of Cosmetic Art Examiners intends to adopt rule cited as 21 NCAC 14H .0019.*

*The proposed effective date of this action is February 1, 1993.*

*The public hearing will be conducted at 1:00 p.m. on December 14, 1992 at the Grove Towers, 5th Floor, 1110 Navaho Dr., Raleigh, N.C. 27609.*

*Reason for Proposed Action: To keep records up-to-date.*

*Comment Procedures: The record shall be open*

for 30 days to receive written comments. Written comments should be received by the N.C. State Board of Cosmetic Art Examiners by December 10, 1992, to be considered as part of the hearing record. Comments should be addressed to Vicky R. Goudie, Executive Secretary, N.C. State Board of Cosmetic Art Examiners, 1110 Navaho Dr., Raleigh, N.C. 27609. Requests to speak must be in writing and received by December 8, 1992 prior to hearing. Speaking time 10 minutes.

## CHAPTER 14 - BOARD OF COSMETIC ART EXAMINERS

### SUBCHAPTER 14H - SANITATION

#### .0019 NOTICE TO BOARD

(a) Each cosmetologist, apprentice cosmetologist, manicurist, cosmetology teacher, and manicurist teacher shall notify the Board within 10 days of each change in the licensee's residence or place of business. Notice shall be given in one of the following ways:

- (1) by depositing written notice in the United States mail with the correct address and postage;
- (2) by personally delivering written notice to the Board's offices;
- (3) by telephone or fax transmission (followed by written notice that must be actually received in the Board's office within 30 days of the change).

(b) Each beauty establishment shall notify the Board within 10 days of the day any person licensed by the Board either begins work or ceases work in that beauty establishment. Notice may be given in any of the ways listed in Paragraph (a) of this Rule.

Statutory Authority G.S. 88-23; 88-29.

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

**Key:**

<i>Citation</i>	=	<i>Title, Chapter, Subchapter and Rule(s)</i>
<i>AD</i>	=	<i>Adopt</i>
<i>AM</i>	=	<i>Amend</i>
<i>RP</i>	=	<i>Repeal</i>
<i>With Chgs</i>	=	<i>Final text differs from proposed text</i>
<i>Eff. Date</i>	=	<i>Date rule becomes effective</i>
<i>Temp. Expires</i>	=	<i>Rule was filed as a temporary rule and expires on this date or 180 days</i>

**NORTH CAROLINA ADMINISTRATIVE CODE**

**JUNE, JULY, AUGUST, SEPTEMBER 1992**

<b>TITLE</b>	<b>DEPARTMENT</b>	<b>TITLE</b>	<b>DEPARTMENT</b>
1	Administration	21	Occupational Licensing Boards
2	Agriculture	8 -	CPA Examiners
4	Economic and Community Development	12 -	General Contractors
5	Correction	14 -	Cosmetic Art Examiners
10	Human Resources	17 -	Dietetics/Nutrition
11	Insurance	19 -	Electrolysis
12	Justice	34 -	Mortuary Science
13	Labor	36 -	Nursing
15A	Environment, Health, and Natural Resources	46 -	Pharmacy
16	Education	64 -	Speech and Language Pathologists and Audiologists
17	Revenue	24	Independent Agencies
18	Secretary of State	1 -	Housing Finance
19A	Transportation	25	Personnel
		26	Administrative Hearings

<b>Citation</b>	<b>AD</b>	<b>AM</b>	<b>RP</b>	<b>With Chgs</b>	<b>Eff. Date</b>	<b>Temp. Expires</b>
1 NCAC 4G .0223	■				08/01/92	
38 .0101 - .0105	■			■	10/01/92	
.0201 - .0204	■			■	10/01/92	
.0206 - .0207	■			■	10/01/92	
.0301 - .0308	■			■	10/01/92	
.0401 - .0411	■			■	10/01/92	

**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
			.0501 - .0502	■			■	10/01/92	
1	NCAC	38	.0601 - .0603	■			■	10/01/92	
2	NCAC	34	.0101		■			08/03/92	
			.0102		■		■	08/03/92	
			.0302		■		■	08/03/92	
			.0313		■		■	08/03/92	
			.0318		■		■	08/03/92	
			.0329	■				08/03/92	
			.0407 - .0408	■			■	08/03/92	
			.0601		■			08/03/92	
			.0602		■		■	08/03/92	
			.0604 - .0605		■		■	08/03/92	
			.1001		■			08/03/92	
			.1201		■			08/03/92	
			.1206		■			08/03/92	
42			.0102		■		■	09/01/92	
			.0201		■		■	09/01/92	
			.0801	■			■	09/01/92	
			.0802 - .0803	■				09/01/92	
			.0804	■			■	09/01/92	
			.0805 - .0806	■				09/01/92	
4	NCAC	1K	.0101 - .0105	■				07/20/92	180 DAYS
			.0201 - .0206	■				07/20/92	180 DAYS
			.0301 - .0302	■				07/20/92	180 DAYS
			.0401 - .0403	■				07/20/92	180 DAYS
2R			.0702		■			07/06/92	
			.1205			■		07/01/92	
2S			.0503		■			07/06/92	
19L			.1401 - .1405			■		07/20/92	180 DAYS
19S			.0102	■				07/17/92	180 DAYS
			.0105	■				07/17/92	180 DAYS
			.0601 - .0603	■				07/17/92	180 DAYS
5	NCAC	2D	.0307		■		■	10/01/92	



**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
			.0309		■		■	10/01/92	
5	NCAC	2F	.1504 - .1506		■			08/03/92	
10	NCAC	3B	.0801 - .0802	■				08/03/92	
			.0803 - .0804	■			■	08/03/92	
			.0805	■				08/03/92	
			.0806	■			■	08/03/92	
	3H		.0108		■		■	08/03/92	
			.0221	■				08/03/92	
			.0315		■			08/03/92	
			.0705		■		■	08/03/92	
			.0709		■		■	08/03/92	
	3R		.3001	■				05/31/92	180 DAYS
			.3010	■				05/31/92	180 DAYS
			.3020	■				05/31/92	180 DAYS
			.3020		■			07/23/92	180 DAYS
			.3030	■				05/31/92	180 DAYS
			.3030		■			07/23/92	180 DAYS
			.3040	■				05/31/92	180 DAYS
	14C		.1007			■		10/01/92	
			.1009			■		10/01/92	
			.1010		■		■	10/01/92	
			.1014		■			10/01/92	
	14K		.0103		■		■	08/03/92	
			.0210		■			08/03/92	
			.0315		■			08/03/92	
	14M		.0410		■			08/03/92	
			.0704		■			07/01/92	
	22Q		.0101 - .0102	■				08/03/92	
			.0103		■		■	08/03/92	
			.0202	■				08/03/92	
	22R		.0101	■				08/03/92	
			.0201 - .0203	■				08/03/92	
			.0301	■				09/01/92	

**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
			.0302	■			■	08/03/92	
10	NCAC	25	.0102		■		■	08/03/92	
		26B	.0122	■			■	10/01/92	
			.0201		■		■	10/01/92	
			.0206 - .0207		■		■	10/01/92	
		26D	.0008			■		10/01/92	
			.0016		■			09/15/92	180 DAYS
		26H	.0102		■			07/01/92	12/31/92
			.0303		■			07/01/92	12/31/92
			.0601 - .0602		■			10/01/92	
			.0605		■			10/01/92	
		26M	.0101 - .0102	■				08/03/92	
			.0103 - .0105	■			■	08/03/92	
			.0201	■				08/03/92	
			.0202	■			■	08/03/92	
			.0203	■				08/03/92	
		42C	.2303		■			08/03/92	
		46D	.0301	■			■	07/01/92	
			.0302 - .0303	■				07/01/92	
			.0304 - .0306	■			■	07/01/92	
		50A	.0305		■		■	09/01/92	
		50B	.0402		■		■	09/01/92	
11	NCAC	1	.0103		■		■	07/01/92	
			.0106			■		08/03/92	
			.0201		■			07/01/92	
			.0203			■		07/01/92	
			.0204		■			07/01/92	
			.0209	■				07/01/92	
			.0301		■			07/01/92	
			.0401		■			07/01/92	
			.0402			■		08/03/92	
			.0403		■			07/01/92	
			.0405			■		07/01/92	

**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
			.0407 - .0411			■		07/01/92	
11	NCAC	1	.0413 - .0414	■			■	07/01/92	
			.0415 - .0425	■				07/01/92	
			.0426	■			■	08/03/92	
			.0427 - .0430	■				07/01/92	
			.0603		■			07/01/92	
5A			.0501 - .0504		■			07/01/92	
			.0505		■		■	07/01/92	
			.0507		■			07/01/92	
			.0508		■		■	08/03/92	
			.0510		■			07/01/92	
8			.0602		■		■	10/01/92	
			.0911	■				07/01/92	
10			.0601			■		07/01/92	
			.0602 - .0603		■		■	08/03/92	
			.1601		■		■	07/01/92	
12			.0820		■		■	08/03/92	
			.0821 - .0822		■			08/03/92	
			.0824		■			08/03/92	
			.0830		■		■	08/03/92	
17			.0001 - .0006	■				07/01/92	
18			.0001	■				07/01/92	
			.0002	■			■	08/03/92	
			.0003	■				07/01/92	
			.0004	■			■	08/03/92	
			.0005 - .0015	■				07/01/92	
			.0016	■			■	08/03/92	
			.0017 - .0018	■				07/01/92	
12	NCAC	4F	.0601		■		■	10/01/92	
			.0602	■			■	10/01/92	
			.0603	■				10/01/92	
			.0604	■			■	10/01/92	
11			.0202		■			08/03/92	

**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
13	NCAC	7C	.0101		■			06/22/92	
13	NCAC	7C	.0101		■			08/26/92	
			.0101		■			09/04/92	
			.0102		■			08/26/92	
15A	NCAC	1J	.0102		■			07/01/92	
			.0204		■			07/24/92	
			.0301		■			07/01/92	
			.0302		■			07/24/92	
			.0304		■			07/01/92	
			.0401		■			07/01/92	
			.0701		■			07/24/92	
			.0702 - .0703		■			07/01/92	
			.0803		■		■	07/01/92	
			.0902 - .0904		■			07/01/92	
			.0905	■				07/01/92	
			.1002		■			07/01/92	
2B			.0302 - .0311		■		■	08/03/92	
			.0313		■		■	08/03/92	
			.0315 - .0317		■		■	08/03/92	
2D			.0524 - .0525		■		■	07/01/92	
			.0538	■			■	09/01/92	
			.1002		■			07/01/92	
			.1104		■		■	09/01/92	
			.1301 - .1304	■				09/01/92	
			.1305	■			■	09/01/92	
2G			.0601 - .0602	■			■	09/01/92	
2H			.0101		■			08/03/92	
			.0103		■		■	08/03/92	
			.0126		■		■	08/03/92	
			.0138		■			08/03/92	
			.0610		■		■	09/01/92	
			.1203		■			08/03/92	
			.1205		■			08/03/92	



**LIST OF RULES CODIFIED**

Citation	AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
.1206	■			■	08/03/92	
15A NCAC 2L .0106		■		■	09/01/92	
.0202		■		■	09/01/92	
2M .0102		■			07/01/92	
.0303		■		■	07/01/92	
.0602 - .0604		■			07/01/92	
.0701 - .0702		■			07/01/92	
2N .0707		■		■	09/01/92	
2O .0101 - .0103	■				07/01/92	
.0201 - .0204	■			■	07/01/92	
.0301	■				07/01/92	
.0302	■			■	08/03/92	
.0303 - .0307	■				07/01/92	
.0308	■			■	07/01/92	
.0309 - .0310	■				07/01/92	
.0401	■				07/01/92	
.0402	■			■	07/01/92	
.0501 - .0502	■				07/01/92	
.0503	■			■	07/01/92	
.0504	■				07/01/92	
3I .0011		■		■	10/01/92	
.0013	■				10/01/92	
3J .0301		■		■	10/01/92	
3K .0206	■			■	10/01/92	
3M .0501		■		■	10/01/92	
.0509	■				10/01/92	
3O .0204 - .0205		■			10/01/92	
.0208		■		■	10/01/92	
.0211	■			■	10/01/92	
3R .0008		■		■	10/01/92	
6E .0007		■		■	07/01/92	
7H .0208 - .0209		■			08/03/92	
.0302		■			10/01/92	

Citation	AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
.0303		■		■	10/01/92	
15A NCAC 7H .0306		■		■	06/19/92	
.0306		■			10/01/92	
.0308		■			08/03/92	
.0601		■			10/01/92	
.0602		■		■	10/01/92	
.0603		■			10/01/92	
.0605		■			10/01/92	
7M .1101	■				10/01/92	
.1102	■			■	10/01/92	
10B .0203		■			07/01/92	
.0209		■			07/01/92	
.0305		■			07/01/92	
10C .0205		■		■	10/01/92	
.0305		■			10/01/92	
10D .0003		■			07/01/92	
10E .0004		■		■	09/01/92	
10F .0307		■			10/01/92	
.0318		■			10/01/92	
.0355		■			10/01/92	
11 .0352		■		■	10/01/92	
13A .0001		■			10/01/92	
.0009		■		■	10/01/92	
.0010		■			10/01/92	
13B .1204		■		■	10/01/92	
16A .0109		■			07/06/92	01/02/93
.0109		■		■	10/01/92	
.0401		■			09/18/92	180 DAYS
.0402 - .0412			■		09/18/92	180 DAYS
.0413 - .0427	■				09/18/92	180 DAYS
18A .0101 - .0132			■		10/01/92	
.0135	■			■	10/01/92	
.0136 - .0138	■				10/01/92	

**LIST OF RULES CODIFIED**

Citation	AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
.0139 - .0182	■			■	10/01/92	
15A NCAC 18A .1016		■		■	10/01/92	
.2509		■		■	07/01/92	
.2513		■			07/01/92	
.2518		■		■	07/01/92	
.2520			■		07/01/92	
.2522		■			07/01/92	
.2523 - .2524		■		■	07/01/92	
.2526		■			07/01/92	
.2528		■			07/01/92	
.2530		■		■	07/01/92	
.2532		■			07/01/92	
.2535		■		■	07/01/92	
.2537	■			■	07/01/92	
.2538	■				05/01/93	
.2607		■			07/01/92	
.2610		■		■	07/01/92	
.2624		■			07/01/92	
.2710		■			07/01/92	
.2822		■		■	07/23/92	
.2824 - .2825		■			07/23/92	
.2832		■		■	07/23/92	
.3101		■		■	07/01/92	
18C .0403		■		■	07/01/92	
.1507		■		■	10/01/92	
.1607		■			10/01/92	
.1614		■			10/01/92	
18D .0105		■			08/03/92	
.0201		■		■	08/03/92	
.0203		■		■	08/03/92	
.0205		■		■	08/03/92	
.0301		■			08/03/92	
.0304		■			08/03/92	

*LIST OF RULES CODIFIED*

Citation	AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
.0307	■			■	08/03/92	
15A NCAC 18D .0403		■		■	08/03/92	
19A .0201		■			10/01/92	
.0202		■		■	10/01/92	
.0206 - .0207	■			■	10/01/92	
.0502		■			08/26/92	
.0503			■		08/26/92	
15A NCAC 19A .0701 transferred and recodified to 15A NCAC 16A .1001					08/10/92	
19H .0401		■			07/01/92	
.0402		■			09/01/92	
.0403		■			07/01/92	
.0601		■		■	07/01/92	
.0903		■			07/01/92	
21A .0819		■			07/01/92	
21B .0303		■			07/01/92	
21C .0201 - .0207			■		10/01/92	
24A .0402		■			07/06/92	01/02/93
.0402		■			10/01/92	
.0403		■			07/06/92	01/02/93
.0403		■			10/01/92	
24C .0001	■				07/01/92	
25 .0213		■			10/01/92	
16 NCAC 6B .0004		■		■	07/01/92	
6C .0402		■			07/01/92	
17 NCAC 5C .2501 - .2504			■		10/01/92	
6B .0107		■			10/01/92	
.0115 - .0117		■			10/01/92	
.0612	■				09/01/92	
.3406		■			10/01/92	
9G .0107		■			09/01/92	
9H .0105		■			09/01/92	
.0208		■			08/03/92	



**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
			.0305		■			08/03/92	
18	NCAC	8	.1101	■			■	08/03/92	
			.1102	■				08/03/92	
			.1103	■			■	08/03/92	
			.1104	■				08/03/92	
19A	NCAC	3B	.0801	■				07/01/92	
		3D	.0515		■			07/01/92	
			.0801		■			07/01/92	
			.0801		■		■	08/03/92	
21	NCAC	8A	.0301		■			09/01/92	
		8G	.0101		■			09/01/92	
			.0102		■			10/01/92	
		8H	.0001		■			09/01/92	
		12	.0408		■		■	09/01/92	
			.0503		■			09/01/92	
		14L	.0105		■			08/03/92	
		17	.0012	■			■	08/03/92	
			.0014	■			■	07/01/92	
			.0016	■				07/16/92	180 DAYS
		19	.0301 - .0302	■				08/03/92	
			.0303	■			■	08/03/92	
21	NCAC	34C	.0201					07/07/92	
21	NCAC	34C	.0202						
21	NCAC	34C	.0202					07/07/92	
21	NCAC	34C	.0201						
		36	.0203		■			08/03/92	
			.0211		■			08/03/92	
			.0218		■			08/03/92	
			.0219		■		■	08/03/92	
			.0223		■		■	10/01/92	
			.0325	■				10/01/92	
		46	.1806		■		■	07/01/92	

**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
	64		.0208	■				10/01/92	
24	NCAC	1N	.0201	■				07/01/92	
24	NCAC	1N	.0202	■				08/03/92	
			.0203 - .0204	■				07/01/92	
25	NCAC	1A	.0006		■			08/03/92	
	1C		.0501 - .0504		■			10/01/92	
	1E		.0804		■		■	10/01/92	
			.0806 - .0807		■			10/01/92	
			.0810 - .0811			■		10/01/92	
			.0812		■			10/01/92	
			.0813			■		10/01/92	
			.0815		■			10/01/92	
			.0817 - .0819		■			10/01/92	
			.0820	■				10/01/92	
			.1301 - .1306		■		■	09/01/92	
			.1307			■		08/03/92	
	1H		.0602		■		■	08/03/92	
			.0603			■		08/03/92	
			.0616 - .0617		■			08/03/92	
			.0621		■			08/03/92	
	1I		.0102			■		08/03/92	
			.0201 - .0206			■		08/03/92	
			.0302 - .0316			■		08/03/92	
			.0401 - .0402			■		08/03/92	
			.0501 - .0511			■		08/03/92	
			.0601 - .0606			■		08/03/92	
			.0701 - .0708			■		08/03/92	
			.1001 - .1002			■		08/03/92	
			.1005			■		08/03/92	
			.1007			■		08/03/92	
			.1009 - .1013			■		08/03/92	
			.1103			■		08/03/92	
25	NCAC	1I	.1201 - .1204			■		08/03/92	

**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
.1206 - .1210						■		08/03/92	
.1315						■		08/03/92	
.1402 - .1403						■		08/03/92	
.1405 - .1413						■		08/03/92	
.1501 - .1508						■		08/03/92	
.1601 - .1603						■		08/03/92	
.1701				■				08/03/92	
.1702				■			■	09/01/92	
.1703 - .1704				■				08/03/92	
.1801 - .1806				■				08/03/92	
.1901				■				08/03/92	
.1902				■			■	08/03/92	
.1903				■			■	09/01/92	
.1904 - .1905				■				08/03/92	
.2001 - .2005				■				08/03/92	
.2101 - .2107				■				08/03/92	
.2201				■				08/03/92	
.2301				■				08/03/92	
.2302				■			■	08/03/92	
.2303 - .2308				■				08/03/92	
.2401 - .2406				■			■	09/01/92	
.2407 - .2410				■			■	10/01/92	
1J	.1005			■				08/03/92	
26	NCAC	2A	.0211		■			07/01/92	
		2B	.0103		■			07/01/92	
3			.0001		■			07/01/92	

*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).*

## **ADMINISTRATION**

### **Motor Fleet Management Division**

<i>1 NCAC 38 .0205 - Accident Reporting</i>	<i>RRC Objection 09/17/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/15/92</i>

## **AGRICULTURE**

### **Structural Pest Control Division**

<i>2 NCAC 34 .0406 - Spill Control</i>	<i>RRC Objection 07/16/92</i>
<i>Agency Responded</i>	<i>No Action 08/20/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/15/92</i>
<i>2 NCAC 34 .0603 - Waivers</i>	<i>RRC Objection 07/16/92</i>
<i>Agency Responded</i>	<i>No Action 08/20/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/15/92</i>
<i>2 NCAC 34 .0902 - Financial Responsibility</i>	<i>RRC Objection 07/16/92</i>
<i>Agency Responded</i>	<i>No Action 08/20/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/15/92</i>

## **ECONOMIC AND COMMUNITY DEVELOPMENT**

### **Community Assistance**

<i>4 NCAC 19S .0101 - Overview and Purpose</i>	<i>RRC Objection 10/15/92</i>
<i>4 NCAC 19S .0102 - Definition</i>	<i>RRC Objection 10/15/92</i>
<i>4 NCAC 19S .0103 - Waiver</i>	<i>RRC Objection 10/15/92</i>
<i>4 NCAC 19S .0202 - Prohibited Costs</i>	<i>RRC Objection 10/15/92</i>
<i>4 NCAC 19S .0401 - Distribution of Funds</i>	<i>RRC Objection 10/15/92</i>
<i>4 NCAC 19S .1101 - Grant Agreement</i>	<i>RRC Objection 10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/15/92</i>

## **ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

### **Departmental Rules**

<i>15A NCAC 1J .0204 - Loans from Emergency Revolving Loan Accounts</i>	<i>RRC Objection 06/18/92</i>
<i>15A NCAC 1J .0302 - General Provisions</i>	<i>RRC Objection 06/18/92</i>
<i>15A NCAC 1J .0701 - Public Necessity: Health: Safety and Welfare</i>	<i>RRC Objection 06/18/92</i>

### **Environmental Management**

<i>15A NCAC 2H .0801 - Purpose</i>	<i>RRC Objection 10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/15/92</i>
<i>15A NCAC 2H .0803 - Definitions</i>	<i>RRC Objection 10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/15/92</i>
<i>15A NCAC 2H .0805 - Certification and Renewal of Certification</i>	<i>RRC Objection 10/15/92</i>



<i>Agency Revised Rule</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>15A NCAC 2L .0107 - Compliance Boundary</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/15/92</i>
<i>15A NCAC 2O .0302 - Self Insurance</i>	<i>RRC Objection</i>	<i>06/18/92</i>

**Wildlife Resources and Water Safety**

<i>15A NCAC 10I .0001 - Definitions</i>	<i>RRC Objection</i>	<i>10/15/92</i>
---	----------------------	-----------------

**HUMAN RESOURCES****Facility Services**

<i>10 NCAC 3R .3001 - Certificate of Need Review Categories</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/15/92</i>

**Individual and Family Support**

<i>10 NCAC 42C .3601 - Administrative Penalty Determination Process</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/15/92</i>
<i>10 NCAC 42T .0001 - Definitions</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>10 NCAC 42T .0006 - Service Delivery</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>Agency Revised Rule</i>	<i>RRC Objection</i>	<i>10/15/92</i>

**Mental Health: General**

<i>10 NCAC 14C .1115 - Funding Group Homes for Mentally Retarded Adults</i>	<i>RRC Objection</i>	<i>08/20/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/15/92</i>
<i>10 NCAC 14K .0216 - Waiver of Licensure Rules</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/15/92</i>
<i>10 NCAC 14T .0101 - Scope</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/15/92</i>
<i>10 NCAC 14T .0103 - Advance Care Directives</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/15/92</i>

**Mental Health: Other Programs**

<i>10 NCAC 18D .0117 - Purpose and Scope</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/15/92</i>

**INDEPENDENT AGENCIES****N.C. Housing Finance Agency**

<i>24 NCAC 1M .0202 - Eligibility</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0204 - Selection Procedures</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0205 - Administration</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0206 - Program Fees</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0301 - Goal and Objectives</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0302 - Eligibility Requirements</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0303 - Threshold Review Criteria</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0306 - Funding Commitment</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0401 - Goals and Objectives</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0402 - Eligibility Requirements</i>	<i>RRC Objection</i>	<i>10/15/92</i>
<i>24 NCAC 1M .0403 - Threshold Review Criteria</i>	<i>RRC Objection</i>	<i>10/15/92</i>

---

24 NCAC 1M .0404 - Ranking Criteria	RRC Objection	10/15/92
24 NCAC 1M .0405 - Agency Board Approval	RRC Objection	10/15/92
24 NCAC 1O .0101 - Purpose	RRC Objection	10/15/92
24 NCAC 1O .0102 - Eligibility	RRC Objection	10/15/92
24 NCAC 1O .0201 - Application Procedures	RRC Objection	10/15/92
24 NCAC 1O .0202 - Selection Procedures	RRC Objection	10/15/92
24 NCAC 1O .0203 - Administration	RRC Objection	10/15/92

## **INSURANCE**

### **Multiple Employer Welfare Arrangements**

11 NCAC 18 .0019 - Description of Forms	RRC Objection	06/18/92
---	---------------	----------

### **Seniors' Health Insurance Information Program**

11 NCAC 17 .0005 - SHIP Inquiries to Insurers and Agents	RRC Objection	06/18/92
--	---------------	----------

## **JUSTICE**

### **General Statutes Commission**

12 NCAC 8 .0506 - Declaratory Rulings	RRC Objection	10/15/92
---------------------------------------	---------------	----------

## **LABOR**

### **Occupational Safety and Health Act**

13 NCAC 7C .0108 - Building Code	RRC Objection	09/17/92
Rule Returned to Agency		10/15/92
Agency Filed Rule with OAH		Eff. 10/22/92
13 NCAC 7C .0109 - Fire Prevention Code	RRC Objection	09/17/92
Rule Returned to Agency		10/15/92
Agency Filed Rule with OAH		Eff. 10/22/92

## **LICENSING BOARDS AND COMMISSIONS**

### **Professional Engineers and Land Surveyors**

21 NCAC 56 .0501 - Requirement for Licensing	RRC Objection	10/15/92
Agency Revised Rule	Obj. Removed	10/15/92
21 NCAC 56 .0502 - Application Procedure: Individual	RRC Objection	10/15/92
Agency Revised Rule	Obj. Removed	10/15/92
21 NCAC 56 .0701 - Rules of Professional Conduct	RRC Objection	10/15/92
Agency Revised Rule	Obj. Removed	10/15/92
21 NCAC 56 .1603 - Classification of Surveys	RRC Objection	10/15/92
Agency Revised Rule	Obj. Removed	10/15/92
21 NCAC 56 .1604 - Mapping Requirements	RRC Objection	10/15/92
Agency Revised Rule	Obj. Removed	10/15/92
21 NCAC 56 .1605 - Classification of Topographic Surveys	RRC Objection	10/15/92
Agency Revised Rule	Obj. Removed	10/15/92

## **REVENUE**

### **Individual Income, Inheritance and Gift Tax Division**

17 NCAC 3B .0401 - Penalties

RRC Objection 08/20/92

17 NCAC 3B .0402 - Interest

RRC Objection 08/20/92

#### **Individual Income Tax Division**

17 NCAC 6B .0107 - Extensions

RRC Objection 08/20/92

17 NCAC 6B .0115 - Additions to Federal Taxable Income

RRC Objection 08/20/92

17 NCAC 6B .0116 - Deductions from Federal Taxable Income

RRC Objection 08/20/92

17 NCAC 6B .0117 - Transitional Adjustments

RRC Objection 08/20/92

17 NCAC 6B .3406 - Refunds

RRC Objection 08/20/92

#### **TRANSPORTATION**

##### **Division of Highways**

19A NCAC 2B .0164 - Use of Right of Way Consultants

RRC Objection 09/17/92

Agency Revised Rule

Obj. Removed 10/15/92

19A NCAC 2B .0165 - Asbestos Contracts with Private Firms

RRC Objection 08/20/92

Agency Revised Rule

Obj. Removed 10/15/92

*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.*

**1 NCAC 5A .0010 - ADMINISTRATIVE PROCEDURES**

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared two portions of Rule 1 NCAC 5A .0010 void as applied in *Stauffer Information Systems, Petitioner v. The North Carolina Department of Community Colleges and The North Carolina Department of Administration, Respondent and The University of Southern California, Intervenor-Respondent* (92 DOA 0666).

**15A NCAC 19A .0202(d)(10) - CONTROL MEASURES - HIV**

Brenda B. Becton, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 19A .0202(d)(10) void as applied in *ACT-UP TRIANGLE (AIDS Coalition to Unleash Power Triangle), Steven Harris, and John Doe, Petitioners v. Commission for Health Services of the State of North Carolina, Ron Levine, as Assistant Secretary of Health and State Health Director for the Department of Environment, Health, and Natural Resources of the State of North Carolina, William Cobey, as Secretary of the Department of Environment, Health, and Natural Resources of the State of North Carolina, Dr. Rebecca Meriwether, as Chief, Communicable Disease Control Section of the North Carolina Department of Environment, Health, and Natural Resources, Wayne Bobbitt Jr., as Chief of the HIV/STD Control Branch of the North Carolina Department of Environment, Health, and Natural Resources, Respondents* (91 EHR 0818).



*This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.*

### KEY TO CASE CODES

ABC	Alcoholic Beverage Control Commission	DST	Department of State Treasurer
BDA	Board of Dental Examiners	EDC	Department of Public Instruction
BME	Board of Medical Examiners	EHR	Department of Environment, Health, and Natural Resources
BMS	Board of Mortuary Science	ESC	Employment Security Commission
BOG	Board of Geologists	HAF	Hearing Aid Dealers and Fitters Board
BON	Board of Nursing	HRC	Human Relations Committee
BOO	Board of Opticians	IND	Independent Agencies
CFA	Commission for Auctioneers	INS	Department of Insurance
COM	Department of Economic and Community Development	LBC	Licensing Board for Contractors
CPS	Department of Crime Control and Public Safety	MLK	Milk Commission
CSE	Child Support Enforcement	NHA	Board of Nursing Home Administrators
DAG	Department of Agriculture	OAH	Office of Administrative Hearings
DCC	Department of Community Colleges	OSP	Office of State Personnel
DCR	Department of Cultural Resources	PHC	Board of Plumbing and Heating Contractors
DCS	Distribution Child Support	POD	Board of Podiatry Examiners
DHR	Department of Human Resources	SOS	Department of Secretary of State
DOA	Department of Administration	SPA	Board of Examiners of Speech and Language Pathologists and Audiologists
DOJ	Department of Justice	WRC	Wildlife Resources Commission
DOL	Department of Labor		
DSA	Department of State Auditor		

CASE NAME	CASE NUMBER	ALJ	FILED DATE
Anne R. Gwaltney, Milton H. Askew, Jr. and Anna L. Askew v. EHR and Pamlico County Health Department	89 DHR 0699	Reilly	07/17/92
Eleanor R. Edgerton-Taylor v. Cumberland County Department of Social Services	89 OSP 1141	Morrison	08/18/92
Annette Carlton v. Cleveland County Department of Social Services	90 OSP 0024	Chess	08/14/92
Janice Parker Haughton v. Halifax County Mental Health, Mental Retardation, Substance Abuse Program	90 OSP 0221	West	08/18/92

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Carolina Water Service, Inc. v. EHR, Division of Environmental Management	90 EHR 0415	West	09/11/92
CSX Transportation, Inc. v. Department of Environment, Health, & Natural Resources	90 EHR 0628	Reilly	07/17/92
Bruce Keeter v. Beaufort County Health Department	90 EHR 0666	Morgan	07/28/92
R. Anthony White v. Department of Human Resources	90 CSE 0756	Morgan	10/05/92
Christine Hill v. Crime Victims Compensation Commission	90 CPS 0876	Morgan	08/24/92
Tommy D. Hunt v. Department of Correction	90 OSP 1011	Morgan	10/05/92
Cherokee Resources, Inc. v. EHR, Division of Environmental Management	90 EHR 1075	West	10/19/92
Leslie W. Hall v. EHR, Division of Marine Fisheries	90 EHR 1397	Gray	10/13/92
JHY Concord, Inc. v. Department of Labor	90 DOL 1421	Morgan	07/28/92
Lick Fork Hills, Inc., Marion Bagwell, President v. Department of Environment, Health, & Natural Resources	91 EHR 0023	Morgan	07/28/92
Albert J. Johnson v. N.C. Victims Compensation Commission	91 CPS 0038	Morgan	07/28/92
Frank Beal, T/A Wild Wild West v. Alcoholic Beverage Control Commission	91 ABC 0164	Morgan	09/10/92
William B. Holden v. Department of Environment, Health, & Natural Resources	91 EHR 0176	Morgan	08/18/92
Brenda P. Price v. North Carolina Central University	91 OSP 0219	Morrison	08/21/92

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Century Care of Laurinburg, Inc. v. DHR, Division of Facility Services, Licensure Section	91 DHR 0257	West	06/30/92
Kenneth E. Fletcher v. University of North Carolina at Greensboro	91 OSP 0315	Chess	09/15/92
Richard L. Gainey v. Department of Justice	91 OSP 0341	Becton	08/10/92
Wade Charles Brown, Jr. v. N.C. Crime Victims Compensation Commission	91 CPS 0345	Chess	07/08/92
Jackie Bruce Edwards v. DHR, Western Carolina Center	91 OSP 0354	West	08/20/92
Central Transport, Inc. v. Department of Environment, Health, & Natural Resources	91 EHR 0402	Morrison	09/25/92
Robert C. Howell v. Department of Correction	91 OSP 0407	Morgan	08/26/92
Harvey Fertilizer and Gas Company v. EHR, Division of Environmental Management	91 EHR 0446	Morgan	10/01/92
Charles E. Roe v. Department of Environment, Health, & Natural Resources	91 OSP 0520	Nesnow	07/23/92
Jerry J. Parker v. Department of Correction	91 OSP 0546	Morgan	08/26/92
Deborah Binkley v. Crime Victims Compensation Commission	91 CPS 0561	Morgan	10/02/92
Air-A-Plane Corporation v. Department of Environment, Health, & Natural Resources	91 EHR 0636	Nesnow	09/04/92
Lisa M. Reichstein v. Office of Student Financial Aid, East Carolina University	91 OSP 0662	Nesnow	06/24/92
Hudson's "The Acres" Rest Home v. DHR, Division of Facility Services, Licensure Section	91 DHR 0665	Chess	09/09/92

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Bobby R. Graham v. DHR, Caswell Center	91 OSP 0695	Nesnow	09/21/92
DHR, Division of Facility Svcs. Child Day Care Section v. Mary Goodwin, Jean Dodd, D/B/A Capital City Day Care Center	91 DHR 0720	Morgan	07/30/92
Kenneth Helms v. Department of Human Resources	91 OSP 0729	Chess	07/15/92
Lloyd C. Neely v. Department of Correction	91 OSP 0756	Morgan	09/10/92
Alcoholic Beverage Control Commission v. Daniels Investments, Inc., t/a Leather & Lace - East 4205 Monroe Road, Charlotte, N.C. 28205	91 ABC 0799	Mann	07/14/92
Zelma Babson v. Brunswick County Health Department	91 OSP 0804	Gray	08/14/92
ACT-UP Triangle (AIDS Coalition to Unleash Power Triangle, Steven Harris, and John Doe v. Commission for Health Services of the State of N.C., Ron Levine, as Assistant Secretary of Health and State Health Director for EHR of the State of N.C., William Cobey, as Secretary of EHR of the State of N.C., Dr. Rebecca Meriwether, as Chief, Communicable Disease Control Section of the N.C. EHR, Wayne Bobbitt, Jr., as Chief of the HIV/STD Control Branch of the N.C.EHR	91 EHR 0818	Becton	07/08/92
Jane C. O'Malley, Melvin L. Cartwright v. EHR and District Health Department Pasquotank-Perquimans-Camden-Chowan	91 EHR 0838	Becton	07/02/92
Cheryl Veronica McNeal v. Criminal Justice Education & Training Stds Comm	91 DOJ 0861	Morgan	09/22/92
Thomas E. Vass v. James E. Long, Department of Insurance	91 INS 0876	Morrison	08/14/92
William Paul Fearington v. University of North Carolina at Chapel Hill	91 OSP 0905	Reilly	08/28/92



**CONTESTED CASE DECISIONS**

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Olde Towne Partnership and Tryon Realty Co. v. EHR, Division of Coastal Management	91 EHR 0909	Morrison	09/16/92
Gerald R. Pruitt v. Department of Correction	91 OSP 0933	Gray	09/14/92
Jones Grading & Fencing, Inc. v. EHR, Solid Waste Management	91 EHR 0956 91 EHR 0324	Nesnow	09/28/92
Grotgen Nursing Home, Inc., Britthaven, Inc. v. Certificate of Need Section, Div of Facility Svcs, DHR	91 DHR 0964 91 DHR 0966	Nesnow	07/06/92
Ralph E. Brown v. Carla O'Konek, Department of Correction	91 OSP 0970	Morgan	10/07/92
Anthony J. Carter v. DHR, Division of Social Services, CSE	91 CSE 0975	Nesnow	09/17/92
Ramona S. Smith, R.N. v. N.C. Teachers'/St Emps' Comp Major Medical Plan	91 DST 0984	Chess	06/18/92
Jarrett Dennis Swearingin v. DHR, Division of Social Services, CSE	91 CSE 0986	Becton	09/14/92
Charles H. Yates, Power of Attorney for Ruth Yates v. N.C. Teachers'/St Emps' Comp Major Medical Plan	91 INS 1008	Reilly	08/21/92
John McMillan v. DHR, Division of Social Services, CSE	91 CSE 1009	Reilly	10/01/92
Walter McGlone v. DHR, Division of Social Services, CSE	91 CSE 1030	Morrison	07/13/92
William Oscar Smith v. DHR, Division of Social Services, CSE	91 CSE 1042	Gray	07/24/92
William Watson v. DHR, Division of Social Services, CSE	91 CSE 1047	Becton	07/08/92
Robert D. Daniels Jr. v. DHR, Division of Social Services, CSE	91 CSE 1048	Morrison	08/27/92

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Joseph L. Wilmer v. DHR, Division of Social Services, CSE	91 CSE 1049	Becton	10/20/92
Marie McNeill-Pridgen v. Department of Environment, Health, & Natural Resources	91 EHR 1059	Nesnow	07/17/92
Catawba Memorial Hospital v. DHR, Div of Facility Svcs, Certificate of Need Section and Frye Regional Medical Ctr, Inc. and Amireit (Frye), Inc. and Thoms Rehabilitation Hospital Health Services Corp. and Frye Regional Medical Ctr, Inc. and Amireit (Frye), Inc. v. DHR, Div of Facility Svcs, Certificate of Need Section and Thoms Rehabilitation Hospital Health Services Corp. and Catawba Memorial Hospital	91 DHR 1061           91 DHR 1087	Reilly	07/13/92
Edward R. Peele v. Sheriffs' Education & Training Strds. Commission	91 DOJ 1092	Morrison	08/18/92
Willie Turner v. DHR, Division of Social Services, CSE	91 CSE 1096	Morrison	10/23/92
Charles Lawton Roberts v. DHR, Division of Social Services, CSE	91 CSE 1097	Becton	09/14/92
William Torres v. Dept of Justice, Lacy H. Thornburg, Attorney General	91 DOJ 1098	Morrison	08/07/92
Wade A. Burgess v. DHR, Division of Social Services, CSE	91 CSE 1114	Gray	07/01/92
Devoux A. Olliver v. Department of Human Resources, O'Berry Center	91 OSP 1151	Gray	09/30/92
Sammie L. Anderson v. DHR, Division of Social Services, CSE	91 CSE 1155	Mann	09/01/92
Harry L. King v. Department of Transportation	91 OSP 1162	Morgan	07/13/92

**CONTESTED CASE DECISIONS**

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Bobby M. Siler v. DHR, Division of Social Services, CSE	91 CSE 1169	Morrison	10/12/92
Gilbert Lockhart v. DHR, Division of Social Services, CSE	91 CSE 1178	Morrison	07/30/92
Isaac H. Galloway v. DHR, Division of Social Services, CSE	91 CSE 1190	Reilly	06/30/92
Russell A. Barclift v. DHR, Division of Social Services, CSE	91 CSE 1207 92 CSE 0275	Reilly	06/30/92
Barnabas D. Frederick v. DHR, Division of Social Services, CSE	91 CSE 1216	Nesnow	09/15/92
Herman Edward Main II v. DHR, Division of Social Services, CSE	91 CSE 1225	Nesnow	07/07/92
Albert Louis Stoner III v. DHR, Division of Social Services, CSE	91 CSE 1244	Gray	07/01/92
James E. Greene v. DHR, Division of Social Services, CSE	91 CSE 1245	Nesnow	07/14/92
Joseph W. Harris v. DHR, Division of Social Services, CSE	91 CSE 1247	Morgan	07/28/92
Celvis M. Burns v. DHR, Division of Social Services, CSE	91 CSE 1256	Mann	09/01/92
Rodney Powell v. DHR, Division of Social Services, CSE	91 CSE 1257	Morgan	07/29/92
Miles G. Griffin Jr. v. DHR, Division of Social Services, CSE	91 CSE 1270	Gray	08/27/92
Gerald E. Anthony v. DHR, Division of Social Services, CSE	91 CSE 1274	Mann	09/01/92
Floyd L. Rountree v. DHR, Division of Social Services, CSE	91 CSE 1275	Morgan	07/22/92

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Ruth Smith Hensley Shondales v. ABC Commission	91 ABC 1280	Chess	08/05/92
William James Terry v. Victims Compensation Commission	91 CPS 1302	Morrison	10/02/92
Rasoul Behboudi v. DHR, Division of Social Services, CSE	91 CSE 1313	Morrison	09/15/92
John D. Gaines v. DHR, Division of Social Services, CSE	91 CSE 1321	Chess	10/05/92
City-Wide Asphalt Paving, Inc. v. Department of Environment, Health, & Natural Resources	91 EHR 1360	Chess	07/01/92
Alcoholic Beverage Control Commission v. Tre Three, Inc., T/A Crackers, Airport Rd., Rockingham, NC 28379	91 ABC 1372	Chess	07/07/92
Alcoholic Beverage Control Commission v. Rode Enterprises, Inc., T/A Jordan Dam Mini Mart	91 ABC 1388	Gray	07/30/92
Carol J. Brown-L 238-96-9304 for Joel A. Brown-M 350-70-9378 v. DHR, Division of Social Services, CSE	91 DHR 1397	Morrison	10/29/92
Blythe M. Bragg v. University of North Carolina at Chapel Hill	91 OSP 1421	Nesnow	09/08/92
David W. Williams v. DHR, Division of Social Services, CSE	91 CSE 1423	Morrison	09/10/92
Donald R. Allison v. DHR, Caswell Center	91 OSP 1427	Reilly	06/30/92
Alfred Rees v. Department of Environment, Health, & Natural Resources	92 EHR 0004	Reilly	09/03/92
Mrs. S. v. Washington County Board of Education	92 EDC 0023	Mann	08/28/92



**CONTESTED CASE DECISIONS**

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Rudolph Tripp v. Department of Correction	92 OSP 0024	Gray	08/27/92
Gonzalo Rodriquez T/A Gonzalo's Baile Mexicano 227 S. Scales Street, Reidsville, NC 27323 v. Alcoholic Beverage Control Commission	92 ABC 0026	Chess	10/01/92
Lavern Fesperman v. Mecklenburg County	92 OSP 0030	Chess	07/17/92
Vale B. Sims v. Winston-Salem State University	92 OSP 0031	Gray	10/13/92
Paul J. Nonkes v. Halifax County Health Dept. (Jeff Dillard, Sanitarian)	92 EHR 0058	Becton	08/28/92
Carrolton of Williamston, Inc. v. DHR, Division of Facility Services, Licensure Section	92 DHR 0071	Becton	08/19/92
Mattie S. Bryant v. Department of Transportation	92 OSP 0081	Reilly	10/07/92
Fred Jennings Moody Jr. v. Sheriffs' Education & Training Stds. Commission	92 DOJ 0084	Chess	07/17/92
Ronnie Lamont Donaldson v. Sheriffs' Education & Training Standards Commission	92 DOJ 0092	Reilly	07/27/92
Vernice V. Battle v. Sheriffs' Education & Training Standards Commission	92 DOJ 0093	Becton	08/28/92
Hudson's "The Acres" Rest Home v. DHR, Division of Facility Services, Licensure Section	92 DHR 0100	Chess	09/04/92
Marvin Helton, Jean Helton v. DHR, Division of Facility Services	92 DHR 0102	Chess	08/14/92
Leo Scott Wilson v. Department of Environment, Health, & Natural Resources	92 EHR 0112	Reilly	08/26/92
Ray Charles Ramsey D/B/A Triples Night Club v. Alcoholic Beverage Control Commission	92 ABC 0116 92 ABC 0360	West	10/12/92

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Peggy N. Barber v. The University of North Carolina at Chapel Hill	92 OSP 0120	Reilly	07/13/92
Luther Dawson Jr. v. DHR, Division of Facility Services	92 DHR 0121	Nesnow	10/09/92
Rodney A. Cranfill v. Dept of Labor, Division of Occupational Safety & Health	92 DOL 0122	Nesnow	10/22/92
Robert C. Thomas v. Sheriffs' Education & Training Stds. Commission	92 DOJ 0130	Chess	10/02/92
Alcoholic Beverage Control Commission v. John Wade Lewis, t/a Tasty Grill	92 ABC 0145	Nesnow	07/15/92
Licensing Board for General Contractors v. Wright's Construction, Inc. (Lic. No. 23065)	92 LBC 0172	Gray	07/31/92
Richard L. Banks v. Pasquotank-Perquimans-Camden-Chowan District Health Department (PPCC) & Department of Environment, Health, & Natural Resources	92 EHR 0175	West	08/25/92
America's Management Group, Inc. d/b/a America's Health Care of Nashville v. DHR, Division of Facility Services, Licensure Section	92 DHR 0183	West	10/06/92
Hudson's "The Acres" Rest Home v. DHR, Division of Facility Services, Licensure Section	92 DHR 0186	Chess	09/04/92
Ray Bryant v. Department of Labor, OSHA	92 DOL 0187	Nesnow	08/07/92
Herbert Hines Jr., H & H v. Alcoholic Beverage Control Commission	92 ABC 0189	Becton	07/22/92
William Stevenson v. Department of Correction	92 OSP 0201	Chess	09/03/92
Frances B. Billingsley v. Bd. of Trustees/Teachers & St Employees Retirement Sys	92 DST 0205	Morgan	08/18/92

**CONTESTED CASE DECISIONS**

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Glenn E. Myers v. Department of Correction	92 OSP 0217	Reilly	09/14/92
Lawrence Neal Murrill T/A Knox, 507 1st St SW, Hickory, NC 28602 v. Alcoholic Beverage Control Commission	92 ABC 0220	Chess	08/03/92
William Oats v. Elizabeth City State University	92 OSP 0226	Nesnow	10/09/92
Town of Denton v. Department of Environment, Health, & Natural Resources	92 EHR 0241	Reilly	07/30/92
Alcoholic Beverage Control Commission v. Byrum's of Park Road, Inc., T/A Byrum's Restaurant	92 ABC 0252	Gray	07/30/92
Alcoholic Beverage Control Commission v. Leo's Delicatessen #2, Inc., T/A Leo's #2	92 ABC 0255	Gray	07/30/92
North Topsail Water & Sewer, Inc. v. Department of Environment, Health, & Natural Resources	92 EHR 0266	Morrison	08/12/92
Raymond O. and Rita Halle, and the Town of Boone v. EHR, Division of Land Resources	92 EHR 0267 92 EHR 0376	Gray	09/18/92
James L. Stubbs v. Department of Correction	92 OSP 0282	Chess	10/02/92
Henry Thomas Tart v. DHR, Division of Social Services, CSE	92 CSE 0283	Nesnow	09/15/92
Virginia Devenny v. The University of North Carolina at Charlotte	92 OSP 0301	Reilly	09/22/92
Friends of Hatteras Island National Historic Maritime Forest Land Trust for Preservation, Inc. v. Coastal Resources Commission of the State of NC and Cape Hatteras Water Association, Inc.	92 EHR 0303	West	10/19/92

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Henry Lane, D/B/A Emerald Health Care Acute Care Ctr v. DHR, Div of Facility Services, Certificate of Need Section and Bowman-Richardson Health Care, Inc. D/B/A Wilkes Senior Village	92 DHR 0308	Gray	08/28/92
Azmi Sider, Midtown Mini Mart v. EHR, Division of Maternal and Child Health, WIC Section	92 EHR 0317	Nesnow	09/16/92
Gerald G. Strickland v. Crime Control and Public Safety	92 CPS 0320	Chess	09/10/92
Charles Wesley McAdams v. Division of Motor Vehicles	92 OSP 0332	Gray	10/13/92
Jonathan L. Fann v. U.N.C. Physical Plant, Herb Paul, Louis Herndon, Dean Justice, Bruce Jones	92 OSP 0363	Becton	08/19/92
Douglas A. Bordeaux v. Department of Correction	92 OSP 0378	Chess	07/10/92
Clifton R. Johnson v. O'Berry Center, Department of Human Resources	92 OSP 0381	West	07/08/92
Southeastern Machine & Tool Company, Inc. v. Department of Environment, Health, & Natural Resources	92 EHR 0386	Becton	07/20/92
Louvenia Clark v. Edgecombe County Department of Social Services	92 OSP 0402	Reilly	08/21/92
Raleigh F. LaRoche v. Child & Family Services of Wake County	92 OSP 0409	Becton	08/24/92
Matthew R. Anderson v. DHR, Division of Social Services, CSE	92 CSE 0418	Gray	10/06/92
Ellwin C. Wetherington Jr. v. DHR, Division of Social Services, CSE	92 CSE 0419	Morrison	09/28/92
Paul Reeves, Youth University Child Care v. Child Day Care Section, Division of Facility Svcs	92 DHR 0424	West	08/21/92



<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Mr. & Mrs. James C. Stanton v. Charlotte-Mecklenburg School System	92 EDC 0430	Nesnow	08/04/92
James Cooper Lewis v. Sheriffs' Education & Training Standards Commission	92 DOJ 0461	Reilly	09/15/92
Alcoholic Beverage Control Commission v. Roy William Teague, T/A Jamie's	92 ABC 0474	Reilly	10/15/92
Alcoholic Beverage Control Commission v. 508 Investors, Inc., t/a Johnathon's Restaurant	92 ABC 0476	Nesnow	09/24/92
Jon David Amundson v. Davidson County Mental Health	92 OSP 0503	Becton	09/10/92
Northview Mobile Home Park v. Department of Environment, Health, & Natural Resources	92 EHR 0507	Reilly	07/13/92
Yolanda Lynn Bethea v. DHR, Division of Social Services, CSE	92 DCS 0513	Becton	08/14/92
Frank Humphrey v. EHR, Division of Environmental Management	92 EHR 0514	Morrison	10/08/92
Alice Hunt Davis v. Department of Human Resources	92 OSP 0526	West	07/16/92
Jimmy F. Bailey Sr. v. Department of State Treasurer, Retirement Systems Div	92 DST 0536	Morgan	08/18/92
Alcoholic Beverage Control Commission v. Partnership (Rollo Corrothers) t/a Corrothers Community Center and Private Club	92 ABC 0539	Mann	10/19/92
James R. Coley Sr. v. Department of Crime Control & Public Safety	92 CPS 0551	Morgan	10/28/92
Bramar, Inc., t/a Spike's v. Alcoholic Beverage Control Commission	92 ABC 0554	Mann	08/13/92
Grady Lockhart Jr. v. DHR, Division of Social Services, CSE	92 CSE 0565	Becton	09/28/92

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Ralph J. Ogburn v. Private Protective Services Board	92 DOJ 0571	Nesnow	08/07/92
George M. Hagans v. DHR, (Cherry Hospital)	92 OSP 0583	Morgan	09/21/92
Gilbert Todd Sr. v. Public Water Supply Section	92 EHR 0586	Morrison	08/06/92
Candance Y. Johnson v. Division of Motor Vehicles	92 DOT 0589	Becton	08/24/92
John W. Surles v. N.C. Crime Victims Compensation Commission	92 CPS 0595	Reilly	07/13/92
Michelle Umstead v. Crime Victims Compensation Commission	92 CPS 0599	Morrison	10/26/92
Alcoholic Beverage Control Commission v. Richard Henry Bradley T/A Nite Lite	92 ABC 0613	Gray	10/30/92
Pamela Jean Gass v. DHR, Division of Social Services, CSE	92 DCS 0623	Morrison	08/14/92
J.W. Reed v. Department of Correction	92 OSP 0638	Morrison	08/11/92
Debra G. Conner v. Caswell Center, Department of Human Resources	92 OSP 0647	Morgan	10/28/92
Carson Davis v. Department of Correction	92 OSP 0650	Reilly	08/10/92
Kevin Stringer v. DHR, Division of Social Services, CSE	92 CSE 0651	Gray	10/23/92
Luther Hall Clontz v. Western Carolina Center (NC of Human Resources)	92 OSP 0652	Becton	09/10/92
Private Protective Services Board v. Mark Andrew Perry	92 DOJ 0662	Becton	09/10/92

**CONTESTED CASE DECISIONS**

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Stauffer Information Systems v. Department of Community Colleges and the N.C. Department of Administration and The University of Southern California	92 DOA 0666	West	07/08/92
Dortheia B. Marley v. Department of Correction	92 OSP 0667	West	09/28/92
Nancy J. Tice v. Administrative Off of the Courts, Guardian Ad Litem Svcs	92 OSP 0674	Morrison	08/11/92
L. Stan Bailey v. Chancellor Moran and UNC-Greensboro	92 OSP 0679	West	07/10/92
Arnold McCloud T/A Club Castle v. Alcoholic Beverage Control Commission	92 ABC 0681	Morrison	07/25/92
Alcoholic Beverage Control Commission v. Alfonzo Damon T/A The New Zanza Bar	92 ABC 0690	Gray	10/30/92
Joyce Faircloth, T/A Showcase Lounge v. Alcoholic Beverage Control Commission	92 ABC 0713	Morrison	07/25/92
James B. Price v. Department of Transportation	92 OSP 0725	Mann	09/02/92
Edmonia Lang v. Carteret County Board of Education	92 OSP 0736	Mann	08/28/92
Larry Bruce High v. Alarms Systems Licensing Board	92 DOJ 0755 92 DOJ 0785	Nesnow	08/25/92
Wyoming Gilliam v. DHR, Division of Social Services, CSE	92 CSE 0772	Gray	09/29/92
Timothy Wylie v. Department of State Treasurer, Retirement Systems Div	92 DST 0793	Morrison	09/29/92
Rosie W. Harrell v. Administrative Office of the Courts	92 OSP 0846	West	09/17/92

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>ALJ</b>	<b>FILED DATE</b>
Resteyne M. Wilkinson v. Employment Security Commission	92 OSP 0870	Chess	10/27/92
Robert Aiken v. Department of Correction	92 OSP 0872	Gray	09/25/92
Daniel N. Jones v. N.C. Victims Compensation Commission	92 CPS 0879	Chess	08/28/92
Paul Hunter v. Dorothea Dix Hospital	92 OSP 0878	Chess	09/29/92
David V. Cates v. Alarm Systems Licensing Board	92 DOJ 0892	Becton	10/05/92
Kiddie Kountry Day Care, Elaine Stephenson v. Public Water Supply System	92 EHR 0901	Becton	10/28/92
Larry E. Foreman, L. Reginald Caroon, Benny C. Leary. Zool Ireland, Mitchie Midgette, and Arthur Leary v. DHR, Division of Marine Fisheries	92 EHR 0908 92 EHR 0909 92 EHR 0910 92 EHR 0911 92 EHR 0912 92 EHR 0924	Gray	10/28/92
Larry Donnel Williams v. DHR, O'Berry Center	92 OSP 0950	Gray	10/19/92
Tomenah W. Hudson v. Department of Environment, Health, & Natural Resources	92 EHR 0983	Reilly	10/21/92
Heritage Environmental Services, Inc. v. Department of Environment, Health, & Natural Resources	92 EHR 1039	Gray	10/27/92
Jimmie Lee Thorne Jr. v. Victims Compensation Commission	92 CPS 1059	Nesnow	10/20/92



STATE OF NORTH CAROLINA

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
92 EHR 0303

COUNTY OF DARE

FRIENDS OF HATTERAS ISLAND  
NATIONAL HISTORIC MARITIME  
FOREST LAND TRUST FOR  
PRESERVATION, INC.,

Petitioner,

vs.

COASTAL RESOURCES COMMISSION  
OF THE STATE OF NORTH CAROLINA,

Respondent,

and

CAPE HATTERAS WATER ASSOCIATION,  
INC.,

Intervenor-Respondent.

RECOMMENDED DECISION  
OF THE  
ADMINISTRATIVE LAW JUDGE

This contested case was heard beginning on August 10, 1992 and continuing until September 1, 1992 upon Petitioner Friends of Hatteras Island's Petition filed on March 20, 1992. Sixteen days of testimony were held in Raleigh before Administrative Law Judge Thomas R. West. The parties waived the filing of proposed findings of fact, conclusions of law and written arguments and instead made lengthy closing arguments.

**APPEARANCES**

Petitioner, Friends of Hatteras Island ("FOHI") was represented by Lark Hayes, Esq. and Derb Carter, Esq. of the Southern Environmental Law Center, Chapel Hill, North Carolina.

Respondent, Coastal Resources Commission ("CRC") was represented by David G. Heeter, Esq., Associate Attorney General, appearing on behalf of Attorney General Lacy H. Thornburg.

Intervenor-Respondent, Cape Hatteras Water Association ("the Association" or "CHWA") was represented by Amos C. Dawson, III, Esq. of Maupin, Taylor, Ellis & Adams, P.A., Raleigh, North Carolina and Robert L. Outten, Esq., of Sharp, Outten & Graham, Kitty Hawk, North Carolina.

**ISSUES**

1. Is Coastal Area Management Act ("CAMA") Permit No. 152-91, allowing construction by the CHWA of nine wells for the production of water, together with the pertinent access and underground utilities, in a portion of the Cape Hatteras Well Field Area of Environmental Concern ("AEC") within the Buxton Woods Coastal Reserve, consistent with N.C.G.S. 113A-120, including the applicable State guidelines as applied through N.C.G.S. 113A-120(a)(8)?

These guidelines include Rule 15A NCAC 7H .0601, which provides that no development will be allowed in an AEC which would result in a contravention or violation of any regulations or laws of the State of North Carolina or of the local government in which the development takes place. The relevant State

regulations and laws include those governing the Coastal Reserves set forth in 15A NCAC 70. 0100 et seq. and N.C.G.S. 113A-129.1 et seq. as they apply to Buxton Woods.

2. Considering the engineering requirements and all economic costs, is there a practicable alternative that would accomplish the overall project purposes with less adverse impact on the public resources? N.C.G.S. 113A-120(a)(9).

3. Would the development allowed by Permit No. 152-91 contribute to cumulative effects which would be inconsistent with applicable CAMA guidelines? N.C.G.S. 113-120(a)(10).

#### BURDEN OF PROOF

Petitioner FOHI has the burden of proof in this matter. N.C.G.S. 113A-122(b)(7). Under CAMA, unless one of the findings justifying denial set forth in N.C.G.S. 113A-120(a)(1)-(10) can be made, the Permit shall be granted. N.C.G.S. 113A-120(b). Therefore, if Petitioner fails to meet its burden of proof on at least one of the issues raised in its Petition, CAMA requires affirmance and issuance of the Permit at issue in this case.

#### OFFICIAL NOTICE

Official notice is taken of Chapter 113A of the North Carolina General Statutes and Title 15A of the North Carolina Administrative Code.

#### WITNESSES

The following persons were called by the Petitioner and testified:

1. Dr. James D. Gregory.
2. John Taggart.
3. Alan S. Weakley.
4. John R. Dorney.
5. Dr. Vincent J. Bellis.
6. Dr. Thomas R. Wentworth.
7. William Diehl.
8. Ricki Shepherd.

9. The testimony of Lawrence J. Martin was received through his videotaped deposition, and the portions of that deposition allowed into evidence appear in the transcript of said deposition which is part of the Record in this proceeding.

The following persons were called by Respondent and testified:

1. Rich Shaw.
2. Pete Colwell.
3. David Owens.

4. Ted Mew.
5. Roger Schechter.

The following persons were called by Intervenor-Respondent and testified:

1. Dr. J. H. Carter, III.
2. Dr. F. Danforth Burroughs.
3. Thomas Gray.
4. Jim Coleman.
5. Dr. Leon S. Jernigan.
6. Ralph C. Heath.

#### **EXHIBITS**

Two volumes of documents consisting of approximately 198 separately identified documents were stipulated by the parties to constitute the Agency File on the subject Permit. The parties further stipulated as to the authenticity of said Record Documents, and the Record Documents were admitted into evidence by stipulation of the parties.

In addition, each party tendered numerous exhibits, many of which were admitted into evidence. These exhibits included a number of additional documents, maps, aerial photographs, charts and other similar types of exhibits. The document exhibits submitted into evidence by the parties are contained in the Record of this case in separate notebooks prepared by each party.

Based upon a preponderance of the evidence admitted, the undersigned Administrative Law Judge makes the following:

#### **FINDINGS OF FACT**

1. The Cape Hatteras Water Association has been supplying water from a well field located near Frisco on Hatteras Island since approximately 1969. Since at least 1973, the Association's existing "well field" and the "future well field" have been shown on the tax maps of Dare County.

2. The Association is the only public water supply for the towns of Avon, Buxton, Frisco and Hatteras. The Association is a private, nonprofit corporation which is regulated as a "public water system" and as a "community water system." There is no other public water supply system in the area served by the Association.

3. In 1977, recognizing that the aquifer beneath the well field and the future well field serves as the sole source of drinking water for the communities of Avon, Buxton, Frisco and Hatteras as well as the National Seashore Recreation Area, the Coastal Resources Commission designated the Cape Hatteras well field as a Public Water Supply Well Field AEC. That AEC designation included a tract identified as "well field" that extended approximately 12,000 feet west from Water Association Road and a tract identified as "future well field" which extended approximately 8,000 feet to the east of Water Association Road. The boundary of the AEC was 500 feet from all sides of the center line.

4. On January 23, 1987, the CRC clarified by declaratory ruling the boundaries of the AEC. The CRC declared that the purpose of the AEC designation was the long-term protection of the water supply well field for Cape Hatteras and that the intent of the CRC in designating this AEC was the protection of the

entire potential well field, including wells existing in 1977 and future well sites. Therefore, the CRC found that the original AEC designation in 1977 included both the existing well field and the future area to the east thereof then designated as a potential expansion area.

5. In approximately 1987, the Association initiated consideration by the CRC of the expansion of the Cape Hatteras Public Water Supply Well Field AEC to a boundary extending 1,000 feet from all sides of the center line of the existing AEC, and the addition of a tract owned by the Association known as the "Church Property" along the National Park Service boundary.

6. During the declaratory ruling process in 1986 and early 1987, FOHI submitted comments supporting protection of both the existing and future well field areas. In 1987, FOHI supported expansion of the AEC boundary from 500 feet to 1,000 feet in order to protect the area around the existing wells and where the future wells would be pumping some day. FOHI engaged Ralph Heath, a respected hydrogeologist and former Chief of the U.S. Geological Survey in North Carolina, to speak on their behalf in support of the AEC expansion. During the AEC expansion process, FOHI, as well as Mr. Heath, understood that water withdrawal wells would be going into the future well field some day, and FOHI supported expansion of the AEC to protect both the existing and future well sites.

7. In the summer of 1987, the CRC expanded the boundaries of the AEC to 1,000 feet as requested by the Association. The purpose of the AEC expansion was to protect the quality of the water in the aquifer, primarily by limiting installation of ground-absorption systems, also known as septic-tank systems.

8. The North Carolina Estuarine Sanctuary Program originally included four island components. These included Zeke's Island, Rachel Carson, Currituck Banks and Masonboro Island. These islands were acquired with federal assistance under the National Estuarine Research Reserve Program. The Estuarine Sanctuary Rules, Chapter 15 NCAC 70, were originally effective July 1, 1986. In 1987, when the State began its program of acquisition of lands in Buxton Woods, the Estuarine Sanctuary Rules were amended to create a State Coastal Reserve program that would encompass the existing Estuarine Sanctuary components and also include Permuda Island and Buxton Woods. The Coastal Reserve Statute, N.C.G.S. 113A-129.1, *et. seq.*, was not enacted until several years later, in 1989.

9. In a press release by Governor Martin dated October 23, 1987, it was announced that the State would begin purchasing key portions of the Buxton Woods for use as a natural area. The press release also noted that protection of the community water supply was one of the goals of the acquisition program and that: "Agreements may also be reached that would allow portions of the acquired area to be used for community water supply." Record Document ("RD") #26.

10. The Environmental Assessment of the Public Purchase of Buxton Woods, RD #25, states under the Project Purposes that: "Future use of small portions of the area as well sites for a community water supply system is also possible." The Natural Heritage Program of the Division of Parks and Recreation was aware that portions of Buxton Woods contemplated for acquisition might be used for future well sites. In a report on the Buxton Woods Natural Area prepared by the North Carolina Natural Heritage Program in November 1987, RD #27, in the Section entitled "Other Values and Significance," it was noted that: "Buxton Woods is the recharge area for the shallow ground water aquifer that is the source of drinking water for the towns of the island. The economy of the area is dependent on this economic and high quality water source. The Hatteras Island Water Association well field is located within the secondary boundary of the natural area. An area planned for future expansion of the well field is also included in the area. Protection of the Buxton Woods natural area will help ensure the quality of future water supplies."

11. In 1988, the State, using State and Federal funds, began purchasing land to be placed into the Buxton Woods Coastal Reserve. The first tract, the Foreman-Blades tract, approximately 152 acres, was purchased in January 1988. Acquisition of the Foreman-Blades tract was made with the express understanding by the State that future water supply wells might be located on that property and that fact was incorporated into the Council of State's approval of the purchase. The Phipps tract, approximately 178 acres, was purchased in September of 1988. Additional tracts have been acquired since 1988, and further acquisition



efforts are currently underway.

12. State officials involved in the acquisition of lands in Buxton Woods contemplated that portions of the State-owned lands could possibly be used as well sites for the public water supply system, if those wells were installed in an environmentally compatible manner. In approving the purchase of lands in Buxton Woods, the Governor and Council of State were aware of the possibility that water supply wells might be located on some of the lands acquired. During the acquisition of the Foreman-Blades tract, the Association offered to help the State with the purchase of that tract. The Association was told that this would not be necessary.

13. In the Grant Application which the Division of Coastal Management ("DCM") prepared for the purchase of the Phipps tract, RD #31, DCM stated in Section VI that the most important threat to Buxton Woods and the local water supply was "development." DCM stated that "conversion of the natural forested uplands to consumptive uses could overuse the ground water reserve and pollute portions of the freshwater lens with septic-tank drainage." DCM also noted that surface development was still possible within the AEC, despite the AEC designation. DCM also noted in Section V that the yield and water quality of the shallow aquifer underlying Buxton Woods is of critical importance to local residents and that hydrogeologist Ralph Heath concluded that this aquifer is the only significant source of fresh water between Oregon Inlet and Bogue Banks.

14. On approximately November 30, 1990, the Association applied for a CAMA permit to place nine wells, together with associated underground utilities and narrow access roads on State-owned lands in the Buxton Woods Coastal Reserve.

15. The Association's Permit Application received extensive review by DCM and other State and Federal agencies. The application was submitted to numerous State and Federal agencies for comment, and extensive staff discussions were held concerning the various issues raised during permit review. Both the Public Water Supply Renewable Resource AEC Rules and the Coastal Reserve Statute and Rules were reviewed. DCM Director, Roger Schechter, determined that additional information was needed to assess potential impacts of the proposed project on the AEC and the Coastal Reserve. Therefore, in approximately April of 1991, DCM requested, and the Association voluntarily agreed, that the application be put "on hold" pending review of comments and collection of additional data regarding the potential impact of the proposed project on ground water, wetlands and the forest resources of Buxton Woods.

16. After site visits by DCM staff, a new alignment for certain wells and access trails was selected in order to reduce potential impacts. The new alignment placed more wells along existing roads and trails, reduced the amount of disturbance to vegetation and reduced or eliminated the need for grading the access roads. Also, Mr. Schechter formed and chaired the Cape Hatteras Water Use Advisory Committee to assist in evaluation of the permit application and related long term issues. The Water Use Advisory Committee consisted of DCM staff, Division of Environmental Management ("DEM") staff, the Dare County Planner, Association representatives and experts, a representative of FOHI, Dr. James Gregory of N.C. State University, a National Park Service representative and others.

17. Additional information was collected to evaluate the Permit Application. More staff site visits were made. As recommended by the Advisory Committee, a summer ground water monitoring program was conducted by the Groundwater Section of DEM, and vegetation observations were made by DCM staff personnel. Additional ground water reports were prepared by Ted Mew of the Groundwater Section of DEM and by Ralph Heath for the Association. DCM's review of the permit application determined that the proposed development was consistent with the local land-use plan.

18. The Cape Hatteras Water Use Advisory Committee met again to discuss the additional information which had been collected. The Permit Application was reactivated with the revised well alignment and sent again to public notice. In early December of 1991, at Mr. Schechter's request, a meeting of DCM and DEM staff took place to review the Permit Application and the additional information which had been collected. Present at this meeting were Dr. George Everette, Director of DEM, and John Dorney, head of

the DEM Wetlands and Technical Review Branch.

19. After a thorough and detailed review of the permit application, comments submitted thereon and the data and information collected during the evaluation of the application, DCM Director Schechter made a finding that the Permit should be issued pursuant to N.C.G.S. § 113A-120(b). He also determined that the permitted activity was consistent with the Coastal Reserve Statute and Rules. On December 18, 1991, a permit was issued to the Association by Director Schechter. The permit contained seventeen conditions designed to minimize any impacts of the project on the maritime forest, wetlands vegetation and wetland swales. On January 14, 1992, an amended Permit No. 152-91 was issued to the Water Association. The amended permit contained clarification of some of the conditions in the permit.

20. Pursuant to N.C.G.S. 113A-121.1(b), FOHI filed third-party requests for a contested case hearing on both the original and amended Permit No. 152-91. By Order dated February 18, 1992, CRC Vice-Chairman, T. Erie Haste, Jr., granted Petitioner's request as to certain issues for a contested case hearing on the January 14, 1992, permit. FOHI filed its Petition for a Contested Case Hearing on March 20, 1992.

21. The purpose of the permitted project is to meet current, unmet water needs of Hatteras Island residents and needs projected by Dare County for the reasonably foreseeable future. There is a current, significant, unmet need for more water on Hatteras Island. The Association has not been able to sell additional water units since December of 1990. The State Division of Environmental Health is concerned that the inability of the Association to provide additional water may be creating public health risks as individuals attempt to install private wells in areas potentially subject to contamination from septic tanks and salt water. In addition, there is concern that the existing well field has been pumped at or near its capacity for the last several years.

22. Water conservation alone will not meet the water needs of Hatteras Island and cannot accomplish the project purposes. A reverse osmosis plant, which would process brackish water from deeper wells, would take seven to ten years to permit and bring on-line. In addition, deeper wells to serve a reverse osmosis ("RO") plant would need to be in the same location as the wells permitted under the subject Permit in order to draw water from the least saline part of the aquifer. RO creates a significant by-product of saline waste water that would have to be discharged somewhere. The financial costs of RO, both capital costs and operating costs, are approximately three times that of the permitted project. RO uses large amounts of electricity and requires a reliable and adequate supply of electrical power which is not currently available to Hatteras Island. The physical isolation of Cape Hatteras renders unreliable the electrical power source that is currently available. Operator error with the reverse osmosis process can lead to financially catastrophic results.

23. The Association has attempted to purchase land for additional well sites, but because of the controversy over the expansion of the AEC in 1987, and because the State of North Carolina currently dominates the market place for land purchases on Hatteras Island, private land holders have not been willing to sell to the Association any areas suitable for additional well sites. Due to logistics, costs and a number of other factors, Dare County is not in a position to provide public water to the service area of the Association or to the villages of Rodanthe, Waves and Salvo on the northern end of the island, which are not served by the Association and which currently have no public water supply. In addition, pilot programs by the Water Association on the Ion Exchange method of treating the water from the aquifer appear promising for the removal of trihalomethanes ("THMs") and will have the benefit of increasing the capacity of the existing treatment plant.

24. Considering the engineering requirements and all economic costs, there is no practicable alternative that would accomplish the overall project purposes with less adverse impact on the public resources.

25. Comments were received on the Association's Permit Application from December of 1990 through the entire year of 1991. Experts in the fields of hydrology, barrier island hydrology, hydrogeology, ground water flow modeling, botany and ecology commented to the Director of DCM on the permit issues.

The focus of the comments was primarily related to the effects of pumping on wetlands, but comments were also received relating to the effect pumping would have on the aquifer.

26. The aquifer is more than capable of sustaining the rate of water withdrawal for the permitted wells. Pumping at the permitted well sites at an average daily rate of 30 gallons per minute per well will maintain a sufficient "freshwater dam" to prevent salt water incursion into the freshwater lens. Moving the wells farther north away from Jennette Sedge would not only decrease the quality and quantity of water produced but more importantly would pose a danger of saltwater encroachment on the sound side of the island. Moving the wells to the south of the permitted alignment would increase the production of the wells but would more directly impact the wetlands. The "Church Property" which is owned by the Association along the Park Service Boundary is almost entirely wetlands and does not appear to have suitable locations for well sites. The National Park Service has also been unwilling to allow well sites on the lands it manages.

27. By the end of 1991, enough data existed to support the conclusion that the proposed wells would not have a significant impact on the aquifer. Because of insufficient data and the complex dynamics of barrier island aquifers, it is very difficult to model predicted drawdowns with a high degree of accuracy. Simplistic models cannot make the fine-tuned determinations which were being sought with regard to site specific drawdowns and their impact on particular wetlands. Data collected in the existing Association well field between May and September of 1991 indicate that the drawdown in the water table in the immediate proximity of the existing wells is somewhere between .3 and 2 feet. There are 44 wells in the existing well field. These wells are spaced much closer together and are much closer to the wetlands than the wells permitted under Permit 152-91. In addition, the permitted wells will be screened deeper in the aquifer than the wells in the existing well field. Therefore, the permitted wells are expected to have even less impact on wetlands than the existing wells.

28. The Cape Hatteras aquifer has been described as both semi-confined and semi-unconfined. The aquifer is stratified, as all the experts who testified agree. The result of the stratification of the aquifer in Buxton Woods is that the cone of depression in the water table, caused by pumping, is broad and flat. A steep cone of depression would have a more significant impact on the water table elevation and on the water level in the wetland swales than would a broad, flat cone of depression.

29. DCM Director Schechter was advised by John Dorney in a memo dated March 22, 1991 that, given the natural fluctuations of water in the Buxton Woods wetlands, their gradually sloping bottoms, and the seasonal nature of water withdrawals, if drawdown from the pumping were one foot or less, pumping would have no long-term effect on the wetlands. Mr. Dorney holds masters degrees in botany, plant ecology and civil engineering. Mr. Dorney also advised Mr. Schechter that if the aquifer is semi-confined in the area of concern, then the drawdown should be negligible.

30. On November 18, 1991, Mr. Dorney advised Mr. Schechter that Wells 1, 2 and 3 could be safely permitted under the revised well alignment without significant threat to wetlands via drawdown.

31. On December 5, 1991, the Groundwater Section of DEM advised Mr. Schechter in a memo that: "It is essential that natural or ambient hydrologic conditions be determined prior to pumping in the area." The Groundwater Section proposed a specific monitoring strategy and set out that strategy in detail. It was recommended that at least six months of monitoring data, including the summer peak withdrawal season, be collected before the well field becomes operational. The memo further stated that after two years of monitoring, data collection requirements will be reviewed, and may be revised depending on an assessment of the impact of withdrawals.

32. On December 16, 1991, Mr. Dorney stated in a memo to Mr. Schechter that the existing data and modeling assumptions were too broad for any technically based conclusion that operation of the proposed well field will or will not impact the sedge. In the same memo, Mr. Dorney recommended to Mr. Schechter that if DCM issued a permit, the permit should contain a monitoring scheme patterned after the Groundwater Section's December 5, 1991 memo. Mr. Dorney specifically recommended that: "A performance objective of no more than one foot of drawdown of the surficial aquifer at 25 feet (about one-half of the distance from



most of the wells to the Sedge) should be used." Mr. Dorney recommended that these criteria apply to those wells closest to the sedge, namely wells Nos. 4, 5, 6, 7, 8 and 9.

33. Mr. Dorney further recommended that if the performance objective was not met, the wells should be shut down, or alternatively, that withdrawal should be reduced until the drawdown is less than one foot. Mr. Ted Mew, Chief Hydrologist of the Groundwater Section, indicated that shutting down a particular well would not be effective, but that cutting back on the rate of withdrawal would be a more effective means of reducing drawdowns to meet the performance standard. Permit Condition No. 9 requires that if the performance standard is exceeded for more than a 48-hour period, the Association must restrict pumping at the respective well(s) for a period sufficient to allow recovery of the water table and compliance with the performance standard.

34. The drawdown in the water table near a pumping well decreases logarithmically as the distance from the well increases. If drawdown in the water table is one foot at twenty-five feet from a pumping well, it would be significantly less fifty feet from the well. The steepness of the drawdown curve depends on the characteristics of the aquifer, including vertical hydraulic conductivity, storativity and transmissivity. The drawdown curve in this aquifer will be broad and flat. There are different projections as to what the exact drawdown will be, but there is no doubt that the drawdown will be significantly less fifty feet from the wells than it is at twenty-five feet.

35. The Permit at issue in this case contains the substance of the monitoring conditions and the performance objective proposed by the Division of Environmental Management to Mr. Schechter. This required monitoring plan will produce data to determine both the short-term, localized drawdown that occurs in the immediate vicinity of the pumping wells during individual pumping cycles and the broader, flatter drawdown that occurs seasonally in the water table. The monitoring plan will provide sufficient information to enforce the performance standard.

36. During the permit review process, no questions were ever raised concerning whether any of the proposed wells were located outside of the Public Water Supply Well Field AEC. It is difficult to precisely locate the AEC boundaries. During the hearing of this case, it was determined, based on a map prepared for use at the hearing, that Well No. 1 is approximately 150 feet outside the Cape Hatteras Public Water Supply Well Field AEC. This information was not available to Mr. Schechter at the time the Permit was issued. However, Well No. 1 is inside the Buxton Woods Coastal Reserve. It was also determined during the hearing that Well No. 3 is approximately thirty feet from a wetland.

37. The disturbance of the Buxton Woods Coastal Reserve by the project as permitted will be de minimis. Only about one-third of one percent of the upland forested area in the existing Buxton Woods Coastal Reserve will be impacted by the permitted activities. Only about 0.74 acres out of approximately 220 acres of upland forest will be disturbed. None of the approximately 240 acres of wetlands currently in the Coastal Reserve will be disturbed by the permitted activities. In addition, nearly half of the permitted activities will take place in an area of Buxton Woods which was clear-cut within the last approximately 20 years and which now contains much shrub growth. This small amount of disturbance will not have a significant impact on the maritime forest or the wetlands and will not lead to fragmentation of the Coastal Reserve's natural systems.

38. Since 1977, the CRC has defined this area as a Public Water Supply Well Field AEC, and the Association has been the only provider of water to the public within this area.

39. The Association has been withdrawing water from the aquifer at the western end of Buxton Woods for over 23 years. For the last few years, water has been withdrawn from the existing well field at an average annual rate of approximately 600,000 gallons per day. This approximates the safe maximum yield of this part of the aquifer. There are 44 wells in the existing well field. These wells are spaced much closer together and are much closer to the wetlands than the wells permitted in the Buxton Woods Coastal Reserve. In addition, the wells in the existing well field are not screened as deep in the aquifer as the wells permitted in Buxton Woods will be. Despite the pumping from the existing well field for over 23 years in close



proximity to the wetlands, the range of diversity of vegetation in the existing well field sedge is within the range of diversity found in Buxton Woods. There is no encroachment of woody vegetation at the edges of the existing well field sedge. "Islands" of woody vegetation have grown up in the well field sedge as well as the other sedges studied that are outside the influence of any pumping. Water withdrawal from the existing well field for a long period of time provides significant and valuable information on what the potential impacts of the permitted well field will be.

40. Permit No. 152-91 contains stringent monitoring conditions and a stringent performance standard. The Permit conditions and the performance standard are reasonable, adequate and enforceable except it was erroneous not to apply the performance standard to Well No. 3. The performance standard, which requires that drawdowns of the water table at a radial distance of 25 ft. from each well not exceed one foot below the naturally occurring water table elevation, should explicitly be made to apply to Well No. 3. This is because Well No. 3 is located approximately 30 feet from the edge of a wetland.

41. Pumping from the nine permitted wells will not significantly affect the aquifer. The proposed well field, as permitted and with the performance standard made applicable to Well No. 3, will not have a cumulative impact with the existing well field on wetland vegetation.

42. The Buxton Woods area has experienced over a long period of time a significant degree of human disturbance. The area was used for grazing of cattle and man-made fires were set in the woods. Roads and trails have existed in the woods for generations. Clear-cutting and timbering has also taken place in the woods. Surface hydrology has been altered by drainage ditches. The Association has used the western end of Buxton Woods for its existing well field for over 23 years. The clear-cut area appears to be revegetating in natural species, and roads and trails quickly revegetate if not maintained. There is no evidence of salt spray damage in Buxton Woods due to these activities.

43. The permitted wells located within the Public Water Supply Well Field AEC can be installed and operated in a manner consistent with the preservation of the area in an undeveloped state and consistent with the primary uses of the area for research and education. Withdrawal of water from said wells for public consumption is a traditional use which is compatible with the primary uses of the Buxton Woods Coastal Reserve for research and education. The water-level monitoring, observation of vegetation and other data which will be collected about the operation of the permitted wells will have significant scientific and research value.

44. Only a few large growth trees, perhaps as few as three, will need to be cut to provide access to the permitted well sites. In addition, it is anticipated that grading will not be necessary. The access roads can only be 15 feet wide, and it is anticipated that they will only be approximately 8 feet wide, just large enough to allow a four-wheel drive vehicle to pass. DCM staff will mark the final well sites and access alignments to insure that disturbance is minimal. The forest canopy will not be significantly disturbed, and there will be no salt spray damage because of the distance from the ocean. Short-term impacts from the installation of the underground water and electrical lines will be minimal.

45. The water table elevation data collected by Dr. Gregory of N.C. State University in his study of the water table in Buxton Woods was not collected in accordance with standard methods and contains a number of anomalies. Dr. Gregory himself cautions against drawing any conclusions from his preliminary data. Gregory's study is intended to collect water table data both before and after well field pumping begins. Dr. Gregory will also install permanent vegetation plots as part of his work. These plots are for long term study to assess the impact, if any, of the water withdrawal on vegetation and will not provide any data in the near future.

46. During the State's acquisition of the lands currently in the Buxton Woods Coastal Reserve, it was made clear that future use of small portions of the state-owned property for wells for the public water supply system was contemplated as a possible future use. The State has continued to acquire and is currently attempting to acquire additional lands for the Buxton Woods Coastal Reserve. The State's contemplated acquisitions are intended to eventually include virtually all of the lands designated as the "future well field"

in the Public Water Supply Well Field AEC. Hence, if the Water Association is to have access to the "future well field" for well sites, such access will necessarily have to be on State-owned lands.

Based upon the evidence presented in this case and the foregoing Findings of Fact, the undersigned Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. Because Well Site No. 1 falls outside the Public Water Supply Well Field AEC, which existed prior to the creation of the Buxton Woods Coastal Reserve, that particular well's use would be neither traditional nor consistent with the purposes of the Coastal Reserve.

2. It was erroneous not to specifically make the performance standard in Permit Condition No. 9 apply to Well Site No. 3.

3. Withdrawal of water as permitted, and with the performance standard made applicable to Well No. 3, from the Cape Hatteras Public Water Supply Well Field AEC in the Buxton Woods Coastal Reserve is a public use, consistent with preservation of the area in an undeveloped state and consistent with its primary uses for research and education. The improvements and alterations allowed by the Permit are consistent with these uses.

4. Withdrawal of water as permitted, and with the performance standard made applicable to Well No. 3, from the aquifer in Buxton Woods by the Cape Hatteras Water Association, a private, nonprofit corporation, is a public use, consistent with preservation of the Coastal Reserve in a natural state and with the primary purposes of research and education, particularly as no other source of public drinking water exists in this area.

5. Withdrawal of water from the Buxton Woods aquifer by the Cape Hatteras Water Association from the Cape Hatteras Public Water Supply Well Field AEC, as located within the Buxton Woods Coastal Reserve, is a traditional use that is compatible with the primary uses of the Reserve for research and education.

6. Withdrawal of water, as permitted and with the performance standard made applicable to Well No. 3, by the Cape Hatteras Water Association from the Cape Hatteras Public Water Supply Well Field AEC maintains the Coastal Reserve's essential natural character.

7. Disturbance or removal of vegetation, as permitted, is de minimis and is not proscribed by 15A NCAC 70.0202(6). Alternatively, as applied in this case, 15A NCAC 70.0202(6) is written in such terms that the rule is inconsistent with N.C.G.S. 113A-129.1(b) and § 113A-129.2(e), and thus is void as applied in this case because it is not within the statutory authority of the agency and is not reasonably necessary to enable the agency to fulfill a duty delegated to it by the General Assembly.

8. There is no basis for finding under N.C.G.S. 113A-120(a)(8) that the proposed development, as modified by this Recommended Decision, is inconsistent with the applicable State guidelines, laws and regulations, including N.C.G.S. 113A-129.1, et seq., 15A NCAC 7H .0601 and 15A NCAC 70 .0100, et seq.

9. Considering the engineering requirements and all economic costs, there is no practicable alternative that would accomplish the overall project purposes with less adverse impact on the public resources, and thus there was no basis for finding that the proposed development was inconsistent with N.C.G.S. 113A-120(a)(9).

10. The proposed permitted wells, as modified by this Recommended Decision, and associated utilities and access roads or trails, will not contribute to cumulative effects that would be inconsistent with N.C.G.S. 113A-120(a) 1-9, the State guidelines or the local land use plan, and thus there was no basis for

finding that the proposed development was inconsistent with N.C.G.S. 113A-120(a)(10).

11. Except as provided in Conclusions of Law 1 and 2, the wells, associated utilities and access roads and trails permitted by Permit No. 152-91 are consistent with all applicable standards in N.C.G.S. 113A-120, the State guidelines and the local land use plan.

In view of the foregoing Findings of Fact and Conclusions of Law, and as a Recommended Decision pursuant to N.C.G.S. 150B-34, the undersigned Administrative Law Judge makes the following:

**RECOMMENDED DECISION**

It is RECOMMENDED that the North Carolina Coastal Resources Commission decree that:

1. Permit No. 152-91 is consistent in all respects with all applicable State guidelines, Statutes and Rules, including those governing Coastal Reserves, with two specific exceptions:

a. Well Site No. 1 is outside of the Public Water Supply Well Field AEC, and therefore its use is not a traditional use consistent with the purposes of the Coastal Reserve; and

b. The performance standard in Permit Condition No. 9 should apply to Well Site No. 3 in order to ensure its consistency with the Statutes and Rules governing Coastal Reserves.

2. Considering the engineering requirements and all economic costs, there is no practicable alternative that would accomplish the overall project purposes with less adverse impact on the public resources, and thus Permit No. 152-90 is consistent with N.C.G.S. 113A-120(a)(9).

3. The proposed wells, as modified by Paragraph 1 of the decree, will not contribute to cumulative impacts that would be inconsistent with N.C.G.S. 113A-120(a) 1-9, and thus Permit No. 152-91 is consistent with N.C.G.S. 113A-120(a)(10).

4. Pre-operational monitoring over a contiguous summer season should be required prior to the permitted wells becoming operational; or at the least, monitoring should be required during the summer of 1993 up to the date that monitoring began in the summer of 1992.

5. Except as provided in Paragraph No. 1 of the decree, Permit No. 152-91 is consistent with all applicable Statutes and Rules, the standards in N.C.G.S. 113A-120, the State guidelines and the local land use plan.

**ORDER**

It is hereby ordered that the Agency serve a copy of the final decision on the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, North Carolina 27604, in accordance with North Carolina General Statute 150B-36(b).

**NOTICE**

The Agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this Recommended Decision and to present written arguments to those in the Agency who would make the final decision. N.C.G.S. 150B-36(a).

The Agency is required by N.C.G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The Agency that will make the final decision in this contested case is the North Carolina Coastal Resources Commission.

This the 19th day of October, 1992.

---

Thomas R. West  
Administrative Law Judge



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

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

<b>TITLE</b>	<b>DEPARTMENT</b>	<b>LICENSING BOARDS</b>	<b>CHAPTER</b>
1	Administration	Architecture	2
2	Agriculture	Auctioneers	4
3	Auditor	Barber Examiners	6
4	Economic & Community Development	Certified Public Accountant Examiners	8
5	Correction	Chiropractic Examiners	10
6	Council of State	General Contractors	12
7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Dietetics/Nutrition	17
10	Human Resources	Electrical Contractors	18
11	Insurance	Electrolysis	19
12	Justice	Foresters	20
13	Labor	Geologists	21
14A	Crime Control & Public Safety	Hearing Aid Dealers and Fitters	22
15A	Environment, Health, and Natural Resources	Landscape Architects	26
		Landscape Contractors	28
16	Public Education	Marital and Family Therapy	31
17	Revenue	Medical Examiners	32
18	Secretary of State	Midwifery Joint Committee	33
19A	Transportation	Mortuary Science	34
20	Treasurer	Nursing	36
*21	Occupational Licensing Boards	Nursing Home Administrators	37
22	Administrative Procedures	Occupational Therapists	38
23	Community Colleges	Opticians	40
24	Independent Agencies	Optometry	42
25	State Personnel	Osteopathic Examination & Reg. (Repealed)	44
26	Administrative Hearings	Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Practicing Counselors	53
		Practicing Psychologists	54
		Professional Engineers & Land Surveyors	56
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work	63
		Speech & Language Pathologists & Audiologists	64
		Veterinary Medical Board	66

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

## CUMULATIVE INDEX

(April 1992 - March 1993)

Pages	Issue
1 - 105	1 - April
106 - 173	2 - April
174 - 331	3 - May
332 - 400	4 - May
401 - 490	5 - June
491 - 625	6 - June
626 - 790	7 - July
791 - 902	8 - July
903 - 965	9 - August
966 - 1086	10 - August
1087 - 1154	11 - September
1155 - 1253	12 - September
1254 - 1350	13 - October
1351 - 1463	14 - October
1464 - 1640	15 - November
1641 - 1720	16 - November

**ADMINISTRATION**

Auxiliary Services, 4  
Motor Fleet Management Division, 794

**AGRICULTURE**

Gasoline and Oil Inspection Board, 336  
Pesticide Board, 1276  
Plant Industry, 904  
Structural Pest Control Committee, 332  
Veterinary Division, 342

**COMMUNITY COLLEGES**

Community Colleges, 1535  
General Provisions, 1531  
Miscellaneous Programs, 1598

**CULTURAL RESOURCES**

U.S.S. Battleship Commission, 911

**ECONOMIC AND COMMUNITY DEVELOPMENT**

Banking Commission, 629, 1467  
Community Assistance, 909, 968  
Departmental Rules, 801

**ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

Adult Health, 1199  
Coastal Management, 211, 655, 1098, 1507  
Departmental Rules, 826  
Environmental Health, 223  
Environmental Management, 190, 416, 500, 644, 830, 1013, 1487  
Governor's Waste Management Board, 564, 920, 1197  
Health: Epidemiology, 140, 1212

Health: Personal Health, 1217  
Health Services, 52, 659, 1174  
Marine Fisheries, 530  
NPDES Permits Notices, 1, 107  
Radiation Protection, 136, 1520  
Sedimentation Control, 920  
Vital Records, 565  
Wildlife Resources Commission, 28, 133, 408, 449, 551, 921, 1299, 1414, 1658  
Wildlife Resources Commission Proclamation, 176

#### **FINAL DECISION LETTERS**

Voting Rights Act, 106, 174, 406, 493, 628, 793, 966, 1090, 1275, 1465, 1644

#### **GENERAL STATUTES**

Chapter 150B, 1254

#### **GOVERNOR/LT. GOVERNOR**

Executive Orders, 401, 491, 626, 791, 903, 1087, 1155, 1351, 1464, 1641

#### **HUMAN RESOURCES**

Aging, Division of, 121, 346  
Day Care Rules, 123  
Economic Opportunity, 5  
Facility Services, 111, 177, 496, 634, 980, 1352, 1647  
Medical Assistance, 4, 415, 496, 816, 989, 1156, 1295, 1391, 1649  
Mental Health, Developmental Disabilities and Substance Abuse Services, 111, 297, 409, 809, 1092, 1276  
Social Services Commission, 183, 911, 1471

#### **INDEPENDENT AGENCIES**

Housing Finance Agency, 450, 576, 928, 1219

#### **INSURANCE**

Actuarial Services Division, 1411  
Agent Services Division, 1410  
Consumer Services Division, 125, 1157  
Departmental Rules, 7, 1095, 1405  
Engineering and Building Codes, 19, 643  
Financial Evaluation Division, 1162  
Fire and Rescue Services Division, 17, 1406  
Hearings Division, 124, 1096  
Life and Health Division, 22, 347, 1167  
Medical Database Commission, 1650  
Property and Casualty Division, 20  
Seniors' Health Insurance Information Program, 132

#### **JUSTICE**

Alarm Systems Licensing Board, 27, 189, 643, 919, 1414, 1486  
Criminal Information, 1097  
General Statutes Commission, 353  
Private Protective Services, 918  
Sheriffs Education and Training, 990  
State Bureau of Investigation, 188, 499, 1413

#### **LICENSING BOARDS**

Architecture, 1111

Certified Public Accountant Examiners, 355  
Chiropractic Examiners, 1416  
Cosmetic Art Examiners, 360, 922, 1669  
Dietetics/Nutrition, 923  
Electrolysis Examiners, 69, 700  
Medical Examiners, 1304, 1417  
Nursing, Board of, 232, 700, 1528  
Pharmacy, Board of, 1418  
Professional Engineers and Land Surveyors, 566  
Speech and Language and Pathologists and Audiologists, 705

#### **LIST OF RULES CODIFIED**

List of Rules Codified, 72, 362, 452, 584, 1671

#### **PUBLIC EDUCATION**

Departmental Rules, 1108  
Elementary and Secondary, 852, 1108, 1666

#### **REVENUE**

License and Excise Tax, 712  
Motor Fuels Tax, 361

#### **STATE PERSONNEL**

Office of State Personnel, 237, 705, 1113, 1419

#### **TAX REVIEW BOARD**

Orders of Tax Review, 494

#### **TRANSPORTATION**

Highways, Division of, 228, 856, 1062, 1110, 1669  
Motor Vehicles, Division of, 68, 142



# NORTH CAROLINA ADMINISTRATIVE CODE

The full publication consists of 53 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. **Renewal** subscriptions for supplements to the initial publication are available at one-half the new subscription price.

## PRICE LIST FOR THE SUBSCRIPTION YEAR

Volume	Title	Chapter	Subject	New Subscription*	Quantity	Total Price
1 - 52	Full Code		All titles	\$750.00		
1	1	1 - 37	Administration	90.00		
2	2	1 - 24	Agriculture	75.00		
3	2	25 - 52	Agriculture	75.00		
4	3	1 - 4	Auditor	10.00		
5	4	1 - 2	ECD (includes ABC)	45.00		
6	4	3 - 20	ECD	90.00		
7	5	1 - 2	Correction	60.00		
8	5	3 - 4	Correction	30.00		
9	6	1 - 4	Council of State			
	7	1 - 12	Cultural Resources	60.00		
10	8	1 - 9	Elections	10.00		
11	9	1 - 4	Governor/Lt. Governor	45.00		
12	10	1 - 2	Human Resources	30.00		
13	10	3A - 3K	Human Resources	90.00		
14	10	3L - 3R	Human Resources			
			(includes CON)	45.00		
15	10	3S - 3W	Human Resources	30.00		
16	10	4 - 6	Human Resources	30.00		
17	10	7	Human Resources	30.00		
18	10	8 - 9	Human Resources	30.00		
19	10	10	Human Resources	30.00		
20	10	11 - 14	Human Resources	60.00		
21	10	15 - 17	Human Resources	45.00		
22	10	18	Human Resources	75.00		
23	10	19 - 30	Human Resources	90.00		
24	10	31 - 33	Human Resources	30.00		
25	10	34 - 41	Human Resources	60.00		
26	10	42	Human Resources	45.00		
27	10	43 - 51	Human Resources	90.00		
28	11	1 - 17	Insurance	90.00		
29	12	1 - 12	Justice	90.00		
30	13	1 - 6	Labor	30.00		
31	13	7	OSHA	45.00		
32	13	8 - 16	Labor	45.00		
33	14A	1 - 11	Crime Control and Public Safety	45.00		
34	15A	1 - 2	EHNR (includes EMC)	90.00		
35	15A	3 - 6	EHNR	45.00		
36	15A	7	Coastal Management	45.00		
37	15A	8 - 9	EHNR	30.00		
38	15A	10	Wildlife	45.00		

Continued

Volume	Title	Chapter	Subject	New Subscription*	Quantity	Total Price
39	15A	11 - 18	EHNR	90.00	_____	_____
40	15A	19 - 26	EHNR		_____	_____
			(includes Breathalyzer)	75.00	_____	_____
41	16	1 - 6	Education	30.00	_____	_____
42	17	1 - 6	Revenue	75.00	_____	_____
43	17	7 - 11	Revenue	60.00	_____	_____
44	18	1 - 8	Secretary of State	30.00	_____	_____
45	19A	1 - 6	Transportation	90.00	_____	_____
46	20	1 - 9	Treasurer	45.00	_____	_____
47	21	1 - 16	Licensing Boards	75.00	_____	_____
48	21	17 - 37	Licensing Boards	75.00	_____	_____
49	21	38 - 70	Licensing Boards		_____	_____
	22	1 - 2	Administrative Procedures	75.00	_____	_____
50	23	1 - 2	Community Colleges	10.00	_____	_____
51	24	1 - 3	Independent Agencies	10.00	_____	_____
52	25	1	State Personnel	60.00	_____	_____
53	26	1 - 4	Administrative Hearings	10.00	_____	_____
				<b>Subtotal</b>	_____	_____
				<b>(North Carolina subscribers add 6% sales tax)</b>	_____	_____
				<b>Total</b>	_____	_____

*(Make checks payable to Office of Administrative Hearings.)*

\* This price includes the title in its current form plus supplementation for the subscription year.

**MAIL TO:**

**OFFICE OF ADMINISTRATIVE HEARINGS  
POST OFFICE DRAWER 27447  
RALEIGH, NORTH CAROLINA 27611-7447**

Office of Administrative Hearings  
P. O. Drawer 27447  
Raleigh, North Carolina 27611-7447

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLACE  
STAMP  
HERE

FOLD HERE

## NORTH CAROLINA REGISTER ORDER FORM

- ☐ Please enter my subscription for the *North Carolina Register* to start with the \_\_\_\_\_ issue.  
(\$105.00)/year subscription) (N.C. Subscribers please add sales tax.)
- ☐ Renew *North Carolina Register*
- ☐ Check Enclosed      ☐ Please bill me

Please make checks payable to Office of Administrative Hearings

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
PHONE \_\_\_\_\_

(Return to Office of Administrative Hearings - fold at line, staple at bottom and affix postage.)

## CHANGE OF ADDRESS:

### 1. Present Address

NAME

ADDRESS

CITY

STATE

ZIP

### 2. New Address

NAME

ADDRESS

CITY

STATE

ZIP

### Office of Administrative Hearings

P. O. Drawer 27447

Raleigh, North Carolina 27611-7447

UNIVERSITY OF  
NORTH CAROLINA



# FIRST CLASS MAIL

585  
UNIV. OF NORTH CAROLINA  
LAW LIBRARY  
VAN HECKE-WETTACH 064-A  
CHAPEL HILL

NC 27599