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July 1, 1996

IN THIS ISSUE

Final Decision Letter
NPDES Permit
Agriculture
Environment, Health, and Natural Resources
Real Estate Commission
Transportation
Rules Review Commission
Contested Case Decisions

PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
PO Drawer 27447
Raleigh, NC 27611-7447
Telephone (919) 733-2678
Fax (919) 733-3462*

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NORTH CAROLINA REGISTER

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**Volume 11, Issue 7
Pages 405 - 440**

July 1, 1996

This issue contains documents officially
filed through June 10, 1996.

Office of Administrative Hearings
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volume and issue number	issue date	last day for filing	end of comment period	earliest register issue for publication of text	earliest date for public hearing	A. non-substantial economic impact			B. substantial economic impact			
						end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	
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EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2B .0103 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF RULE-MAKING PROCEEDINGS

END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS: This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.

EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT: The date of the next issue following the end of the comment period.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD

(1) **RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:** An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

(2) **RULE WITH SUBSTANTIAL ECONOMIC IMPACT:** An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3.

This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.

U.S. Department of Justice

Civil Rights Division

Voting Section

P.O. Box 66128

Washington, D.C. 20035-6128

DLP:GS:NT:jdp

DJ 166-012-3

96-1788

96-1926

96-2017

96-2095

June 7, 1996

Jesse L. Warren, Esq.

City Attorney

P.O. Box 3136

Greensboro, North Carolina 27402-3136

Dear Mr. Warren:

This refers to 16 annexations (Ordinance Nos. 95-98, 95-99, 95-102, 95-105, 96-21 through 96-25, 96-28 through 96-33, and 96-36) and their designation to districts of the City of Greensboro in Guilford County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on April 8, 15, 22, and 25, 1996.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine these submissions if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

Deval L. Patrick

Assistant Attorney General

Civil Rights Division

By:

for Elizabeth Johnson

Acting Chief, Voting Section

STATE OF NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION
POST OFFICE BOX 29535
RALEIGH, NORTH CAROLINA 27626-0535

PUBLIC NOTICE OF INTENT TO ISSUE STATE GENERAL
NPDES PERMITS

Public notice of intent to modify State National Pollutant Discharge Elimination System (NPDES) General Permit for Point Source Discharges of Wastewater associated with:

NPDES No. NCG510000 governing the discharge of remediated petroleum contaminated groundwater.

On the basis of preliminary staff review and application of Article 21 of Chapter 143 of the General Statutes of North Carolina, Public Law 92-500 and other lawful standards and regulations, the North Carolina Environmental Management Commission proposes to modify the State NPDES General Permit for the discharge as described above.

INFORMATION: Copies of the draft NPDES General Permit and Fact Sheet concerning the draft Permit are available by writing or calling:

Jeanette Powell
Water Quality Section
N.C. Division of Environmental Management
P.O. Box 29535
Raleigh, North Carolina 27626-0535

Telephone (919) 733-5083 ext. 537

Persons wishing to comment upon or object to the proposed determinations are invited to submit their comments in writing to the above address no later than July 31, 1996. All comments received prior to that date will be considered in the final determination regarding permit issuance. A public meeting may be held where the Director of the Division of Environmental Management finds a significant degree of public interest in any proposed permit issuance.

The draft Permit, Fact Sheets and other information are on file at the Division of Environmental Management, 512 N. Salisbury Street, Room 925, Archdale Building, Raleigh, North Carolina. They may be inspected during normal office hours. Copies of the information of file are available upon request and payment of the costs of reproduction. All such comments and requests regarding these matters should make reference to the draft Permit Number NCG510000.

Date: 6/10/96

A. Preston Howard, Jr., P.E., Director
Division of Environmental Management

A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as rule-making proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.

TITLE 2 - DEPARTMENT OF AGRICULTURE

CHAPTER 48 - PLANT INDUSTRY

Notice of Rule-making Proceedings is hereby given by the North Carolina Plant Conservation Board in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 2 NCAC 48F .0301 - .0302, .0304 - .0306. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 106-202.15

Statement of the Subject Matter: 2 NCAC 48F .0301; .0302; .0304 - Endangered Plant Species List; Threatened Plant Species List; Plant Species of Special Concern; scope of rules; placing North Carolina native plants on the endangered, threatened or special concern lists, changing status of species already on the lists. Rules establish the status of certain rare plant species.

2 NCAC 48F .0305 - Collection and Sale of Ginseng; scope of rules; permission requirements for collection from the lands of another. Rules establish that collector must have written permission of public or private landowner. Proposed additions would clarify what the collector is required to do with the permit.

2 NCAC 48F .0306 - Collection and Sale of Venus Flytrap; scope of rules; permission requirements for collection from the lands of another. Rules establish that collector must have written permission of public or private landowner. Proposed additions would clarify what the collector is required to do with the permit.

Reason for Proposed Action: 2 NCAC 48F .0301; .0302; .0304 - To change the status of several native plants already on the endangered, threatened or special concern lists for which more information has become available. To remove certain species and to add several species to the lists because of completion of recent studies, and because of the recent rediscovery of a species that was thought to have been extinct.

2 NCAC 48F .0305 - To improve protection of owners of lands with native ginseng from collection without the owner's consent, or from theft of ginseng cultivated by the landowner. Existing rules require ginseng diggers to have

written permission from the landowner. The proposed changes would require the collector to have the signed permission from the owner on their person while collecting, for inspection by wildlife officers.

2 NCAC 48F .0306 - To improve protection of owners of lands with native Venus flytraps from collection without the owner's consent, or from theft of flytraps cultivated by the landowner. Existing rules require flytrap diggers to have written permission from the landowner. The proposed changes would require the collector to have the signed permission from the owner on their person while collecting, for inspection by wildlife officers.

Comment Procedures: Public hearings on the rule-making proceedings will be held at the following times and locations:

July 16, 1996 - 10:00 a.m.
Agriculture Building
2 West Edenton Street
Raleigh, North Carolina

July 17, 1996 - 7:00 p.m.
Mountain Horticultural Crops Research Station
(Main Administration Building)
Fletcher, North Carolina

July 30, 1996 - 7:00 p.m.
U.S. Department of Agriculture Building
(Near the airport at 1815 Gardner Drive)
Wilmington, North Carolina

Interested persons may present their comments either orally or in writing at the public hearings. Written comments may also be submitted to Cecil Frost, Secretary of the North Carolina Plant Conservation Board, PO Box 27647, Raleigh, NC 27611 through August 30, 1996.

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

CHAPTER 3 - MARINE FISHERIES

Notice of Rule-making Proceedings is hereby given by the EHNH - NC Marine Fisheries Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it

proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 15A NCAC 3. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 113-134; 113-182; 113-221.

Statement of the Subject Matter: *spotted seatrout, seines, clam rakes, crabs, pound nets, trawling, mechanical clamming, technical changes.*

Reason for Proposed Action: *Establish proclamation authority for taking spotted seatrout, define a beach seine, specify spacing for teeth in clam rakes, modify the tolerance for undersize crabs, define peeler to prohibit white line peelers certain times of the year, amend headrope size for peeler crab trawls, further define non-attendance of crab pots, further restrict crab dredging, define a pound net, restrict trawling at night in the Atlantic Ocean from Frying Pan Shoal to the North Carolina/South Carolina stateline, restrict trawling at night in the New River area, increase the minimum mesh size for shrimp trawls, further restrict mechanical clamming, and technical changes to correct misspellings, closures on coordinates describing areas and cites in rules.*

Comment Procedures: *Written comments may be submitted to the Marine Fisheries Commission, PO Box 769, Morehead City, NC 28557. Comments will be received through August 30, 1996.*

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

Notice of Rule-making Proceedings is hereby given by the NC Wildlife Resources Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 15A NCAC 10B .0113, .0115; 10C .0401. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 113-134; 113-270.3; 113-272, 1L; 113-276.1; 113-291.1; 113-292; S.L. 1981 ch. 410; S.L. 1981 (SECOND SESSION) ch. 1180

Statement of the Subject Matter: 15A NCAC 10B .0113 - Big game kill reports. 15A NCAC 10B .0115 - Shining lights-deer. 15A NCAC 10C .0401 - Manner of taking

nongame fishes: purchase and sale.

Reason for Proposed Action: 15A NCAC 10B .0113 - To modify tagging requirements. 15A NCAC 10B .0115 - To regulate hunting of deer with shining lights in Hoke county. 15A NCAC 10C .0401 - Conservation and public health concerns.

Comment Procedures: *The record will be open for receipt of written comments from July 1, 1996 through September 3, 1996. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 North Salisbury Street, Raleigh, NC 27604-1188.*

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 58 - REAL ESTATE COMMISSION

Notice of Rule-making Proceedings is hereby given by the NC Real Estate Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 21 NCAC 58A .0100. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 93A-3(c)

Statement of the Subject Matter: *The Commission proposes to adopt and amend rules in Section .0100 of 21 NCAC 58A pertaining to the formation, designation and disclosure of agency relationships.*

Reason for Proposed Action: *To enable a real estate firm which represents both the buyer and the seller in the same real estate sales transaction, to designate one or more individual brokers or salesmen associated with the firm to represent only the interests of the seller and one or more other individual brokers and salesmen associated with the firm to represent only the interests of the buyer in the same transaction.*

Comment Procedures: *Written comments regarding the rules may be sent to or delivered to Mr. Stephen L. Fussell c/o North Carolina Real Estate Commission, PO Box 17100 1313 Navaho Drive, Raleigh, NC 27619-7100 so as to be received by August 30, 1996.*

This Section contains the text of proposed rules. At least 60 days prior to the publication of text, the agency published a Notice of Rule-making Proceedings. The agency must accept comments on the proposed rule for at least 30 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. The required comment period is 60 days for a rule that has a substantial economic impact of at least five million dollars (\$5,000,000). Statutory reference: G.S. 150B-21.2.

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

Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, NC 28405-3845

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend rules cited as 15A NCAC 7H .0104 and .0304.

Proposed Effective Date: April 1, 1997

Public Hearings will be conducted at:

4:00 p.m.
July 25, 1996
Carteret County
Crystal Coast Civic Center,
3505 Arendell Street
Morehead City, NC 28557

7:00 p.m.
August 5, 1996
Hyde County
Swan Quarter Courthouse
Main Street
Swan Quarter, NC 27885

7:00 p.m.
August 7, 1996
Onslow County
Southend Fire Station
3304 Gray Street
North Topsail Beach, NC 28460

7:00 p.m.
August 7, 1996
Pender County
Town of Surf City Town Hall
214 North New River Drive
Surf City, NC 28445

7:00 p.m.
August 8, 1996
Brunswick County
Brunswick County Government Complex
60 Government Center Drive NE
Bolivia, NC 28422

7:00 p.m.
August 8, 1996
New Hanover County

7:00 p.m.

August 12, 1996
Currituck County
Currituck County Satellite Office
1123 Ocean Trail
Corolla, NC 27927

7:00 p.m.

August 12, 1996
Dare County
NC Aquarium - Roanoke Island
Airport Road
Manteo, NC 27954

Reason for Proposed Action: The CRC updates its long term average erosion rates every five years to include the most up to date coastal erosion data and technology for analysis. These rates are used for siting coastal development relative to the baseline of stable vegetation on the beaches. The new rates are necessary to include more accurate information on coastal erosion and advances in analysis technology.

Comment Procedures: All persons interested in this matter are invited to attend the public hearings. The Coastal Resources Commission will receive mailed written comments postmarked no later than August 23, 1996. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. Additional information concerning the hearing or the proposals may be obtained by contacting Kris M. Horton, DCM, PO Box 27687, Raleigh, NC 27611-7687, (919) 733-2293.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 7 - COASTAL MANAGEMENT

**SUBCHAPTER 7H - STATE GUIDELINES FOR
AREAS OF ENVIRONMENTAL CONCERN**

**SECTION .0100 - INTRODUCTION AND GENERAL
COMMENTS**

.0104 DEVELOPMENT INITIATED PRIOR TO EFFECTIVE DATE OF REVISIONS

(a) Development on lots created after the date of adoption of the current erosion rates (January 28, 1994) must comply fully with those rates. Development on lots created between June 1, 1979 and May 23, 1996 must comply with the current rates to the maximum extent feasible and have a minimum setback equal to the rates in effect at the time the lots were created, or, those rates in effect at the time of issuance of any active CAMA permit for development on those lots, whichever is more restrictive. Development on lots created prior to June 1, 1979 shall comply with the provisions of 15A NCAC 7H .0309(b) and (c). The following Rules shall be used to determine whether the revisions to guidelines for development in areas of environmental concern (hereinafter referred to as revisions), with an effective date of June 1, 1979, shall apply to a proposed development.

(1) In the case of a development for which a CAMA permit was required prior to June 1, 1979, the revisions shall not be applicable if a complete and sufficient application for a CAMA permit was filed and accepted before June 1, 1979. However if the application should lapse or be denied, thereby requiring a new application after June 1, 1979, or if the application is modified or renewed after June 1, 1979, the revisions shall be made applicable.

(2) In the case of a development for which no CAMA permit was required prior to July 15, 1979, the revisions shall not be applicable if all legally required permits have been applied for and accepted in accordance with the applicable rules of the agency responsible for the permit. However, if the application should lapse or be denied, thereby requiring a new application after July 15, 1979, or if the application is modified or renewed after July 15, 1979, the revisions shall be applicable.

(3) In those cases where a CAMA major permit was issued before June 1, 1979, for a major development which included platted lots, the new standards shall apply to such platted lots only to the maximum extent possible without effectively prohibiting the intended use of these lots. In order for this Subparagraph to apply, the following conditions must be met:

(A) the lot on which the proposed development is to be located shall have been accurately shown on the major development permit application and the boundaries must not have been significantly altered.

(B) the lot on which the proposed development is to be located shall have been suitable for the intended use according to the AEC guidelines in effect at the time the major permit was issued.

(C) a minor development permit must be applied for and received according to the normal minor permit process before development can begin.

(D) this Rule shall apply only to development for which a permit application is submitted prior to expiration of the major development permit issued before June 1, 1979.

(4) In those cases where any necessary local approval was issued for a proposed subdivision development prior to July 15, 1979, the Division of Coastal Management advised the developer in writing where to locate the ocean setback line for the proposed subdivision, and the proposed subdivision development was recorded in the county registry prior to July 15, 1979, with the ocean setback determined by the Division of Coastal Management, any new standards regarding oceanfront setbacks shall apply to the platted lots within the proposed subdivision only to the maximum extent possible without effectively prohibiting the intended use of those lots. In order for this Subparagraph to apply, the following conditions must be met:

(A) the lot(s) on which the proposed development is to be located shall have been accurately shown on an approved local plat and the boundaries must not have been significantly altered;

(B) the lot(s) on which the proposed development is to be located shall have been suitable for the intended use according to the AEC guidelines in effect at the time the plat was approved; and

(C) a minor development permit(s) must be applied for and received according to the normal minor permit process before development can begin.

(b) The oceanfront setback provisions specifically applicable to large structures, as set forth by Rule .0306(a)(4) of this Subchapter, shall apply only to development applications received on or after November 1, 1983. Further, Rule .0306(a)(4) of this Subchapter shall only apply to the maximum extent possible without effectively prohibiting the intended use of the property in the following situations:

(1) the completion of projects that had received valid CAMA permits prior to November 1, 1983 provided that permit renewals, modification and transfer requests for these projects made pursuant to 15A NCAC 7J .0404, .0405 and .0406 and 15A NCAC 7E .0105 shall be considered under the setback rules applicable at the time of original permit issuance, and no renewals or extensions of pre-existing permits shall be made beyond the expiration period unless either there has been substantial progress on construction or no material

change in the physical conditions at the project site (as is provided by 15A NCAC 7J .0403); and
 (2) ~~the completion of projects that were outside of CAMA permit jurisdiction prior to November 1, 1983, provided that all other required state and local permits had been applied for in accordance with the rules of the agencies responsible for such permits and that the developer has materially changed his or her position in good faith reliance on such development approvals. In all instances, such development must be consistent with all other provisions of this Subchapter.~~

(c) ~~In the case of subdivisions or projects which have received either all required final or preliminary local approvals or a CAMA major development permit prior to May 27, 1988, and have therein met all applicable CAMA setback requirements as of May 27, 1988, the updated oceanfront erosion rates approved by the Commission on July 29, 1988, and effective on November 1, 1988, shall only apply to the maximum extent feasible. For these previously approved lots and projects, the erosion rate existing as of May 27, 1988, shall be applied in determining minimum oceanfront setbacks for purposes of subsequent approved construction or development prior to the next erosion rate update.~~

(d) ~~Reconfiguration of lots and projects that have a grandfather status under Paragraphs (b) and (c) of this Rule will be allowed provided that the following conditions are met:~~

- (1) ~~Development is setback from the first line of stable natural vegetation a distance no less than that required by the applicable exceptions, and~~
- (2) ~~Reconfiguration will not result in an increase in the number of buildable lots within the Ocean Hazard AEC or have other adverse environmental consequences.~~

Authority G.S. 113A-107; 113A-113; 113A-124.

SECTION .0300 - OCEAN HAZARD AREAS

.0304 AECs WITHIN OCEAN HAZARD AREAS

The ocean hazard system of AECs contains all of the following areas:

- (1) Ocean Erodible Area. This is the area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The seaward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:
 - (a) a distance landward from the first line of stable natural vegetation to the recession line that would be established by multiplying the long-term annual erosion rate times 60, provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set

at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates shall be those set forth in tables maps entitled "Long Term Annual Erosion Shoreline Change Rates updated through 1986" 1992" and approved by the Coastal Resources Commission on July 29, 1988 May 23, 1996 (except as such rates may be varied in individual contested cases, declaratory or interpretive rulings). The tables maps are available without cost from any local permit officer or the Division of Coastal Management; and

- (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to the recession line that would be generated by a storm having a one percent chance of being equaled or exceeded in any given year.
- (2) The High Hazard Flood Area. This is the area subject to high velocity waters (including, but not limited to, hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development. In the absence of these rate maps, other available base flood elevation data prepared by a federal, state, or other source may be used, provided said data source is approved by the CRC.
 - (3) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area shall extend landward from the mean low water line a distance sufficient to encompass that area within which the inlet will, based on statistical analysis, migrate, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet (such as an unusually narrow barrier island, an unusually long channel feeding the inlet, or an overwash area), and external influences such as jetties and channelization. The areas identified as suggested Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, by Loie J. Priddy and Rick Carraway are hereby designated as Inlet Hazard Areas except that the Cape Fear Inlet Hazard as shown on said map shall not extend northeast of the Baldhead Island marina entrance channel. In all cases, this area shall be an extension of the adjacent ocean erodible area and in no case shall the width of the inlet hazard area be

less than the width of the adjacent ocean erodible area.

- (4) Unvegetated Beach Area. This is a dynamic area that is subject to rapid unpredictable landform change from wind and wave action. The areas in this category shall be designated following detailed studies by the Coastal Resources Commission. These areas shall be designated on maps approved by the Commission and available without cost from any local permit officer or the Division of Coastal Management.

Authority G.S. 113A-107; 113A-113; 113A-124.

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends to amend rule cited as 15A NCAC 10F .0307; repeal rules cited as 15A NCAC 10G .0102 - .0103, .0202 - .0203, .0206, .0302 - .0303; and adopt rules cited as 15A NCAC 10G .0401 - .0404, .0501.

Proposed Effective Date: 15A NCAC 10F .0307 and 15A NCAC 10G .0501: March 2, 1997; 15A NCAC 10G .0102 - .0103, .0202 - .0203, .0206, .0302 - .0303: March 7, 1997; 15A NCAC 10G .0401 - .0404: March 3, 1997.

A Public Hearing will be conducted for 15A NCAC 10F .0307 and 15A NCAC 10G .0501 on July 31, 1996; a public hearing will be conducted for 15A NCAC 10G .0102 - .0103, .0202 - .0203, .0206, .0302 - .0303, .0401 - .0404 on July 22, 1996. Both public hearings will be held at 10:00 a.m. at the Archdale Building, 3rd Floor Conference Room, 512 N. Salisbury St., Raleigh, NC 27604.

Reason for Proposed Action:

15A NCAC 10F .0307 - To restrict boat speeds in congested areas.

15A NCAC 10G .0102 - .0103, .0202 - .0203, .0206, .0302 - .0303 - Repeal.

15A NCAC 10G .0401 - .0404 - Establish requirements for duties of Wildlife Service Agents.

15A NCAC 10G .0501 - To prevent fraudulent use of license issued by the WRC.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from July 2, 1996 through August 2, 1996. Such written comments must be delivered or mailed to the NC Wildlife Resources Commission, 512 N. Salisbury St., Raleigh, NC 27604-1188.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five

million dollars (\$5,000,000) in a 12-month period.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0307 CATAWBA: IREDELL: LINCOLN AND MECKLENBURG COUNTIES

(a) Regulated Area. This Rule applies to Lake Norman which is located in the counties of Catawba, Iredell, Lincoln and Mecklenburg.

(b) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, bridge, dock, pier, marina, boat storage structure, or boat service area on the waters of Lake Norman.

(c) Speed Limit Near Parks. No person shall operate a vessel greater than no-wake speed within 50 yards of the following parks as designated by appropriate markers:

(1) Jetton Park;

(2) Brown's Cove Park.

(d) Specific Speed Zones: No person shall operate a vessel at greater than no-wake speed in the entire area of Bluff Point Cove.

(e) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked swimming area on the waters of Lake Norman.

(f) Placement and Maintenance of Markers. Each of the boards of commissioners of the above-named counties is designated a suitable agency for placement and maintenance of navigational aids and regulatory markers of a general nature on the waters of Lake Norman within the boundaries of each respective county. Provided the said counties exercise their supervisory responsibility, they may delegate the actual process of placement or maintenance of such markers to some other agency, corporation, group, or individual. With regard to marking the restricted zones described above, markers may be placed and maintained by the individuals using the protected areas and facilities in accordance with the Uniform Waterway Marking System and supplementary standards as set forth in Rule .0301(g)(1) to (8) of this Section.

(g) Markers Reflecting County Regulation. When any marker conforming or required to conform to the uniform system is placed in or near Lake Norman advising the public of the provisions of any local act or of county ordinances made under the authority of any local act and

(1) Such provisions are not within the enforcement jurisdiction of the Commission; and

(2) The Commission has not passed regulations of an identical or closely similar nature to that of the

provisions in question, such marker to be deemed in conformity with the uniform system must bear on it the legend "County Regulation" at such a place or at such places as needed to indicate which provisions are not enforceable by the Commission as a matter of state law.

(g) (h) Miscellaneous Restrictions. In addition to the acts prohibited by Paragraph (f) of Rule .0301 of this Section, it is unlawful to commit any such act with respect to any marker placed or erected under the authority of Chapter 1205 of the 1965 Session Laws of the State of North Carolina by any one of the above named counties or by them jointly.

Authority G.S. 75A-3; 75A-15; S.L. 1965, c. 1205.

SUBCHAPTER 10G - DISTRIBUTION AND SALE OF HUNTING: FISHING: AND TRAPPING LICENSE

SECTION .0100 - LICENSE AGENTS

.0102 QUALIFICATIONS OF LICENSE AGENT

(a) ~~New License Agencies:~~

(1) ~~Except as provided in Subparagraph (2) of this Paragraph, each applicant for initial appointment as license agent must have been continuously engaged in the business indicated for at least the immediately preceding year in order to have established a record of fiscal solvency as indicated by:~~

(A) ~~a profit and loss statement which does not indicate a loss for the most recent fiscal year; and~~

(B) ~~a year end balance sheet showing current assets of at least one and one half times current liabilities, and total assets at least equal to total liabilities. For the purpose of this Part "current assets" means cash, inventory and accounts receivable, and "current liabilities" means accounts due and payable.~~

(2) ~~Subparagraph (1) of this Paragraph shall not apply to:~~

(A) ~~the new owner of a business constituting a former license agency in good standing which was terminated solely by reason of the change of ownership;~~

(B) ~~an applicant which is an additional branch of an existing license agency in good standing; or~~

(C) ~~an applicant whose fiscal solvency and financial responsibility is conclusively established to the satisfaction of the Executive Director and who provides a separate bond with corporate surety indemnifying the Commission against any loss over and~~

~~above that covered by the blanket bond described in Paragraph (e) of this Rule.~~

(3) ~~Each initial appointment as license agent is probationary and is subject to limited license consentment and to close monitoring of performance.~~

(b) ~~License Storage Facilities. Each license agent shall be required to have either a floor safe of steel construction, weighing not less than 500 pounds and equipped with a combination lock, or a wall safe of steel construction equipped with a combination lock. Licenses and the proceeds therefrom shall be locked in this safe, pending deposit in the bank. In lieu of this requirement, such agent shall be required to assume absolute responsibility for the consigned value of licenses consigned to him, and the proceeds thereof, which may become lost or destroyed.~~

(c) ~~Bond. The Executive Director shall arrange to have each license agent covered by a blanket bond to the extent of four thousand dollars (\$4,000) or the total net value of licenses anticipated to be consigned to such agent at any time, whichever of such amounts shall be the higher. The effective period of such bond shall be from May 1 to April 30. The premium cost of the bond shall be paid by the agent. No licenses shall be consigned to any agent until he has become effectively bonded. The Executive Director shall have bond application forms prepared and made available to all license agents. The bond does not protect the license agent against fire, theft, or any loss from any cause.~~

(d) ~~License Agent's Agreement. In consideration of the privilege of selling hunting and fishing licenses and of the fees received therefrom, license agents shall be required to execute and acknowledge an agreement with all laws and regulations relating to state hunting and fishing license agents and will otherwise cooperate with the Commission in all respects. The Executive Director shall have suitable forms of this agreement prepared and made available to all license agents.~~

(e) ~~Knowledge of License Requirements. It is the duty of each license agent to keep thoroughly informed as to the laws and regulations relating to the requirement of licenses to hunt, trap and fish. Concise summaries of such requirements are included in the pamphlets containing the hunting and trapping regulations and the inland fishing regulations which are supplied to the agents at the beginning of the respective license periods.~~

Authority G.S. 113-134; 113-270.1.

.0103 CHANGE OF OWNERSHIP OR LOCATION

(a) ~~Sale or Transfer of Ownership. The agent must notify the Commission in writing of the sale or transfer of the ownership of the business which constitutes a license agency. Such transfer of ownership shall terminate the agency. The new owner of such business may make application for a license agency to fill the resulting vacancy.~~

(b) ~~Change in Location. When the location of any license agency is to be changed, the agent must notify the~~

~~Commission in writing at least 10 days prior to such change, and the agency shall be terminated unless the Executive Director determines, in his discretion, that the public convenience will be served and that such change will not result in an unnecessary concentration of license agencies in the locality to which the location is to be moved.~~

~~(c) Separate Locations; Subletting. Each license agency shall be limited to the location indicated on the application. Separate locations shall be deemed separate license agencies, each requiring a separate application and bond. It is unlawful for any license agent to sublet any part of his agency to another person or firm or to any location other than that to which his bond applies.~~

Authority G.S. 113-134; 113-270.1.

SECTION .0200 - BOAT REGISTRATION AGENTS

.0202 QUALIFICATIONS OF AGENTS

~~(a) Generally. All of the provisions of Rule .0102(a) of this Subchapter relating to the general qualifications for appointment of new license agents apply with respect to the qualifications of applicants for appointment as boat registration agents.~~

~~(b) Storage Facilities. Each boat registration agent is required to have a safe of the type described in Rule .0102(b) of this Subchapter or to assume absolute responsibility for the face value of validation decals consigned to him, and the monetary proceeds thereof, which may become lost or destroyed for any reason whatsoever.~~

~~(c) Bond. Each agent shall be bonded in the same manner as provided in Rule .0102(c) of this Subchapter. The performance of boat registration agents who are also license agents may be covered by the license agent bond. Otherwise, they must be bonded in the amount of two thousand dollars (\$2,000) which may also cover their performance as fur tag agents.~~

~~(d) Agent's Agreement. Each agent is required annually to execute an agreement to comply faithfully with the laws, regulations and administrative directives relating to boat registration.~~

~~(e) Knowledge of Boat Registration Requirements. It is the duty of each boat registration agent to keep thoroughly informed as to the laws and regulations relating to boat registration.~~

Authority G.S. 75A-3; 75A-5.

.0203 CHANGE OF OWNERSHIP OR LOCATION

~~All of the provisions of Rule .0103 of this Subchapter relating to changes in ownership or location of license agencies apply with equal force to boat registration agencies, and it is unlawful for an agent to sublet any part of the agency to another person or to a location other than that to which his bond applies.~~

Authority G.S. 75A-3; 75A-5.

.0206 AUTHORITY OF BOAT REGISTRATION AGENTS

~~When it will aid public convenience and efficiency in boat registration, boat registration agents may be:~~

- ~~(1) Consigned an allotment of certificates of boat number for use in issuing numbers and three-year registrations for previously unnumbered boats.~~
- ~~(2) Authorized to certify the transfer of ownership of boats from one owner to another and to register boats for a three-year period in the new owner's name.~~
- ~~(3) Authorized to renew registrations for boat owners when a renewal notice or boat registration card is presented.~~

Authority G.S. 75A-3; 75A-5.

SECTION .0300 - FUR TAG AGENTS

.0302 QUALIFICATIONS OF AGENTS

~~(a) Generally. All of the provisions of Rule .0102(a) of this Subchapter relating to the general qualifications for appointment of new license agents apply with respect to the qualifications of applicants for appointment as fur tag agents.~~

~~(b) Storage Facilities. Each fur tag agent is required to have a safe of the type described in Rule .0102(b) of this Subchapter or to assume absolute responsibility for the gross value of unsold fur tags consigned to him, and the net monetary proceeds of tag sales, which may be lost or destroyed by any cause whatsoever.~~

~~(c) Bond. Each agent shall be bonded in the same manner as provided in Rule .0102(c) of this Subchapter. The performance of fur tag agents who are also license agents may be covered by the license agent bond. Otherwise, they must be bonded in the amount of \$2,000 which may also cover their performance as boat registration agents.~~

~~(d) Agent's Agreement. Each agent is required annually to execute an agreement to comply faithfully with the laws, regulations and administrative directives relating to the sale of fur tags.~~

~~(e) Knowledge of Fur Tagging Requirements. It is the duty of each fur tag agent to keep thoroughly informed as to the laws and regulations relating to the tagging of furs including all of the rules contained in this Section and those contained in 15A NCAC 10B .0400.~~

Authority G.S. 113-143; 113-273; 113-276.1; 113-291.2; 113-291.3; 113-305.

.0303 CHANGE OF OWNERSHIP OR LOCATION

~~All of the provisions of Rule .0103 of this Subchapter relating to changes in ownership or location of license agencies apply with equal force to fur tag agencies, and it is unlawful for any agent to sublet any part of the agency to~~

another person or to a location other than that to which his bond applies.

Authority G.S. 113-134; 113-273; 113-276.1.

SECTION .0400 - WILDLIFE SERVICE AGENTS

.0401 PURPOSE OF WILDLIFE SERVICE AGENTS

Wildlife Service Agents are official agents of the North Carolina Wildlife Resources Commission who are appointed by the agency and thereby authorized to issue hunting and fishing licenses, permits, and tags; sell subscriptions to Wildlife in North Carolina; issue certificates of vessel number and decals; renew vessel registrations; and transfer ownership of vessels. The purpose of Wildlife Service Agents is to provide efficient and convenient outlets across the State for the distribution of licenses, permits, tags, certificates of vessel number, vessel decals, and other items desired by or necessary to the public for participation in activities regulated by the Commission.

Authority G.S. 113-134; 113-270.1.

.0402 APPOINTMENT OF WILDLIFE SERVICE AGENTS

Any business operating from a fixed location in North Carolina may apply to the Executive Director of the Wildlife Resources Commission on a form provided for appointment as a Wildlife Service Agent. The applicant must completely and accurately furnish all information requested in the application. An applicant may be appointed as a Wildlife Service Agent, if the information provided on the application and by any further investigation that may be made, provides clear evidence, convincing to the Executive Director, that the applicant pledges to comply with all requirements and meets all standards and qualifications applicable to Wildlife Service Agents. In order to ensure security of State funds to be collected by Wildlife Service Agents and to determine the qualification of the applicant in the field of business, the Executive Director may require that applicants have a minimum of one year's experience in operating the business for which the application is made or some other comparable business experience. Applicants may also be required to submit financial statements of the business so that the solvency of the business can be judged. Every initial appointment as a Wildlife Service Agent is probationary for the first year and new agents are subject to close monitoring of their performance.

Authority G.S. 113-134; 113-270.1.

.0403 WILDLIFE SERVICE AGENT AGREEMENT

In consideration of appointment as a Wildlife Service Agent and the fees received therefrom, each Wildlife Service Agent shall annually execute an Agreement with the Commission acknowledging that the agency shall be operated in compliance with all laws, rules, and administrative

directives related to the sale of licenses and the registration of vessels. Furthermore, the agency shall be operated as a public convenience; and, to that end, the agent agrees to serve the public in an efficient and helpful manner with all reasonable requests for assistance whenever open for business. It shall be the duty of the agent to be thoroughly informed and knowledgeable of the laws and rules governing requirements for licenses and vessel transactions and to stay abreast of changes in these requirements so that the agent can provide accurate and reliable information and instruction to persons who seek assistance in these matters. Unless otherwise specifically provided in the Agreement, the appointment as a Wildlife Service Agent and the Agreement under which the appointment is made is singularly valid for the person named thereon who is authorized to act on behalf of the business and applies only to the business and location named. If the manager, location, or ownership of the business changes, then the Agreement becomes null and void and, if the agency is to remain operational, it must be amended to reflect the changes. Notice of any change in management, location, or ownership must be sent to the Commission at least 10 days prior to the change to allow time to issue a new or amended Agreement, provided the new conditions of the agency conform to all requirements for appointment.

Authority G.S. 113-134; 113-270.1.

.0404 CUSTOMER SUPPORT SYSTEM

(a) Equipment. Each Wildlife Service Agent will be equipped with a transaction terminal, which is a network computer linked to the Commission's central data base by telephone lines. Using the transaction terminal, the agent can issue licenses, permits, tags, vessel registrations and decals, magazine subscriptions, and other items. The record of issuance of each item will be automatically transmitted by the terminal to the Commission overnight via toll-free telephone connection. The Commission will communicate information and instructions about individual agent accounts and messages of general interest to all agents via the transaction terminal. Agents will also be provided two printers: one to print receipts and messages and the other to print licenses, permits, tags, decals, registrations, and other items. All necessary training, trouble-shooting, maintenance, equipment replacements, materials and supplies will be furnished by the Commission. Toll-free telephone service to link transaction terminals to the system's central data base will be supplied by the Commission.

(b) Cost to the Wildlife Service Agent. Wildlife Service Agents applying for appointment prior to July 1, 1997, will not be charged any initial, subsequent, or periodic cost for the delivery, installation, training, operation, or maintenance of the Customer Support System. Agents applying after July 1, 1997, will be assessed a monthly fee to cover the cost of acquisition, installation, operation and maintenance of the equipment and the cost of supplies and materials to operate the Customer Support System. If the Commission

determines that an Wildlife Service Agent is necessary to serve the public interest in a particular area due to remoteness from other agents, heavy demand for licenses or vessel registrations, or some other pertinent factor and no business in the area will apply, it may waive the fee as an incentive to encourage an application.

(c) Bond. Wildlife Service Agents shall be covered under an annual blanket security bond in the amount of two thousand five hundred dollars (\$2,500) to secure the State's investment in equipment provided to agents to operate the Customer Support System in the event of loss, damage, or destruction of the equipment due to negligence on the part of an agent. The Commission may relieve an agent from liability for loss or damage to equipment if the loss is beyond the control of the agent and not due to negligence by the agent. The Commission shall obtain the blanket security bond in the name of all active Wildlife Service Agents in July of each year and divide the cost of the bond equally among agents.

Authority G.S. 113-134; 113-270.1.

SECTION .0500 - LICENSEE REQUIREMENTS

.0501 LICENSEE REQUIREMENTS

In order to show entitlement to licenses issued by the Wildlife Resources Commission, persons exercising the privilege of any license shall carry and show to any Wildlife Enforcement Officer upon request a picture identification card which includes the holder's correct name, address, and date of birth. The North Carolina Driver's License or the North Carolina Picture ID Card issued by the North Carolina Division of Motor Vehicles is one type of identification card that is acceptable for the purposes of this Rule.

Authority G.S. 113-134; 113-270.1.

TITLE 19A - DEPARTMENT OF TRANSPORTATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Transportation - Division of Motor Vehicles intends to amend rules cited as 19A NCAC 3E .0501 - .0502, .0510 - .0515, .0518 - .0519, .0522.

Proposed Effective Date: April 30, 1997

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 Emily Lee, Department of Transportation, PO Box 25201, Raleigh, NC 27611. The demand must be received within 15 days of this Notice.

Reason for Proposed Action: Most of the proposed

amendment are technical and necessitated by recodification of this Section. Other amendments are necessitated by changes in the Interstate Commerce Commission's required documentation.

Comment Procedures: Any interested person may submit written comments on the proposed rules by mailing the comments to Emily Lee, Department of Transportation, PO Box 25201, Raleigh, NC 27611, within 30 days after the proposed rules are published.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 3 - DIVISION OF MOTOR VEHICLES

SUBCHAPTER 3E - INTERNATIONAL REGISTRATION PLAN (IRP) SECTION

SECTION .0500 - SAFETY RULES AND REGULATIONS

.0501 CERTIFICATE: VEHICLE IDENTIFICATION: ETC

(a) ~~A carrier which proposes to limit its intrastate for hire operations to commodities and services or passengers which are exempt under G.S. 62-260, or which proposes to own vehicles for the purpose of leasing same, shall apply to the Division in writing, on forms furnished by the Division, and obtain a certificate of exemption.~~

(b) ~~A certificate of exemption for the transportation of property may also be authorized by the Utilities Commission under G.S. 62-261(6) upon its own motion, or upon motion of any motor carrier or any other party in interest. Such motion shall fully and clearly state conditions existing which warrant exemptions from rules and shall describe the kind of property to be hauled and the territory to be served. A certificate of exemption under this Paragraph will be issued only after a careful investigation by the Utilities Commission.~~

(c) (a) Passengers, fire-fighting equipment, medical and hospital supplies, food, feed, clothing, and other articles necessary for immediate relief of or direct prevention of fires, sickness, accident, storm, flood, or similar catastrophes, may be transported by any person in any available vehicle without notice to or authority from the Utilities Commission or the Motor Carrier Regulatory Unit upon issuance of an executive order from the Governor.

(d) ~~No exemption certificate shall be issued except for purposes as designated in Paragraphs (a) and (b) of this Rule.~~

(e) (b) A certificate of exemption may be ~~cancelled~~ canceled upon notice to the holder without hearing for any one or more of the following causes:

(1) for failure to mark for hire vehicles as required

- by Paragraph (f) (c) of this Rule;
- (2) for the transportation of passengers or property not exempt from rules;
 - (3) for refusal to permit the Division's inspectors, upon demand and display of proper credentials, to make examination of loaded trucks, the property being transported, and all books, records, and accounts relating to the transportation of property for hire;
 - ~~(4) when it shall be determined by the Division that a certificate of exemption was obtained solely for purposes other than those enumerated in Paragraphs (a) and (b) of this Rule;~~
 - ~~(5)(4)~~ for failure of exempt for hire passenger carriers to keep on file with the Division proper evidence of insurance as required by the Utilities Commission;
 - ~~(6)(5)~~ for failure of exempt for hire passenger or property carriers to comply with the safety rules of the Division.

(f) (c) Every vehicle operated under a certificate of exemption shall have printed on both sides thereof, in letters and figures not less than three inches high, the owner's name, or trade name, address, and certificate number unless such vehicle is under permanent lease in which case only the certificate number of the lessor will appear. In case of a tractor-trailer unit, the marking must be on the tractor.

(g) (d) The lease of equipment with driver for use in private transportation of property is prohibited unless the following requirements are met:

- (1) the leased equipment must be exclusively committed to the lessee's use for the term of the lease;
- (2) the lessee must have exclusive dominion and control over the transportation service during the term of the lease;
- (3) the lessee must maintain liability insurance for any injury caused in the course of performing the transportation service;
- (4) the lessee must be responsible for compliance with safety rules;
- (5) the lessee must bear the risk of damage to cargo; and
- (6) the term of the lease must be for a minimum period of 30 days.

(h) (e) Any person operating under a certificate of exemption using a leased or rented vehicle shall have the vehicle properly marked or placarded on both sides in letters and figures not less than three inches high, the lessee's name or trade name, address and certificate number.

Authority G.S. 20-378.

.0502 PURCHASE OF FOR HIRE LICENSE TAGS

(a) ~~A "for hire license tag" is a tag purchased by a registrant hauling commodities for compensation with an exemption certificate within the borders of North Carolina, pursuant to the requirements of G.S. 20-86.~~

~~(b) A certificate of exemption for the transportation of property issued as provided in Rule .0803 constitutes approval by the Division of the purchase of for hire tags for vehicles owned by and registered in the name of the party to whom such certificate of exemption is issued. The certificate of exemption must be presented to the Division of Motor Vehicles or its authorized agents when purchasing for hire tags.~~

(e) A certificate of exemption for the transportation of passengers issued as provided in Rule .0803 Rule .0501 of this Section does not in itself constitute approval by the Division of the purchase of for hire tags for vehicles owned by the person to whom such certificate is issued. For hire tags may only be purchased by holders of exemption certificates for the transportation of passengers who are in full compliance with the insurance and safety rules of the Division. Vehicles of such carriers must be registered with the Division as required by ~~Rule .0809~~ Rule .0507 of this Section and upon carrier's compliance with said insurance and safety rules, said vehicles will be approved by the Division of Motor Vehicles so that tags may be purchased, but not before.

Authority G.S. 20-86; 20-86.1; 20-378.

.0510 INTERSTATE CARRIERS/REGISTRATION OF CERTIFICATES: PERMITS

(a) Any motor carrier operating into, from, within, or through the State of North Carolina under authority issued by the Interstate Commerce Commission shall file with the North Carolina Division of Motor Vehicles and maintain a current record of such authority permitting operations within the borders of this state and such motor carrier shall not exercise such authority unless and until there shall have been filed with and approved by the Division an application for the registration of such authority and there shall have been compliance with all other requirements of ~~Rule .0812 through Rule .0817,~~ Rules .0510 through .0515 of this Section, provided, however, that such motor carrier shall only be required to file with the Division that portion of its authority permitting operations within the borders of this state, and providing further that such motor carrier shall not be required to file with the Division emergency or temporary operating authority having a duration of 30 consecutive days or less, if such carrier has registered its authority and identified its vehicles under the provisions of ~~Rule .0813 and Rule .0814,~~ Rules .0511 through .0514 of this Section, and ~~furnished to the Division a telegram or other written communication describing such emergency or temporary operating authority and stating that operation thereunder shall be in full accord with the requirements of Rule .0812 through Rule .0817.~~ Rules .0510 through .0515 of this Section.

~~(b) If a motor carrier fails to register and identify its vehicles and driveway operations with the Division under the provisions of Rule .0813 and Rule .0814 for three consecutive years, the Division shall cancel the motor~~

carrier's registration of ICC operating authority under these Rules upon 30 days' notice to the carrier at its last known address, and the carrier shall not thereafter exercise its ICC authority within the borders of this state unless it shall have again registered such authority as prescribed by the provisions of Rule .0812 through Rule .0817.

Authority G.S. 20-378.

.0511 REGISTRATION OF INTERSTATE AUTHORITY

(a) ~~The application for the registration with the Division of interstate authority permitting operations within the borders of this state shall be in the form set forth in Form A available from the Motor Carrier Safety Unit. The application shall be filed in duplicate, the original of which must have a copy of the ICC operating authority attached. The application shall be accompanied by a fee in the amount of twenty five dollars (\$25.00).~~

(a) The application for the registration of Interstate authority permitting operations within the borders of this state shall be set forth in the RS-1 and RS-2 application available from the Motor Carrier Regulatory Unit. The applications shall be filed with a copy of the ICC authority, BOC-3 (Process Agent Blanket Listing), a BMC91 (Uniform Motor Carrier Bodily Injury and Property Damage Certificate of Insurance) or BMC91X (Motor Carrier Automobile Bodily Injury Liability and Property Damage Liability), and appropriate fees for the state of travel.

(b) ~~Applications for the registration of subsequent amendments to ICC authority permitting operations within the borders of this state shall be filed in the manner described in Paragraph (a) and shall be accompanied by a fee in the amount of five dollars (\$5.00).~~

(b) Application for the registration of added vehicles and states should be applied on the RS-2 supplemental application accompanied by the appropriate fees for each state of travel.

Authority G.S. 20-378.

.0512 SINGLE STATE REGISTRATION

(a) ~~On or before the 31st day of January of each calendar year but not earlier than the preceding first day of October, interstate motor carriers shall apply to the Division for the issuance of an identification stamp or stamps for the registration and identification of the vehicle or vehicles which it intends to operate within the borders of this state during the ensuing year. Such application shall be accompanied by a filing fee in the amount of one dollar (\$1.00) for each identification stamp applied for. Applications for annual reregistration of such motor vehicles shall be accompanied by a filing fee in the amount of one dollar (\$1.00) for each identification stamp applied for. The application for the issuance of such identification stamps shall be in the form set forth in Form B available from the Motor Carrier Regulatory Unit and each application shall be~~

~~duly completed and executed by an official of the motor carrier. Provided, that vehicles of such carriers domiciled in another jurisdiction which extends reciprocity to vehicles or carriers domiciled in North Carolina, pursuant to the general reciprocal agreements heretofore or hereafter entered into with the North Carolina Commissioner of Motor Vehicles under Article 1A of Chapter 20 of the General Statutes, shall be exempt from the payment of registration fees required in this Paragraph to the same extent as such jurisdiction exempts vehicles of carriers domiciled in North Carolina from annual interstate public utilities vehicle registration fees similar to the fee required in this Paragraph.~~

(b) ~~On or before the 31st day of January of each calendar year but not earlier than the preceding first day of October, each motor carrier shall apply to the National Association of Regulatory Utility Commissioners for the issuance of and obtain a sufficient supply of uniform identification cab cards for use in connection with the registration and identification of the vehicle or vehicles which it intends to operate within the borders of this state during the ensuing year. Cab cards shall be in the form set forth in Form D available from NARUC.~~

(c) ~~The identification stamp shall be in the shape of a square and shall not exceed one inch in diameter and such stamp shall bear an expiration date of the first day of February in the succeeding calendar year.~~

(d) ~~The registration and identification of vehicles and the identification stamp evidencing same and the cab card prepared shall become void on the first day of February in the succeeding calendar year unless such registration is terminated prior thereto. North Carolina identification stamps shall bear an expiration date of the first day of February in the succeeding calendar year. See G.S. 20-385.~~

(a) The motor carrier shall keep a copy of the RS-3 registration receipt in each of its for-hire motor vehicles. The motor carrier may transfer the receipt from one for-hire motor vehicle to another as long as the total number of for-hire motor vehicles operated in any jurisdiction and in all jurisdictions does not exceed the number stated on the receipt.

(b) The RS-3 registration receipt shall become void on the last day of December in the calendar year. The motor carrier must file for a new receipt annually.

Authority G.S. 20-378.

.0513 EVIDENCE OF LIABILITY SECURITY

(a) ~~All interstate motor carriers shall keep in force at all times public liability and property damage insurance in amounts not less than the minimum limits prescribed by the U.S. Department of Transportation or Interstate Commerce Commission. The policy shall have attached thereto an endorsement (Form F, Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement) and as evidence of such insurance, there There shall be filed with the Division a Form E (Uniform Motor Carrier Bodily~~

Injury and Property Damage Liability Certificate of Insurance) as set forth in these Rules. A BMC91 (Uniform Motor Carrier Bodily Injury and Property Damage Certificate of Insurance) or a BMC91X (Motor Carrier Automobile Bodily Injury Liability and Property Damage Liability) shall be filed with the Division if a motor carrier has authority from the Interstate Commerce Commission.

(b) Notice of cancellation of insurance shall be given to the Division by the insurer, insurer by filing Form K (Uniform Notice of Cancellation of Motor Carrier Insurance Policies). The BMC35 (Notice of Cancellation of Motor Carrier Insurance) shall be filed to cancel the BMC91 or BMC91X.

(c) Such motor carriers who have been permitted to post bond in lieu of insurance or who have qualified as self-insurers, under the rules and regulations of the Interstate Commerce Commission, shall not engage in interstate commerce within the borders of this state unless and until such carriers have filed surety bonds (Form G, Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond) which have been accepted by the Division or a true and legible copy of the currently effective ICC order authorizing such motor carrier to self-insure under the provisions of the Interstate Commerce Act. Notice of cancellation of surety bonds shall be given to the Division by filing Form L (Uniform Notice of Cancellation of Motor Carrier Surety Bond).

~~(d) No such policy or bond shall be acceptable unless issued by an admitted company or a surplus lines company as permitted in G.S. 58-16-1 and 58-21-20. Provided, if the motor carrier is not registered in this state and the insurance company or surety company is a non-admitted company, the company shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action upon the policy or bond arising out of an accident involving the motor carrier in this state. Further, the company must be qualified in the state where the motor carrier is registered.~~

(d) A BMC91 or BMC91X shall not be accepted unless it is issued by an insurance company authorized by the Interstate Commerce Commission.

Authority G.S. 20-378.

.0514 ISSUANCE OF REGISTRATION RECEIPT

(a) Identification stamps will not be issued until a motor carrier is in full compliance with all of the provisions of Rule .0812 through Rule .0817.

(b) Prior to operating a vehicle within the borders of North Carolina, the motor carrier shall place one of such identification stamps on the back of the cab card in the square bearing the name of this state in such manner that the same cannot be removed without defacing it. The motor carrier shall thereupon duly complete and execute the form of certificate printed on the front of the cab card so as to identify itself and such vehicle, or driveway operation and, in the case of a vehicle leased by the motor carrier, such

~~expiration date shall not exceed the expiration date of the lease. The appropriate expiration date shall be entered in the space provided below the certificate. Such expiration date shall be within a period of 15 months from the date of any identification stamp or number placed on the back thereof. However, in the case of a vehicle leased by the motor carrier for 29 consecutive days' duration or less, the carrier may reuse the cab card for the same vehicle when subsequently leased for 29 consecutive days' duration or less, if it enters in the upper left hand corner of the front of the cab card the figure and words "29 day lease or less" and if it enters an expiration date in the space provided below the certificate which shall be within a period of 15 months from the date the cab card is executed and shall not be later in time than the expiration date of any identification stamp or number placed on the back thereof.~~

~~(e) The cab card shall be maintained in the cab of such vehicle for which prepared whenever the vehicle is operated under the authority of the carrier identified in the cab card.~~

~~(d) A cab card shall upon demand be presented by the driver to any authorized agent or representative of the North Carolina Division of Motor Vehicles.~~

~~(e) Each motor carrier shall destroy a cab card immediately upon its expiration except as otherwise provided in the proviso to Paragraph (f) of this Rule.~~

~~(f) A motor carrier permanently discontinuing the use of a vehicle, for which a cab card has been prepared, shall nullify the cab card at the time of such discontinuance. Provided, however, that if such discontinuance results from destruction, loss or transfer of ownership of a vehicle owned by such carrier, or results from destruction or loss of a vehicle operated by such carrier under a lease of 30 consecutive days or more and such carrier provides a newly acquired vehicle in substitution thereof within 30 days of the date of such discontinuance, each identification stamp and number placed on the cab card prepared for such discontinued vehicle, if such card is still in the possession of the carrier, may be transferred to the substitute vehicle by compliance with following procedure:~~

~~(1) Each motor carrier shall duly complete and execute the form of certificate printed on the front of a new cab card, so as to identify itself and the substitute vehicle and shall enter the appropriate expiration date in the space provided below such certificate;~~

~~(2) Each motor carrier shall indicate the date it terminated use of the discontinued vehicle by entering same in the space provided for an early expiration date which appears below the certificate of the cab card prepared for such vehicle;~~

~~(3) Each motor carrier shall affix the cab card prepared for the substitute vehicle to the front of the cab card prepared for the discontinued vehicle, by permanently attaching the upper left hand corners of both cards and, thereupon, each identification stamp or number appearing on the back of the card prepared for the discontinued vehicle shall be~~

~~deemed to apply to the operation of the substitute vehicle.~~

~~(g) If a cab card is lost, destroyed, mutilated, or becomes illegible, a new cab card may be prepared and new identification stamp issued therefore upon application by the motor carrier and upon payment of the same fee prescribed for the original issuance thereof.~~

(a) The RS-3 Registration Receipt shall not be issued until a motor carrier is in full compliance with all the provisions of Rules .0510 through .0517 of this Section.

(b) Prior to operating a vehicle within the borders of North Carolina, the motor carrier shall place a copy of the RS-3 registration receipt in each vehicle for which fees have been paid.

(c) A copy of the RS-3 registration receipt, upon request, shall be presented by the driver to any authorized agent or representative of the North Carolina Division of Motor Vehicles.

(d) The original RS-3 registration receipt must be retained by the motor carrier at its principal place of business for a period of three years. The motor carrier shall replace all expired copies of the RS-3 registration receipt with updated receipts each year.

Authority G.S. 20-378.

.0515 DESIGNATION OF PROCESS AGENT

No motor carrier shall engage in interstate commerce within the borders of the State of North Carolina unless and until there shall have been filed with and accepted by the Division a currently effective designation of a local agent for service of process. Each carrier shall file such designation by showing the name and address of such agent on the uniform application for registration of interstate operating authority as set forth in Form A available from the Motor Carrier Regulatory Unit or by furnishing the Division with a true copy of the designation of such agent filed with the Interstate Commerce Commission.

When a motor carrier is registering to operate under the Single State Registration Program a designation of process agent (BOC-3) shall be submitted with the initial application. Designation of process agent shall be filed in the registration state for each state of travel.

Authority G.S. 20-378.

.0518 REGISTRATION: EXEMPT INTERSTATE MOTOR CARRIERS: DEFINITIONS

The following letters and words, when used in ~~Rule .0821 through Rule .0827~~, Rules .0519 through .0525 of this Section, shall have the following meanings, unless otherwise clearly apparent from the context:

- (1) The words "driveaway operation" shall mean an operation in which any vehicle or vehicles, operated singly or in lawful combinations, new or used, not owned by the transporting motor carrier, constitute the commodity being transported;

- (2) The letters "ICC" shall mean the Interstate Commerce Commission;
- (3) The word "law" shall include constitutional and statutory provisions and rules adopted by the North Carolina Division of Motor Vehicles;
- (4) The words "motor carrier" shall mean a motor carrier of passengers or property for compensation engaged in interstate or foreign commerce when its operation is exempt from economic regulation by the Interstate Commerce Commission under the Interstate Commerce Act, as amended;
- (5) The letters "NARUC" shall mean the National Association of Regulatory Utility Commissioners;
- (6) The words "State Commission", "Commission", or "Division" shall mean the North Carolina Division of Motor Vehicles;
- (7) The word "vehicle" shall mean a self-propelled or motor driven vehicle operated by a motor carrier; and
- (8) The words "within the borders" shall mean such operations deemed to include interstate or foreign operations to, from, within or traversing the state.

Authority G.S. 20-378.

.0519 REGISTRATION REQUIRED

(a) A motor carrier shall not operate within the borders of the state unless and until there shall have been filed with and approved by the Division an application for the registration of such operation as prescribed by the provisions of ~~Rule .0823~~, Rule .0521 of this Section, and there shall have been a compliance with all other requirements of this Section. A change in operation shall be reported by the prior filing of a supplemental application.

(b) The application for the registration of such operation, and any supplemental application to report any change in operation, shall be in the form set forth in Form A-1 which is available from the Motor Carrier Regulatory Unit. The application shall be printed on a rectangular card or sheet of paper 11 inches in height and 8 and 1/2 inches in width. The application shall be duly completed and executed by an official of the motor carrier.

(c) The application for the registration of such operation shall be filed in duplicate with the Division. The original shall be retained by the Division. The other copy of the application or an ~~acknowledgement~~ acknowledgment shall be transmitted to the motor carrier when the application is approved by the Division. The application shall be accompanied by a fee in the amount of twenty-five dollars (\$25.00).

Authority G.S. 20-378.

.0522 EVIDENCE OF LIABILITY SECURITY

(a) All interstate exempt motor carriers shall keep in force at all times public liability and property damage

insurance in amounts not less than the minimum limits prescribed by the United States Department of Transportation or the Interstate Commerce Commission. ~~The policy shall have attached thereto an endorsement Form F (Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement) and as evidence of such insurance, there~~ There shall be filed with the Division a Form E (Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance).

(b) Notice of cancellation of insurance shall be given to the Division by the insurer by filing Form K (Uniform Notice of Cancellation of Motor Carrier Insurance Policies).

(c) Such motor carriers who elect to post bond in lieu of insurance must do so by filing Form G (Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond). Notice of cancellation of surety bond shall be given to the Division by filing Form L (Uniform Notice of Cancellation of Motor Carrier Surety Bond).

(d) No such policy or bond shall be acceptable unless issued by an admitted company or a surplus lines company as permitted in G.S. 58-16-1 and 58-21-20. Provided, if the motor carrier is not registered in this state and the insurance company or surety company is a non-admitted company, the company shall execute a power of attorney authorizing the Commissioner to accept service on its behalf of notice or process in any action upon the policy or bond arising out of an accident involving the motor carrier in this state. Further, the company must be qualified in the state where the motor carrier is registered.

Authority G.S. 20-378.

The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.

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

**SUBCHAPTER 21J - CHILD AND ADULT CARE
FOOD PROGRAM**

Rule-making Agency: *EHNR - Commission for Health Services*

SECTION .0100 - GENERAL PROVISIONS

Rule Citation: *15A NCAC 21I .0101, 21J .0101*

**.0101 INCORPORATION BY REFERENCE:
7 C.F.R. PART 226**

Effective Date: *July 8, 1996*

Title 7, Code of Federal Regulations, Part 226 is hereby adopted and incorporated by reference along with all subsequent amendments and editions. A copy of 7 C.F.R. Part 226 is maintained at the Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, 1330 St. Mary's Street, Raleigh, North Carolina, or can be obtained by contacting the Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, P.O. Box 10008, Raleigh, NC 27605, telephone (919) 733-2973, at a cost of five dollars (\$5.00).

Findings Reviewed by Julian Mann, III: *Approved*

Authority for the rule-making: *G.S. 130A-29*

Reason for Proposed Action: *Adoption of these regulations is required for the continued administration of these two programs by the Department of Environment, Health and Natural Resources, Division of Maternal and Child Health.*

History Note: Authority G.S. 130A-29; 130-361; S.L. 1995, c. 324, s. 17.11; 42 U.S.C. 1766; Temporary Adoption Eff. July 8, 1996.

Comment Procedures: *All persons interested in these matters are encouraged to submit written comments or questions to Grady Balentine, Department of Justice, PO Box 629, Raleigh, NC 27602-0629. Comments will be accepted by Mr. Balentine through August 30, 1996.*

CHAPTER 21 - HEALTH: PERSONAL HEALTH

**SUBCHAPTER 21I - SUMMER FOOD SERVICE
PROGRAM**

SECTION .0100 - GENERAL PROVISIONS

**.0101 INCORPORATION BY REFERENCE:
7 C.F.R. PART 225**

Title 7, Code of Federal Regulations, Part 225 is hereby adopted and incorporated by reference along with all subsequent amendments and editions. A copy of 7 C.F.R. Part 225 is maintained at the Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, 1330 St. Mary's Street, Raleigh, North Carolina, or can be obtained by contacting the Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, P.O. Box 10008, Raleigh, NC 27605, telephone (919) 733-2973, at a cost of five dollars (\$5.00).

History Note: Authority G.S. 130A-29; 130A-361; S.L. 1995, c. 324, s. 17.11; 42 U.S.C. 1761; Temporary Adoption Eff. July 8, 1996.

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, July 18, 1996 at 10:00 a.m. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, July 15, 1996, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Vernice B. Howard
Teresa L. Smallwood
Charles H. Henry

Philip O. Redwine - Vice Chairman

Appointed by House

Jennie J. Hayman - Chairman
Bill Graham
Paul Powell
Ed Shelton

RULES REVIEW COMMISSION MEETING DATES

July 18, 1996
August 15, 1996
September 19, 1996

October 17, 1996
November 21, 1996
December 19, 1996

MEETING DATE: JULY 18, 1996

LOG OF FILINGS

RULES SUBMITTED: MAY 20, 1996 THROUGH JUNE 20, 1996

AGENCY/DIVISION	RULE NAME	RULE	ACTION
DEPARTMENT OF COMMERCE			
	Institutional Conservation Program	4 NCAC 12C .0007	Repeal
DHR/SOCIAL SERVICES COMMISSION			
	Services to Foster Parents	10 NCAC 41F .0705	Amend
	Criminal Convictions	10 NCAC 41F .0706	Repeal
	Criminal Histories	10 NCAC 41F .0707	Adopt
	Criminal Background Checks	10 NCAC 41F .0812	Repeal
	Criminal History Checks	10 NCAC 41F .0813	Adopt
	Training Requirements	10 NCAC 41F .0814	Adopt
	Acceptance of Reports	10 NCAC 42V .0201	Amend
	Identity of Complainant	10 NCAC 42V .0802	Amend
	Specific Findings	10 NCAC 42V .0803	Amend
DEPARTMENT OF INSURANCE			
	Definitions	11 NCAC 20 .0101	Adopt
	Written Contracts	11 NCAC 20 .0201	Adopt
	Contract Provisions	11 NCAC 20 .0202	Adopt
	Changes Requiring Approval	11 NCAC 20 .0203	Adopt
	Carrier Contracts	11 NCAC 20 .0204	Adopt
	Filing Requirements	11 NCAC 20 .0205	Adopt
	Provider Availability	11 NCAC 20 .0301	Adopt
	Provider Accessibility	11 NCAC 20 .0302	Adopt
	Provider Network	11 NCAC 20 .0303	Adopt
	Monitoring Activities	11 NCAC 20 .0304	Adopt
	Credential Verification	11 NCAC 20 .0401	Adopt

Organization Structure	11 NCAC 20 .0402	Adopt
Written Credential Verification	11 NCAC 20 .0403	Adopt
Application	11 NCAC 20 .0404	Adopt
Verification of Credentials	11 NCAC 20 .0405	Adopt
Provider Files	11 NCAC 20 .0406	Adopt
Reverification	11 NCAC 20 .0407	Adopt
Confidentiality	11 NCAC 20 .0408	Adopt
Records and Exam	11 NCAC 20 .0409	Adopt
Delegation	11 NCAC 20 .0410	Adopt
Program	11 NCAC 20 .0501	Adopt
Structure	11 NCAC 20 .0502	Adopt
Plan	11 NCAC 20 .0503	Adopt
Activities	11 NCAC 20 .0504	Adopt
Quality of Care	11 NCAC 20 .0505	Adopt
Delegation of Activities	11 NCAC 20 .0506	Adopt
Corrective Action	11 NCAC 20 .0507	Adopt
Conflicts of Interest	11 NCAC 20 .0508	Adopt
Confidentiality	11 NCAC 20 .0509	Adopt
Records and Exams	11 NCAC 20 .0510	Adopt
Internal Audit	11 NCAC 20 .0511	Adopt
Application	11 NCAC 20 .0601	Adopt
Written Notice	11 NCAC 20 .0602	Adopt
Accessibility	11 NCAC 20 .0701	Adopt

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Statement of Purpose	15A NCAC 1C .0101	Amend
Exceptions	15A NCAC 1C .0503	Amend
Non-Major Activities	15A NCAC 1C .0504	Amend

DEHNR/ENVIRONMENTAL MANAGEMENT COMMISSION

General Procedures	15A NCAC 2B .0101	Amend
Analytical Procedures	15A NCAC 2B .0103	Amend
Waters Affected by Dredge	15A NCAC 2B .0109	Repeal
Antidegradation Policy	15A NCAC 2B .0201	Amend
Definitions	15A NCAC 2B .0202	Amend
Wetland Standards	15A NCAC 2B .0231	Adopt
Purpose	15A NCAC 2H .0501	Adopt
Application	15A NCAC 2H .0502	Amend
Public Notice	15A NCAC 2H .0503	Amend
Hearing	15A NCAC 2H .0504	Amend
Review of Applications	15A NCAC 2H .0506	Adopt
Issuance of Certification	15A NCAC 2H .0507	Amend

DEHNR/WILDLIFE RESOURCES COMMISSION

Application	15A NCAC 10F .0102	Amend
Transfer of Ownership	15A NCAC 10F .0103	Amend
Certificate of Number	15A NCAC 10F .0104	Amend
Numbering Pattern	15A NCAC 10F .0105	Amend
Display of Vessel Numbers	15A NCAC 10F .0106	Amend
Validation Decal	15A NCAC 10F .0107	Amend
Temporary Certificate	15A NCAC 10F .0109	Adopt
Brunswick County	15A NCAC 10F .0305	Amend
Dare County	15A NCAC 10F .0310	Amend
Catawba County	15A NCAC 10F .0342	Amend
Person County	15A NCAC 10F .0348	Amend

DEHNR/COMMISSION FOR HEALTH SERVICES

Definitions	15A NCAC 18A .3101	Amend
Reports of Elevated Blood	15A NCAC 18A .3102	Amend
Examination	15A NCAC 18A .3103	Amend
Investigation	15A NCAC 18A .3104	Amend
Notification	15A NCAC 18A .3105	Amend
Abatement	15A NCAC 18A .3106	Amend

NC STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

Initial Licensure Fee	21 NCAC 37D .0202	Amend
Renewal Fee	21 NCAC 37G .0102	Amend
Continuing Education	21 NCAC 37H .0102	Amend

RULES REVIEW OBJECTIONS

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Environmental Management

15A NCAC 2B .0216 - <i>Fresh Surface Water Quality Standards for Ws-iv Waters</i>	RRC Objection	05/16/96
Agency Revised Rule	Obj. Removed	05/16/96
15A NCAC 2H .0219 - <i>Minimum Design Requirements</i>	RRC Objection	04/18/96
Rule Returned to Agency	Obj. Cont'd	05/16/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	06/01/96

Commission for Health Services

15A NCAC 13B .1406 - <i>Operational Requirements for Solid Waste Compost Facilities</i>	RRC Objection	04/18/96
Agency Revised Rule	Obj. Cont'd	04/18/96
Rule Returned to Agency	Obj. Cont'd	05/16/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	06/01/96
15A NCAC 13B .1407 - <i>Classification/Distribution of Solid Waste Compost Products</i>	RRC Objection	04/18/96
Agency Revised Rule	Obj. Cont'd	04/18/96
Rule Returned to Agency	Obj. Cont'd	05/16/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	06/01/96
15A NCAC 13B .1408 - <i>Methods for Testing and Reporting Requirements</i>	RRC Objection	04/18/96
Agency Revised Rule	Obj. Cont'd	04/18/96
Rule Returned to Agency	Obj. Cont'd	05/16/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	06/01/96
15A NCAC 13B .1409 - <i>Approval of Alternative Procedures and Requirements</i>	RRC Objection	04/18/96
Rule Returned to Agency	Obj. Cont'd	05/16/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	06/01/96

Wildlife Resources Commission

15A NCAC 10D .0003 - <i>Hunting on Game Lands</i>	RRC Objection	05/16/96
Agency Revised Rule	Obj. Removed	05/16/96

HUMAN RESOURCES

Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

10 NCAC 15A .0126 - <i>Resolution of Differences of Opinion</i>	RRC Objection	05/16/96
Agency Revised Rule	Obj. Removed	05/16/96

JUSTICE

Private Protective Services

12 NCAC 7D .0808 - <i>Concealed Weapons</i>	RRC Objection	03/21/96
No Response from Agency	Obj. Cont'd	04/18/96

Agency Revised Rule

Obj. Removed

05/16/96

MEDICAL BOARD

21 NCAC 32H .0702 - Requests

RRC Objection

04/18/96

No Response from Agency

Obj. Cont'd

05/16/96

Rule Returned to Agency for Failure to Respond Pursuant to G.S. 150B-21.12

Obj. Cont'd

06/20/96

PUBLIC EDUCATION

State Board of Education

16 NCAC 1A .0003 - Organization of Department

RRC Objection

05/16/96

Agency Repealed Rule

Obj. Removed

05/16/96

16 NCAC 6D .0106 - Limited English Proficiency Programs

RRC Objection

03/21/96

No Response from Agency

Obj. Cont'd

04/18/96

Agency Revised Rule

Obj. Removed

05/16/96

16 NCAC 6H .0007 - Special Education Assessment and Placement Procedures

RRC Objection

05/16/96

Agency Revised Rule

Obj. Removed

05/16/96

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.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Brenda B. Becton
Sammie Chess Jr.
Beecher R. Gray
Meg Scott Phipps

Robert Roosevelt Reilly Jr.
Dolores Nesnow Smith
Thomas R. West

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Alcoholic Beverage Control Commission v. Zell, Inc.	95 ABC 1366	West	06/17/96	
Alcoholic Beverage Control Commission v. Henry Franklin Gurganus	95 ABC 1389	West	04/01/96	
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Alcoholic Beverage Control Commission v. Cashion's Food Mart, Inc.	95 ABC 1444	Gray	03/13/96	
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Alcoholic Beverage Control Commission v. Donald Ray Doak	95 ABC 1488	West	03/29/96	
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Alcoholic Beverage Control Commission v. Well Informed, Inc.	96 ABC 0016	Chess	05/28/96	
Alcoholic Beverage Control Commission v. Kubbard, Inc.	96 ABC 0017	Reilly	05/20/96	
Alcoholic Beverage Control Commission v. Stemmermans's, Inc.	96 ABC 0018	Chess	05/28/96	
George Wright and Alice Ramsuer v. Alcoholic Beverage Control Comm.	96 ABC 0058	Becton	04/16/96	
Alcoholic Beverage Control Commission v. Robert Montgomery McKnight	96 ABC 0135	Phipps	05/09/96	
Alcoholic Beverage Control Commission v. Jacqueline Robin Anthony	96 ABC 0184	Phipps	05/09/96	
Alcoholic Beverage Control Commission v. Millicent J. Green	96 ABC 0234	Nesnow Smith	06/13/96	
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Alcoholic Beverage Control Commission v. Triangle Drive-In	96 ABC 0443	Reilly	06/11/96	
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Helen B. Hunter-Reid v. Crime Victims Compensation Commission	95 CPS 1336	Nesnow Smith	03/29/96	11:02 NCR 93
Kenneth Saunders v. Victims Compensation Commission	95 CPS 1445	Chess	03/26/96	
Ruby H. Ford v. Crime Victims Compensation Commission	96 CPS 0110	Reilly	04/18/96	
Manuel Cervantes v. Victims Compensation Fund	96 CPS 0118	Chess	03/19/96	
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<i>Medical Facilities Licensure Section</i>				
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Addie & Major Short v. Department of Human Resources	95 DHR 1063	Morrison	03/19/96	
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Deborah Heil v. Tri-County Mental Health Complex	95 OSP 1100	Nesnow Smith	03/22/96	
<i>University of North Carolina</i>				
Jerel H. Bonner v. School of Nursing UNC at Chapel Hill	96 OSP 0026	Gray	03/12/96	11:01 NCR 61
Bela E. Karvaly, Ph.D. v. UNC Bd. of Gov., Pres. C.D. Spangler, Jr.	96 OSP 0151	Chess	05/08/96	
Carl E. Whigham v. UNC Hospitals at Chapel Hill	96 OSP 0248	Chess	06/11/96	

* Consolidated cases.

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
UNIVERSITY OF NORTH CAROLINA				
Sylvia Jeffries v. University of NC Hospitals at Chapel Hill	96 UNC 0067	Gray	04/16/96	

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
95 OSP 0631

COUNTY OF WAKE

LARRY W. CREECH,
Petitioner,

v.

RECOMMENDED DECISION

DEPARTMENT OF INSURANCE
Respondent.

This contested case came on to be heard before the undersigned administrative law judge on January 3 and 4, 1996, in Raleigh.

Mr. Marvin Schiller represented the Petitioner. Ms. Jane Friedensen represented the Respondent. The Petitioner presented four witnesses and introduced P. Exh. #1 - 6. The Respondent presented two witnesses and introduced R. Exh. # 1 - 5, 11 - 27, 29 - 55, 58-60 and 62. The Respondent filed a proposed Recommended Decision on May 30, 1996.

ISSUE

Did the Respondent intentionally discriminate against the Petitioner because of his age in denying him a promotion to Insurance Company Examiner II?

FINDINGS OF FACT

1. Petitioner Larry W. Creech was born on October 5, 1946. (T Vol. II p. 72)
2. Petitioner is a career State employee with twenty-six years and five months of continuous State service at the time of the hearing. He has spent his entire career in State government with the Respondent. Petitioner has a B.S. degree in business administration from Atlantic Christian College. (T Vol. I p 5)
3. From August of 1969 until 1972, Petitioner worked as a fiscal examiner in the Special Services Division. In this capacity, he audited premium finance companies and collection agencies. From 1972 until 1976, he worked as an Examiner I in the Financial Compliance Section, then known as Company Operations. He spent much of his time performing duties connected with the analysis of insurance company financial statements. In late 1976, Petitioner became a policy and rate analyst with the Life, Accident and Health Division, where he remained until 1987. (T Vol. I pp. 5-7)
4. On or about July 1, 1987, Petitioner transferred back to the Foreign Unit of the Financial Compliance Section as an Insurance Company Examiner I, a pay grade 74 position. Petitioner received a salary increase when he made this transfer. Terry Wade, the supervisor of the Financial Compliance Section, made the initial recommendation that Petitioner be chosen to fill the vacancy. Petitioner has remained an Examiner I at pay grade 74 in the Foreign Unit since the 1987 transfer. (R. Exh. #62; T Vol. I pp. 7, 30; T Vol. II pp. 69-73)
5. Petitioner's duties and responsibilities as an Insurance Company Examiner I in the Foreign Unit of the Financial Compliance Section include reviewing and analyzing annual and quarterly financial statements from foreign insurance companies with the aid of computer programs or models, identifying problems revealed through the analysis, and making recommendations to the Foreign Unit supervisor for resolving identified problems. Petitioner reviews approximately 300 annual reports each year. (T Vol. I pp. 7-12)
6. Financial analysis involves systematic conversion of financial data into ratios and comparisons of those ratios both laterally and diagonally. This process permits the analyst to discern trends and changes in a company's financial condition over time and provides a basis for inquiry into the underlying explanations or reasons for the

changes and trends. Financial analysis is fundamentally the same in financial services industries, such as banking and insurance, although the latter involves the use of some specialized accounting principles. (T Vol. I pp. 150-51; T Vol. II pp. 38-41)

7. Petitioner competently performs the duties of an Insurance Examiner I and has assisted his co-workers and superiors throughout his career. He accordingly has received good performance evaluations and regular pay raises (to the extent that any state employee has received the latter) during his employment and since he reached the age of 40. (T Vol. I pp. 63-64, 77-78; T Vol. II pp. 54-56; R. Exh. #14-27)
8. Petitioner has no supervisory experience. (T Vol. I pp. 40-41)
9. The Financial Evaluation Division is primarily responsible for overseeing the solvency of insurance companies and similar and related entities doing business in North Carolina. It consists of several sections, including the Company Admissions Section which processes applications from companies wishing to do business in North Carolina and approves the formation of domestic companies, the Financial Compliance Section which monitors insurance company operations, the Field Audit Section which performs on site audits of the financial condition of domestic insurance companies, and the Continuing Care Facility Section. The Financial Evaluation Division is also responsible for solvency surveillance of self-insured workers' compensation plans. (T Vol. I pp. 137-38; R. Exh. #1-2)
10. Ray Martinez has served as the Deputy Commissioner in charge of the Financial Evaluation Division since July, 1987. Mr. Martinez was 42 years of age at the time of the hearing. (T Vol. I pp. 136-37, 139)
11. Prior to becoming a Deputy Commissioner, Mr. Martinez worked as a chief financial officer for a property and casualty insurance company. He previously was employed with a life insurance company and as a public accountant. Mr. Martinez is active in the National Association of Insurance Commissioners ("N.A.I.C."). Mr. Martinez has a B.A. in accounting from Iona College. He is a Certified Public Accountant ("CPA") in the states of New York and Florida. (T Vol. I pp. 139-42)
12. Since becoming the Deputy Commissioner responsible for the Financial Evaluation Division, Mr. Martinez has encountered some resentment based on his perceived status as an "outsider."
13. The Financial Compliance Section of the Financial Evaluation Division performs oversight through financial analysis of insurance companies doing business in North Carolina. It also monitors various alternative market mechanisms. It is subdivided into three units: the Domestic Unit, the Foreign Unit, and the Securities Unit. (T Vol. I pp. 145-49)
14. The bulk of the resources available to the Financial Compliance Section is devoted to its Domestic Unit because the Respondent has principal responsibility among the states for regulating North Carolina's domestic insurers. The Domestic Unit includes four analysts and one supervisor responsible for overseeing the operations of 120 to 140 companies. The financial analyses performed in the Domestic Unit are more extensive than those performed in the Foreign Unit. (T Vol. I pp. 146, 148)
15. The Respondent decided, as a matter of policy and efficient resource allocation, to place a great deal of reliance on the states of domicile of foreign insurance companies to monitor their solvency. The Foreign Unit of the Financial Compliance Section accordingly consists of two life insurance analysts, two property and casualty insurance analysts and one supervisor responsible for monitoring the solvency of approximately 1000 foreign insurance companies doing business in North Carolina. (T Vol. I pp. 148-49)
16. Since 1989, the Respondent has taken steps to maximize the computerization of the financial analysis functions performed in the Foreign Unit as a means of targeting its resources. There are two principal computer programs used to analyze the financial statements of foreign insurers doing business in North Carolina. The first ranks foreign companies as high, medium or low priority for further analysis. The second program is used to evaluate a company's compliance with various statutory requirements relating to finances. The current programs have been in use for two or three years. The respondent is currently in the process of converting them from Lotus to Excel, the software used to run the programs and models available from N.A.I.C. (T Vol. I pp. 149, 152-53, 155; T. Vol. II pp. 31-32)

17. Keith Ouelette, the previous supervisor of the Foreign Unit, designed and maintained the computer programs currently used there. Terry Wade, a prior supervisor of the Financial Compliance Section, recommended that Mr. Ouelette be hired as an Insurance Company Examiner II, pay grade 76, to supervise the Foreign Unit effective November 30, 1992. Mr. Ouelette was 41 years of age at the time. Mr. Ouelette had no previous experience with the Respondent at that time. (T Vol. I pp. 36, 155-56; T Vol. II pp. 83-85; R. Exh. #58)

18. Mr. Ouelette's subordinates and superiors considered him highly competent. He left his position to take a higher paying job in the state of Florida. (T Vol. I pp. 40, 59, 155-56)

19. The Respondent posted the vacancy created by Mr. Ouelette's departure on or about February 8, 1995.

20. The vacancy posting lists the minimum qualifications for the Insurance Company Examiner II position that Mr. Ouelette vacated. These minimum qualifications include graduation from a four-year college or university with a minimum of twenty-four hours of accounting and a minimum of five years of experience in a financial analysis and/or audit position with a state department of insurance, an insurance company or a public accounting firm. It also lists preferred requirements including excellent analytical and decision-making skills, the ability to be decisive in formulating and executing those skills, and experience with microcomputers and appropriate software such as Lotus 1 - 2 - 3. The posting describes the position as supervisory in nature. (T Vol. I pp. 159-60; R. Ex. #3)

21. At the time the vacancy arose and at the time of the hearing in this matter, no current, accurate position description existed for the Insurance Company Examiner II position in the Foreign Unit at issue in this contested case. Through an oversight, the position description had last been updated in 1985 and reflected a great deal more responsibility in the area of computer programming than was required at the time the vacancy was posted in February, 1995. (T Vol. I pp. 163-65; P. Exh. #2)

22. The Performance Management Form for Mr. Marwan Zabaneh for the period from July 1, 1995 to June 30, 1996 accurately describes the primary duties, responsibilities and performance characteristics associated with the Insurance Company Examiner II position. (T Vol. II p. 6; R. Exh. #5)

23. Petitioner applied for the vacant Insurance Company Examiner II position on or about February 14, 1995. (T Vol. I pp. 14, 162; P. Exh. #1; R. Exh. #12)

24. Mr. Marwan Zabaneh applied for the vacant Insurance Company Examiner II position on or about February 20, 1995. (T Vol. I p. 163; R. Exh. #29)

25. At the time he applied for the Insurance Company Examiner II position in the Foreign Unit, Mr. Zabaneh was a career state employee with at least five continuous years of state service. He was employed as an Insurance Company Examiner I in the Field Audit Section of the financial Evaluation Division. He has a B.S. degree in accounting from the University of North Carolina at Greensboro and is a certified public accountant and an accredited financial examiner. (R. Exh. #28, 32, 33, 34, 35, 36, 37, 42, 47)

26. Despite the fact that Mr. Zabaneh was classified as an Examiner I in the Field Audit Section, the latest job description available for that position does not accurately describe his duties because he had assumed additional responsibilities and was in fact functioning as an examiner in charge, which ordinarily is classified as an Examiner II. (T Vol. II pp. 42-43; R. Exh. #9)

27. Prior experience in the Field Audit Section of the Financial Evaluation Division is relevant to successful functioning as an Insurance Company Examiner II in the Foreign Unit of the Financial Compliance Section of the Financial Evaluation Division. (T Vol. II pp. 43-45; R. Exh. #3)

28. Mr. Zabaneh worked directly under Mr. Martinez' supervision in 1992, 1993 and 1994 in connection with the liquidation of an insurance company. Based upon this experience, Mr. Martinez was very favorably impressed with Mr. Zabaneh's administrative and analytical skills. (T Vol. II pp. 49-53)

29. During the course of his employment, Mr. Zabaneh has received performance ratings ranging from good to outstanding. He, like the Petitioner, received regular performance-based salary increases. (T Vol. II pp. 79-80;

R. Exh. #30-55)

30. During the period from March 9, 1995 through March 15, 1995, Terry Wade interviewed seven applicants for the vacant Insurance Company Examiner II position in the Foreign Unit, including Petitioner, Mr. Zabaneh, and Thomas Wilkins. (T Vol. I pp. 102, 158, 172; T Vol. II p. 18; R. Exh. #11)
31. The ordinary procedure followed in filling a posted vacancy is for the immediate supervisor of the vacant position to conduct interviews, either alone or jointly with his or her immediate superior, and then to make to the immediate superior a recommendation as to which candidate should be selected. The recommendation, if approved, then passes up the chain of command. The Commissioner of Insurance ultimately is responsible for approving hiring recommendations. In accordance with the requirements of the Office of State Personnel, an Affirmative Action Program Applicant Selection/ Rejection Data Form is prepared to provide information regarding the names, gender, race, handicap status, veterans preference status, and current state employment status of each applicant. It also provides information concerning whether or not the applicant was interviewed and the reasons for each applicant's selection or rejection. The form is signed by the immediate supervisor, the appropriate senior deputy, the DOI EEO officer, and the Commissioner. (T Vol. I pp. 172; T Vol. II pp. 33-34, 70, 95)
32. Following completion of the candidate interviews, Mr. Wade recommended to Mr. Martinez that Marwan Zabaneh be selected to fill the vacant Insurance Company Examiner II position in the Foreign Unit. Mr. Martinez approved this recommendation. Appropriate approvals were obtained from Senior Deputy Alex Spencer, EEO Officer Sherry White, and Commissioner James Long. Effective May 1, 1995, Mr. Zabaneh was promoted to Insurance Company Examiner II, position number 3905-0100-0000- 328, at pay grade 76 with a ten percent salary increase. (T Vol. I pp. 29, 158, 172; T Vol. II p. 32-35; P. Exh. #5 and 6; R. Exh. #1, 2, 11, 28)
33. Mr. Zabaneh was born on October 29, 1968. At the time he was promoted, he was 27 years of age. (R. Exh. #28, 33)
34. Petitioner met the minimum necessary requirements for the Insurance Company Examiner II position at issue in this contested case. (T Vol. I pp. 17-18, 64, 125-26; P. Exh. #1; R. Exh. #3, 11-12, 18-27)
35. Mr. Zabaneh met the minimum necessary requirements for the Insurance Company Examiner II position at issue in this contested case. (T Vol. I pp. 42-45, 49-53; R. Exh. #3, 11, 30, 32-55)
36. Mr. Zabaneh was chosen to fill the Insurance Company Examiner II position at issue in this contested case because he was believed to have the best decision-making, analytical and computer skills of the candidates interviewed. He also had extensive experience in company receivership activities. (R. Exh. #11) Petitioner's age was not considered.
37. In a letter dated May 17, 1995, Mr. Wade notified the Petitioner that another individual had been selected to fill the vacant Insurance Company Examiner II position at issue in this contested case. (T Vol. I p. 19; T. Vol. II p. 67; P. Exh. #3; R. Exh. #13)
38. Petitioner, Mr. Wilkins, Mr. Tyndall, and Ms. Hartsfield questioned Mr. Zabaneh's selection but did not bring their concerns regarding Mr. Zabaneh's performance or competence to Mr. Martinez' attention prior to the contested case hearing in this matter. All of these individuals work in the Financial Evaluation Division, for which Mr. Martinez is responsible. (T Vol. II pp. 38, 62)
39. Since Mr. Wade's leave of absence commenced in September of 1995, Mr. Martinez has divided responsibility for the operations of the Financial Compliance Section between Mr. Zabaneh and a second individual. Mr. Zabaneh now reports directly to Mr. Martinez. He has assumed responsibility for all matters relating to foreign insurance companies that Mr. Wade formerly handled as chief financial analyst and head of the Financial Compliance Section. These duties are in addition to Mr. Zabaneh's existing responsibilities as immediate supervisor of the Foreign Unit. (T Vol. II pp. 59-60)
40. Mr. Martinez has observed nothing that would lead him to believe that there were problems with Mr. Zabaneh's

performance as supervisor of the Foreign Unit. He considers Mr. Zabaneh's performance in that capacity to be excellent. (T Vol. II pp. 60, 62, 79-80)

41. During the five year period preceding July, 1995, five individuals were hired at or above pay grade 76 in the Field Audit Section, which is under Mr. Martinez' control as Deputy Commissioner in charge of the Financial Evaluation Division. Three of these five individuals were over the age of forty. (T Vol. II pp. 85-86; R. Exh. 59)
42. During the five year period from May, 1990 to May, 1995, the Respondent promoted twenty-four individuals to positions at or above pay grade 76. Fourteen of these twenty-four individuals were forty years of age or older. (T Vol. II pp. 86-87; R. Exh. 60)

CONCLUSIONS OF LAW

1. Petitioner has the burden of proof to show by a preponderance of the evidence that the Respondent did not promote him to the position of Insurance Company Examiner II because of intentional age discrimination. The ultimate burden of persuasion remains with the Petitioner at all times. St. Mary's Honor Center v. Hicks, 113 S.Ct. 2742, 2746-56(1993).
2. In order to establish a prima facie case of age discrimination, the Petitioner must establish that he (i) was forty years of age or older, (ii) applied for the position, (iii) was qualified for the position, (iv) was denied the promotion, and (v) a younger person was awarded the position. Establishment of a prima facie case creates a presumption that the employer unlawfully discriminated against the employee. See St. Mary's Honor Center, 113 S.Ct. at 2747.
3. Petitioner has made out a prima facie case of age discrimination.
4. Once the Petitioner has established a prima facie case of age discrimination, the burden of production shifts to the Respondent to come forward with evidence of a legitimate nondiscriminatory reason for not awarding the position to the Petitioner. If the Respondent meets its burden of production, the presumption raised by the Petitioner's prima facie case is rebutted.
5. The Respondent has rebutted the prima facie case of intentional age discrimination by offering competent and admissible evidence that the individuals responsible for making the promotion decision at issue believed that Mr. Zabaneh was the most desirable candidate owing to his decision-making, analytical and computer skills, and his comprehensive experience in insurance company receivership activities.
6. When an the Respondent has rebutted the Petitioner's prima facie case, the Petitioner may still meet his ultimate burden of persuasion by offering evidence (or relying on the evidence offered to establish a prima facie case) that the Respondent's proffered legitimate nondiscriminatory reasons were in fact pretextual and that the employer was motivated by a discriminatory animus in making the promotion decision at issue. The trier of fact's disbelief of, or disagreement with, the Respondent's proffered reasons may permit, but does not compel, the conclusion that the Respondent acted on the basis of a discriminatory intent. See St. Mary's Honor Center v. Hicks, 113 S.Ct. at 2749-56.
7. The Petitioner attempted to establish that the Respondent's reasons for choosing Mr. Zabaneh rather than him for promotion were pretextual by relying on his own testimony and that of others that Mr. Zabaneh was not as qualified as the Petitioner. The evidence admitted in this case, however, establishes that Mr. Zabaneh met the minimum necessary qualifications for the Insurance Company Examiner II position.
8. Respondent has introduced evidence showing that it promoted Petitioner on one prior occasion in 1987 after he reached the age of forty and that the majority of the promotions to positions at or above pay grade 76 between May, 1990 and May, 1995 were awarded to persons forty years of age or older. This latter evidence showed that the very individuals whose motives the Petitioner has questioned previously have rewarded him with a transfer and accompanying pay raise that amounted to a promotion despite the fact that he was within the protected age group at the time. This fact seriously undermines any argument that age-based discriminatory animus against the Petitioner was the reason why the promotion at issue was awarded to Mr. Zabaneh.

9. Petitioner has failed to establish that the reasons offered for not promoting him to the Insurance Company Examiner II position at issue were pretextual.
10. Petitioner has failed to prove by a preponderance of the evidence that the failure to promote him to the Insurance Company Examiner II position case was motivated by intentional age discrimination. The Petitioner failed to prove that but for his age, he would have received the promotion.

RECOMMENDED DECISION

It is recommended that the decision of the Respondent to promote Mr. Zabaneh to the position of Insurance Company Examiner II, position number 3905-0100-0000-328, in the Foreign Unit of the Financial Compliance Section of the Financial Evaluation Division be left undisturbed.

NOTICE

The final decision in this contested case will be made by the State Personnel Commission. The parties have the right to file exceptions to this recommended decision and to present written arguments to this agency. The agency will mail a copy of the final decision to the parties, the attorneys of record and the Office of Administrative Hearings.

This the 6th day of June, 1996.

Robert Roosevelt Reilly, Jr.
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

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
		Mortuary Science	34
*21	Occupational Licensing Boards	Nursing	36
22	Administrative Procedures	Nursing Home Administrators	37
23	Community Colleges	Occupational Therapists	38
24	Independent Agencies	Opticians	40
25	State Personnel	Optometry	42
26	Administrative Hearings	Osteopathic Examination & Reg. (Repealed)	44
27	NC State Bar	Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Practicing Psychologists	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
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		Veterinary Medical Board	66

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

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(April 1996 - March 1997)

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					Action	Date				

This index provides information related to notices, rules and other documents published in the Register. The information provided below includes notices and rules published on or after December 1, 1995 and will be cumulative through March 1997. For assistance contact the Rules Division at 919/733-2678.

Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. * = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

ACUPUNCTURE LICENSING BOARD

21 NCAC 01 .0301		10:22 NCR 2860								
21 NCAC 01 .0705	10:17 NCR 2228		10:22 NCR 2834	*	Approve	04/18/96	*		11:04 NCR 220	
21 NCAC 01 .0709	10:17 NCR 2228		10:22 NCR 2834	*	Approve	04/18/96	*		11:04 NCR 220	

ADMINISTRATIVE HEARINGS

26 NCAC 03	11:03 NCR 110									
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ADMINISTRATION

State Building Commission

1 NCAC 30G .0101		11:04 NCR 194								
1 NCAC 30G .0102		11:04 NCR 194								
1 NCAC 30G .0103		11:04 NCR 194								
1 NCAC 30G .0104		11:04 NCR 194								
1 NCAC 30G .0105		11:04 NCR 194								

AGRICULTURE

2 NCAC 09C .0700	10:24 NCR 3056									
2 NCAC 09C .0701		11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 09C .0702		11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 09C .0704		11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 48A .0206	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .0211	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .0214	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .1103	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .1110	10:24 NCR 3056		11:06 NCR 324	*						

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2 NCAC 48B .0112	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0114	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0119	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0120	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 52B .0201	10:24 NCR 3056		11:06 NCR 324	*						
Plant Conservation Board										
2 NCAC 48F .0301	11:07 NCR 407									
2 NCAC 48F .0302	11:07 NCR 407									
2 NCAC 48F .0304	11:07 NCR 407									
2 NCAC 48F .0305	11:07 NCR 407									
2 NCAC 48F .0306	11:07 NCR 407									
COMMERCE										
Credit Union Division										
4 NCAC 06C .0205	10:18 NCR 2398									
4 NCAC 06C .0407	10:18 NCR 2398									
4 NCAC 06C .0409	10:18 NCR 2398									
State Ports Authority										
4 NCAC 13	10:24 NCR 3056									
COMMUNITY COLLEGES										
23 NCAC 02D .0325	10:24 NCR 3058									
23 NCAC 02E .0203	10:24 NCR 3058									
23 NCAC 03A .0113	10:24 NCR 3058									
CULTURAL RESOURCES										
USS North Carolina Battleship Commission										
7 NCAC 05 .0202	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0203	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0204	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0207	10:18 NCR 2398		11:04 NCR 188	*						

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ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A Public Notice

15A NCAC 01K	10:19 NCR 2506									
15A NCAC 01M .0101		11:06 NCR 368								
15A NCAC 01M .0102		11:06 NCR 368								
15A NCAC 01M .0201		11:06 NCR 368								
15A NCAC 01M .0202		11:06 NCR 368								
15A NCAC 01M .0301		11:06 NCR 368								
15A NCAC 01M .0302		11:06 NCR 368								
15A NCAC 01M .0303		11:06 NCR 368								
15A NCAC 01M .0304		11:06 NCR 368								
15A NCAC 01M .0305		11:06 NCR 368								
15A NCAC 01M .0306		11:06 NCR 368								

Coastal Resources Commission

15A NCAC 07	11:04 NCR 183									
15A NCAC 07H .0104	10:24 NCR 3045		11:07 NCR 409	*						
15A NCAC 07H .0106	10:16 NCR 1921		11:04 NCR 190	*						
15A NCAC 07H .0304	10:24 NCR 3045		11:07 NCR 409	*						
15A NCAC 07J .0102	10:24 NCR 3045		11:04 NCR 190	*						

Environmental Management Commission

15A NCAC 02	10:24 NCR 3045									
15A NCAC 02	11:04 NCR 183									
15A NCAC 02B .0223	11:02 NCR 75									
15A NCAC 02B .0223	11:03 NCR 109									
15A NCAC 02B .0224	10:18 NCR 2400									
15A NCAC 02B .0227	10:18 NCR 2400									
15A NCAC 02B .0229	11:03 NCR 109									
15A NCAC 02B .0303	10:18 NCR 2400									

11.01 NCR 2

Notice Subject Matter

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15A NCAC 02B .0315	11:02 NCR 75									
15A NCAC 02L .0106		10:19 NCR 2508								
15A NCAC 02L .0202	10:20 NCR 2591									
15A NCAC 02P .0402		10:19 NCR 2512								
15A NCAC 02Q .0102			11:06 NCR 350	*						11:06 NCR 317
NPDES Permits										11:07 NCR 406
NPDES Permits										
Health Services, Commission for										
15A NCAC 13C .0301	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0302	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0303	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0304	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0305	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0306	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0307	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0308	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 18A	11:04 NCR 183									
15A NCAC 18A .1814									11:04 NCR 209	
15A NCAC 18A .2601		11:01 NCR 24	11:05 NCR 273	*	Approve	04/18/96				
15A NCAC 18A .2701					Approve	06/20/96				
15A NCAC 20D .0243					Approve	04/18/96			11:04 NCR 209	
15A NCAC 21H .0111		11:06 NCR 371								
15A NCAC 21H .0113		11:06 NCR 371								
15A NCAC 21I .0101		11:07 NCR 422								
15A NCAC 21J .0101		11:07 NCR 422								
Marine Fisheries Commission										
15A NCAC 03	11:07 NCR 407									
15A NCAC 031 .0019			10:21 NCR 2737	*	Approve	05/16/96				*

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					Action	Date				
15A NCAC 03J .0401			10:21 NCR 2688	*	Approve	05/16/96	*			
15A NCAC 03M .0202	11:03 NCR 110									
15A NCAC 03M .0504	11:03 NCR 110									
15A NCAC 03M .0511	11:03 NCR 110									
Wildlife Resources Commission										
15A NCAC 10B .0106	11:02 NCR 76									
15A NCAC 10B .0113	11:07 NCR 408									
15A NCAC 10B .0115	11:07 NCR 408									
15A NCAC 10B .0123	11:02 NCR 76									
15A NCAC 10B .0203	11:02 NCR 76									
15A NCAC 10B .0208	11:02 NCR 76									
15A NCAC 10B .0209	11:02 NCR 76									
15A NCAC 10C .0107	11:02 NCR 76									
15A NCAC 10C .0205	11:02 NCR 76									
15A NCAC 10C .0305	11:02 NCR 76									
15A NCAC 10C .0401	11:02 NCR 76									
15A NCAC 10C .0401	11:07 NCR 408									
15A NCAC 10D .0002	11:02 NCR 76									
15A NCAC 10D .0003	11:02 NCR 76									
15A NCAC 10F .0102	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0103	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0104	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0105	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0106	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0107	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0109	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0300	11:01 NCR 13									
15A NCAC 10F .0302	11:05 NCR 272									

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Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 10F .0303	10:24 NCR 3057		11:06 NCR 355	*						
15A NCAC 10F .0305	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0307	11:02 NCR 76		11:07 NCR 412	*						
15A NCAC 10F .0310	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0310	10:24 NCR 3057		11:06 NCR 355	*						
15A NCAC 10F .0342	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0348	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10G	11:01 NCR 13									
15A NCAC 10G .0100	11:02 NCR 76									
15A NCAC 10G .0102	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0103	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0202	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0203	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0206	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0302	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0303	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0401	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0402	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0403	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0404	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0501	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10I .0001	10:22 NCR 2829		11:04 NCR 191	*						
15A NCAC 10I .0002	11:02 NCR 76									

Wildlife Proclamation

Wildlife Proclamation

FINAL DECISION LETTERS

Voting Rights Act

Voting Rights Act

11:03 NCR 104

11:04 NCR 182

11:01 NCR 1

11:04 NCR 181

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					Action	Date				

Voting Rights Act

11:06 NCR 315

Voting Rights Act

11:07 NCR 405

GENERAL CONTRACTORS LICENSING BOARD

21 NCAC 12.0204 10:22 NCR 2829 11:06 NCR 372
21 NCAC 12.0503 10:22 NCR 2829 11:06 NCR 372

GOVERNOR'S EXECUTIVE ORDERS

Number 95-Eff. 4/24/96

11:05 NCR 270

HUMAN RESOURCES

10 NCAC 41P.0013 11:06 NCR 323

Aging

10 NCAC 22 10:23 NCR 2956

Child Day Care Commission

10 NCAC 03U.0102 10:20 NCR 2593
10 NCAC 03U.0604 11:03 NCR 109
10 NCAC 03U.0704 10:19 NCR 2506
10 NCAC 03U.0710 10:22 NCR 2829
10 NCAC 03U.2701 10:20 NCR 2593
10 NCAC 03U.2702 10:20 NCR 2593
10 NCAC 03U.2703 10:20 NCR 2593
10 NCAC 03U.2704 10:20 NCR 2593

11:04 NCR 188

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11:04 NCR 188

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Facility Services

10 NCAC 03 10:18 NCR 2399
10 NCAC 03R.3001 10:21 NCR 2699
10 NCAC 03R.3001 10:23 NCR 2956
10 NCAC 03R.3010
10 NCAC 03R.3020
10 NCAC 03R.3020 10:23 NCR 2956
10 NCAC 03R.3030
11:06 NCR 328 S/L/SE
11:06 NCR 328 S/L/SE
10:21 NCR 2699
10:21 NCR 2699
10:21 NCR 2699

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Medical Care Commission

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					Action	Date				
10 NCAC 41F .0705	10:23 NCR 2956		11:03 NCR 111	L						
10 NCAC 41F .0706		10:21 NCR 2726	11:03 NCR 111	*						
10 NCAC 41F .0707		10:21 NCR 2726	11:03 NCR 111	S						
10 NCAC 41F .0812		10:21 NCR 2726	11:03 NCR 111	*						
10 NCAC 41F .0813		10:21 NCR 2726	11:03 NCR 111	S						
10 NCAC 41F .0814	10:23 NCR 2956		11:03 NCR 111	L						
10 NCAC 41I .0100	10:17 NCR 2228									
10 NCAC 41I .0102	10:17 NCR 2228		10:21 NCR 2687	*						
10 NCAC 41P .0002	11:06 NCR 323									
10 NCAC 41P .0005	11:06 NCR 323									
10 NCAC 41P .0006	11:06 NCR 323									
10 NCAC 41P .0008	11:06 NCR 323									
10 NCAC 41P .0009	11:06 NCR 323									
10 NCAC 41P .0010	11:06 NCR 323									
10 NCAC 41P .0011	11:06 NCR 323									
10 NCAC 41P .0012	11:06 NCR 323									
10 NCAC 42A .0701		10:21 NCR 2728								
10 NCAC 42A .0702		10:21 NCR 2728								
10 NCAC 42A .0703		10:21 NCR 2728								
10 NCAC 42B .1209		10:21 NCR 2729								
10 NCAC 42B .1210		10:21 NCR 2729								
10 NCAC 42B .1211		10:21 NCR 2729								
10 NCAC 42B .2402		10:21 NCR 2729								
10 NCAC 42B .2403		10:21 NCR 2729								
10 NCAC 42B .2404		10:21 NCR 2729								
10 NCAC 42B .2405		10:21 NCR 2729								
10 NCAC 42C .2010		10:21 NCR 2729								
10 NCAC 42C .2011		10:21 NCR 2729								

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					Action	Date				
10 NCAC 42C .2012		10:21 NCR 2729								
10 NCAC 42C .3701		10:21 NCR 2729								
10 NCAC 42C .3702		10:21 NCR 2729								
10 NCAC 42C .3703		10:21 NCR 2729								
10 NCAC 42C .3704		10:21 NCR 2729								
10 NCAC 42D .1409		10:21 NCR 2729								
10 NCAC 42D .1410		10:21 NCR 2729								
10 NCAC 42D .1411		10:21 NCR 2729								
10 NCAC 42D .1827		10:21 NCR 2729								
10 NCAC 42D .1828		10:21 NCR 2729								
10 NCAC 42D .1829		10:21 NCR 2729								
10 NCAC 42D .1830		10:21 NCR 2729								
10 NCAC 42V .0201		10:20 NCR 2597	11:03 NCR 111	*						
10 NCAC 42V .0802		10:20 NCR 2597	11:03 NCR 111	*						
10 NCAC 42V .0803		10:20 NCR 2597	11:03 NCR 111	*						
INSURANCE										
11 NCAC 12 .0551	10:18 NCR 2399		10:22 NCR 2831	*	Approve	05/16/96	*		11:05 NCR 283	
11 NCAC 16 .0703	10:18 NCR 2399		10:22 NCR 2832	*	Approve	05/16/96			11:05 NCR 284	
JUSTICE										
Attorney General/Company Police										
12 NCAC 021 .0101					Approve	04/18/96			11:04 NCR 208	
12 NCAC 021 .0206					Approve	04/18/96			11:04 NCR 208	
12 NCAC 021 .0210					Approve	04/18/96			11:04 NCR 208	
Alarm Systems Licensing Board										
12 NCAC 11 .0202	10:24 NCR 3057									

LABOR

Occupational Safety and Health

13 NCAC 07F 11:03 NCAC 106

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Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
13 NCAC 07F .0101		11:03 NCR 119								
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0301	11:03 NCR 106									
MEDICAL BOARD										
21 NCAC 32H	10:18 NCR 2400									
21 NCAC 32H .0101	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0102	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0201	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0203	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			
21 NCAC 32H .0301	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0302	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0303	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0401	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0402	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0403	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0404	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0406	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0407	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0408	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0409	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0501	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0502	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0504	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0505	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0506	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0507	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0601	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0602	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	

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21 NCAC 32H .0701 10:18 NCR 2400

21 NCAC 32H .0702 10:18 NCR 2400

21 NCAC 32H .0801 10:18 NCR 2400

21 NCAC 32H .0901 10:18 NCR 2400

21 NCAC 32H .0902 10:18 NCR 2400

10:22 NCR 2835

10:22 NCR 2835

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PSYCHOLOGY BOARD

21 NCAC 54 .2704

21 NCAC 54 .2706

PUBLIC EDUCATION

16 NCAC 01A .0001

16 NCAC 01A .0003

Standards Board for Public School Administration

16 NCAC 07 10:23 NCR 2957

REFRIGERATION EXAMINERS

21 NCAC 60 .0204 11:05 NCR 272

21 NCAC 60 .0207 11:05 NCR 272

21 NCAC 60 .0314 11:05 NCR 272

REAL ESTATE COMMISSION

21 NCAC 58 11:07 NCR 408

21 NCAC 58A .0101 10:22 NCR 2829

21 NCAC 58A .0105 10:22 NCR 2829

21 NCAC 58A .0109 10:22 NCR 2829

21 NCAC 58A .0110 10:22 NCR 2829

21 NCAC 58A .0302 10:22 NCR 2829

21 NCAC 58A .0503 10:22 NCR 2829

21 NCAC 58A .0504 10:22 NCR 2829

21 NCAC 58A .1501 10:22 NCR 2829

11:03 NCR 114

11:03 NCR 114

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					Action	Date				
21 NCAC 58A.1502	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A.1601	10:22 NCR 2835		11:03 NCR 114	*						
REVENUE										
17 NCAC 01C.0504	10:20 NCR 2599									
17 NCAC 01C.0506	10:20 NCR 2599									
17 NCAC 05C.0102			11:03 NCR 113	*						
17 NCAC 05C.2101			10:24 NCR 3059	*	Approve	05/16/96	*		11:05 NCR 284	
17 NCAC 06B.0612			10:22 NCR 2833	*	Approve	04/18/96	*		11:04 NCR 211	
17 NCAC 06B.3716			10:22 NCR 2833	*	Approve	04/18/96	*		11:04 NCR 211	
17 NCAC 07B.1101			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1105			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.1108			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.1109			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.1110			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.1112			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.1114			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.1123			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1602			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1701			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1702			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1802			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.2401			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.2601			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.4002			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.4004			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.4008			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.4301			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.4408			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	

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					Action	Date				

17 NCAC 07B .4902

Tax Review Board

Tax Review Board

10:21 NCR 2688

Approve

04/18/96

*

11:04 NCR 212

11:02 NCR 72

11:06 NCR 318

SOCIAL WORK, BOARD OF

21 NCAC 63 .0306

10:21 NCR 2739

11:03 NCR 118

*

SOIL SCIENTISTS, BOARD FOR LICENSING

21 NCAC 69 .0101

10:19 NCR 2507

11:04 NCR 200

*

21 NCAC 69 .0102

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0103

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0104

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0201

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0202

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0301

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0302

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0303

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0304

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0305

10:19 NCR 2507

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21 NCAC 69 .0306

10:19 NCR 2507

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21 NCAC 69 .0307

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0308

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0401

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0402

10:19 NCR 2507

11:04 NCR 200

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21 NCAC 69 .0501

10:19 NCR 2507

11:04 NCR 200

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STATE PERSONNEL COMMISSION

25 NCAC 01J .0613

10:23 NCR 2960

11:01 NCR 26

25 NCAC 01J .0613

Approve

03/21/96

11:01 NCR 26

SUBSTANCE ABUSE PROFESSIONALS CERTIFICATION BOARD

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					Action	Date				
21 NCAC 68	10:18 NCR 2401									
21 NCAC 68 .0101	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0102	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0201	10:18 NCR 2401		10:22 NCR 2850	**	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0202	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0203	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0204	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0205	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0206	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0207	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0208	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0209	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0210	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0211	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0212	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0213	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0401	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0402	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0403	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0404	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0405	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0406	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0407	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0701	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0702	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0703	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0704	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0705	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	

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					Action	Date				
21 NCAC 68 .0706	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11.04 NCR 238	
21 NCAC 68 .0707	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11.04 NCR 238	
21 NCAC 68 .0708	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11.04 NCR 238	
21 NCAC 68 .0709	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11.04 NCR 238	
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19A NCAC 06B .0401	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0402	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0403	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0404	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0405	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0406	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0407	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0408	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0409	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0410	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0411	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0412	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0413	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0414	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0415	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0416	10:23 NCR 2957		11:05 NCR 279	S						
19A NCAC 06B .0417	10:23 NCR 2957		11:05 NCR 279	S						
Highways, Division of										
19A NCAC 02D .1101	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1102	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1103	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1104	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1105	10:23 NCR 2957		11:05 NCR 274	*						

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(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
19A NCAC 02D .1106	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1107	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1108	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1109	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1110	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1111	10:23 NCR 2957		11:05 NCR 274	*						
19A NCAC 02D .1112	10:23 NCR 2957		11:05 NCR 274	*						
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19A NCAC 03E .0501	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0502	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0510	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0511	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0512	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0513	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0514	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0515	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0518	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0519	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0522	11:01 NCR 13		11:07 NCR 416	*						

BARCLAYS OFFICIAL NORTH CAROLINA ADMINISTRATIVE CODE - 1995

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
Title 1 - Dept. of Administration - Full Title	201 00 00	\$63.00	\$90.00
Division of Purchase & Contract	201 10 05	\$21.00	\$30.00
Federal Block Grant Funds	201 10 33	\$17.50	\$25.00
Title 2 - Dept. of Agriculture - Full Title	202 00 00	\$98.00	\$140.00
Food & Drug Protection Division	202 15 09	\$28.00	\$40.00
Structural Pest Control Committee	202 15 34	\$21.00	\$30.00
Agricultural Markets	202 15 43	\$21.00	\$30.00
Plant Industry	202 15 48	\$21.00	\$30.00
Animal Industry	202 15 52	\$21.00	\$30.00
Title 3 - Dept. of State Auditor - Full Title	203 00 00	\$7.00	\$10.00
Title 4 - Dept. of Commerce - Full Title	204 00 00	\$87.50	\$125.00
Alcoholic Beverage Control Commission	204 15 02	\$12.00	\$40.00
Banking Commission	204 15 03	\$24.50	\$35.00
Credit Union Division	204 15 06	\$14.00	\$20.00
Savings & Loan Division	204 15 09	\$14.00	\$20.00
Industrial Commission/Workers Compensation	204 15 10	\$14.00	\$20.00
Savings Institutions Division	204 15 16	\$24.50	\$35.00
Title 5 - Dept. of Corrections - Full Title	205 00 00	\$56.00	\$80.00
Division of Prisons	205 15 02	\$24.50	\$35.00
Title 6 - Council of State - Full Title	206 00 00	\$21.00	\$30.00
Title 7 - Dept. of Cultural Resources - Full Title	207 00 00	\$21.00	\$30.00
Title 8 - State Board of Elections - Full Title	208 00 00	\$7.00	\$10.00
Title 9 - Offices of the Governor & Lt. Governor - Full Title	209 00 00	\$31.50	\$45.00
Title 10 - Dept. of Human Resources - Full Title	210 00 00	\$346.50	\$495.00
Licensing of Health Facilities	210 20 10	\$45.50	\$65.00
Detention Facilities	210 20 20	\$31.50	\$45.00
Mental Health & Rehabilitation Services	210 20 30	\$77.00	\$110.00
Social Services	210 20 40	\$119.00	\$170.00
Children Services/Day Care	210 20 41	\$31.50	\$45.00
Services for the Aging	210 20 42	\$31.50	\$45.00
Services for the Blind	210 20 43	\$28.00	\$40.00
Services for the Deaf & Hard of Hearing	210 20 44	\$17.50	\$25.00
Employment Opportunities	210 20 45	\$35.00	\$50.00
Title 11 - Dept. of Insurance - Full Title	211 00 00	\$63.00	\$90.00
Insurance	211 10 01	\$56.00	\$80.00
Consumer Services	211 10 04	\$24.50	\$35.00
Fire & Rescue Services	211 10 05	\$17.50	\$25.00
Agent Services	211 10 06	\$28.00	\$40.00
Engineering & Building Codes	211 10 08	\$21.00	\$30.00
Title 12 - Dept. of Justice - Full Title	212 00 00	\$63.00	\$90.00
Private Protective Services	212 10 07	\$21.00	\$30.00
Police & Sheriff's Education & Training Standards	212 10 09	\$31.50	\$45.00
NC Alarm Systems Licensing Board	212 10 11	\$17.50	\$25.00
Title 13 - Dept. of Labor - Full Title	213 00 00	\$77.00	\$110.00
Mine & Quarry Safety	213 15 06	\$14.00	\$20.00
General Safety/OSHA	213 20 00	\$31.50	\$45.00
Wage & Hour Rules	213 15 12	\$14.00	\$20.00
Boiler & Pressure Vessel Safety	213 15 13	\$14.00	\$20.00
Apprenticeship & Training	213 15 14	\$14.00	\$20.00
Elevator & Amusement Device Safety	213 15 15	\$14.00	\$20.00
Title 14A - Dept. of Crime Control & Public Safety - Full Title	214 00 00	\$31.50	\$45.00
Alcohol Law Enforcement	214 00 08	\$17.50	\$25.00
Victims Compensation Fund	214 00 11	\$14.00	\$20.00
Title 15A - Dept. of Environ., Health, & Nat. Resources - Full Title	215 00 00	\$276.50	\$395.00
Environmental Management	215 15 00	\$115.50	\$165.00
Air Quality	215 15 10	\$49.00	\$70.00
Water Quality	215 15 20	\$49.00	\$70.00
Land & Waste Management	215 15 30	\$56.00	\$80.00
Solid Waste Management	215 15 31	\$35.00	\$50.00
Underground Storage Tanks	215 15 32	\$17.50	\$25.00

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
Coastal Management	215 15 40	\$31.50	\$45.00
Environmental Health	215 25 00	\$105.00	\$150.00
Radiation/Nuclear Waste	215 25 10	\$42.00	\$60.00
Sanitation	215 25 20	\$35.00	\$50.00
Public Health	215 25 30	\$59.50	\$85.00
Intoxilizer & Breathalyzer	215 25 31	\$17.50	\$25.00
Title 16 - Dept. of Public Instruction - Full Title	216 00 00	\$21.00	\$30.00
Elementary & Secondary Education	216 10 06	\$21.00	\$30.00
Title 17 - Dept. of Revenue - Full Title	217 00 00	\$91.00	\$130.00
Taxes on Individuals	217 15 10	\$31.50	\$45.00
Taxes on Business	217 15 20	\$58.00	\$80.00
Sales & Use Tax Division	217 15 27	\$31.50	\$45.00
Motor Fuels Tax Division	217 15 29	\$21.00	\$30.00
Title 18 - Secretary of State - Full Title	218 00 00	\$21.00	\$30.00
Securities Division	218 10 06	\$21.00	\$30.00
Title 19A - Dept. of Transportation - Full Title	219 00 00	\$63.00	\$90.00
Division of Highways	219 10 02	\$28.00	\$40.00
Division of Motor Vehicles	219 10 03	\$35.00	\$50.00
Title 20 - Dept. of the State Treasurer - Full Title	220 00 00	\$31.50	\$45.00
Title 21 - Occupational Licensing Boards - Full Title	221 00 00	\$143.50	\$205.00
Title 22 - Administrative Procedures Act - Repealed	222 00 00	\$0.00	\$0.00
Title 23 - Dept. of Community Colleges - Full Title	223 00 00	\$7.00	\$10.00
Title 24 - Independent Agencies - Full Title	224 00 00	\$7.00	\$10.00
Title 25 - Office of State Personnel - Full Title	225 00 00	\$42.00	\$60.00
Title 26 - Office of Administrative Hearings - Full Title	226 00 00	\$7.00	\$10.00
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