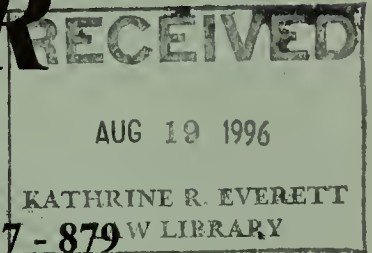


NORTH CAROLINA REGISTER



VOLUME 11 • ISSUE 10 • Pages 817 - 879
August 15, 1996

IN THIS ISSUE

Commerce
Environment, Health, and Natural Resources
Executive Order
Human Resources
Justice
Refrigeration Examiners
Revenue
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*

NORTH CAROLINA ADMINISTRATIVE DECISIONS

Barclays Law Publishers recently began publishing decisions issued by the Office of Administrative Hearings (OAH) in a new periodical entitled, *Barclays Official North Carolina Administrative Decisions*. This publication is in addition to *Barclays Official North Carolina Administrative Code*.

Barclays Official North Carolina Administrative Decisions (NCAD) is a comprehensive and authoritative reporter containing the full text of all administrative decisions released for publication by the Office of Administrative Hearings. The *NCAD* includes the OAH recommended decisions and other final agency decisions, as they are submitted to the OAH.

A one-year subscription to *Barclays Official NCAD* includes:

- Monthly Summaries and Full Text of Decisions
- Topical Index organized by Case Name and Subject
- Table of Cases, Statutes, and Regulations cited
- 12 monthly issues for only \$225 a year

To order, or for more information, please call Barclays at 1-800-888-3600.

✂ (Cut along dotted line)

DESCRIPTION	CODE	QTY	PRICE	TOTAL
Barclays Official NCAD	251 00 001		\$225	
Subtotal				
Remit Applicable Sales Tax (8.25%)				
Add \$4.50 Shipping & Handling for each item				
TOTAL				

CUSTOMER INFORMATION

COMPANY NAME	
CONTACT NAME	TITLE
STREET ADDRESS	DEPARTMENT
POST OFFICE BOX	TELEPHONE
CITY/STATE/ZIP	

METHOD OF PAYMENT (payment must accompany order)

☐ Check Enclosed ☐ Visa ☐ Master Card ☐ American Express

CARD NUMBER	EXPIRATION DATE
-------------	-----------------


NAME (as it appears on card)

SIGNATURE

MAIL THIS FORM WITH PAYMENT TO:

LAWYERS COOPERATIVE PUBLISHING
P.O. Box 95767 • Chicago, IL 60694-5767
TELEPHONE: 800-888-3600 • FAX: 800-455-0511

Source Code #: C6CAD



Digitized by the Internet Archive
in 2011 with funding from
University of North Carolina at Chapel Hill

NORTH CAROLINA REGISTER



**Volume 11, Issue 10
Pages 817 - 879**

August 15, 1996

This issue contains documents officially
filed through July 25, 1996.

Office of Administrative Hearings
Rules Division
424 North Blount Street (27601)
PO Drawer 27447
Raleigh, NC 27611-7447
(919) 733-2678
FAX (919) 733-3462

Julian Mann III, Director
James R. Scarella Sr., Deputy Director
Molly Masich, Director of APA Services
Ruby Creech, Publications Coordinator
Teresa Kilpatrick, Editorial Assistant
Jean Shirley, Editorial Assistant
Linda Richardson, Editorial Assistant

IN THIS ISSUE

I. EXECUTIVE ORDER	
Executive Order 97	817
II. RULE-MAKING PROCEEDINGS	
Justice	
Private Protective Services	818
III. PROPOSED RULES	
Environment, Health, and Natural Resources	
Environmental Management	824 - 838
Human Resources	
Day Care Commission	819 - 823
Social Services	823 - 824
Licensing Board	
Refrigeration Examiners	839 - 840
Revenue	
Departmental Rules	838 - 839
IV. TEMPORARY RULES	
Human Resources	
Medical Assistance	841 - 842
V. APPROVED RULES	843 - 851
Commerce	
Energy	
Environment, Health, and Natural Resources	
Wildlife Resources and Water Safety	
Human Resources	
Social Services	
VI. RULES REVIEW COMMISSION	852 - 856
VII. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	857 - 864
Text of Selected Decisions	
95 OSP 1179	865 - 873
96 DOJ 0420	874 - 878
VIII. CUMULATIVE INDEX	1 - 24

FILING DEADLINES			NOTICE OF RULE-MAKING PROCEEDINGS		NOTICE OF TEXT (either column A or column B)							
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	
10:17	12/01/95	11/07/95	01/30/96	02/01/96								
10:18	12/15/95	11/22/95	02/13/96	02/15/96								
10:19	01/02/96	12/07/95	03/04/96	03/15/96								
10:20	01/16/96	12/20/95	03/18/96	04/01/96								
10:21	02/01/96	01/10/96	04/01/96	04/15/96	02/16/96	03/04/96	03/20/96	05/13/96	04/01/96	04/22/96	01/30/97	01/30/97
10:22	02/15/96	01/25/96	04/15/96	05/01/96	03/01/96	03/18/96	03/20/96	05/13/96	04/15/96	04/22/96	01/30/97	01/30/97
10:23	03/01/96	02/09/96	04/30/96	05/01/96	03/18/96	04/01/96	04/22/96	01/30/97	04/30/96	05/20/96	01/30/97	01/30/97
10:24	03/15/96	02/23/96	05/14/96	05/15/96	04/01/96	04/15/96	04/22/96	01/30/97	05/14/96	05/20/96	01/30/97	01/30/97
11:01	04/01/96	03/11/96	05/31/96	06/03/96	04/16/96	05/01/96	05/20/96	01/30/97	05/31/96	06/20/96	01/30/97	01/30/97
11:02	04/15/96	03/22/96	06/14/96	07/01/96	04/30/96	05/15/96	05/20/96	01/30/97	06/14/96	06/20/96	01/30/97	01/30/97
11:03	05/01/96	04/10/96	07/01/96	07/15/96	05/16/96	05/31/96	06/20/96	01/30/97	07/01/96	07/22/96	01/30/97	01/30/97
11:04	05/15/96	04/24/96	07/15/96	08/01/96	05/30/96	06/14/96	06/20/96	01/30/97	07/15/96	07/22/96	01/30/97	01/30/97
11:05	06/03/96	05/10/96	08/02/96	08/15/96	06/18/96	07/03/96	07/22/96	01/30/97	08/01/96	08/20/96	01/30/97	01/30/97
11:06	06/14/96	05/23/96	08/13/96	08/15/96	07/01/96	07/15/96	07/22/96	01/30/97	08/13/96	08/20/96	01/30/97	01/30/97
11:07	07/01/96	06/10/96	08/30/96	09/03/96	07/16/96	07/31/96	08/20/96	01/30/97	08/30/96	09/20/96	01/30/97	01/30/97
11:08	07/15/96	06/21/96	09/13/96	09/16/96	07/30/96	08/14/96	08/20/96	01/30/97	09/13/96	09/20/96	01/30/97	01/30/97
11:09	08/01/96	07/11/96	09/30/96	10/01/96	08/16/96	09/03/96	09/20/96	01/30/97	09/30/96	10/21/96	01/30/97	01/30/97
11:10	08/15/96	07/25/96	10/14/96	10/15/96	08/30/96	09/16/96	09/20/96	01/30/97	10/14/96	10/21/96	01/30/97	01/30/97
11:11	09/03/96	08/12/96	11/04/96	11/15/96	09/18/96	10/03/96	10/21/96	01/30/97	11/04/96	11/20/96	01/30/97	01/30/97
11:12	09/16/96	08/23/96	11/15/96	12/02/96	10/01/96	10/16/96	10/21/96	01/30/97	11/15/96	11/20/96	01/30/97	01/30/97

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	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <ol style="list-style-type: none"> (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. <p>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 Saturday, Sunday, or State holiday.</p>	<p>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.</p> <p>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.</p>	<p>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.</p> <p>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT: The date of the next issue following the end of the comment period.</p>	<p>EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p>END OF REQUIRED COMMENT PERIOD</p> <ol style="list-style-type: none"> (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. <p>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.</p>

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, Effective date of rules.

**EXECUTIVE ORDER NO. 97
EMERGENCY RELIEF FOR DAMAGE CAUSED BY
HURRICANE BERTHA**

WHEREAS, I have proclaimed that a state of emergency and threatened disaster exists in certain areas of North Carolina due to Hurricane Bertha; and

WHEREAS, the United States Department of Transportation, in conjunction with the North Carolina Department of Transportation, has declared a regional emergency justifying an exemption from 49 C.F.R. 390-399 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. 166A-4(3) and 166A-6(c)(3), the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that if vehicles bearing food, equipment, and supplies to relieve our hurricane-stricken counties must adhere to the weight restrictions of N.C.G.S. 20-88, 20-96 and 20-118, citizens those counties likely will suffer losses and therefore, there is an imminent threat of widespread damage within the meaning of N.C.G.S. 166A-4(3);

THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, and with the concurrence of the Council of State, **IT IS ORDERED:**

Section 1. The Division of Motor Vehicles shall waive restrictions and penalties therefor arising under N.C.G.S. 20-88, 20-96, and 20-118 for vehicles transporting food, equipment, and supplies, including necessary utility vehicles along our highways to North Carolina's hurricane-stricken counties.

Section 2. Notwithstanding the waivers set forth above, restrictions and penalties shall not be waived under the following conditions:

- (A) When the vehicle weight exceeds the maximum gross vehicle weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross vehicle weight, whichever is less.

- (B) When tandem axle weights exceed 42,000 pounds and single axle weights exceed 22,000 pounds.
- (C) When vehicle/vehicle combination exceeds 12 feet in width and a total overall combination vehicle length of 65 feet from bumper to bumper.

Section 3.

- (A) Upon entering North Carolina, the vehicles will stop at the first available vehicle weight station and produce identification sufficient to establish that its load will be used for the Hurricane Bertha relief effort. All other safety restrictions apply. If returning vehicles are loaded with some other backhaul, all normal weight and permit restrictions apply.
- (B) The \$50.00 fee listed in N.C.G.S. 105-449.49 for a temporary trip permit is waived for the vehicles described above. The penalties described in N.C.G.S. 20-382 concerning insurance registration are waived also. Finally, no quarterly fuel tax is required because the exception in N.C.G.S. 105-449.45(a)(1) applies.
- (C) The vehicles will be allowed only in primary and interstate routes designated by the North Carolina Department of Transportation.

Section 4. Vehicles described in Section 1 which are nonparticipants in North Carolina's International Registration Plan will be permitted to pass through North Carolina in accordance with the spirit of the exemptions identified by this Executive Order.

Section 5. The North Carolina Department of Transportation shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner in which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 6. This Order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

This Executive Order shall become effective immediately and shall remain in effect for 30 days.

Done in the Capital City of Raleigh, North Carolina this the 12th day of July 1996.

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 12 - DEPARTMENT OF JUSTICE

CHAPTER 7 - PRIVATE PROTECTIVE SERVICES

Notice of Rule-making Proceedings is hereby given by the N.C. Private Protective Services 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:
12 NCAC 7D .0201, .0504, .0701, .0801, .0902; 12 NCAC 7D. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 74C-5

Statement of the Subject Matter:

12 NCAC 7D .0201, .0701, .0801, .0902 - The rules currently set forth standards for submission of an applicant's criminal record check.

12 NCAC 7D .0504 - The rule sets forth the basic stan-

dards for an accepted polygraph instrument.

12 NCAC 7D - The Board wishes to develop rules that will set forth the requirements to become a Certified Firearm Instructor Trainer.

Reason for Proposed Action:

12 NCAC 7D .0201, .0701, .0801, .0902 - The Board would like to consider changing the type and origin or criminal record checks that are submitted with an individual's application.

12 NCAC 7D .0504 - The current rule requires a polygraph instrument to have a "permanent simultaneous recording on a moving chart." Technology has changed and new instruments no longer record data on moving charts.

12 NCAC 7D - No rules currently exist to specify what is required for an instructor to teach others how to instruct.

Comment Procedures: Written comments concerning this rule-making activity may be submitted within sixty days of this publication to W.A. Hoggard, III, Administrator, N.C. Private Protective Services Board, 3320 Old Garner Road, Raleigh, North Carolina 27626.

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 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Child Day Care Commission intends to adopt rules cited as 10 NCAC 3U .2701, .2702, .2703, .2704 and to amend rule cited as 10 NCAC 3U .0102. Notice of Rule-making Proceedings was published in the Register on January 16, 1996.

Proposed Effective Date: April 1, 1997

A Public Hearing will be conducted at 4:00 - 8:00 p.m. on September 4, 1996 at the Division of Child Development, 319 Chapanoke Road, Suite 120, Room 300, Raleigh, NC 27603.

Reason for Proposed Action: Permanent rules will replace previously adopted temporary rules that outline criminal records check procedures for child day care providers.

Comment Procedures: Comments may be presented in writing any time before or at the public hearing or orally at the hearing. Time limits for oral remarks may be imposed by the Commission Chairman. Any person may request copies of these Rules by calling Jeanne Marlowe, Division of Child Development, 319 Chapanoke Road, Suite 120, Raleigh, NC 27603, (919) 662-4527.

Fiscal Note: These Rules do affect the expenditures or revenues of state funds. These Rules do not affect local 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 - FACILITY SERVICES

SUBCHAPTER 3U - CHILD DAY CARE STANDARDS

SECTION .0100 - PURPOSE AND DEFINITIONS

.0102 DEFINITIONS

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

- (1) "Age appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.

- (2) "Agency" means the Child Day Care Section, Division of Facility Services, Department of Human Resources, located at 701 Barbour Drive, Raleigh, North Carolina 27603.
- (3) "Appellant" means the person or persons who request a contested case hearing.
- (4) "A" license means the license issued to day care operators who meet the minimum requirements for the legal operation of a child day care facility pursuant to G.S. 110-91 and applicable rules in this Subchapter.
- (5) "AA" license means the license issued to day care operators who meet the higher voluntary standards promulgated by the Child Day Care Commission as codified in Section .1600 of this Subchapter.
- (6) "Child Care Program" means a provider of child day care services and may consist of a single center or home, or a group of centers or homes or both, which are operated by one owner or supervised by a common sponsor.
- (7) "Child day care provider" as defined by G.S. 110-90.2 and used in Section .2700 of this Subchapter, includes but is not limited to the following employees: facility directors, administrative staff, teachers, teachers' aides, cooks, maintenance personnel and drivers.
- (8) ~~(7)~~ "Day care center" means any day care facility as defined in G.S. 110-86(3) which is authorized to provide day care to 13 or more children when any child present is preschool-age according to the definition of preschool-aged child in this Rule.
- (9) ~~(8)~~ "Day care home" means any child day care home as defined in G.S. 110-86(4) which provides day care on a regular basis of at least once per week for more than four hours, but less than 24 hours per day. Child care arrangements excluded from the definition of day care facility in G.S. 110-86(3) are excluded as day care homes.
- (10) ~~(9)~~ "Department" means the Department of Human Resources.
- (11) ~~(10)~~ "Division" means the Division of Facility Services within the Department of Human Resources.
- (12) ~~(11)~~ "Drop-in care" means a child day care arrangement where children attend on an intermittent, unscheduled basis.
- (13) ~~(12)~~ "Group" means the children assigned to a specific caregiver, or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and this Subchapter, using space which is identifiable

for each group.

- (14) ~~(13)~~ "Large child day care center" or "large center" means any day care center which is authorized to provide care to 80 or more children.
- (15) ~~(14)~~ "Large child day care home" or "large home" means any day care facility as defined in G.S. 110-86(3) which is authorized to routinely provide care to a maximum of 12 children when any child present is preschool-aged or, when all children present are school-aged, to a maximum of 15 children. Provided the appropriate child/staff ratios are not exceeded, the large home may exceed these maximum capacities by no more than two children:
 - (a) during the school year for no more than one hour immediately after school; and
 - (b) during the two week period preceding and the two week period following the public school year.
- (16) ~~(15)~~ "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a day care center.
- (17) ~~(16)~~ "Licensing Manual" means the document published by the Child Day Care Section which contains the procedures and standards required by North Carolina law, the Commission and the Department for licensure of child day care centers. The licensing manual may be obtained from the Section at the address given in Paragraph (1) of this Rule.
- (18) ~~(17)~~ "Medium child day care center" or "medium center" means any day care center which is authorized to provide day care to at least 30 but no more than 79 children.
- (19) ~~(18)~~ "Operator" means the person or entity held responsible by law as the owner of a child day care business. The terms "operator", "sponsor" or "licensee" are used interchangeably.
- (20) ~~(19)~~ "Part-time care arrangement" means a child care arrangement as defined in G.S. 110-86 which provides care on less than a full-time basis. Examples of part-time care arrangements are certain drop-in, before/after school, and seasonal programs.
- (21) ~~(20)~~ "Passageway" means a hall or corridor.
- (22) ~~(21)~~ "Preschool (formerly preschool-aged) child" means any child under 13 years of age who does not fit the definition of school-aged child in this Rule.
- (23) ~~(22)~~ "Provisional License" means the type of license issued to a center which does not conform in every respect with the standards for an "A" license.
- (24) ~~(23)~~ "Registrant" means the person or entity that is granted permission by the State of North Carolina to operate a day care home.
- (25) ~~(24)~~ "School-aged child" means any child who is

at least five years old on or before October 16 of the current school year and who is attending, or has attended, a public or private grade school or kindergarten.

- (26) ~~(25)~~ "Section" means the Child Day Care Section, Division of Facility Services, Department of Human Resources. The Section is located at the address given in Item (1) of this Rule.
- (27) ~~(26)~~ "Small day care center" or "small center" means any day care center which is authorized to provide day care for a maximum of 29 children.
- (28) ~~(27)~~ "Small day care home" or "small home" means the child care arrangements defined in G.S. 110-86(4) which are subject to the registration requirements set forth in Section .1700 of this Subchapter.
- (29) ~~(28)~~ "Special Provisional License" means the type of license which may be issued a day care operator pursuant to the conditions of G.S. 110-88 (6a) when child abuse or neglect has occurred in the center.
- (30) ~~(29)~~ "Substitute" means any person who temporarily assumes the duties of a regular staff person for a time period not to exceed two consecutive months.
- (31) ~~(30)~~ "Teacher" means the caregiver who has responsibility for planning and implementing the daily program of activities for each group of children.
- (32) ~~(31)~~ "Temporary care arrangement" means any child day care arrangement required to be regulated pursuant to G.S. 110-86 which provides either drop-in care or care on a seasonal or other part-time basis.
- (33) ~~(32)~~ "Temporary license" means the license which may be issued when a licensed center changes location or changes ownership.
- (34) ~~(33)~~ "Volunteer" means a person who works in a day care center or day care home and is not monetarily compensated by the center or home.

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

SECTION .2700 - CRIMINAL RECORDS CHECKS

.2701 APPLICATION FOR PERMITS

(a) Beginning with the date set forth in the Division's implementation schedule, and in addition to the requirements set forth in Rule .0302 of this Subchapter and in Rule .1702 of this Subchapter the prospective child care provider shall submit to the Division at the time of application the following forms:

- (1) a certified criminal history check from the Clerk of Superior Court's office in the county where the individual resides;
- (2) a signed Authority for Release of Information using the form provided by the Division; and

- (3) a completed fingerprint card using SBI form FD-258.

If the prospective child care provider has lived in North Carolina for less than five consecutive years immediately preceding the date the fingerprint card is completed, a second fingerprint card shall be submitted in order to complete a national check.

(b) The prospective child care provider shall sign and submit a statement declaring under penalty of perjury if he or she has been convicted of a crime other than a minor traffic violation. If the prospective child care provider has been convicted of a crime including, but not limited to, those specified in G.S. 110-90.2, the prospective child care provider shall acknowledge on the statement that he or she is aware that the issuance of a permit is conditional pending approval by the Division.

(c) If the prospective child care provider has been convicted of a crime including, but not limited to, those specified in G.S. 110-90.2, he or she may submit to the Division additional information concerning the conviction that could be used by the Division in making the determination of the prospective child care provider's qualification. The Division may consider the following in making their decision: length of time since conviction; nature of the crime; circumstances surrounding the commission of the offense or offenses; evidence of rehabilitation; number of prior offenses; and age of the individual at the time of occurrence.

(d) A prospective child care provider's refusal to complete the required criminal history record check paperwork is reasonable cause to deny issuance of a permit.

(e) The Division shall notify the prospective child care provider in writing of the determination by the Division of the individual's fitness to have responsibility for the safety and well-being of children based on the criminal history.

(f) Determination by the Division that the prospective child care provider is disqualified is reasonable cause to deny issuance of a permit.

(g) If the prospective child care provider is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility, shall complete the criminal history record check as specified in Paragraph (a) of this Rule.

(h) When a Letter of Intent to Operate pursuant to G.S. 110-106 and G.S. 110-106.1 is submitted to the Division, the person signing the Letter of Intent shall also submit all forms as required in Rule .2702(a) of this Section.

(i) Determination by the Division that the person submitting the Letter of Intent is disqualified is reasonable cause to issue a Notice to Cease Operation.

(j) Any child care provider who owns or operates an existing child care program, and who is applying for a permit for an additional child care program within one year from the date of qualification that was based on fingerprinting, shall submit a certified criminal history check from the

Clerk of Superior Court's office in the county where the individual resides. A new fingerprint card shall not be required unless deemed necessary by the Division in making the determination of qualification. If the criminal history check was completed more than one year prior to the application for an additional child care program, the applicant shall complete all forms as required in Paragraph (a) of this Rule.

Authority G.S. 110-90.2; 114-19.5; 143B-168.3; S.L. 1995, c. 507, s. 23.25.

.2702 CRIMINAL RECORD CHECK REQUIREMENTS FOR CHILD CARE PROVIDERS

(a) Beginning with the date set forth in the Division's implementation schedule, child care providers shall submit the following to their employer no later than five working days after beginning work:

- (1) a certified criminal history check from the Clerk of Superior Court's office in the county where the individual resides;
- (2) a signed *Authority for Release of Information* using the form provided by the Division;
- (3) a fingerprint card using SBI form FD-258; and
- (4) a signed statement declaring under penalty of perjury if he or she has been convicted of a crime other than a minor traffic violation.

If the child care provider has been convicted of a crime, including, but not limited to, those specified in G.S. 110-90.2, the child care provider shall acknowledge on the statement that he or she is aware that the employment is conditional pending approval by the Division. If the child care provider has lived in North Carolina for less than five consecutive years immediately preceding the date the fingerprint card is completed, a second fingerprint card shall be submitted in order to complete a national check.

(b) If the child care provider has been convicted of a crime, including, but not limited to, those specified in G.S. 110-90.2, he or she may submit to the Division additional information concerning the conviction that could be used by the Division in making the determination of the provider's qualification for employment. The Division may consider the following in making their decision: length of time since conviction; nature of the crime; circumstances surrounding the commission of the offense or offenses; evidence of rehabilitation; number of prior offenses; and age of the individual at the time of occurrence.

(c) The child care provider's employer shall mail the local criminal history check, *Authority for Release of Information* using the form provided by the Division, and fingerprint card(s) to the Division no later than three working days after receipt. A copy of the submitted information, and the declaration statement, shall be maintained in the child care provider's personnel file, and shall be available for review by a representative of the Division.

(d) The child care provider shall be on probationary

status pending the determination of qualification or disqualification by the Division.

(e) The Division shall notify the child care provider in writing of the determination by the Division of the individual's fitness to have responsibility for the safety and well-being of children based on the criminal history. The Division shall notify the employer if any, in writing of the Division's determination concerning the child care provider; however, the employer shall not be told the specific information used in making the determination.

(f) If the child care provider changes employers within one year from the date of qualification that was based on fingerprinting, he or she shall submit a certified criminal history check from the Clerk of Superior Court's office in the county where the individual resides. This local check shall be submitted to his or her employer no later than five working days after beginning work. The employer shall complete the steps as defined in Paragraphs (c), (d) and (g) of this Rule. A new fingerprint card shall not be required unless deemed necessary by the Division in making its determination of qualification. If the criminal history check was completed more than one year prior to employment, the child care provider shall complete all forms as required in Paragraph (a) of this Rule.

(g) Child care providers determined by the Division to be disqualified shall be terminated by the facility or small day care home immediately upon receipt of the disqualification notice.

(h) Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial or revocation of the permit in addition to any other administrative action or civil penalties pursued by the Division. If an employer appeals the administrative action, the child care provider shall not be employed during the appeal process.

(i) A substitute child care provider who is employed for more than five days, whether working full or part-time, shall submit all forms as required in Paragraph (a) of this Rule to the employer by the end of the fifth working day. The employer shall complete the steps as defined in Paragraphs (c), (d) and (g) of this Rule.

Authority G.S. 110-90.2; 114-19.5; 143B-168.3; S.L. 1995, c. 507, s. 23.25.

.2703 CRIMINAL RECORD CHECK REQS FOR CURRENT CHILD CARE PROVIDERS

(a) Current child care providers shall submit all forms as required in Rule .2702(a) of this Section and based upon the implementation schedule developed by the Division.

(b) If the child care provider has been convicted of a crime, including, but not limited to, those specified in G.S. 110-90.2, he or she may submit to the Division additional information concerning the conviction that could be used by the Division in making the determination of the provider's qualification. The Division may consider the following in making their decision: length of time since conviction;

nature of the crime; circumstances surrounding the commission of the offense or offenses; evidence of rehabilitation; number of prior offenses; and age of the individual at the time of occurrence.

(c) The Division shall notify the child care provider in writing of the determination by the Division of the individual's fitness to have responsibility for the safety and well-being of children based on the criminal history. The Division shall notify the employer, if any, in writing of the Division's determination concerning the child care provider; however the employer shall not be told the specific information used in making the determination.

(d) Child care providers determined by the Division to be disqualified shall be terminated by the facility or small day care home immediately upon receipt of the notification.

(e) Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial or revocation of the permit in addition to any other administrative action or civil penalties pursued by the Division.

(f) Determination by the Division that the employer is disqualified is reasonable cause to suspend, deny or revoke the permit in addition to any other administrative actions or civil penalties pursued by the Division.

Authority G.S. 110-90.2; 114-19.5; 143B-168.3; S.L. 1995, c. 507, s. 23.25.

.2704 CRIMINAL RECORD CHECK REQS FOR NONREGISTERED HOME PROVIDERS

(a) Beginning with the date set forth in the Division's implementation schedule for current nonregistered home providers, and no later than five working days after applying for enrollment as a nonregistered home provider of subsidized child day care, the nonregistered home provider shall submit the following to the local purchasing agency:

- (1) certified criminal history check from the Clerk of Superior Court's office in the county where the individual resides;
- (2) a signed Authority for Release of Information using the form provided by the Division;
- (3) a fingerprint card using SBI form FD-258; and
- (4) a signed statement declaring under penalty of perjury if he or she has been convicted of a crime other than a minor traffic violation.

If the nonregistered home provider has been convicted of a crime, including, but not limited to, those specified in G.S. 110-90.2, the nonregistered home provider shall acknowledge on the statement that he or she is aware that payment is conditional pending approval by the Division. If the nonregistered home provider has lived in North Carolina for less than five consecutive years immediately preceding the date the fingerprint card is completed, a second fingerprint card shall be submitted in order to complete a national check.

(b) If the nonregistered home provider has been convicted of a crime, including, but not limited to, those

specified in G.S. 110-90.2, he or she may submit to the Division additional information concerning the conviction that could be used by the Division in making the determination of the provider's qualification. The Division may consider the following in making their decision: length of time since conviction; nature of the crime; circumstances surrounding the commission of the offense or offenses; evidence of rehabilitation; number of prior offenses; and age of the individual at the time of occurrence.

(c) The local purchasing agency shall mail the local criminal history check, Authority for Release of Information using the form provided by the Division, and fingerprint card(s) to the Division no later than five working days after receipt. A copy of the submitted information, and the declaration statement, shall be maintained in the nonregistered home provider's file.

(d) A nonregistered home provider may receive payment during the period in which the state or national criminal history check is being completed if the applicant would otherwise receive approval or temporary approval from the local purchasing agency for enrollment in the subsidized child day care program, subject to the provisions referenced in 10 NCAC 46G .0111(b), 10 NCAC 46G .0214, and 10 NCAC 46G .0215.

(e) The Division shall notify the nonregistered home provider in writing of the determination by the Division of the individual's fitness to have responsibility for the safety and well-being of children based on the criminal history. The Division shall notify the local purchasing agency in writing of the Division's determination concerning the nonregistered home provider; however, the local purchasing agency shall not be told the specific information used in making the determination.

(f) Disqualification of a nonregistered home provider by the Division shall be reasonable cause for the local purchasing agency to deny further payment.

(g) If a nonregistered home provider disagrees with the decision of disqualification and files a civil action in district court, the provider may continue to operate but shall not receive payment during the proceedings. If the determination is that the nonregistered home provider is qualified, the nonregistered provider shall receive retroactive payment for the care that was provided.

Authority G.S. 110-90.2; 114-19.5; 143B-168.3; S.L. 1995, c. 507, s. 23.25.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to adopt rules cited as 10 NCAC 42A .0701 - .0703. Notice of Rule-making Proceedings was published in the Register on February 1, 1996.

Proposed Effective Date: April 1, 1997

A Public Hearing will be conducted at 10:00 a.m. on October 17, 1996 at the Albemarle Building, Room 943-2, 325 North Salisbury Street, Raleigh, NC 27603.

Reason for Proposed Action: The action to adopt is required to ensure that requirements of Chapter 449 of the 1995 Session Laws (Senate Bill 864) are met. This statute gives the Social Services Commission the authority to adopt rules associated with independent case management for residents of adult care homes in North Carolina. Effective January 1, 1996 certain "heavy care" Medicaid residents became eligible for Enhanced Adult Care Home care. Initial Medicaid criteria for heavy care are residents who have very extensive needs for aide assistance with eating and toileting in addition to other forms of personal care. Adult Care Home Case Management is also required for these residents to verify that they qualify as heavy care residents, that the personal care provided by the adult care home is adequate to address the resident's needs, that other needed Medicaid financed service are arranged for and provided, and that changes in the resident's condition are being appropriately responded to by the adult care home or other providers of care.

Comment Procedures: Comments may be presented anytime before or at the public hearing or orally at the hearing. Time limits for oral remarks may be imposed by the Commission Chairman. Any person may request copies of these rules by calling or writing to Sharnese Ransome, APA Coordinator, Social Services Commission, NC Division of Social Services, 325 N. Salisbury Street, Raleigh, NC 27603, phone: 919-733-3055.

Fiscal Note: Rule .0701 affects the expenditures or revenues of local government funds and affects the expenditure or distribution of State funds subject to the Executive Budget Act, Article 1 of Chapter 143. Rule .0701 does have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period. Rules .0702 and .0703 do not affect state or local government funds and do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 42 - INDIVIDUAL AND FAMILY SUPPORT

SUBCHAPTER 42A - ADULT PLACEMENT SERVICES

SECTION .0700 - ADULT CARE HOME CASE MANAGEMENT

.0701 AVAILABILITY

Counties shall assure the availability of case management services to adult care home residents eligible for Medicaid funded Enhanced Adult Care Home Personal Care.

Authority G.S. 131D-4.3; 143B-153.

.0702 CASE MANAGEMENT ACTIVITIES

Adult Care Home Case Management shall include the following activities:

- (1) verifying the need for Enhanced Adult Care Home Personal Care;
- (2) assuring the adult care home's care plan corresponds to the needs of the resident;
- (3) reviewing the adult care home's provision of care to assure changes in the residents conditions are being addressed;
- (4) determining the need for other community based services which might benefit the resident; and
- (5) assisting the resident and the adult care home to access other needed services.

Authority G.S. 131D-4.3; 143B-153.

.0703 DESIGNATED AGENCIES

Adult Care Home Case Management can be provided by an Area Mental Health Agency, a County Department of Social Services, or other agencies designated by the Department.

Authority G.S. 131D-4.3; 143B-153.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNR - Environmental Management Commission intends to adopt rules cited as 15A NCAC 2B .0231 - .0236. Notice of Rule-making Proceedings was published in the Register on April 15, 1996.

Proposed Effective Date: July 1, 1997

A Public Hearing will be conducted at 7:00 p.m. on the following dates and at the following locations:

September 9, 1996
Raleigh
State Highway Building

September 10, 1996
Goldsboro
Wayne Community College

September 11, 1996
New Bern
Craven County Courthouse

September 12, 1996
Kinston
Lenoir Community College

Reason for Proposed Action: In 1988, the Environmental Management Commission (EMC) classified the entire Neuse River Basin as Nutrient Sensitive Waters (NSW). They adopted this classification due to nutrient-related water quality problems in the freshwater sections between Kinston and New Bern. At that time, the EMC adopted a Nutrient Management Strategy to improve water quality in the river. This initial NSW strategy addressed phosphorus reductions through point source controls and nitrogen from the voluntary implementation of agricultural best management practices (BMPs). The strategy was successful and phosphorus loading has declined due to these point source controls and the phosphate detergent ban.

Even with the management measures adopted in the initial NSW strategy, water quality problems in the lower Neuse River continue, especially below New Bern. For example, during July, September, and October 1995, widespread fish kills occurred in the Neuse River, mainly from New Bern to Minnesott Beach. Millions of fish were killed. The water was lacking oxygen near the surface and algal blooms were common. Because of these continued water quality problems, the EMC intends to revise the NSW strategy and to focus on nitrogen loading to the estuary. Rules are proposed for the following components:

- Wastewater Discharge Requirements (15A NCAC 2B .0231),
- Illegal Discharges Management Plan (15A NCAC 2B .0232),
- Stormwater Management (15A NCAC 2B .0233),
- Animal Waste Management (15A NCAC 2B .0234),*
- Buffers (15A NCAC 2B .0235), and
- Nutrient Management (15A NCAC 2B .0236).

* Two alternatives are being proposed for animal waste management. The EMC approved these two alternatives for public hearing before the 1996 North Carolina General Assembly adjourned. During the 1996 session, a bill (Senate Bill 1217) was ratified that establishes a permitting and inspection program for animal operations. The requirements of SB 1217 will render the proposed rule alternatives for animal operations unnecessary. Any animal waste management rules that the EMC adopts as part of the NSW strategy for the Neuse River will reflect the requirements of Senate Bill 1217. Briefly, SB 1217 will require a permitting program using general and individual permits for animal operations based on size of operation

Comment Procedures: The purpose of the announcement is to encourage those interested in this proposal to provide comments. You may submit comments, statements, data and other information in writing prior to, during or after the hearing but no later than October 14, 1996. You may also present verbal comments at the hearing. The Hearing Officer may limit the length of time that you speak so that all those who wish to speak may have an opportunity to do

so. We encourage you to submit written comments. It is very important that all interested and potentially affected persons or parties make their views known to the Environmental Management Commission (EMC) whether in favor of or opposed to any and all provisions of the proposal being noticed. If opposed to any or all provisions of the proposal we encourage you to offer appropriate alternative proposals. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in the North Carolina Register unless the EMC publishes the text of the proposed different rule and accepts comments on the new text. [See G.S. 150B-21.2(g)] Written comments may be submitted to:

David Harding
DEHNR/Division of Water Quality
PO Box 29535
Raleigh, NC 27626-0535
(919) 733-5083, extension 569

Questions concerning proposed requirements for point source dischargers may be directed to Coleen Sullins at (919) 733-5083, ext. 550 and questions concerning proposed nonpoint source requirements to David Harding at (919) 733-5083, ext. 569.

Fiscal Note: A Fiscal Analysis was prepared by the Division of Water Quality and is available for public review. For information on the Fiscal Analysis, please call Marsha Byrd at (919) 733-5083, ext 558.

- **Wastewater Discharge Requirements (15A NCAC 2B .0231)** - This Rule does affect the expenditures or revenues of local government funds. This Rule does not affect the expenditures or revenues of state government funds. This Rule does have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.
- **Illegal Discharges Management Plan (15A NCAC 2B .0232)** - This Rule does affect the expenditures or revenues of local government funds. This Rule does not affect the expenditures or revenues of state government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.
- **Stormwater Management (15A NCAC 2B .0233)** - This Rule does affect the expenditures or revenues of local government funds. This Rule does not affect the expenditures or revenues of state government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.
- **Animal Waste Management (15A NCAC 2B .0234)** - This Rule does not affect the expenditures or revenues of local or state government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.
- **Buffers (15A NCAC 2B .0235)** - This Rule does not affect the expenditures or revenues of local or state

government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

- **Nutrient Management (15A NCAC 2B .0236)** - This Rule does affect the expenditures or revenues of local government funds. This Rule does not affect the expenditures or revenues of state government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

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

.0231 NEUSE RIVER BASIN - NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: WASTEWATER DISCHARGE REQUIREMENTS

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B .0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the wastewater discharge management strategy for the Neuse River Basin:

- (1) All new and expanding dischargers will be required to document that all practical alternatives to surface waters discharge were employed pursuant to 15A NCAC 2B .0201(c)(1).
- (2) All wastewater dischargers greater than or equal to 0.5 MGD permitted flow regardless of current loading levels are required to evaluate and optimize the operation of their facilities in order to reduce nutrient loadings. One year after the effective date of this Rule, a report shall be submitted to the Division documenting the efforts/level of reductions achieved.
- (3) No new domestic wastewater discharges to surface waters of less than 0.5 MGD shall be permit-

ted. Proposed domestic wastewater dischargers to surface waters that request a permit for 0.5 MGD or greater shall be required to justify flows based on full build out of the site. No phasing of less than 0.5 MGD will be allowed for construction of the wastewater treatment plants. Existing municipal dischargers shall be exempt from this Sub-Item after it is shown that no alternative to discharge exists pursuant to 15A NCAC 2B .0201(c)(1). Flows permitted by February 1, 1996 are also not affected.

- (4) All dischargers within the basin below Falls Lake Dam will have the option of forming a coalition (hereafter referred to as the "Association") to implement nutrient reduction through a nutrient trading program.

(a) For dischargers that join the Association, an agreement will be drafted between the Division and the Association that includes, but is not limited to the following: membership in Association, final loading targets based on a 30 percent reduction of calendar year 1995 nitrogen loads from the membership within five years of the effective date of this Rule, payment schedule for BMPs in years loading targets are not met, monitoring requirements for Association members, and the credit life of BMPs. No Association exists, for the purposes of this Rule, until the Agreement is formally approved by the Commission. All existing Association dischargers that have a permitted flow greater than or equal to 0.5 MGD and any new or expanding Association dischargers will receive a quarterly average total phosphorus limit of 2 mg/l in their NPDES permits.

(b) For dischargers that do not join the Association and dischargers above Falls Lake Dam, the following requirements apply:

(i) All existing municipal and domestic dischargers greater than or equal to 0.5 MGD below Falls Lake Dam must meet a monthly average total nitrogen limit of 6 mg/l within five years from the effective date of this Rule. These facilities must meet a quarterly average total phosphorus limit of 2 mg/l. More stringent limits may apply to protect localized areas.

(ii) All existing facilities above Falls Lake Dam with permitted flows greater than or equal to 0.05 MGD will be required to meet a quarterly average total phosphorus limit of 2 mg/l. More stringent limits may

apply to protect localized areas.

(iii) All proposed new industrial and new and expanding domestic or municipal wastewater dischargers, where discharge is the only environmentally and economically feasible option, must comply with a monthly average total nitrogen limit of 6 mg/l and a monthly average total phosphorus limit of 1 mg/l. More stringent limits may be given to protect localized areas.

(iv) Existing industrial process wastewater dischargers below Falls Lake Dam and expanding industrial process wastewater dischargers within the basin will be evaluated by the Division on an individualized basis. The industries within the management area will be required to control total nitrogen to the best available technology levels applicable to the specific wastestream. For the purposes of this strategy, the definition of best available technology will be required to be individually developed for each facility. A report must be submitted and approved by the Division of Water Quality within two years of the effective date of this Rule which outlines best available technology for their particular site. All existing industrial process wastewater dischargers below Falls Lake Dam with a permitted flow of 0.5 MGD or greater will receive a quarterly average total phosphorus limit of 2 mg/l. Expanding industrial process wastewater dischargers in the basin will receive a monthly average total phosphorus limit of 1 mg/l. More stringent limits may apply to protect localized areas.

(v) All new and expanding wastewater dischargers will be required to offset their additional nutrient loads by funding nonpoint source control programs approved by the Division of Water Quality. Nitrogen and phosphorus loads shall be offset at the rate of 110 percent of the cost to implement BMPs designed to reduce that same loading created by the new or expanding discharge.

(c) If no Association of dischargers is formed, the following requirements will apply to

dischargers in the Neuse River Basin:

- (i) All existing municipal and domestic dischargers greater than or equal to 0.5 MGD below Falls Lake Dam must meet a monthly average total nitrogen limit of 6 mg/l within five years from the effective date of this Rule. These facilities must meet a quarterly average total phosphorus limit of 2 mg/l. More stringent limits may apply to protect localized areas.
- (ii) All existing facilities above Falls Lake Dam with permitted flows greater than or equal to 0.05 MGD will be required to meet a quarterly average total phosphorus limit of 2 mg/l. More stringent limits may apply to protect localized areas.
- (iii) All proposed new industrial and new and expanding domestic or municipal wastewater dischargers, where discharge is the only environmentally and economically feasible option, must comply with a monthly average total nitrogen limit of 6 mg/l and a monthly average total phosphorus limit of 1 mg/l. More stringent limits may be given to protect localized areas.
- (iv) Existing industrial process wastewater dischargers below Falls Lake Dam and expanding industrial process wastewater dischargers within the basin will be evaluated by the Division on an individualized basis. The industries within the management area will be required to control total nitrogen to the best available technology levels applicable to the specific wastestream. For the purposes of this strategy, the definition of best available technology will be required to be individually developed for each facility. A report must be submitted and approved by the Division of Water Quality within two years of the effective date of this Rule which outlines best available technology for their particular site. All existing industrial process wastewater dischargers below Falls Lake Dam with a permitted flow of 0.5 MGD or greater will receive a quarterly average total phosphorus limit of 2 mg/l. Expanding industrial process

wastewater dischargers in the basin will receive a monthly average total phosphorus limit of 1 mg/l. More stringent limits may apply to protect localized areas.

- (v) All new and expanding wastewater dischargers will be required to offset their additional nutrient loads by funding nonpoint source control programs approved by the Division. Nitrogen and phosphorus loads shall be offset at the rate of 110 percent of the cost to implement BMPs designed to reduce that same loading created by the new or expanding discharge.

Authority G.S. 143-214.1; 143-215; 143-215.1; 143-215.3(a)(1).

.0232 NEUSE RIVER BASIN - NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: ILLEGAL DISCHARGES MANAGEMENT PLAN

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B .0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the illegal discharges management strategy for the Neuse River Basin:

All municipalities having a population of 5,000 or greater must begin the process of adopting a plan to address illegal discharges. Draft plans shall be submitted within two years of the effective date of this Rule for approval by the Division. The plan must be implemented within five years after the effective date of this Rule. At the end of the five year time period local government must submit to the Division a report that addresses the local implementation program's progress of removing existing illegal discharges, prevention of additional illegal discharges and an on-going inspection program of the storm drainage system to ensure prevention and continued removal of illegal discharges.

Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-

215.3(a)(1).

.0233 NEUSE RIVER BASIN - NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: STORMWATER MANAGEMENT

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B .0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the stormwater management strategy for the Neuse River Basin:

Option 1:

- (1) Development activities which require a Sedimentation/Erosion Control Plan in accordance with G.S. 113A-57, except those development activities within the 20 coastal counties as defined in 15A NCAC 2H .1002(4), those areas affected by a WS-I, WS-II, WS-III, WS-IV, ORW or HQW classification since these areas already have requirements for stormwater management are required, at a minimum, to meet the following stormwater management requirements:
 - (a) Low Density Option: Development activities shall be allowed pursuant to 15A NCAC 2H .1003(d)(1) if the development has:
 - (i) built-upon area of 12 percent or less or proposes no more than one single family residential unit per one acre;
 - (ii) stormwater runoff transported primarily by vegetated conveyance; conveyance system shall not include a discrete stormwater collection system as defined in 15A NCAC 2H .1002(18).
 - (b) High Density Option: Higher density developments shall be allowed pursuant to 15A NCAC 2H .1003(d)(2) if stormwater control systems meet the following criteria:
 - (i) stormwater systems must be wet detention ponds or alternative stormwater management systems designed in accordance with 15A NCAC 2H

.1008;

- (ii) control systems must be designed to control runoff from all surfaces generated by one inch of rainfall.
- (2) Redevelopment is allowed if the rebuilding activity does not have a net increase in built-upon area or provide equal or greater stormwater control than the previous development, except that there are no restrictions on existing single family residential redevelopment. Expansions to structures classified as existing development must meet the requirements of this Rule; however, the built-upon surface area of the existing development is not required to be included in the built-upon area calculations. Expansions to structures other than existing development must meet the built-upon area requirements of this Rule for the entire project site.
- (3) Cluster development is allowed on a project-by-project basis as follows:
 - (a) overall density of the project meets associated density or stormwater control requirements of this Rule;
 - (b) buffers meet the minimum requirements of this Rule;
 - (c) built-upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas; and maximize the flow length through vegetated areas;
 - (d) areas of concentrated development are located in upland areas and, to the maximum extent practical away from surface waters and drainage ways;
 - (e) remainder of tract to remain in vegetated or natural state;
 - (f) area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement;
 - (g) a maintenance agreement for the vegetated or natural area shall be filed with the Register of Deeds; and
 - (h) cluster development that meets the applicable low density option requirements shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

Option 2:

- (1) In order to address pollutants in stormwater runoff associated with development activities within the Neuse River Basin, a stormwater management program will be established within

those areas of the Neuse River Basin that are not within the 20 coastal counties as defined in 15A NCAC 2H .1002(4), and those areas affected by a WS-I, WS-II, WS-III, WS-IV, ORW or HQW classification as of the effective date of this Rule. Development activities within the 20 coastal counties as defined in 15A NCAC 2H .1002(4), and those areas affected by a WS-I, WS-II, WS-III, WS-IV, ORW or HQW classification are already administering a stormwater management program and are exempt from the following requirements. However, for areas within the Neuse River Basin that are not within the 20 coastal county defined area or are not affected by a WS-I, WS-II, WS-III, WS-IV, ORW and HQW classification, then development activities are required to have appropriate stormwater management programs in place within three years following the effective date of this Rule.

(2) A stormwater management program may be attained by meeting one of the following:

(a) All local governments with land use jurisdiction in those portions of the Neuse River Basin not otherwise subject to state stormwater management requirements have the option of participating collectively with the Division to review, develop, and establish a Neuse River Basin Stormwater Management Plan. This plan will establish the minimum requirements for the Stormwater Management Program which will include, but not be limited to: land use planning development density control measures, protection of sensitive surface waters and resources, use of stormwater management control devices, water quality educational programs and an implementation and compliance strategy. The final collective plan and management program must be approved by the Commission within two years following the effective date of this Rule. Following the Commission's approval of the Neuse River Basin Stormwater Management Plan, a local government may request that the Commission delegate authority to the local government to implement the plan; or

(b) If a local government fails to request that the Commission delegate authority to the local government to implement their portion of the collective plan within their jurisdiction then the Division will, at a minimum, implement the following stormwater management requirements:

(i) Low Density Option: Development activities shall be allowed pursuant to 15A NCAC 2H .1003(d)(1) if the

development has:

(A) built-upon area of 24 percent or less or proposes no more than one single family residential unit per one-half acre;
 (B) stormwater runoff transported primarily by vegetated conveyances; conveyance system shall not include a discrete stormwater collection system as defined in 15A NCAC 2H .1002(18).

(ii) High Density Option: Higher density developments shall be allowed pursuant to 15A NCAC 2H .1003(d)(2) if stormwater control systems meet the following criteria:

(A) stormwater systems must be wet detention ponds or alternative stormwater management systems designed in accordance with 15A NCAC 2H .1008;

(B) control systems must be designed to control runoff from all surfaces generated by one inch of rainfall.

(3) Redevelopment is allowed if the rebuilding activity does not have a net increase in built-upon area or provides equal or greater stormwater control than the previous development, except that there are no restrictions on existing single family residential redevelopment. Expansions to structures classified as existing development must meet the requirements of Sub-Item (1)(b) of this Rule; however, the built-upon surface area of the existing development is not required to be included in the built-upon area calculations. Expansions to structures other than existing development must meet the built-upon area requirements of Sub-Item (a)(ii) of this Rule for the entire project site.

(4) Cluster development is allowed on a project-by-project basis as follows;

(a) overall density of the project meets associated density or stormwater control requirements of this Section;

(b) buffers meet the minimum requirements of this Rule;

(c) built-upon areas are designated and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas; and maximize the flow length through vegetated areas;

(d) areas of concentrated development are located in upland areas and, to the maxi-

- mum extent practical, away from surface waters and drainways;
- (e) remainder of tract to remain in vegetated or natural state;
- (f) area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement;
- (g) a maintenance agreement for the vegetated or natural area shall be filed with the Register of Deeds; and
- (h) cluster development that meets the applicable low density option requirements shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1).

.0234 NEUSE RIVER BASIN - NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: ANIMAL WASTE MANAGEMENT

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B .0223. The management requirements are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the animal waste management strategy for the Neuse River Basin:

Option 1:

- (1) Animal waste management systems, as defined in 15A NCAC 2H .0203(3), shall require a permit, pursuant to 15A NCAC 2H .0217 and 2H .0203(4), from the Division as follows:
 - (a) Systems considered deemed permitted:
 - (i) swine systems designed for less than 500 animals;
 - (ii) cattle systems designed for less than 250 animals;
 - (iii) poultry systems (liquid systems) designed for less than 75,000 birds; and

- (iv) poultry systems (dry litter operations) which meet the criteria of 15A NCAC 2H .0217.
- (b) Systems permitted under General Permit [15A NCAC 2H .0217(b)]:
 - (i) swine systems designed for 500 animals up to 4,999 animals;
 - (ii) cattle systems designed for 250 animals up to 999 animals; and
 - (iii) poultry systems (liquid systems) designed for 75,000 birds up to 149,999 birds.
- (c) Systems permitted under individual permits:
 - (i) swine systems designed for 5,000 or more animals;
 - (ii) cattle systems designed for 1,000 or more animals; and
 - (iii) poultry systems (liquid systems) designed for 150,000 birds or more.
- (d) The Director may determine that a system should not be deemed to be permitted in accordance with Rule 15A NCAC 2H .0217 and require the system to obtain a general or an individual nondischarge permit. This determination shall be made based on existing or projected environmental impacts.
- (e) The Director may determine that a system should not have a general permit and require the system to obtain an individual nondischarge permit. This determination shall be made based on existing or projected environmental impacts.
- (2) A 25 foot setback is required along all open drainage ditches for spraying and land application of animal waste.

Option 2:

- (1) Animal waste management systems, as defined in 15A NCAC 2H .0203(3), shall require a permit, pursuant to 15A NCAC 2H .0217 and 2H .0203(4), from the Division as follows:
 - (a) Systems considered deemed permitted:
 - (i) swine systems designed for less than 250 animals;
 - (ii) cattle systems designed for less than 100 animals;
 - (iii) poultry systems (liquid systems) designed for less than 30,000 birds; and
 - (iv) poultry systems (dry litter operations) which meet the criteria of 15A NCAC 2H .0217.
 - (b) Systems permitted under General Permit [15A NCAC 2H .0217(b)]:
 - (i) swine systems designed for 250 or more animals;

- (ii) cattle systems designed for 100 or more animals; and
- (iii) poultry systems (liquid systems) designed for 30,000 or more birds.
- (c) The Director may determine that a system should not be deemed to be permitted in accordance with Rule 15A NCAC 2H .0217 and require the system to obtain a general permit under Sub-Item (vi)(B) of this Rule or an individual nondischarge permit. This determination shall be made based on existing or projected environmental impacts.
- (d) The Director may determine that a system should not have a general permit under Sub-Item (vi)(B) of this Rule and require the system to obtain an individual nondischarge permit. This determination shall be made based on existing or projected environmental impacts.
- (2) A 25 foot setback is required along all open drainage ditches for spraying and land application of animal waste.

Authority G.S. 143-214.1; 143-215.1; 143-215.3(a); 143-215.10C.

.0235 NEUSE RIVER BASIN: NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: BUFFERS

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) classification, 15A NCAC 2B .0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the management strategy for buffers in the Neuse River Basin:

Option I:

- (1) A forested riparian buffer in accordance with Sub-Items (2)(a)-(e) of this Rule is required on both sides of perennial and intermittent surface waters in the Neuse River Basin. Exceptions to the requirements of this Rule are described in Sub-Items (1)(e)(i)-(ix) of this Rule. Design and installation of the buffer should be such that, to

the maximum extent possible, sheet flow of surface water is achieved. Any activities that would result in water quality standard violations or shall disrupt the structural or functional integrity of the buffer are prohibited. The following criteria will be used to determine which waterbodies are subject to the buffer requirement:

- (a) Surface waters indicated as "blue lines" on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute quadrangle) topographic maps are subject to the buffer requirements. Waterbodies subject to the buffer requirements include perennial and intermittent streams, canals and other manmade drainage conveyances, lakes, and estuaries.
- (b) In instances where the U.S.G.S. 1:24,000 scale (7.5 minute quadrangle) topographic maps inaccurately depict streams or other water conveyance channels or ditches, the following descriptive criteria shall be used to determine where a buffer is required:
 - (i) All perennial and intermittent streams which have a defined stream channel formed through concentration of runoff are subject to the buffer requirement.
 - (ii) Channelized or otherwise modified natural streams are subject to the buffer requirement.
 - (iii) Ditches or manmade conveyances which under normal conditions receive drainage waters from one or more tributary ditches, canals, or streams are subject to the buffer requirement unless exempted through the use of water control structures and nutrient management as described in Sub-Item (e)(vi) of this Rule.
- (c) The Environmental Management Commission may provide a matrix of options for landowners to achieve equivalent water quality protection through alternative Best Management Practices which account for regional variations in soil types and topography.
- (d) The Directors of the Division of Water Quality, Division of Soil and Water Conservation, Natural Resources Conservation Service, and Cooperative Extension Service shall appoint an advisory committee to make site-specific determinations of where the buffer requirements apply and alternatives for providing equivalent protection. The Committee shall be consulted when the methods of determination described above

- are inadequate for a particular site. Land-owners and consultants are allowed to propose site-specific determinations for review by the appointed committee.
- (e) The following waterbodies and land uses are exempt from the buffer requirement:
- (i) Ditches or manmade conveyances other than modified natural streams which under normal conditions do not receive drainage waters from any tributary ditches, canals, or streams, unless the ditch or manmade conveyance delivers runoff directly to waters classified in accordance with 15A NCAC 2B .0100.
 - (ii) Ditches or manmade conveyances other than modified natural streams which are used exclusively for drainage of silvicultural land or naturally forested areas. All forest harvesting operations shall be in compliance with North Carolina's Forest Practices Guidelines Related to Water Quality.
 - (iii) Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100.
 - (iv) Development activities that have received an approved Sedimentation/Erosion Control Plan prior to the effective date of this Rule, and development activities for which a Sedimentation/Erosion Control Plan was not required but for which lots were platted and recorded prior to the effective date of this Rule are exempt. However, landowners are encouraged to meet the minimum buffer requirements of this Rule, and to maintain existing forested buffers to the maximum extent practical, without compromising the functions and integrity of any existing permanent structures and facilities.
 - (v) New development in the buffer shall be limited to water dependent structures as defined in 15A NCAC 2B .0202. Any structures shall be located, designed, constructed and maintained to provide maximum nutrient removal, to have the least adverse effects on aquatic life and habitat and to protect water quality.
 - (vi) Canals, ditches, and other drainage conveyances are exempt from the riparian buffer requirement if both water control structures with a water management plan and a nutrient management plan are implemented on the adjacent agricultural land according to the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission. The water control structures and nutrient management practices must provide equivalent protection and directly affect the land and waterbodies draining into the waterbody exempted from the buffer requirement. To the maximum extent practical, water control structures should be managed to maximize nitrogen removal throughout the year. Written approval from the local Soil and Water Conservation District must be obtained for the land certifying that appropriate nutrient management and water management plans have been developed. If the nutrient management plans and water management plans are not implemented then a buffer pursuant to this Section is required.
 - (vii) Roads, bridges, stormwater management facilities, ponds, and utilities may be allowed where no practical alternative exists. These structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of Best Management Practices.
 - (viii) Stream restoration projects, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities are permitted.
 - (ix) Stream crossings associated with timber harvesting are permitted if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J

.0201-.0209).

- (f) The following are modifications to the riparian forest buffer system.

- (i) On agricultural land where either water control structures with a water management plan, or a nutrient management plan is implemented according to the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission, then a 20-ft forested or a 30-ft vegetated buffer is required. The water control structures or nutrient management practices must provide equivalent protection and directly affect the land and waterbodies draining into the waterbody with a modified buffer requirement. To the maximum extent practical, water control structures should be managed to maximize nitrogen removal throughout the year.
- (ii) Periodic maintenance of drainage channels, canals, and ditches is allowed provided that disturbance is minimized and the structure and function of the buffer is not compromised. A grassed travelway is allowed on one or both sides of the waterbody when alternative forms of maintenance access are not practical. The width and specifications of the travelway shall be only that needed for equipment access and operation. The travelway should be located to maximize stream shading (i.e., located on the north and/or east side of the channel if possible). Channel and canal maintenance techniques may include the use of winches, backhoes, booms and logging skidders. Drag lines should only be used for large channels where less damaging maintenance techniques are not feasible. Any material removed from the channel shall be spread in a manner that does not compromise the water quality functions of the buffer and maintenance of appropriate vegetative cover.
- (iii) A vegetated buffer may be substituted for an equivalent width of forested buffer within 100 feet of tile drainage.

- (iv) Where the buffer requirements would result in an unavoidable loss of tobacco allotments [7 CFR 723.220(c)] and the BMPs of controlled drainage or nutrient management are not in place, forest cover is required in Zone 1 only. The remaining 30 feet of the buffer must meet the requirements for Zone 3.

- (2) The buffer shall have three zones as follows:

- (a) Zone 1 begins at the normal waterline or at the upper edge of the active channel of the surface waterbody and extends landward a distance of 20 feet, measured horizontally on a line perpendicular to the waterbody. Dominant vegetation shall consist of existing or planted trees and shrubs with a dense ground cover. For those sites where forest vegetation does not exist, it is acceptable to allow the forest buffer to succeed naturally to a wooded state. Any plantings shall primarily consist of locally native trees and shrubs. Zone 1 is intended to remain in an undisturbed state, however the following practices and activities are allowed in Zone 1:

- (i) Selective removal of high value trees is allowed where water quality values are not compromised. Timber removal can contribute to removal of nutrients sequestered in stems and branches and maintain nutrient uptake and vigorous growth. Skidding of trees shall be directed away from any water course or water body. Skidding shall be done in a manner to prevent creation of ephemeral channels perpendicular to the waterbody. Limited mechanized equipment is allowed in this area. Any tree removal must be performed in a manner that does not compromise the intended purpose of the buffer and is in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209);
- (ii) Horticulture practices may be used to maintain the health of individual trees;
- (iii) Individual trees may be removed which are in danger of causing damage to dwellings, other structures, or the stream channel; and
- (iv) Other timber cutting techniques approved by the Department may be undertaken if necessary to prevent

- extensive pest or disease infestation.
- (b) Zone 2: begins at the outer edge of Zone 1 and extends landward a minimum of 20 feet as measured horizontally on a line perpendicular to the waterbody. The combined minimum width of Zones 1 and 2 shall be 40 feet. Dominant vegetation shall consist of existing or planted trees and shrubs with a dense ground cover. For those sites where forest vegetation does not exist it is acceptable to allow the forest buffer to succeed naturally to a wooded state. The following practices and activities are allowed in Zone 2 in addition to those allowed in Zone 1: Removal of tree and shrub products such as timber, nuts, and fruit is permitted on a periodic and regular basis provided the intended purpose is not compromised by loss of vegetation or harvesting disturbance. A minimum of 40 percent canopy cover on a per acre basis must be maintained. Timber removal and skidding of trees shall be directed away from the water course or waterbody. Skidding shall be done in a manner to prevent creation of ephemeral channels perpendicular to the waterbody. Any tree removal must be performed in a manner that does not compromise the intended purpose of the buffer and is in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209). Forest vegetation may be managed to minimize shading on adjacent land if the water quality function of the buffer is not compromised;
- (c) Zone 3: begins at the outer edge of Zone 2 and extends landward a minimum of 10 feet as measured horizontally on a line perpendicular to the waterbody. The combined minimum width of Zones 1, 2 and 3 shall be 50 feet. Vegetation shall be composed of dense grasses and forbs or existing forest vegetation. Vegetation must consist of a dense ground cover and be maintained in a vigorous condition. Residential and commercial lawns meet the Zone 3 requirements as long as they are maintained and protected in accordance with these specifications. If existing woodland extends beyond the minimum 50 foot buffer width, the existing forest vegetation may be used to meet the Zone 3 width requirement. However, a minimum 10 foot managed grass strip is recommended adjacent to agricultural fields with a slope greater than 2 percent. The following practices and activities are not allowed:
- (i) New permanent structures;
 - (ii) New on-site sanitary sewage systems which use ground absorptions;
 - (iii) Activities that would result in water quality standards violations or shall disrupt the structural or functional integrity of the buffer are prohibited.
- (d) Operation and maintenance of Zones 1, 2 and 3 is required. The buffers should be inspected by the landowner periodically and immediately following severe storms for evidence of sediment deposit, erosion or concentrated surface flow channels. Sheet flow must be maintained through dispersing concentrated flows, periodic reshaping of earth structures, removal or grading of accumulated sediment, or re-establishment of vegetation to maintain effectiveness of the buffer. Prompt corrective action must be taken by the landowner to stop erosion and restore sheet flow.
- (e) Removal or disturbance of vegetation or groundcover inconsistent with erosion control and buffering objectives is not allowed within the buffer.
- (3) The buffer shall be established on agricultural land within two years of the effective date of this Rule.
- (4) Where the standards and management requirements for forest buffers are in conflict with other laws, regulations, permits and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, forest harvesting, surface mining, land disturbance activities, development in Coastal Area Management Act Areas of Environmental Concern, or other environmental protection areas, the more protective shall apply so long as they are in effect. If other standards and requirements which provide equal or better protection than the forested buffer are no longer in effect then the buffer requirements of this Rule shall apply.
- (5) Local government programs approved by the Director of the Division of Water Quality may be allowed to implement and manage the riparian buffer requirement within their jurisdictions.
- Option 2:**
- (1) A vegetated riparian buffer is required on both sides of perennial and intermittent surface waters in the Neuse River Basin. Exceptions to the requirements of this Rule are described in Sub-Items (1)(e)(i)-(ix). Design, installation, and maintenance of the buffer shall be such that, to the maximum extent practical, sheet flow of surface water is achieved. Any activities that will result in water quality standard violations or impair the structural or functional integrity of the

buffer are prohibited. The following criteria will be used to determine which waterbodies are subject to the buffer requirement:

- (a) Surface waters indicated as "blue lines" on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute quadrangle) topographic maps are subject to the buffer requirements. Waterbodies subject to the buffer requirements include perennial and intermittent streams, canals and other manmade drainage conveyances, lakes, and estuaries.
- (b) In instances where the U.S.G.S. 1:24,000 scale (7.5 minute quadrangle) topographic maps inaccurately depict streams or other water conveyances, channels or ditches, the following descriptive criteria shall be used to determine where a buffer is required:
 - (i) All perennial and intermittent streams which have a defined stream channel formed through concentration of runoff are subject to the buffer requirement.
 - (ii) Channelized or otherwise modified natural streams are subject to the buffer requirement.
 - (iii) Ditches or manmade conveyances which under normal conditions receive drainage waters from one or more tributary ditches, canals, or streams are subject to the buffer requirement unless exempted through the use of water control structures and nutrient management as described in Sub-Item (1)(e)(vi) of this Rule.
- (c) The Environmental Management Commission may provide a matrix of options for landowners to achieve equivalent water quality protection through alternative Best Management Practices which account for regional variations in soil types and topography.
- (d) The Directors of the Division of Water Quality, Division of Soil and Water Conservation, Natural Resources Conservation Service, and Cooperative Extension Service shall appoint an advisory committee to make site-specific determinations of where the buffer requirements apply and alternatives for providing equivalent protection. The Committee shall be consulted when the methods of determination described above are inadequate for a particular site. Landowners and consultants are allowed to propose site-specific determinations for review by the appointed committee.

(e) The following waterbodies and land use are exempt from the buffer requirement:

- (i) Ditches or manmade conveyances other than modified natural streams which under normal conditions do not receive drainage waters from any tributary ditches, canals, or streams, unless the ditch or manmade conveyance delivers runoff directly to waters classified in accordance with 15A NCAC 2B .0100.
- (ii) Ditches or manmade conveyances other than modified natural streams which are used exclusively for drainage of silvicultural land or naturally forested areas. All forest harvesting operations shall be in compliance with North Carolina's Forest Practices Guidelines Related to Water Quality.
- (iii) Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100.
- (iv) Development activities that have received an approved Sedimentation/Erosion Control Plan prior to the effective date of this Rule, and development activities for which a Sedimentation/Erosion Control Plan was not required but for which lots were platted and recorded prior to the effective date of this Rule are exempt. However, landowners are encouraged to meet the minimum buffer requirements of this Rule, and to maintain existing forested buffers to the maximum extent practical, without compromising the functions and integrity of any existing permanent structures and facilities.
- (v) New development in the buffer shall be limited to water dependent structures as defined in 15A NCAC 2B .0202(59). Any structures shall be located, designed, constructed and maintained to provide maximum nutrient removal, to have the least adverse effects on aquatic life and habitat and to protect water quality. Landowners are encouraged to maintain existing forested buffers to the maximum extent practical.
- (vi) Canals, ditches, and other drainage conveyances are exempt from the

riparian buffer requirement if both water control structures with a water management plan and a nutrient management plan are implemented on the adjacent agricultural land according to the standards and specifications of the USDA- Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission. The water control structures and nutrient management practices must provide equivalent protection and directly affect the land and waterbodies draining into the waterbody exempted from the buffer requirement. To the maximum extent practical, water control structures should be managed to maximize nitrogen removal throughout the year. Written approval from the local Soil and Water Conservation District must be obtained for the land certifying that appropriate nutrient management and water management plans have been developed. If the nutrient management plans and water management plans are not implemented, then a buffer pursuant to this Section is required.

- (vii) Roads, bridges, stormwater management facilities, ponds, and utilities may be allowed where no practical alternatives exists. These structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices.
- (viii) Stream restoration projects, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities are permitted.
- (ix) Stream crossings associated with timber harvesting are permitted if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).
- (f) The following are modifications to the

vegetated buffer system.

- (i) On agricultural land where either a water control structure with a water management plan, or nutrient management plan is implemented according to the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission, then a 20-foot forested or a 30-foot vegetated buffer is required. The water control structures or nutrient management practices must provide equivalent protection and directly affect the land and waterbodies draining into the waterbody with a modified buffer requirement. To the maximum extent practical, water control structures should be managed to maximize nitrogen removal throughout the year.
- (ii) A 30-foot forested buffer may be substituted in lieu of the requirement for 50 feet of vegetated buffer. Dominant vegetation shall consist of existing or planted trees and shrubs with a dense ground cover. For those sites where forest vegetation does not exist, it is acceptable to allow the forest buffer to succeed naturally to a wooded state. Selective removal of tree and shrub products such as timber, nuts, and fruit is permitted provided the intended purpose is not compromised by loss of vegetation or harvesting disturbance.
- (iii) Periodic maintenance of drainage channels, canals, and ditches is allowed provided that disturbance is minimized and the structure and function of the buffer is not compromised. A grassed travelway is allowed on one or both sides of the waterbody when alternative forms of maintenance access are not practical. The width and specifications of the travelway shall be only that needed for equipment access and operation. The travelway should be located to maximize stream shading (i.e., located on the north and/or east side of the channel if possible). Channel and canal maintenance techniques may include the use of winches.

backhoes, booms, and logging skidders. Drag lines should only be used for large channels where less damaging maintenance techniques are not feasible. Any material removed from the channel shall be spread in a manner that does not compromise the water quality functions of the buffer and maintenance of appropriate vegetative cover.

- (2) The vegetated buffer begins at the normal waterline or at the upper edge of the active channel of the surface waterbody and extends landward a distance of 50 feet, measured horizontally on a line perpendicular to the waterbody.
- (3) Vegetation shall be composed of dense grasses and forbs or forest vegetation. Vegetation must consist of a dense ground cover and be maintained in a vigorous condition. Lawns meet the buffer requirements as long as they are maintained and protected in accordance with these specifications. Landowners are encouraged to maintain existing forested buffers to the maximum extent practical.
- (4) The following practices and activities are not allowed:
 - (a) New permanent structures;
 - (b) New on-site sanitary sewage systems which use ground absorption;
 - (c) Removal or disturbance of vegetation or ground cover inconsistent with erosion control and buffering objectives is not allowed within the buffer.
- (5) Maintenance of buffers is required. Sheet flow must be maintained to the maximum extent practical through dispersing concentrated flows, periodic reshaping of earth structures, removal or grading of accumulated sediment, or re-establishment of vegetation to maintain effectiveness of the buffer. Corrective action should be taken by the landowner to stop erosion and restore sheet flow. Timber removal can contribute to removal of nutrients sequestered in stems and branches and to maintain nutrient uptake and vigorous growth. Skidding of trees shall be directed away from any water course or waterbody when practical. Skidding shall be done in a manner to prevent creation of ephemeral channels perpendicular to the waterbody. Any tree removal must be performed in a manner that does not compromise the intended purpose of the buffer and in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).
- (6) The buffer shall be established on agricultural land within 2 years of the effective date of this Rule.
- (7) Where the standards and management requirements for vegetated buffers are in conflict with

other laws, regulations, permits and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, forest harvesting, surface mining, land disturbance activities, development in Coastal Area Management Act Areas of Environmental Concern, or other environmental protection areas, the more protective shall apply so long as they are in effect. If other standards and requirements which provide equal or better protection than the vegetated buffer are no longer in effect, then the buffer requirements of this Rule shall apply.

- (8) Local government programs approved by the Director of the Division of Water Quality may be allowed to implement and manage the riparian buffer requirement within their jurisdictions.

Authority G.S. 143-214.1; 143-214.7; 143-215.3(a)(1).

.0236 NEUSE RIVER BASIN: NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: NUTRIENT MANAGEMENT

The Environmental Management Commission hereby establishes the goal of reducing the average annual load of nitrogen delivered to the Neuse River Estuary from point and nonpoint sources by a minimum of 30 percent of the average annual load for the period 1991 through 1995 by the year 2001. Furthermore, the Commission shall develop and adopt a plan to attempt to achieve the 30 percent reduction with the goal of demonstrating incremental progress each year. The Commission shall quantify progress toward the 30 percent reduction goal by assigning appropriate credit for reductions in point and nonpoint source pollution achieved through mandatory and voluntary measures. The following management strategy applies to the entire Neuse River Basin pursuant to the Nutrient Sensitive Waters (NSW) Classification, 15A NCAC 2B .0223. The management requirements for the Neuse River Basin are specified in Rules .0231, .0232, .0233, .0234, .0235 and .0236 of this Section. The following is the management strategy for nutrient management in the Neuse River Basin:

Option 1:

- (1) Nutrient management plans shall be developed and implemented within two years of the effective date of this Rule for the following areas:
 - (a) Cropland and pasture land under individual ownership or lease agreements where nutrients are applied and the land owned or leased is greater than or equal to 250 acres;
 - (b) Contiguous tracts of agricultural land under multiple ownership which together comprise a total area receiving nutrients of greater than or equal to 250 acres;
- (2) The plan shall meet the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation

Commission. The landowner is responsible for development of the nutrient management plan. Upon written agreement between the landowner and the leasee, responsibility and liability for proper development and implementation of the nutrient management plan may be transferred from the landowner to the leasee. The nutrient management plan along with supporting documents must be kept on-site. For agricultural land, written approval from the local Soil and Water Conservation District must be obtained for the land certifying that an appropriate nutrient management plan has been developed.

Option 2:

(1) Nutrient management plans shall be developed and implemented within two years of the effective date of this Rule for the following areas:

- (a) Cropland and pasture land under individual ownership or lease agreements where nutrients are applied and the land owned or leased is greater than or equal to 250 acres;
- (b) Contiguous tracts of agricultural land under multiple ownership which together comprise a total area receiving nutrients of greater than or equal to 250 acres;
- (c) Private and public recreational land where nutrients are applied to an area greater than or equal to 10 acres;
- (d) Land receiving nutrients applied by commercial applicators.

(2) Agricultural nutrient management plans shall meet the standards and specifications of the USDA - Natural Resources Conservation Service or the standards and specifications adopted by the NC Soil and Water Conservation Commission. The nutrient management plan along with supporting documents must be kept on-site. For agricultural land, written approval from the local Soil and Water Conservation District must be obtained for the land certifying that an appropriate nutrient management plan has been developed. The landowner is responsible for development of the nutrient management plan except for turfgrass and non-agricultural areas receiving nutrients applied by commercial applicators. Upon written agreement between the landowner and the leasee, responsibility and liability for proper development and implementation of the nutrient management plan may be transferred from the landowner to the leasee. The commercial applicators shall be responsible for developing generic nutrient management plans for varying turfgrass and horticultural application scenarios. The standards and specifications of nutrient management plans for turfgrass, horticultural, and non-agricultural application of nutrients shall be developed and approved by the Division of Water Quality in

consultation with the Natural Resources Conservation Service, the Division of Soil and Water Conservation, the North Carolina Department of Agriculture, and the Cooperative Extension Service.

Authority G.S. 143-214.1; 143-214.7; 143-215.3(a)(1).

TITLE 17 - DEPARTMENT OF REVENUE

Notice is hereby given that the Department of Revenue intends to amend rules cited as 17 NCAC 1C .0506.

Editor's Note: G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150 with respect to the notice and hearing requirements. The Department will however publish the text of proposed rules in the North Carolina Register prior to the scheduled time of review by the Rules Review Commission.

Proposed Effective Date: March 1, 1997

Reason for Proposed Action: This Rule is being amended to allow taxpayers remitting sales and use taxes other than on a semi-monthly basis the opportunity to participate in the EFT Program.

Comment Procedures: Written public comment should be addressed to Jack L. Harper, Assistant Secretary for Tax Administration, PO Box 871, Raleigh, NC 27602-0871. Comments must be received by September 16, 1996.

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

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1C - GENERAL ADMINISTRATION

SECTION .0500 - FORM OF PAYMENT

.0506 VOLUNTARY EFT PROGRAM PARTICIPATION

(a) The following taxpayers not subject to remittance provisions of 17 NCAC 1C .0504 may elect to participate in the EFT Program on or after January 1, 1995:

- (1) Taxpayers required to file returns and pay Withholding of Income Taxes from wages of individuals under Article 4A.
- (2) Taxpayers required to remit installment payments of Estimated Corporate Income Tax under G.S. 105 Article 4C.
- (3) Taxpayers who remit Alcoholic Beverage Excise Taxes payable under G.S. 105 Article 2C.

- (4) Taxpayers who remit Utility Sales Tax payable under the provisions of G.S. 105-164.4(a)(4c).
- (5) Taxpayers who remit Utility Franchise Tax payable under G.S. 105-116 or G.S. 105-120, excluding telephone companies who remit less than three thousand dollars (\$3,000.00) per month.
- (6) Taxpayers who ~~remit are directed by the Secretary or volunteer to file reports for~~ Sales and Use Tax ~~on a semi-monthly basis~~ under G.S. 105-164.16(b).
- (7) Taxpayers who remit Motor Fuels Taxes levied under G.S. 105 Article 36C and 36D.
- (8) Taxpayers who remit Tobacco Products Tax levied under G.S. 105 Article 2A.
- (9) Taxpayers who remit Soft Drink Tax levied under G.S. 105 Article 2B.
- (10) Taxpayers who remit Insurance Taxes levied under Chapter 105 Article 8B.

(b) Taxpayers electing to voluntarily participate in the EFT Program must complete and return Form AC-EFT-100V, Electronic Funds Transfer Authorization Agreement for Voluntary Participants.

(c) Taxpayers who elect to participate in the EFT Program shall be required to remit payments electronically for a minimum of 12 consecutive months. A taxpayer may withdraw from the EFT Program after 12 months by giving the Department 45 days written notice.

(d) Taxpayers who elect to participate in the EFT Program shall be subject to the penalty provisions stated in G.S. 105-236(1a) and (1b).

(e) Taxpayers electing to participate in the EFT Program shall be subject to the same rules as taxpayers subject to the remittance provisions of 17 NCAC 1C .0504.

Authority G.S. 105-236; 105-241; 105-262.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 60 - BOARD OF REFRIGERATION EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Refrigeration Examiners intends to amend rules cited as 21 NCAC 60 .0204, .0207 and .0314. Notice of Rule-making Proceedings was published in the Register on June 3, 1996.

Proposed Effective Date: April 1, 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 addressed to Barbara Hines, PO Box 10666, Raleigh, NC 27605. The demand must be received within 15 days of this notice.

Reason for Proposed Action:

21 NCAC 60 .0204 - Describes transport refrigeration examination and requires an applicant to repeat only failed portions of the examination.

21 NCAC 60 .0207 - Establish requirements to sit for the transport refrigeration examination.

21 NCAC 60 .0314 - Clarifies circumstance under which a refrigeration contractor's license is required.

Comment Procedures: Any interested person may submit written comments on the proposed rules by mailing the comments to Barbara Hines, PO Box 10666, Raleigh, NC 27605, by September 16, 1996.

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.

SECTION .0200 - EXAMINATIONS

.0204 SCORING EXAMINATIONS

(a) Commercial refrigeration contractor examinations are divided into four parts, "A," "B," "C" and "D." Transport refrigeration contractor examinations are divided into three parts, "A," "B" and "C".

(b) Each applicant must successfully complete 70 percent of each part to pass an examination. Each candidate who passes an examination is issued a refrigeration contractor's license.

(c) Each person who fails an examination is notified of his scores and the parts of the examination which he failed. Anyone passing one or more parts of the examination shall be allowed to retake the unpassed parts the next two succeeding examinations without retaking the entire examination.

Authority G.S. 87-54; 87-58.

.0207 REQUIREMENTS FOR EXAMINATION APPLICANTS

(a) An applicant for the commercial refrigeration examination shall be eligible to take ~~the~~ that examination upon:

- (1) Filing with the Board an application, on a form provided by the Board, together with the combined examination-license fee.
- (2) Furnishing with his application information ~~satisfactorily~~ verifying that he has acquired at least 4000 hours of commercial refrigeration experience gained while engaged actively and directly in the installation, maintenance, servicing or repairing of commercial, industrial or institutional refrigeration equipment. ~~Prior to filing the application, qualifying experience must be acquired while working under the supervision of a person who holds a valid refrigeration contractor's license, who is a registered professional engineer~~

~~or who has equivalent industry experience. Up to one-half the experience may be in academic or technical training directly related to the field of endeavor for which examination is requested. Applicants who obtain a license will receive a certificate issued by the Board, bearing that license number. The license shall not be assigned or transferred to another individual.~~

(b) An applicant for the transport refrigeration examination shall be eligible to take that examination upon:

- (1) Filing with the Board an application, on a form provided by the Board, together with the combined examination license fee.
- (2) Furnishing with his application information verifying that he has acquired at least 4000 hours of transport and/or commercial refrigeration experience gained while engaged actively and directly in the installation, maintenance, servicing or repairing of transport and/or commercial refrigeration equipment.

(c) Prior to filing the application, qualifying experience shall be acquired while working under the supervision of a person who holds a valid refrigeration contractor's license, who is a registered professional engineer or who has equivalent industry experience. Up to one-half of the experience may be in academic or technical training directly related to the field of endeavor for which the examination is requested. Applicants who obtain a license shall receive a certificate issued by the Board, bearing that license number. The license shall not be assigned or transferred to another individual.

(d) An individual holding a valid transport contractor refrigeration license shall be eligible to sit for the commercial refrigeration examination upon filing with the Board an application, on a form provided by the Board, together with the combined examination-license fee.

(b)(e) The deadline for receipt of applications for a regular examination shall be six weeks prior to the examina-

tion date. If an application is received after the published deadline, it shall be returned to the applicant, and he shall be notified that he may apply for and take the next examination. This requirement may be waived for illness, personal necessity or similar extenuating circumstances. The Board publishes the deadline for application receipt in selected newspapers, on posters mailed to all refrigeration wholesalers in North Carolina and in its quarterly newsletter.

(e)(f) If a person files an application for examination which is accepted, and takes and fails the examination, his verification of refrigeration experience is kept and is sufficient for taking any future examination, provided he files another application accompanied by the required fee.

Authority G.S. 87-54; 87-58.

SECTION .0300 - LICENSES AND FEES

.0314 USE OF LICENSE

(a) The licensed contractor shall not permit the use of his license by any other person.

(b) All refrigeration contracting business, including all business advertising and the submission of all documents and papers by a licensee of the Board shall be conducted in the exact name in which the refrigeration contracting license is issued.

(c) Should a licensee terminate his relationship from a company in which his license is issued, work begun prior to such termination may be completed under such conditions as the Board shall direct. However, no work for which a license is required under G.S. 87-58 may be bid for, contracted for or initiated prior to said company obtaining a license.

Authority G.S. 87-54; 87-57.

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 10 - DEPARTMENT OF HUMAN
RESOURCES**

Rule-making Agency: *DHR - Division of Medical Assistance*

Rule Citation: *10 NCAC 50B .0202, .0404, .0409*

Effective Date: *August 22, 1996*

Findings Reviewed by Beecher Gray: *Approved*

Authority for the rule-making: *G.S. 108A-25(b); 108A-54; 108A-57; 42 CFR 435.121, 435.401, 435.603, 435.731, 435.732, 435.734, 435.812, 435.831, 435.908, 435.916; 45 CFR 435.845, 435.851, 233.20, 233.51; Alexander v. Flaherty Consent Order Filed February 14, 1992*

Reason for Proposed Action: *The Division of Medical Assistance proposes to modify two recipient eligibility methodologies to conform to Work First methodologies. The modifications are beneficial to recipients and simplify program administration. In the absence of a change to administrative procedures families will have their income calculated differently and will be subject to different reporting requirements.*

Comment Procedures: *Written comments concerning this rule-making action must be submitted by October 14, 1996 to Portia W. Rochelle, APA Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.*

CHAPTER 50 - MEDICAL ASSISTANCE

**SUBCHAPTER 50B - ELIGIBILITY
DETERMINATION**

SECTION .0200 - APPLICATION PROCESS

.0202 INITIAL INTERVIEW

(a) The county department of social services shall conduct an interview with the client or his representative. The client may have any person or persons of his choice participate in the interview. During the interview, the Income Maintenance Caseworker shall explain the application process, the client's rights and responsibilities, the programs of public assistance and the eligibility conditions.

(b) The applicant shall be advised of his right to apply in more than one program category for which he qualifies and the advantages and disadvantages of the choices shall be explained.

(c) The client shall be informed of the following:

- (1) That information he provides shall be checked for accuracy. The client shall be told what information he shall provide, and what sources the agency shall contact to check the information. Collateral sources of information shall include knowledgeable individuals, business organizations, public records, and documentary evidence. If the client does not wish necessary collateral contacts to be made, he can withdraw his application. If he denies permission to contact necessary collaterals and all alternative sources of verification, the application shall be denied due to failure to cooperate in establishing eligibility.
- (2) The client has the right to:

- (A) Receive assistance if found eligible;
- (B) Be protected against discrimination on the grounds of race, creed, or national origin by Title VI of the Civil Rights Act of 1964. He may appeal such discrimination;
- (C) If eligible for Medicaid and Medicare Part B, have the monthly premium paid in his behalf under an agreement between the state and SSA;
- (D) Have any information given to the agency kept in confidence;
- (E) Appeal, if he believes the agency's action to deny, change, or terminate assistance is incorrect, or his request is not acted on with reasonable promptness;
- (F) Reapply at any time, if found ineligible;
- (G) Withdraw from the program at any time;
- (H) Request the agency's help in obtaining third party information which he is responsible to provide;
- (I) Be informed of all alternative sources of verification for the information he is responsible to provide.

(3) The client shall be responsible for the following:

- (A) Provide the county department, state and federal officials, the necessary sources from which to locate and obtain information needed to determine eligibility;
- (B) Report to the county department of social services any change in situation that may affect eligibility within ~~five~~ 10 days after it happens. The meaning of fraud shall be explained. The applicant shall be informed that he may be suspected of fraud if he fails to report a change in situation and that in such situations, he may have to repay assistance received in error and that he may

- also be tried by the courts for fraud;
- (C) Inform the county department of social services of any persons or organization against whom he has a right to recovery. When he accepts medical assistance, the applicant assigns his rights to third party insurance benefits to the state. He shall be informed that it is a misdemeanor to fail to disclose the identity of any person or organization against whom he has a right to recovery;
- (D) Immediately report to the county department the receipt of an I.D. card which he knows to be erroneous. If he does not report such and uses the I.D. card, he may be required to repay any medical expenses paid in error.

Authority G.S. 108A-57; 42 C.F.R. 435.908; Alexander v. Flaherty, U.S.D.C., W.D.N.C., File No. C-C-74-183, Consent Order Filed 15 December 1989; Alexander v. Flaherty Consent Order filed February 14, 1992; Eff. September 1, 1984; Amended Eff. April 1, 1993; August 1, 1990; March 1, 1986; Temporary Adoption Eff. August 22, 1996.

SECTION .0400 - BUDGETING PRINCIPALS

.0404 INCOME

(a) Income that is actually available and that which the client or someone acting in his behalf can legally make available for support and maintenance shall be counted as income.

(b) Only income actually available or predicted to be available to the budget unit for the certification period for which eligibility is being determined shall be counted as income.

(c) For aged, blind, and disabled cases allowable disregards from income are based on Title XVI of the Social Security Act.

(d) Deductions subtracted after disregards are:

- (1) Child or incapacitated adult care not to exceed one hundred and seventy-five dollars (\$175.00) per child over two years of age or adult or two hundred dollars (\$200.00) per child under two years of age for Family and Children's related cases.
- (2) A standard deduction of ninety dollars (\$90.00) from the total earned income of each budget unit member for Family and Children's related cases.
- (3) For aged, blind, and disabled cases allowable deductions from income are based on Title XVI of the Social Security Act.

(e) Except for M-PW wages, wage deductions and

work-related expenses shall be calculated by converting the average amount per pay period into a monthly amount:

- (1) If paid weekly, multiply by ~~4.333~~ 4.3.
- (2) If paid bi-weekly, multiply by ~~2.1666~~ 2.15.
- (3) If paid semi-monthly, multiply by 2.
- (4) If paid monthly, use the monthly gross.
- (5) If salaried, and contract renewed annually, divide annual income etc. by 12.

(f) For M-PW cases, the budget unit's actual income for the calendar month of eligibility shall be verified.

Authority G.S. 108A-25(b); 42 C.F.R. 435.121; 42 C.F.R. 435.401; 42 C.F.R. 435.603; 42 C.F.R. 435.731; 42 C.F.R. 435.732; 42 C.F.R. 435.734; 42 C.F.R. 435.812; 42 C.F.R. 435.831; 45 C.F.R. 435.845; 45 C.F.R. 435.851; 45 C.F.R. 233.20; 45 C.F.R. 233.51;

Eff. September 1, 1984;

Amended Eff. January 1, 1995; August 1, 1990; March 1, 1986;

Temporary Amendment Eff. August 22, 1996.

.0409 CHANGE IN SITUATION

(a) For Medicaid applications, once the county department of social services learns from any source that there has been a change in the budget unit's situation they shall notify the applicant within five work days of the need to verify the change. A change in situation includes but not limited to:

- (1) Change of address, or
- (2) Change in living arrangement, or
- (3) Adding or deleting a budget unit member, or
- (4) Increase or decrease in income, or
- (5) Change in reserve, or
- (6) Cessation of disability or blindness, or
- (7) Parent or parents are no longer incapacitated or unemployed, or
- (8) Change in responsible relative, or
- (9) Change in Aid Program Category.

(b) For an ongoing Medicaid case, once the county department of social services learns from any source that there has been a change in the budget unit's situation they shall review the case promptly and appropriate action shall be completed within 30 calendar days after the agency learns of the change in situation.

(c) The Medicaid client or his representative shall report any change in situation that might affect eligibility within ~~five~~ 10 calendar days to the county department of social services.

Authority G.S. 108A-54; 42 C.F.R. 435.916;

Eff. September 1, 1984;

Amended Eff. August 1, 1990;

Temporary Amendment Eff. August 22, 1996.

*This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting of July 18, 1996 pursuant to G.S. 150B-21.17(a)(1) and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

These rules will become effective on the 31st legislative day of the 1997 Regular Session of the General Assembly or a later date if specified by the agency unless a bill is introduced before the 31st legislative day that specifically disapproves the rule. If a bill to disapprove a rule is not ratified, the rule will become effective either on the day the bill receives an unfavorable final action or the day the General Assembly adjourns. Statutory reference: G.S. 150B-21.3.

APPROVED RULE CITATION

**REGISTER CITATION TO THE
NOTICE OF TEXT**

4	NCAC	12C	.0007 *
10	NCAC	42V	.0201 *
10	NCAC	42V	.0802 - .0803*
15A	NCAC	10F	.0102 - .0103*
15A	NCAC	10F	.0106 - .0107*
15A	NCAC	10F	.0109 *
15A	NCAC	10F	.0305
15A	NCAC	10F	.0310
15A	NCAC	10F	.0348 *

Not Required, G.S. 150B-21.5(b)(3)
11:03 NCR 113
11:03 NCR 113
11:01 NCR 14
11:01 NCR 14
11:01 NCR 14
11:01 NCR 14
11:01 NCR 14
11:01 NCR 14
11:01 NCR 14

TITLE 4 - DEPARTMENT OF COMMERCE

CHAPTER 12 - ENERGY

SUBCHAPTER 12C - ORGANIZATION

**.0007 INSTITUTIONAL CONSERVATION
PROGRAM**

~~The Department of Commerce, Energy Division, has adopted a State Plan for Technical Assistance and Energy Conservation Measures: Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions, as amended March 9, 1994, pursuant to Title III of the National Energy Conservation Policy Act of 1978 (Public Law 95-619, 92 Stat. 3206, 42 U.S.C. Section 8201). This State Plan, and any future amendments to this plan are incorporated herein by reference and is adopted in this Rule by reference as if written herein word for word. Copies of the State Plan may be obtained from the Energy Division, North Carolina Department of Commerce, Post Office Box 25249, Raleigh, North Carolina 27611.~~

History Note: Filed as a Temporary Amendment Eff. March 1, 1990 for a period of 180 days to expire August 27, 1990;

Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449; 150B-12; Title III NECPA, P.L. 95-619, 92 Stat. 3206, 42

U.S.C. Section 8201;

Eff. October 1, 1980;

Amended Eff. August 1, 1985; December 1, 1981;

ARRC Objection Lodged April 19, 1990;

Amended Eff. August 1, 1990;

RRC Objection Eff. June 16, 1994 due to lack of statutory authority;

Amended Eff. August 16, 1994;

Repealed Eff. April 1, 1997.

**TITLE 10 - DEPARTMENT OF HUMAN
RESOURCES**

**CHAPTER 42 - INDIVIDUAL AND FAMILY
SUPPORT**

**SUBCHAPTER 42V - PROTECTIVE SERVICES FOR
ADULTS**

**SECTION .0200 - ACCEPTANCE AND
EVALUATION OF PROTECTIVE SERVICES
REPORTS**

.0201 ACCEPTANCE OF REPORTS

(a) The county department of social services ~~must~~ *shall* accept all reports alleging an abused, neglected, or exploited disabled adult is in need of protective services. This

includes anonymous reports. If the county department determines that the address of the disabled adult given in the report is in another county, the department shall refer the person making the report to the appropriate county department. The county department receiving the original report shall follow up to make sure the appropriate county has received the report.

(b) The department of social services shall make arrangements for 24 hour coverage to receive calls and take appropriate action.

(c) Notwithstanding provisions in 10 NCAC 42V .0801 through .0803, the director may immediately tell the District Attorney's office and local law enforcement agencies when there is reason to believe that physical harm may occur to the disabled adult. This would include sharing evidence of abuse or neglect the agency has to date.

History Note: Authority G.S. 108A-103; 143B-153; Eff. November 1, 1983; Amended Eff. December 1, 1991; July 1, 1990; Temporary Amendment Eff. December 12, 1995; Amended Eff. April 1, 1997.

SECTION .0800 - CONFIDENTIALITY

.0802 IDENTITY OF COMPLAINANT AND OF INDIVIDUALS WHO HAVE KNOWLEDGE OF THE SITUATION

The identity of the complainant and of individuals who ~~provide information about~~ have knowledge of the situation of the disabled adult shall be kept confidential unless the court requires that such persons' identities be revealed with the ~~exception~~ exceptions that that:

- (1) the complainant's name and the names of individuals who ~~provide information about~~ have knowledge of the situation of the disabled adult may be given verbally to the Division of Facility Services when requested by that agency in order to carry out its ~~investigation~~ investigation, and
- (2) to the District Attorney's office and to law enforcement agencies which are prosecuting or conducting a criminal investigation of alleged abuse, neglect or exploitation of a disabled adult.

History Note: Authority G.S. 108A-103; 143B-153; Eff. November 1, 1983; Amended Eff. December 1, 1991; Temporary Amendment Eff. December 12, 1995; Amended Eff. April 1, 1997.

.0803 SPECIFIC FINDINGS

Specific findings of the evaluation shall be kept confidential and shall not be released without consent of the disabled adult or court order, except that the department of social services at its discretion may share information about the adult ~~may be shared~~ with other persons or agencies without the adult or caretaker's consent to the extent necessary to

provide protective services. When evidence of abuse, neglect, or exploitation is found, and upon request of the district attorney or law enforcement agencies, such information shall be sent to help with a criminal investigation or prosecution of abuse, neglect or exploitation.

History Note: Authority G.S. 143B-153; 108A-80(d); Eff. November 1, 1983; Temporary Amendment Eff. December 12, 1995; Amended Eff. April 1, 1997.

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

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0100 - MOTORBOAT REGISTRATION

.0102 APPLICATION FOR CERTIFICATE OF VESSEL NUMBER

(a) General:

- (1) ~~Except as provided in Subparagraph (2) of this Paragraph, the owner of any motorboat principally used in the State of North Carolina shall, prior to its use, apply for a certificate of number on an official application form provided by the Wildlife Resources Commission.~~
- (2) ~~Motorboats owned by the United States, a state, or a subdivision thereof are exempt from required numbering, but may be numbered under the provisions of Rule .0104(a)(5) of this Section. Motorboats owned and operated by non-profit rescue squads are required to be numbered, but if they are operated exclusively for rescue purposes, including rescue training, they may be numbered without charge as by a governmental entity as provided by Rule .0104(a)(5) of this Section.~~
- (3) ~~Pending receipt of a regular certificate of number, a motorboat may be operated for not more than 60 days under a temporary certificate of number. (See Rule .0103 of this Section)~~
- (4) ~~Application forms may be obtained by applying to the Wildlife Resources Commission at the address shown in Subparagraph (a)(5) of this Rule, to any boat dealer or boat manufacturer who is qualified as an agent for the purpose of issuing temporary certificates of number [See Rule .0103(d) of this Section], or to any North Carolina certified hunting and fishing license agent.~~
- (5) ~~The completed application shall be forwarded to: Motorboat Registration Section, Wildlife Resources Commission, Arehdale Building, 512~~

North Salisbury Street, Raleigh, North Carolina 27611.

(b) ~~Individual Owners.~~ The application shall contain the following information:

- ~~(1) name of owner;~~
- ~~(2) address of owner, including zip code;~~
- ~~(3) date of birth of owner;~~
- ~~(4) citizenship of owner;~~
- ~~(5) state of principal use of vessel;~~
- ~~(6) present or previous boat number (if any);~~
- ~~(7) desired period of registration (one or three years);~~
- ~~(8) use of vessel (pleasure, livery, demonstration, commercial passenger, commercial fishing, other);~~
- ~~(9) make of vessel (if known);~~
- ~~(10) year of manufacture or model year (if known);~~
- ~~(11) manufacturer's hull identification number (if any);~~
- ~~(12) overall length of vessel;~~
- ~~(13) type of vessel (open, cabin, house, other);~~
- ~~(14) hull material (wood, steel, aluminum, fiberglass, plastic, other);~~
- ~~(15) type of propulsion (inboard, outboard, inboard-outdrive, sail, and engine make if available);~~
- ~~(16) type of fuel (gasoline, diesel, other);~~
- ~~(17) certification of ownership;~~
- ~~(18) signature of owner.~~

(c) ~~Livery Motorboat Owners.~~ The registration and numbering requirements of this Section shall apply to livery motorboats, except that in any case where the motor is not rented with the vessel, the description of the motor and type of fuel may be omitted from the application.

(d) ~~Dealers and Manufacturers~~

- ~~(1) The registration and numbering requirements of this Section shall apply to dealers in and manufacturers of motorboats.~~
- ~~(2) Application for a certificate of number shall be made on the approved application form prescribed in this Regulation. Dealers and manufacturers shall certify that they are dealers or manufacturers, whichever the case may be.~~
- ~~(3) The application, accompanied by a fee of five dollars and fifty cents (\$5.50), or thirteen dollars (\$13.00) in check or money order as appropriate in accordance with the provisions of Subparagraph (2) of Paragraph (a) of this Rule, shall be forwarded to the address stated in this Rule. [see Subparagraph .0102(a)(5) of this Rule].~~
- ~~(4) Upon receipt by the Wildlife Resources Commission of a properly completed application and fee, it shall issue to the applicant a dealer's or manufacturer's certificate of number as appropriate, which may be used in connection with the operation of any motorboat in the possession of such dealer or manufacturer, when the boat is being used for demonstrative purposes. Additional dealers' or manufacturers' certificates of number~~

~~may be obtained by making application in the same manner as prescribed for the initial certificate with payment of an additional fee of five dollars and fifty cents (\$5.50), or thirteen dollars (\$13.00) in check or money order as appropriate in accordance with the provisions of Subparagraph (2) of Paragraph (a) of this Rule, for each additional certificate.~~

~~(5) Dealers and manufacturers have the option of registering individual motorboats on a permanent basis under the provisions of Paragraph (b) of this Rule.~~

~~(6) A "manufacturer" as the term is used in these regulations is defined as a person, firm, or corporation engaged in the business of manufacturing vessels either upon prior commission or for the purpose of selling them after manufacture. A "dealer" as the term is used in these regulations is defined as a person, firm, or corporation engaged in the business of offering vessels for sale at retail or wholesale from an established location or locations.~~

(a) General: Every owner of a vessel required to be numbered pursuant to G.S. 75A-4 and 75A-7 shall apply to the Vessel Registration and Title Section of the North Carolina Wildlife Resources Commission or to one of its authorized agents for a certificate of vessel number using an approved application form.

(b) Individual Owners of Vessels. The application shall contain the following information:

- (1) name of owner (s);
- (2) address of owner, including zip code;
- (3) state of principal use of vessel;
- (4) present or previous vessel registration number (if any);
- (5) desired period of registration (one or three years);
- (6) use of vessel (pleasure, livery, demonstration, commercial passenger, commercial fishing, other);
- (7) make of vessel (if known);
- (8) year of manufacture or model year (if known);
- (9) manufacturer's hull identification number (if any);
- (10) overall length of vessel;
- (11) type of vessel (open, cabin, houseboat, other);
- (12) hull material (wood, metal fiberglass, inflatable, other);
- (13) type of propulsion (inboard; outboard; inboard-outdrive; jet drive; sail);
- (14) type of fuel (gasoline, diesel, electricity other);
- (15) proof of ownership document;
- (16) signature of owner(s).

(c) Livery Vessel Owners. A "livery" vessel is one that is rented or leased to an individual for a specific time period by the owner. The registration and numbering requirements of G.S. 75A-4 and 75A-7 shall apply to livery vessels. In any case where the motor is not rented with the vessel, the description of the motor and type of fuel may be omitted

from the application. The standard application form for vessel registration shall be used for livery vessels with the term "livery" marked in the section designated for "use of vessel."

(d) Dealers and Manufacturers of Vessels. A "manufacturer" as the term is used in this Rule is defined as a person, firm, or corporation engaged in the business of manufacturing vessels either upon prior commission or for the purpose of selling them after manufacture. A "dealer" as the term is used in this Rule is defined as a person, firm, or corporation engaged in the business of offering vessels for sale at retail or wholesale from an established location(s). The registration and numbering requirements of G.S. 75A-4 and 75A-7 shall apply to vessels belonging to dealers and manufacturers. The standard application for a certificate of vessel number shall be used for dealer and manufacturer certificates with the term "demonstration" marked in the section designated for "use of vessel." Upon receipt of a properly completed application and fee for dealer or manufacturer vessel registration, the Wildlife Resources Commission shall issue to the applicant a dealer's or manufacturer's certificate of vessel number, as appropriate, which may be used in connection with the operation of any vessel in the possession of the dealer or manufacturer when the vessel is being demonstrated. Additional dealer's or manufacturer's certificates of vessel number may be obtained by making application in the same manner as prescribed for the initial certificate with payment of an additional fee for each additional certificate. Dealers and manufacturers have the option of registering individual vessels in accordance with Rule .0104(a) of this Section.

History Note: Legislative Objection Lodged Eff. December 16, 1980;

Authority G.S. 75A-3; 75A-5; 75A-7; 75A-19; 33 C.F.R. 174.17;

Eff. February 1, 1976;

Amended Eff. July 1, 1988 at ARRC request to cure referenced Legislative Objection;

Amended Eff. March 1, 1997; November 1, 1993; August 1, 1988; July 1, 1988; August 31, 1980.

.0103 TRANSFER OF OWNERSHIP

(a) ~~Transfer Direct from One Individual Owner to Another Individual Owner~~

- (1) ~~If the ownership of a registered motorboat is changed during the registration period, the owner shall complete the statement of transfer on the reverse side of the certificate of number, date as of the day of the transaction, sign, and deliver to the new owner.~~
- (2) ~~The new owner shall apply for a new certificate of number on an official application form. The original number must be retained when a vessel numbered is again registered as a motorboat.~~
- (3) ~~For 60 days following the transfer of ownership of a registered motorboat during the registration~~

~~period, the new owner may use the certificate of number of the prior owner as a temporary certificate of number pending receipt of his own certificate; provided, the certificate is endorsed in accordance with Subparagraph (a)(1) of this Rule. In the event the transfer occurs during the 60 days prior to expiration of the registration period, the original certificate will still be honored up to the full period of 60 days as a temporary certificate even though it would otherwise have expired. Where transfer of ownership from one individual to another occurs after the expiration of the registration period, the certificate of number may not be used by the new owner.~~

(b) ~~Transfer of a Previously Registered Motorboat Through a Dealer~~

- (1) ~~The owner transferring his motorboat to a dealer during the registration period shall give the certificate of number to the dealer after dating and signing the statement of transfer on the reverse side of the certificate on the day of the transaction.~~
- (2) ~~When the motorboat is sold by the dealer, he shall date and sign the certificate of number on the reverse side on the day of the transaction and deliver it to the new owner.~~
- (3) ~~For a period of 60 days following the transfer of ownership of a registered motorboat from or through a dealer to a new owner, the new owner may use the certificate of the prior individual owner as a temporary certificate of number pending receipt of his own certificate; provided:~~
 - (A) ~~The certificate is endorsed in accordance with Subparagraphs (1) and (2) of this Paragraph.~~
 - (B) ~~The original owner endorsed the certificate to the boat dealer while it was still in force, and~~
 - (C) ~~The boat dealer's sale and endorsement occurs while the registration certificate is still in force.~~

(4) ~~Except as permitted above, a certificate of number may not be used after the expiration of the registration period.~~

(c) ~~Transfer of an Individually Registered Motorboat by a Dealer or Manufacturer. Motorboats individually numbered by dealers or manufacturers shall upon transfer of ownership be governed by the provisions of Paragraph (a) of this Rule.~~

(d) ~~Temporary Certificate of Number~~

- (1) ~~Upon acquisition of a motorboat not previously numbered or a motorboat the registration of which has expired, the new owner may transmit with his application for the regular certificate of number a request for a temporary certificate of number. The request must state the date the vessel was acquired by the applicant. For a period not~~

exceeding 60 days following the date of acquisition, the motorboat may be operated on the temporary certificate of number pending receipt of the regular certificate from the Wildlife Resources Commission.

(2) In order to make temporary certificates of number available locally within the State, boat dealers and manufacturers who conduct business from established locations in North Carolina may be designated agents of the Wildlife Resources Commission for the purpose of issuing temporary certificates of motorboat number. To qualify as an agent for this purpose, such dealer or manufacturer must enter into a written agreement with the Wildlife Resources Commission by which he assumes responsibility for conducting the boat registration agency as a public service and in strict compliance with these regulations. Upon approval and ratification of such agreement by the Executive Director or his designee, the agent will be furnished with a supply of the temporary certificate forms together with forms for use in applying for the regular certificate of motorboat number. The forms for temporary certificate of number are serially numbered and are prepared in triplicate so as to provide an original (Part 1) and two copies (Parts 2 and 3).

(3) A boat registration agency issuing temporary certificates of motorboat number shall be conducted in accordance with the following requirements and restrictions:

(A) The temporary certificates of number shall be issued without charge.

(B) There shall be no substitute for the printed form of certificate supplied by the Wildlife Resources Commission. No agent shall issue any other writing purporting to authorize the use of an unregistered motorboat.

(C) The certificates shall be issued consecutively in the order in which they are serially numbered, beginning with the lowest number.

(D) When the vessel has been acquired from a source other than the agent, a temporary certificate of number shall not be issued unless and until the owner produces a bill of sale or other memorandum of transfer which identifies the vessel and which has been dated, signed and acknowledged by the transferor before a notary public or other officer authorized to take acknowledgments.

(E) All information called for on the temporary certificate of number shall be properly entered in the spaces provided, including the date of expiration of the certificate which shall be the 60th day following the

date of acquisition of the vessel by the owner.

(F) The temporary certificate must be signed by the owner. The agent shall deliver to the owner Part 1 of the certificate and a form with which to apply for the regular certificate of number.

(G) Within 30 days following the issuance of a temporary certificate of number, the agent shall transmit Part 2 thereof to the Wildlife Resources Commission at the address indicated in Rule .0102(a)(5) of this Section. If a bill of sale or other memorandum of transfer has been required, the original or a copy thereof shall be attached to the Commission's copy of the temporary certificate of number.

(H) The agent shall retain Part 3 of the temporary certificate of number for a period of at least one year and shall permit inspection thereof during business hours by any law enforcement officer or authorized personnel of the Commission.

(I) No agent shall knowingly issue more than one temporary certificate of number for the same vessel during any calendar year.

(J) An agent may make application for a certificate of number or for a registration on behalf of a new owner to whom a temporary certificate of number has been issued provided the application and fee is submitted to the Wildlife Resources Commission within 10 days of the date of issuance of the temporary certificate.

(K) Upon termination of a boat registration agency which issues temporary certificates of motorboat number, all copies (Parts 3) of such certificates theretofore issued and all unused forms for temporary certificates of number then remaining in possession of the terminated agency shall be delivered to the Wildlife Resources Commission or to a Commission employee.

(4) A boat registration agency which issues temporary certificates of motorboat number, being a mutual and voluntary undertaking, may be terminated at any time, with or without cause, by either party thereto by giving a notice of such termination to the other party.

(5) If the agent who issues a temporary certificate of number does not submit the application for certificate of number or registration on behalf of the new owner, the new owner must submit the application and fee to the Wildlife Resources Commission within 10 days of the date of issuance of the temporary certificate.

(6) In order to be valid, the temporary certificate of

boat number must contain the following:

- (A) ~~full name and address of issuing agent;~~
- (B) ~~full name and address of purchaser, including zip code;~~
- (C) ~~previous registration number, if any (if none, so state);~~
- (D) ~~state of principal use of vessel;~~
- (E) ~~make of vessel;~~
- (F) ~~length in feet;~~
- (G) ~~hull material;~~
- (H) ~~kind of propulsion;~~
- (I) ~~date of purchase of boat;~~
- (J) ~~date of application for regular certificate of number;~~
- (K) ~~expiration date of temporary certificate;~~
- (L) ~~signature of purchaser.~~

(7) ~~Temporary certificates of number can be issued by boat registration agents when certificates of number requiring corrections other than address or name changes are presented for renewal or when the agent finds that an error has been made in validating the certificate of number.~~

(e) ~~Demonstration and Use of Vessels Held by Dealers~~

(1) ~~Demonstration of registered motorboats held by dealers for sale may be with the use of the certificate of number endorsed by the original owner so long as the registration is in force. Any dealer or any permittee of a dealer demonstrating a motorboat must utilize a set of dealer's numbers and the corresponding dealer's certificate of number on such vessel after the original certificate of number has expired. The dealer's numbers and certificate of number may, however, be used during demonstrations before the end of the registration period at the option of the dealer. In any event, where a set of dealer's numbers is used upon a previously numbered vessel, the original numbers must be covered in accordance with Rule .0106(e) of this Section.~~

(2) ~~Dealers who have bought or otherwise possess motorboats for resale and who wish to operate or lend out such motorboats for more general uses than for demonstration only must have the individual motorboat registrations transferred to their names.~~

(a) Transfer of titled vessels.

(1) When the ownership of a titled vessel is transferred, the current owner(s) as recorded on the face of the Certificate of Title for Watercraft shall complete the Assignment of Title section on the reverse side of the certificate of title according to the given instructions and transmit the title to the new owner(s). If the certificate of title contains any encumbrances, security interests, or liens on its face, the Release of First Lien section on the reverse side of the certificate of title must be completed by the lienholder(s) according to given

instructions before the title is transmitted to the new owner(s). If more than one lien is outstanding on the title, all liens must be satisfied as evidenced by attaching additional Release of Lien statements completed in the same fashion as the Release of First Lien section before the certificate of title is transmitted to the new owner(s).

(2) The new owner(s) must complete and submit an Application for Title and Registration (Form WT-1) along with the properly assigned certificate of title and applicable registration and title fees to the Vessel Registration and Title Section of the Wildlife Resources Commission for processing. The new owner(s) shall indicate on the application whether or not the vessel will be titled under the new ownership; and, if so, whether or not any liens exist on the vessel. If the new owner(s) elects to transfer the title, then a new Certificate of Title for Watercraft shall be issued, including recordation of any new liens that are listed on the application.

(b) Transfer of non-titled vessels.

(1) Direct transfer from one individual owner to another.

(A) If the ownership of a once-registered vessel is transferred, the previous owner shall complete the statement of transfer provided with the certificate of vessel number, date it as of the day of the transaction, sign it, and deliver it to the new owner.

(B) The new owner shall complete the transfer of vessel ownership by preparing and submitting an official application form for this purpose within 10 days from the date of transfer. The original vessel registration number must be retained when a vessel most recently registered in North Carolina is registered to a new owner. A new vessel registration number shall be issued to vessels most recently registered in another State or never before registered.

(C) For 60 days following the transfer of ownership of a once-registered vessel, the new owner may use the certificate of vessel number of the prior owner as a temporary certificate of number pending receipt of his own certificate provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule.

(D) An individual may also transfer ownership of a vessel by preparing a Bill of Sale naming the new owner, provided both parties to the sale sign the Bill of Sale before a notary public. If a Bill of Sale is the instrument of transfer, the new owner may use a copy of it as a temporary certificate of vessel number for a period of 60

days. The notarized Bill of Sale must accompany the application for transfer of ownership and the application must be mailed within 10 days of the date of sale.

(2) Transfer of a once-registered vessel through a dealer.

(A) An owner selling or transferring a once-registered vessel to a dealer shall, on the day of the transaction, give the certificate of vessel number to the dealer after dating and signing the statement of transfer provided with the certificate.

(B) When the vessel is subsequently sold, the dealer shall, on the day of the transaction, date and sign the statement of transfer which was received from the previous owner and give it to the new owner. If no certificate of vessel registration is available, a Bill of Sale may be used to document transfer of ownership to the purchaser, provided both parties to the sale sign the Bill of Sale before a notary public.

(C) For a period of 60 days following the transfer of ownership of a once-registered vessel, the new owner may use the certificate of vessel number of the prior owner as a temporary certificate of vessel number, provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule; or a copy of the notarized Bill of Sale may be used as a temporary certificate.

(3) Transfer of a vessel individually-registered to a dealer or manufacturer. Vessels that have been individually numbered by dealers or manufacturers shall upon transfer of ownership be governed by the provisions of Subparagraph (b)(1) of this Rule.

History Note: Authority G.S. 75A-3; 75A-5; 75A-19; 33 C.F.R. 174.21;

Eff. February 1, 1976;

Amended Eff. March 1, 1997; February 1, 1995; November 1, 1993; July 1, 1988; April 19, 1981.

.0106 DISPLAY OF VESSEL NUMBERS

(a) The numbers shall be painted on or attached to each side of the forward half of the vessel for which issued in such a position as to provide clear legibility for identification. The numbers shall read from left to right and shall be in block characters of good proportion not less than three inches in height. The numbers shall be of a solid color which will contrast with the color of the background and so maintained as to be clearly visible and legible; i.e., dark numbers on a light background, or light numbers on a dark background.

(b) No other number, except the year date of the validation decal described in Rule .0107 of this Section, shall be

carried on the bow of such vessel.

(c) Manufacturers or dealers may have the number awarded to them printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to the ~~boat~~ vessel being demonstrated, so long as the display meets the requirements of ~~these regulations~~. the Rules in this Section. Where a currently or previously-numbered ~~motorboat~~ vessel is being demonstrated with a set of dealer's numbers, the permanent numbers painted on or attached to the bow ~~must~~ shall be covered.

(d) A vessel registered to a governmental entity and bearing the letter "P" shall continue to display the assigned numbers for so long as the vessel belongs to a governmental entity. Upon transfer of ownership to a private individual, the new owner shall apply to the Wildlife Resources Commission for a new certificate of vessel number and shall be assigned a new vessel registration number.

History Note: Authority G.S. 75A-3; 75A-5; 75A-19;

Eff. February 1, 1976;

Amended Eff. March 1, 1997.

.0107 VALIDATION DECAL

In addition to the certificate of vessel number, the Wildlife Resources Commission ~~will~~ shall supply to the owner of each ~~motorboat~~ vessel that is ~~permanently numbered~~ numbered, an official validation decal indicating the last year and month of the period of registration. The owner shall affix such validation decal so as to be clearly legible on the starboard bow of the vessel immediately following and within six inches of the ~~motorboat~~ vessel number. Any validation decal issued for a ~~motorboat~~ vessel numbered on application by a governmental entity as ~~provided by Rule .0104(a)(5) of this Section~~ shall bear contain no expiration date, but shall bear the letter "P" and shall not be subject to renewal so long as the vessel remains the property of a governmental entity. When any such ~~motorboat~~ vessel is transferred to private ownership, the decal shall be removed or obliterated by the transferring agency.

History Note: Authority G.S. 75A-3; 75A-5; 75A-7; 33 C.F.R. 174.15;

Eff. February 1, 1976;

Amended Eff. March 1, 1997; August 31, 1980; January 1, 1980.

.0109 TEMPORARY CERTIFICATE OF VESSEL NUMBER

(a) Upon acquisition of a vessel not previously numbered or a vessel for which no certificate of vessel number is available, the new owner may transmit with his application for the regular certificate of vessel number a request for a temporary certificate of vessel number. The request must state the date the vessel was acquired by the applicant. For a period not exceeding 60 days following the date of acquisition, the vessel may be operated on the temporary

certificate of vessel number pending receipt of the regular certificate.

(b) In order to make temporary certificates of vessel number readily available locally throughout the State, Vessel Registration Agents appointed pursuant to Rule .0104(d) of this Section may issue temporary certificates of vessel number. Vessel Registration Agents shall be furnished a supply of temporary certificates of vessel number and application forms for use in applying for regular certificates of vessel number. Temporary certificates of vessel number shall be prepared in duplicate so as to provide an original (Part 1) and a copy (Part 2). The original shall be given to the qualified vessel owner for his use in operating the vessel and the copy shall be retained by the Vessel Registration Agent.

(c) Vessel Registration Agents shall follow the requirements and restrictions set forth herein:

- (1) Vessel Registration Agents may charge a reasonable fee to vessel owners for issuance of temporary certificates of vessel number commensurate with the direct cost and time involved in issuing the certificate, provided that notice of the charge for issuing a temporary certificate is prominently posted on the premises and the customer is advised of the fee before the transaction is made.
- (2) No substitute for the printed form of the temporary certificate of vessel number supplied by the Wildlife Resources Commission shall be used by an agent and no agent shall issue any writing purporting to authorize the use of an unregistered vessel.
- (3) When the vessel has been acquired from a source other than the agent, a temporary certificate of vessel number shall not be issued unless and until the owner produces a notarized bill of sale, a certificate of vessel number validated by the previous owner, or other memorandum of transfer which identifies the vessel and which has been dated, signed and acknowledged by the transferor before a notary public or other officer authorized to take acknowledgments.
- (4) All required information on the temporary certificate of vessel number shall be properly entered in the spaces provided, including the date of expiration of the certificate, which shall be the 60th day following the date of acquisition of the vessel by the owner.
- (5) After the owner signs the temporary certificate, the agent shall deliver to the owner Part 1 of the certificate and an application form with which the owner may apply for a regular certificate of vessel number.
- (6) The agent shall keep Part 2 of the temporary certificate as a part of the official records of the agency for a period of at least 90 days. If a bill of sale or other memorandum of transfer has been required to verify ownership, a copy thereof shall

be attached to the agent's copy of the temporary certificate of vessel number.

- (7) No agent shall knowingly issue more than one temporary certificate of vessel number to the same person for the same vessel during any twelve month period.
- (8) An agent may make application for a certificate of vessel number or for a transfer of registration on behalf of a new owner to whom a temporary certificate has been issued, provided the application and fee are submitted to the Wildlife Resources Commission within 10 days of the date of issuance of the temporary certificate.
- (9) Upon termination of a vessel registration agency, all copies (Part 2) of temporary certificates of vessel number previously issued and all unused forms for temporary certificates of vessel number then remaining in possession of the terminated agency shall be delivered to the Wildlife Resources Commission.

(d) A vessel registration agency which issues temporary certificates of vessel number, being a mutual and voluntary undertaking, may be terminated at any time, with or without cause, by either party thereto by giving written notice of termination to the other party.

(e) If the agent who issues a temporary certificate of vessel number does not submit the application for a regular certificate of vessel number on behalf of the new owner, the new owner must submit the application and fee to the Wildlife Resources Commission within 10 days of the date of issuance of the temporary certificate.

(f) In order to be valid, the temporary certificate of vessel number must contain the following:

- (1) full name and address of issuing agent;
- (2) full name and address of owner(s), including zip code;
- (3) previous vessel registration number, if any (if none, so state);
- (4) state of principal use of vessel;
- (5) make of vessel;
- (6) vessel length in feet;
- (7) hull material;
- (8) type of propulsion;
- (9) date of purchase of vessel;
- (10) date of application for regular certificate of vessel number;
- (11) expiration date of temporary certificate;
- (12) signature(s) of owner(s) and agent.

(g) Temporary certificates of vessel number shall be issued by vessel registration agents when certificates of vessel number are presented for renewal at the vessel registration agency.

History Note: Authority G.S. 75A-3; 75A-5; 33 C.F.R. 174.21;

Eff. March 1, 1997.

**SECTION .0300 - LOCAL WATER SAFETY
REGULATIONS****.0348 PERSON COUNTY**

(a) Regulated Area. This Rule applies to the Mayo Electric Generating Plant Reservoir, otherwise known as Mayo Reservoir, which is located in Person County.

(b) Restricted Zones. Except for authorized personnel of the power company, no person shall operate a motorboat or vessel in any restricted zone which is marked to prevent entry by boats.

(c) Mast Height. No person shall place or operate on the regulated area described in Paragraph (a) of this Rule any sailboat or other vessel having a mast or any superstructure extending vertically above water level a distance of 35 feet or more.

(d) Speed Limit. Except as provided in Paragraph (e) of this Rule, no person shall operate a vessel at greater than no-wake speed within 50 yards of any marked bridge, boat launching ramp, pier, boat storage structure, or boat service area on the regulated area described in Paragraph (a) of this Rule.

(e) Skiing. Except to leave or return to the shore or a boat launching ramp, no skiing is permitted within any speed zone described in Paragraph (d) of this Rule. In leaving or returning to the shore or boat ramp, all vessels

pulling skiers ~~must~~ shall be operated on a course perpendicular to the shore line. Upon dropping skiers within any such speed zone, the boat speed shall be reduced to no-wake speed.

(f) Swimming Areas. No person shall operate any vessel or water skis within a marked public swimming area.

(g) Boating Access. No vessel shall be placed on the regulated area described in Paragraph (a) of this Rule from any point other than the boat launching ramp provided on SR 1515.

(h) Placement and Maintenance of Markers. The Board of Commissioners of Person County is designated a suitable agency for placement and maintenance of markers implementing this Rule. Provided the said board exercises its supervisory responsibility, it may delegate the actual placement and maintenance to some other responsible agency, corporation, group or individual. With regard to marking the regulated area described in Paragraph (a) of this Rule, the supplementary standards set forth in Rule .0301(g) of this Section shall apply.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. August 1, 1984;

Amended Eff. March 2, 1997.

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, August 15, 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, August 12, 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

August 15, 1996
 September 19, 1996
 October 17, 1996

November 21, 1996
 December 19, 1996

MEETING DATE: AUGUST 15, 1996

FOLLOW UP MATTERS:

DHR Social Services Commission -
EHNR Environmental Management Commission -

Wildlife Resources Commission -
Commission for Health Services -
Examiners for Nursing Home Administrators -
Real Estate Commission -

10 NCAC 41F .0707, .0813, .0814
 15A NCAC 2B .0101, .0103, .0109, .0201, .0202, .0231
 (Rule .0231 was Noticed as Rule .0220)
 15A NCAC 2H .0501, .0502, .0503, .0504, .0506, .0507
 15A NCAC 10F .0104, .0105
 15A NCAC 18A .3106
 21 NCAC 37H .0102
 21 NCAC 58E .0302

LOG OF FILINGS

RULES SUBMITTED: JUNE 21, 1996 THROUGH JULY 22, 1996

AGENCY/DIVISION	RULE NAME	RULE	ACTION
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
Suspension or Termination	11 NCAC 20 .0411	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

DEHNR/ENVIRONMENTAL MANAGEMENT COMMISSION

Little Tennessee River Basin	15A NCAC 2B .0303	Amend
Catawba River Basin	15A NCAC 2B .0308	Amend
Lumber River Basin	15A NCAC 2B .0310	Amend
Neuse River Basin	15A NCAC 2B .0315	Amend
Tar-Pamlico River Basin	15A NCAC 2B .0316	Amend
Purpose	15A NCAC 2C .0201	Amend
Scope	15A NCAC 2C .0202	Amend
Conflict with Other Laws	15A NCAC 2C .0203	Amend
Definitions	15A NCAC 2C .0204	Amend
Area of Review	15A NCAC 2C .0205	Amend
Corrective Action	15A NCAC 2C .0206	Amend
Mechanical Integrity	15A NCAC 2C .0207	Amend
Financial Responsibility	15A NCAC 2C .0208	Amend
Classification	15A NCAC 2C .0209	Amend
Requirements	15A NCAC 2C .0210	Amend
Permits	15A NCAC 2C .0211	Amend
Additional Criteria	15A NCAC 2C .0213	Amend
Abandonment	15A NCAC 2C .0214	Amend
Variance	15A NCAC 2C .0215	Adopt
Delegation	15A NCAC 2C .0216	Adopt
Purpose	15A NCAC 2D .0301	Amend
Applicability	15A NCAC 2D .0302	Amend
Oxygen Content Standard	15A NCAC 2D .0304	Amend

DEPARTMENT OF REVENUE

EFT General Requirements	17 NCAC 1C .0504	Amend
Voluntary EFT Program	17 NCAC 1C .0506	Amend

TRANSPORTATION/DIVISION OF HIGHWAYS

Federal Disaster Assistance	19A NCAC 2D .0425	Amend
Purpose	19A NCAC 2D .1101	Adopt
Definitions	19A NCAC 2D .1102	Adopt
Certification of Firms	19A NCAC 2D .1103	Adopt

Annual Renewal	19A NCAC 2D .1104	Adopt
Change in Ownership	19A NCAC 2D .1105	Adopt
Decertification	19A NCAC 2D .1106	Adopt
Appeals of Denial of Certification	19A NCAC 2D .1107	Adopt
Goals	19A NCAC 2D .1108	Adopt
Counting Participation	19A NCAC 2D .1109	Adopt
Non-Attainment of Goals	19A NCAC 2D .1110	Adopt
Performance Related Replacement	19A NCAC 2D .1111	Adopt
Replacement	19A NCAC 2D .1112	Adopt

TRANSPORTATION/PUBLIC TRANSPORTATION & RAIL DIVISION

Definition of Program	19A NCAC 6B .0401	Adopt
Identifying Information	19A NCAC 6B .0402	Adopt
Funding Recipients	19A NCAC 6B .0403	Adopt
Eligible Costs	19A NCAC 6B .0404	Adopt
Ineligible Costs	19A NCAC 6B .0405	Adopt
Application	19A NCAC 6B .0406	Adopt
County & City Certification	19A NCAC 6B .0407	Adopt
Required Easement Certifications	19A NCAC 6B .0408	Adopt
Industry Certification	19A NCAC 6B .0409	Adopt
Application Evaluation	19A NCAC 6B .0410	Adopt
Allocation of Funding	19A NCAC 6B .0411	Adopt
Procurements	19A NCAC 6B .0412	Adopt
Requests for Reimbursement	19A NCAC 6B .0413	Adopt
Retainage	19A NCAC 6B .0414	Adopt
Ownership	19A NCAC 6B .0415	Adopt
Reporting Requirements	19A NCAC 6B .0416	Adopt
Repayment	19A NCAC 6B .0417	Adopt

NC PSYCHOLOGY BOARD

Practice by Nonresident	21 NCAC 54 .1610	Adopt
Temporary License	21 NCAC 54 .1703	Amend
Types	21 NCAC 54 .1901	Amend
Corporate Name	21 NCAC 54 .2201	Repeal

RULES REVIEW OBJECTIONS

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Environmental Management

<i>15A NCAC 2B .0101 - General Procedures</i>	<i>RRC Objection</i>	<i>07/18/96</i>
<i>15A NCAC 2B .0103 - Analytical Procedures</i>	<i>RRC Objection</i>	<i>07/18/96</i>
<i>15A NCAC 2B .0109 - Waters Affected by Dredge and Fill Activities</i>	<i>RRC Objection</i>	<i>07/18/96</i>
<i>15A NCAC 2B .0201 - Antidegradation Policy</i>	<i>RRC Objection</i>	<i>07/18/96</i>
<i>15A NCAC 2B .0202 - Definitions</i>	<i>RRC Objection</i>	<i>07/18/96</i>
<i>15A NCAC 2B .0216 - Fresh Surface Water Quality Standards for Ws-iv Waters</i>	<i>RRC Objection</i>	<i>05/16/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>05/16/96</i>
<i>15A NCAC 2B .0231 - Wetland Standards (Rule .0231 was Noticed as Rule .0220)</i>	<i>RRC Objection</i>	<i>07/18/96</i>
<i>15A NCAC 2D .0501 - Compliance with Emission Control Standards</i>	<i>RRC Objection</i>	<i>06/20/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>06/20/96</i>
<i>15A NCAC 2D .0608 - Program Schedule</i>	<i>RRC Objection</i>	<i>06/20/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>06/20/96</i>
<i>15A NCAC 2D .0901 - Definitions</i>	<i>RRC Objection</i>	<i>06/20/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>06/20/96</i>
<i>15A NCAC 2D .0926 - Bulk Gasoline Plants</i>	<i>RRC Objection</i>	<i>06/20/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>06/20/96</i>

RULES REVIEW COMMISSION

15A NCAC 2D .0934 - Coating of Miscellaneous Metal Parts and Products	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .1109 - Case-by-Case Maximum Achievable Control Technology	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2H .0219 - Minimum Design Requirements	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
15A NCAC 2H .0501 - Purpose	RRC Objection	07/18/96
15A NCAC 2H .0502 - Application	RRC Objection	07/18/96
15A NCAC 2H .0503 - Public Notice	RRC Objection	07/18/96
15A NCAC 2H .0504 - Hearing	RRC Objection	07/18/96
15A NCAC 2H .0506 - Criteria for Review of Applications	RRC Objection	07/18/96
15A NCAC 2H .0507 - Issuance of Certification	RRC Objection	07/18/96

Commission for Health Services

15A NCAC 13B .1406 - Operational Requirements for Solid Waste Compost Facilities	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 - Classification/Distribution of Solid Waste Compost Products	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 - Methods for Testing and Reporting Requirements	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 - Approval of Alternative Procedures and Requirements	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
15A NCAC 18A .3106 - Abatement	RRC Objection	07/18/96

Wildlife Resources Commission

15A NCAC 10F .0104 - Certificate of Number	RRC Objection	07/18/96
15A NCAC 10F .0105 - Numbering Pattern	RRC Objection	07/18/96
15A NCAC 10F .0342 - Catawba County		
Rule Withdrawn by Agency		07/18/96

HUMAN RESOURCES

Social Services Commission

10 NCAC 41F .0707 - Criminal Histories	RRC Objection	07/18/96
10 NCAC 41F .0813 - Criminal History Checks	RRC Objection	07/18/96
10 NCAC 41F .0814 - Training Requirements	RRC Objection	07/18/96

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

STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

21 NCAC 37H .0102 - Continuing Education Programs of Study	RRC Objection	07/18/96
--	---------------	----------

BOARD OF PHARMACY

21 NCAC 46 .1601 - Pharmacy Permits	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 46 .1607 - Out-of-State Pharmacies		

<i>Rule Withdrawn by Agency</i>		06/20/96
21 NCAC 46 .1811 - Excessive Dispensing of Prescription Drugs	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 46 .2502 - Responsibilities of Pharmacist-Manager	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 46 .2504 - Patient Counseling	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96

REAL ESTATE COMMISSION

21 NCAC 58A .0104 - Agency Agreements and Disclosure	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58A .0113 - Reporting Criminal Convictions	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58A .0502 - Business Entities	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 58A .0610 - Subpoenas	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58E .0302 - Elective Course Component	RRC Objection	06/20/96
Agency Responded	Obj. Cont'd	07/18/96

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

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
ALCOHOLIC BEVERAGE CONTROL COMMISSION				
Osama Arafat Sadar v. Alcoholic Beverage Control Commission	95 ABC 0721	Gray	07/09/96	
Alcoholic Beverage Control Commission v. James Eads Sprowles	95 ABC 0883*7	Gray	07/10/96	
Fuad Saif Murshed v. Alc. Bev. Ctl. Comm. & Durham Mem. Bapt. Ch.	95 ABC 0922	Chess	04/24/96	
Alcoholic Beverage Control Commission v. Tremik, Inc.	95 ABC 0925	Morrison	03/25/96	
Alcoholic Beverage Control Commission v. Maria Virginia Tramontano	95 ABC 1200	West	04/23/96	
Alcoholic Beverage Control Commission v. Huffman Oil Co., Inc.	95 ABC 1251	West	04/03/96	11:03 NCR 166
Pinakin P. Talate v. Alcoholic Beverage Control Commission	95 ABC 1329	West	04/10/96	
Alcoholic Beverage Control Commission v. Entrepreneur, Inc.	95 ABC 1363	Reilly	05/02/96	
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	
Andrew Parker v. Alcoholic Beverage Control Commission	95 ABC 1402	Phipps	03/27/96	
Barraq Sabri Alquza v. Alcoholic Beverage Control Commission	95 ABC 1424	Phipps	04/03/96	
Alcoholic Beverage Control Comm. v. Partnership T/A T & L Groceries	95 ABC 1443	West	03/26/96	
Alcoholic Beverage Control Commission v. Cashion's Food Mart, Inc.	95 ABC 1444	Gray	03/13/96	
Bro Bee, Inc. v. Alcoholic Beverage Control Commission	95 ABC 1480	West	04/15/96	
Alcoholic Beverage Control Commission v. Donald Ray Doak	95 ABC 1488	West	03/29/96	
Alcoholic Beverage Control Commission v. Janice Lorraine Jeter	96 ABC 0013	Reilly	04/26/96	
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	
Gerald Audry Sellars v. Alcoholic Beverage Control Commission	96 ABC 0160	Becton	06/25/96	11:08 NCR 564
Alcoholic Beverage Control Commission v. Jacqueline Robin Anthony	96 ABC 0184	Phipps	05/09/96	
Alcoholic Beverage Control Commission v. Factory Night Club, Inc.	96 ABC 0226	Phipps	08/02/96	
Alcoholic Beverage Control Commission v. C.N.H. Enterprises, Inc.	96 ABC 0232	Becton	07/09/96	
Alcoholic Beverage Control Commission v. Millicent J. Green	96 ABC 0234	Nesnow Smith	06/13/96	
Ghassan Hasan Issa v. Alcoholic Beverage Control Commission	96 ABC 0256	Morrison	05/23/96	
Alcoholic Beverage Control Commission v. Triangle Drive-In	96 ABC 0443	Reilly	06/11/96	
Alcoholic Beverage Control Commission v. James Eads Sprowles	96 ABC 0526*7	Gray	07/10/96	

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
COMMISSION FOR AUCTIONEERS				
John W. Foster v. Auctioneer Licensing Board	96 CFA 0201	Phipps	05/06/96	
CRIME CONTROL AND PUBLIC SAFETY				
Roland Lee Kelly, Jr. v. United Family Services, Victim Assistance/Crime Victims Compensation Comm.	95 CPS 0568	Morrison	05/29/96	
Robert F. Bronsdon v. Crime Victims Compensation Commission	95 CPS 1216	Chess	05/28/96	
Helen B. Hunter-Reid v. Crime Victims Compensation Commission	95 CPS 1336	Nesnow Smith	03/29/96	11:02 NCR 93
Deborah C. Passarelli v. Crime Victims Compensation Commission	95 CPS 1399	Reilly	07/18/96	11:09 NCR 814
Kenneth Saunders v. Victims Compensation Commission	95 CPS 1445	Chess	03/26/96	
Franklin McCoy Jones v. Crime Victims Compensation Commission	96 CPS 0056	Nesnow Smith	07/03/96	
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	
Sheila Carol Blake v. Victims Compensation Commission	96 CPS 0280	West	07/10/96	
James T. Mungo v. Victims Compensation Commission	96 CPS 0333	Reilly	07/09/96	
Donna Williams v. Crime Victims Compensation Commission	96 CPS 0493	Morrison	06/13/96	
ENVIRONMENT, HEALTH, AND NATURAL RESOURCES				
Gribble & Assoc. & Four Seasons Car Wash v. EHNR	95 EHR 0576	Gray	04/25/96	
Wilton Evans v. Environment, Health, & Natural Resources	95 EHR 0843	Reilly	07/17/96	
David Martin Shelton v. Rockingham County Dept/Public Health, EHNR	95 EHR 0941	West	05/01/96	
Kinston Urological Associates, P.A. v. N.C. Cancer Program	95 EHR 1198*2	Nesnow Smith	03/27/96	11:02 NCR 97
Kinston Urological Associates, P.A. v. N.C. Cancer Program	95 EHR 1199*2	Nesnow Smith	03/27/96	11:02 NCR 97
Elsie & Tony Cecchini v. Environment, Health, & Natural Resources	95 EHR 1240	Reilly	04/22/96	
United Organics Corporation v. Environment, Health, & Natural Res.	96 EHR 0064	Nesnow Smith	07/01/96	
Gerald Mac Clamrock v. Environment, Health, & Natural Resources	96 EHR 0168	Phipps	05/06/96	
<i>Coastal Resources</i>				
Martin W. Synger v. Division of Coastal Management	95 EHR 1006	Chess	05/13/96	
J. E. Smith Construction Co. v. Division of Coastal Management	96 EHR 0074	Nesnow Smith	02/23/96	
Theodore D. Barris v. Town of Long Beach, NC & Coastal Mgmt, EHNR	96 EHR 0277	West	05/09/96	
<i>Environmental Health</i>				
Forest Gate Motel v. Environment, Health, and Natural Resources	96 EHR 0076	West	06/17/96	
Paradise Ridge Home Owners by Anne Norburn v. EHNR, Env. Health	96 EHR 0162	Phipps	05/06/96	
<i>Environmental Management</i>				
Herman E. Smith v. Division of Environmental Management	95 EHR 0962	West	04/30/96	
Conover Lumber Co., Inc. v. EHNR, Division of Environmental Mgmt.	95 EHR 1081	Reilly	04/12/96	
Jack West d/b/a Jack West Tree Service v. Environmental Mgmt. Comm.	95 EHR 1421	Morrison	04/08/96	
The Smithfield Packing Co., Inc., v. EHNR, Environmental Mgmt. and Citizens for Clean Industry, Inc. and Bladen Environment	95 EHR 1474	West	07/03/96	
Clover M Farms, Inc. v. EHNR, Division of Environmental Management	96 EHR 0405	Becton	06/10/96	
<i>Land Resources</i>				
K&G Properties, Inc. v. EHNR, Division of Land Resources	95 EHR 1078	Nesnow Smith	03/25/96	
<i>Marine Fisheries</i>				
Robert I. Swinson, Sr. v. EHNR, Health & Nat. Res., Marine Fisheries	95 EHR 0320	Chess	03/29/96	11:03 NCR 168
Grayden L. Fulcher and Michael Styron, Sr. v. Div. of Marine Fisheries	96 EHR 0003	Reilly	03/06/96	
<i>Solid Waste Management</i>				
R. Donald Phillips v. EHNR, Solid Waste Management Division	95 EHR 1190*4	Gray	05/22/96	
R. Donald Phillips v. EHNR, Solid Waste Management Division	96 EHR 0554*4	Gray	05/22/96	
<i>WIC Program</i>				
Lazelle Marks v. EHNR, Division of Maternal and Child Health	95 EHR 0870	West	03/27/96	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Hani Sader v. Nutrition Services, Div/Maternal & Child Health, EHNR	96 EHR 0054	West	05/22/96	
Bob's Quick Mart, Bobby D. Braswell v. Env., Health, & Natural Res.	96 EHR 0091	Nesnow Smith	04/02/96	
Larry E. Mis v. USDA-Food/Cons Svc, Cory Menees-WIC Prog., EHNR	96 EHR 0164	Phippa	03/19/96	
Naser H. Hammad v. Environment, Health, & Natural Resources	96 EHR 0632	Reilly	07/09/96	
Khaled M. Alzer v. Environment, Health, & Natural Resources	96 EHR 0721	Reilly	07/30/96	
EQUAL EMPLOYMENT OPPORTUNITIES				
Carl D. Davis v. Department of Correction	91 EEO 1101	Nesnow Smith	05/06/96	
HUMAN RESOURCES				
Cassandra M. Deshazo v. Christine E. Carroll, Chf Chld Abuse/Neg. Sec.	95 DHR 1410	Phipps	03/28/96	
Medicus Robinson v. Department of Human Resources	96 DHR 0167	Nesnow Smith	04/12/96	
<i>Division of Child Development</i>				
Molly Fallin v. Department of Human Resources	94 DHR 0872* ³	Gray	05/15/96	
Molly Fallin v. Department of Human Resources	95 DHR 1013* ³	Gray	05/15/96	
Mary T. Hill v. DHR, Division of Child Development	95 DHR 1192	Phipps	03/27/96	
Iola Roberson v. DHR, Division of Child Development	95 DHR 1244	Gray	05/16/96	
<i>Division of Facility Services</i>				
Eloise Brown v. Dept. of Human Resources, Division of Facility Services	95 DHR 1002	Phipps	03/07/96	
<i>Certificate of Need Section</i>				
Nash Hospitals, Inc. v. DHR, Div/Facility Services, Cert. of Need Sect.	95 DHR 1176* ³	Phipps	05/23/96	11:06 NCR 389
Pitt Cty Mem. Hospital, Inc. v. DHR, Div/Facility Sries, Cert/Need Sect.	95 DHR 1177* ³	Phipps	05/23/96	11:06 NCR 389
<i>Group Care Licensure Section</i>				
Alex L. McCall v. DHR, Div/Facility Svcs, Group Care Licensure Sec.	95 DHR 1456	Nesnow Smith	03/26/96	
<i>Medical Facilities Licensure Section</i>				
Deborah Reddick v. Department of Human Resources	96 DHR 0240	Reilly	06/18/96	
Stacey Yvette Franklin v. Facility Services, Medical Facilities Lic. Sec.	96 DHR 0358	Morrison	05/16/96	
<i>Division of Medical Assistance</i>				
Judy Malcuit, Re Melissa Malcuit v. DHR, Div. of Medical Assistance	96 DHR 0129	Gray	06/12/96	
<i>Division of Social Services</i>				
Crystean Fields v. Department of Human Resources	95 DHR 1001	Gray	07/05/96	
Rozena Chambliss v. Department of Human Resources	95 DHR 1044	Nesnow Smith	03/12/96	
Addie & Major Short v. Department of Human Resources	95 DHR 1063	Morrison	03/19/96	
Mr. and Mrs. Jessie Stevenson v. DHR, Division of Social Services	95 DHR 1072	Phipps	03/15/96	
William G. Fisher v. DHR, Div. of Social Services, Prog Integrity Branch	95 DHR 1234	Morrison	03/19/96	
Verna F. Nunn v. Department of Human Resources	95 DHR 1330	Gray	04/11/96	
Nancy Hooker, Helen Tyndall v. Department of Human Resources	96 DHR 0155	Gray	04/26/96	
<i>Child Support Enforcement Section</i>				
Donald E. Rideout Jr. v. Department of Human Resources	95 CSE 0952	Reilly	04/18/96	
Christopher F. Roakes v. Department of Human Resources	95 CSE 1131	Becton	05/03/96	
Claude Eure Jr. v. Department of Human Resources	95 CSE 1155	Phipps	06/12/96	
Richard R. Fox, Sr. v. Department of Human Resources	95 CSE 1169	Becton	03/19/96	
Joselito D. Pilar v. Department of Human Resources	95 CSE 1180	Chess	03/01/96	
David Lee Grady v. Department of Human Resources	95 CSE 1218	Morrison	03/26/96	
Patrick Orlando Crump v. Department of Human Resources	95 CSE 1221	Nesnow Smith	03/05/96	
Peter Robert Kovolsky v. Department of Human Resources	95 CSE 1230	Becton	03/11/96	
Tony Lee Zapata v. Department of Human Resources	95 CSE 1266	Gray	05/02/96	
Lawrence Dow Dean v. Department of Human Resources	95 CSE 1267	Morrison	03/29/96	
Carl E. Coffey v. Department of Human Resources	95 CSE 1270	Nesnow Smith	03/15/96	
Keith Dewayne Senters v. Department of Human Resources	95 CSE 1273	Phipps	04/01/96	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Lonnie Dawes v. Department of Human Resources	95 CSE 1274	Nesnow Smith	06/12/96	
Mickey Turner v. Department of Human Resources	95 CSE 1278	Nesnow Smith	03/14/96	
James Joseph Gallagher v. Department of Human Resources	95 CSE 1280	Chess	03/19/96	
James Thomas McRae v. Department of Human Resources	95 CSE 1296	Chess	03/15/96	
Vincent E. Koehler v. Department of Human Resources	95 CSE 1301	Phipps	05/09/96	
David J. Moseley v. Department of Human Resources	95 CSE 1304	Chess	03/29/96	
Derrick L. Conyers v. Department of Human Resources	95 CSE 1308	Reilly	03/13/96	
Charles Edward Smith v. Department of Human Resources	95 CSE 1309	West	03/07/96	
Kevin Vereen v. Department of Human Resources	95 CSE 1315	Phipps	05/06/96	
James Curtis Witwer v. Department of Human Resources	95 CSE 1331	Becton	03/26/96	
Thornell Bowden v. Department of Human Resources	95 CSE 1345	Morrison	03/07/96	
Henry S. Sada v. Department of Human Resources	95 CSE 1367	Nesnow Smith	03/21/96	
Charles F. Moore v. Department of Human Resources	95 CSE 1369	Chess	03/27/96	
Daniel Leslie Baker v. Department of Human Resources	95 CSE 1373	Morrison	03/12/96	
Kenneth L. Lindsey v. Department of Human Resources	95 CSE 1375	West	06/24/96	
John L. Pike v. Department of Human Resources	95 CSE 1376	Nesnow Smith	03/21/96	
Wm. R. Evans v. Department of Human Resources	95 CSE 1377	Becton	03/11/96	
Rory J. Curry v. Department of Human Resources	95 CSE 1380	Mann	03/15/96	
Lorin A. Brown v. Department of Human Resources	95 CSE 1382	Reilly	04/18/96	
Marcus Anthony Butts v. Department of Human Resources	95 CSE 1405	Nesnow Smith	03/27/96	
Cynthia Piuder v. Department of Human Resources	95 CSE 1406	Becton	03/11/96	
Rhonnice J. Williams v. Department of Human Resources	95 CSE 1407	Chess	05/06/96	
Ramon Domenech v. Department of Human Resources	95 CSE 1408	Phipps	03/11/96	
Dennis L. McNeill v. Department of Human Resources	95 CSE 1435	Becton	03/13/96	
Tony A. Rogers v. Department of Human Resources	95 CSE 1436	Chess	05/16/96	
Rick E. Atkins v. Department of Human Resources	95 CSE 1437	Phipps	04/01/96	
Timothy A. Ratley (Jeanes) v. Department of Human Resources	95 CSE 1465	Morrison	03/26/96	
Richard E. Reader v. Department of Human Resources	95 CSE 1469	Nesnow Smith	04/29/96	
Wendel McDonald v. Department of Human Resources	95 CSE 1470	Becton	07/29/96	
Wilbur Dewayne Bault v. Department of Human Resources	95 CSE 1475	West	03/13/96	
James C. Smith v. Department of Human Resources	96 CSE 0034	Gray	05/10/96	
Ronald D. Johnson v. Department of Human Resources	96 CSE 0084	Nesnow Smith	03/27/96	
Johnny Leary v. Department of Human Resources	96 CSE 0085	Becton	05/03/96	
Jimmy Strickland v. Department of Human Resources	96 CSE 0119	Chess	07/08/96	
John W. Scott v. Department of Human Resources	96 CSE 0130	Mann	03/15/96	
Calvin S. Austin v. Department of Human Resources	96 CSE 0140	Phipps	05/17/96	
Derek Henslee v. Department of Human Resources	96 CSE 0188	Reilly	05/17/96	
Donald L. Carr, Jr. v. Department of Human Resources	96 CSE 0200	West	05/30/96	
Norman Waycaster v. Department of Human Resources	96 CSE 0245	Becton	05/16/96	
Lorenzo Wilson v. Department of Human Resources	96 CSE 0257	Phipps	05/06/96	
Mark Kevin Burns v. Department of Human Resources	96 CSE 0271	Morrison	06/24/96	
Cyril Lloyd Payne v. Department of Human Resources	96 CSE 0272	Reilly	05/31/96	
Charles H. Johnson v. Department of Human Resources	96 CSE 0295	West	07/15/96	
Willie James Myers v. Department of Human Resources	96 CSE 0299	Becton	07/19/96	
Christopher F. Byrne v. Department of Human Resources	96 CSE 0336	Chess	06/26/96	
Richard Painall Burch v. Department of Human Resources	96 CSE 0339	Phipps	06/27/96	
Charles Gillispie v. Department of Human Resources	96 CSE 0365	Mann	07/23/96	
Teresa Reynolds v. Department of Human Resources	96 CSE 0369	Gray	07/23/96	
Thornell Bowden v. Department of Human Resources	96 CSE 0370	Morrison	05/17/96	
Kenneth Edward Burns v. Department of Human Resources	96 CSE 0379	Reilly	07/18/96	
Carl R. Ritter v. Department of Human Resources	96 CSE 0380	West	05/08/96	
William Charles Rorie v. Department of Human Resources	96 CSE 0388	Nesnow Smith	08/01/96	
Leon Gibson v. Department of Human Resources	96 CSE 0389	Becton	07/02/96	
Dioni Delvalle, II v. Department of Human Resources	96 CSE 0407	Chess	07/17/96	
Gerald Roger Beachum Jr. v. Department of Human Resources	96 CSE 0411	Phipps	06/24/96	
Daniel J. Carter v. Department of Human Resources	96 CSE 0417	Gray	06/24/96	
Kelvin Tarlton v. Department of Human Resources	96 CSE 0424	Morrison	05/29/96	
Steven Craig Mooney v. Department of Human Resources	96 CSE 0425	Reilly	07/08/96	
John L. Cherry Jr. v. Department of Human Resources	96 CSE 0426	West	06/24/96	
Arthur Jemerson v. Department of Human Resources	96 CSE 0427	Nesnow Smith	08/01/96	
Michael S. Covington v. Department of Human Resources	96 CSE 0428	Becton	08/02/96	
Terry Sealey v. Department of Human Resources	96 CSE 0430	Phipps	05/29/96	
Jackie L. Kopeckick v. Department of Human Resources	96 CSE 0431	Mann	06/05/96	
Virginia McDowell Ramsey v. Department of Human Resources	96 CSE 0464	Gray	08/02/96	
D. Wayne Gray v. Department of Human Resources	96 CSE 0465	Morrison	08/02/96	
Claude R. Anderson v. Department of Human Resources	96 CSE 0502	Reilly	07/22/96	
Alan Kendell Locklear v. Department of Human Resources	96 CSE 0503	West	05/30/96	
James Trevor Emerson v. Department of Human Resources	96 CSE 0545	Phipps	07/25/96	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Hazel L. Walker v. Department of Human Resources	96 CSE 0559	West	06/24/96	
Carl S. McNair v. Department of Human Resources	96 CSE 0568	Becton	06/24/96	
David Agurs v. Department of Human Resources	96 CSE 0580	Chess	06/13/96	
Dave L. James v. Department of Human Resources	96 CSE 0638	West	07/15/96	
Franklin D. Deese v. Department of Human Resources	96 CSE 0690	Mann	07/23/96	
Melinda S. Tunner v. Department of Human Resources	95 DCS 0921	Morrison	05/09/96	
Jeanne G. Bishop v. Department of Human Resources	95 DCS 0958	West	04/04/96	
Rebecca Beaver v. Department of Human Resources	95 DCS 1114	Reilly	04/26/96	
Vivian B. White v. Department of Human Resources	95 DCS 1115	Phipps	06/04/96	
Mary R. Mahon v. Department of Human Resources	95 DCS 1137*5	Chess	06/11/96	
Mary R. Mahon v. Department of Human Resources	95 DCS 1142*6	Chess	06/11/96	
Laura Heidorf v. Department of Human Resources	96 DCS 0065	Reilly	03/22/96	
Lois Floyd Barber v. Department of Human Resources	96 DCS 0176	Gray	07/30/96	

INSURANCE

Carol M. Hall v. Teachers & State Employees Comp. Major Medical Plan	95 INS 1141	Phipps	04/01/96	
Arthur Wayne Dempsey v. Department of Insurance	95 INS 1255	Nesnow Smith	04/22/96	
Deborah B. Beavers v. Teachers & St. Emp. Comp. Major Med. Plan	95 INS 1411	Nesnow Smith	05/10/96	11:05 NCR 308
Nadia A. Hakim v. Department of Insurance	95 INS 1422	Nesnow Smith	03/26/96	

JUSTICE

Education and Training Standards Division

Freddie Lavern Thompson v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 0731	Chess	02/29/96	
Shane Douglas Crawford v. Sheriffs' Ed. & Training Stds. Comm.	95 DOJ 0943	Reilly	05/17/96	
Charles Henry Daniels v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 1070	West	06/12/96	
Valerie Maxine Brewington v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 1129	Nesnow Smith	04/12/96	
Patricia Josephine Bonanno v. Sheriffs' Ed. & Training Stds. Comm.	95 DOJ 1152	Chess	03/25/96	
Douglas Allan Stuart v. Sheriffs' Ed. & Training Stds. Comm.	95 DOJ 1189	Morrison	06/06/96	
Rick M. Evoy v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 1235	Chess	03/25/96	
Windell Daniels v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 1320	Gray	07/24/96	
Gregory Lee Daughtridge v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0027	Reilly	03/19/96	
Stuart Hugh Rogers v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0029	West	06/18/96	
Brian Thomas Craven v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0036	Gray	07/09/96	
Larry D. Weston v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0037	Nesnow Smith	06/12/96	
Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0068	Gray	03/26/96	
Ken Montic Oxendine v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0071	West	03/28/96	
James Leon Hunt v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0077	Phipps	07/25/96	
David Kent Knight v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0115	West	03/28/96	
Jimmie L. Cooper v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0352	Morrison	07/12/96	
Jerry Glenn Monette v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0420	Morrison	07/26/96	11:10 NCR 874
George Willie Gilliam v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0656	Morrison	08/02/96	

Private Protective Services Board

Timothy A. Hawkins v. Private Protective Services Board	95 DOJ 1419	West	04/12/96	
William F. Combs v. Private Protective Services Board	96 DOJ 0022	West	03/22/96	
Randy C. Hoyle v. Private Protective Services Board	96 DOJ 0024	Nesnow Smith	06/10/96	
Robert A. Gibson v. Private Protective Services Board	96 DOJ 0386	Nesnow Smith	07/03/96	
Jimmy D. Mathews v. Private Protective Services Board	96 DOJ 0676	Reilly	07/11/96	
Johnnie Lee King v. Private Protective Services Board	96 DOJ 0677	Reilly	07/11/96	
Thomas R. Harris v. Private Protective Services Board	96 DOJ 0761	Reilly	07/11/96	

MEDICAL BOARD

Medical Board v. Martin A. Hatcher, M.D.	92 BME 0510	Gray	06/28/96	11:08 NCR 555
--	-------------	------	----------	---------------

PUBLIC INSTRUCTION

Lavern K. Suggs v. NC Board of Education	95 EDC 0383	Nesnow Smith	03/13/96	11:01 NCR 50
J.T.S. & T.S., Parents of E.M.S. v. Chapel Hill-Carrboro City Schl. Sys.	95 EDC 1194	Mann	04/12/96	
L.O. v. Charlotte-Mecklenburg Board of Education	96 EDC 0285	Mann	05/31/96	
Candye Ewanda Newsome v. Hertford County Board of Education	96 EDC 0344	Chess	05/15/96	
John Barlow v. Watauga County Board of Education	96 EDC 0623	Reilly	07/24/96	
John L. Archer v. North Carolina Department of Public Instruction	96 EDC 0678	Nesnow Smith	08/02/96	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
STATE PERSONNEL				
<i>Department of Administration</i>				
Jimmie A. Hughes, Jr. v. Department of Administration	96 OSP 0008	Reilly	07/23/96	
Jonathan L. Fann v. Department of Administration, Admin. Personnel	96 OSP 0042	Gray	05/24/96	
Carlton Gerald v. State Capitol Police, Department of Administration	96 OSP 0116	Gray	04/25/96	
<i>Administrative Office of the Court</i>				
Ethel R. Tyson v. NC Judicial Dept., Administrative Office of the Court	96 OSP 0080	Nesnow Smith	03/15/96	
<i>Appalachian State University</i>				
Janice S. Walton v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0062	West	03/13/96	
Janice S. Carroll v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0063	West	03/07/96	
<i>Caldwell County</i>				
Blake C. Pace v. Caldwell County	96 OSP 0047	Morrison	04/01/96	
<i>Caswell Correctional Center</i>				
Timothy L. Willis v. Caswell Correctional Center	96 OSP 0715	West	07/30/96	
<i>NC Central University</i>				
Francina Y. Tate v. Chancellor Julius L. Chambers, NC Central Univ.	95 OSP 1432	Nesnow Smith	04/22/96	
<i>Central North Carolina School for the Deaf</i>				
Felicia S. Milton v. Central North Carolina School for the Deaf	95 OSP 1241	Chess	05/17/96	
<i>Cherry Hospital</i>				
Mary A. Boogaerts v. Cherry Hospital, Goldsboro, NC	96 OSP 0269	Becton	05/29/96	
<i>Department of Correction</i>				
Haydee Craver v. Department of Correction, Pender Correctional Inst.	95 OSP 1046	Gray	03/12/96	
Gregory Allen Jones v. Department of Correction, Supt. Bonnie Boyette	95 OSP 1290	Phipps	05/14/96	
Calvia L. Hill v. Department of Correction, McCain Correctional Hospital	95 OSP 1460	Gray	05/17/96	
Alisha Louise Staley v. Randolph Correctional Center	96 OSP 0092	Gray	06/03/96	
Brenda Propst v. Foothills Correctional Institution	96 OSP 0199	Morrison	04/09/96	
Delon D. Solomon v. Department of Correction	96 OSP 0258	West	07/02/96	
Haydee C. Craver v. Department of Correction, Christopher Phillips	96 OSP 0348	Phipps	05/15/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0372**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0373**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0374**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0375**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0376**	Nesnow Smith	07/05/96	
<i>Department of Crime Control and Public Safety</i>				
Gene Wells v. Crime Control & Public Safety, State Highway Patrol	95 OSP 0249*9	Nesnow Smith	07/23/96	
Gene Wells v. Crime Control & Public Safety, State Highway Patrol	95 OSP 1050*9	Nesnow Smith	07/23/96	
<i>Durham County Health Department</i>				
Lylla D. Stockton v. Durham County Health Department	95 OSP 0176	West	07/02/96	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>East Carolina University</i>				
Bela E. Karvaly, Ph.D. v. ECU Bd. of Trustees, Ch. Richard R. Eakin	96 OSP 0150	Chess	05/08/96	
<i>Employment Security Commission</i>				
Gene S. Baker v. Gov. James B. Hunt, Jr., Ann Q. Duncan, Chairman, Employment Security Commission	93 OSP 0707	Becton	05/16/96	11:05 NCR 300
William Herbert Allen v. Employment Security Commission	94 OSP 1688	West	06/11/96	
Patricia Gary v. Employment Security Commission	95 OSP 0793	Chess	05/14/96	
Tonderlier Lynch v. Emp. Security Comm., Austin Quality Foods, Inc.	96 OSP 0275	Chess	05/21/96	
<i>Department of Environment, Health, and Natural Resources</i>				
Robertta Ann "Robin" Hood v. Environment, Health, & Natural Resources	95 OSP 0035	Reilly	04/09/96	
<i>Fayetteville State University</i>				
William C. Neal v. Fayetteville State University	95 OSP 0392	Nesnow Smith	04/22/96	
<i>Guilford County Area Mental Health, Developmental Disabilities and Substance Abuse</i>				
Stuart Klatte v. Guilford Cty Area MH/DD/SAS, St. Per Comm, OSP	95 OSP 1179	Nesnow Smith	07/19/96	11:10 NCR 865
<i>Department of Human Resources</i>				
Ophelia Webb v. Edard R. Inman, Dir. Alamance Cty DSS, Alamance Cty DSS, Alamance County, and DHR	96 OSP 0112	Gray	03/13/96	
Gail Marie Rodgers Lincoln v. DHR, DMH/DD/SAS-Cherry Hosp., Cherry Hospital	96 OSP 0159	Chess	06/17/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0543	Reilly	07/09/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0590	Reilly	07/09/96	
<i>Caswell Center</i>				
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	89 OSP 0411	Becton	03/26/96	
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	91 OSP 0522	Becton	03/26/96	11:02 NCR 89
Franklin D. Sutton v. Department of Human Resources, Caswell Center	94 OSP 0766	Nesnow Smith	03/21/96	
<i>Durham County Department of Social Services</i>				
Jan E. Smith v. Durham County Department of Social Services	95 OSP 1121	Morrison	05/24/96	
<i>Halifax County Department of Social Services</i>				
Clairbel Thomas v. Halifax County DSS & Director, Halifax County DSS	95 OSP 0905	West	05/29/96	11:06 NCR 395
<i>Division of Medical Assistance</i>				
Harold Wiggins v. Division of Medical Assistance	95 OSP 1482	West	06/11/96	
<i>O'Berry Center</i>				
Samuel Geddie v. O'Berry Center	96 OSP 0414	Morrison	06/13/96	
<i>Rockingham County Department of Social Services</i>				
Lorretta Lawson v. Rockingham County DSS	96 OSP 0471	West	06/13/96	
<i>Wake County Department of Social Services</i>				
Phylis Gilbert v. Wake County Department of Social Services	95 OSP 1238	Phipps	06/27/96	
<i>Department of Insurance</i>				
Larry W. Creech v. Department of Insurance	95 OSP 0631	Reilly	06/06/96	11:07 NCR 434

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>Department of Labor</i>				
Kevin P. Kolbe, Sr. v. Department of Labor	95 OSP 0968	Morrison	03/14/96	11:01 NCR 58
<i>New Hanover County Board of Health</i>				
Tabandeh Zand v. New Hanover County Board of Health	95 OSP 1035	Nesnow Smith	03/01/96	
<i>Sandhill Community College</i>				
Earl Levon Womack v. Sandhill Community College Bd. of Trustees	96 OSP 0573	Phipps	07/25/96	
<i>North Carolina State University</i>				
Vernell Mitchell v. North Carolina Cooperative Extension	96 OSP 0132	Gray	05/10/96	
<i>Department of Transportation</i>				
Pearlie M. Simuel-Johnson v. Department of Transportation	94 OSP 0589* ¹	Gray	03/01/96	
Dorothy J. Grays v. Div. of Motor Vehicles, Dept. of Transportation	94 OSP 1044	Reilly	04/12/96	11:03 NCR 173
Pearlie M. Simuel-Johnson v. Department of Transportation	95 OSP 0837* ¹	Gray	03/01/96	
Lisa Ann Lee v. Department of Transportation	95 OSP 1099	Reilly	07/31/96	
Melvin Duncan v. Department of Transportation	95 OSP 1462	Morrison	03/08/96	
Greg Brown v. Department of Transportation	96 OSP 0048	Reilly	05/02/96	
Jesse Wayne Castle v. State Highway Maint., Guess Rd., Durham, NC	96 OSP 0087	Gray	04/15/96	
Archie Brooks v. W. F. Rosser, Department of Transportation	96 OSP 0239	Nesnow Smith	05/17/96	
<i>Tri-County Mental Health Complex</i>				
Deborah Heil v. Tri-County Mental Health Complex	95 OSP 1100	Nesnow Smith	03/22/96	
<i>University of North Carolina</i>				
Pamela B. Edwards v. University of North Carolina at Chapel Hill	95 OSP 0842	Chess	06/28/96	
Keith R. Cameron v. University of North Carolina at Chapel Hill	95 OSP 1060	Morrison	06/24/96	
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	
STATE TREASURER				
Donald B. Durham v. Teachers' & St. Employees Retirement Sys.	92 DST 1066	Chess	07/17/96	11:09 NCR 810
UNIVERSITY OF NORTH CAROLINA				
Sylvia Jeffries v. University of NC Hospitals at Chapel Hill	96 UNC 0067	Gray	04/16/96	
James E. Boudwin v. University of NC Hospitals at Chapel Hill	96 UNC 0343	Chess	07/22/96	
Marcia Spruill v. UNC Hospitals - Patient Accounts	96 UNC 0500	Becton	07/10/96	

* Consolidated cases.

STATE OF NORTH CAROLINA

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
95 OSP 1179**

COUNTY OF GUILFORD

**STUART KLATTE,
Petitioner,**

v.

**GUILFORD COUNTY AREA MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND
SUBSTANCE ABUSE, AND THE STATE PERSONNEL
COMMISSION, OFFICE OF STATE PERSONNEL
Respondent.**

RECOMMENDED DECISION

This matter was heard in Raleigh, North Carolina on April 3, 1996 and May 20, 1996, by Administrative Law Judge Dolores Nesnow Smith. The record closed on June 7, 1996.

APPEARANCES

For Petitioner: Thomas Moore
Attorney at Law
P. O. Box 2975
Durham, North Carolina 27715
Attorney for Petitioner

For Respondents: J. Edwin Pons
Deputy county Attorney
Guilford County
P. O. Box 3427
Greensboro, North Carolina 27402
Attorney for Respondent

Lars F. Nance
Special Deputy Attorney General
N. C. Department of Justice
P. O. Box 629
Raleigh, North Carolina 27602
Attorney for Respondent

ISSUES

1. Was the Respondent's local personnel system substantially equivalent to the State Personnel Act?
2. Did the Respondent have just cause to dismiss the Petitioner?
3. Did the Respondent follow proper procedure in dismissing the Petitioner?

EXHIBITS

**Petitioner's Exhibits on Substantial Equivalency: P#1SE, 3-6SE, 8SE, 10SE, 22SE, 23SE
(Designated with "SE")**

Petitioner's Exhibits on Just Cause: P#1-5, 7-9, 12-26

Respondents' Exhibits on Substantial Equivalency: R#1-5SE

(Designated with "SE")

Respondents' Exhibits on Just Cause: R#1-19

Based upon careful consideration of the testimony and evidence presented at the hearing, the documents and exhibits received into evidence, and the entire record in this proceeding, the undersigned makes the following:

FINDINGS OF FACT

1. Petitioner, Stuart Klatte, was employed by the Guilford County Area Mental Health Authority, Developmental Disabilities and Substance Abuse Program from August 1994 until his dismissal in August of 1995.

Substantial Equivalency

2. N.C. Gen. Stat. 126-11 provides that Counties and Area Mental Health Authorities may establish and maintain their own personnel system if the State Personnel Commission (SPC) approves that system as being substantially equivalent to the State Personnel Act (SPA). That statute further provides that if the local personnel system has been approved, the employees of that system shall then be exempt from the provision of the SPA (except for Article 6).

3. The Guilford County Personnel System as it existed in the early 1980s was approved by the SPC as being substantially equivalent to the SPA.

4. N.C. Admin. Code, Title 25, r. 11 .1403(a) provides that after a substantial change in the composition of the County Board of Commissioners the personnel system must be recertified.

5. In 1991 there was a significant change in the membership of the Board of Commissioners of Guilford County. Subsequent to this change, there was no recertification of the agreement.

6. In 1991, Guilford County changed the disciplinary provisions of its personnel system. Both Iris Robinson of Guilford County Personnel and Mike Gatty of the Office of State Personnel (OSP) expressed concerns over the changes to the disciplinary system.

7. Some changes were then made and the Guilford County System was again certified as being substantially equivalent to the SPA.

8. In 1992, the Guilford Area Mental Health Authority (GAMH) elected to bring itself under the Guilford County Personnel System. This election was approved in a letter from the OSP to GAMH.

9. The SPA authorizes the SPC to promulgate rules and regulations to establish the standards for substantially equivalent systems. (G.S. 126-11(d)).

10. The SPC has promulgated these rules which are codified at 25 NCAC 011 .1405-.1410.

11. Among other things, the rules specifically provide that an employee must receive a statement in writing setting forth in numerical order the specific acts or omissions that are the reason for a disciplinary action.

12. The Guilford System includes the following provision:

Warnings

- (1) An employee subject to discipline for performance (not conduct) deficiencies should ordinarily first be warned by the supervisor or department head in writing as to acts or omissions or manner in which work or performance is deficient and what improvement must be shown in order to avoid further disciplinary action.
- (2) A written warning shall set forth specific acts or omissions that are the reason for the warning. This warning may be included in a performance evaluation.

13. The State Personnel rules also provide that an employee must be notified of his or her appeal rights.

14. The Guilford System includes the following provision:

Warnings

- (3) An oral warning is not appealable. A written warning may be appealed in writing to the Human Resources Director within five days of receipt by the employee. Upon an appeal, the Human Resources Director will confer with the employee and department director generally within ten work days following receipt of the appeal. The Human Resources Director will then make a written decision as to whether the written warning was supported by information available to the department director.

15. While the Guilford System notes that it makes no provision for the issuance of oral warnings, oral warnings are not appealable.

16. The SPA requires that no career State employee may be discharged except for just cause.

17. The Guilford County Personnel System, while it does not use the words "just cause," does have the following provision:

Disciplinary action may be taken for any appropriate reason, including but not limited to the following: inefficiency, negligence or incompetence in the performance of duties; inadequate or unacceptable performance of duties; reporting to work under the influence of non-prescription drugs or alcohol; discourteous treatment of the public or other employees; misuse or abuse of County property; willful disregard of County policies and procedures; habitual unexcused tardiness or absences; fraud or misrepresentation in securing employment; conduct unbecoming a County employee; willful and material falsification of records; acceptance of gifts in exchange for favors or influence; employment which constitutes a conflict of interest; violation of political activity restrictions; unauthorized possession of firearms or other dangerous weapons while on duty; unauthorized sleeping on duty; inexcusable neglect of duty; and intentional disruption of the workplace.

18. The State rules at 25 NCAC 11 .2404(7) contemplate a series of steps as follows:

Requirement. An impartial grievance procedure which has as its objective the timely and logical resolution of all grievances at the lowest practical point in the organization shall be established, with right of appeal assured at each step up to the county manager or area director for all appeals not alleging discrimination and to the appeals board for all appeals alleging discrimination. To the maximum extent possible grievance procedures shall include steps to resolve discrimination and all other types of employee grievances without recourse to the formal appeals process represented by the county manager or appeals board.

19. The Guilford procedure provides for a written warning. However, it is not clear whether this warning is "by the supervisor" or if the supervisor's warning is a separate warning.

20. The State rules at 25 NCAC 11 .2404 provide that the disciplinary writing be filed with the county personnel director. The Guilford system does not include this requirement.

21. While the State rules contemplate steps (i.e., "...appeal assured at each step") the Guilford System provides for one level of appeal as follows:

Within five days of receipt by the employee of a recommendation, he/she may notify the County Manager in writing of his/her desire to appear and confer with the County Manager in the presence of the department director prior to a decision. Upon such notification, a conference will be held ordinarily within ten work days. At the conference, the Manager may seek input from the Human Resources Department, County Attorney, or others the Manager deems may have information useful to him/her in reaching a final decision. The Manager's decision will thereafter be made in writing and given to the employee and department director.

22. The State rules require the establishment of an Appeals Board, with specific provisions about the composition of the Appeals Board. The Guilford System has no provision for an appeals board.

23. The State rules require an evidentiary hearing conducted by a hearings examiner. The Guilford System has no provisions for an evidentiary hearing.

24. The State rules provide that the appeals board, in addition to its other duties, shall hear all discrimination matters. The Guilford System's discrimination provision states that, in matters of discrimination, the County Manager shall choose two disinterested employees to assist him/her.

JUST CAUSE

25. In August of 1994, Petitioner was employed as Interim Director of the Guilford County Sheltered Workshop (Workshop), a subsidiary of GAMH.

26. The Workshop provides vocational training for its clients and accepts contracts for the completion of various projects for area businesses such as the assembly of mass mailouts.

27. Petitioner's supervisor, Billie Martin Pierce, is the Area Director of GAMH. GAMH has 450 employees, 150 additional hourly employees, and a budget of 33.8 million dollars.

28. After Petitioner was employed, he received both a three month evaluation and a six month evaluation. Petitioner received a good evaluation on both occasions though by the time of the six month evaluation, some problems had begun to arise with Petitioner's job performance.

29. In January of 1995, the Habilitation Technicians at the Petitioner's Workshop wrote to Ida Milan (the project manager of a reorganization) of the GAMH expressing their "serious concerns" about Petitioner's actions. They stated that the Petitioner had changed their responsibilities contrary to their job descriptions. They also stated that he had made them responsible only for quality control "in an effort to turn the Workshop into a plant."

30. The letter further expressed concern with Petitioner's "lack of professionalism and knowledge of working with the population", his "fear-based management style", and his "lying" and "fabricated stories."

31. The letter was signed by 12 Habilitation Technicians. They requested a meeting with Ms. Milan. A copy of the letter was sent to Area Director Pierce.

32. Ms. Milan spoke with the workers and ultimately with Ms. Pierce. Ms. Pierce then discussed the matter with Petitioner.

33. In April of 1995, Ms. Pierce was notified of a concern that the Workshop's Sales and Marketing Specialist, Percy Sears, owned stock in Deep River Industrial Products, Inc., a company which was contracting with the Workshop for work on projects.

34. Mr. Sears was a salesman whose job it was to seek contracts from the community.

35. After Ms. Pierce learned of Mr. Sears' connection with Deep River, she requested an audit of the Workshop.

36. While the audit was being done, Ms. Pierce discussed her concerns with Petitioner, who allegedly was assisting Mr. Sears in obtaining contracts with the Workshop. Petitioner told Ms. Pierce that there had been no contracts with Deep River to date. He provided no information about any pending contracts.

37. Ms. Pierce later learned that there had been a total of \$3,000 in contracts between Deep River and the Workshop. She also learned that a million dollar contract was under negotiation.

38. Ms. Pierce determined that Mr. Sears owned 25 percent of the Deep River stock and that Petitioner knew of it as far back as 1994. Petitioner had not reported this conflict of interest.

39. Reports came to Ms. Pierce's attention that Petitioner would tell different stories to different people, that he would go around the lines of authority and even go directly to clients, that he would search staff offices and mailboxes and tell his Workshop employees that they were the worst program in the State.

40. Ms. Milan and Ms. Pierce began to speak with the employees of both the High Point and Greensboro Workshops. They learned that Petitioner's staff believed that Petitioner told different stories to different people, that he had a management style of intimidation, that he had told his staff "you are the worst program in the state."

41. Additionally, Ms. Milan learned from the Personnel Director that Petitioner had moved an employee out of a position and into another position without informing personnel. Shirley Rossen of Personnel was angry with Ms. Milan for not informing her that this action was taking place. Ms. Milan, however, did not know about it.

42. On August 18, 1995, at a management meeting of the High Point and Greensboro Workshops, Petitioner was discussing his idea to restructure the Workshops and staff into "production and clinical categories." During that meeting, Patty Huggins asked if the Greensboro Habilitation Technicians had been informed of this restructuring. The Greensboro staff did not respond. Petitioner said he needed staff to develop a proposal by the 24th of August so that he could present it to Ms. Pierce. After the meeting, Ms. Huggins learned that Petitioner had forbidden the Greensboro Habilitation Specialists to speak at the meeting.

43. During the subsequent disciplinary proceedings, Ms. Pierce told Petitioner not to discuss his disciplinary actions with other employees. She later learned that he had discussed them. She again told him emphatically in the presence of Ms. Milan, that he must have no further discussions or she would consider it grounds for dismissal.

44. Ms. Pierce learned that despite her warnings, Petitioner was soliciting letters of support from his staff.

45. On one occasion, the Housing Development Coordinator of GAMH met Petitioner on the stairwell after Petitioner had received a disciplinary letter. Petitioner showed him the disciplinary letter and began discussing the staff's complaints about him. This employee reported the meeting to Ms. Pierce.

46. On another occasion, Petitioner told one of the Habilitation Specialists that one of her clients had told him that she was "uncaring." She was very upset until she spoke with the client who stated that she had never said that.

47. Petitioner told another employee that he had been ordered by Ms. Pierce to eliminate six Habilitation Instructor positions. This was untrue and the employee unsuccessfully attempted to have Petitioner admit that at a meeting.

48. During one of their meetings, Petitioner assured Ms. Pierce that he was never late with performance evaluations. She later learned that in fact he was.

49. While Petitioner's job description states that he should operate with minimal supervision, Ms. Pierce had been called upon on numerous occasions to step in and resolve problems which were not being handled by Petitioner.

50. Even though all sections of the GAMH were being reorganized, Petitioner's section was the only one which had required the Assistant Area Director to get involved on multiple occasions.

51. Ms. Pierce testified that at each of the conferences conducted subsequent to a disciplinary letter, Petitioner did not speak. He submitted a prepared text and, although Ms. Pierce attempted to talk to him, he would not respond.

52. Ms. Pierce asked Petitioner about telling Donna Gladden that a client had said she was uncaring. Petitioner did not respond. Ms. Pierce asked Petitioner about reclassifying an employee without informing Personnel. Petitioner did not respond. Ms. Pierce asked Petitioner if he had spoken with the Housing Development Coordinator in the hallway after she told him not to discuss his discipline. Petitioner did not respond.

DISMISSAL PROCEDURE UNDER THE SPA

53. The SPA provides that no State employee may be dismissed except for just cause.

54. Just as there are rules promulgated under the SPA to outline provisions for substantially equivalent personnel systems, there are also rules establishing disciplinary procedures for State employees subject to the SPA.

55. The rules promulgated under the SPA for State employees provide that before a State employee can be dismissed, he or she must receive one or more written warnings. Those warnings must state that they are "written warnings", must include a plan for improvement of performance and must state the consequences if the employee does not improve.

56. The rules further provide that there must be at least one additional warning which includes a statement that failure to improve may result in dismissal.

57. Additionally, the rules provide that before a State employee can be dismissed there must be a predissmissal conference.

58. Lastly, that rule provides that the employee must get a written notice of termination outlining with specificity the acts or omissions for which the employee is being dismissed. Additionally, that letter must include appeal rights.

59. Throughout the disciplinary process, Billie Martin Pierce had many meetings and discussions with Petitioner concerning his job performance.

60. On June 22, 1995, Ms. Pierce wrote a disciplinary letter to Petitioner informing him that she was considering a range of disciplinary actions "from probation to demotion to dismissal". That letter specifically enumerated in numerical order the items for which Ms. Pierce was considering disciplining the Petitioner. The letter notified Petitioner that he had five days to request a conference before disciplinary action would be taken and at that conference he would have the opportunity to explain himself.

61. Ms. Pierce informed Petitioner that she would not decide on discipline until the results of the internal audit were given to her.

62. On July 31, 1995, Ms. Pierce conducted a meeting with Petitioner to discuss his job performance problems. Ms. Pierce specifically stated that the meeting would be held "outside the disciplinary process."

63. On August 4, 1995, Ms. Pierce, Petitioner and Petitioner's attorney, met. Ms. Pierce objected to meeting with Petitioner's attorney on several occasions before the meeting, but Petitioner brought his attorney anyway.

64. On August 7, 1995, Ms. Pierce again met with Petitioner to discuss his job performance problems. Ms. Pierce suggested that Petitioner might be better off stepping down to a different job where he would not have to do as much supervising. Petitioner refused and said he wished to stay in his present position.

65. During one of Ms. Pierce's conferences with Petitioner, she read him notes kept by other employees concerning his management. She read the note of Shirley Rossen, Patty Huggins, Donna Gladden, Kelly Owens, Chris Krisopolous and the letter that was sent to Ms. Milan. Ms. Pierce identified the names of those employees and attributed their comments to each of them respectively.

66. On August 11, 1995, Ms. Pierce sent Petitioner a Notice of Disciplinary Probation letter. In that letter, Ms. Pierce made reference to the meetings which had been held over the past months to discuss the job performance problems. She informed Petitioner that he was on disciplinary probation for one year. She further gave detailed and specific descriptions of the employment problems and she included a comprehensive plan for improvement.

67. On August 21, 1995, Ms. Pierce wrote Petitioner another letter referenced as "Consideration of Disciplinary Action" in which she informed him that she was considering taking disciplinary action against Petitioner. That letter stated that the discipline could be from probation to demotion to dismissal.

68. On September 7, 1995, Ms. Pierce sent Petitioner a letter referenced again as "Consideration of Disciplinary Action". In that letter Ms. Pierce stated that she was considering a range of discipline from probation to dismissal, enumerating specifically the problems with Petitioner's job performance. She notified Petitioner that he had 5 days to request a conference.

69. On September 27, 1995, Ms. Pierce wrote Petitioner a letter of termination. That letter enumerated the problems with Petitioner's job performance. Since Ms. Pierce was proceeding under the Guilford County Substantially Equivalent personnel system, she notified Petitioner that the letter completed the Petitioner's appeal process.

Based upon the above Findings of Fact, the undersigned makes the following:

CONCLUSIONS OF LAW

Substantial Equivalency

1. The Guilford personnel system does not have a sequence of steps in the disciplinary process. It makes no provision for oral warnings except to state that they are not appealable. It excludes "conduct" from supervisor's warnings, but gives no other provisions for personal conduct discipline.

While the State rules require that there be an appeal up to the County Manager or Area Director at each step, the Guilford system provides, for example, that a written warning may be appealed to the Human Resources Director and no further.

While the State rules require the establishment of an Appeals Board and a provision for an evidentiary hearing, the Guilford System has neither.

2. It is concluded that the disciplinary procedures outlined in the Guilford County Personnel System are not substantially equivalent to the SPA.

Just Cause

3. Petitioner's involvement in the Deep River Contract was extremely unacceptable. Petitioner's management or personality style was destructive. He appears to have intentionally caused great disruption to the workplace.

Petitioner's continued discussions of his disciplinary process were violations of a direct order. His falsehoods, both to his employees and to his supervisor, were unsettling and most dishonorable.

These acts are clearly ones which require discipline. The Deep River incident alone would warrant dismissal. Combined, however, with the fabrications, the damaging approach to his subordinates, the violation of a direct order, and the need for constant intervention by his supervisor, Petitioner's behavior clearly merits dismissal.

4. It is concluded that Respondent had just cause to dismiss Petitioner.

Dismissal Procedure Under the SPA

5. Since Petitioner would have been a state employee had Guilford County not been granted substantially equivalent status, the Petitioner's dismissal must be reviewed in terms of the State Personnel Act and the rules promulgated thereunder.

6. Ms. Pierce was admittedly operating under the Guilford Personnel system. Her actions therefore were not intended to comport to the provisions of the State personnel rules. However, an analysis must be made as to whether the Petitioner received the due process opportunities to which he would have been entitled under the SPA.

7. Petitioner received four written disciplinary letters prior to his dismissal. The number of disciplinary warnings therefore is more than required by the State Personnel rules. It is concluded that this requirement was met.

8. The State Personnel rules require that a warning must inform the employee of the consequences if the employee's performance does not improve. Three of the four letters included a notification that a range of discipline was being considered, from probation to demotion to dismissal. It is concluded that this requirement was met.

9. The State Personnel rules provide that a written warning must have a plan for improvement. The August 11, 1995 disciplinary warning has a lengthy and detailed plan for improvement. It is concluded that this requirement was met.

10. The personnel rules provide that a letter be denoted as a "written warning". None of the letters given to Petitioner used the term "written warning".

It would appear that the protection provided by this requirement is to give employees clear notice that the written notification is not merely a communication of concerns, but is part of the disciplinary process. After reviewing the letters written by Ms. Pierce and the clarity with which they notified Petitioner of their intent, it is clear that Petitioner was completely aware that he was in a disciplinary process which was ongoing and which might lead to his dismissal. It is concluded that this requirement was satisfied.

11. The State Personnel Rules include a requirement that prior to dismissal there be a statement notifying the employee that failure to improve may result in dismissal. Three of the letters included statements informing the Petitioner that Ms. Pierce was considering a range of disciplinary actions from probation to demotion to dismissal. It is concluded that this requirement was met.

12. The State Personnel Rules require that there be a predissmissal conference. Ms. Pierce testified that there were numerous conferences with Petitioner concerning his job performance outside the disciplinary process. Additionally, Petitioner exercised his right to a conference after each of the disciplinary letters. There were, in fact, four disciplinary conferences.

The final disciplinary letter prior to the termination letter again told Petitioner that disciplinary actions were being considered including dismissal. A conference was held at which Petitioner would not speak. Ms. Pierce urged Petitioner to discuss the matters with her, but he remained silent. This last meeting occurred after the September 7 letter and before the September 27 termination letter.

This conference was not designated as a predissmissal conference. However, given the lengthy and very active disciplinary process, the numerous warnings about potential dismissal, and the acceleration of the number of job performance issues which continued to occur throughout the disciplinary process, it cannot be determined that Petitioner did not understand the gravity of his situation. Additionally, he had every opportunity available to him that a conference designated as "predissmissal" would have afforded. It is therefore concluded that the failure to designate the last meeting as a predissmissal conference, while such is required under the State system, is harmless error under the circumstances outlined above.

13. Lastly, an employee must receive notice of dismissal in writing with specific reasons for the dismissal and with appeal rights. This was satisfied by the termination letter of September 27, 1995.

The "appeals rights" which were given, were given in the context of the Guilford System, i.e., Ms. Pierce noted that the substantially equivalent personnel system provided that the termination letter completed the disciplinary process. However, the State personnel system would have provided Petitioner with an appeal to the State Personnel Commission.

Petitioner, however, did appeal to the SPC and has been provided that appeal in the hearing at hand. Petitioner has suffered no harm.

Based upon the above Conclusions of Law, the undersigned makes the following:

RECOMMENDATION

1. That the SPC reconsider the certification of the Guilford County disciplinary portion of its personnel system.
2. That the Respondent's determination of just cause in dismissing the Petitioner be **Affirmed**.
3. That the procedure followed in Petitioner's dismissal be found to have been in compliance with the SPA.
4. That the Respondent's dismissal of Petitioner be **Affirmed**.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

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

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

The agency that will make the final decision in this contested case is the North Carolina State Personnel Commission.

This the 19th day of July, 1996.

Dolores Nesnow Smith
Administrative Law Judge

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF CRAVEN

96 DOJ 0420

JERRY GLENN MONETTE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS' EDUCATION
AND TRAINING STANDARDS COMMISSION,

Respondent.

PROPOSAL FOR DECISION

The above entitled contested case was commenced by the filing of a request for the appointment of an Administrative Law Judge to preside pursuant to N.C.G.S. 150B-40(e). A hearing was held before the Honorable Fred G. Morrison, Jr., Senior Administrative Law Judge, on July 22, 1996, in Raleigh, North Carolina.

APPEARANCES

Petitioner: Jerry Glenn Monette, *pro se*.

Respondent: John J. Aldridge, III, Assistant Attorney General.

ISSUE

Is Petitioner's certification as a justice officer properly subject to revocation on the grounds that he knowingly assisted another in attempting to gain certification by fraud or deceit in that he failed to report a positive urinalysis drug screen for the deputy sheriff applicant?

**FINDINGS OF FACT
(STIPULATED FACTS)**

1. Both parties are properly before this Administrative Law Judge, in that jurisdiction and venue are proper, that both parties received proper notice of hearing required pursuant to N.C.G.S. 150B-38.
2. The North Carolina Sheriffs' Education and Training Standards Commission (Respondent) has the authority granted under Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10, Subchapter 10B, to certify justice officers as either deputy sheriffs or jailers, and to deny, revoke or suspend such certification.
3. That 12 NCAC 10B .0204(c)(3) provides:
 - (c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:
 - (3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. The Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100.
4. That 12 NCAC 10B .0410(a) provides:
 - (a) Each agency shall report in writing to the Division all refusals and all positive drug screenings obtained from applicants and lateral transfers pursuant to 12 NCAC 10B .0301(6) or .0406(b)(4) unless the positive result has been explained to the satisfaction of the agency's medical review officer who shall be a licensed physician.

5. On September 24, 1987, the Petitioner was granted probationary certification as a deputy sheriff through the Respondent and issued certification number PRH242021832. On September 24, 1987 the Petitioner was granted general certification as a deputy sheriff through the Respondent and issued general certification number GNH242021832.
6. On December 4, 1995, the Sheriffs' Standards Division received an anonymous letter indicating that an employee with the Craven County Sheriff's Office, Jeffrey P. Bundy, had previously tested positive for controlled substances and that the sheriff of Craven County, Jerry G. Monette, was aware of such positive urinalysis test result.
7. On November 18, 1994, an applicant for the position of deputy sheriff with the Craven County Sheriff's Office submitted to a required urinalysis screen pursuant to 12 NCAC 10B .0301. This urinalysis test result was reported back by Corporate Support Systems to be positive for cocaine and marijuana. Notification of this positive result was personally given to Sheriff Jerry G. Monette on November 23, 1994.
8. The applicant produced a positive result on a drug screen for cannabinoids, (marijuana) and cocaine, administered in accordance with the procedures authorized and mandated by the United States Department of Health and Human Services for Federal Workplace Drug Testing Program. The United States Department of Health and Human Services, and the Respondent's Rules found at 12 NCAC 10B .0301(6), require, and it is so stipulated that the initial screening test of the applicant's urine was conducted using the immunoassay method, and the confirmation test on the Petitioner's urine sample was conducted using the gas chromatography/mass spectrometry (GC/MS) method of testing. The positive result for cannabinoids and cocaine revealed a level above the threshold established for a screen and confirmation test conducted in accordance with the standards established by the United States Department of Health and Human Services for Federal Workplace Drug Testing Program. A review by a medical review officer indicated that the applicant's positive drug screen was proper in form and testing procedures and was not related to a medically indicated cause.
9. Pursuant to 12 NCAC 10B .0410 this applicant's positive urinalysis drug screen was required to be reported to the Sheriffs' Standards Division. Such applicants would be ineligible to hold certification as a justice officer for a minimum of period of five years.
10. Despite the positive urinalysis result the applicant was maintained in a nonsworn position of dispatcher with the Craven County Sheriff's Office throughout the remainder of 1994 and into 1995.
11. On January 23, 1995 Sheriff Jerry Monette attended a seminar conducted by officials with the Sheriff Standards Division for the purpose of ensuring newly elected Sheriffs' in North Carolina were aware of the requirements for certification of deputy sheriffs and jailers. In this seminar, attended by Sheriff Monette, he learned that he as the sheriff had an affirmative obligation to report all positive urinalysis test results for applicants as deputy sheriff and jailer positions. Despite having knowledge of his duty to make notification at this point of the previous positive test result on the applicant, the sheriff failed to do so. The attendees at this conference were notified that these positive test results were maintained so that all applicants would be ineligible to hold certification as a justice officer for a period of five years.
12. On or about October 1995 Sheriff Jerry G. Monette submitted an application package on Jeffrey P. Bundy for certification as a sworn deputy sheriff to the Respondent. In furtherance of this application process Sheriff Jerry G. Monette did not disclose the previous positive drug test result.
13. The failure to make notification to the Sheriffs' Standards Division of the initial positive urinalysis drug screen for cocaine and marijuana on the deputy sheriff applicant by the Petitioner, while knowing it to be required, constitutes a violation of 12 NCAC 10B .0204(c)(3) and 12 NCAC 10B .0410(a).
14. By letter dated November 28, 1996, the Petitioner was notified by the Director of the Sheriffs' Standards Division, Joan G. Neuner, that probable cause had been found to believe that his certification as a deputy sheriff should be revoked for knowingly and designedly aiding another in attempting to obtain certification from the Commission and for failure to report to the division the previous positive drug screen on the deputy sheriff applicant.

ADJUDICATED FACTS

15. Julia A. Lohman, Assistant Director of the Sheriffs' Standards Division, testified that the Petitioner holds certification as a deputy sheriff through the N.C. Sheriffs' Education and Training Standards Commission and has held such certification since 1986. The Commission has no authority to certify the office of Sheriff. If and when the Petitioner were

to leave the elected office of sheriff, he would be entitled to reinstatement of his deputy sheriff certification. In the October to November 1995 time frame, the Sheriffs' Standards Division received an appointment application package on Jeffrey Bundy as a deputy sheriff in Craven County. This package included a Personal History Statement, urinalysis consent form, and a background investigation on Jeffrey Bundy. This package was placed in a pending status to retrieve additional documentation required for certification. In December 1995 the Sheriffs' Standards Division received an anonymous letter stating that Jeffrey Bundy had previously tested positive for drugs in a urinalysis screen around November 1994, when he was an applicant as a deputy sheriff with the Craven County Sheriff's Office.

16. The Sheriffs' Standards Division verified that Jeffrey Bundy had a previous positive drug screen for cocaine and marijuana by contacting the designated urinalysis testing laboratory for Craven County Sheriff's Office. On December 15, 1995, Sheriffs' Standards Division retrieved documentation from Corporate Support Systems, the urinalysis testing company for the Craven County Sheriff's Office which indicated the Petitioner was a deputy sheriff applicant with the Craven County Sheriff's Office in November 1994 and that on November 18, 1994 the Petitioner submitted a urine sample to be tested for the presence of illegal drugs as a part of this application process. On November 19, 1994 the Petitioner's urine tested positive for cocaine and marijuana. The Petitioner was notified of these positive results on November 23, 1994.

17. Ms. Lohman interviewed Sheriff Monette on December 19, 1995 concerning the positive urinalysis results, and Sheriff Monette told her that Jeffrey Bundy was an applicant for employment as a deputy sheriff with his agency in November 1994. Sheriff Monette said that he was not aware of the Commission rules at the time of the positive urinalysis result requiring him to submit the results. However he subsequently became aware of these rules as a result of a seminar he attended in January 1995 conducted by the Sheriffs' Standards Division. Sheriff Monette told Ms. Lohman that he had told Major Sam Bundy, Jeffrey Bundy's father, about the results and helped him locate a rehabilitation center in the early months of 1995. Sheriff Monette hired Jeffrey Bundy as a Dispatcher with the Craven County Sheriff's Office after his positive urinalysis result. Sheriff Monette indicated that no one but him had seen the positive drug screen results. Sheriff Monette indicated that he had heard that Jeffrey Bundy had resigned from the New Bern Police Department prior to November of 1994 because he was asked to take a urinalysis test. Jeffrey Bundy did not indicate his prior use of cocaine on his Personal History Statement dated October 23, 1995.

18. In January 1995 the Sheriffs' Standards Division conducted seminars across the State to apprise newly elected Sheriffs of the Commission's standards and requirements. During this seminar, attended by the Petitioner, the Sheriffs' Standards Division staff informed the attendees that all applicants for deputy sheriff or jailer positions who test positive for illegal drugs would be prohibited from holding certification through the Commission for a period of five (5) years. Positive drug screens must be communicated to the Sheriffs' Standards Division so that they can maintain a list of these positive drug screens to prevent the applicant's receiving certification through the Commission prior to the expiration of five years from the positive urinalysis result.

19. In February 1996, the results of Ms. Lohman's investigation were presented to the probable cause committee of the Sheriffs' Commission. Sheriff Monette appeared at this probable cause committee and indicated that he accepted full responsibility for not revealing the positive urinalysis drug screen of Jeffrey Bundy.

20. Captain George Brown testified that he personally provided documents to Jeffrey Bundy in November 1994, in furtherance of the process to become a deputy sheriff with the Craven County Sheriff's Office. These documents included a urinalysis consent form. Jeffrey Bundy was subsequently employed as a dispatcher by Sheriff Monette in the Craven County Sheriff's Office. In October 1995 Captain Brown was instructed to forward an application package for certification to the Sheriffs' Standards Division on Jeffrey Bundy as a deputy sheriff by the Petitioner. Captain Brown had Jeffrey Bundy complete another Personal History Statement and this document, along with Captain Brown's background investigation, was forwarded to the Sheriffs' Standards Division. Captain Brown did not have any knowledge of Jeffrey Bundy's prior positive urinalysis test results. Captain Brown believes that Sheriff Monette is an honorable person and is best suited for the position of sheriff in Craven County. Captain Brown fully supports Sheriff Monette.

21. Major Sam Bundy testified that he is the father of Jeffrey Bundy. Major Bundy testified that he was informed of the positive drug screen on his son by the sheriff in the early months of 1995. Major Bundy assisted Jeffrey Bundy in receiving rehabilitation for his positive drug screen which he believes was for a duration of six weeks. Major Bundy did not have responsibilities for notification of the positive drug screen to the Sheriffs' Standards Division nor for the processing of paperwork for applicants as deputy sheriffs or jailers.

22. Sheriff Monette testified that he has been the sheriff of Craven County since November 1994. Sheriff Monette was informed of the positive drug screen on Jeffrey Bundy three days after he took office. The Sheriff indicated that he did not

know of his requirements to notify the Sheriffs' Standards Division of positive urinalysis screens at this time. Sheriff Monette talked with Jeffrey Bundy about his problem after he saw the positive drug screen and took him to Rocky Mount for rehabilitation. After rehabilitation Sheriff Monette hired Jeffrey Bundy as a non-sworn dispatcher. Sheriff Monette had heard rumors that Jeffrey Bundy had left the New Bern Police Department because of his refusal to take a urinalysis test. While Jeffrey Bundy was serving as a dispatcher in the early months of 1995, Sheriff Monette was approached by an officer with the New Bern Police Department and an agent with the State Bureau of Investigation concerning Jeffrey Bundy's prior drug use.

23. In October 1995, the Sheriff directed Captain Brown to forward a package for certification on Jeffrey Bundy to the Sheriffs' Standards Division because Jeffrey Bundy's certification with the Criminal Justice Commission was about to expire. In January 1995, Sheriff Monette attended a seminar conducted by the Sheriffs' Standards Division wherein he learned of his obligation to submit positive urinalysis results to the Sheriffs' Standards Division. Sheriff Monette knew that if he divulged the positive urinalysis results on Jeffrey Bundy in October 1995 that Jeffrey Bundy would not have received certification. Sheriff Monette chose not to divulge this information to the Commission because he had promised to help Jeffrey Bundy previously. Sheriff Monette did not review the application documents completed by Jeffrey Bundy when they were submitted in October 1995.

24. Sheriff Monette expressed regrets for not divulging the previous positive urinalysis result and indicated that he was thinking with his heart and not with his head. Sheriff Monette is 37 years of age and has an Associates Degree in Criminal Justice. He is working on a Bachelors Degree in Criminal Justice. Sheriff Monette entered law enforcement in 1985. He intends to run for Sheriff again in 1998. Sheriff Monette is a member of the Masons, Scottish Rights, York Rights, and is Chairman of the Community Penalties Board in Craven. He is a member of the First Baptist Church in Craven County and works with the Giddeons.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the undersigned makes the following Conclusions of Law:

1. All parties were properly before this Administrative Law Judge and that jurisdiction and venue were proper and that both parties received proper Notice of Hearing.
2. The N.C. Sheriffs' Education and Training Standards Commission has the authority granted under Chapter 17E of the North Carolina General Statutes to establish minimum standards for the certification of persons to be employed and retained as justice officers (deputy sheriffs and jailers).
3. The Petitioner knowingly aided Jeffrey Bundy in attempting to obtain certification from the Commission by not revealing Jeffrey Bundy's positive urinalysis drug screen for cocaine and marijuana in November 1994. This omission was material. These actions constitute a violation of 12 NCAC 10B .0204(c)(3).
4. The Petitioner's failure to report to the division the previous positive drug screen obtained from Jeffrey Bundy while an applicant for the position of deputy sheriff with the Craven County Sheriff's Office constitutes a violation of 12 NCAC 10B .0410(a).
5. The Respondent may properly revoke the Petitioner's certification as a justice officer.

PROPOSED DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby proposed that the N.C. Sheriffs' Education and Training Standards Commission revoke the Petitioner's certification as a justice officer for a period of five years, but that the Commission consider in light of the surrounding circumstances, placing the Petitioner on a period of probation for five years.

ORDER

IT IS HEREBY ORDERED that the agency serve a copy of the Final Decision on the Office of Administrative Hearing, Post Office Drawer 27447, Raleigh, North Carolina 27611-7447, in accordance with N.C.G.S. § 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to the Proposal For Decision, to submit Proposed Findings of Fact and to present oral and written arguments to the agency. The agency is required by N.C.G.S. § 150B-40(e) to serve a copy of the final agency decision on all parties and to furnish a copy of the final agency decision on the parties Attorney of Record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the North Carolina Sheriffs' Education and Training Standards Commission.

This the 26th day of July, 1996.

Fred G. Morrison Jr.
Senior 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
*21	Occupational Licensing Boards	Mortuary Science	34
22	Administrative Procedures	Nursing	36
23	Community Colleges	Nursing Home Administrators	37
24	Independent Agencies	Occupational Therapists	38
25	State Personnel	Opticians	40
26	Administrative Hearings	Optometry	42
27	NC State Bar	Osteopathic Examination & Reg. (Repealed)	44
		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
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

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

CUMULATIVE INDEX

(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				

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

Hearings Division

26 NCAC 03 .0301 11:03 NCR 110 11:09 NCR 588

26 NCAC 03 .0302 11:03 NCR 110 11:09 NCR 588

26 NCAC 03 .0303 11:03 NCR 110 11:09 NCR 588

26 NCAC 03 .0304 11:03 NCR 110 11:09 NCR 588

26 NCAC 03 .0305 11:03 NCR 110 11:09 NCR 588

Rules Division

26 NCAC 02C 11:09 NCR 570

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 .0701 10:24 NCR 3056 11:05 NCR 282 * 11:06 NCR 324

2 NCAC 09C .0702 10:24 NCR 3056 11:05 NCR 282 * 11:06 NCR 324

CUMULATIVE INDEX

(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				

2 NCAC 09C .0704	10:24 NCR 3056	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	*						
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

4 NCAC 01E	11:09 NCR 569
4 NCAC 01F	11:09 NCR 569
4 NCAC 01H	11:09 NCR 569
4 NCAC 01I	11:09 NCR 569
4 NCAC 01J	11:09 NCR 569
4 NCAC 01K	11:09 NCR 569

Community Assistance

4 NCAC 01K .0501	11:09 NCR 569
4 NCAC 01K .0502	11:09 NCR 569
4 NCAC 01K .0503	11:09 NCR 569

CUMULATIVE INDEX

(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				
4 NCAC 01K .0504	11:09 NCR 569									
4 NCAC 01K .0505	11:09 NCR 569									
4 NCAC 01K .0506	11:09 NCR 569									
4 NCAC 19L .0401	11:09 NCR 569									
4 NCAC 19L .0403	11:09 NCR 569									
4 NCAC 19L .0404	11:09 NCR 569									
4 NCAC 19L .0407	11:09 NCR 569									
4 NCAC 19L .0501	11:09 NCR 569									
4 NCAC 19L .0502	11:09 NCR 569									
4 NCAC 19L .0505	11:09 NCR 569									
4 NCAC 19L .0802	11:09 NCR 569									
4 NCAC 19L .0805	11:09 NCR 569									
4 NCAC 19L .0901	11:09 NCR 569									
4 NCAC 19L .0906	11:09 NCR 569									
4 NCAC 19L .0907	11:09 NCR 569									
4 NCAC 19L .0911	11:09 NCR 569									
4 NCAC 19L .1002	11:09 NCR 569									
4 NCAC 19L .1004	11:09 NCR 569									
4 NCAC 19L .1009	11:09 NCR 569									
4 NCAC 19L .1011	11:09 NCR 569									
4 NCAC 19L .1301	11:09 NCR 569									
4 NCAC 19L .1302	11:09 NCR 569									
4 NCAC 19L .1303	11:09 NCR 569									
4 NCAC 19L .1701	11:09 NCR 569									
4 NCAC 19L .1702	11:09 NCR 569									
4 NCAC 19L .1703	11:09 NCR 569									
4 NCAC 19L .1801	11:09 NCR 569									
4 NCAC 19L .1802	11:09 NCR 569									

CUMULATIVE INDEX

(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				

4 NCAC 19L.1803 11:09 NCR 569
 4 NCAC 19L.1804 11:09 NCR 569
 4 NCAC 19L.1805 11:09 NCR 569
 4 NCAC 19L.1900 11:09 NCR 569

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

Energy

4 NCAC 12C.0007

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
 7 NCAC 05.0203 10:18 NCR 2398
 7 NCAC 05.0204 10:18 NCR 2398
 7 NCAC 05.0207 10:18 NCR 2398

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A Public Notice

15A Public Notice

15A NCAC 01K 10:19 NCR 2506

15A NCAC 01M.0101

15A NCAC 01M.0102

11:06 NCR 368

11:06 NCR 368

Approve 07/18/96

11:10 NCR 843

11:01 NCR 2

11:09 NCR 590

CUMULATIVE INDEX

(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				
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	*						11:09 NCR 575
15A NCAC 07H .0106	10:16 NCR 1921		11:04 NCR 190	*						Notice Subject Matter
15A NCAC 07H .0304	10:24 NCR 3045		11:07 NCR 409	*						11:09 NCR 575
15A NCAC 07H .0309	11:08 NCR 442									
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		11:09 NCR 572	*						
15A NCAC 02B .0231	11:02 NCR 75		11:10 NCR 824	LSE						
15A NCAC 02B .0232	11:02 NCR 75		11:10 NCR 824	L						
15A NCAC 02B .0233	11:02 NCR 75		11:10 NCR 824	L						
15A NCAC 02B .0234	11:02 NCR 75		11:10 NCR 824	*						
15A NCAC 02B .0235	11:02 NCR 75		11:10 NCR 824	*						

CUMULATIVE INDEX

(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				
15A NCAC 02B .0236	11:02 NCR 75		11:10 NCR 824	L						
15A NCAC 02B .0303	10:18 NCR 2400									
15A NCAC 02B .0315	11:02 NCR 75		11:09 NCR 572	L						
15A NCAC 02D .0518	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0524	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0530	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0902	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0907	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0909	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0910	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0911	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0946	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0954	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1110	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1111	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1402	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1403	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02H .0610	11:08 NCR 442									
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	*						
15A NCAC 02Q .0102	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0104	10:24 NCR 2400		11:08 NCR 472	*						
15A NCAC 02Q .0107	10:18 NCR 2400		11:08 NCR 472	*						
15A NCAC 02Q .0507	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0512	10:24 NCR 2400		11:08 NCR 472	S/L						

CUMULATIVE INDEX

(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				
15A NCAC 02Q .0514	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0515	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0517	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0700	11:08 NCR 442									11:06 NCR 317
NPDES Permits										11:07 NCR 406
NPDES Permits										
Health Services, Commission for										
15A NCAC 13B .1627	11:08 NCR 442									
15A NCAC 13B .1800	11:08 NCR 442									
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		11:06 NCR 357	*						
15A NCAC 18A .0134	11:08 NCR 442									
15A NCAC 18A .0136	11:08 NCR 442									
15A NCAC 18A .0137	11:08 NCR 442									
15A NCAC 18A .0159	11:08 NCR 442									
15A NCAC 18A .0168	11:08 NCR 442									
15A NCAC 18A .0169	11:08 NCR 442									
15A NCAC 18A .0173	11:08 NCR 442									
15A NCAC 18A .0174	11:08 NCR 442									
15A NCAC 18A .0175	11:08 NCR 442									
15A NCAC 18A .0176	11:08 NCR 442									

CUMULATIVE INDEX

(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				
15A NCAC 18A .0182	11:08 NCR 442									
15A NCAC 18A .0183	11:08 NCR 442									
15A NCAC 18A .0184	11:08 NCR 442									
15A NCAC 18A .0185	11:08 NCR 442									
15A NCAC 18A .0187	11:08 NCR 442									
15A NCAC 18A .0301	11:08 NCR 442									
15A NCAC 18A .0302	11:08 NCR 442									
15A NCAC 18A .0401	11:08 NCR 442									
15A NCAC 18A .0421	11:08 NCR 442									
15A NCAC 18A .0424	11:08 NCR 442									
15A NCAC 18A .0425	11:08 NCR 442									
15A NCAC 18A .0614	11:08 NCR 442									
15A NCAC 18A .0615	11:08 NCR 442									
15A NCAC 18A .0616	11:08 NCR 442									
15A NCAC 18A .0617	11:08 NCR 442									
15A NCAC 18A .0618	11:08 NCR 442									
15A NCAC 18A .0620	11:08 NCR 442									
15A NCAC 18A .0621	11:08 NCR 442									
15A NCAC 18A .0901	11:08 NCR 442									
15A NCAC 18A .1301	11:08 NCR 442									
15A NCAC 18A .1302	11:08 NCR 442									
15A NCAC 18A .1319	11:08 NCR 442									
15A NCAC 18A .1805	11:04 NCR 183		11:09 NCR 576	*						
15A NCAC 18A .1814										
15A NCAC 18A .2601		11:01 NCR 24	11:05 NCR 273	*	Approve	04/18/96			11:04 NCR 209	
15A NCAC 18A .2701					Approve	06/20/96	*		11:08 NCR 536	
15A NCAC 20D .0243					Approve	04/18/96			11:04 NCR 209	
15A NCAC 21H .0111		11:06 NCR 371								

CUMULATIVE INDEX

(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				
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 03I .0019			10:21 NCR 2737	*	Approve	05/16/96	*			
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									
Soil and Water Conservation										
15A NCAC 06E .0002	11:08 NCR 442									
15A NCAC 06E .0003	11:08 NCR 442									
Wildlife Resources Commission										
15A NCAC 10B .0106	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0113	11:07 NCR 408									
15A NCAC 10B .0115	11:07 NCR 408									
15A NCAC 10B .0123	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0203	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0208	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0209	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0107	11:02 NCR 76									
15A NCAC 10C .0205	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0305	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0401	11:02 NCR 76									
15A NCAC 10C .0401	11:07 NCR 408									
15A NCAC 10D .0002	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10D .0003	11:02 NCR 76		11:08 NCR 495	*						

CUMULATIVE INDEX

(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				
15A NCAC 10F .0102	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0103	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0104	10:19 NCR 2506		11:01 NCR 14	*	Object	07/18/96				
15A NCAC 10F .0105	10:19 NCR 2506		11:01 NCR 14	*	Object	07/18/96				
15A NCAC 10F .0106	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0107	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0109	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0300	11:01 NCR 13									
15A NCAC 10F .0302	11:05 NCR 272									
15A NCAC 10F .0303	10:24 NCR 3057		11:06 NCR 355	*						
15A NCAC 10F .0305	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96			11:10 NCR 843	
15A NCAC 10F .0307	11:02 NCR 76		11:07 NCR 412	*						
15A NCAC 10F .0307	11:08 NCR 451									
15A NCAC 10F .0310	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96			11:10 NCR 843	
15A NCAC 10F .0310	10:24 NCR 3057		11:06 NCR 355	*						
15A NCAC 10F .0342	10:19 NCR 2506		11:01 NCR 14	*	Withdrawn/Agcy	07/18/96				
15A NCAC 10F .0348	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
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	*						

CUMULATIVE INDEX

(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				

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	*						11:03 NCR 104
15A NCAC 10I .0002	11:02 NCR 76		11:08 NCR 495	*						11:04 NCR 182
Wildlife Proclamation										
Wildlife Proclamation										

FINAL DECISION LETTERS

Voting Rights Act										11:01 NCR 1
Voting Rights Act										11:04 NCR 181
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	11:09 NCR 583	*						
21 NCAC 12 .0503	10:22 NCR 2829	11:06 NCR 372	11:09 NCR 584	*						

GOVERNOR'S EXECUTIVE ORDERS

Number 95 - Eff. 04/24/96										11:05 NCR 270
Number 96 - Eff. 06/14/96										11:08 NCR 441
Number 97 - Eff. 07/12/96										11:10 NCR 817

HUMAN RESOURCES

10 NCAC 41P .0013	11:06 NCR 323	11:08 NCR 528								
Aging										
10 NCAC 22	10:23 NCR 2956									

Child Day Care Commission

10 NCAC 03U .0102		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .0604	11:03 NCR 109		11:09 NCR 571	*						
10 NCAC 03U .0700	11:08 NCR 449									

CUMULATIVE INDEX

(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				
10 NCAC 03U .0704	10:19 NCR 2506		11:04 NCR 188	*						
10 NCAC 03U .0710	10:22 NCR 2829		11:04 NCR 188	*						
10 NCAC 03U .0901	11:08 NCR 449									
10 NCAC 03U .2510	11:08 NCR 449									
10 NCAC 03U .2606	11:08 NCR 449									
10 NCAC 03U .2701		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2702		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2703		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2704		10:20 NCR 2593	11:10 NCR 819	S						
Facility Services										
10 NCAC 03	10:18 NCR 2399									
10 NCAC 03R .3001		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3001	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3010		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3020		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3020	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3030		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3030	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3032		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3032	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3040		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3040	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3050		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3050	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
Medical Assistance										
Disproportionate Share List										
10 NCAC 26B .0105	10:18 NCR 2398		10:22 NCR 2831	*	Approve	04/18/96	*		11:04 NCR 207	11:03 NCR 101
10 NCAC 26G .0707	11:08 NCR 450									

CUMULATIVE INDEX

(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				
10 NCAC 26H .0506		11:02 NCR 77								
10 NCAC 26H .0506	10:21 NCR 2686									
10 NCAC 26H .0602	11:09 NCR 569									
10 NCAC 50B .0202		11:10 NCR 841								
10 NCAC 50B .0404		11:10 NCR 841								
10 NCAC 50B .0409		11:10 NCR 841								
10 NCAC 50D										11:06 NCR 316
10 NCAC 50D .0101	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0102	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0103	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0201	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0301	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0302	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0401	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0402	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0501	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0502	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0503	10:24 NCR 3057	11:04 NCR 196								
Medical Care Commission										
10 NCAC 03C .6208					Approve	04/18/96			11:04 NCR 206	
Mental Health, Developmental Disabilities and Substance Abuse Services										
10 NCAC 14V .3400	11:08 NCR 449									
10 NCAC 14V .3800	11:08 NCR 449									
10 NCAC 14V .5600	11:08 NCR 449									
10 NCAC 15A .0100	11:08 NCR 449									
10 NCAC 45H .0200	11:08 NCR 449									
Social Services Commission										
10 NCAC 41F	10:23 NCR 2956									

CUMULATIVE INDEX

(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				
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	Object	07/18/96				
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	Object	07/18/96				
10 NCAC 41F .0814	10:23 NCR 2956		11:03 NCR 111	L	Object	07/18/96				
10 NCAC 411 .0100	10:17 NCR 2228		11:03 NCR 111							
10 NCAC 411 .0102	10:17 NCR 2228		10:21 NCR 2687	*						
10 NCAC 41P .0002	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0005	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0006	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0008	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0009	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0010	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0011	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0012	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0013		11:08 NCR 528								
10 NCAC 42A .0701		10:21 NCR 2728	11:10 NCR 823	S/L/SE						
10 NCAC 42A .0702		10:21 NCR 2728	11:10 NCR 823	*						
10 NCAC 42A .0703		10:21 NCR 2728	11:10 NCR 823	*						
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								

CUMULATIVE INDEX

(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				
10 NCAC 42C .2011		10:21 NCR 2729								
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	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 42V .0802		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 42V .0803		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 49A .0002		11:08 NCR 528								
10 NCAC 49B .0202		11:08 NCR 528								
10 NCAC 49B .0310		11:08 NCR 528								
10 NCAC 49B .0502		11:08 NCR 528								
10 NCAC 49C .0107		10:18 NCR 2402								
Vocational Rehabilitation Services										
10 NCAC 20B .0200	11:08 NCR 450									
10 NCAC 20C .0600	11:08 NCR 450									
10 NCAC 20D .0200	11:08 NCR 450									
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	

CUMULATIVE INDEX

(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				

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									
------------------	----------------	--	--	--	--	--	--	--	--	--

Private Protective Services Board

12 NCAC 07D	11:10 NCR 818									
12 NCAC 07D .0201	11:10 NCR 818									
12 NCAC 07D .0504	11:10 NCR 818									
12 NCAC 07D .0701	11:10 NCR 818									
12 NCAC 07D .0801	11:10 NCR 818									
12 NCAC 07D .0902	11:10 NCR 818									

LABOR

Occupational Safety and Health

13 NCAC 07F	11:03 NCR 106									
13 NCAC 07F .0101		11:03 NCR 119								
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0201	11:09 NCR 568									
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	*			

CUMULATIVE INDEX

(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				
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	
21 NCAC 32H .0701	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0702	10:18 NCR 2400		10:22 NCR 2835	*	Object	04/18/96	*		Returned to Agency 6/20/96	
21 NCAC 32H .0801	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0901	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0902	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96			11:04 NCR 221	
PSYCHOLOGY BOARD										
21 NCAC 54 .2704					Approve	04/18/96			11:04 NCR 236	
21 NCAC 54 .2706					Approve	04/18/96			11:04 NCR 236	

CUMULATIVE INDEX

(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				

PUBLIC EDUCATION

16 NCAC 01A .0001

16 NCAC 01A .0003

Standards Board for Public School Administration

16 NCAC 07 .0101	10:23 NCR 2957		11:09 NCR 576	*					11:05 NCR 286	
16 NCAC 07 .0102	10:23 NCR 2957		11:09 NCR 576	*	Approve	05/16/96			11:05 NCR 283	
16 NCAC 07 .0103	10:23 NCR 2957		11:09 NCR 576	*	Approve	05/16/96				
16 NCAC 07 .0104	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0105	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0106	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0107	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0108	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0109	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0110	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0111	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0112	10:23 NCR 2957		11:09 NCR 576	*						

REAL ESTATE COMMISSION

21 NCAC 58	11:07 NCR 408									
21 NCAC 58A .0101	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0105	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0109	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0110	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0302	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0503	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0504	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1501	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1502	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1601	10:22 NCR 2835		11:03 NCR 114	*						

CUMULATIVE INDEX

(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				
REFRIGERATION EXAMINERS										
21 NCAC 60 .0204	11:05 NCR 272		11:10 NCR 839	*						
21 NCAC 60 .0207	11:05 NCR 272		11:10 NCR 839	*						
21 NCAC 60 .0314	11:05 NCR 272		11:10 NCR 839	*						
REVENUE										
17 NCAC 01C .0504		10:20 NCR 2599								
17 NCAC 01C .0506		10:20 NCR 2599								
17 NCAC 01C .0506			11:10 NCR 838	*						
17 NCAC 05C .0102			11:03 NCR 113	*						
			11:09 NCR 582	*						
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	

CUMULATIVE INDEX

(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				
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	
17 NCAC 07B .4902			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
Tax Review Board										11:02 NCR 72
Tax Review Board										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	11:04 NCR 200	*						
21 NCAC 69 .0102	10:19 NCR 2507	11:04 NCR 200	11:08 NCR 523	*						
21 NCAC 69 .0102	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
21 NCAC 69 .0102	10:19 NCR 2507	11:04 NCR 200	11:08 NCR 523	*						
21 NCAC 69 .0103	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
21 NCAC 69 .0104	10:19 NCR 2507	11:04 NCR 200	11:08 NCR 523	*						
21 NCAC 69 .0104	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
21 NCAC 69 .0201	10:19 NCR 2507	11:04 NCR 200	11:08 NCR 523	*						
21 NCAC 69 .0202	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
21 NCAC 69 .0202	10:19 NCR 2507	11:04 NCR 200	11:08 NCR 523	*						
21 NCAC 69 .0301	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
21 NCAC 69 .0302	10:19 NCR 2507	11:04 NCR 200	11:08 NCR 523	*						
21 NCAC 69 .0302	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
21 NCAC 69 .0303	10:19 NCR 2507	11:04 NCR 200	11:08 NCR 523	*						
			11:04 NCR 200	*						
			11:08 NCR 523	*						

CUMULATIVE INDEX

(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				
21 NCAC 69 .0304	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0305	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0306	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0307	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0308	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0401	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0402	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0501	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
STATE PERSONNEL COMMISSION										
25 NCAC 01J .0613		10:23 NCR 2960			Approve	03/21/96			11:01 NCR 26	
25 NCAC 01J .0613										
SUBSTANCE ABUSE PROFESSIONALS CERTIFICATION BOARD										
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	

CUMULATIVE INDEX

(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				
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	
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	

TRANSPORTATION

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						

CUMULATIVE INDEX

(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 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	*						
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	*						

CUMULATIVE INDEX

(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				

Motor Vehicles, Division of

19A NCAC 03E .0500	11:01 NCR 13									
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	\$56.00	\$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
Title 27 - North Carolina State Bar - Full Title	227 00 00	\$42.00	\$60.00
North Carolina Administrative Code - Full Code (Add \$85.00 Shipping and Handling)	299 99 98	\$375.00	\$750.00
CD-ROM North Carolina Administrative Code	266 00 00	- -	\$750.00
CD-ROM North Carolina Administrative Code (When purchased with the Full Code in Print)	266 50 00	- -	\$250.00
Master Index	288 50 00	\$295.00	\$475.00
Master Table of Contents	288 80 00	\$40.00	\$75.00
Binder(s)	299 90 00	\$16.00	- -

METHOD OF PAYMENT: ☐ Check Enclosed
☐ VISA ☐ MasterCard ☐ American Express

CARD HOLDER _____ EXP. DATE _____

NAME (As it appears on card) _____

SIGNATURE _____

CUSTOMER INFORMATION

FIRM OR COMPANY NAME _____

CONTACT NAME _____ TELEPHONE NUMBER _____

STREET ADDRESS (Required for all shipments) _____ DEPT. OR MAIL STOP _____

PO BOX (IF ANY) _____

CITY/STATE/ZIP _____ SUBSCRIBER ACCOUNT NUMBER _____

CODE NUMBER	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE	QTY	TOTAL
Binder(s): Titled "Official North Carolina Administrative Code" 299 90 00 \$16.00 each				
Subtotal				
North Carolina State Sales Tax (6%)				
Shipping and Handling				
GRAND TOTAL				

Mail to: Barclays Law Publishers
PO Box 3066
South San Francisco, CA 94083-3066

For faster service call (800) 888-3600 or fax us at (415) 244-0408

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

NAME _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____

PLACE
STAMP
HERE

FOLD HERE

NORTH CAROLINA REGISTER ORDER FORM

☐ Please enter my subscription for the *North Carolina Register* to start with the _____ issue.
(\$195.00/year subscription. N.C. subscribers please add sales tax.)

☐ Renew *North Carolina Register*

☐ Check Enclosed

☐ Please bill me

Please make checks payable to Office of Administrative Hearings

NAME _____ ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE _____

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

CHANGE OF ADDRESS

1. Present Address

NAME

ADDRESS

CITY

STATE

ZIP

2. New Address

NAME

ADDRESS

CITY

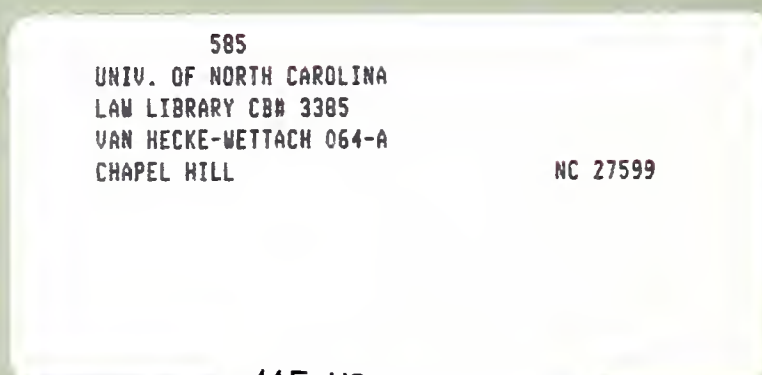
STATE

ZIP

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



FIRST CLASS MAIL



415 V6

04/04/97

XL

46228

605

