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NORTH CAROLINA REGISTER

**VOLUME 11 • ISSUE 19 • Pages 1406 - 1532
January 2, 1997**

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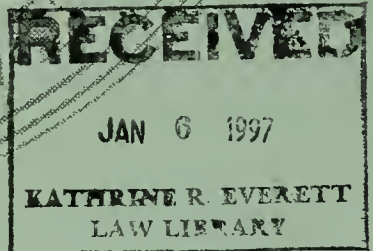
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The Office of Administrative Hearings

Rules Division

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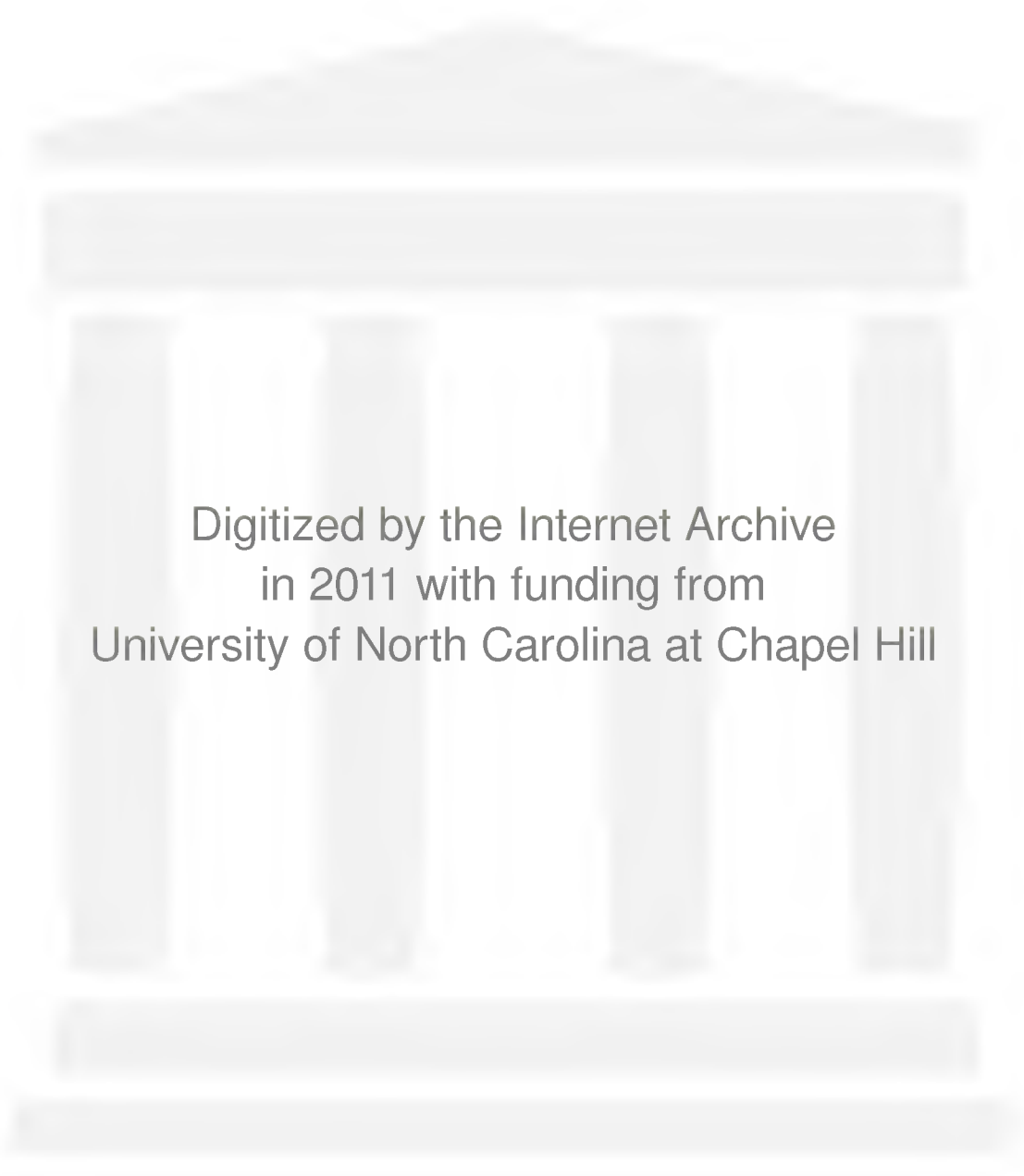
This issue contains documents officially filed through December 6, 1996.

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NORTH CAROLINA REGISTER

Publication Schedule

(October 1996 - July 1997)

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
11:13	10/01/96	09/10/96	12/02/96	12/16/96	10/16/96	10/31/96	11/20/96	01/30/97	12/02/96	12/20/96	05/10/98
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11:16	11/15/96	10/24/96	01/14/97	01/15/97	12/02/96	12/16/96	12/20/96	05/10/98	01/14/97	01/21/97	05/10/98
11:17	12/02/96	11/06/96	01/31/97	02/03/97	12/17/96	01/02/97	01/21/97	05/10/98	01/31/97	02/20/97	05/10/98
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12:07	07/01/97	06/10/97	09/02/97	09/15/97	07/16/97	07/31/97	08/20/97	05/10/98	09/02/97	09/22/97	05/10/98
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EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF RULE-MAKING PROCEEDINGS

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

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

NOTICE OF TEXT

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

END OF REQUIRED COMMENT PERIOD

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

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

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

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

**EXECUTIVE ORDER NO. 105
AMENDING EXECUTIVE ORDERS NO. 99, 102 AND 103
CONCERNING EMERGENCY RELIEF FOR DAMAGE
CAUSED BY HURRICANE FRAN**

WHEREAS, Executive Order No. 99 was issued to provide emergency relief for damage caused by Hurricane Fran by waiving certain size and weight restrictions for certain vehicles; and

WHEREAS, Executive Order No. 99 has been amended by Executive Order No. 102 and Executive Order No. 103; and

WHEREAS, in order to comply with federal law, there is a need to amend Executive Order No. 99 again.

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

Executive Order No. 99, as amended, is not applicable to the Interstate Highway System within North Carolina. All other provisions of Executive Order No. 99, as amended, shall remain in effect.

Done in Raleigh, North Carolina, this 2nd day of December, 1996.

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

G.S. 150B-21.17 requires the Codifier of Rules to publish certain information determined to be in the public interest. Pursuant to the specific written request of the Petree Stockton, law firm of Raleigh, North Carolina, the document printed below is published under this authority, without comment. Publication of public information under this section should not be construed to have any legal effect upon any pending litigation or rulemaking procedure.

"Pursuant to N.C.G.S. 150B-21.1(b), I hereby find that the Agency's written statement of its findings of need for the temporary rules proposed as 10 N.C.A.C. 3R .3030(8)(a),(b), (c) and (d) does not meet the criteria set forth in N.C.G.S. 150B-21.1(a), in that the Agency has not shown that adherence to the notice and hearing requirements of the Administrative Procedure Act would be contrary to the public interest. Therefore, I do not approve of the adoption of proposed 10 N.C.A.C. 3R .3030(8)(a),(b), (c) and (d) as temporary rules. I do approve the remaining temporary rules submitted by the Agency as 10 N.C.A.C. 3R .3001, .3010, .3020, .3030(1)-(7) and (8)(e)-(h), .3032, .3040 and .3050."

s/Beecher R. Gray
12/29/95
Attachment A

An agency may choose to publish a rule-making agenda which serves as a notice of rule-making proceedings if the agenda includes the information required in a notice of rule-making proceedings. The agency must accept comments on the agenda for at least 60 days from the publication date. Statutory reference: G.S. 150B-21.2.

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

This agenda will serve as the notice of rule-making proceedings for the following rule-making bodies from January 2, 1997 through March 3, 1997:

*Environmental Management Commission - to rules codified in 15A NCAC 2;
Coastal Resources Commission - to rules codified in 15A NCAC 7;
Water Pollution Control System Operators Certification Commission - to rules codified in 15A NCAC 8F; and
Commission for Health Services - to rules codified in 15A NCAC 18A and 26.*

DEHNR Regulatory Agenda Index - December 6, 1996

AIR QUALITY

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2128	Annual Emission Reporting	15A NCAC 2Q .0207
E2129	Open Burning	15A NCAC 2D .1902, .1903
E2130	Volatile Organic Compound Emissions	15A NCAC 2D .0518, .0950, .0902, .0909, .0917 - .0924, .0934, .0948, .0949, .0951 and 2Q .0102
E2131	Transportation Conformity	15A NCAC 2D .1500

COASTAL MANAGEMENT

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2134	Ocean Mining	15A NCAC 7M .1200; 7H .0106; 7H .0208(b)(11)

ENVIRONMENTAL HEALTH/ONSITE WASTEWATER

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
H6531	Law and Rules for Sewage Treatment and Disposal Systems Permits	15A NCAC 18A .1937, .1938, .1958, .1961 (To be filed as temporary rules)

HEALTH AND ENVIRONMENTAL STATISTICS

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
H6532	Birth Defects Monitoring Program	15A NCAC 26C .0001- .0007

WATER QUALITY

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2120	Certification of Operators of Animal Waste Management Systems	15A NCAC 8F .0101, .0102, .0201, .0202, .0203, .0301, .0401-.0407, .0501 - .0507 .0401-.0407, .0501 - .0507 (Filed as temporary rules)

APA #: E2120

SUBJECT: Certification of Operators of Animal Waste Management Systems

RULE CITATION #: 15A NCAC 8F .0101, .0102, .0201, .0202, .0203, .0301, .0401-.0407, .0501 - .0507

STATUTORY AUTHORITY: G.S. 90A-35; 90A-37; 90A-38; 90A-39; 90A-41; 90A-43; 90A-44; 90A-47; 143B-300; 150B-3; 150B-23; 150B-38; 150B-52

DIVISION/SECTION: WATER QUALITY

DIVISION CONTACT: Ron Ferrell

DIVISION CONTACT TEL#: (919)733-0026

DATE INITIATED: 11/6/96

DURATION OF RULE: Temporary 1/1/97

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

The purpose of this rulemaking is to establish the certification procedures and requirements for operators of animal waste management systems as required by NCGS 90A-47. The intent of this certification is to reduce nonpoint source pollution that may result from the land application of animal waste that is generated by animal operations as defined at NCGS 143-215.10B. The certification program is designed to protect the public health and to conserve and protect the quality of the State's agricultural land for the production of food and other agricultural products, and to require the examination of animal waste management system operators and certification of their competency to operate or supervise the operation of those systems.

SCOPE/NATURE/SUMMARY:

The proposed rules set forth the requirements and procedures for the training and certification of persons who perform the land application of animal waste that is generated by animal operations as required by NCGS 90A-47. This certification program is administered by the Water Pollution Control System Operators Certification Commission (Commission). The purpose of these rules is to reduce nonpoint source pollution in order to protect the public health and to conserve the quality of the state's water resources. These rules are also intended to encourage the development and improvement of the state's agricultural land for the production of food and other agricultural products.

The proposed rules apply to all animal operations as defined at NCGS 143-215.10B. The owners of these facilities are required to designate and maintain a certified Operator in Charge by January 1, 1997 who is responsible for the application of animal waste to the land. The Operator in Charge of the facility is responsible for ensuring that the application of animal waste to the land is performed in accordance with the animal waste management plan for the facility. As stipulated by the enabling legislation, to become certified an individual must attend ten (10) hours of training approved by the Commission and demonstrate competence in the operation of animal waste management systems by passing an examination. The Commission may assess a civil penalty of up to \$1,000 for failure to comply with the requirements of these rules.

APA #: E2128

SUBJECT: Annual Emission Reporting

RULE CITATION #: 15A NCAC 2Q .0207

STATUTORY AUTHORITY: G.S. 143-215.3(a)(1),(1a),(1b),(1d); 143-215.65; 143-215.106A; 143-215.107; 143B-282; 150B-21.6

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thomas Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 11/22/96

DURATION OF RULE: Permanent 7/1/98

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

To add perchloroethylene to the list of compounds in 15A NCAC 2Q .0207 for annual reporting of emissions is required.

SCOPE/NATURE/SUMMARY:

Rule 15A NCAC 2Q .0207, Annual Emissions Reporting, requires the owners or operators of Title V facilities to report each year the actual emissions of listed compounds that occurred during the previous year. One of the listed compounds is volatile organic compounds (VOC). Until recently, perchloroethylene was included in the emissions of VOC. However, the definition of VOC has been amended to exclude perchloroethylene. Because it is a hazardous air pollutant, the emissions of perchloroethylene still needs to be reported annually. Therefore, 15A NCAC 2Q .0207 needs to be amended to add perchloroethylene to the list of compounds that need to be reported annually.

APA #: E2129

SUBJECT: Open Burning

RULE CITATION #: 15A NCAC 2D .1902, .1903

STATUTORY AUTHORITY: G.S. 143-212; 143-213; 143-215.3(a)(1); 143-215.107(a)(5)

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thomas Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 11/22/96

DURATION OF RULE: Permanent 7/1/98

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

To change the name of the Asbestos Hazardous Management Branch to Health Hazard Control Branch in the open burning rules.

SCOPE/NATURE/SUMMARY:

The Asbestos Hazardous Management Branch has changed its name to Health Hazard Control Branch. Rules 15A NCAC 2D .1902, Definitions, and .1903, Permissible Open Burning Without a Permit, need to be amended to make this name change.

APA #: E2130

SUBJECT: Volatile Organic Compound Emissions

RULE CITATION #: 15A NCAC 2D .0518, .0902, .0909, .0917 - .0924, .0934, .0948, .0949, .0950, .0951 and 2Q .0102

STATUTORY AUTHORITY: G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.107(a)(5); 143-215.108

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thomas Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 11/22/96

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

To replace 15A NCAC 2D .0518, an archaic rule, with a more common sense and reasonable rule.

SCOPE/NATURE/SUMMARY:

Paragraph (d) of Rule 15A NCAC 2D .0518, Miscellaneous Volatile Organic Compound Emissions, is an antiquated concept. Whether or not emissions of volatile organic compounds (VOC) are restricted under this rule depends on the composition of the mixture. If a solvent mix contains compounds defined by chemical structure as being photochemically reactive above a specified percentage, then the emissions of these compounds are restricted. However, if a solvent contains these same photochemically reactive compounds below the specified percentage, then the emissions of these compounds are not restricted. Further, the concept that photochemically reactivity of a VOC is solely determined by its chemical structure is no longer accepted.

Presently primary consideration is being given to replacing this rule with a work-practice type standard. For example, typical work practices could include storing all waste material containing volatile organic compounds in closed containers, cleaning up spills immediately, storing wipe rags in closed containers when not in use, not cleaning absorbent materials, and covering all containers holding materials containing volatile organic compounds when not in use. Special provisions may be added for degreasing or cleaning operations, such as, flushing parts in the freeboard area, reducing the pooling of solvent on and in the parts, tilting or rotating parts to drain as much solvent as possible and allow sufficient time for drying, not fill cleaning machines above the fill line, and not agitate solvent to the point of causing splashing. The current rule covers only the use of solvent. The replacement probably would cover not only the use of VOC as solvent, but also as reactants or product constituents.

Other control options may also be considered. Analysis is planned to determine if the elimination of 15A NCAC 2D .0518(d) makes a difference in ambient ozone concentration. If a new rule is proposed, it would be placed in Section 15A NCAC 2D .0900, Volatile Organic Compounds, and would be statewide in effect.

With the elimination of 15A NCAC 2D .0518, rules 15A NCAC 2D .0948, VOC Emissions from Transfer Operations, and .0949, Storage of Miscellaneous Volatile Organic Compounds, would need amending to extend them statewide to replace similar requirements currently in 15A NCAC 2D .0518. Other clarifying revisions may also be made to these two rules. Rule 15A NCAC 2D .0902, Applicability, would need amending to identify the new rules that would be effective statewide. Also Rule 15A NCAC 2D .0950, Interim Standards for Certain Source Categories, could be repealed and pertinent parts of this Rule could be placed in Rule 15A NCAC 2D .0951, Miscellaneous Volatile Organic Compound Emissions. Further, the coating rules in Section 15A NCAC 2D .0900 could be amended to remove the grandfather provision, which would no longer be needed with the repeal of 15A NCAC 2D .0518. Several other rules may need amending to correct cross-references.

In summary the anticipated action includes adopting one new rule, repealing two rules (15A NCAC 2D .0518 and .0950) and amending 15A NCAC 2D .0902, .0909, .0917 - .0924, .0934, .0948, .0949 and .0951 and 2Q .0102.

APA #: E2131

SUBJECT: Transportation Conformity
RULE CITATION #: 15A NCAC 2D .1500
STATUTORY AUTHORITY: G.S. 143-215.3(a)(1); 143-215.107(a)(10)
DIVISION/SECTION: AIR QUALITY
DIVISION CONTACT: Thomas Allen
DIVISION CONTACT TEL#: (919)733-1489
DATE INITIATED: 11/22/96
DURATION OF RULE: Permanent
TYPE OF RULE:
STAGE OF DEVELOPMENT: Concept Stage
GOV LEVELS AFFECTED: None
REASON FOR ACTION:

To revise the transportation conformity rules to change citations of referenced Code of Federal Regulations.

SCOPE/NATURE/SUMMARY:

EPA is in the process of combining the transportation conformity rules contained in 40 CFR Part 51 with those contained in 40 CFR Part 93. This change will require amending the rules in Section 15A NCAC 2D .1500, Transportation Conformity, to change the citations of the referenced Code of Federal Regulations from the rules contained in 40 CFR Part 51 to those in 40 CFR Part 93. Some other minor changes may also have to be made to rules in this Section in order to incorporate the federal requirements for transportation conformity.

APA #: E2134

SUBJECT: Ocean Mining
RULE CITATION #: 15A NCAC 7M .1200; 7H .0106; 7H .0208(b)(11)
STATUTORY AUTHORITY: G.S. 113A-102; 113A-107; 113A-107(b); 113A-108; 113A-113(b); 113A-124
DIVISION/SECTION: COASTAL MANAGEMENT
DIVISION CONTACT: Kim Crawford
DIVISION CONTACT TEL#: (919)733-2293
DATE INITIATED: 12/2/96
DURATION OF RULE: Permanent
TYPE OF RULE:
STAGE OF DEVELOPMENT: Draft Rule Stage
GOV LEVELS AFFECTED: None
REASON FOR ACTION:

The CRC currently has no specific use standards for mining hard minerals in ocean waters. Offshore mining for phosphates and sand and gravel is a distinct possibility in the future as nearshore and land-based sources become depleted. There are studies underway by state and federal agencies to determine if there are suitable sources of sand offshore for beach renourishment. The general use standards for public trust AECs are not adequate to review a development proposal for offshore mining. In addition, the Mining Act does not cover areas less than an acre. Nor does the Division of Land Resources permit mining activities that are non-commercial.

SCOPE/NATURE/SUMMARY:

As written, this rule would provide a review of activities that would not fall under the purview of the Mining Act. The rule requires mitigation and restoration of affected areas, and protects critical habitat and resources, such as natural and artificial reefs, coral outcrops and shipwrecks.

The general policy for ocean mining clarifies that the state has an interest in mining activities in both state and federal waters, since mining activities beyond three miles have the potential to impact coastal resources. The policy further states that the usefulness, productivity and other values of the state's ocean waters shall be protected, foremost, and restored if there are impacts from mining activities.

Mining is defined to include areas that are not subject to review under the Mining Act. The proposed rule also specifies that dredging activities for the purposes of mining must meet the standards in the rule.

APA #: H6531

SUBJECT: Law and Rules for Sewage Treatment and Disposal Systems
RULE CITATION #: 15A NCAC 18A .1937, .1938, .1958, .1961
STATUTORY AUTHORITY: G.S. 130A-335(e),(f)
DIVISION/SECTION: ENVIRONMENTAL HEALTH/ONSITE WASTEWATER INSPECTIONS
DIVISION CONTACT: William Jeter
DIVISION CONTACT TEL#: (919)715-3274

DATE INITIATED: 10/31/96

DURATION OF RULE: Temporary 11/15/96

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

The proposed Temporary Rules are necessary because of amendments to G.S. 130-333 et seq., Wastewater Systems, enacted by the Legislature during the Short Sessions of 1996.

The principle amendments are 1) the addition of an Improvement Permit that is valid for five (5) years, 2) definitions of a plat and a site plan, 3) the redefinition of the period of validity for an authorization for wastewater system construction to be up to five (5) years, and 4) the addition of a subsection to allow for the withholding of funds to local health departments under certain conditions.

SCOPE/NATURE/SUMMARY:

Those portions of the rules for sewage treatment and disposal systems, 15A NCAC 18A 1900 et seq., that govern the permits required for the installation, operation, and repair of systems that discharge to the land's subsurface, 18A .1937, are proposed to be changed in order that they may accurately reflect the amendments, enacted by the Legislature during the 1996 Short Sessions. These proposed temporary rules were reviewed by representatives of the field personnel, supervisors, and directors of local health departments.

APA #: H6532

SUBJECT: Birth Defects Monitoring Program

RULE CITATION #: 15A NCAC 26C .0001- .0007

STATUTORY AUTHORITY: G.S.

DIVISION/SECTION: HEALTH AND ENVIRONMENTAL STATISTICS

DIVISION CONTACT: Jan Ellington

DIVISION CONTACT TEL#: (919)715-4402

DATE INITIATED: 10/31/96

DURATION OF RULE: Permanent 8/1/98

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

Senate Bill 818, which was ratified in the 1995 session of the General Assembly, amended Article 5 of Chapter 130A by adding Part 7, "Birth Defects". This new part establishes the Birth Defects Monitoring Program within the State Center for Health Statistics, and directs the Commission to adopt rules pertaining to the use of monitoring program information for scientific research.

SCOPE/NATURE/SUMMARY:

This rule covers the major components of the design and operation of the Birth Defects Monitoring Program. Because this legislation expands the scope of birth defects data collection activities to include hospital medical records, the scope of the proposed rule is broadened to cover monitoring program operations related to data access and collection, in addition to confidentiality issues. Specific areas addressed by this rule are: 1) required skills, training, and expertise of monitoring program staff; 2) development, composition, and functions of the Birth Defects Advisory Committee; 3) operational procedures, including case definition, data sources, and procedures for accessing and abstracting hospital medical records; 4) procedures for safeguarding confidentiality of monitoring program information; and 5) specific guidelines for the release of monitoring program information for scientific research.

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 19A - DEPARTMENT OF
TRANSPORTATION**

CHAPTER 3 - DIVISION OF MOTOR VEHICLES

Notice of Rule-making Proceedings is hereby given by the North Carolina Department of Transportation - Division of Motor Vehicles 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:
19A NCAC 031.0100 - .0800

Authority for the rule-making: G.S. 20-1; 20-39(b); 20-320 through 20-339

Statement of the Subject Matter: Rules set parameters for commercial driver training schools and provide information about the schools and driver training program.

Reason for Proposed Action: Proposed changes will correct grammatical errors and clarify information regarding commercial driver training schools.

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

**TITLE 26 - OFFICE OF ADMINISTRATIVE
HEARINGS**

CHAPTER 2 - RULES DIVISION

Notice of Rule-making Proceedings is hereby given by the Office of Administrative Hearings in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule 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:
26 NCAC 2C

Authority for the rule-making: G.S. 150B-21.17, 150B-21.19

Statement of the Subject Matter: Rules establish the requirements for submitting rules to be published in the Register and rules codified in the Code.

Reason for Proposed Action: Pursuant to Ratified House Bill 53, Sec. 8.5, of the 1996 Second Extra Session, the General Assembly appropriated funds for a comprehensive rules management system. This system will automate many functions in the OAH Rules Division and provide electronic access to these functions by the General Assembly, the Office of Administrative Hearings, and the Rules Review Commission. The new rules management system will require changes to existing publication rules and may require the adoption of additional rules in 26 NCAC 2C. With the implementation of the management system, it may be necessary for the new rules and the changes to existing rules be adopted as temporary rules.

Comment Procedures: Written comments should be mailed to: Anna Baird, Rule-making Coordinator, PO Drawer 27447, Raleigh, NC 27611-7447, or may be hand delivered to 424 N. Blount Street, Raleigh, NC.

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 1 - DEPARTMENT OF ADMINISTRATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Building Commission intends to adopt rules cited as 1 NCAC 30G .0101 - .0105. Notice of Rule-making Proceedings was published in the Register on May 15, 1996.

Proposed Effective Date: August 1, 1998

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 R. Glen Peterson, Department of Administration, 116 West Jones Street, Raleigh, NC 27603-8003. The demand must be received within 15 days of publication of this notice.

Reason for Proposed Action: These Rules are proposed to establish procedures and criteria by which the State Building Commission can evaluate requests to use alternative contracting methods in public construction, as authorized by the 1995 General Assembly.

Comment Procedures: Any interested person may submit written comments on the proposed rules to R. Glen Peterson, Department of Administration, 116 West Jones Street, Raleigh, NC 27603-8003. Comments must be received no later than 5:00 p.m. on February 3, 1997.

Fiscal Note: Rules 1 NCAC 30G .0101 - .0103 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. Rules 1 NCAC 30G .0104 - .0105 do affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 30 - STATE CONSTRUCTION OFFICE

SUBCHAPTER 30G - STATE BUILDING COMMISSION PROCEDURES AND CRITERIA FOR AUTHORIZATION TO USE AN ALTERNATIVE CONTRACTING METHOD

SECTION .0100 - GENERAL PROVISIONS

.0101 AUTHORITY

The State Building Commission, hereinafter referred to as SBC, is a statutory body, empowered by law to perform a multiplicity of duties with regard to the State's capital facilities development and management program. In the specific area of State capital improvement project requirements for building contracts, the SBC is empowered by G.S. 143-135.26 to adopt procedures which allows a State agency or institution, a local governmental unit, or any other entity subject to the provisions of G.S. 143-129 to use a method of contracting not authorized under G.S. 143-128. The use of any other alternative method shall be approved in advance by the SBC for any single project.

Authority G.S. 143-135.26.

.0102 POLICY

To assure that the public trust is carefully exercised, the North Carolina General Assembly has enacted a number of special procedures for the letting and administration of public construction contracts. They also help to assure that public owners receive good value in their expenditure of the public funds and that they do not pay excessive prices for construction. Therefore, it is the policy of the SBC that the public's interest is typically best served by the letting of public construction contracts pursuant to these special statutory procedures, particularly the provisions of G.S. 143-128. Nevertheless, the SBC recognizes that extraordinary circumstances do arise which justify an exemption from the methods of contracting authorized under G.S. 143-128. The categories of exemptions and other criteria set forth herein are designed to provide a fair and uniform means by which the SBC can determine that the requisite justifications to obtain an exemption have been adequately demonstrated.

Authority G.S. 143-135.26.

.0103 DEFINITIONS

For the purposes of these Procedures and Criteria, the following definitions shall apply:

- (1) "Alternative contracting method" includes by way of example, but not limited to:
 - (a) the single-prime contracting system, not otherwise authorized under G.S. 143-128,
 - (b) the design-build delivery system, or
 - (c) the construction management delivery system.
- (2) "Chairman" means the Chairman of the State Building Commission.
- (3) "Construction management delivery system" means

the alternative contracting method where the public owner contracts for a fee with a single person, but not the project general contractor, who administers contracts with separate contractors for the construction of the project and who is responsible as agent to the public owner for the coordination and management of the project, but where the public owner remains liable to the separate contractors.

- (4) "Design-build delivery system" means that the public owner contracts for a fee with a single person for the design, management and construction of a project.
- (5) "Director" means the Director of the State Construction Office.
- (6) "Exemption" means the grant of authorization by the SBC for the use of a method of contracting not otherwise authorized under G.S. 143-128.
- (7) "Person" means a person, firm or corporation.
- (8) "Project" means the building or facility for which an exemption is requested by the public owner, and upon which the work will be performed.
- (9) "Public owner" means a state agency or institution, a local government unit, or any other entity subject to the provisions of G.S. 143-129.
- (10) "SBC" means the State Building Commission.
- (11) "Work" means the erection, repair, construction, renovation or alteration to be performed upon a building or facility.

Authority G.S. 143-135.26.

.0104 GENERAL PROCEDURES

(a) Application Form - The SBC shall establish a form of application, along with a copy of the rules for application approved by the SBC, to be used by public owners requesting an exemption, which shall upon request be provided to public owners. A completed application shall contain all of the information necessary to enable the SBC to determine the appropriateness and merits of approving an exemption.

(b) Rules for Application - The SBC shall establish rules for application to be used by public owners requesting an exemption, which shall upon request be provided to public owners.

(c) Review of Application:

- (1) The public owner shall submit the application to the State Construction Office, Attention: Director, Department of Administration, New Education Building, Suite 450, 301 North Wilmington Street, Raleigh, North Carolina 27601-2827. The Director shall review the application upon its receipt. If the Director determines that the application is not complete, he shall return the application to the public owner along with a written notice of the reasons for the return. Despite the return of an application, a public

owner may request in writing to the Director that the SBC consider the application as originally submitted, and the notice of return to the public owner shall so state this option. An application shall be considered abandoned if it is returned pursuant to this Section, and no further action is taken by the public owner to satisfy the reasons for its return.

- (2) The SBC shall generally meet once per month to review applications and to conduct its other business. Completed applications shall be considered within 60 days of receipt by the Director of the completed application. Once scheduled for consideration by the SBC, the public owner shall be given notice of the date, time and location of the SBC meeting at which the application shall be considered.
- (3) The SBC shall only accept written applications. After due consideration of these applications, the SBC shall take one of the following actions:
 - (A) Delay consideration of the application;
 - (B) Deny the application; or
 - (C) Approve the application.Within five days of the SBC's action upon the application, notice of the same shall be sent to the public owner, and to the Director. Upon a delay of consideration pursuant to Paragraph (a) of this Rule, the SBC shall immediately request from the public owner or other person further information required in order to make a determination, or provide the public owner with notice of other good cause existing for the delay.

(d) Approval of an Application - Approval of an application authorizes the public owner to utilize only the alternative contracting method as proposed by the public owner and no other method of contracting. Approval of an application shall be effective for a period to be determined by the SBC but not exceeding 12 months, unless that effective time period is extended by the SBC upon good cause shown by the public owner. The extension of an effective time period shall be for no more than 12 months and shall run from the last day of the prior effective time period. The effective time period shall run from the date the SBC approves the application.

(e) Voting - The authorization for an alternative contracting method shall be approved by two-thirds of the members of the SBC present and voting. A member of the SBC is not qualified to vote upon any matter or influence any other member's vote upon any matter in which he has a conflict of interest. A conflict of interest, as related to members of the SBC, is defined in G.S. 143-135.28.

(f) Public Records - The Director shall maintain a list of applications which states the name of the public owner, the name of the project, the project amount, a brief description of the category for which the exemption is sought, and a record of the SBC's action. Applications, and a record of the

SBC's action upon those applications, shall be available for public inspection.

Authority G.S. 143-135.26.

.0105 CRITERIA FOR CONSIDERATION

(a) General Considerations - Applications shall be subject to the following general considerations which the SBC shall utilize in reviewing all applications:

- (1) Whether the public owner has adequately justified that the requested exemption is applicable to the project.
- (2) Whether under the circumstances presented the project can be reasonably completed under the methods authorized under G.S. 143-128, and if not, whether the public owner has adequately demonstrated that the proposed alternative contracting method is necessary.
- (3) Whether the exemption sought is appropriate and in the public's interest.
- (4) Whether the public owner has been responsible in the pre-planning stages of the project.

(b) Criteria for Exemptions - The following criteria describe circumstances where the SBC recognizes that a project may not be able to be reasonably completed under the methods authorized by G.S. 143-128, and where the use of an alternative contracting system, not otherwise authorized by G.S. 143-128, may be appropriate and in the public's interest:

- (1) Special Technology or Equipment - The project involves the erection or construction of special or unique technology or equipment whose vendor requires that its services be purchased in conjunction with the technology or equipment; or the vendor guarantees the technology or equipment only if its services are purchased in conjunction with the technology or equipment.
- (2) Unusual Complexity - The project involves one or more of the following conditions:
 - (A) very specialized or complex type of construction involving unconventional construction techniques or materials, or unusual working conditions;
 - (B) major renovations or an addition to an existing facility requiring continuous coordination of occupied programs or operations necessary for the protection of public health or safety; or
 - (C) extensive repairs, renovations or an addition to a major building or facility listed either in the North Carolina or Federal Register of Historic Properties.
- (3) Accelerated Schedule - A fast track schedule is required due to actual or impending judicial intervention by means of a State or Federal court order, or to address actual or impending regulatory

mandates or citation for noncompliance.

Authority G.S. 143-135.26.

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Insurance intends to adopt rules cited as 11 NCAC 8 .1001 - .1011, .1101 - .1116, .1201 - .1209. Notice of Rule-making Proceedings was published in the Register on November 1, 1996.

Proposed Effective Date: July 1, 1998

A Public Hearing will be conducted at 9:00 a.m. on January 17, 1997 at N.C. Department of Insurance, 410 N. Boylan Avenue, Raleigh, NC 27603.

Reason for Proposed Action: To establish licensing procedures, standards of practice, and a code of ethics for home inspectors as required by law.

Comment Procedures: Written comments may be sent to Grover Sawyer, Department of Insurance, PO Box 26387, Raleigh, NC 27611.

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

CHAPTER 8 - ENGINEERING AND BUILDING CODES DIVISION

SECTION .1000 - NC HOME INSPECTOR LICENSURE BOARD

.1001 OFFICERS

The term of each officer shall be one year. Officers shall serve until a successor is elected and installed. Officers shall be eligible for re-election.

Authority G.S. 143-151.48(a).

.1002 MEETINGS

(a) Regular Meetings. The date, time, and location of the Board meetings shall be listed with the Secretary of State's office. The chairman shall give written notice of the exact meeting place to each member no later than two weeks before the meeting. The chairman may reschedule a regular meeting by giving written notice to all members no later than two weeks before when the scheduled meeting would normally be held.

(b) Special Meetings. Written notice of any special meetings shall be given to all members of the Board at least two weeks before the time of the meeting, setting forth the

time, date, and place of the meeting and the purpose for which it shall be held. In the event of an emergency, the notice period may be shortened as long as every member is notified before the meeting.

Authority G.S. 143-151.48(b).

.1003 PERSONS AND PRACTICES NOT AFFECTED

(a) In addition to persons and practices described in G.S. 143-151.62, persons who perform inspections on a single component of a house are not required to be licensed as long as they do not represent themselves as home inspectors. Such persons include chimney sweeps, radon inspectors, heating and cooling maintenance technicians, and moisture intrusion inspectors.

(b) Professional engineers and architects do not need home inspector licenses to make on site inspections of residential buildings for which they are preparing plans, designs, or specifications. General contractors do not need home inspector licenses when they inspect a house as part of preparing an estimate for construction, remodeling, or repairs.

Authority G.S. 143-151.49(a)(13).

.1004 EQUIVALENT EXPERIENCE

(a) The Board shall consider equivalent experience of applicants who do not meet the experience requirements of G.S. 143-151.51(5) or G.S. 143-151.61. Any one of the following descriptions of experience is considered sufficient to meet the equivalent experience requirements:

- (1) A bachelor of science degree from any accredited engineering, architecture or building technology school and two years experience working in building design, construction, or inspection of building, electrical, mechanical, and plumbing systems.
- (2) A two year Associate of Applied Science degree from an accredited community college or technical school in building technology, civil engineering, electrical engineering, mechanical engineering, or architecture; and either four years of design experience in building, electrical, mechanical, and plumbing systems, or four years experience as an employee under the direct supervision of a licensed general (residential or building) contractor who supervises electrical, mechanical, and plumbing subcontractors.
- (3) Six years experience as an employee under the direct supervision of a licensed general contractor (residential or building) performing building construction and who supervises electrical, mechanical, and plumbing subcontractors.
- (4) Certification by the North Carolina Code Officials Qualification Board as a Code Enforcement

Official with Standard Level I (or higher) inspection certification in four areas: building, electrical, mechanical, and plumbing.

- (5) Any combination of certification listed in Paragraph (a)(4) of this Rule and a license as an electrical contractor (limited or greater) issued by the NC Board of Electrical Examiners, or a license as a heating or cooling contractor (H1, H2, or H3), or a plumbing contractor issued by the NC Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors, resulting in either a certificate or a license in four areas in building, electrical, mechanical, and plumbing contracting or inspections.

- (6) For the purpose of G.S. 143-151.51(5)a, the number of completed home inspections for compensation before October 1, 1996, as a home inspector may be included.

(b) Applicants may submit other experience in the design, installation, or inspection of buildings and electrical, mechanical, and plumbing systems. The Board's Application Evaluation Committee shall consider such experience on a case-by-case basis.

(c) Graduation in a home inspection course from a training institute or correspondence school is not sufficient to meet the equivalent experience alone. However, such courses should be listed along with other experience.

Authority G.S. 143-151.49(a)(13); 143-151.51(5)b.

.1005 RECIPROCITY

If an applicant is licensed as a home inspector in another state that has laws and rules that are similar to Article 9F of G.S. 143 and to the rules of the Board, the Board shall accept that license as evidence of experience. However, the applicant shall satisfactorily complete the Board's written examination and other licensing requirements before the Board shall issue the applicant a license.

Authority G.S. 143-151.49(a)(13).

.1006 NET ASSETS OR SURETY BOND

To be licensed as a home inspector, an applicant shall provide proof to the Board that he or she has personal net assets of five thousand dollars (\$5,000) or more. In the alternative, the applicant shall provide the Board with a cash bond or a surety bond in the amount of five thousand dollars (\$5,000) or more. Any surety bond shall be written by a surety company that is authorized by the Commissioner of Insurance to do business in this State.

Authority G.S. 143-151.49(a)(13); 143-151.51(3).

.1007 EXAMINATION

An applicant must satisfactorily pass an examination administered by the Board. The examination shall be

administered at least twice each year. The applicant must answer 70% of the questions correctly to receive a passing grade. The examination shall include questions about the rules of the Board, Article 9F of G.S. 143, inspections of the building structures and their components, and electrical, mechanical, and plumbing systems and appliances.

Authority G.S. 143-151.49(a)(13); 143-151.51(2).

.1008 APPLICATIONS FOR LICENSES

Persons may obtain license applications from the Board after they pay the appropriate fee. Applicants shall return a completed application form and any supporting documentation to the Board at least 30 days before the next scheduled examination. The Board shall notify applicants of the times, dates, and locations of examinations. If available space is not sufficient for the number of applicants, additional examinations shall be scheduled.

Authority G.S. 143-151.49(a)(13); 143-151.51.

.1009 DISPLAY OF LICENSE

Home inspectors shall display their licenses at their places of business. If a home inspector works out of his or her home, the inspector shall keep the license on file in the home.

Authority G.S. 143-151.49(a)(13); 143-151.54.

.1010 APPEALS

The initial evaluations of license applications shall be made by the Board's staff. Any applicant wishing to appeal the staff's decision may make a written request for a review to the Board's Application Evaluation Committee. The applicant may request a hearing if aggrieved by the Committee's decision.

Authority G.S. 143-151.49(a)(13); 143-151.56(b).

.1011 FEE SCHEDULE

(a) The following fees apply to the licensure of home inspectors:

Application for Home Inspector License	\$25.00
Application for Associate Home Inspector License	\$15.00
Home Inspector Examination	\$75.00
Associate Home Inspector Examination	\$75.00
Initial Issuance of Home Inspector License	\$150.00
Initial Issuance of Associate Home Inspector License	\$100.00
Annual Renewal of Home Inspector License	\$150.00
Annual Renewal of Associate Home Inspector License	\$100.00
Late Renewal Penalty Fee - Home	

Inspector License	\$25.00
Late Renewal Penalty Fee - Associate	
Home Inspector License	\$15.00
Copies of Board Rules and License Standards	\$5.00

(b) The home inspector and the associate home inspector initial issuance license fees are due after successful completion of the examination. The Board shall not issue a license until it receives the appropriate fee. The license shall be valid from the date of issue until the following September 30.

(c) An applicant who fails the examination may reapply for another examination without payment of another application fee. However, the applicant shall pay the examination fee for the examination.

Authority G.S. 143-151.49(a)(13); 143-151.55; 143-151.57.

SECTION .1100 - NC HOME INSPECTOR STANDARDS OF PRACTICE AND CODE OF ETHICS

.1101 DEFINITIONS

The following definitions apply to this Section:

- (1) "Automatic safety controls" means devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel leaks, fire, freezing, or other unsafe conditions.
- (2) "Central air conditioning" means a system that uses ducts to distribute cooled and/or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.
- (3) "Component" means a readily accessible and observable aspect of a system, such as a floor, or wall, but not individual pieces such as boards or nails where many similar pieces make up the component.
- (4) "Cross connection" means any physical connection or arrangement between potable water and any source of contamination.
- (5) "Dangerous or adverse situations" means situations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment.
- (6) "Describe" means report in writing a system or component by its type, or other observed characteristics, to distinguish it from other components used for the same purpose.
- (7) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means and that would not be dismantled by a homeowner in

- the course of normal household maintenance.
- (8) "Enter" means to go into an area to observe all visible components.
 - (9) "Functional drainage" means a drain is functional when it empties in a reasonable amount of time and does not overflow when another fixture is drained simultaneously.
 - (10) "Functional flow" means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.
 - (11) "Installed" means attached or connected such that the installed item requires tools for removal.
 - (12) "Normal operating controls" means homeowner operated devices such as a thermostat, wall switch, or safety switch.
 - (13) "Observe" means the act of making a visual examination.
 - (14) "On-site water supply quality" means water quality is based on the bacterial, chemical, mineral, and solids content of the water.
 - (15) "On-site water supply quantity" means water quantity is the rate of flow of water.
 - (16) "Operate" means to cause systems or equipment to function.
 - (17) "Readily openable access panel" means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted in place. This definition is limited to those panels within normal reach or from a four-foot stepladder, and that are not blocked by stored items, furniture, or building components.
 - (18) "Representative number" means for multiple identical components such as windows and electrical outlets - one such component per room. For multiple identical exterior components - one such component on each side of the building.
 - (19) "Roof drainage systems" means gutters, downspouts, leaders, splashblocks, and similar components used to carry water off a roof and away from a building.
 - (20) "Shut down" means a piece of equipment or a system is shut down when it cannot be operated by the device or control that a home owner should normally use to operate it. If its safety switch or circuit breaker is in the "off" position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.
 - (21) "Solid fuel heating device" means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, woodstoves (room heaters), central

- furnaces, and combinations of these devices.
- (22) "Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).
- (23) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.
- (24) "Technically exhaustive" means an inspection involving the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.
- (25) "Underfloor crawl space" means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.

Authority G.S. 143-151.49(a)(2); 143-151.49(a)(13).

.1102 STANDARDS OF PRACTICE

This Section sets forth the minimum standards of practice required of licensed home inspectors and licensed associate home inspectors. In this Section, the term "home inspectors" means both licensed home inspectors and licensed associate home inspectors.

Authority G.S. 143-151.49(a)(2); 143-151.49(a)(13).

.1103 PURPOSE AND SCOPE

(a) Home inspections performed according to this Section shall provide the client with a better understanding of the property conditions, as observed at the time of the home inspection.

(b) Home inspectors shall:

- (1) Provide a written, signed contract that shall:
 - (A) State that the home inspection is in accordance with this Section of the North Carolina Home Inspector Licensure Board;
 - (B) Describe what services shall be provided and their cost; and
 - (C) State, when an inspection is for only one or a limited number of systems or components, that the inspection is limited to only those systems or components;
- (2) Observe readily visible and accessible installed systems and components listed in this Section; and
- (3) Submit a written report to the client that shall:
 - (A) Describe those systems and components specified to be described in Rules .1106 through .1115 of this Section;
 - (B) State which systems and components designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting;

(C) State any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling; and

(D) State the name, license number, and signature of the person supervising the inspection and the name, license number, and signature of the person conducting the inspection.

(c) This Section does not limit home inspectors from:

- (1) Reporting observations and conditions or rendering opinions of items in addition to those required in Paragraph (b) of this Rule; or
- (2) Excluding systems and components from the inspection if requested by the client, and so stated in the written contract.

Authority G.S. 143-151.49(a)(13).

.1104 GENERAL LIMITATIONS

(a) Inspections done in accordance with this Section are visual and are not technically exhaustive.

(b) This Section applies to buildings with four or less dwelling units, and individually owned residential units within multi-family buildings, and their attached garages or carports.

Authority G.S. 143-151.49(a)(13).

.1105 GENERAL EXCLUSIONS

(a) Home inspectors are not required to report on:

- (1) Life expectancy of any component or system;
- (2) The causes of the need for a repair;
- (3) The methods, materials, and costs of corrections;
- (4) The suitability of the property for any specialized use;
- (5) Compliance or non-compliance with codes, ordinances, statutes, regulatory requirements or restrictions;
- (6) The market value of the property or its marketability;
- (7) The advisability or inadvisability of purchase of the property;
- (8) Any component or system that was not observed;
- (9) The presence or absence of pests such as wood damaging organisms, rodents, or insects; or
- (10) Cosmetic items, underground items, or items not permanently installed.

(b) Home inspectors are not required to:

- (1) Offer or perform any act or service contrary to law;
- (2) Offer warranties or guarantees of any kind;
- (3) Offer or perform engineering, architectural, plumbing, electrical or any other job function requiring an occupational license in the jurisdiction

where the inspection is taking place, unless the home inspector holds a valid occupational license, in which case the home inspector may inform the client that the home inspector is so licensed, and is therefore qualified to go beyond this Section and perform additional inspections beyond those within the scope of the basic inspection;

- (4) Calculate the strength, adequacy, or efficiency of any system or component;
- (5) Enter any area or perform any procedure that may damage the property or its components or be dangerous to the home inspector or other persons;
- (6) Operate any system or component that is shut down or otherwise inoperable;
- (7) Operate any system or component that does not respond to normal operating controls;
- (8) Disturb insulation, move personal items, panels, furniture, equipment, plant life, soil, snow, ice, or debris that obstructs access or visibility;
- (9) Determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including but not limited to toxins, carcinogens, noise, contaminants in the building or in soil, water, and air;
- (10) Determine the effectiveness of any system installed to control or remove suspected hazardous substances;
- (11) Predict future condition, including but not limited to failure of components;
- (12) Project operating costs of components;
- (13) Evaluate acoustical characteristics of any system or component; or
- (14) Observe special equipment or accessories that are not listed as components to be observed in this Section.

Authority G.S. 143-151.49(a)(13).

.1106 STRUCTURAL COMPONENTS

(a) The home inspector shall observe structural components including:

- (1) Foundation;
- (2) Floors;
- (3) Walls;
- (4) Columns or piers;
- (5) Ceilings; and
- (6) Roofs.

(b) The home inspector shall describe the type of:

- (1) Foundation;
- (2) Floor structure;
- (3) Wall structure;
- (4) Columns or piers;
- (5) Ceiling structure; and
- (6) Roof structure.

(c) The home inspector shall:

- (1) Probe structural components where deterioration is

suspected, except where probing would damage any surface;

- (2) Enter underfloor crawl spaces, basements, and attic spaces except when access is obstructed, when entry could damage the property, or when dangerous or adverse situations are suspected;
- (3) Report the methods used to observe underfloor crawl spaces and attics; and
- (4) Report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components.

Authority G.S. 143-151.49(a)(13).

.1107 EXTERIOR

(a) The home inspector shall observe:

- (1) Wall cladding, flashings, and trim;
- (2) Entryway doors and a representative number of windows;
- (3) Garage door operators;
- (4) Decks, balconies, stoops, steps, areaways, porches and applicable railings;
- (5) Eaves, soffits, and fascias; and
- (6) Vegetation, grading, drainage, driveways, patios, walkways, and retaining walls with respect to their effect on the condition of the building.

(b) The home inspector shall:

- (1) Describe wall cladding materials;
- (2) Operate all entryway doors and a representative number of windows;
- (3) Operate garage doors manually or by using permanently installed controls for any garage door operator; and
- (4) Report whether or not any garage door operator will automatically reverse or stop when meeting reasonable resistance during closing.

(c) The home inspector is not required to observe:

- (1) Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories;
- (2) Fences;
- (3) Presence of safety glazing in doors and windows;
- (4) Garage door operator remote control transmitters;
- (5) Geological conditions;
- (6) Soil conditions;
- (7) Recreational facilities (including spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other exercise, entertainment, or athletic facilities);
- (8) Detached buildings or structures; or
- (9) Presence or condition of buried fuel storage tanks.

Authority G.S. 143-151.49(a)(13).

.1108 ROOFING

(a) The home inspector shall observe:

- (1) Roof coverings;

(2) Roof drainage systems;

(3) Flashings;

(4) Skylights, chimneys, and roof penetrations; and

(5) Signs of leaks or abnormal condensation on building components.

(b) The home inspector shall:

(1) Describe the type of roof covering materials; and

(2) Report the methods used to observe the roofing.

(c) The home inspector is not required to:

(1) Walk on the roofing; or

(2) Observe attached accessories including but not limited to solar systems, antennae, and lightning arrestors.

Authority G.S. 143-151.49(a)(13).

.1109 PLUMBING

(a) The home inspector shall observe:

(1) Interior water supply and distribution system, including: piping materials, supports, and insulation; fixtures and faucets; functional flow; leaks; and cross connections;

(2) Interior drain, waste, and vent system, including: traps; drain, waste, and vent piping; piping supports and pipe insulation; leaks; and functional drainage;

(3) Hot water systems including: water heating equipment; normal operating controls; automatic safety controls; and chimneys, flues, and vents;

(4) Fuel storage and distribution systems including: interior fuel storage equipment, supply piping, venting, and supports; leaks; and

(5) Sump pumps.

(b) The home inspector shall describe:

(1) Water supply and distribution piping materials;

(2) Drain, waste, and vent piping materials;

(3) Water heating equipment; and

(4) Location of main water supply shutoff device.

(c) The home inspector shall operate all plumbing fixtures, including their faucets and all exterior faucets attached to the house, except where the flow end of the faucet is connected to an appliance.

(d) The home inspector is not required to:

(1) State the effectiveness of anti-siphon devices;

(2) Determine whether water supply and waste disposal systems are public or private;

(3) Operate automatic safety controls;

(4) Operate any valve except water closet flush valves, fixture faucets, and hose faucets;

(5) Observe:

(A) Water conditioning systems;

(B) Fire and lawn sprinkler systems;

(C) On-site water supply quantity and quality;

(D) On-site waste disposal systems;

(E) Foundation irrigation systems;

(F) Spas, except as to functional flow and

functional drainage;

(G) Swimming pools;

(H) Solar water heating equipment; or

- (6) Observe the system for proper sizing, design, or use of proper materials.

Authority G.S. 143-151.49(a)(13).

.1110 ELECTRICAL

(a) The home inspector shall observe:

- (1) Service entrance conductors;
- (2) Service equipment, grounding equipment, main overcurrent device, and main and distribution panels;
- (3) Amperage and voltage ratings of the service;
- (4) Branch circuit conductors, their overcurrent devices, and the compatibility of their ampacities and voltages;
- (5) The operation of a representative number of installed ceiling fans, lighting fixtures, switches and receptacles located inside the house, garage, and on the dwelling's exterior walls;
- (6) The polarity and grounding of all receptacles within six feet of interior plumbing fixtures, and all receptacles in the garage or carport, and on the exterior of inspected structures;
- (7) The operation of ground fault circuit interrupters; and
- (8) Smoke detectors.

(b) The home inspector shall describe:

- (1) Service amperage and voltage;
- (2) Service entry conductor materials;
- (3) Service type as being overhead or underground; and
- (4) Location of main and distribution panels.

(c) The home inspector shall report any observed aluminum branch circuit wiring.

(d) The home inspector shall report on presence or absence of smoke detectors, and operate their test function, if accessible, except when detectors are part of a central system.

(e) The home inspector is not required to:

- (1) Insert any tool, probe, or testing device inside the panels;
- (2) Test or operate any overcurrent device except ground fault circuit interrupters;
- (3) Dismantle any electrical device or control other than to remove the covers of the main and auxiliary distribution panels; or
- (4) Observe:
 - (A) Low voltage systems;
 - (B) Security system devices, heat detectors, or carbon monoxide detectors;
 - (C) Telephone, security, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution system; or

(D) Built-in vacuum equipment.

Authority G.S. 143-151.49(a)(13).

.1111 HEATING

(a) The home inspector shall observe permanently installed heating systems including:

- (1) Heating equipment;
- (2) Normal operating controls;
- (3) Automatic safety controls;
- (4) Chimneys, flues, and vents, where readily visible;
- (5) Solid fuel heating devices;
- (6) Heat distribution systems including fans, pumps, ducts and piping, with supports, insulation, air filters, registers, radiators, fan coil units, convectors; and
- (7) The presence of an installed heat source in each room.

(b) The home inspector shall describe:

- (1) Energy source; and
- (2) Heating equipment and distribution type.

(c) The home inspector shall operate the systems using normal operating controls.

(d) The home inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.

(e) The home inspector is not required to:

- (1) Operate heating systems when weather conditions or other circumstances may cause equipment damage;
- (2) Operate automatic safety controls;
- (3) Ignite or extinguish solid fuel fires; or
- (4) Observe:
 - (A) The interior of flues;
 - (B) Fireplace insert flue connections;
 - (C) Humidifiers;
 - (D) Electronic air filters; or
 - (E) The uniformity or adequacy of heat supply to the various rooms.

Authority G.S. 143-151.49(a)(13).

.1112 CENTRAL AIR CONDITIONING

(a) The home inspector shall observe:

- (1) Central air conditioning systems including:
 - (A) Cooling and air handling equipment; and
 - (B) Normal operating controls.
- (2) Distribution systems including:
 - (A) Fans, pumps, ducts and piping, with associated supports, dampers, insulation, air filters, registers, fan-coil units; and
 - (B) The presence of an installed cooling source in each room.

(b) The home inspector shall describe:

- (1) Energy sources; and
- (2) Cooling equipment type.

(c) The home inspector shall operate the systems using normal operating controls.

(d) The home inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.

(e) The home inspector is not required to:

- (1) Operate cooling systems when weather conditions or other circumstances may cause equipment damage;
- (2) Observe non-central air conditioners; or
- (3) Observe the uniformity or adequacy of cool-air supply to the various rooms.

Authority G.S. 143-151.49(a)(13).

.1113 INTERIORS

(a) The home inspector shall observe:

- (1) Walls, ceiling, and floors;
- (2) Steps, stairways, balconies, and railings;
- (3) Counters and a representative number of cabinets; and
- (4) A representative number of doors and windows.

(b) The home inspector shall:

- (1) Operate a representative number of windows and interior doors; and
- (2) Report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components.

(c) The home inspector is not required to observe:

- (1) Paint, wallpaper, and other finish treatments on the interior walls, ceilings, and floors;
- (2) Carpeting; or
- (3) Draperies, blinds, or other window treatments.

Authority G.S. 143-151.49(a)(13).

.1114 INSULATION AND VENTILATION

(a) The home inspector shall observe:

- (1) Insulation and vapor retarders in unfinished spaces;
- (2) Ventilation of attics and foundation areas;
- (3) Kitchen, bathroom, and laundry venting systems; and
- (4) The operation of any readily accessible attic ventilation fan, and, when temperature permits, the operation of any readily accessible thermostatic control.

(b) The home inspector shall describe:

- (1) Insulation in unfinished spaces; and
- (2) Absence of insulation in unfinished space at conditioned surfaces.

(c) The home inspector is not required to report on:

- (1) Concealed insulation and vapor retarders; or
- (2) Venting equipment that is integral with household appliances.

Authority G.S. 143-151.49(a)(13).

.1115 BUILT-IN KITCHEN APPLIANCES

(a) The home inspector shall observe and operate the basic functions of the following kitchen appliances:

- (1) Permanently installed dishwasher, through its normal cycle;
- (2) Range, cook top, and permanently installed oven;
- (3) Trash compactor;
- (4) Garbage disposal;
- (5) Ventilation equipment or range hood; and
- (6) Permanently installed microwave oven.

(b) The home inspector is not required to observe:

- (1) Clocks, timers, self-cleaning oven function, or thermostats for calibration or automatic operation;
- (2) Non built-in appliances; or
- (3) Refrigeration units.

(c) The home inspector is not required to operate:

- (1) Appliances in use; or
- (2) Any appliance that is shut down or otherwise inoperable.

Authority G.S. 143-151.49(a)(13).

.1116 CODE OF ETHICS

(a) Licensees shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.

(b) Opinions expressed by licensees shall only be based on their education, experience, and honest convictions.

(c) A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's designated representative.

(d) No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.

(e) No licensee shall accept or offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible.

(f) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.

(g) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be called upon to perform.

(h) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.

Authority G.S. 143-151.49(a)(13).

SECTION .1200 - DISCIPLINARY ACTIONS

.1201 DEFINITIONS

The following definitions are used in this Section:

- (1) The definitions in G.S. 143-151.45 are incorporated into this Section by reference. "Associate home inspector" is included where reference is made to "home inspector" or "licensee".
- (2) "File or filing" means to place the paper or item to be filed into the care and custody of the presiding officer, and acceptance thereof by him, except that the Board may permit the papers to be filed with the Board, in which event the Board shall note thereon the filing date. All documents filed with the presiding officer or the Board, except exhibits, shall be duplicate in letter size 8 1/2" by 11".
- (3) "Party" means the Board, the licensee, or an intervenor who qualifies under G.S. 150B-38(f). "Party" does not include a complainant unless the complainant is allowed to intervene under G.S. 150B-38(f).
- (4) "Service or serve" means personal delivery or, unless otherwise provided by law or rule, delivery by first class United States Postal Service mail or a licensed overnight express mail service, addressed to the person to be served at his or her last known address. A Certificate of Service by the person making the service shall be appended to every document requiring service under these Rules. Service by mail or licensed overnight express mail is complete upon addressing, enveloping, and placing the item to be served, in an official depository of the United States Postal Service or delivering the item to an agent of an overnight express mail service.

Authority G.S. 143-151.49(a)(13); 150B-38(h).

.1202 COMPLAINTS

(a) Anyone who believes that a licensee is or has been engaged in any conduct set out in G.S. 143-151.56(a) may file a written complaint against that licensee. The Board may, upon its own motion, initiate an investigation of a licensee.

(b) An information memo containing instructions for filing the complaint shall be mailed to anyone requesting complaint information from the Board. A copy of the Board's statutes and rules shall also be sent.

(c) The complaint shall specifically identify the licensee and describe the conduct complained about.

(d) Supporting information shall be included to justify the complaint. Supporting information shall refer to specific violations of the Board's rules or of the General Statutes. If the complaint involves items included in the Standards of Practice that the licensee did not observe, a list of those items

must be submitted with the complaint. Such information may be provided by the complainant, an architect, professional engineer, licensed contractor, another licensed inspector, or other person with knowledge of the Standards of Practice. A copy of the contract agreement, the inspection report, and any reports made by other consultants shall be included with the complaint.

(e) The complaint shall be in writing, signed by the complainant, and dated. The complaint shall include the complainant's mailing address and a daytime phone number at which the complainant may be reached. The street address of the structure must be included.

(f) The Board shall not consider services that are under the jurisdiction of other regulatory agencies or licensing boards, such as, termite inspections, appraisals, services rendered by licensed architects, engineers, or general contractors, unless the persons rendering those services hold themselves out to be home inspectors.

(g) The Board has no jurisdiction over persons who make specialized inspections as part of their repair or maintenance businesses, such as, roofing repair contractors, chimney sweeps, duct cleaning, and interior environment specialists.

Authority G.S. 143-151.49(a)(13); 150B-38(h).

.1203 BOARD STAFF

The Engineering Division of the Department of Insurance shall not conduct any building, electrical, mechanical, or plumbing inspection of any structure that is the subject of a complaint against an inspector. The Engineering Division shall verify whether the allegations listed in complaints are violations of the Standards of Practice, Code of Ethics, or of the General Statutes.

Authority G.S. 143-151.49(a)(13); 150B-38(h).

.1204 INVESTIGATION

(a) On receipt of a complaint conforming to this Section, the Engineering Division shall make an investigation of the charges and issue a report. The report shall address each item alleged to be a violation of these Rules or of the General Statutes.

(b) A copy of the complaint shall be mailed to the home inspector. The inspector shall submit a written response to the Engineering Division within two weeks after receipt of the copy of the complaint.

(c) A copy of the report shall be mailed to the complainant and to the inspector. The report shall be presented to the Board at its next regularly scheduled meeting.

(d) The report shall state that the complaint either has or lacks sufficient evidence to support the allegations in the complaint.

(e) If the report states that the allegations lack sufficient evidence, the Engineering Division shall:

- (1) Advise the complainant in writing that the evidence was insufficient to support the allegations

in the complaint.

- (2) Advise the complainant that the complaint may be reviewed by a committee of Board members appointed by the Chairman to determine whether the finding of the Engineering Division is correct.
- (3) Advise the complainant that the complainant must make a written request for the review and must state in the request the reasons why the complainant is of the opinion the Engineering Division's determination is incorrect.
- (4) If the complainant makes a written request for review by a committee of Board members, the chairman shall appoint the committee. The committee shall review the report and the complainant's documentation. If the committee finds that the allegations are unsupported by the evidence, the Engineering Division shall advise the complainant in writing that the committee has concurred with the Engineering Division's conclusion that the complaint lacks sufficient evidence to support the allegations in the complaint.

Authority G.S. 143-151.49(a)(13); 150B-38(h).

.1205 DISCIPLINARY HEARING

If there are findings in the report or by the review committee that there is sufficient evidence to support the allegations in the complaint, the Board shall fix a time and place for a disciplinary hearing and give notice to the licensee. The disciplinary hearing shall be held in accordance with G.S. 150B, Article 3A and this Section.

Authority G.S. 143-151.49(a)(13); 150B-38(h).

.1206 PRESIDING OFFICER

In all contested case hearings before the Board, the Chairman of the Board shall serve as presiding officer. In the absence of the Chairman, the Vice-Chairman shall serve as presiding officer, or a presiding officer shall be elected by the Board.

Authority G.S. 143-151.49(a)(13); 150B-38(h).

.1207 PREHEARING CONFERENCE

Upon the request of any party or upon the presiding officer's own motion, the presiding officer may hold a prehearing conference before a contested case hearing. A prehearing conference on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an order by the presiding officer. Venue for purposes of a prehearing conference shall be determined in accordance with G.S. 150B-38(e).

Authority G.S. 143-151.49(a)(13); 150B-38(h).

.1208 CONSENT AGREEMENT

(a) The Board's staff and the home inspector may attempt to resolve the complaint by means of a consent agreement. Such consent agreement may impose upon the licensee a penalty, or penalties, including the following: requiring the licensee to take training or educational courses, probation, letter of reprimand, suspension of license, or revocation of license.

(b) The proposed consent agreement shall then be presented to the Board at the next meeting. The Board can either accept the consent agreement as written, modify the consent agreement and send it back to the licensee for agreement, or reject the consent agreement.

Authority G.S. 143-151.49(a)(13); 150B-38(h).

.1209 FINAL BOARD ORDER

(a) After the close of a contested case hearing, the Board shall meet and determine if the licensee engaged in the conduct alleged and the appropriate penalty, including requiring the licensee to take training or education courses, probation, letter of reprimand, or license suspension or revocation.

(b) If a final Board order is to suspend, revoke, place on probation, or refuse to issue a certificate, the order shall set forth any conditions that must be met in order to remove the suspension or probation, to reissue the license, or to issue the license.

(c) Contested case hearings shall be recorded either by a recording system or a professional court reporter using stenomask or stenotype.

(d) Transcript costs incurred by the Board shall be paid by the party or parties requesting a transcript. Any other costs incurred by the Board when using a professional court reporter shall be paid by the requesting party or parties.

(e) A 24-hour cancellation notice is required in all cases. The party or parties responsible for the cancellation shall be responsible for any cancellation fees charged by a professional court reporter.

(f) Transcripts of proceedings during which oral evidence is presented shall be made only upon request of a party. Transcript costs shall include the cost of an original for the Board. An attorney requesting a transcript on behalf of a party is a guarantor of payment of the cost. Cost shall be determined under supervision of the presiding officer who, in cases deemed to be appropriate by him, may require an advance security deposit to cover the prospective cost. The security deposit shall be applied to the actual cost and any excess shall be returned to the party that submitted it.

(g) Copies of tapes are available upon written request at cost of reproduction and postage.

(h) Copies of Board hearings tapes or non-Board certified transcripts therefrom are not part of the official record.

Authority G.S. 143-151.49(a)(13); 150B-38(h).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Insurance intends to amend rules cited as 11 NCAC 10 .0602 - .0603; and adopt rule cited as 11 NCAC 10 .0606. Notice of Rule-making Proceedings was published in the Register on November 1, 1996.

Proposed Effective Date: July 1, 1998

A Public Hearing will be conducted at 10:30 a.m. on January 21, 1997 at N.C. Department of Insurance, 430 N. Salisbury Street, 3rd Floor Hearing Room, Dobbs Building, Raleigh, NC 27611.

Reason for Proposed Action:

11 NCAC 10 .0602 - .0603 - To amend existing rules to comport with new law.

11 NCAC 10 .0606 - To adopt rule to comport with new law.

Comment Procedures: Written comments may be sent to Charles Swindell, Department of Insurance, PO Box 26387, Raleigh, NC 27611.

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

**CHAPTER 10 - PROPERTY AND CASUALTY
DIVISION**

SECTION .0600 - CONSENT TO RATE

**.0602 CONSENT TO RATE PROCEDURES: RATE
BUREAU COVERAGES**

(a) An initial (first time) application to effect consent to rate on a specific risk of coverage subject to Article 36 of General Statute Chapter 58, in excess of the rate promulgated by the North Carolina Rate Bureau, shall include, but not be limited to, contain the following:

- (1) a description of the insurance proposed, including primary and excess limits, the amount of coverage, the property insured, the deductible deductible, and any other factor used for rating, where applicable;
- (2) the rate and premium that would be charged without application of consent to rate;
- (3) the proposed rate and premium;
- (4) the percent increase. The rate to be charged will shall be presumed reasonable if it does not exceed 250 percent of the rate that would be charged without application of consent to rate. Any proposed rate in excess of 250 percent must be

explained fully and is subject to review and approval of the Commissioner ~~commissioner~~ pursuant to G.S. 58-36-30(b). (This is not required for and does not apply to nonfleet private passenger motor vehicle physical damage insurance);

- (5) a statement that the rate charged does not exceed the rate that would be applicable if the applicant had been charged 550 percent of the rate with no Safe Driver Incentive Plan points. Any proposed rate in excess of 550 percent must be explained fully, submitted individually, and is subject to review and approval of the Commissioner ~~commissioner~~ pursuant to G.S. 58-36-30(b). (This is required for nonfleet private passenger motor vehicle physical damage insurance only);
- (6) the names and addresses of the insurer, the writing agent, and the insured;
- (7) the effective date of the proposed rate;
- (8) the policy period;
- (9) the policy number; and
- ~~(10) the reason for the surcharge may be required; and~~
- ~~(10)~~ ~~(11)~~ a letter signed by the insured acknowledging and consenting to the proposed rate. ~~rate (not required to be submitted to the commissioner for nonfleet private passenger motor vehicle physical damage insurance):~~ If coverage for the specific risk written on consent to rate is available through a residual market (FAIR Plan, Beach Plan, North Carolina Reinsurance Facility, North Carolina Workers Compensation Insurance Plan), a statement signed by the insured acknowledging that fact must also be submitted; executed.

~~All such applications must be forwarded directly to the commissioner for approval:~~

(b) Such applications involving non-standard automobile physical damage insurance ~~may be recorded on a form approved by the commissioner and must be forwarded to the commissioner before the expiration of the 90-day period in Paragraph (c) of this Rule:~~ A letter signed by each insured acknowledging and consenting to the proposed rate shall be retained in the insurer's office and be made available to the commissioner ~~Commissioner~~ upon request. A separate letter with the insured's signature must be obtained for each policy period:

~~(c) All applications for approval of consent to rate received more than 90 days after the effective date of the proposed rates will be disapproved and construed as effective at the rates that would be charged without application of consent to rate on the effective date:~~

Authority G.S. 58-2-40(1); 58-36-30(b).

**.0603 CONSENT TO RATE PROCEDURES:
COMMERCIAL COVERAGES**

- (a) An initial (first time) application to effect consent to

rate on a specific risk of coverage subject to Article 40 of General Statute Chapter 58, in excess of the rate promulgated by a licensed rating organization or filed by a company on its own behalf shall include, but not be limited to, contain the following:

- (1) a description of the insurance proposed, including primary and excess limits, the amount of coverage, the property insured, the deductible deductible, and any other factor used for rating, where applicable;
- (2) the rate and premium that would be charged without application of consent to rate;
- (3) the proposed rate and premium;
- (4) the percent increase. The rate to be charged will be presumed reasonable if it does not exceed 250 percent of the rate that would be charged without application of consent to rate. Any proposed rate in excess of 250 percent must be explained fully and is subject to review and approval by the commissioner Commissioner pursuant to G.S. 58-40-30(c);
- (5) the names and addresses of the insurer, the writing agent, and the insured;
- (6) the effective date of the proposed rate;
- (7) the policy period;
- (8) the policy number; and
- ~~(9) the reason for the surcharge; and~~
- (9) ~~(10)~~ a letter signed by the insured acknowledging and consenting to the proposed rate. ~~(not required to be submitted to the commissioner for automobile physical damage insurance):~~ If coverage for the specific risk written on consent to rate is available through a residual market (FAIR Plan, Beach Plan, North Carolina Reinsurance Facility, North Carolina Workers Compensation Insurance Plan), a statement signed by the insured acknowledging that fact must also be submitted. executed.

~~All such applications must be forwarded directly to the commissioner.~~

(b) ~~Such applications involving non-standard automobile physical damage insurance may be recorded on a form approved by the commissioner and must be forwarded to the commissioner before the expiration of the 90-day period specified in Paragraph (c) of this Rule. A letter signed by each insured acknowledging and consenting to the proposed rate shall be retained in the insurer's office and be made available to the commissioner upon request.~~

~~(c) All applications for consent to rate received more than 90 days after the effective date of the proposed rates will be rejected and construed as effective at the rates that would be charged without application of consent to rate on the effective date.~~

Authority G.S. 58-2-40(1); 58-40-30(c).

.0606 CONSENT TO RATE PROCEDURES

(a) If a policy for which the insured had consented to pay a higher premium rate is reinstated after a lapse, the insurer does not have to obtain a signed statement from the insured under this Section for the reinstatement.

(b) All records generated under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section shall be maintained in accordance with 11 NCAC 19 .0002 and 11 NCAC 19 .0007.

(c) After a signed application is obtained by an insurer under this Section for a policy, all subsequent changes in the policy are endorsements for the purposes of G.S. 58-36-30(b) or G.S. 58-40-30(c).

(d) If a particular kind of coverage is added to a policy by endorsement during the term of the policy and the added coverage is written at a higher rate under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section, the insurer shall obtain the signature of the insured under Rules .0602 and .0603 of this Section no later than the next renewal of the policy.

(e) If an insured consents to pay a higher premium rate under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section and consent to rate coverage is subsequently terminated, if the insured and insurer enter into another agreement under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section, the insurer does not have to obtain the signature of the insured under Rules .0602 and .0603 of this Section unless three years have elapsed since the termination of the coverage.

Authority G.S. 58-2-40(1); 58-36-30(b); 58-40-30(c).

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Commission intends to amend rules cited as 15A NCAC 10F .0317, .0339. Notice of Rule-making Proceedings was published in the Register on October 1, 1996.

Proposed Effective Date: July 1, 1998

A Public Hearing will be conducted at 10:00 a.m. on January 22, 1997 at Archdale Building, Wildlife Conference Room, 512 N. Salisbury Street, Raleigh, NC 27604.

Reason for Proposed Action: To regulate boat speed in congested area.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from January 2, 1997 - February 3, 1997. Such written comments must be delivered or mailed to NC Wildlife

Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

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

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0317 STANLY COUNTY

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

- (1) that portion of Narrows Reservoir (Badin Lake) which lies within the boundaries of Stanly ~~County~~; County;
- (2) that portion of Lake Tillery which lies within the boundaries of Stanly ~~County~~; County;
- (3) Turner Beach Cove on Lake Tillery as delineated by appropriate markers.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of a regulated area described in Paragraph (a) of this Rule.

(c) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Executive Director, or his representative, on the waters of a regulated area described in Paragraph (a) of this Rule.

(d) Speed Limit in Specific Zones. No person shall operate a vessel at greater than no-wake speed within 50 yards of the following marked zone located on any regulated area described in Paragraph (a) of this Rule:

- (1) Mountain Creek Cove, Lake Tillery.

(e) Placement and Maintenance of Markers. The Board of Commissioners of Stanly County is hereby designated a suitable agency for placement and maintenance of the markers hereby authorized, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers. With regard to marking the regulated areas described in Paragraph (a) of this Rule, supplementary standards as set forth in Rule .0301(g)(1) to (8) of this Section shall apply.

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

.0339 MCDOWELL COUNTY

(a) Regulated Areas. This Rule applies to the following

waters located on Lake James in McDowell County:

- (1) that area adjacent to the shoreline of the McDowell Wildlife Club property;
- (2) that area adjacent to the shoreline of the Marion Moose Club property;
- (3) that area known as Morgan Cove;
- (4) that area within 50 yards of the shoreline at the New Manna Baptist Youth Camp;
- (5) that area within 50 yards of the shoreline at Burnett's Landing;
- (6) the cove area adjacent to the State Park swimming area;
- (7) the cove area adjacent to the State Park picnic area and dock;
- (8) that area within 50 yards of camping areas in the Lake James State Park as designated by the appropriate markers;
- (9) that area within 50 yards of the boat launching ramp at the Marion Lake Club;
- (10) that area within 50 yards in either direction from the marina docks in Plantation Point Cove;
- (11) that designated area of Goodman's Landing Cove within 50 yards of the swimming area and boat docks of Goodman's Campground; Campground;
- (12) that area beginning at the rock shoals located at Deerfield Campground downstream for a distance of approximately 200 yards as delineated by appropriate markers.

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

(c) Restricted Swimming Areas. No person operating or responsible for the operation of any vessel, surfboard or waterskis shall permit the same to enter any marked swimming area located on the regulated area.

(d) Placement and Maintenance of Markers. The Board of Commissioners of McDowell County is designated a suitable agency for placement and maintenance of the markers implementing this Rule.

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

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Nursing intends to amend rule cited as 21 NCAC 36 .0320. Notice of Rule-making Proceedings was published in the Register on October 15, 1996.

Proposed Effective Date: August 1, 1998

A Public Hearing will be conducted at 1:30 p.m. on January 23, 1997 at the Embassy Suites Hotel, 4700 Creedmoor Road, Raleigh, NC.

Reason for Proposed Action: *This action is based on the need to correct an omission which allowed for immediate dismissal of nursing students who present behavior which conflicts with safety essential to nursing practice.*

Comment Procedures: *Any person wishing to present oral testimony relevant to proposed rule may register at the door before the hearing begins and present hearing officer with a written copy of testimony. Written comments concerning this amendment must be submitted by February 3, 1997 to: North Carolina Board of Nursing, PO Box 2129, Raleigh, NC 27602; Attn: Jean H. Stanley, APA Coordinator.*

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 36 - BOARD OF NURSING

SECTION .0300 - APPROVAL OF NURSING PROGRAMS

.0320 STUDENTS

(a) Students in nursing programs shall meet requirements established by the controlling institution. Additional requirements may be stipulated for nursing students because of the nature and legal responsibilities of nursing education and nursing practice.

(b) Admission requirements and practices shall be clearly stated and published by the controlling institution and shall include assessment of:

- (1) record of high school graduation, high-school equivalent, or earned credits from an approved post-secondary institution; and
- (2) achievement potential through the use of previous academic records and pre-entrance examination cut-off scores that are consistent with curriculum demands and scholastic expectations; and
- (3) physical and emotional health that would provide evidence that is indicative of the applicant's ability to provide safe nursing care to the public.

Initial admission may be based on Subparagraphs (b)(1) and (2) of this Rule and any other institutional requirements; however, final admission shall be contingent upon Subparagraph (b)(3) of this Rule.

(c) The number of students enrolled in nursing courses shall not exceed the maximum number approved by the Board as defined in 21 NCAC 36.0302 and 21 NCAC 36.0321.

~~(d) Published policies and practices shall exist that provide for identification and dismissal of students who present physical, emotional, or behavioral problems which conflict with safety essentials to nursing practice and do not respond to appropriate treatment or counseling within a reasonable period of time.~~

(d) Published policies and practices shall exist that provide

for identification and dismissal of students who:

- (1) present physical or emotional problems which conflict with safety essential to nursing practice and do not respond to appropriate treatment or counseling within a reasonable period of time.
- (2) demonstrate behavior which conflicts with safety essential to nursing practice.

(e) Criteria for progression through a program shall clearly define the level of performance required to pass each course in the curriculum, the level at which failure of the course is determined, and the level of performance in prerequisite courses required for progression to subsequent courses or levels. These criteria shall apply to both theoretical and clinical components of nursing courses.

(f) Program objectives shall be consistent with components of basic nursing practice as defined for the licensure level.

(g) Implementation of the nursing program shall result in no less than an annual 75 percent pass rate on first writing of the licensure examination for the calendar year ending December 31.

(h) Policies for transfer of credits or for admission to advanced placement shall be stated and must provide that:

- (1) general admission, progression, and graduation requirements of the nursing program shall apply to the applicant; and
- (2) the nursing program shall determine the total number of nursing courses or credits allowed for advancement placement.

Authority G.S. 90-171.23(b)(8); 90-171.38.

TITLE 25 - OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Personnel Commission intends to amend rules cited as 25 NCAC 1D .2501, .2503 - .2505, .2507 - .2509, .2511, .2513 - .2514; and adopt rule cited as 25 NCAC 1D .2516. Notice of Rule-making Proceedings was published in the Register on October 1, 1996.

Proposed Effective Date: *August 1, 1998*

A Public Hearing will be conducted at 2:00 p.m. on February 5, 1997 at Office of State Personnel, 116 West Jones St., 3rd Floor Conference Room 3106 T-2, Raleigh, NC 27603.

Reason for Proposed Action: *These actions are proposed in order to provide clarification to state agencies in administering the legislative salary increases enacted by the General Assembly in HB 53 in the 1995 Session.*

Comment Procedures: *Interested persons may present statements either orally or in writing at the Public Hearing*

or in writing prior to the hearing by mail addressed to: Peggy Oliver, Office of State Personnel, 116 West Jones St., Raleigh, NC 27603.

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

CHAPTER I - OFFICE OF STATE PERSONNEL

SUBCHAPTER 1D - COMPENSATION

SECTION .2500 - COMPREHENSIVE COMPENSATION SYSTEM

.2501 CAREER GROWTH RECOGNITION AWARD

Career Growth Recognition Award is an annual salary increase awarded to an employee whose final overall summary rating is at or above level three of the rating scale and who does not have an unresolved final ~~written warning disciplinary procedure~~. ~~that involves personal conduct~~. This is the primary method by which an employee progresses through the salary range. In the event that an employee does not receive a cost-of-living increase, the salary may fall below the minimum of the salary range. This factor alone shall not be justification for any type of salary adjustment.

Authority G.S. 126-7.

.2503 EMPLOYEES ELIGIBLE FOR CAREER GROWTH RECOGNITION AWARD

(a) An employee having a permanent or time-limited full-time or part-time (half-time or more) appointment whose salary is below the maximum of the range and whose overall summary rating is at or above level three after completing a work cycle based on a work plan shall receive a career growth recognition award unless the employee has an unresolved final ~~written warning disciplinary procedure~~, ~~that involves personal conduct~~. For an employee who otherwise qualifies for a career growth recognition award, a an unresolved final written warning disciplinary procedure is the only justification for not granting this increase.

(b) An employee who has been denied the career growth recognition award because of an unresolved final ~~written warning disciplinary procedure~~ shall receive the award on a current basis at the time that final ~~written warning disciplinary procedure~~ is resolved. (See 25 NCAC 1D.2514 of this Section) For ~~purpose purposes~~ of calculating the career growth recognition award, only the most recently awarded increase shall be utilized (i.e., the last increase that was funded).

(c) An employee having a probationary or trainee appointment on the date increases are effective is not eligible for a career growth recognition award. These employees become eligible when increases are effective for the next

work cycle after:

- (1) receiving a permanent appointment,
- (2) completing a work cycle, and
- (3) receiving a summary rating that is at or above level three.

(d) An employee who is on leave without pay on the date career growth recognition awards are granted shall receive the increase on the date of reinstatement if the work cycle has been completed and a summary rating given. If the work cycle and summary rating have not been completed, the employee shall receive the career growth recognition award at the time when both are completed.

(e) An employee who separates from State service prior to the effective date career growth increases are effective is not eligible for the increase.

Authority G.S. 126-7.

.2504 EFFECTIVE DATE OF CAREER GROWTH RECOGNITION AWARD

Career growth recognition awards shall be effective on the first day of July unless otherwise specified by the General Assembly or because they are delayed due to leave without pay or an unresolved final ~~written warning~~, disciplinary procedure.

Authority G.S. 126-7.

.2505 COST-OF-LIVING ADJUSTMENT

Cost-of-Living Adjustment is a general salary increase in response to inflation and labor market factors awarded to an employee whose final overall summary rating is at or above level two of the rating scale, and who does not have an unresolved final ~~written warning~~, disciplinary procedure.

Authority G.S. 126-7.

.2507 EMPLOYEES ELIGIBLE FOR COST-OF-LIVING ADJUSTMENT

(a) An employee having a permanent, time-limited, probationary, or trainee full-time or part-time (~~half-time or more~~) appointment whose overall summary rating is at or above level two, or a rating based on Paragraph (b) of this Rule that is not unsatisfactory, except employees who have an unresolved final ~~written warning disciplinary procedure~~ ~~involving personal conduct~~ on the date that increases are given is eligible for a cost-of-living increase. This applies to all employees regardless of where their salary is in the salary range, including those above the maximum.

(b) For the purpose of granting the cost-of-living adjustment to employees who have not completed a full performance management cycle and received an overall summary rating, the following shall apply:

- (1) ~~Prior to July 1, Each~~ each employee's performance shall be reviewed.
- (2) If the review indicates unsatisfactory performance,

the employee shall not receive the cost-of-living adjustment until the performance level is above the unsatisfactory level. The actual results of the review shall be documented with the employee.

- (3) If the review indicates that the performance is above unsatisfactory, the employee shall be granted the cost-of-living adjustment.
- (4) If the supervisor feels that the employee has not worked long enough for a determination of performance level to be made, a review shall be made each month for the purpose of determining whether the performance is above unsatisfactory and the cost-of-living adjustment should be granted.
- (5) If the cost-of-living adjustment has not been granted during the probationary period, it shall be granted on a current basis at the time the employee is given a permanent appointment since the employees performance must be satisfactory to move from a probationary to a permanent appointment.

(c) An employee who has been denied the cost-of-living adjustment because of an unresolved final ~~written warning~~ disciplinary procedure involving personal conduct shall receive the adjustment on a current basis when that final ~~written warning~~ disciplinary procedure is resolved. (See 25 NCAC 1D .2514 of this Section)

(d) An employee who is on leave without pay on the date

a cost-of-living adjustment is effective shall receive the increase on the date of reinstatement if the employee's performance has been determined to be above the unsatisfactory level, or at such time as the employee's performance is determined to be above the unsatisfactory level.

Authority G.S. 126-7.

.2508 EFFECTIVE DATE OF COST-OF-LIVING ADJUSTMENT

Cost-of-living adjustments shall be effective on the first day of July unless otherwise specified by the General Assembly or because they have been delayed due to leave without pay or an unresolved final ~~written warning~~ disciplinary procedure.

Authority G.S. 126-7.

.2509 PERFORMANCE BONUS

Performance Bonus is a lump sum award to an employee whose final overall summary rating is at or above level four of the rating scale and who does not have an unresolved final ~~written warning~~ disciplinary procedure.

Authority G.S. 126-7.

.2511 EMPLOYEES ELIGIBLE FOR PERFORMANCE BONUS

(a) An employee having a permanent or time-limited full-time or part-time (half-time or more) appointment whose overall summary rating is at or above level four after completing a work cycle based on a work plan shall be eligible to receive a performance bonus unless the employee has an unresolved final ~~written warning that involves personal conduct~~ disciplinary procedure.

(b) An employee who has been denied a performance bonus because of an unresolved final ~~written warning~~ disciplinary procedure involving personal conduct shall not be eligible for a performance bonus during the current cycle. The employee will be eligible for a bonus in the next cycle based on the ~~performance evaluation~~ overall summary rating.

(c) An employee having a probationary or trainee appointment on the date bonuses are effective is not eligible for a performance bonus. These employees become eligible when increases are effective for the next work cycle after:

- (1) receiving a permanent appointment,
- (2) completing a work cycle, and
- (3) receiving a summary rating at or above level four.

(d) An employee who is on leave without pay on the date performance bonuses are effective shall receive the bonus effective on the date of reinstatement if the work cycle has been completed and an overall summary rating given. If the work cycle and overall summary rating have not been completed, the employee shall receive the bonus at the time when both have been completed.

(e) An employee whose salary is at the maximum of the salary range is eligible for a performance bonus.

(f) An employee whose salary is above the maximum of the salary range is eligible for a performance bonus only to the extent that the base salary paid the employee plus the performance bonus allocated according to the employee's performance rating does not exceed the maximum salary paid on the adopted pay schedule for the applicable pay grade plus the allocated performance bonus calculated on the maximum salary on the pay schedule. This performance bonus shall be calculated as follows:

Line	Item	Calculation
1	Maximum of salary range	
2	% bonus due according to performance rating	

3	Dollar amount of performance bonus [Line 1 x Line 2]	
4	Maximum annual salary allowed [Line 1 + Line 3]	
5	Salary of employee paid above maximum of range	
6	Maximum performance bonus for employee paid above the range [Line 4 - Line 5]	
If Line 5 is greater than Line 4, the employee cannot receive a bonus.		

(g) An employee who separates from State service prior to the effective date performance bonuses are effective is not eligible to receive the increase.

Authority G.S. 126-7.

.2513 BASES FOR AWARDING INCREASES

(a) Each agency shall have an operative Performance Management System which has been approved by the Office of State Personnel using the North Carolina Performance Rating Scale. The complete requirements for an operative performance management system are defined in 25 NCAC 10 - Performance Management System.

(b) Eligibility for increases will be based on the most recent work cycle completed and overall summary rating received during the previous 12-month period.

(c) The performance management system of each agency shall ensure that salary increases are distributed fairly, consistent with internal equity and with the Performance Management System. The State Personnel Director shall rescind any career growth recognition award or performance bonus that does not meet the intent of the provisions of the performance management rules and require the originating agency to reconsider or justify the increase. An increase or bonus does not meet the intent of the provisions of the performance management rules in the event that increases or bonuses are distributed:

- (1) in an arbitrary or capricious manner;
- (2) in a manner that violates laws prohibiting discrimination; or
- (3) to managers or supervisors whose failure to comply with the performance management rules resulted in the loss of an increase or a bonus by employees under their supervision.

(d) No agency shall set limits so as to preclude an eligible employee from receiving a career growth recognition award, cost-of-living adjustment, or performance bonus; or to initiate written disciplinary procedures for the purpose of precluding an eligible employee from receiving a cost-of-living adjustment.

(e) When a work cycle has been completed but an overall summary rating has not been given, the State Personnel Director has the authority to order the agency to give an accurate rating. If the agency fails to give a rating, the employee shall be given a rating of no less than level 3. Once a rating is given for work performed during a cycle for which the General Assembly has allocated funds for an increase under the Comprehensive Compensation System, the employee shall, if allowed by law and the Administrative

Code, be eligible for the increase retroactive to the date that other increases were awarded.

(f) Final Disciplinary Procedure Defined: For purposes of eligibility for salary increases, an employee in final disciplinary procedure is an employee whose personnel file includes:

- (1) two active disciplinary actions of any type; or
- (2) an active suspension without pay or demotion.

Authority G.S. 126-4; 126-7.

.2514 FINAL DISCIPLINARY PROCEDURE

(a) For purpose of this Section only, a final written warning disciplinary procedure is deemed to be resolved resolved in the event:

- (1) when it becomes inactive in accordance with 25 NCAC 1J .0614(g);
- (2) when an authorized manager or supervisor places a written statement in the personnel file of an affected employee indicating that the issue addressed in the final written disciplinary procedure, while not inactive for purpose of future discipline, is sufficiently resolved to warrant the granting of the appropriate salary increase; or
- (3) when the presence of the same final written disciplinary procedure in the personnel file was utilized as a basis to deny a salary increase in a previous performance management cycle.

- (1) ~~that the personal conduct issue is resolved and the warning is removed from the employee's personnel file; or~~
- (2) ~~that the personnel file of the employee contains a written statement from an authorized manager or supervisor indicating that, after review of the personal conduct issue, circumstances warrant the granting of the career growth award; or~~
- (3) ~~that the final written warning is not resolved in a manner set forth in Subparagraph (a)(1) or (a)(2) of this Rule; and~~
 - (A) ~~more than 18 months have passed since the date of the final written warning or a letter extending the effect of the warning; and~~
 - (B) ~~the agency has not tendered notice to the~~

~~employee of the extension of the final written warning for the purpose of this Section. (The notice of extension may be tendered at any time prior to 18 months from the date of the final written warning or prior to the expiration of 18 months from the date of the prior extension.)~~

~~(b) In the event that neither Subparagraph (a)(1), (a)(2), nor (a)(3) of this Rule are applicable to the final written warning, then the final written warning shall be deemed an active final written warning or an unresolved final written warning.~~

~~(c) This Rule and the granting of increases have no effect on the sue of the final written for any other purpose.~~

Authority G.S. 126-7.

.2516 ELIGIBILITY FOR SEPTEMBER 1, 1996 LEGISLATIVE SALARY INCREASES

For purposes of administering the legislative salary increase provisions, effective September 1, 1996, Rules 25 NCAC 1D .2501-.2508 and .2513-.2515 shall apply to the extent there is not a conflict with the following procedures. If there is a conflict, the following procedures shall apply:

- (1) A career growth recognition award shall be granted as follows:
 - (a) Employees whose salaries are at the maximum shall receive a 2% one-time career growth bonus.
 - (b) Employees whose salaries are less than 2% from the maximum shall receive a partial increase added to base pay in an amount that it takes to get to the maximum. These employees shall also receive a one-time career growth bonus in an amount that would equal 2% of the base pay minus the amount of the career growth award given.
 - (c) Employees whose salaries are above the maximum shall receive a 2% one-time career growth bonus based on the maximum of the salary range in effect on August 31, 1996.
- (2) The following employees shall receive the cost-of-living increase in accordance with Rule .2507(b)(1)-(5) of this Section:
 - (a) Employees with a probationary appointment.
 - (b) Employees who have not completed a work cycle, and
 - (c) Employees who do not have a performance rating because they were hired after the last performance management cycle was completed.
- (3) After receiving a permanent appointment, employees described in Sub-item (2)(b) and (2)(c) of this Rule shall also be eligible to receive a

career growth recognition award as provided below. Each agency shall assure that all employees are reviewed/evaluated by the same method.

- (a) Each employee shall be given an interim review at the mid-point of the employee's Performance Management Cycle. If their total time of employment is at least equivalent to the agency's minimum Performance Management Cycle requirement, the employee shall be granted a career growth recognition award at that point, if their performance is deemed to be at level 3 or above; or, it shall be granted at the time the employee completes the total time of employment requirement; or,
- (b) Each employee shall be evaluated and given a summary rating after completing time in the new cycle that is at least equivalent to the agency's minimum Performance Management Cycle requirement. If the overall summary rating is at level 3 or above, the employee shall be granted a career growth recognition award. In any event, all these employees, employed prior to September 1, 1996, shall be evaluated for the career growth recognition award by May 31, 1997, and shall receive the career growth recognition award if their rating is at level 3 or above and they are not in final disciplinary procedure.
- (4) Employees with trainee appointments are eligible for the cost-of-living adjustment if they are not in final disciplinary procedure. Employees with trainee appointments may be eligible for career growth recognition awards under the following circumstances:
 - (a) Employees who are scheduled for trainee adjustments are not eligible for the career growth recognition award. They become eligible if they are qualified and are rated for placement into the regular class during this fiscal year, provided their total time of employment is at least equivalent to the agency's minimum Performance Management Cycle requirement. If this requirement has not been met, the increase shall be delayed until it has been met.
 - (b) Employees with trainee appointments who are not scheduled for trainee salary adjustments during this fiscal year shall be eligible for the career growth award the same as employees who are in regular classes.
 - (c) In any event, all employees shall be evaluated for the career growth recognition

award by May 31, 1997, unless they are in a trainee class that extends beyond this date.

Authority G.S. 126-4; S.L. 1995, c. 507, s. 7.14.

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Personnel Commission intends to amend rules cited as 25 NCAC 1E .0705, .0707, .0709. Notice of Rule-making Proceedings was published in the Register on October 15, 1996.

Proposed Effective Date: August 1, 1998

A Public Hearing will be conducted at 2:00 p.m. on February 5, 1997 at Office of State Personnel, 116 West Jones St., 3rd Floor Conference Room 3106 T-2, Raleigh, NC 27603.

Reason for Proposed Action: *The purpose of the Workers' Compensation rules is to ensure that employees experiencing work related injuries and illnesses are provided compensation in accordance with the Workers' Compensation Act and to provide consistent application of those rules and regulations. Further, the purpose is to provide swift and certain remedy to the injured employee as well as to ensure a limited and determinate liability to the State.*

Comment Procedures: *Interested persons may present statements either orally or in writing at the Public Hearing or in writing prior to the hearing by mail addressed to: Carl Goodwin, Office of State Personnel, 116 West Jones St., Raleigh, NC 27603.*

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

CHAPTER 1 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 1E - EMPLOYEE BENEFITS

SECTION .0700 - WORKER'S COMPENSATION LEAVE

.0705 ADMINISTRATION

(a) Each state agency is responsible for accepting employer liability for the state and paying claims. To assure the employee of the benefits provided by the Workers' Compensation Act and to effectively control the cost related to on-the-job injuries, each agency shall designate a Workers' Compensation Administrator to be responsible for the effectiveness of processing and monitoring the workers' compensation claims.

- (1) The agency shall, on those cases that involve possible litigation issues, contact the Attorney General's Office who will defend all cases for the state before the Industrial Commission.
- (2) The agency shall submit all reportable claims and valid medical and compensation payments to the Industrial Commission for approval. The Industrial Commission is responsible for insuring that each employer administers the provisions of the Workers' Compensation Act.

(b) The Office of State Personnel through its Employee ~~Safety and Health~~ Risk Control Services Division is responsible for providing assistance to agency personnel in managing their workers' compensation programs and insuring that all agencies provide consistent application of coverage and compensation to injured employees. This office also provides the agencies with the State Government Workers' Compensation Program Manual which is an operational manual used as a guide in processing workers' compensation claims.

- (1) The Employee ~~Safety and Health~~ Risk Control Services Division shall measure and evaluate the effectiveness of the workers' compensation program at each agency and recommend changes to achieve optimum results. It shall maintain a statistical data base summarizing a statewide analysis of total expenditures and injuries, and develop training and educational materials for use in training programs for the agencies.

Authority G.S. 126-4.

.0707 USE OF LEAVE

(a) The Workers' Compensation law provides medical benefits and disability compensation including a weekly compensation benefit equal to 66 2/3 percent of the employee's average weekly earnings up to a maximum established by the Industrial Commission each year. When an employee is injured, he must go on workers' compensation leave and receive the workers' compensation weekly benefit after the required waiting period required by G.S. 97-28. One of the following options may be chosen:

- (1) Option 1: Elect to take sick or vacation leave during the required waiting period and then go on workers' compensation leave and begin drawing workers' compensation weekly benefits.
- (2) Option 2: Elect to go on workers' compensation leave with no pay for the required waiting period and then begin drawing workers' compensation weekly benefits.

If the injury results in disability of more than a specified number of days, as indicated in G.S. 97-28, the workers' compensation weekly benefit shall be allowed from the date of disability. If this occurs in the case of an employee who elected to use leave during the waiting period, no adjustment shall be made in the leave used for these workdays.

(b) Options 1 and 2 in Paragraph (a) of this Rule, after the employee has gone on workers' compensation leave, the weekly benefit may be supplemented by the use of partial earned sick or vacation leave, earned prior to the injury, in accordance with a schedule published by the Office of State Personnel each year. Since the employee must receive the weekly benefit, this will provide an income approximately equal to the past practice of using 100 percent of sick or vacation leave.

(c) Compensatory time may be substituted for sick or vacation leave if applied within the time frames provided under the Hours of Work and Overtime Compensation Policy. (reference: 25 NCAC 1D, Section .1900, Rule .1928).

(d) If the employee has earned leave or compensatory time and chooses to use it while drawing the weekly benefit, it shall be paid on a temporary payroll at the employee's hourly rate of pay. It is subject to State and Federal withholding taxes and Social Security, but not subject to retirement, just the same as other temporary pay.

Note: Once an election is made under Paragraphs (a) through (c) of this Rule, it may not be rescinded for the duration of the claim.

(e) Unused leave may be retained for future use.

(f) Employees injured on the job in a compensable accident who have returned to work, but continue to require medical or therapy visits to reach maximum medical improvement, shall not be charged leave for time lost from work for required medical or therapy treatment.

(g) Employee Refusal of Coverage: Under certain circumstances involving third party liability an employee may elect to refuse workers' compensation benefits. If an employee refuses workers' compensation benefits for injuries resulting from an on the job injury a release statement, provided by the agency, must be signed by the employee. Unless there is a signed release statement an employee who loses time from work as a result of an on the job injury must be placed under the workers' compensation leave policy.

Authority G.S. 97-28; 126-4.

.0709 RETURN TO WORK

When an employee, who has been injured on the job and placed on workers' compensation leave, has been released to return to work by the treating physician, there are three possible return to work situations.

- (1) When an employee who is on workers' compensation leave, has reached maximum medical improvement and has been released to return to work by the treating physician, the agency shall return the employee to the same position or one of like seniority, status and pay held prior to workers' compensation leave.
- (2) When an employee who has not reached maximum

medical improvement is ready to return to limited work duty with approval of the treating physician but retains some disability which prevents successful performance in the original position, the agency shall provide work reassignment suitable to the employee's capacity which is both meaningful and productive and advantageous to the employee and the agency. This work reassignment shall be a temporary assignment and shall not exceed 90 days without approval from the agency personnel officer. When the employee reaches maximum medical improvement the agency shall return the employee to the same position or one of like seniority, status and pay held prior to workers' compensation leave.

- (3) When an employee has received a disability which prohibits employment in his previous position and has reached maximum medical improvement and been released to return to work by the treating physician the agency shall attempt to place the employee in another position suitable to the employee's capacity which is both meaningful and productive and advantageous to the employee and the agency. This work placement may be a permanent assignment or either a part-time or temporary assignment until a permanent assignment is found.

(a) If a position is not available for work placement, the agency shall appoint the employee to the first suitable vacancy which occurs. During the interim period in which a suitable vacancy is not available, the employee shall be referred to the Office of State Personnel for reemployment assistance and a possible return to work in another agency.

(b) Work placement efforts shall continue for a period not to exceed 12 months, except with the approval of the agency personnel officer.

~~(c) Vocational Rehabilitation Assistance. In some cases the extent of disability may be such that vocational rehabilitation will be necessary. If so, the agency shall make the necessary arrangements with the North Carolina Division of Vocational Rehabilitation for such training which may be necessary to assist the employee to obtain suitable employment consistent with his performance capabilities.~~

Authority G.S. 126-4.

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 7 - DEPARTMENT OF CULTURAL
RESOURCES**

Rule-making Agency: *USS North Carolina Battleship Commission*

Rule Citation: *7 NCAC 5 .0203*

Effective Date: *January 1, 1997*

Findings Reviewed by Julian Mann, III: *Approved*

Authority for the rule-making: *G.S. 143-73*

Reason for Proposed Action: *To increase the admission rates to tour the Battleship North Carolina*

Comment Procedures: *Provide comments in writing to the USS North Carolina Battleship Commission, Attn: Capt. David R. Scheu, USN (Ret), PO Box 480, Wilmington, NC 28402-0480. All comments must be submitted no later than 60 days after the publication of this notice.*

**CHAPTER 5 - U.S.S. NORTH CAROLINA
BATTLESHIP COMMISSION**

SECTION .0200 - USE REGULATIONS

.0203 ADMISSION PRICES

(a) The admission price for the Battleship U.S.S. North Carolina is ~~six dollars (\$6.00)~~ eight dollars (\$8.00) for persons age 12 and over, ~~three dollars (\$3.00)~~ four dollars (\$4.00) for children age 6 through 11, ~~one dollar and fifty cents (\$1.50)~~ two dollars (\$2.00) per student for organized school groups in grades kindergarten through 6, and ~~three dollars (\$3.00)~~ four dollars (\$4.00) per student for organized school groups in grades 7 through 12.

(b) There is no charge for children under 6.

(c) Classroom teachers, aides, and chaperones accompanying students in class field trips will be admitted without charge at the rate of one teacher/aide/chaperone for each 20 ~~10~~ students.

(d) ~~Four groups under auspices of bona fide travel agents will be offered a 20 percent discount. Four directors and drivers will be admitted without charge.~~

(e) ~~Any organized group of 20 or more will be offered a 10 percent discount when tickets are purchased by a single source.~~

*History Note: Authority G.S. 143B-73;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;*

Amended Eff. January 1, 1993; January 1, 1990; June 1, 1989; February 1, 1987;

Temporary Amendment Eff. January 1, 1997.

**TITLE 10 - DEPARTMENT OF HUMAN
RESOURCES**

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

Rule Citation: *10 NCAC 26B .0123*

Effective Date: *January 9, 1997*

Findings Reviewed by Julian Mann, III: *Approved*

Authority for the rule-making: *G.S. 108A-25(b); 108A-54; Social Security Act, 1915(g)*

Reason for Proposed Action: *The change in the language of the rule more clearly states that individuals for whom abuse or neglect has been substantiated are eligible for At-Risk Case Management Services and brings the rule in accordance with the language in the Medicaid State Plan.*

Comment Procedures: *Written comments concerning this rule-making action must be submitted by March 3, 1997 to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603, Attn: Portia Rochelle, APA Coordinator.*

CHAPTER 26 - MEDICAL ASSISTANCE

**SUBCHAPTER 26B - MEDICAL ASSISTANCE
PROVIDED**

SECTION .0100 - GENERAL

**.0123 CASE MGMT SVCS/ADULTS/CHILDREN
AT-RISK/ABUSE/NEGLECT/EXPLOITATION**

(a) Case management is a set of interrelated activities under which responsibility for locating, coordinating and monitoring appropriate services for an individual rests with a specific person or organization. The purpose of case management services for adults and children at-risk of abuse, neglect, or exploitation is to assist them in gaining access to needed medical, social, educational, and other services; to encourage the use of cost-effective medical care by referrals to appropriate providers; and to discourage over-utilization of costly services. Case management services will provide necessary coordination with providers of non-medical

services such as nutrition programs like WIC or educational agencies, when services provided by these entities are needed to enable the individual to benefit from programs for which he or she is eligible. The set of interrelated activities are as follows:

- (1) Evaluation of the client's individual situation to determine the extent of or need for initial or continuing case management services.
- (2) Needs assessment and reassessment to identify the service needs of the client.
- (3) Development and implementation of an individualized plan of care to meet the service needs of the client.
- (4) Providing assistance to the client in locating and referring him or her to providers or programs that can meet the service needs.
- (5) Coordinating delivery of services when multiple providers or programs are involved in care provision.
- (6) Monitoring and following-up to ensure services are received, adequate to meet the client's needs, and consistent with good quality of care.

(b) The target group includes:

- (1) Adults who are at-risk or show evidence of abuse, neglect, or exploitation as defined in G.S. 108A-101. Children who are at-risk or show evidence of abuse or neglect as defined in G.S. 7A-517; and
- (2) Who are Medicaid recipients; and
- (3) Who are not institutionalized; and
- (4) Who are not recipients of other Medicaid-reimbursed case management services provided through the State's home and community-based services waivers or the State Plan; and
- (5) Who reside in counties providing the non-Federal matching funds to offer this service.

(c) The case manager shall determine whether an adult or child is at-risk of abuse, neglect, or exploitation as follows:

- (1) At-Risk Adult: An at-risk adult is an individual who is at least 18 years old, or an emancipated minor, and meets one or more of the following criteria:
 - (A) An individual with only one consistent identified caregiver, who needs personal assistance 24 hours per day with two or more of the activities of daily living (bathing, dressing, grooming, toileting, transferring, ambulating, eating, communicating); or
 - (B) An individual with no consistent identified caregiver, who is unable to perform at least one of the activities of daily living (bathing, dressing, grooming, toileting, transferring, ambulating, eating, communicating); or
 - (C) An individual with no consistent identified caregiver, who is unable to carry out

instrumental activities of daily living (managing financial affairs shopping, housekeeping, laundry, meal preparation, using transportation, using a telephone, reading, writing); or

- (D) An individual who was previously abused, neglected or exploited, and the conditions leading to the previous incident continue to ~~exist~~; exist; or

(E) An individual who is being abused, neglected, or exploited and is in need of protection.

- (2) At-Risk Child: An at-risk child is an individual under 18 years of age who meets one or more of the following criteria:

(A) A child with a chronic or severe physical or mental condition whose parent(s) or caretaker(s) are unable or unwilling to meet the child's care needs;

(B) A child whose parents are mentally or physically impaired to the extent that there is a need for assistance with maintaining family stability and preventing or remedying problems which may result in abuse or neglect of the child; or

(C) A child of adolescent (under age 18) parents or parents who had their first child when either parent was an adolescent and there is a need for assistance with maintaining family stability, strengthening individual support systems, and preventing or remedying problems which may result in abuse or neglect of the child; or

(D) A child who was previously abused or neglected, and the conditions leading to the previous incident continue to ~~exist~~; exist; or

(E) A child who is being abused or neglected and is in need of protection.

(d) Enrollment of providers will be accomplished in accordance with section 1902(a) (23) of the Social Security Act.

- (1) Case Manager Qualifications. Case managers must meet the following qualifications:

(A) A case manager for at-risk adults must:

(i) Have a Master of Social Work degree or a Bachelor of Social Work degree, or be a social worker who meets State requirements for Social Worker II classification; and

(ii) Have training in recognizing risk factors related to abuse, neglect, or exploitation of elderly or disabled adults and in assessment of functional capacity and needs related to activities of daily living; and

(iii) Have experience in case management services for elderly and disabled

adults.

- (B) A case manager for at-risk children must:
 - (i) Have a Master of Social Work degree or a Bachelor of Social Work degree, or be a social worker who meets State requirements for Social Worker II classification; and
 - (ii) Have training in recognizing risk factors related to abuse or neglect of children and in assessing family functioning; and
 - (iii) Have experience in case management services for children and their families.
- (2) Provider Qualifications. Providers must meet the following qualifications:
 - (A) Meet applicable State and Federal laws governing the participation of providers in the Medicaid program.
 - (B) Be certified by the Division of Social Services as a qualified case management provider. To be certified, a provider must:
 - (i) Have qualified case managers with supervision provided by a supervisor who meets State requirements for Social Work Supervisor I or Social Work Supervisor II classification.
 - (ii) Have the capability to access multi-disciplinary staff, when needed. For adults this includes, at a minimum, medical professionals as needed and an adult protective services social worker meeting the qualifications in Subparagraphs (d)(1)(A)(i) and (d)(1)(A)(ii) of this Rule. For children, this must include medical professionals as needed and a child protective services social worker meeting the qualifications in Subparagraphs (d)(1)(B)(i) and (d)(1)(B)(ii) of this Rule.
 - (iii) Have experience as a legal guardian of persons and property.

History Note: Authority G.S. 108A-25(b); 108A-54; Social Security Act, 1915(g); Eff. October 1, 1992; Recodified from 10 NCAC 26B .0122 Eff. October 1, 1993; Temporary Amendment Eff. January 9, 1997.

Rule-making Agency: DHR - Division of Medical Assistance

Rule Citation: 10 NCAC 26H .0506

Effective Date: January 9, 1997

Findings Reviewed by Julian Mann, III: *Approved*

Authority for the rule-making: G.S. 108A-25(b); 108A-54; 108A-55; 131D-4.1; 131D-4.2; 1995 S.L. Chapter 507, Sec 23.10; 42 C.F.R. 440.170(f)

Reason for Proposed Action: *This change is necessary to permit payment to the public providers. The original rule as written limits payments to private providers only.*

Comment Procedures: *Written comments concerning this rule-making action must be submitted by March 3, 1997 to Portia Rochelle, APA Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.*

CHAPTER 26 - MEDICAL ASSISTANCE

SUBCHAPTER 26H - REIMBURSEMENT PLANS

SECTION .0500 - REIMBURSEMENT FOR SERVICES

.0506 PERSONAL CARE SERVICES

Reimbursement to personal care services providers will be an hourly all inclusive fee as developed by the Division of Medical Assistance based on the cost of the service.

(a) Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse. Payment is based on a negotiated hourly fee not to exceed reasonable cost.

(b) The Division of Medical Assistance will enter into contracts with private and public non-medical inpatient institutions using 42 CFR 434-12 for the provision of personal care services for State/County Special Assistance clients residing in domiciliary care homes.

(1) Effective August 1, 1995 reimbursement is determined by the Division of Medical Assistance based on a capitation per diem fee derived from review of industry costs and determination of reasonable costs with annual inflation adjustments. The initial basic per diem fee is based on one hour of services per patient day. Additional payments may be made utilizing the basic one hour per diem fee as a factor, for Medicaid eligibles that have a demonstrated need for additional care. The initial basic one hour fee is computed by determining the estimated salary, fringes, direct supervision and allowable overhead. The fee(s) may be recalculated from a cost reporting period selected by the state. Payments may not exceed the limits set in 42 CFR 447.361.

(2) Effective January 1, 1996 public providers will be paid on an interim basis using the above method. Payments are to be cost settled with any

overpayment repaid to the Division of Medical Assistance. No additional payment will be made due to cost settlement.

(c) These changes to the Payment for Services Prospective Reimbursement Plan for Personal Care Services will become effective when the Health Care Financing Administration, U.S. Department of Health and Human Service, approves amendments submitted to HCFA by the Director of the Division of Medical Assistance as #MA 95-07 and #MA 95-33 wherein the Director proposes amendments of the State Plans to amend payment for services - Prospective Reimbursement Plan for Personal Care Services.

History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; 131D-4.1; 131D-4.2; 1995 S.L. Chapter 507, Sec. 23.10; 42 C.F.R. 440.170(f);

Eff. January 1, 1986;

Temporary Amendment Eff. April 22, 1996;

Temporary Amendment Eff. January 9, 1997.

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

Rule-making Agency: *Department of Environment, Health, and Natural Resources*

Rule Citation: *15A NCAC 1M .0101 - .0102; .0201 - .0202; .0301 - .0306*

Effective Date: *January 7, 1997*

Findings Reviewed by Julian Mann, III: *Approved*

Authority for the rule-making: *G.S. 143-215.74C-E*

Reason for Proposed Action: *To repeal the current temporary rules adopted by the Department found in Subchapter 1M. These rules will be replaced by temporary rules adopted by the Water Pollution Control System Operators Certification Commission found in Subchapter 8F.*

Comment Procedures: *Comments, statements, data and other information may be submitted in writing within 60 days after the date of publication of this issue of the NC Register. Copies of the proposed rules and information package may be obtained by contacting the Technical Assistance and Certification Group at (919) 733-0026. Written comments may be submitted to Ron Ferrell, Division of Water Quality, Water Quality Section, PO Box 29535, Raleigh, NC 27226-0535.*

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1M - CERTIFICATION OF OPERATORS OR ANIMAL WASTE MANAGEMENT SYSTEMS

SECTION .0100 - GENERAL PURPOSE/DEFINITIONS

.0101 PURPOSE

(a) ~~These Rules set forth the requirements and procedures for a person who performs the land application of animal waste from swine production to be certified as required by G.S. 143-215.74C-E. The purpose of this statute is to reduce nonpoint source pollution in order to protect the public health and to conserve and protect the quality of the State's water resources, and to encourage the development and improvement of the State's agricultural land for the production of food and other agricultural products.~~

(b) ~~These Rules apply to all animal waste management systems designed to manage and that actually serve more than 250 swine. Such facilities are required to maintain a certified Operator in Charge for the land application of animal waste, as defined in Rule .0102 of this Section. Animal waste shall be managed so that the application of the waste does not cause a discharge of pollutants to the surface waters of the State, except as a result of a storm event more severe than a 25-year, 24-hour storm. Only the certified Operator in Charge, or a person under the supervision of the Operator in Charge, may apply animal waste to the land. The owner of the facility is responsible for ensuring that the waste application is performed by an Operator in Charge or a person under the supervision of an Operator in Charge.~~

History Note: Authority G.S. 143-215.74C-E;

Temporary Adoption Eff. June 19, 1996;

Temporary Repeal Eff. January 7, 1997.

.0102 DEFINITIONS

(a) ~~"Animal waste" means liquid residuals, resulting from the raising of swine (*Sus scrofa*), that are collected, treated, stored, or applied to the land through an animal waste management system.~~

(b) ~~"Animal waste management system" means a combination of structural and nonstructural practices that will properly collect, treat, store, or apply animal waste to the land such that no discharge of pollutants occurs to surface waters of the State by any means except as a result of a storm event more severe than the 25-year, 24-hour storm.~~

(c) ~~"Application" means laying, spreading on, irrigating, or injecting animal waste onto or into land.~~

(d) ~~"Appropriate examination" means an examination that has been developed and approved by the Secretary or his designee.~~

(e) ~~"Approved training program" means a training program that has been developed and approved by the Secretary or his designee in cooperation with the Cooperative Extension Service.~~

(f) ~~"Currently valid certification" means that all training and certification requirements have been completed and annual renewal fees have been paid as specified in G.S. 143-215.74E (a)-(b).~~

(g) ~~"Operator in Charge" means a person who holds a~~

currently valid certificate to operate an animal waste management system and who has primary responsibility for the operation of the system:

(h) "Owner" means the person who owns or controls the land used for agricultural purposes or the person's lessee or designee:

(i) "Person under the supervision of an Operator in Charge" means a person who takes directions from the Operator in Charge and who may only land apply animal waste when the Operator in Charge is on the property and is available for consultation and advice at any time during the application of animal waste:

*History Note: Authority G.S. 143-215.74C-E;
Temporary Adoption Eff. June 19, 1996;
Temporary Repeal Eff. January 7, 1997.*

SECTION .0200 - DUTIES AND REQUIREMENTS

.0201 DUTIES AND REQUIREMENTS OF OWNERS

(a) The owner of each individual animal waste management system must submit a letter to the Division of Environmental Management, Technical Assistance and Certification Group, Department of Environment, Health, and Natural Resources, P.O. Box 29535, Raleigh, North Carolina 27626-0535, which designates an Operator in Charge and is countersigned by the certified operator. This letter must be submitted by January 1, 1997 for all facilities in operation as of that date. Otherwise, the Operator in Charge must be designated:

- (1) before a new animal waste management system is placed in operation after January 1, 1997; or
- (2) within 30 days after a new Operator in Charge is designated:

(b) The Secretary or his designee may assess a civil penalty of up to one thousand dollars (\$1,000) for failure to designate and maintain an Operator in Charge for each animal waste management system that serves more than 250 swine:

*History Note: Authority G.S. 143-215.74C-E;
Temporary Adoption Eff. June 19, 1996;
Temporary Repeal Eff. January 7, 1997.*

.0202 DUTIES AND REQUIREMENTS OF OPERATORS IN CHARGE

(a) An Operator in Charge of an animal waste management system:

- (1) shall possess a currently valid certification as an Animal Waste Management System Operator;
- (2) shall be responsible for and must visit and inspect each animal waste management system at least weekly;
- (3) shall be on site during the application of animal waste; and
- (4) shall properly manage and document operation and maintenance of the animal waste management system:

(b) Holders of certifications under this program shall notify the Division of Environmental Management, Technical Assistance and Certification Group, Department of Environment, Health, and Natural Resources, P.O. Box 29535, Raleigh, North Carolina 27626-0535, in writing, within 30 days of any change in address:

(c) The Secretary or their designee may assess a civil penalty of up to one thousand dollars (\$1,000) if it finds that the Operator in Charge has practiced fraud or deception, or that reasonable care, judgment, or the application of their knowledge or ability was not used in the performance of his duties:

*History Note: Authority G.S. 143-215.74C-E;
Temporary Adoption Eff. June 19, 1996;
Temporary Repeal Eff. January 7, 1997.*

SECTION .0300 - CERTIFICATION OF OPERATORS

.0301 QUALIFICATIONS

An applicant for certification as an Animal Waste Management System operator shall be required to:

- (1) have completed an approved training program on the operation of animal waste management systems that provides instruction regarding the collection, storage, treatment, and application of animal waste. The applicant shall be familiar with the components of animal waste collection and treatment systems, operation and maintenance of this equipment, laws and regulations governing the management of animal waste, waste management plans, and have the ability to perform calibrations and calculations relating to the application of the waste;
- (2) have demonstrated competence in the operation of animal waste management systems by passing an appropriate examination; and
- (3) have paid the required fees as stipulated by G.S. 143-215.74E:

*History Note: Authority G.S. 143-215.74C-E;
Temporary Adoption Eff. June 19, 1996;
Temporary Repeal Eff. January 7, 1997.*

.0302 APPLICATION PROCEDURES

(a) An application for requesting examination for certification as an animal waste management system operator must be properly and accurately completed and submitted to the Department of Environment, Health, and Natural Resources, or its designee. Applications can be obtained from, and shall be returned to: Division of Environmental Management, Technical Assistance and Certification Group, Department of Environment, Health, and Natural Resources, P.O. Box 29535, Raleigh, North Carolina 27626-0535:

(b) Incomplete applications cannot be processed and will be returned to the applicant:

(c) An application being filed for examination shall be postmarked by the United States Postal Service at least 30 days prior to the date upon which the examination is scheduled to be administered, or be submitted according to a process approved by the Secretary or his designee.

(d) Upon receipt of the application by the Secretary or his designee, the application shall be reviewed by the designee(s) of the Secretary for eligibility to take the examination. The applicant shall be notified of their eligibility and shall be advised of the date, time and place of the examination. In cases where the applicant is ineligible for examination, the applicant shall also be notified by letter and advised of the reason for ineligibility. Any applicant who intentionally supplies false information on the application for certification for the purpose of gaining eligibility, shall be ineligible for the examination.

(e) An applicant shall be eligible to take the examination upon completion of an approved training school designed for operators of animal waste management systems. Completion of an approved school shall be verified by a signed affidavit from the school instructor.

(f) An applicant who has failed to pass the appropriate examination after three attempts must then again satisfactorily complete an approved training program before being eligible to retake the examination.

*History Note: Authority G.S. 143-215.74C-E;
Temporary Adoption Eff. June 19, 1996;
Temporary Repeal Eff. January 7, 1997.*

.0303 EXAMINATION PROCEDURES

The Secretary or his designee shall conduct examinations for certification:

- (1) The dates, times, and places of examination shall be determined by the Secretary.
- (2) Each applicant filing for examination shall be notified of the date, time, and place of the examination.
- (3) Examinations approved by the Secretary shall be given only to those who, after filing proper application, have been determined to be eligible.
- (4) When each applicant receives their examination paper, they will identify themselves by way of a valid driver's license or other form of photo identification satisfactory to the proctor of the examination.
- (5) Representatives of the Secretary or his designees, who are supervising the examinations may take appropriate action against applicants, including dismissal from the examination, if the examination policies and procedures as outlined by the Secretary or his designee are not followed.
- (6) An examination score of 70% or higher shall constitute a passing score.
- (7) The applicant will be informed, in writing only, by the Secretary or his designee as to the results of the examination. If a passing score is made, the

applicant will be certified as an Animal Waste Management System Operator and shall be issued a certificate by the Secretary. After each examination, a list of those certified shall be prepared and made part of the permanent records of the Secretary.

- (8) Under normal circumstances, neither the examination grade nor the examination paper of any applicant will be made available to anyone other than the Secretary or his designee and those approved persons who assist in conducting and grading the examinations.

*History Note: Authority G.S. 143-215.74C-E;
Temporary Adoption Eff. June 19, 1996;
Temporary Repeal Eff. January 7, 1997.*

.0304 RENEWAL OF CERTIFICATION

A currently valid certification as an Animal Waste Management System Operator may be maintained by:

- (1) the payment of an annual renewal fee established by the Secretary; and
- (2) once every five years:
 - (a) attend the six hour training program; and
 - (b) demonstrate competence in the operation of animal waste management systems by passing an appropriate examination.

*History Note: Authority G.S. 143-215.74C-E;
Temporary Adoption Eff. June 19, 1996;
Temporary Repeal Eff. January 7, 1997.*

.0305 REVOCATION, RELINQUISHMENT OR INVALIDATION OF CERTIFICATION

(a) The Secretary may revoke or suspend the certificate of an operator or may issue a written reprimand to an operator if it finds that the operator has practiced fraud or deception; or that reasonable care, judgment, or the application of their knowledge or ability was not used in the performance of their duties; or that the operator in charge is incompetent or unable to properly perform their duties, in accordance with the procedure set forth in G.S. 150B, Article 3. Prior to the Secretary or his designee taking action on a proposed revocation, suspension or reprimand, the operator shall be given an opportunity to submit a written statement and present oral argument before the Secretary or his designee at a scheduled meeting. Notice of the meeting shall be hand delivered or by certified mail at least 15 days prior to the meeting.

(b) Notice of the revocation or suspension shall be hand delivered to the operator or by certified mail at least 20 days prior to the effective date of the revocation or suspension. The notice shall contain the alleged facts or conduct upon which the revocation or suspension is based and shall inform the operator of the opportunity to contest the action.

(c) Certification may be relinquished by submission to the Secretary or his designee of the original certificate and a

notarized statement of relinquishment:

(d) ~~Failure to submit the annual renewal fee by the due date shall result in invalidation of the certification. Certification may be reinstated upon payment of all renewal fees and meeting all other qualifications outlined in Rule .0304 of this Section.~~

*History Note: Authority G.S. 143-215.74C-E;
Temporary Adoption Eff. June 19, 1996;
Temporary Repeal Eff. January 7, 1997.*

.0306 RECERTIFICATION FOLLOWING REVOCATION OR RELINQUISHMENT

(a) ~~After revocation or relinquishment has been effective for a period of not less than 270 days, a person may apply in writing for recertification by the Secretary or his designee. The petition must include any relevant facts concerning changes to conditions under which revocation or relinquishment occurred. Such facts must show clearly that the applicant will comply with the laws and regulations concerning the operation of animal waste management systems.~~

(b) ~~Within 120 days following receipt of an application for recertification, the Secretary will notify the applicant by letter of its decision to deny or grant examination eligibility in accordance with procedures set out in Rule .0305 of this Section. Additional eligibility requirements including a show cause conference may be imposed by the Secretary or his designee as is deems appropriate. Eligibility will only be granted if there is substantial evidence that the conditions leading to the revocation or relinquishment have been corrected.~~

(c) ~~Recertification of a person as an operator of animal waste management systems shall only occur by means of application and examination. The examination will not be waived. The applicant shall meet the eligibility requirements as outlined in Rule .0301 of this Section.~~

(d) ~~Upon notification of the Secretary's or his designee's decision to deny eligibility, the applicant may appeal the decision pursuant to the procedures contained in G.S. 150B, Article 3.~~

*History Note: Authority G.S. 143-215.74C-E;
Temporary Adoption Eff. June 19, 1996;
Temporary Repeal Eff. January 7, 1997.*

Rule-making Agency: *Water Pollution Control System Operators Certification Commission*

Rule Citation: *15A NCAC 8F .0101 - .0102, .0201 - .0203, .0301, .0401 - .0407, .0501 - .0506*

Effective Date: *January 7, 1997*

Findings Reviewed by Julian Mann, III: *Approved*

Authority for the rule-making: *G.S. 90A-35; 90A-37; 90A-38; 90A-39; 90A-41; 90A-43; 90A-44; 90A-47; 143B-300; 150B-3; 150B-23; 150B-38; 150B-52*

Reason for Proposed Action: *The purpose of this rule making is to establish the certification procedures and requirements for operators of animal waste management systems as required by G.S. 90A-47. The intent of this certification is to reduce nonpoint source pollution that may result from the land application of animal waste that is generated by animal operations as defined at G.S. 143-215.10B. The certification program is designed to protect the public health and to conserve and protect the quality of the State's agricultural land for the production of food and other agricultural products, and to require the examination of animal waste management system operators and certification of their competency to operate or supervise the operation of those systems.*

Comment Procedures: *Comments, statements, data and other information may be submitted in writing within 60 days of the publication of this notice. Copies of the proposed rules and information concerning the rules may be obtained by contacting the Technical Assistance and Certification Group at (919) 733-0026 or by submitting a written request to the address below. Written comments may be submitted to Ron Ferrell, WPCSOCC, Division of Water Quality, Water Quality Section, P. O. Box 29535, Raleigh, NC 27626-0535.*

CHAPTER 8 - WATER POLLUTION CONTROL SYSTEM OPERATORS CERTIFICATION COMMISSION

SUBCHAPTER 8F - CERTIFICATION OF OPERATORS OF ANIMAL WASTE MANAGEMENT SYSTEMS

SECTION .0100 - GENERAL PURPOSE/DEFINITIONS

.0101 PURPOSE

(a) The purpose of these Rules is to reduce nonpoint source pollution in order to protect the public health and to conserve and protect the quality of the State's water resources, to encourage the development and improvement of the State's agricultural land for the production of food and other agricultural products, and to require the examination of animal waste management system operators and certification of their competency to operate or supervise the operation of those systems.

(b) These Rules apply to all operators of animal waste management systems that are required to designate an operator in charge as specified by G.S. 90A-47.2(a). These animal waste management systems include those systems that are designed to serve an animal operation involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1000 or more sheep, or 30,000 or more confined poultry

with a liquid animal waste management system.

(c) The Certification Commission shall classify animal waste management systems based on the types of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.

(d) The Certification Commission shall establish certifications for each type of animal waste management system so that persons holding these certificates shall be affirmed competent to operate a specific type of animal waste management system.

History Note: Authority G.S. 90A-37; 90A-38; 90A-47; 143B-300;

Temporary Adoption Eff. January 7, 1997.

.0102 DEFINITIONS

(a) "Animal waste" means liquid residuals, resulting from an animal operation that are collected, treated, stored, or applied to the land through an animal waste management system.

(b) "Animal waste management system" means a combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.

(c) "Animal waste management system operator" means a person that has been certified by the Certification Commission as a Type A Animal Waste Management System Operator or as a Type B Animal Waste Management System Operator.

(d) "Application of animal waste" means laying, spreading on, irrigating, or injecting animal waste onto or into the soil.

(e) "Appropriate examination" means an examination that has been approved by the Certification Commission.

(f) "Approved training program" means a training program that has been developed and approved by the Certification Commission in cooperation with the Cooperative Extension Service.

(g) "Certified operator" means a person who holds a currently valid certification as an animal waste management system operator.

(h) "Certification Commission" means the Water Pollution Control System Operators Certification Commission (WPCSOCC) created by G.S. 143B-300.

(i) "Contract animal waste management system operator" means any certified animal waste operator who contracts with the owner or person in control of an animal operation pursuant to G.S. 90A-47.2(b).

(j) "Currently valid certification" means that all training and certification requirements pursuant to G.S. 90A-47.3(b) and G.S. 90A-47.4 have been completed.

(k) "Emergency circumstances" means any extraordinary meteorological event, natural catastrophe, or equipment failure that threatens the integrity of the animal waste management system.

(l) "Operator in Charge" means a person who holds a currently valid certificate to operate an animal waste

management system and who has primary responsibility for the operation of the system.

(m) "Owner" means the person who owns or controls the premises of an animal operation having an animal waste management system.

(n) "Person under the supervision of an Operator in Charge" means a person who takes directions from the Operator in Charge and who may only land apply animal waste when the Operator in Charge is available for consultation and advice at any time during the application of animal waste.

History Note: Authority G.S. 90A-35; 90A-43; 90A-47; 143B-300;

Temporary Adoption Eff. January 7, 1997.

SECTION .0200 - DUTIES AND REQUIREMENTS

.0201 DUTIES AND REQUIREMENTS OF OWNERS

(a) The owner of each animal operation having an animal waste management system shall submit a letter to the Certification Commission, Division of Water Quality, Technical Assistance and Certification Group, P.O. Box 29535, Raleigh, North Carolina 27626-0535, which designates an Operator in Charge with the appropriate type of certification. This letter shall be signed by the owner and the certified operator and be submitted to the Certification Commission by January 1, 1997 for all facilities in operation as of that date. Otherwise, the Operator in Charge shall be designated:

- (1) before a new animal operation having an animal waste management system is placed in operation after January 1, 1997; or
- (2) within 30 days after a new Operator in Charge is designated.

(b) An owner may voluntarily designate a back-up Operator in Charge to operate the animal waste management system during the absence of the primary Operator in Charge.

History Note: Authority G.S. 90A-44; 90A-47; 143B-300; Temporary Adoption Eff. January 7, 1997.

.0202 DUTIES AND REQUIREMENTS OF CERTIFIED OPERATORS

Certified Operators shall:

- (1) notify the Certification Commission, Division of Water Quality, Technical Assistance and Certification Group, P.O. Box 29535, Raleigh, North Carolina 27626-0535, in writing, within 30 days of any change in address.
- (2) pay an annual renewal fee as specified at G.S. 90A-47.4(b) and complete all additional training requirements as specified at G.S. 90A-47.3(b).

History Note: Authority G.S. 90A-47; 143B-300; Temporary Adoption Eff. January 7, 1997.

.0203 DUTIES AND REQUIREMENTS OF AN OPERATOR IN CHARGE

(a) An Operator in Charge of any animal waste management system shall:

- (1) possess a currently valid certification as an Animal Waste Management System Operator of the appropriate type;
- (2) visit, and inspect each animal waste management system at a frequency sufficient to ensure proper operation of the system; and
- (3) be responsible for the proper application of the animal waste; properly manage, supervise and document daily operation and maintenance of the system; certify monitoring and reporting information as prescribed in the permit; and reside within reasonable proximity of the system to be readily available for consultation during emergency circumstances, regulatory inspections and similar matters.

(b) The Operator in Charge or a designated back-up Operator in Charge of a Type A Animal Waste Management System shall:

- (1) ensure that animal waste is applied in accordance with the animal waste management plan and the permit issued for the animal operation;
- (2) inspect, or a person under the supervision of an Operator in Charge shall inspect, the land application site at least every four hours during the application of animal waste; and
- (3) inspect the land application site within 24 hours of the application of animal waste if the Operator in Charge was not present during the application of animal waste.

(c) The Operator in Charge or a designated back-up Operator in Charge of a Type B Animal Waste Management System shall:

- (1) ensure that animal waste is applied in accordance with the animal waste management plan and the permit issued for the animal operation;
- (2) inspect, or a person under the supervision of an Operator in Charge shall inspect, the land application site during the application of animal waste; and
- (3) inspect the land application site within 48 hours of the application of animal waste if the Operator in Charge was not present during the application of animal waste.

(d) Any certified operator that contracts with an owner to serve as Operator in Charge shall submit an annual report to the Certification Commission in accordance with G.S. 90A-45(c). This report shall be submitted on or before January 15 of each year and shall include the following information:

- (1) the name of the certified operator, mailing address, phone number, and certificate number(s); and
- (2) the name, mailing address, county, and facility identification number, and type of each animal waste management system for which the certified

operator has been designated as Operator in Charge.

History Note: Authority G.S. 90A-47; 143B-300; Temporary Adoption Eff. January 7, 1997.

SECTION .0300 - CLASSIFICATION

.0301 CLASSIFICATION OF ANIMAL WASTE MANAGEMENT SYSTEMS

The Certification Commission shall classify animal waste management systems based on the types of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.

- (1) Type A: animal waste management systems that may include the following structures and nonstructural components that provide for the collection, treatment, storage and land application of animal waste and primarily rely on an anaerobic lagoon and soil /plant systems for the treatment of animal waste. These systems generally include the following components: anaerobic lagoon; pumps, pipes and associated appurtenances that convey the waste from point of generation to final treatment/disposal site; flushing systems; solids separation equipment; irrigation equipment; and land application site and crops. Type A animal waste management systems are generally used to treat waste generated by monogastric animals which produce a low-fiber waste. Animal waste management systems which include components that are significantly different than the system described above shall be evaluated by the Commission, or its designee, to determine if the system is subject to classification in accordance with Rule 15A NCAC 8C .0002(b).
- (2) Type B: animal waste management systems that may include the following structures and nonstructural components that provide for the collection, treatment, storage and land application of animal waste and primarily rely on soil/plant systems for the treatment of animal waste. These systems generally include the following components: dry stacks; solids and slurry collection equipment; storage ponds for the collection of solids and runoff; pumps, pipes and associated appurtenances that convey the waste from point of generation to final treatment/disposal site; flushing systems; solids separation equipment; irrigation equipment; and land application site and crops. Type B animal waste management systems are generally used to treat waste generated by ruminants and other animals which produce a high-fiber waste. Animal waste management systems which include components that are significantly different than the system

described above shall be evaluated by the Commission, or its designee, to determine if the system is subject to classification in accordance with Rule 15A NCAC 8C .0002(b).

History Note: Authority G.S. 90A-37; 90A-47; 143B-300; Temporary Adoption Eff. January 7, 1997.

SECTION .0400 - CERTIFICATION OF OPERATORS

.0401 QUALIFICATIONS FOR EXAMINATION

(a) Type A Animal Waste Management System Operator.

- (1) An applicant for certification as a Type A Animal Waste Management System Operator shall be expected to have a general knowledge of animal operations and Type A animal waste management systems. The applicant shall have knowledge of the laws and regulations related to the operation of Type A animal waste management systems, the equipment usually employed in Type A animal waste management systems, be able to describe the general maintenance requirements for such equipment, have the ability to perform calibrations and calculations relating to the land application of the waste, have an understanding of animal waste management plans, and be able to read and complete the forms necessary to document the proper land application of animal waste in accordance with the animal waste management plan. The applicant must submit an application to the Certification Commission showing that the following requirements have been met in order to take an examination for certification as a Type A Animal Waste Management System Operator:

- (A) be at least 18 years of age;
- (B) completion of a 10 hour training program on the operation of Type A animal waste management systems that provides instruction regarding the collection, storage, treatment, and land application of animal waste.

- (2) An applicant who has failed to pass the appropriate examination after three attempts must attend and satisfactorily complete the approved training program before being eligible to retake the examination.

(b) Type B Animal Waste Management System Operator.

- (1) An applicant for certification as a Type B Animal Waste Management System Operator shall be expected to have a general knowledge of animal operations and Type B animal waste management systems. The applicant shall have knowledge of the laws and regulations related to the operation of Type B animal waste management systems, knowledge of the equipment usually employed in Type B animal waste management systems, be able

to describe the general maintenance requirements for such equipment, have the ability to perform calibrations and calculations relating to the land application of the waste, have an understanding of animal waste management plans, and be able to read and complete the forms necessary to document the proper land application of animal waste in accordance with the animal waste management plan. The applicant must submit an application to the Certification Commission showing that the following requirements have been met in order to take an examination for certification as a Type B Animal Waste Management System Operator:

- (A) be at least 18 years of age;
- (B) completion of a 10 hour training program on the operation of Type B Animal Waste Management Systems that provides instruction regarding the collection, storage, treatment, and application of animal waste.

- (2) An applicant who has failed to pass the appropriate examination after three attempts must attend and satisfactorily complete the approved training program before being eligible to retake the examination.

History Note: Authority G.S. 90A-43; 90A-47; 143B-300; Temporary Adoption Eff. January 7, 1997.

.0402 APPLICATION FORM

(a) An application form which is designed for requesting certification as an Animal Waste Management System Operator by way of examination must be properly and accurately completed and submitted with the appropriate fee as stipulated by G.S. 90A-47.4 to the Certification Commission, Division of Water Quality, Technical Assistance and Certification Group, P.O. Box 29535, Raleigh, North Carolina 27626-0535.

(b) Incomplete applications and applications not accompanied by the appropriate fee and attachments cannot be processed and will be returned to the applicant.

History Note: Authority G.S. 90A-39; 90A-47; 143B-300; Temporary Adoption Eff. January 7, 1997.

.0403 APPLICATION PROCEDURES

(a) An application being filed for examination shall be postmarked by the United States Postal Service at least 30 days prior to the date upon which the examination is scheduled to be administered and the appropriate fee must accompany the application.

(b) Upon receipt of the application by the Certification Commission, the application will be reviewed by the designee(s) of the Certification Commission for eligibility to take the examination. The applicant will be notified by letter, which will serve as the receipt for the examination fee, of his/her eligibility and will be advised of the date, time and

place of the examination. In cases where the applicant is ineligible for examination, the applicant will also be notified by letter and advised of the reason for ineligibility. The examination fee will be refunded in the event that the applicant is determined to be ineligible for the examination. Upon notification of ineligibility, the applicant may request a hearing before the Certification Commission at the next regularly scheduled meeting, relative to the ineligibility. Such requests must be in writing and shall be submitted at least 30 days prior to the next regularly scheduled meeting. Any applicant who intentionally supplies false information on the application for certification for the purpose of gaining eligibility, will be ineligible for the examination and will forfeit the examination fee. Applicants who have intentionally supplied false information and who have been determined to be ineligible who wish to reapply for certification shall follow the procedure set forth in Rule .0407(d) of this Section.

History Note: Authority G.S. 90A-39; 90A-47; 143B-300; Temporary Adoption Eff. January 7, 1997.

.0404 EXAMINATION PROCEDURES

The Certification Commission or its designee shall conduct examinations for certification in accordance with the following:

- (1) The dates, times, and places of examination shall be determined by the Certification Commission. Announcements of the dates, times and places of examination shall be distributed to the Cooperative Extension Service office in each county.
- (2) Each applicant applying for examination shall be notified of the date, time, and place of the examination in accordance with Rule .0403(b) of this Section.
- (3) Examinations approved by the Certification Commission shall be given only to those who, after filing proper application, have been determined to be eligible.
- (4) When each applicant receives his/her examination paper, he/she shall identify themselves by way of a valid driver's license or other form of photo identification satisfactory to the proctor of the examination.
- (5) Representatives of the Certification Commission or its designee(s), who are supervising the examinations may take appropriate action against applicants, including dismissal from the examination, if the examination policies and procedures are not followed.
- (6) An examination score of 70 percent or higher shall constitute a passing score.
- (7) The applicant shall be notified, in writing only, of the score achieved on the examination by the Certification Commission or its designee. The results of the examination shall be mailed to the address submitted with the application for

examination. If a passing score is made, such notification constitutes certification by the Certification Commission that the applicant is qualified operator of the appropriate type of animal waste management systems and shall be issued a certificate by the Certification Commission. After each examination, a list of those certified shall be prepared and made part of the permanent records of the Certification Commission.

History Note: Authority G.S. 90A-39; 90A-47; 143B-300; Temporary Adoption Eff. January 7, 1997.

.0405 RENEWAL OF CERTIFICATION

(a) A currently valid certification as an animal waste management system operator shall be maintained by:

- (1) the payment of an annual renewal fee by the date established by the Certification Commission;
- (2) completion of a minimum of six hours of additional training approved by the Certification Commission during each three year period following initial certification.

(b) A certified animal waste management system operator that fails to pay the annual renewal fee within 30 days of the due date, or fails to complete the approved additional training within 30 days of the end of three year period, shall take and pass an examination approved by the Certification Commission in order to renew the certificate.

History Note: Authority G.S. 90A-47; 143B-300; Temporary Adoption Eff. January 7, 1997.

.0406 REVOCATION, RELINQUISHMENT OR INVALIDATION OF CERTIFICATION

(a) The Certification Commission, in accordance with the provisions of G.S. 150B, may suspend or revoke the certificate of a certified operator, or issue a written reprimand to an operator if it finds that the operator:

- (1) engages in fraud or deceit in obtaining certification; or
- (2) fails to exercise reasonable care, judgment, or use of the operator's knowledge and ability in the performance of the duties of an operator in charge; or
- (3) is incompetent or otherwise unable to properly perform the duties of an operator in charge.

(b) Prior to the Certification Commission taking action on a proposed revocation, suspension, or civil penalty assessment, the operator shall be given an opportunity to submit a written statement and present oral argument before the Certification Commission at a regularly scheduled meeting. The operator shall be notified by the Certification Commission in writing at least 15 days prior to the meeting. This notification shall be delivered by first class mail to the operator's address that the Certification Commission has on file.

(c) The Certification Commission may issue a written

reprimand to an operator in accordance with G.S. 90A-41. The reprimand shall be delivered personally or by certified mail. A copy of the letter will be kept in the operator's file and a copy will be sent to the operator's employer. The operator will be given the opportunity to put a letter of rebuttal into the file when a reprimand has been issued.

History Note: Authority G.S. 90A-41; 90A-47; 143B-300; 150B-3; 150B-23; 150B-38; 150B-52;
Temporary Adoption Eff. January 7, 1997.

.0407 RECERTIFICATION FOLLOWING REVOCATION OR RELINQUISHMENT

(a) After revocation or relinquishment has been effective for a period of not less than 270 days, a person may apply in writing for recertification by the Certification Commission. The petition must include any relevant facts concerning changes to conditions under which revocation or relinquishment occurred. Such facts must show clearly that the applicant will comply with the laws and regulations concerning the operation of animal waste management systems.

(b) Within 120 days following receipt of an application for recertification, the Certification Commission will notify the applicant by letter of its decision to deny or grant examination eligibility in accordance with procedures set out in Rule .0403 of this Section. Additional eligibility requirements including a show cause conference may be imposed by the Certification Commission as it deems appropriate. Eligibility will only be granted if there is substantial evidence that the conditions leading to the revocation or relinquishment have been corrected.

(c) Recertification of a person as an operator of animal waste management systems shall only occur by means of application and examination. The examination will not be waived. The applicant shall meet the eligibility requirements as outlined in Rule .0401 of this Section.

(d) Upon notification of the Certification Commission's decision to deny eligibility, the applicant may appeal the decision pursuant to the procedures contained in G.S. 150B, Article 3.

(e) Prior to recertification the applicant must pay in full all civil penalties assessed against them by the Certification Commission.

History Note: Authority G.S. 90A-39; 90A-47; 143B-300; 150B-3; 150B-38;
Temporary Adoption Eff. January 7, 1997.

SECTION .0500 - CIVIL PENALTIES

.0501 WHO MAY ASSESS

Civil penalties may be assessed by the Secretary of the Department of Environment, Health, and Natural Resources or his designee, for willful violation of the requirements of G.S. 90A-47 and this Subchapter.

History Note: Authority G.S. 90A-47;
Temporary Adoption Eff. January 7, 1997.

.0502 WHEN ASSESSABLE

Civil penalties may be assessed whenever the Secretary, or his designee, has determined that an owner of an animal operation with an animal waste management system, or an Operator in Charge of an animal waste management system, willfully violates the requirements of G.S. 90A-47 and this Subchapter. Violations that may result in the assessment of civil penalties include, in addition to matters specially referenced in G.S. 90A-47.5(a), failure to designate a properly certified Operator In Charge of the animal waste management system as required by G.S. 90A-47.2(a).

History Note: Authority G.S. 90A-47;
Temporary Adoption Eff. January 7, 1997.

.0503 STANDARDS

In determining the amount of the assessment the Secretary, or his designee, shall consider the following standards:

- (1) duration of the violation;
- (2) other violations of this Subchapter or G.S. 143-215.6(a);
- (3) effectiveness of preventive or responsive measures taken by violator;
- (4) cost of rectifying any damage caused by the violation; and
- (5) the violator's previous record in complying or not complying with the requirements of G.S. 143, Article 21.

History Note: Authority G.S. 90A-47;
Temporary Adoption Eff. January 7, 1997.

.0504 ASSESSMENT

(a) For all violations for which a penalty is assessed a notice of such action shall be sent to the respondent by certified mail. The notice will describe the violation, advise that the penalty is due, and advise the respondent of the rights of appeals as specified in Rule .0505 of this Section.

(b) The Secretary, or his designee, may modify a penalty to a lower amount upon finding that additional or different facts should be or should have been considered in determining the amount of assessment.

History Note: Authority G.S. 90A-47;
Temporary Adoption Eff. January 7, 1997.

.0505 PAYMENT AND HEARING

(a) Within 30 days after receipt of notification of an assessment, the assessed person must tender payment, or submit in writing a request for remission or reduction of the penalty, or file a petition with the office of Administrative Hearings in accordance with the procedures found in G.S. 150B, Article 3.

(b) The Secretary, or his designee, will accept and

acknowledge all tenders of payment on behalf of the Certification Commission. Requests for remission or reduction of the penalty will be presented to the Certification Commission and the respondent will be allowed the opportunity to present its request only when the respondent and Chairman stipulate that no facts are in dispute, or where the respondent waives his right to an administrative hearing.

*History Note: Authority G.S. 90A-47;
Temporary Adoption Eff. January 7, 1997.*

.0506 REFERRALS

If any civil penalty as finally assessed is not paid, the Secretary, or his designee, on behalf of the Certification Commission shall request the Attorney General to commence action to recover the amount of assessment.

*History Note: Authority G.S. 90A-47;
Temporary Adoption Eff. January 7, 1997.*

*This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting of November 21, 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 unless otherwise noted, 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
10	NCAC	3R .3040*	11:08 NCR 466
		.3050*	11:08 NCR 466
	3U	.0102*	11:10 NCR 819
		.0704*	11:04 NCR 188
		.0710*	11:04 NCR 188
		.2701 - .2702*	11:10 NCR 819
		.2703	11:10 NCR 819
		.2704*	11:10 NCR 819
	41P	.0106*	11:12 NCR 960
		.0108 - .0112*	11:12 NCR 960
	42A	.0701	11:10 NCR 823
		.0702*	11:10 NCR 823
	42B	.1209	11:12 NCR 967
		.1210 - .1211*	11:12 NCR 967
		.2402 - .2405	11:12 NCR 967
	42C	.2010	11:12 NCR 967
		.3701	11:12 NCR 967
		.3702 - .3703*	11:12 NCR 967
		.3704	11:12 NCR 967
	42D	.1409	11:12 NCR 967
		.1827 - .1830	11:12 NCR 967
	49A	.0102	11:12 NCR 960
	49B	.0202*	11:12 NCR 960
		.0310*	11:12 NCR 960
		.0502	11:12 NCR 960
15A	NCAC	2B .0315*	11:09 NCR 572
		2D .0518	11:08 NCR 472
		.0524*	11:08 NCR 472
		.0530	11:08 NCR 472
		.0902	11:08 NCR 472
		.0907	11:08 NCR 472
		.0909 - .0911	11:08 NCR 472
		.0946	11:08 NCR 472
		.0954*	11:08 NCR 472
		.1110 - .1111*	11:08 NCR 472
		.1402 - .1403	11:08 NCR 472
	2Q	.0102*	11:08 NCR 472
		.0104*	11:08 NCR 472
		.0107	11:08 NCR 472

		.0507	11:08	NCR	472
		.0512	11:08	NCR	472
		.0514 - .0515	11:08	NCR	472
		.0517	11:08	NCR	472
	7J	.0102	11:04	NCR	190
10B		.0203*	11:08	NCR	495
		.0209	11:08	NCR	495
10C		.0205*	11:08	NCR	495
		.0305*	11:08	NCR	495
10D		.0003*	11:08	NCR	495
13C		.0302*	11:06	NCR	357
		.0304*	11:06	NCR	357
		.0306*	11:06	NCR	357
17	NCAC	7B .0118	11:12	NCR	998
		.1602*	11:12	NCR	998
		.1702*	11:12	NCR	998
		.1802*	11:12	NCR	998
		.3103	11:12	NCR	998
		.3106*	11:12	NCR	998
		.4202	11:12	NCR	998
		.4501	11:12	NCR	998
21	NCAC	60 .0204	11:10	NCR	839
		.0207*	11:10	NCR	839
		63 .0306*	11:03	NCR	118
23	NCAC	2D .0325*	11:09	NCR	585
		3A .0113*	11:09	NCR	585

**TITLE 10 - DEPARTMENT OF HUMAN
RESOURCES**

CHAPTER 3 - FACILITY SERVICES

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

**SECTION .3000 - STATE MEDICAL FACILITIES
PLAN**

.3040 REALLOCATIONS AND ADJUSTMENTS

(a) REALLOCATIONS.

- (1) Reallocations shall be made only to the extent that 10 NCAC 3R .3030 determines that a need exists after the inventory is revised and the need determination is recalculated.
- (2) Beds or services which are reallocated once in accordance with this Rule shall not be reallocated again. Rather, the Medical Facilities Planning Section shall make any necessary changes in the next published amendment to 10 NCAC 3R .3030.
- (3) Dialysis stations that are withdrawn, relinquished, not applied for or decertified shall not be reallocated. Instead, any necessary redetermination of need shall be made in the next scheduled publication of the Semiannual Dialysis Report.

- (4) (3) Appeals of Certificate of Need Decisions on Applications. Need determinations of beds or services for which the CON Section decision has been appealed shall not be reallocated until the appeal is resolved.

- (A) Appeals Resolved Prior to September 17: If an appeal is resolved in the calendar year prior to September 17, the beds or services shall not be reallocated by the CON Section; rather the Medical Facilities Planning Section shall make the necessary changes in the next amendment to 10 NCAC 3R .3030.
- (B) Appeals Resolved On Or After September 17: If the appeal is resolved on or after September 17 in the calendar year, the beds or services services, except for dialysis stations, shall be made available for a review period to be determined by the CON Section, but beginning no earlier than 60 days from the date that the appeal is resolved. Notice shall be given mailed by the Certificate of Need Section to all persons on the mailing list for the State Medical Facilities Plan, no less than 45 days prior to the due date for receipt of new applications.

- (4) ~~Dialysis stations that are withdrawn, relinquished, not applied for or decertified shall not be~~

reallocated. ~~Instead, any necessary redetermination of need shall be made in the next scheduled publication of the Semiannual Dialysis Report.~~

- (5) Withdrawals and Relinquishments. Except for dialysis stations, a ~~★~~ need determination for which a certificate of need is issued, but is subsequently withdrawn or relinquished, is available for a review period to be determined by the Certificate of Need Section, but beginning no earlier than 60 days from:

- (A) the last date on which an appeal of the notice of intent to withdraw the certificate could be filed if no appeal is filed,
- (B) the date on which an appeal of the withdrawal is finally resolved against the holder, or
- (C) the date that the Certificate of Need Section receives from the holder of the certificate of need notice that the certificate has been voluntarily relinquished.

Notice of the scheduled review period for the reallocated services or beds shall be given mailed by the Certificate of Need Section to all persons on the mailing list for the State Medical Facilities Plan, no less than 45 days prior to the due date for submittal of the new applications.

- (6) Need Determinations for which No Applications are Received

- (A) Services or Beds with Scheduled Review in the Calendar Year on or Before October 1: Need determinations, or portions of such need, for services or beds in this category include long-term nursing care beds, home health agencies or offices, hospice home care programs, hospice inpatient beds, and beds in intermediate care facilities for the mentally retarded (ICF/MR) with the exception of ICF/MR need determinations with a scheduled review that begins after October 1. The Certificate of Need Section shall not reallocate the services or beds in this category for which no applications were received, because the Medical Facilities Planning Section will have sufficient time to make any necessary changes in the determinations of need for these services or beds in the next annual amendment to 10 NCAC 3R .3030.

- (B) Services or Beds with Scheduled Review in the Calendar Year After October 1: Need determinations for services or beds in this category include acute care beds, psychiatric beds, substance abuse beds, ICF/MR beds, bone marrow transplantation services, burn intensive care services, neonatal intensive care services, open heart surgery services,

solid organ transplantation services, air ambulance equipment, cardiac angioplastic equipment, cardiac catheterization equipment, heart-lung bypass machine, machines, gamma knife knives, lithotriptors, magnetic resonance imaging ~~scanner, scanners~~, positron emission tomography scanners, major medical equipment as defined in G.S. 131E-176(14f), diagnostic centers and oncology treatment centers for which review commences after October 1. A need determination in this category for which no application has been received by the last due date for submittal of applications shall be available to be applied for in the second Category I review period in the next calendar year for the applicable HSA. Notice of the scheduled review period for the reallocated beds or services shall be given mailed by the Certificate of Need Section to all persons on the mailing list for the State Medical Facilities Plan, no less than 45 days prior to the due date for submittal of new applications.

- (7) Need Determinations not Awarded because Application Disapproved.

- (A) Disapproval in the Calendar Year prior to September 17: Need determinations or portions of such need for which applications were submitted but disapproved by the Certificate of Need Section before September 17, shall not be reallocated by the Certificate of Need Section. Instead the Medical Facilities Planning Section shall make the necessary changes in the next annual amendment to 10 NCAC 3R .3030 if no appeal is filed.

- (B) Disapproval in the Calendar Year on or After September 17: Need determinations or portions of such need for which applications were submitted but disapproved by the Certificate of Need Section on or after September 17, shall be reallocated by the Certificate of Need ~~Section~~. Section except for dialysis stations. A need in this category shall be available for a review period to be determined by the Certificate of Need Section but beginning no earlier than 95 days from the date the application was disapproved, if no appeal is filed. Notice of the scheduled review period for the reallocation shall be mailed by the Certificate of Need Section to all persons on the mailing list for the State Medical Facilities Plan no less than 80 days prior to the due date for submittal of the new

applications.

- (8) Reallocation of Delicensed and Decertified ICF/MR Beds. If an ICF/MR facility's license and Medicaid certification are relinquished or revoked, the ICF/MR beds in the facility shall be reallocated by the Department of Human Resources, Division of Facility Services, Medical Facilities Planning Section pursuant to the provisions of the following sub-parts. The reallocated beds shall only be used to convert five-bed ICF/MR facilities into six-bed facilities.

(A) If the number of five-bed ICF/MR facilities in the mental health planning region in which the beds are located equals or exceeds the number of reallocated beds, the beds shall be reallocated solely within the planning region after considering the recommendation of the Regional Team of Developmental Disabilities Services Directors.

(B) If the number of five-bed ICF/MR facilities in the mental health planning region in which the beds are located is less than the number of reallocated beds, the Medical Facilities Planning Section shall reallocate the excess beds to other planning regions after considering the recommendation of the Developmental Disabilities Section in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. The Medical Facilities Planning Section shall then allocate the beds among the planning areas within those planning regions after considering the recommendation of the appropriate Regional Teams of Developmental Disabilities Services Directors.

(C) The Department of Human Resources, Division of Facility Services, Certificate of Need Section shall schedule reviews of applications for these beds pursuant to Subparagraph (a)(5) of this Rule.

(b) CHANGES IN NEED DETERMINATIONS.

- (1) The need determinations in 10 NCAC 3R .3030 and .3032 shall be revised continuously throughout 1995 the calendar year to reflect all changes in the inventories of:

- (A) the health services listed at G.S. 131E-176 (16)f;
 - (B) health service facilities;
 - (C) health service facility beds;
 - (D) dialysis stations;
 - (E) the equipment listed at G.S. 131E-176 (16)f1; and
 - (F) mobile medical equipment,
- as those changes are reported to the Medical Facilities Planning Section. However, need

determinations in 10 NCAC 3R .3030 or .3032 shall not be reduced if the relevant inventory is adjusted upward 30 days or less prior to the first day of the applicable review period.

- (2) Inventories shall be updated to reflect:

- (A) decertification of home health agencies or offices, intermediate care facilities for the mentally retarded, and dialysis stations;
- (B) delicensure of health service facilities and health service facility beds;
- (C) demolition, destruction, or decommissioning of equipment as listed at G.S. 131E-176(16) f1 and s;
- (D) elimination or reduction of a health service as listed at G.S. 131E-176(16) f;
- (E) psychiatric beds licensed pursuant to G.S. 131E-184(c);
- (F) certificates of need awarded, relinquished, or withdrawn, subsequent to the preparation of the inventories in the State Medical Facilities Plan; and
- (G) corrections of errors in the inventory as reported to the Medical Facilities Planning Section.

- (3) Any person who is interested in applying for a new institutional health service for which a need determination is made in 10 NCAC 3R .3030 or .3032 may obtain information about updated inventories and need determinations from the Medical Facilities Planning Section.

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Amended Eff. April 1, 1995; April 1, 1994; January 4, 1993; Temporary Amendment Eff. January 1, 1996;

Amended Eff. April 1, 1997.

.3050 POLICIES

(a) ACUTE CARE FACILITIES AND SERVICES

- (1) Use of Licensed Bed Capacity Data for Planning Purposes. For planning purposes the number of licensed beds shall be determined by the Division of Facility Services in accordance with standards found in ~~10 NCAC 3C .1510 - Bed Capacity:~~ 10 NCAC 3C - Section .6200 and .3102(d).
- (2) Utilization of Acute Care Hospital Bed Capacity. Conversion of underutilized hospital space to other needed purposes shall be considered an alternative

to new construction. Hospitals falling below utilization targets in 10 NCAC 3R .3050(a)(4) are assumed to have underutilized space. Any such hospital proposing new construction must clearly demonstrate that it is more cost-effective than conversion of existing space.

- (3) Exemption from Plan Provisions for Certain Academic Medical Center Teaching Hospital Projects. Projects for which certificates of need are sought by academic medical center teaching hospitals may qualify for exemption from provisions of 10 NCAC 3R .3030.

(A) The State Medical Facilities Planning Section shall designate as an Academic Medical Center Teaching Hospital any facility whose application for such designation demonstrates the following characteristics of the hospital:

(i) ~~(A) Exemption from Plan provisions for certain Academic Medical Center Teaching Hospital projects that serve~~ Serves as a primary teaching site for a school of medicine and at least one other health professional school, providing undergraduate, graduate and postgraduate education.

(ii) ~~(B) Exemption from provisions of 10 NCAC 3R .3030 shall be granted to projects submitted by Academic Medical Center Teaching Hospitals designated prior to January 1, 1990 and houses Houses extensive basic medical science and clinical research programs, patients and equipment, equipment, and which projects comply with one of the following conditions:~~

(iii) Serves the treatment needs of patients from a broad geographic area through multiple medical specialties.

(B) Exemption from the provisions of 10 NCAC 3R .3030 shall be granted to projects submitted by Academic Medical Center Teaching Hospitals designated prior to January 1, 1990 which projects comply with one of the following conditions:

(i) Necessary to complement a specified and approved expansion of the number or types of students, residents or faculty, as certified by the head of the relevant associated professional school; or

(ii) Necessary to accommodate patients, staff or equipment for a specified and approved expansion of research activities, as certified by the head of the entity sponsoring the research; or

(iii) Necessary to accommodate changes in requirements of specialty education accrediting bodies, as evidenced by copies of documents issued by such bodies.

~~(C) Serves the treatment needs of patients from a broad geographic area through multiple medical specialties.~~

- (4) Reconversion to Acute Care. Facilities redistributing beds from acute care bed capacity to rehabilitation or psychiatric use shall obtain a certificate of need to convert this capacity back to acute care. Application for such reconversion to acute care of beds converted to psychiatry or rehabilitation shall be evaluated against the hospital's utilization in relation to target occupancies used in determining need shown in 10 NCAC 3R .3030 without regard to the acute care bed need shown in the Rule. These target occupancies are:

Licensed Bed Capacity	Percent Occupancy
1 - 49	65
50 - 99	70
100 - 199	75
200 - 699	80
700 - +	81.5

- (5) Multi-Specialty Ambulatory Surgery. After applying other required criteria, when superiority among two or more competing ambulatory surgical facility certificate of need applications is uncertain, favorable consideration shall be given to "multi-specialty programs" over "specialty programs" in areas where need is demonstrated in 10 NCAC 3R .3030. A multi-specialty ambulatory surgical program means a program providing services in at least three of the following areas; gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, orthopedics, urology, and oral surgery. An ambulatory surgical facility shall provide at least two designated operating rooms with general anesthesia capabilities, and at least one designated recovery room.

- (6) Distribution of Inpatient Rehabilitation Beds. After applying other required criteria, when superiority among two or more competing rehabilitation facility certificate of need applications is uncertain, favorable consideration shall be given to proposals that make rehabilitation services more accessible to patients and their families or are part of a comprehensive regional rehabilitation network.

(b) LONG-TERM CARE FACILITIES AND SERVICES.

- (1) Provision of Hospital-Based Long-Term Nursing Care. A certificate of need may be issued to a hospital which is licensed under G.S. 131E, Article 5, and which meets the conditions set forth

below and ~~other relevant rules, in 10 NCAC 3R .1100,~~ to convert up to ten beds from its licensed acute care bed capacity for use as hospital-based long-term nursing care beds without regard to determinations of need in 10 NCAC 3R .3030 if the hospital:

- (A) is located in a county which was designated as non-metropolitan by the U. S. Office of Management and Budget on January 1, ~~1995, 1996;~~ and
- (B) on January 1, ~~1995, 1996,~~ had a licensed acute care bed capacity of 150 beds or less.

The certificate of need shall remain in force as long as the Department of Human Resources determines that the hospital is meeting the conditions outlined in this Rule.

"Hospital-based long-term nursing care" is defined as long-term nursing care provided to a patient who has been directly discharged from an acute care bed and cannot be immediately placed in a licensed nursing facility because of the unavailability of a bed appropriate for the individual's needs. Determination of the patient's need for hospital-based long-term nursing care shall be made in accordance with criteria and procedures for determining need for long-term nursing care administered by the Division of Medical Assistance and the Medicare program. Beds developed under this Rule are intended to provide placement for residents only when placement in other long-term care beds is unavailable in the geographic area. Hospitals which develop beds under this Rule shall discharge patients to other nursing facilities with available beds in the geographic area as soon as possible where appropriate and permissible under applicable law. Necessary documentation including copies of physician referral forms (FL 2) on all patients in hospital-based nursing units shall be made available for review upon request by duly authorized representatives of licensed nursing facilities.

For purposes of this rule, beds in hospital-based long-term nursing care shall be certified as a "distinct part" as defined by the Health Care Financing Administration. Beds in a "distinct part" shall be converted from the existing licensed bed capacity of the hospital and shall not be reconverted to any other category or type of bed without a certificate of need.

An application for a certificate of need for reconverting beds to acute care shall be evaluated against the hospital's service needs utilizing target occupancies shown in 10 NCAC 3R .3050(a)(4), without regard to the acute care bed need shown in 10 NCAC 3R .3030. A certificate of need issued for a hospital-based long-term nursing care unit

shall remain in force as long as the following conditions are met:

- (i) the beds shall be certified for participation in the Title XVIII (Medicare) and Title XIX (Medicaid) Programs;
- (ii) the hospital discharges residents to other nursing facilities in the geographic area with available beds when such discharge is appropriate and permissible under applicable law;
- (iii) patients admitted shall have been acutely ill inpatients of an acute hospital or its satellites immediately preceding placement in the unit.

The granting of beds for hospital-based long-term nursing care shall not allow a hospital to convert additional beds without first obtaining a certificate of need. Where any hospital, or the parent corporation or entity of such hospital, any subsidiary corporation or entity of such hospital, or any corporation or entity related to or affiliated with such hospital by common ownership, control or management:

- (I) applies for and receives a certificate of need for long-term care bed need determinations in 10 NCAC 3R .3030; or
- (II) currently has nursing home beds licensed as a part of the hospital under G.S. 131E, Article 5; or
- (III) currently operates long-term care beds under the Federal Swing Bed Program (P.L. 96-499),

such hospital shall not be eligible to apply for a certificate of need for hospital-based long-term care nursing beds under this Rule. Hospitals designated by the State of North Carolina as Rural Primary Care Hospitals pursuant to section 1820(f) of the Social Security Act, as amended, which have not been allocated long-term care beds under provisions of G.S. 131E-175 through 131E-190 may apply to develop beds under this Rule. However, such hospitals shall not develop long-term care beds both to meet needs determined in 10 NCAC 3R .3030 and this Rule. Beds certified as a "distinct part" under this Rule shall be counted in the inventory of existing long-term care beds and used in the calculation of unmet long-term care bed need for the general population of a planning area. Applications for certificates of need pursuant to this Rule shall be accepted only for the March 1 review cycle. Beds awarded under this Rule shall be deducted from need determinations for the

county as shown in 10 NCAC 3R .3030. Continuation of this Rule shall be reviewed and approved by the Department of Human Resources annually. Certificates of need issued under policies analogous to this Rule in State Medical Facilities Plans subsequent to the 1986 Plan are automatically amended to conform with the provisions of this Rule at the effective date of this Rule. The Department of Human Resources shall monitor this program and ensure that patients affected by this Rule are receiving appropriate services, and that conditions under which the certificate of need was granted are being met.

(2) Plan Exemption for Continuing Care Facilities.

(A) Qualified continuing care facilities may include from the outset, or add or convert bed capacity for long-term nursing care without regard to the bed need shown in 10 NCAC 3R .3030. To qualify for such exemption, applications for certificates of need shall show that the proposed long-term nursing bed capacity:

(i) Will only be developed concurrently with, or subsequent to construction on the same site, of facilities for both of the following levels of care:

independent living accommodations (apartments and homes) for persons who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms within a suitable structure;

(II) domiciliary care (home for the aged) beds for use by persons who, because of age or disability require some personal services, incidental medical services, and room and board to assure their safety and comfort.

(ii) Will be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and rules) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical

condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract. Financial consideration paid by persons purchasing a continuing care contract shall be equitable between persons entering at the "independent living" and "domiciliary" levels of care.

(iii) Reflects the number of beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care, after making use of all feasible alternatives to institutional nursing care.

(iv) Will not be certified for participation in the Medicaid program.

(B) One half of the long-term nursing beds developed under this exemption shall be excluded from the inventory used to project bed need for the general population. Certificates of need issued under policies analogous to this Rule in State Medical Facilities Plans subsequent to the 1985 SMFP are automatically amended to conform with the provisions of this Rule at the effective date of this Rule. Certificates of need awarded pursuant to the provisions of Chapter 920, Session Laws 1983, or Chapter 445, Session Laws 1985 shall not be amended.

(3) Development of Home Health Services. After applying other required criteria, when superiority among two or more competing home health agency or office certificate of need applications is uncertain, favorable consideration shall be given to proposals which:

(A) provide an expanded scope of services (including nursing, physical therapy, speech therapy, and home health aide service);

(B) provide the widest range of treatments within a given service; and

(C) have the ability to offer services on a seven days per week basis as required to meet patient needs; ~~needs; and~~

(D) provide specialized services to address the needs of at least one of the following groups: nursing home patients in transition to the community, HIV/AIDS patients, Alzheimer's Disease/senile dementia patients, or underserved patients in rural counties.

(4) Need Determination Upon Termination of County's Sole Home Health Agency. When a home health agency's board of directors, or in the

case of a public agency, the responsible public body, votes to discontinue the agency's provision of home health services; and

- (A) the agency is the only home health agency with an office physically located in the county; and
- (B) the agency is not being lawfully transferred to another entity;

need for a new home health agency or office in the county is thereby established through this Rule.

Following receipt of written notice of such decision from the home health agency's chief administrative officer, the Certificate of Need Section shall give public notice of the need for one home health agency or office in the county, and the dates of the review of applications to meet the need. Such notice shall be given no less than 45 days prior to the final date for receipt of applications in a newspaper serving the county and to home health agencies located outside the county reporting serving county patients in the most recent licensure applications on file.

- (5) **Availability of Dialysis Care.** After applying other required criteria, when superiority among two or more competing dialysis facility or station certificate of need applications is uncertain, favorable consideration shall be given to applicants proposing to provide or arrange for:

- (A) home training and backup for patients suitable for home dialysis in the ESRD dialysis facility or in a facility that is a reasonable distance from the patient's residence;
- (B) ESRD dialysis service availability at times that do not interfere with ESRD patients' work schedules;
- (C) services in rural, remote areas.

- (6) **Determination of Need for Additional Nursing Beds in Single Provider Counties.** When a long-term care facility with fewer than 80 nursing care beds is the only nursing care facility within a county, it may apply for a certificate of need for additional nursing beds in order to bring the minimum number of beds available within the county to no more than 80 nursing beds without regard to the nursing bed need determination for that county as listed in 10 NCAC 3R .3030.

(c) MENTAL HEALTH FACILITIES AND SERVICES.

- (1) **Appropriate Provision of Care.** Hospitalization shall be considered the most restrictive form of therapeutic intervention or treatment and shall be used only when this level of 24-hour care and supervision is required to meet the patient's health care needs.
- (2) **Linkages Between Treatment Settings.** Anyone applying for a certificate of need for psychiatric, ICF/MR or substance abuse beds shall document

that the affected area mental health, developmental disabilities and substance abuse authorities have been contacted and invited to comment on the proposed services, relative to their endorsement of the project and involvement in the development of a client admission and discharge agreement.

- (3) **Transfer of Beds from State Psychiatric Hospitals to Community Facilities.** Beds in the State psychiatric hospitals used to serve short-term psychiatric patients may be relocated to community facilities. However, before beds are transferred out of the State psychiatric hospitals, appropriate services and programs shall be available in the community. The process of transferring beds shall not result in a net change in the number of psychiatric beds available, but rather in the location of beds counted in the existing inventory. State hospital beds which are relocated to community facilities shall be closed within ninety days following the date the transferred beds become operational in the community. Facilities proposing to operate transferred beds shall commit to serve the type of short-term patients normally placed at the State psychiatric hospitals. To help ensure that relocated beds will serve those persons who would have been served by the State psychiatric hospitals, a proposal to transfer beds from a State hospital shall include a written memorandum of agreement between the area MH/DD/SAS program serving the county where the beds are to be located, the Secretary of Human Resources, and the person submitting the proposal.
- (4) **Inpatient Psychiatric Services for Children and Adolescents.** Inpatient psychiatric treatment of children and adolescents which is more extensive than stabilization shall occur in units which are separate and distinct from both adult psychiatric units and general pediatric units. In order to maximize efficiency and ensure the availability of a continuum of care, psychiatric beds for children and adolescents shall be developed in conjunction with outpatient treatment programs.
- (5) **Involuntarily Committed Patients.** All certificate of need applications for psychiatric beds shall indicate the proponents' willingness to be designated to serve involuntarily committed patients.
- (6) **Substance Abuse Programs to Treat Adolescents.** Adolescents shall receive substance abuse treatment services that are distinct from services provided to adults.
- (7) **Determination of Intermediate Care Bed Need for Mentally Retarded/ Developmentally Disabled Persons.** After applying other required criteria, when superiority among two or more competing ICF/MR certificate of need applications is uncertain, favorable consideration shall be given to

- counties that do not have ICF/MR group homes when such counties are part of a multi-county area for which a need is shown in 10 NCAC 3R .3030.
- (8) Transfer of Beds from State Mental Retardation Centers. Facilities proposing to transfer ICF/MR beds from State mental retardation centers to communities shall demonstrate that they are committed to serving the same type of residents normally served in the State mental retardation centers. To ensure that relocated beds will serve those persons, any certificate of need application proposing to transfer beds under this rule must meet the requirements of Chapter 858 of the 1983 Session Laws. The application for transferred beds shall include a written agreement by the applicant with the following representatives which outlines the operational aspects of the bed transfers: Director of the Area MH/DD/SAS Program serving the county where the program is to be located; the Director of the applicable State Mental Retardation Center; the Chief of Developmental Disability Services in the DMH/DD/SAS; and the Secretary of the Department of Human Resources.

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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, Child Development, Department of Human Resources, located at ~~701 Barbour Drive,~~ 319 Chapanoke Drive, Suite 120, 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) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (9) ~~(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.
- (10) ~~(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 also excluded as day care homes.
- (11) ~~(9)~~ "Department" means the Department of Human Resources.
- (12) ~~(10)~~ "Division" means the Division of Facility Services Child Development within the Department of Human Resources.
- (13) ~~(11)~~ "Drop-in care" means a child day care arrangement where children attend on an intermittent, unscheduled basis.
- (14) ~~(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.
- (15) ~~(13)~~ "Large child day care center" or "large center" means any day care ~~center~~ facility which is authorized to provide care to 80 or more children.
- (16) ~~(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.
- (17) ~~(15)~~ "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a day care center.
- (18) ~~(16)~~ "Licensing Manual" means the document published by the Child Day Care Section which contains ~~the procedures and standards~~ these Rules 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)~~ Item (2) of this Rule.
- (19) ~~(17)~~ "Medium child day care center" or "medium center" means any day care center facility which is authorized to provide day care to at least 30 but no more than 79 children.
- (20) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of coursework and standards found in the North Carolina Early Childhood Instructor Manual published jointly under the authority of the Department and the North Carolina Community College System. These standards are incorporated by reference and include subsequent amendments. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division of Child Development, 319 Chapanoke Drive, Raleigh, North Carolina and will be available for public inspection during regular business hours.
- (21) ~~(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 may be used interchangeably.
- (22) ~~(19)~~ "Part-time care arrangement" means ~~a child care arrangement~~ child day care 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.~~
- (23) ~~(20)~~ "Passageway" means a hall or corridor.
- (24) ~~(21)~~ "Preschool (formerly preschool-aged) child" or "Preschooler" or "preschool-aged child" means any child ~~under 13 years of age~~ who does not fit the definition of school-aged child in this Rule.
- (25) ~~(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.
- (26) ~~(23)~~ "Registrant" means the person or entity that is granted permission by the State of North Carolina to operate a day care home.
- (27) ~~(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.
- (28) ~~(25)~~ "Section" means ~~the Child Day Care Section, Division of Facility Services, Department of Human Resources. The Section is located at the address given in Paragraph (1) of this Rule.~~ Child Development.
- (29) ~~(26)~~ "Small day care center" or "small center" means any day care center facility which is authorized to provide day care for a maximum of 29 children.
- (30) ~~(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.
- (31) ~~(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.
- (32) ~~(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.
- (33) ~~(30)~~ "Teacher" means the caregiver who has responsibility for planning and implementing the daily program of activities for each group of children.
- (34) ~~(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. basis and is required to be regulated pursuant to G.S. 110-86.~~
- (35) ~~(32)~~ "Temporary license" means the license which may be issued when a licensed center changes location or changes ownership.
- (36) ~~(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.

History Note: Authority G.S. 110-88; 143B-168.3; Eff. January 1, 1986; Amended Eff. April 1, 1992; October 1, 1991; October 1, 1990; November 1, 1989; Temporary Amendment Eff. January 1, 1996; Amended Eff. April 1, 1997.

**SECTION .0700 - HEALTH AND OTHER
STANDARDS FOR CENTER STAFF**

.0704 PRESERVICE REQUIREMENTS FOR ADMINISTRATORS

(a) The on-site administrator who has overall responsibility for planning and administering the child care program shall meet the following requirements:

- (1) Be at least 21 years of age, and be literate; and
- (2) Have either a high school or general education diploma; and
- (3) Have two years of full-time verifiable child day care or early childhood work experience; or an undergraduate, graduate, or associate degree, with at least 12 semester hours in child development, child psychology, early childhood education or directly related field; or a Child Development Associate Credential; or completion of a community or technical college curriculum program in the area of child care or early childhood; childhood; or one year of full-time verifiable child day care or early childhood work experience and a North Carolina Early Childhood Credential; and
- (4) Have verification of having successfully completed, or be currently enrolled in, 2 semester hours, 3-quarter hours; or ~~33~~ 32 clock hours, of training in the area of child care program administration; or, have one year experience performing administrative responsibilities; or, have one year experience performing administrative responsibilities and have another full-time staff person, who meets (1) through (3) of this Paragraph who is responsible for planning and implementing the daily program at the center to comply with Sections .0500 and .0600 of this Subchapter.

(b) The administrator of a child day care program who does not routinely work on site, or who is responsible for more than one child day care arrangement, shall have verification of having successfully completed, or be currently enrolled in, 2 semester hours, 3-quarter hours; or ~~33~~ 32 clock hours, of training in child care program administration; or, have one year experience performing administrative responsibilities and have at least one full-time staff person on site at each center who meets the requirements of (1) through (3) of Paragraph (a) of this Rule.

(c) Any person who is at least 21 years old and literate who was employed as an on-site administrator in a day care program on or before September 1, 1986, shall be exempt from the provisions of Paragraphs (a) and (b) of this Rule.

History Note: Authority G.S. 110-91(8); 143B-168.3; Eff. January 1, 1986; Amended Eff. April 1, 1997; November 1, 1989; July 1, 1988; January 1, 1987.

.0710 PRESERVICE REQUIREMENTS FOR TEACHERS AND AIDES

(a) The A teacher ~~teacher-caregiver~~ with responsibility for

planning and implementing the daily program for each group of children shall be at least 18 years of age, literate, and have at least one of the following:

- (1) A high school or general education diploma and one of the following:
 - (A) One year of verifiable experience working in a child day care center; or
 - (B) Twenty additional hours of training within the first six months of employment; or
 - (C) Successful completion of the Department of Public Instruction's Child Care Services Occupational Home Economics Program; or
 - (D) A passing grade in at least the equivalent of four semester hours in child development at a regionally accredited college or ~~university;~~ university; or
 - (E) A North Carolina Early Childhood Credential.
 - (2) A Child Development Associate Credential.
 - (3) Graduation from a child care or early childhood curriculum program at a community college or technical college.
 - (4) An undergraduate or graduate degree with at least the equivalent of four semester hours in child development.
 - (5) Five years of verifiable experience working in child day care.
- (b) An aide or person responsible to the teacher ~~teacher-caregiver~~ for assisting with planning and implementing the daily program shall be at least 16 years old and literate.

History Note: Authority G.S. 110-91(8); 143B-168.3; Eff. July 1, 1988; Amended Eff. April 1, 1997; October 1, 1991; November 1, 1989.

SECTION .2700 - CRIMINAL RECORDS CHECKS**.2701 APPLICATION FOR PERMITS**

(a) ~~Beginning with the date set forth in the Division's implementation schedule, and in In~~ addition to the requirements set forth in ~~Rule Rules~~ .0302 of this Subchapter and in ~~Rule .1702 .1702,~~ of this Subchapter the prospective child day 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 or counties where the individual resides; has resided during the previous 12 months;
- (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 day 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 day 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. The prospective child day care provider shall maintain this statement on file to be available for review by a representative of the Division until the notice of qualification is received by the provider. If the prospective child day care provider has been convicted of a crime including, but not limited to, those specified in G.S. 110-90.2, the prospective child day 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 day 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 day 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 day 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 day 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 day care provider is disqualified is reasonable cause to deny issuance of a permit.

(g) If the prospective child day 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 day 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 or counties where the

individual resides: has resided during the previous 12 months. 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.

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

Temporary Adoption Eff. January 1, 1996;

Eff. April 1, 1997.

.2702 CRIMINAL RECORD CHECK REQUIREMENTS FOR CHILD DAY CARE PROVIDERS

(a) ~~Beginning with the date set forth in the Division's implementation schedule, child~~ Child day 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 day care provider has been convicted of a crime, including, but not limited to, those specified in G.S. 110-90.2, the child day 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 day 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 day 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 day 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 day care provider's personnel file, and shall be available for review by a representative of the Division until the notice of

qualification is received by the provider. At that time the submitted information and the declaration statement may be discarded. The notice of qualification shall be maintained in the child day care provider's personnel file, and shall be available for review by a representative of the Division.

(d) The child day care provider shall be on probationary status pending the determination of qualification or disqualification by the Division.

(e) The Division shall notify the child day 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 day care provider; however, the employer shall not be told the specific information used in making the determination.

(f) If the child day 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 day care provider shall complete all forms as required in Paragraph (a) of this Rule.

(g) Child day 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 day 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 day care provider shall not be employed during the appeal process.

(i) A substitute child day 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.

History Note: Authority G.S. 110-90.2; 114-19.5; 143B-168.3; S.L. 1995, c. 507, s. 23.25; Temporary Adoption Eff. January 1, 1996; Eff. April 1, 1997.

.2704 CRIMINAL RECORD CHECK REQUIREMENTS 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~~ The nonregistered home provider shall submit the following to the local purchasing agency:

- (1) a certified criminal history check from the Clerk of Superior Court's office in the county or counties where the individual ~~resides; has resided during the previous 12 months;~~
- (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.

(b) Current nonregistered home providers shall submit this information by the time of their next reenrollment as a provider of subsidized child day care. New nonregistered home providers shall submit this information no later than five working days after applying for enrollment as a nonregistered home provider of subsidized child day care.

(c) 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.

~~(d) (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.

~~(e) (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 until the notice of qualification is received by the nonregistered home provider. At that time the submitted information and the declaration statement may be discarded. The notice of qualification shall be maintained in the nonregistered home provider's file.

~~(f) (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.

(g) (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.

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

(i) (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.

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

Temporary Adoption Eff. January 1, 1996;

Eff. April 1, 1997.

CHAPTER 41 - CHILDREN'S SERVICES

SUBCHAPTER 41P - CHILD-PLACING AGENCIES: ADOPTION

SECTION .0100 - APPLICABILITY

~~.0006~~ .0106 ADOPTIVE HOME RECRUITMENT

The agency shall have a written plan for on-going recruitment of adoptive homes for the children it places or plans to place for adoption. The plan must shall include resources to be used, time-related goals for applicant recruitment, and any limitations or restrictions that may be inherent to its program. The plan must shall indicate designated staff and funding sources for implementation of the plan. Agencies shall have a plan which actively recruits homes of the same race or ethnic category as that of the children it serves. ~~A child's race and ethnic background must be considered in determining the most suitable adoptive placement, but the agency shall not prohibit the placement of a child for adoption with persons of a different race or ethnic category. An agency may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective adoptive parents to meet the needs of a child as one of the number of factors used to determine the best interest of the child but shall not delay or deny placement of a child for adoption solely on the basis of race, color, or~~

national origin of the adoptive parent or the child.

History Note: Authority G.S. 48-3-204; 131D-10.5; 143B-153;

Eff. February 1, 1986;

Amended Eff. March 1, 1992;

Filed as a Temporary Amendment Eff. July 1, 1996;

Recodified from 10 NCAC 41P .0006 Eff. December 6, 1996;

Amended Eff. April 1, 1997.

~~.0008~~ .0108 PREPLACEMENT ASSESSMENT

(a) The agency shall conduct ~~an adoptive study with its applicants; a preplacement assessment within 90 days after the request has been accepted.~~ The study assessment process must shall include at least one ~~office visit with the adoptive applicants, one home visit, and personal interview and~~ separate face-to-face interviews with each member of the household above six years of age. The study assessment process must shall be a joint effort of the adoption agency and the applicants to determine the kind of child the applicants can best parent. Any study assessment that was completed one year or more before placement of a child occurs must be updated to include current information about the family. ~~The updated study shall focus on applicable items in Paragraph (b) of this Rule where change could be expected to have occurred.~~ Physical examinations of family members must shall be current to within 12 months of the ~~updated study; assessment.~~

(b) ~~The agency shall study the following areas and shall record the information in the adoptive applicants' record: The agency shall assess and record in the adoptive applicants' record the areas as specified in G.S. 48-3-303(c) and the following information:~~

~~(1) the applicants' motivation for adoption;~~

(1) (2) the strengths and ~~weaknesses~~ needs of each member of the household;

(2) (3) the attitudes and feelings of the family, extended family, and significant others involved with the family toward accepting adoptive children, and parenting children not born to them;

(3) (4) the attitudes of the applicants toward the biological parents and in regard to the reasons the child is in need of adoption;

(4) (5) the applicants' attitudes toward child behavior and discipline;

(5) (6) the applicants' plan for discussing adoption with the child;

(6) (7) the emotional stability and maturity of applicants;

(7) (8) the applicants' ability to cope with problems, stress, frustrations, crises, and loss;

(8) (9) the applicants' ability to give and receive affection;

(9) (10) the applicants' child-caring skills and willingness to acquire additional skills needed for the child's development;

(10) (11) the applicants' ability to provide for the

- child's physical and emotional needs;
- (12) ~~the applicants' record of criminal convictions;~~
- (11) ~~(13) the adjustment strengths and needs of birth children or previously adopted children; children, including school reports, if applicable;~~
- (14) ~~report of a physical examination by a licensed medical provider for members of the adoptive family living in the household within six months of the study that verifies no communicable disease, specific illness, or disabilities that would interfere with the family's abilities to parent a child pose a direct threat to a child which may pose a significant risk of transmission in the home;~~
- (15) ~~the applicants' ability to provide financially for the child or children to be adopted with or without agency financial assistance through adoption subsidy;~~
- (12) ~~(16) the applicants' personal character references;~~
- (17) ~~the applicants' religious orientation, if any;~~
- (13) ~~(18) the location and physical environment of the home;~~
- (14) ~~(19) the plan for child care if parents work; and~~
- (15) ~~(20) recommendations for adoption in regard to the number, age, sex, characteristics, and special needs of children who could be best served by the family.~~

When any of the above information is not reasonably available, the preplacement assessment shall state why the information is unavailable.

(c) ~~The adoptive home study assessment must shall be prepared and typed for review by the agency's adoption review committee, and it must become part of the applicants' permanent record.~~

(d) ~~Narrative dictation during the provisional period of licensure must be recorded by agency staff providing problem pregnancy services, conducting adoptive studies, and providing post-placement services following each contact with the child, biological parents, and adoptive parents and this dictation must become part of the permanent record. Once the agency has made a decision regarding the suitability of the applicant as an adoptive placement, the preplacement assessment shall include specific documentation of the factors which support that determination. If the agency determines that the applicant is not suitable to be an adoptive parent, the assessment shall include specific documentation of the factors which support that determination.~~

History Note: Authority G.S. 48-2-502; 48-3-303; 131D-10.5; 143B-153;
Eff. February 1, 1986;
Amended Eff. August 1, 1993; March 1, 1992; June 1, 1990;
Filed as a Temporary Amendment Eff. July 1, 1996;
Amended Eff. November 1, 1996;
Recodified from 10 NCAC 41P .0008 Eff. December 6, 1996;
Amended Eff. April 1, 1997.

.0009 .0109 NOTIFICATION REGARDING

PREPLACEMENT ASSESSMENT

(a) ~~The agency shall notify applicants in writing within 30 days of completion of the adoptive study preplacement assessment of the acceptance or denial of their application.~~

(b) ~~When applicants are not accepted, the agency shall share with them the reasons a child cannot be placed in their home. The agency shall offer services to the applicants to assist them in adjusting to the decision.~~

(c) ~~If the applicant disagrees with the unfavorable preplacement assessment, the applicant may request an internal review by the agency director.~~

(d) ~~The applicant, after exhausting the agency's procedures for internal review, may prepare and file a written response with the Division of Social Services and the agency. The Division shall acknowledge receipt of the response within 30 days, but shall have no authority to take any action with respect to the response. A copy of the response shall be attached to the unfavorable assessment.~~

(e) ~~Following an unfavorable preplacement assessment being filed with the Division, the county department of social services shall be notified by the Division, Division and shall take appropriate action regarding any child placed in the home of the prospective adoptive parent who is the subject of the unfavorable assessment.~~

(f) ~~An unfavorable preplacement assessment and any response filed with the Division under this Section shall not be public records as set forth in G.S. 132.~~

History Note: Authority G.S. 48-3-303; 131D-10.5; 143B-153;

Eff. February 1, 1986;

Filed as a Temporary Amendment Eff. July 1, 1996;

Recodified from 10 NCAC 41P .0009 Eff. December 6, 1996;
Amended Eff. April 1, 1997.

.0010 .0110 SERVICES TO ADOPTIVE APPLICANTS AND FAMILIES

(a) ~~The agency shall provide services to adoptive applicants to assist them in making an informed decision about adoption. The agency shall provide the opportunity for the applicants to participate in the adoptive study and in the assessment of their potential for meeting the needs of the children available for adoption. The agency shall provide upon request a written statement of the services it provides and of its procedure for selecting a prospective adoptive parent for a child, including the role of the child's parent or guardian in the selection process. This statement must shall include a schedule of any fees or expenses charged by the agency and a summary of the provisions of G.S. 48 that pertain to the requirements and consequences of a relinquishment and to the selection of a prospective adoptive parent.~~

(b) ~~The agency shall discuss the children potentially available for adoption with the adoptive applicants. The selection of a prospective adoptive parent for a minor shall be made by the agency, and based on the preplacement assessment. The selection may be based on criteria requested~~

by a parent who relinquishes the child to the agency.

(c) Following completion of an approved adoptive study, a preplacement assessment, the agency shall prepare the adoptive applicants for the placement of a particular child. Preparation must include:

- (1) information about the needs and expectations of the child and of the adoptive family;
- (2) information to the extent allowed by law as specified in G.S. ~~48-25~~ 48-3-205 about the child's background and the health history of the child's biological parents and other relatives; and
- (3) visits with the child prior to placement.

(d) The agency worker shall visit in the home of the adoptive family ~~at least quarterly~~ after the placement of a child and prior to the ~~final order of adoption~~ decree of adoption. The first visit must occur within two weeks after placement. Frequency of visits thereafter ~~must~~ shall be determined by the child's and family's needs. Observations made during the visits ~~must~~ shall be used in making recommendations to the court of adoptions in regard to the ~~interlocutory decree and final order~~ decree of adoption, or in regard to dismissal of the adoption petition.

(e) When applicable, the agency shall take steps necessary to assure that the adoptive placement comes into compliance with the interstate compact on the placement of children.

(f) The agency shall make post-adoption services available to the adoptive parents, the biological parents, and the adoptee after the ~~final order~~ decree of adoption has been entered.

History Note: Authority G.S. 48-2-502; 48-3-203; 48-3-204; 48-3-205; 110-57.1; 131D-10-5; 143B-153; Eff. February 1, 1986; Filed as a Temporary Amendment Eff. July 1, 1996; Recodified from 10 NCAC 41P .0110 Eff. December 6, 1996; Amended Eff. April 1, 1997.

~~.0011~~ .0111 LEGAL PROCESS

(a) The agency shall instruct the adoptive parents in procedures regarding the legal process for adoption and shall encourage instruct them to file their adoption petition ~~soon~~ after placement occurs: within 30 days.

(b) The agency shall prepare and file the required consents and other legal documents and reports with the court at the appropriate times once the adoption petition has been filed.

(c) During the process of preparing court reports, the petitioner, and each member of the petitioner's home shall be interviewed in the petitioner's home. In addition, at least one interview shall be conducted in the presence of the petitioner and the adoptee to observe interactions between the them. The report to the court must be in writing and contain the information required by G.S. 48-2-502(b).

(d) The agency shall give the petitioner a copy of each report filed with the court, and retain a copy, except, pursuant to G.S. 48-10-105, the agency shall not release to the petitioner a copy of any court order, judgment, decree, or pending legal proceeding containing identifying information.

History Note: Authority G.S. 48-2-302; 48-2-502; 48-10-105; 131D-10.5; 143B-153; Eff. February 1, 1986; Filed as a Temporary Amendment Eff. July 1, 1996; Recodified from 10 NCAC 41P .0011 Eff. December 6, 1996; Amended Eff. April 1, 1997.

~~.0012~~ .0112 RECORDS

(a) The agency shall maintain children's and biological parent's records in accordance with Regulations rules set forth in 10 NCAC 41O.

(b) The agency shall keep separate records for each adoptive applicant and family. These records must contain the following:

- (1) application form;
- (2) copies of marriage certificates, if applicable;
- (3) documentation of marriage termination, if applicable;
- (4) current medical records on all family members and psychological or psychiatric reports, if applicable;
- (5) references from at least three sources;
- (6) adoptive study preplacement assessment conducted by the agency;
- (7) copies of correspondence to, from, and in regard to the applicants;
- (8) summary and dates and content of contacts prior to and following approval for adoption until the ~~final order~~ decree of adoption is entered;
- (9) copies of information given to the applicant and family concerning the child or children to be placed for adoption with them;
- (10) copies of all legal documents pertaining to the adoption; and
- (11) summary containing the placement decision, pre-placement and post-placement contacts with the family and child.

(c) In the event the applicants were not accepted or did not have a child placed with them, the record shall contain a narrative indicating the reasons and the manner in which the decision was presented to the applicants.

(d) All individual child and adoptive family records shall be permanently retained by the agency. If necessary, the files ~~must~~ shall be microfilmed in accordance with provisions of G.S. 8-45.1, following which the original files ~~must~~ shall be destroyed by a shredding process.

(e) All child and adoptive applicant and family records ~~must~~ shall be kept in securely locked quarters and information from the files ~~may~~ shall be divulged only in compliance with provisions of G.S. ~~48-25~~ 48-9-105.

History Note: Authority G.S. 48-3-303; 131D-10.5; 143B-153; Eff. February 1, 1986; Filed as a Temporary Amendment Eff. July 1, 1996; Recodified from 10 NCAC 41P .0012 Eff. December 6, 1996; Amended Eff. April 1, 1997.

**CHAPTER 42 - INDIVIDUAL AND FAMILY
SUPPORT**

**SUBCHAPTER 42A - ADULT PLACEMENT
SERVICES**

**SECTION .0700 - ADULT CARE HOME CASE
MANAGEMENT**

.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) reviewing the adult care home's care plan to assure it 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.

*History Note: Authority G.S. 131D-4.3; 143B-153;
Temporary Adoption Eff. January 1, 1996;
Eff. April 1, 1997.*

**SUBCHAPTER 42B - LICENSING OF HOMES FOR
DEVELOPMENTALLY DISABLED ADULTS**

SECTION .1200 - PERSONNEL

.1210 STAFF COMPETENCY AND TRAINING

10 NCAC 42D .1410 shall control for staff who perform or directly supervise staff who perform personal care tasks listed in Paragraphs (h) and (i) of 10 NCAC 42D .1410.

*History Note: Authority G.S. 131D-2; 131D-4.3; 143B-153;
Temporary Adoption Eff. January 1, 1996;
Eff. May 1, 1997.*

**.1211 TRAINING PROGRAM CONTENT AND
APPROVAL**

10 NCAC 42D .1411 shall control for staff who perform or directly supervise staff who perform personal care tasks listed in Paragraphs (h) and (i) of 10 NCAC 42D .1410.

*History Note: Authority G.S. 131D-2; 131D-4.3; 143B-153;
Temporary Adoption Eff. January 1, 1996;
Eff. May 1, 1997.*

**SUBCHAPTER 42C - LICENSING OF FAMILY
CARE HOMES**

**SECTION .3700 - RESIDENT ASSESSMENT AND
CARE**

.3702 RESIDENT CARE PLAN

(a) The facility shall assure a care plan is developed for each resident in conjunction with the initial resident assessment and revised as needed based on annual assessments and any reassessments of the resident. For the purposes of this Subchapter, the care plan is an individualized, written program of personal care for each resident.

(b) The care plan shall include the following:

- (1) a statement of the care or service to be provided based on the assessment or reassessment; and
- (2) frequency of the service provision.

(c) The assessor shall sign the care plan upon its completion.

(d) The facility shall assure that the resident's physician authorizes personal care services and certifies the following by signing and dating the care plan within 15 days of completion of the assessment:

- (1) the resident is under the physician's care; and
- (2) the resident has a medical diagnosis with associated physical or mental limitations that justify the personal care services specified in the care plan.

*History Note: Authority G.S. 131D-2; 131D-4.3; 143B-153;
Temporary Adoption Eff. January 1, 1996;
Eff. May 1, 1997.*

**.3703 LICENSED HEALTH PROFESSIONAL
SUPPORT**

(a) The facility shall assure that a registered nurse, licensed under G.S. 90, Article 9A, participates in the on-site review and evaluation of the residents' health status and care plan within the first 45 days of admission and at least every 90 days thereafter for newly admitted residents requiring, but not limited to, one or more of the following personal care tasks, and at least every 90 days for current residents requiring, but not limited to, one or more of the following personal care tasks:

- (1) applying and removing ace bandages, TED's and binders;
- (2) feeding techniques for residents with swallowing problems;
- (3) bowel or bladder retraining involving hands-on and invasive activities such as enemas, suppositories, and catheterizations;
- (4) urinary catheterizations;
- (5) chest physiotherapy or postural drainage;
- (6) clean or sterile dressing changes;
- (7) collecting or testing blood samples and taking action based on the results;
- (8) colostomy care;
- (9) decubitus care for stages I-IV wounds;

- (10) irrigations of wounds, catheters or access devices;
- (11) inhalation medication by machine;
- (12) maintaining accurate intake and output data;
- (13) medication administration through feeding tube;
- (14) medication administration through injection or vascular access;
- (15) administration of more than 10 medications, excluding over-the-counter medications ordered on an as-needed basis;
- (16) oxygen administration and monitoring;
- (17) the monitoring of care for any residents who are restrained and the use of care practices as alternatives to restraints;
- (18) oral, pharyngeal, or tracheal suctioning;
- (19) testing urine samples and taking action based on the results;
- (20) tracheostomy care;
- (21) transferring semi-ambulatory or non-ambulatory residents;
- (22) administering and monitoring of tube feedings; or
- (23) adjusting medications as ordered based on vital signs.

(b) The facility shall assure that a registered nurse, occupational therapist licensed under G.S. 90, Article 18D or physical therapist licensed under G.S. 90-270.24, Article 18B, participates in the on-site review and evaluation of the residents' health status and care plan within the time frames specified in Paragraph (a) of this Rule for those residents who require one or more of the following personal care tasks:

- (1) application of prescribed heat therapy;
- (2) application and removal of prosthetic devices;
- (3) gait training using assistive devices;
- (4) range of motion exercises; or
- (5) any other prescribed physical or occupational therapy.

(c) The facility shall assure that participation in the on-site review and evaluation of the residents' health status and care plan by a registered nurse, occupational therapist or physical therapist as specified in Paragraphs (a) and (b) of this Rule includes:

- (1) identifying the appropriate persons to provide care and perform the tasks consistent with Section .0400 of 21 NCAC Chapter 36;
- (2) teaching or validating competencies of licensed practical nurses or non-licensed personnel who will provide care and perform the tasks;
- (3) evaluating the resident's response to care being provided;
- (4) reviewing and, if necessary, recommending changes in the care plan; and
- (5) documenting the activities in Subparagraphs (1) through (4) of this Paragraph.

(d) The facility shall assure that any staff who perform personal care tasks listed in Paragraphs (a) and (b) of this Rule are at least annually observed providing care to residents by a licensed registered nurse or other appropriate licensed health professional who is employed by the facility

or under contract or agreement, individually or through an agency, with the facility.

History Note: Authority G.S. 131D-2; 131D-4.3; 143B-153;

Temporary Adoption Eff. January 1, 1996;

Eff. May 1, 1997.

CHAPTER 49 - AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)

SUBCHAPTER 49B - ELIGIBILITY DETERMINATION

SECTION .0200 - APPLICATION PROCESS

.0202 INITIAL INTERVIEW

The applicant shall be allowed to have any person(s) of his choice participate in the interview. The applicant shall be informed of the following:

- (1) He must provide:
 - (a) the names of collaterals, such as landlords, employers, and others with knowledge of his situation;
 - (b) information about his resources;
 - (c) verification of his earned income and any operational expenses;
 - (d) his Social Security number unless he has lost his card;
 - (e) medical forms when appropriate;
 - (f) work registration card from ESC;
 - (g) statement from a dealer when verified equity of a motor vehicle is disputed;
 - (h) evidence of good cause claim for non-cooperation with the child support enforcement agency;
 - (i) verification of the amount of a lump sum payment and other required information regarding the lump sum;
 - (j) verification of stepparent's income and verification of income of a minor parent's parent or legal guardian; and
 - (k) signed statement from a doctor or medical facility substantiating a pregnancy and the expected due date.
- (2) It is the county's responsibility to use collateral sources to substantiate or verify information necessary to establish eligibility. Collateral sources of information include knowledgeable individuals, business organizations, public records, and documentary evidence. If the applicant does not wish necessary collateral contacts to be made, he can may withdraw the application. If he denies permission to contact necessary collaterals, the application shall be rejected due to failure to cooperate in establishing eligibility.
- (3) A worker will visit his home at the county's

option. The county's decision to make a home visit will be based on error-prone characteristics defined by the state using quality control and other management data.

- (4) The applicant 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) spend his assistance payment as he wishes, but it must be in his best interest and that of his family. A substitute payee may be appointed for those individuals who cannot manage the payments;
 - (d) receive his monthly check in advance until the payment is terminated by appropriate action;
 - (e) have any information given to the agency kept in confidence;
 - (f) appeal, if his assistance will be denied, changed or terminated, his payment is incorrect based on the agency's interpretation of state regulations, or his request for a change in the amount of assistance was delayed beyond 30 days or rejected;
 - (g) reapply at any time, if found ineligible; and
 - (h) withdraw from the assistance program at any time.
- (5) The applicant's responsibilities. He must:
 - (a) provide the county department, state and federal officials, the necessary sources from which the county department can 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 for a check within ~~five~~ 10 calendar days after it happens: he learns of the change. 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 person or organization against whom he has a right to recovery. When he accepts medical assistance (included with any AFDC), 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;

and

- (d) immediately report to the county department the receipt of a check which he knows to be erroneous, such as two checks for the same month, or a check in the wrong amount. If he does not report such payments, he may be required to repay any overpayment.

History Note: Authority G.S. 108A-43; 143B-153; 45 C.F.R. 206.10;

Eff. February 1, 1984;

Amended Eff. June 1, 1990; February 1, 1986;

Temporary Amendment Eff. July 1, 1996;

Amended Eff. April 1, 1997.

SECTION .0300 - ELIGIBILITY FACTORS

.0310 PROSPECTIVE BUDGETING AND QUARTERLY REPORTING

~~In addition to the requirements found in 45 CFR 233.36 which is hereby adopted by reference under G.S. 150B-14(c), monthly reporting shall be required on other error-prone classes of recipients as defined by the state based on quality control and other management data. Income shall be budgeted and reported as described below:~~

- (1) Income shall be budgeted prospectively for determining eligibility for and the amount of AFDC payments. To arrive at a monthly amount to consider, the following processes shall be followed:
 - (a) For income that is paid on less than a monthly basis, the pay received from each period during a month shall be averaged and converted to a monthly amount as follows. Averaged pay shall be multiplied by:
 - (i) 2 if pay is received twice per month
 - (ii) 2.15 if pay is received every two weeks
 - (iii) 4.3 if pay is received weekly
 - (b) For income that is received once per month, the amount received from two previous successive months shall be averaged to arrive at one monthly amount.
 - (c) Annualized self-employment income shall be averaged over the lesser of the following period: the number of months the business has been in operation or 12 months.
- (2) The monthly income calculated in Paragraph (a) of this Rule shall be used to determine the AFDC payment for three consecutive calendar months.
- (3) Quarterly reporting shall be required for error-prone classes of recipients as defined by the state based on quality control and other management data. The quarterly reporting process shall follow the processing requirements found in 45 CFR 233.37 which is hereby incorporated by reference including all subsequent amendments and editions.

Copies of this Code of Federal Regulations may be obtained from the Division of Social Services, 325 North Salisbury Street, Raleigh, NC 27603 [telephone number (919) 733-3055] at a cost of ten cents (\$.10) per page at the time of adoption of this Rule.

- (4) AFDC families shall be required to report all changes within 10 calendar days after they become aware a change has occurred.

History Note: Authority G.S. 143B-153; 45 C.F.R. 233.28; 45 C.F.R. 233.36;

Eff. February 1, 1984;

Amended Eff. August 1, 1988; February 1, 1986;

Temporary Amendment Eff. July 1, 1996;

Amended Eff. April 1, 1997.

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

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0315 NEUSE RIVER BASIN

- (a) The schedule may be inspected at the following places:

- (1) Clerk of Court:
Beaufort County
Carteret County
Craven County
Durham County
Franklin County
Granville County
Greene County
Johnston County
Jones County
Lenoir County
Nash County
Orange County
Pamlico County
Person County
Pitt County
Wake County
Wayne County
Wilson County
- (2) North Carolina Department of Environment,
Health, and Natural Resources:
 - (A) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina
 - (B) Washington Regional Office
1424 Carolina Avenue
Washington, North Carolina

- (C) Wilmington Regional Office
127 Cardinal Drive
Wilmington, North Carolina.

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

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) September 14, 1980;
- (4) August 9, 1981;
- (5) January 1, 1982;
- (6) April 1, 1982;
- (7) December 1, 1983;
- (8) January 1, 1985;
- (9) August 1, 1985;
- (10) February 1, 1986;
- (11) May 1, 1988;
- (12) July 1, 1988;
- (13) October 1, 1988;
- (14) January 1, 1990;
- (15) August 1, 1990;
- (16) December 1, 1990;
- (17) July 1, 1991;
- (18) August 3, 1992;
- (19) April 1, 1994;
- (20) July 1, 1996;
- (21) September 1, ~~1996~~; 1996;
- (22) April 1, 1997.

- (c) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin has been amended effective July 1, 1988 as follows:

- (1) Smith Creek [Index No. 27-23-(1)] from source to the dam at Wake Forest Reservoir has been reclassified from Class WS-III to WS-I.
- (2) Little River [Index No. 27-57-(1)] from source to the N.C. Hwy. 97 Bridge near Zebulon including all tributaries has been reclassified from Class WS-III to WS-I.
- (3) An unnamed tributary to Buffalo Creek just upstream of Robertson's Pond in Wake County from source to Buffalo Creek including Leo's Pond has been reclassified from Class C to B.

- (d) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin has been amended effective October 1, 1988 as follows:

- (1) Walnut Creek (Lake Johnson, Lake Raleigh) [Index No. 27-34-(1)]. Lake Johnson and Lake Raleigh have been reclassified from Class WS-III to Class WS-III & B.
- (2) Haw Creek (Camp Charles Lake) (Index No. 27-86-3-7) from the backwaters of Camp Charles Lake to dam at Camp Charles Lake has been reclassified from Class C to Class B.

- (e) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin has been amended effective January 1, 1990 as follows:

- (1) Neuse-Southeast Pamlico Sound ORW Area which

includes all waters within a line beginning at the southwest tip of Ocracoke Island, and extending north west along the Tar-Pamlico River Basin and Neuse River Basin boundary line to Lat. 35 degrees 06' 30", thence in a southwest direction to Ship Point and all tributaries, were reclassified from Class SA NSW to Class SA NSW ORW.

- (2) Core Sound (Index No. 27-149) from northeastern limit of White Oak River Basin (a line from Hall Point to Drum Inlet) to Pamlico Sound and all tributaries, except Thorofare, John Day Ditch were reclassified from Class SA NSW to Class SA NSW ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective December 1, 1990 with the reclassification of the following waters as described in (1) through (3) of this Paragraph.

- (1) Northwest Creek from its source to the Neuse River (Index No. 27-105) from Class SC Sw NSW to Class SB Sw NSW;
- (2) Upper Broad Creek [Index No. 27-106-(7)] from Pamlico County SR 1103 at Lees Landing to the Neuse River from Class SC Sw NSW to Class SB Sw NSW; and
- (3) Goose Creek [Index No. 27-107-(11)] from Wood Landing to the Neuse River from Class SC Sw NSW to Class SB Sw NSW.

(g) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective July 1, 1991 with the reclassification of the Bay River [Index No. 27-150-(1)] within a line running from Flea Point to the Hammock, east to a line running from Bell Point to Darby Point, including Harper Creek, Tempe Gut, Moore Creek and Newton Creek, and excluding that portion of the Bay River landward of a line running from Poorhouse Point to Darby Point from Classes SC Sw NSW and SC Sw NSW HQW to Class SA NSW.

(h) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(i) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective April 1, 1994 as follows:

- (1) Lake Crabtree [Index No. 27-33-(1)] was reclassified from Class C NSW to Class B NSW.

- (2) The Eno River from Orange County State Road 1561 to Durham County State Road 1003 [Index No. 27-10-(16)] was reclassified from Class WS-IV NSW to Class WS-IV&B NSW.

- (3) Silver Lake (Index No. 27-43-5) was reclassified from Class WS-III NSW to Class WS-III&B NSW.

(j) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective July 1, 1996 with the reclassification of Austin Creek [Index Nos. 27-23-3-(1) and 27-23-3-(2)] from its source to Smith Creek from classes WS-III NSW and WS-III NSW CA to class C NSW.

(k) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective September 1, 1996 with the reclassification of an unnamed tributary to Hannah Creek (Tuckers Lake) [Index No. 27-52-6-0.5] from Class C NSW to Class B NSW.

(l) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective April 1, 1997 with the reclassification of the Neuse River (including tributaries) from mouth of Marks Creek to a point 1.3 miles downstream of Johnston County State Road 1908 to class WS-IV NSW and from a point 1.3 miles downstream of Johnston County State Road 1908 to the Johnston County Water Supply intake (located 1.8 miles downstream of Johnston County State Road 1908) to class WS-IV CA NSW [Index Nos. 27-(36) and 27-(38.5)].

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;

Amended Eff. April 1, 1997; September 1, 1996; July 1, 1996; April 1, 1994; August 3, 1992; July 1, 1991.

SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0500 - EMISSION CONTROL STANDARDS

.0524 NEW SOURCE PERFORMANCE STANDARDS

(a) With the exception of Paragraph (b) or (c) of this Rule, sources subject to new source performance standards promulgated in 40 CFR Part 60 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedural provisions, and any other provisions, as required therein, rather than with any otherwise-applicable Rule in this Section which would be in conflict therewith.

(b) The following is not included under this Rule: new residential wood heaters (40 CFR 60.530 to 60.539b, Subpart AAA).

(b)(c) Along with the notice appearing in the North Carolina Register for a public hearing to amend this Rule to exclude a standard from this Rule, the Director shall state

whether or not the new source performance standards promulgated under 40 CFR Part 60, or part thereof, shall be enforced. If the Commission does not adopt the amendment to this Rule to exclude or amend the standard within 12 months after the close of the comment period on the proposed amendment, the Director shall begin enforcing that standard when 12 months has elapsed after the end of the comment period on the proposed amendment.

(c)(d) New sources of volatile organic compounds that are located in an area designated in 40 CFR 81.334 as nonattainment for ozone or an area identified in accordance with 15A NCAC 2D .0902(d) as being in violation of the ambient air quality standard for ozone shall comply with the requirements of 40 CFR Part 60 that are not excluded by this Rule, as well as with any applicable requirements in Section .0900 of this Subchapter.

(d)(e) All requests, reports, applications, submittals, and other communications to the administrator required under Paragraph (a) of this Rule shall be submitted to the Director of the Division of Air Quality Environmental Management rather than to the Environmental Protection Agency.

(e)(f) In the application of this Rule, definitions contained in 40 CFR Part 60 shall apply rather than those of Section .0100 of this Subchapter.

(f)(g) 15A NCAC 2Q .0102 and .0302 are not applicable to any source to which this Rule applies except for:

- (1) 40 CFR Part 60, Subpart Dc, industrial, commercial, and institutional steam generating units;
- (2) 40 CFR Part 60, Subpart Kb, volatile organic liquid storage vessels; or
- (3) 40 CFR Part 60, Subpart AAA, new residential wood heaters.

The owner or operator of the source shall apply for and receive a permit as required in 15A NCAC 2Q .0300 or .0500.

History Note: Filed as a Temporary Amendment Eff. March 8, 1994, for a period of 180 days or until the permanent rule is effective, whichever is sooner; Filed as a Temporary Amendment Eff. January 3, 1988, for a period of 180 days to expire on June 30, 1988; Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 150B-21.6; Eff. June 18, 1976; Amended Eff. April 1, 1997; July 1, 1996; July 1, 1994; December 1, 1992; July 1, 1992.

SECTION .0900 - VOLATILE ORGANIC COMPOUNDS

.0954 STAGE II VAPOR RECOVERY

(a) Applicability. In accordance with Paragraphs (d) or (e), (f), or (g) of Rule .0902 of this Section, this Rule applies to the control of gasoline vapors at the vehicle fill-pipe during refueling operations at a facility. The vapors shall be captured and returned to a vapor-tight underground

storage tank or shall be captured and destroyed. These systems shall be installed at all facilities that dispense gasoline to motor vehicles unless exempted under Paragraph (b) of this Rule.

(b) Exemptions. The following gasoline dispensing facilities are exempt from this Rule based upon the previous two years records:

- (1) any facility which dispenses less than 10,000 gallons of gasoline per calendar month;
- (2) any facility which dispenses less than 50,000 gallons of gasoline per calendar month and is an independent small business marketer of gasoline;
- (3) any facility which dispenses gasoline exclusively for refueling marine vehicles, aircraft, farm equipment, and emergency vehicles; or
- (4) any tanks used exclusively to test the fuel dispensing meters.

Any facility that ever exceeds the exemptions given in Subparagraphs (1), (2), (3) or (4) in this Paragraph shall be subject to all of the provisions of this Rule in accordance with the schedule given in Subparagraph (f) of this Rule, and shall remain subject to these provisions even if the facility's later operation meets the exemption requirements.

(c) Proof of Eligibility. The burden of proof of eligibility for exemption from this Rule is on the owner or operator of the facility. Persons seeking an exemption from this Rule shall maintain the following:

- (1) chronologically arranged bills of lading for receipt of gasoline shipments from the last three years, and
- (2) daily inventory of each gasoline type for each day of operation or equivalent records as required; this shall be maintained for the last three years.

These records shall be furnished to the Director upon request.

(d) Definitions. For the purpose of this Rule, the following definitions apply:

- (1) "CARB" means the California Air Resources Board.
- (2) "Certified STAGE II Vapor Recovery System" means any system certified by the California Air Resources Board as having a vapor recovery or removal efficiency of at least 95 percent by weight.
- (3) "Defective equipment" means any absence, disconnection, or malfunction of a Stage II vapor recovery system component which is required by this Rule including the following:
 - (A) a vapor return line that is crimped, flattened or blocked or that has any hole or slit that allows vapors to leak out;
 - (B) a nozzle bellows that has any hole or tear large enough to allow a 1/4 inch diameter cylindrical rod to pass through it or any slit one inch or more in length;
 - (C) a nozzle face-plate or cone that is torn or missing over 25 percent of its surface;

- (D) a nozzle with no automatic overfill control mechanism or an inoperable overfill control mechanism;
 - (E) an inoperable or malfunctioning vapor processing unit, vacuum generating device, pressure or vacuum relief valve, vapor check valve or any other equipment normally used to dispense gasoline, or that is required by this Rule; or
 - (F) a failure to meet the requirements of Paragraph (g) of this Rule.
- (4) "Facility" means any gasoline service station, gasoline dispensing facility, or gasoline cargo tanker.
 - (5) "ISBM" means independent small business marketer.
 - (6) "Independent Small Business Marketer of Gasoline" means a facility that qualifies under Section 324 of the Federal Clean Air Act.
 - (7) "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.
 - (8) "Owner" means any person who has legal or equitable title to the gasoline storage tank at a facility.
 - (9) "Pressure Balanced Stage II System" means one which is not vacuum-assisted. That is, the volume of vapor in the automobile's fuel tank displaced by the incoming liquid gasoline equals the space in the underground tank created by the gasoline leaving.
 - (10) "Remote Vapor Check Valve" means a check valve in the vapor return line but not located in the nozzle.
 - (11) "Stage II Vapor Recovery" means to the control of gasoline vapor at the vehicle fill-pipe, where the vapors are captured and returned to a vapor-tight storage tank or are captured and destroyed.
 - (12) "Throughput" means the amount of gasoline dispensed at a facility during any calendar month after June 30, 1994.
- (e) Stage II Requirements. No person shall transfer or permit the transfer of gasoline into the fuel tank of any motor vehicle at any applicable facility unless:
- (1) the transfer is made using a Certified Stage II vapor recovery system that meets the requirements of the inspections;
 - (2) all installed Stage II vapor recovery systems use coaxial vapor recovery hoses; no dual-hose designs shall be used;
 - (3) all installed Stage II vapor recovery systems used are certified by CARB except that the Stage I system need not be CARB certified. In addition, no Stage II system shall employ a remote vapor check valve. Pressure balanced Stage II systems may be used; and
 - (4) the underground vapor return piping satisfies the

requirements of Rule .0953 of this Subchapter.

In the event that CARB revokes certification of an installed system, the owner or operator of the facility shall have four years to modify his equipment to conform with re-certification requirements unless modifications involve only the replacement of dispenser check valves, hoses, or nozzles or appurtenances to these components in which case the allowed time period is three months. This time period is defined as the period from the day that the owner or operator of the facility has been officially notified by the Director.

(f) Compliance Schedule. If the gasoline service station or gasoline dispensing facility is subject to the requirements of this Rule in accordance with ~~Paragraph (d) or (e)~~ Paragraphs (e), (f), or (g) of Rule .0902 of this Section, compliance shall be achieved no later than:

- (1) one year from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for facilities having any single monthly throughput of at least 100,000 gallons per month;
- (2) two years from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for facilities having any single monthly throughput of greater than 10,000 gallons but less than 100,000 gallons;
- (3) for affected facilities owned by a single ISBM:
 - (A) one year from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for 33 percent of affected facilities;
 - (B) two years from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for 66 percent of the affected facilities;
 - (C) three years from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for the remainder of the affected facilities;
- (4) 18 months after the day the owner or operator of the facility has been notified by the Director that his exemption under Paragraph (b) of this Rule has been revoked; or
- (5) before beginning operation for islands constructed after the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone.

(g) Testing Requirements

- (1) Within 30 days after the commencement of operation of the Stage II system and every five years thereafter, the owner or operator of the facility shall submit reports of the following tests as described in EPA-450/3-91-022b:
 - (A) Bay Area Source Test Procedure ST-30,

Leak Test Procedure, or San Diego Test Procedure TP-91-1, Pressure Decay/Leak Test Procedure every five years;

(B) Bay Area Source Test Procedure ST-27, Dynamic Back Pressure, or San Diego Test Procedure TP-91-2, Pressure Drop vs Flow/Liquid Blockage Test Procedure every five years; and

(C) Bay Area Source Test Procedure ST-37, Liquid Removal Devices every five years.

If the tests have been performed within the last two years the owner or operator may submit a copy of those tests in lieu of retesting. Testing shall be in accordance with Rule .0912 of this Section.

(2) The owner or operator shall perform daily testing and inspections as follows:

(A) daily tests to ensure proper functioning of nozzle automatic overfill control mechanisms and flow prohibiting mechanisms, and

(B) daily visual inspection of the nozzle bellows and face-plate.

(3) The owner or operator of the facility and the test contractor shall report all test failures to the Regional Office Supervisor within 24 hours of the failure.

(4) The Director may require the owner or operator of the facility to perform any of the tests in Subparagraph (1) of this Paragraph if there are any modifications or repairs.

(5) Where the ~~Air Quality Division~~ Division of Air Quality conducts tests or upon requirement from the Director to test the vapor control system it shall be without compensating the owner or operator of the facility for any lost revenues incurred due to the testing procedure.

(h) Operating Instructions and Posting

(1) The owner or operator of the facility shall post operating instructions for the vapor recovery system on the top one-third of the front of each gasoline dispenser to include the following:

(A) a clear description of how to correctly dispense gasoline with the vapor recovery nozzles,

(B) a warning that repeated attempts to continue dispensing gasoline, after the system has indicated that the vehicle fuel tank is full (by automatically shutting off), may result in spillage or recirculation of gasoline,

(C) a telephone number to report problems experienced with the vapor recovery system to the owner or operator of the facility, and

(D) a telephone number to report problems experienced with the vapor recovery system to the Director.

(2) The owner or operator shall provide written instructions on site as detailed in EPA-450/3-91-

022b to insure that employees of the facility have an accurate understanding of the operation of the system and, in particular, when the system is malfunctioning and requires repair.

(i) Other General Requirements. The owner or operator of the facility shall conspicuously post "Out of Order" signs on any nozzle associated with any aboveground part of the vapor recovery system which is defective until the system has been repaired to bring it back into compliance with this Rule.

(j) Record-keeping and Reporting. Owners or operators of the facility shall maintain records in accordance with Rule .0903 of this Section on compliance and testing.

(k) Referenced document. EPA-450/3-91-022b, "Technical Guidance - Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Volume II: Appendices", November 1991, cited in this Rule is hereby incorporated by reference and does not include subsequent amendments or editions. A copy of this document is available for inspection at the Regional Offices of the North Carolina Department of Environment, Health, and Natural Resources (addresses are given in Rule .0103 of this Subchapter). Copies of this document may be obtained through the Library Services Office (MD-35), U. S. Environmental Protection Agency, Research Triangle Park or National Technical Information Services, 5285 Port Royal Road, Springfield VA 22161. The NTIS number for this document is PB-92132851 and the cost is fifty-two dollars (\$52.00).

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a); 150B-21.6;

Eff. May 1, 1995;

Amended Eff. April 1, 1997; July 1, 1996; April 1, 1996; May 1, 1995.

SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS

.1110 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

(a) ~~Sources emitting pollutants of the following types when With the exception of Paragraph (b) of this Rule, sources~~ subject to national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedural provisions, and any other provisions, as required therein, rather than with any otherwise-applicable Rule in Section .0500 of this Subchapter which ~~that~~ would be in conflict therewith. ~~New sources of volatile organic compounds that are located in an area designated in 40 CFR 81.334 as nonattainment for ozone or in an area identified in accordance with 15A NCAC 2D .0902(c) as being in violation of the ambient air quality standard for ozone shall comply with the following requirements, as well as with any applicable requirements in~~

Section .0900 of this Subchapter:

- (1) ~~asbestos (40 CFR 61.01 to 61.19 and 61.140 to 61.159, Subpart M; with the exception named in 40 CFR 61.157);~~
- (2) ~~beryllium (40 CFR 61.01 to 61.19 and 61.30 to 61.39, Subpart C);~~
- (3) ~~beryllium from rocket motor firing (40 CFR 61.01 to 61.19 and 61.40 to 61.49, Subpart D);~~
- (4) ~~mercury (40 CFR 61.01 to 61.19 and 61.50 to 61.59, Subpart E);~~
- (5) ~~vinyl chloride (40 CFR 61.01 to 61.19 and 61.60 to 61.71, Subpart F);~~
- (6) ~~equipment leaks (fugitive emission sources) of benzene (40 CFR 61.01 to 61.19 and 61.110 to 61.119, Subpart J);~~
- (7) ~~equipment leaks (fugitive emission sources) (of volatile hazardous air pollutants) (40 CFR 61.01 to 61.19 and 61.240 to 61.249, Subpart V);~~
- (8) ~~inorganic arsenic emissions from glass manufacturing plants (40 CFR 61.01 to 61.19 and 61.160 to 61.169, Subpart N);~~
- (9) ~~inorganic arsenic emissions from primary copper smelters (40 CFR 61.01 to 61.19 and 61.170 to 61.179, Subpart O);~~
- (10) ~~inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities (40 CFR 61.01 to 61.19 and 61.180 to 61.186, Subpart P);~~
- (11) ~~benzene emissions from benzene transfer operations (40 CFR 61.01 to 61.19 and 61.300 to 61.306, Subpart BB);~~
- (12) ~~benzene waste operations (40 CFR 61.01 to 61.19 and 61.340 to 61.358, Subpart FF);~~
- (13) ~~benzene emissions from coke by-product recovery plants (40 CFR 61.01 to 61.19 and 61.130 to 61.139, Subpart L); and~~
- (14) ~~benzene emissions from benzene storage vessels (40 CFR 61.01 to 61.19 and 61.270 to 61.277 except 61.273, Subpart Y);~~

(b) Along with the notice appearing in the North Carolina Register for a public hearing to amend this Rule to exclude a standard from this Rule, the Director shall state whether or not the national emission standards for hazardous air pollutants promulgated under 40 CFR Part 61, or part thereof, shall be enforced. If the Commission does not adopt the amendment to this Rule to exclude or amend the standard within 12 months after the close of the comment period on the proposed amendment, the Director shall begin enforcing that standard when 12 months has elapsed after the end of the comment period on the proposed amendment.

(c) New sources of volatile organic compounds that are located in an area designated in 40 CFR 81.334 as nonattainment for ozone or an area identified in accordance with 15A NCAC 2D .0902(e), (f), or (g) as in violation of the ambient air quality standard for ozone shall comply with the requirements of 40 CFR Part 61 that are not excluded by this Rule, as well as with any applicable requirements in Section .0900 of this Subchapter.

(b)(d) All requests, reports, applications, submittals, and other communications to the administrator required under Paragraph (a) of this Rule shall be submitted to the Director of the Division of Air Quality Environmental Management rather than to the Environmental Protection Agency; except that all such reports, applications, submittals, and other communications to the administrator required by 40 CFR 61.145 shall be submitted to the Director, Division of Epidemiology.

(c)(e) In the application of this Rule, definitions contained in 40 CFR Part 61 shall apply rather than those of Section .0100 of this Subchapter. Subchapter when conflict exists:

(d)(f) 15A NCAC 2Q .0102 and .0302 are not applicable to any source to which this Rule applies. The owner or operator of the source shall apply for and receive a permit as required in 15A NCAC 2Q .0300 or .0500.

(e) The Code of Federal Regulations cited in this Rule are incorporated by reference and shall automatically include any later amendments thereto except for categories of sources not referenced in Paragraph (a) of this Rule. Categories of sources not referenced in Paragraph (a) of this Rule for which EPA has promulgated national emission standards for hazardous air pollutants in 40 CFR Part 61, if and when incorporated into this Rule, shall be incorporated using rule-making procedures:

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107 (a)(5); 150B-21.6;

Eff. July 1, 1996;

Amended Eff. July 1, 1997.

.1111 MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY

(a) With the exception of Paragraph (b) or (c) of this Rule, sources subject to national emission standards for hazardous air pollutants for source categories promulgated in 40 CFR Part 63 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedural provisions, and any other provisions, as required therein, rather than with any otherwise-applicable Rule rule in Section .0500 of this Subchapter which would be in conflict therewith.

(b) The following are not included under this Rule:

- (1) approval of state programs and delegation of federal authorities (40 CFR 63.90 to 63.96, Subpart E); and
- (2) requirements for control technology determined for major sources in accordance with Clean Air Act Sections 112(g) and 112(j) (40 CFR 63.50 to 63.57, Subpart B).

(c) Along with the notice appearing in the North Carolina Register for a public hearing to amend this Rule to exclude a standard from this Rule, the Director shall state whether or not the national emission standard for hazardous air pollutants for source categories promulgated under 40 CFR Part 63, or part thereof, shall be enforced. If the

Commission does not adopt the amendment to this Rule to exclude or amend the standard within 12 months after the close of the comment period on the proposed amendment, the Director shall begin enforcing that standard when 12 months has elapsed after the end of the comment period on the proposed amendment.

(d) New sources of volatile organic compounds that are located in an area designated in 40 CFR 81.334 as nonattainment for ozone or an area identified in accordance with 15A NCAC 2D .0902 ~~.0902(d)~~ as being in violation of the ambient air quality standard for ozone shall comply with the requirements of 40 CFR Part 63 that are not excluded by this Rule as well as with any applicable requirements in Section .0900 of this Subchapter.

(e) All requests, reports, applications, submittals, and other communications to the administrator required under Paragraph (a) of this Rule shall be submitted to the Director of the Division of Air Quality Environmental Management rather than to the Environmental Protection Agency.

(f) In the application of this Rule, definitions contained in 40 CFR Part 63 shall apply rather than those of Section .0100 of this Subchapter when conflict exists.

(g) 15A NCAC 2Q .0102 and .0302 are not applicable to any source to which this Rule applies if the source is required to be permitted under 15A NCAC 2Q .0500, Title V Procedures. The owner or operator of the source shall apply for and receive a permit as required in 15A NCAC 2Q .0300 or .0500. Sources that have heretofore been exempted from needing a permit and become subject to requirements promulgated under 40 CFR 63 shall apply for a permit in accordance to 15A NCAC 2Q .0109.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107 (a)(5); 150B-21.6;

Eff. July 1, 1996;

Amended Eff. April 1, 1997.

SUBCHAPTER 2Q - AIR QUALITY PERMIT PROCEDURES

SECTION .0100 - GENERAL PROVISIONS

.0102 ACTIVITIES EXEMPTED FROM PERMIT REQUIREMENTS

(a) If a source is subject to any of the following rules, then the source is not exempted from permit requirements, and the exemptions in Paragraph (b) of this Rule do not apply:

- (1) new source performance standards under 15A NCAC 2D .0524 or 40 CFR Part 60, except:
 - (A) 40 CFR Part 60, Subpart Dc, industrial, commercial, and institutional steam generating units located at a facility not required to be permitted under Section .0500 of this Subchapter;
 - (B) 40 CFR Part 60, Subpart Kb, volatile organic liquid storage vessels located at a

facility not required to be permitted under Section .0500 of this Subchapter; or

(C) 40 CFR Part 60, Subpart AAA, new residential wood heaters;

- (2) national emission standards for hazardous air pollutants under 15A NCAC 2D .1110 or 40 CFR Part 61, except asbestos demolition and renovation activities;
- (3) prevention of significant deterioration under 15A NCAC 2D .0530;
- (4) new source review under 15A NCAC 2D .0531 or .0532;
- (5) sources of volatile organic compounds subject to the requirements of 15A NCAC 2D .0900 that are located in Mecklenburg County in accordance with 15A NCAC 2D .0902;
- (6) sources required to apply maximum achievable control technology (MACT) for hazardous air pollutants under 15A NCAC 2D .1109 or .1111 or 40 CFR Part 63 that are required to have a permit under Section .0500 of this Subchapter; or
- (7) sources at facilities subject to 15A NCAC 2D .1100. (If a source does not emit a toxic air pollutant for which the facility at which it is located has been evaluated, it shall be exempted from needing a permit if it qualifies for one of the exemptions in Paragraph (b) of this Rule).

(b) The following activities do not need a permit or permit modification under this Subchapter; however, the Director may require the owner or operator of these activities to register them under 15A NCAC 2D .0200:

- (1) activities exempted because of category (These activities shall not be included on the permit application or in the permit.):

(A) maintenance, upkeep, and replacement:

- (i) maintenance, structural changes, or repairs which do not change the capacity of such process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality or nature or increase in quantity of emission of regulated air pollutants;
- (ii) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or insulation removal;
- (iii) use of office supplies, supplies to maintain copying equipment, or blueprint machines,
- (iv) use of fire fighting equipment;
- (v) paving parking lots; or
- (vi) replacement of existing equipment with equipment of the same size,

- type, and function that does not result in an increase to the actual or potential emission of regulated air pollutants and that does not affect the compliance status, and with replacement equipment that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated under that permit without any changes in the permit;
- (B) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems which do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (C) laboratory activities:
- (i) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
 - (ii) bench-scale experimentation, chemical or physical analyses, training or instruction from not-for-profit, non-production educational laboratories;
 - (iii) bench-scale experimentation, chemical or physical analyses, training or instruction from hospitals or health laboratories pursuant to the determination or diagnoses of illness; or
 - (iv) research and development laboratory activities that are not required to be permitted under Section .0500 of this Subchapter provided the activity produces no commercial product or feedstock material;
- (D) storage tanks:
- (i) storage tanks used solely to store fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas or liquified petroleum gas;
 - (ii) storage tanks used to store gasoline for which there are no applicable requirements except Stage I controls under 15A NCAC 2D .0928;
 - (iii) storage tanks used solely to store inorganic liquids; or
 - (iv) storage tanks or vessels used for the temporary containment of materials resulting from an emergency response to an unanticipated release of hazardous materials;
- (E) combustion and heat transfer equipment:
- (i) space heaters burning distillate oil, kerosene, natural gas, or liquified petroleum gas operating by direct heat transfer and used solely for comfort heat;
 - (ii) residential wood stoves, heaters, or fireplaces;
 - (iii) hot water heaters which are used for domestic purposes only and are not used to heat process water;
- (F) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no applicable requirements;
- (G) gasoline distribution:
- (i) gasoline service stations or gasoline dispensing facilities that are not required to be permitted under Section .0500 of this Subchapter; or
 - (ii) gasoline dispensing equipment at facilities required to be permitted under Section .0500 of this Subchapter if the equipment is used solely to refuel facility equipment;
- (H) dispensing equipment: equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling oils;
- (I) solvent recycling: portable solvent distillation systems used for on-site solvent recycling if:
- (i) The portable solvent distillation system is not:
 - (I) owned by the facility, and
 - (II) operated at the facility for more than seven consecutive days; and
 - (ii) The material recycled is:
 - (I) recycled at the site of origin,
 - (II) the original material is non-photochemically reactive in accordance with 15A NCAC 2D .0518, Miscellaneous Volatile Organic Compound Emissions, and
 - (III) all make up material is non-photochemically reactive in accordance with 15A NCAC 2D .0518;
- (J) processes:
- (i) small electric motor burn-out ovens with secondary combustion chambers or afterburners;
 - (ii) small electric motor bake-on ovens;
 - (iii) burn-off ovens for paint-line hangers with afterburners;

- (iv) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes where bleach or solvent dyes are not used;
- (v) blade wood planers planing only green wood;
- (K) miscellaneous:
 - (i) motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines;
 - (ii) non-self-propelled non-road engines, except generators, regulated by rules adopted under Title II of the federal Clean Air Act;
 - (iii) equipment used for the preparation of food for direct on-site human consumption;
 - (iv) a source whose emissions are regulated only under Section 112(r) or Title VI of the federal Clean Air Act that is not required to be permitted under Section .0500 of this Subchapter;
 - (v) exit gases from in-line process analyzers;
 - (vi) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
 - (vii) refrigeration equipment that is consistent with Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA under Title VI for stratospheric ozone protection, except those units used as or in conjunction with air pollution control equipment;
 - (viii) equipment not vented to the outdoor atmosphere with the exception of equipment that emits volatile organic compounds;
 - (ix) equipment that does not emit any regulated air pollutants;
 - (x) facilities subject only to a requirement under 40 CFR Part 63 that are not required to be permitted under Section .0500 of this Subchapter (This Subpart does not apply when a control device is used to meet a MACT or GACT emission standard.); or
 - (xi) sources for which there are no applicable requirements and that are at a facility not required to be

permitted under Section .0500 of this Subchapter.

- (2) activities exempted because of size or production rate (These activities shall not be included in the permit. If the facility is subject to the permitting procedures under Section .0500 of this Subchapter, these activities shall be listed on the permit ~~applications;~~ application; otherwise, these activities shall not be listed on the permit ~~applications.;~~ application.);
- (A) storage tanks:
 - (i) above-ground storage tanks with a storage capacity of no more than 1100 gallons storing organic liquids with a true vapor pressure of no more than 10.8 pounds per square inch absolute at 70°F; or
 - (ii) underground storage tanks with a storage capacity of no more than 2500 gallons storing organic liquids with a true vapor pressure of no more than 10.8 psi absolute at 70°F;
- (B) combustion and heat transfer ~~equipment:~~ equipment located at a facility not required to be permitted under Section .0500 of this Subchapter:
 - (i) fuel combustion equipment, except for internal combustion engines, firing exclusively kerosene, No. 1 fuel oil, No. 2 fuel oil, equivalent unadulterated fuels, or a mixture of these fuels or one or more of these fuels mixed of with natural gas or liquified petroleum gas with a heat input of less than:
 - (I) 10 million BTU per hour for which construction, modification, or reconstructed commenced after June 9, 1989; or
 - (II) 30 million BTU per hour for which construction, modification, or reconstruction commenced before June 10, 1989;
 - (ii) fuel combustion equipment, except for internal combustion engines, firing exclusively natural gas or liquified petroleum gas or a mixture of these fuels with a heat input rating less than 65 million BTU per hour;
 - (iii) space heaters burning waste oil if:
 - (I) The heater burns only oil that the owner or operator generates or used oil from do-it-yourself oil changers who generate used oil as

- household wastes;
- (II) The heater is designed to have a maximum capacity of not more than 500,000 Btu per hour; and
- (III) The combustion gases from the heater are vented to the ambient air;
- (iv) emergency use generators and other internal combustion engines not regulated by rules adopted under Title II of the federal Clean Air Act, except self-propelled vehicles, that have a rated capacity of no more than:
 - (I) 310 kilowatts (electric) or 460 horsepower for natural gas-fired engines,
 - (II) 830 kilowatts (electric) or 1150 horsepower for liquified petroleum gas-fired engines,
 - (III) 270 kilowatts (electric) or 410 horsepower for diesel-fired or kerosene-fired engines, or
 - (IV) 21 kilowatts (electric) or 31 horsepower for gasoline-fired engines;
- (v) portable generators and other portable equipment with internal combustion engines not regulated by rules adopted under Title II of the federal Clean Air Act, except self-propelled vehicles, that operate at the facility no more than a combined 350 hours for any 365-day period provided the generators or engines have a rated capacity of no more than 750 kilowatt (electric) or 1100 horsepower each and provided records are maintained to verify the hours of operation;
- (vi) peak shaving generators that produce no more than 325,000 kilowatt-hours of electrical energy for any 12-month period provided records are maintained to verify the energy production on a monthly basis and on a 12-month basis;
- (C) gasoline distribution: bulk gasoline plants with an average daily throughput of less than 4000 gallons that is not required to be permitted under Section .0500 of this Subchapter;
- (D) processes:
 - (i) printing, paint spray booths or other painting or coating operations without air pollution control devices (water wash and filters that are an integral part of the paint spray booth are not considered air pollution control devices) located at a facility whose facility-wide actual emissions of:
 - (I) Volatile organic compounds are less than five tons per year, and
 - (II) Photochemically reactive solvent emissions under 15A NCAC 2D .0518 are less than 30 pounds per day;
 provided the facility is not required to be permitted under Section .0500 of this Subchapter;
 - (ii) saw mills that saw no more than 2,000,000 board feet per year provided only green wood is sawed;
 - (iii) perchloroethylene dry cleaners that consume less than 13,000 pounds (965 gallons) of perchloroethylene per year;
 - (iv) electrostatic dry powder coating operations equipped with powder recovery including curing ovens with a heat input of less than 10,000,000 BTU per hour;
- (E) miscellaneous:
 - (i) any source without an air pollution control device whose potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide are each no more than five tons per year and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff except:
 - (I) storage tanks,
 - (II) fuel combustion equipment equipment, excluding fuel combustion equipment at facilities required to have a permit under Section .0500 of this Subchapter, firing exclusively kerosene, No. 1 fuel oil, No. 2 fuel oil, equivalent unadulterated fuels, natural gas, liquified petroleum gas, or a mixture of these fuels,
 - (III) space heaters burning waste oil,
 - (IV) generators, excluding emergency generators, or

- other non-self-propelled internal combustion engines,
 - (V) bulk gasoline plants,
 - (VI) printing, paint spray booths, or other painting or coating operations,
 - (VII) saw mills,
 - (VIII) perchloroethylene dry cleaners, or
 - (IX) electrostatic dry powder coating operations,
- provided that the total potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the facility are each less than 40 tons per year and the total potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rates or provided that the facility has an air quality permit;
- (ii) any facility without an air pollution control device whose actual emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, or carbon monoxide are each less than five tons per year, whose potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rates, and which is not required to have a permit under Section .0500 of this Subchapter;
 - (iii) any source that only emits hazardous air pollutants that are not also a particulate or a volatile organic compound and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff emission rates; or
 - (iv) any incinerator covered under Paragraph (d) of 15A NCAC 2D .1201.
- (F) case-by-case exemption:
- (i) for activities located at facilities not required to have a permit under Section .0500 of this Subchapter, activities that the applicant demonstrates to the satisfaction of the Director:
 - (I) to be negligible in their air quality impacts,
 - (II) not to have any air pollution control device, and
 - (III) not to violate any applicable emission control standard

when operating at maximum design capacity or maximum operating rate, whichever is greater: ~~greater~~; or

- (ii) for activities located at facilities required to have a permit under Section .0500 of this Subchapter: activities that the applicant demonstrates to the satisfaction of the Director:
 - (I) to be negligible in their air quality impacts,
 - (II) not to have any air pollution control device,
 - (III) not to violate any applicable emission control standard when operating at maximum design capacity or maximum operating rate, whichever is greater,
 - (IV) the potential emissions of each criteria pollutant is less than five tons per year, and
 - (V) the potential emissions of each hazardous air pollutant is less than 1000 pounds per year.

(c) Because an activity is exempted from being required to have a permit does not mean that the activity is exempted from any applicable requirement or that the owner or operator of the source is exempted from demonstrating compliance with any applicable requirement.

(d) Emissions from stationary source activities identified in Paragraph (b) of this Rule shall be included in determining compliance with the toxic air pollutant requirements under 15A NCAC 2D .1100 or 2H .0610.

(e) The owner or operator of a facility or source claiming an exemption under Paragraph (b) of this Rule shall provide the Director documentation upon request that the facility or source is qualified for that exemption.

History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.108;

Eff. July 1, 1994;

Amended Eff. July 1, 1997; November 1, 1996.

.0104 WHERE TO OBTAIN AND FILE PERMIT APPLICATIONS

(a) Official application forms for a permit or permit modification may be obtained from and shall be filed in writing with the Director, Division of Air Quality, Environmental Management, P.O. Box 29535, Raleigh, North Carolina 27626-0535 or any of the regional offices listed under Rule .0105 of this Section.

(b) The number of copies of applications to be filed are

specified in Rules .0305 (construction and operation permit procedures), ~~.0405 (acid rain permit procedures)~~, .0507 (Title V permit procedures), and .0602 (transportation facility construction air permit procedures) of this Subchapter.

History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;
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Amended Eff. July 1, 1997.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0200 - HUNTING

.0203 DEER (WHITE-TAILED)

(a) Closed Season. All counties and parts of counties not listed under the open seasons in Paragraph (b) in this Rule shall be closed to deer hunting.

(b) Open Seasons (All Lawful Weapons)

(1) ~~Mate~~ Deer With Visible Antlers. ~~Mate deer~~ Deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken during the following seasons:

(A) Monday on or nearest October 15 through January 1 in all of Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus*, Craven, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Greene, Halifax, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Richmond**, Robeson, Sampson, Scotland**, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson counties, and the following parts of counties:

Cumberland: That part south of NC 24 or east of I-95;

Harnett: That part west of NC 87;

Moore**: All of the county except that part north of NC 211 and west of US 1;

*Unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline.

**See 15A NCAC 10D .0003(f)(52)(B) ~~(f)(51)(C)~~ for seasons on Sandhills Game Land.

(B) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Alexander, Alleghany, Ashe, Catawba,

Davie, Forsyth, Gaston, Iredell, Lincoln, Stokes, Surry, Watauga, Wilkes, and Yadkin counties.

(C) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey counties.

(D) Monday before Thanksgiving week through January 1 in all of Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties, and in the following parts of counties:

~~Cumberland~~; Cumberland: That part north of NC 24 and west of I-95;

~~Harnett~~; Harnett: That part east of NC 87;

~~Moore~~; Moore: That part north of NC 211 and west of US 1;

(E) Monday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.

(2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph (See 10D.0003 for either sex seasons on Game Lands):

(A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Monday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge and from the first Saturday in October through January 1 and those parts of Anson and Richmond counties known as Pee Dee National Wildlife Refuge.

(B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Monday

on or nearest October 15 through January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.

- (C) Second Saturday in October for youth either sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission.

- (D) The last open day of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule ~~The second Saturday in December~~ in all of Buncombe, Haywood, Henderson, Madison, Mitchell, Polk, Transylvania, and Yancey counties and the following parts of counties:

Avery: That part south of the Blue Ridge Parkway.

Robeson: That part west of I-95.

Scotland: That part south of US 74.

- (E) The last six open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) of this Rule ~~Wednesday through Saturday of the week following Thanksgiving~~ in all of Burke, Caldwell, Catawba, Gaston, Lincoln, McDowell, Harnett, Hoke, Mecklenburg, and Watauga ~~Tyrrell~~ counties and in the following parts of counties:

~~Camden: That part south of US-158.~~

~~Cumberland: That part west of I-95.~~

~~Dare: except the Outer Banks north of Whalebone.~~

~~Richmond: That part east of a line formed by US 220 from the Montgomery County line to Rockingham and US 1 from Rockingham to the South Carolina line.~~

~~Scotland: That part north of US 74.~~

~~Wayne: That part north of US 70.~~

- (F) The first six open days and the last six open days of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule ~~Wednesday of the week following Thanksgiving through Saturday of next succeeding week~~ in all of Alamance, Cabarrus, Camden, Carteret, Cleveland, Caswell, Davidson, Durham, Greene, Harnett, Hoke, Guilford, Lee, Moore, Orange, Pamlico, Pasquotank, Rutherford, Tyrrell, Person, Randolph, Rockingham, Rowan, Stanly, Union, Wake, Washington, Wayne and Wilson counties and in the

following parts of counties:

~~Camden: That part north of US-158~~

Cabarrus: That part west of US 601.

~~Chowan: That part north of US 17 and west of NC 32.~~

~~Columbus: That part west of US 74, SR 1005, and SR 1125.~~

~~Cumberland: That part west east of I-95.~~

~~Currituck: All of the county except the Outer Banks.~~

Dare: except the Outer Banks north of Whalebone.

~~Johnston: That part north of US 70 or west of I-95.~~

~~Nash: That part south of US 64.~~

~~Richmond: That part east of Little River and west of a line formed by US 220 from the Montgomery County line to Rockingham and US 1 from Rockingham to the South Carolina line.~~

~~Robeson: That part east of I-95.~~

Rowan: That part west of US 601.

Scotland: That part north of US 74.

~~Wayne: That part south of US 70.~~

- (G) All the open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Caswell, Chatham, Craven, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Guilford, Halifax, Hertford, Hyde, Iredell, Jones, Lee, Lenoir, Martin, Mecklenburg, Montgomery, Moore, Northampton, Onslow, Orange, Pender, Perquimans, Person, Pitt, Randolph, Rockingham, Sampson, Stanly, Stokes, Surry, Union, Vance, Wake, Warren, Washington, Wilkes and Yadkin counties, and in the following parts of counties: Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in that part of Buncombe County:

Buncombe: that part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of SR 3503, NC 146 and SR 3501.

Cabarrus: that part east of US 601.

Chowan: That part south of US 17 or east of NC 32.

Columbus: That part east of a line formed by US 74, SR 1005, and SR 1125.

Cumberland: that part east of I-95.

Dare: That part of the Outer Banks north of Whalebone.

Johnston: That part south of US 70 and east

of I-95.

Nash: That part north of US 64.

New Hanover: That part north of US 74.

Richmond: That part west of a line formed by US 220 from the Montgomery County line to Rockingham and US 1 from Rockingham to the South Carolina Line.

Rowan: That part east of US 601.

(H) ~~Wednesday of the week following Thanksgiving through January 1 in all of Anson, Beaufort, Bertie, Bladen, Brunswick, Chatham, Craven, Duplin, Edgecombe, Franklin, Gates, Granville, Halifax, Hertford, Hyde, Jones, Lenoir, Martin, Montgomery, Northampton, Onslow, Pender, Perquimans, Pitt, Sampson, Vance, and Warren counties, and in the following parts of counties:~~

~~Chowan: That part south of US 17 or east of NC 32.~~

~~Columbus: That part east of a line formed by US 74, SR 1005, and SR 1125.~~

~~Dare: That part of the Outer Banks north of Whalebone.~~

~~Johnston: That part south of US 70 and east of I-95.~~

~~Nash: That part north of US 64.~~

~~New Hanover: That part north of US 74.~~

~~Richmond: That part west of Little River.~~

(I) ~~The second Wednesday after Thanksgiving through the third Saturday after Thanksgiving in all of Alexander, Alleghany, Ashe, Cleveland, Davie, Forsyth, Iredell, Rutherford, Stokes, Surry, Wilkes and Yadkin counties.~~

(J) ~~The third Friday after Thanksgiving through the third Saturday after Thanksgiving in all of, Burke, Caldwell, Catawba, Gaston, Lincoln, McDowell, Polk, and Watauga counties.~~

(K) ~~In those counties or parts of counties listed in Paragraph (b) (2) (H), two antlerless deer may be taken during that part of the regular gun season in which no other either-sex season is open and shall be tagged with the Antlerless deer tag or the Bonus Antlerless deer tag.~~

(L) ~~In those counties or parts of counties listed in Part (b)(2)(F), one antlerless deer may be taken during that part of the regular gun season in which no other either-sex season is open and shall be tagged with the Antlerless deer tag.~~

(M) ~~In Alexander, Alleghany, Ashe, Davie, Forsyth, Iredell, Stokes, Surry, Wilkes, and Yadkin counties, one antlerless deer may be taken during that part of the regular gun~~

~~season or that part of the muzzle-loading season in which no other either-sex season is open and shall be tagged with the Antlerless deer tag.~~

(c) Open Seasons (Bow and Arrow)

(1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer of either sex may be taken with bow and arrow during the following seasons:

(A) Monday on or nearest September 10 to the fourth Saturday thereafter in the counties and parts of counties having the open season for Deer With Visible Antlers male deer specified by Part (A) of Subparagraph (b)(1) of this Rule, except on the Sandhills Game Land and the area known as the Outer Banks in Currituck County.

(B) Monday on or nearest September 10 to the second Saturday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers male deer specified by Part (B) of Subparagraph (b)(1) of this Rule.

(C) Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers male deer specified by Part (C) of Subparagraph (b)(1) of this Rule.

(D) Monday on or nearest September 10 to the third Saturday before Thanksgiving in the counties and parts of counties having the open season for Deer With Visible Antlers male deer specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.

(2) Restrictions

(A) Dogs may not be used for hunting deer during the bow and arrow season.

(B) It is unlawful to carry any type of firearm while hunting with a bow during the bow and arrow deer hunting season.

(C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.

(d) Open Seasons (Muzzle-Loading Rifles and Shotguns)

(1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms (except that bow and arrow may be used on designated and posted game land Archery Zones) during the following seasons:

(A) Monday on or nearest October 8 to the

following Saturday in the counties and parts of counties having the open seasons for Deer With Visible Antlers ~~male deer~~ specified by Items (A) and (C) of Subparagraph (b)(1) of this Rule, except on Sandhills Game Land and the area known as the Outer Banks in Currituck County.

(B) Monday to Saturday of the week preceding Thanksgiving week in the counties and parts of counties having the open seasons for Deer With Visible Antlers ~~male deer~~ specified by Item (B) of Subparagraph (b)(1) of this Rule.

(C) Monday to Saturday of the second week before Thanksgiving week in the counties and parts of counties having the open season for Deer With Visible Antlers ~~male deer~~ specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.

(2) Restrictions

(A) Deer of either sex may be taken during muzzle-loading firearms season in and east of the following counties: Rutherford, McDowell, Burke, Caldwell, Wilkes, and Ashe. ~~Deer those counties or parts of counties listed in Parts (A) and (D) of Subparagraph (b)(1) of this Rule and deer of either sex may be taken on the last day of muzzle-loading firearms season in all other counties, those counties or parts of counties listed in Part (B) and (C) of Subparagraph (b)(1) of this Rule.~~

(B) Dogs ~~may~~ shall not be used for hunting deer during the muzzle-loading firearms seasons.

(C) Pistols ~~may~~ shall not be carried while hunting deer during the muzzle-loading firearms seasons.

(e) The daily bag limit shall be two and the possession limit six five, two one of which shall be antlerless. The season limit shall be six five, two one of which shall be antlerless. ~~In those areas listed in Part (b)(2)(H) of this Rule, except on Game Lands, one additional antlerless deer may be taken provided it is tagged with the Bonus Antlerless deer tag.~~ Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. The antlerless bag limits described above do not apply to antlerless deer harvested in areas covered in the Deer Management Assistance Program as described in GS 113-291.2(e). Individual daily antlerless bag limits on these areas shall be determined by the number of special tags, issued by the Division of Wildlife Management as authorized by the Executive Director, that shall be in the possession of the hunter. Season antlerless bag limits shall be set by the number of tags available. All antlerless deer harvested on these areas, regardless of the date of harvest, shall be tagged with these special tags but do not have to be tagged with Big Game Tags provided with the

hunting license.

(f) Kill Reports. The carcass of each deer shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2;

Eff. February 1, 1976;

Amended Eff. July 1, 1997; July 1, 1996; July 1, 1995; December 1, 1994; July 1, 1994; July 1, 1993.

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

.0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. The waters listed herein or in 15A NCAC 10D .0004 are designated as Public Mountain Trout Waters and further classified as Wild Trout Waters or Hatchery Supported Waters. For specific classifications, see Subparagraphs (1) and (2) of this Paragraph. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located:

(1) Hatchery Supported Trout Waters. The listed waters in the counties in Subparagraphs (1)(A)-(Y) are classified as Hatchery Supported Public Mountain Trout Waters. Where specific watercourses or impoundments are listed, indentation indicates that the watercourse or impoundment listed is tributary to the next preceding watercourse or impoundment listed and not so indented. This classification applies to the entire watercourse or impoundment listed except as otherwise indicated in parentheses following the listing. Other clarifying information may also be included parenthetically. The tributaries of listed watercourses or impoundments are not included in the classification unless specifically set out therein. Otherwise, Wild Trout regulations apply to the tributaries.

(A) Alleghany County:

New River (not trout water)

Little River (Whitehead to McCann Dam)

Crab Creek

Brush Creek (except where posted against trespass)

Big Pine Creek

Laurel Branch

Big Glade Creek

Bledsoe Creek

Pine Swamp Creek

Waterfalls Creek (South Fork Little River)(except where posted against trespass)

South Fork New River (not trout water)

Prather Creek

- Cranberry Creek
- Piney Fork
- Meadow Fork
- Yadkin River (not trout water)
- Roaring River (not trout water)
- East Prong Roaring River (that portion on Stone Mountain State Park) Delayed Harvest Waters regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
- (B) Ashe County:
 - New River (not trout waters)
 - North Fork New River (Watauga Co. line to Sharp Dam)
 - Helton Creek (Virginia State line to New River)
 - Big Horse Creek (SR 1361 bridge to Tuckerdale)
 - Buffalo Creek (headwaters to junction of NC 194-88 and SR 1131)
 - Big Laurel Creek
 - Three Top Creek (portion not on game lands)
 - Hoskins Fork (Watauga County line to North Fork New River)
 - South Fork New River (not trout waters)
 - Cranberry Creek (Alleghany County line to South Fork New River)
 - Nathans Creek
 - Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)
 - Trout Lake (Delayed harvest regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.)
 - Roan Creek
 - North Beaver Creek
 - South Beaver Creek (headwaters to Ashe Lake)
 - Pine Swamp Creek (all forks)
 - Old Fields Creek
 - Mill Creek (except where posted against trespass)
- (C) Avery County:
 - Nolichucky River (not trout waters)
 - North Toe River (headwaters to Mitchell County line, except where posted against trespass)
 - Squirrel Creek
 - Elk River (SR 1306 crossing to Tennessee State line, including portions of tributaries on game lands)
 - Catawba River (not trout water)
 - Johns River (not trout water)
 - Wilson Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
 - Lost Cove Creek [not Hatchery Supported trout water, see Subparagraph (4) of Paragraph (a) of this Rule]
 - Gragg Prong (including tributaries)
 - Webb Prong (including tributaries)
 - Buck Timber Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
 - Cary Flat Branch [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
 - Boyde Coffey Lake
 - Archie Coffey Lake
 - Linville River [Land Harbor line (below dam) to Blue Ridge Parkway boundary line, except where posted against trespass]
 - Milltimber Creek
- (D) Buncombe County:
 - French Broad River (not trout water)
 - Big Ivy Creek (Ivy River) (Dillingham Creek to US 19-23 bridge)
 - Dillingham Creek (Corner Rock Creek to Big Ivy Creek)
 - Stony Creek
 - Mineral Creek (including portions of tributaries on game lands)
 - Corner Rock Creek (including tributaries, except Walker Branch)
 - Reems Creek (Sugar Camp Fork to US 19-23 bridge, except where posted against trespass)
 - Swannanoa River (SR 2702 bridge near Ridgecrest to Sayles Bleachery in Asheville, except where posted against trespass)
 - Bent Creek (headwaters to N.C. Arboretum boundary line, including portions of tributaries on game lands)
 - Lake Powhatan
 - Cane Creek (headwaters to SR 3138 bridge)
- (E) Burke County:
 - Catawba River (not trout water)
 - South Fork Catawba River (not trout water)
 - Henry Fork (lower Morganton watershed line downstream to SR 1919 at Ivy Creek)
 - Jacob Fork (Shinny Creek to lower South Mountain State Park boundary)
 - Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
 - Johns River (not trout water)
 - Parks Creek (portion not on game lands not trout water)
 - Carroll Creek (game lands portion above SR 1405 including tributaries)
 - Linville River (game lands portion below the Blue Ridge Parkway including portions of tributaries on game lands and from first

- bridge on SR 1223 below Lake James powerhouse to Muddy Creek)
- (F) Caldwell County:
- Catawba River (not trout water)
 - Johns River (not trout water)
 - Wilson Creek (Phillips Branch to Browns Mountain Beach dam, except where posted against trespass)
 - Estes Mill Creek (not trout water)
 - ~~Thorpe~~ Thorps Creek (falls to NC 90 bridge)
 - Mulberry Creek (portion not on game lands not trout water)
 - Boone Fork (not Hatchery Supported trout water. See Subparagraph (2) of Paragraph (a) of this Rule)
 - Boone Fork Pond
- (G) Cherokee County:
- Hiwassee River (not trout water)
 - Shuler Creek (headwaters to Tennessee line, except where posted against trespass including portions of tributaries on game lands)
 - North Shoal Creek (Crane Creek) (headwaters to SR 1325, including portions of tributaries on game lands)
 - Persimmon Creek
 - Davis Creek (including portions of tributaries on game lands)
 - Bald Creek (including portions of tributaries on game lands)
 - Beaver Dam Creek (headwaters to SR 1326 bridge, including portions of tributaries on game lands)
 - Valley River
 - Hyatt Creek (including portions of tributaries on game lands)
 - Webb Creek (including portions of tributaries on game lands)
 - Junaluska Creek (Ashturn Creek to Valley River, including portions of tributaries on game lands)
- (H) Clay County:
- Hiwassee River (not trout water)
 - Fires Creek (first bridge above the lower game land line on US Forest Service road 442 to SR 1300)
 - Tusquitee Creek (headwaters to lower SR 1300 bridge, including portions of Bluff Branch on game lands)
 - Tuni Creek (including portions of tributaries on game lands)
 - Chatuge Lake (not trout water)
 - Shooting Creek (headwaters SR 1349 bridge to US 64 bridge at SR 1338)
 - Hothouse Branch (including portions of tributaries on gamelands)

- Vineyard Creek (including portions of tributaries on game lands)
- (I) Graham County:
- Little Tennessee River (not trout water)
 - Calderwood Reservoir (Cheoah Dam to Tennessee State line)
 - Cheoah River (not trout water)
 - Yellow Creek
 - Santeelah Reservoir (not trout water)
 - West Buffalo Creek
 - Huffman Creek (Little Buffalo Creek)
 - Santeelah Creek (Johns Branch to mouth including portions of tributaries within this section located on game lands, excluding Johns Branch)
 - Big Snowbird Creek (old railroad junction to mouth, including portions of tributaries on game lands)
 - Mountain Creek (game lands boundary to SR 1138 bridge)
 - Long Creek (portion not on game lands)
 - Tulula Creek (headwaters to lower bridge on SR ~~1211~~ 1275)
 - Franks Creek
 - Cheoah Reservoir
 - Fontana Reservoir (not trout water)
 - Stecoah Creek
 - Sawyer Creek
 - Panther Creek (including portions of tributaries on game lands)
- (J) Haywood County:
- Pigeon River (not trout water)
 - Hurricane Creek (including portions of tributaries on game lands)
 - Cold Springs Creek (including portions of tributaries on game lands)
 - Jonathans Creek - lower (concrete bridge in Dellwood to Pigeon River)
 - Jonathans Creek - upper [SR 1302 bridge (west) to SR 1307 bridge]
 - Hemphill Creek
 - West Fork Pigeon River (headwaters to Champion International property line, including portions of tributaries within this section located on game lands, except Middle Prong)
 - Richland Creek (Russ Avenue bridge to US 19A-23 bridge) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (K) Henderson County:
- Broad River (not trout water)
 - Rocky (Rocky) Broad River (one-half mile north of Bat Cave to Rutherford County

- line)
- Green River - upper (mouth of Bob Bobs Creek to mouth of Rock Creek)
- Green River - lower (Lake Summit Dam to Polk County line)
- Camp Creek (SR 1919 to Polk County line)
- Big (Big) Hungry River
- Little Hungry River
- French Broad River (not trout water)
- Mills River (not trout water)
- North Fork Mills River (game lands portion below the Hendersonville watershed dam). Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (L) Jackson County:
 - Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1392 bridge at Wilmot) Delayed Harvest Regulations apply to that portion between NC 107 bridge at Love Field and NC 116 bridge at Webster. See Subparagraph (a)(5) of this Rule.
 - Scott Creek (entire stream, except where posted against trespass)
 - Dark Ridge Creek (Jones Creek to Scotts Creek)
 - Buff Creek (SR 1457 bridge below Bill Johnson's place to Scott Creek)
 - Savannah Creek (Headwaters to Bradley's Packing House on NC 116)
 - Greens Creek (Greens Creek Baptist Church on SR 1730 to Savannah Creek)
 - Cullowhee Creek (Tilley Creek to Tuckasegee River)
 - Bear Creek Lake
 - Wolf Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
 - Wolf Creek Lake
 - Balsam Lake
 - Tanasee Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
 - Tanasee Creek Lake
 - West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake)
 - Shoal Creek (Glenville Reservoir pipeline to mouth)
- (M) Macon County:
 - Little Tennessee River (not trout water)
 - Nantahala River (Nantahala Dam to Swain County line) Delayed Harvest Regulations apply to the portion from Whiteoak Creek to the Nantahala Power and Light

powerhouse discharge canal. See Subparagraph (a)(5) of this Rule.

Queens Creek Lake

Burningtown Creek (including portions of tributaries on game lands)

Cullasaja River (Sequoah Dam to US 64 bridge near junction of SR 1672, including portions of tributaries on game lands, excluding those portions of Big Buck Creek and Turtle Pond Creek on game lands. Wild trout regulations apply. See Subparagraphs (2) and (6) of Paragraph (a) of this Rule.)

Ellijay Creek (except where posted against trespass, including portions of tributaries on game lands)

Skitty Creek

Cliffside Lake

Cartoogechaye Creek (US 64 bridge to Little Tennessee River)

Tessentee Creek (Nichols Branch to Little Tennessee River, except where posted against trespassing)

Savannah River (not trout water)

Big Creek (base of falls to Georgia State line, including portions of tributaries within this Section located on game lands)

(N) Madison County:

French Broad River (not trout water)

Shut-In Creek (including portions of tributaries on game lands)

Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line, including portions of tributaries on game lands)

Meadow Fork Creek

Roaring Fork (including portions of tributaries on game lands)

Little Creek

Max Patch Pond

Mill Ridge Pond

Big Laurel Creek (Mars Hill Watershed boundary to Rice's Mill Dam)

Shelton Laurel Creek (headwaters to NC 208 bridge)

Big Creek (headwaters to lower game land boundary, including tributaries)

Mill Creek

Big Pine Creek

Puncheon Fork (Hampton Creek to Big Laurel Creek)

(O) McDowell County:

Catawba River (portion not on game lands, not trout water)

Buck Creek (portion not on game lands, not trout water)

- Little Buck Creek (game land portion including portions of tributaries on game lands)
- Curtis Creek (Newberry Creek to US 70 bridge)
- North Fork Catawba River (headwaters to North Cove School, SR 1569)
 - Armstrong Creek (Cato Holler line downstream to upper Greenlee line)
 - Mill Creek (upper railroad bridge to U.S. 70 Bridge, except where posted against trespass)
- (P) Mitchell County:
 - Nolichucky River (not trout water)
 - Big Rock Creek (headwaters to NC 226 bridge at SR 1307 intersection)
 - Little Rock Creek (Green Creek Bridge to Big Rock Creek, except where posted against trespass)
 - Cane Creek (SR 1219 to Nolichucky River)
 - Grassy Creek (East Fork Grassy Creek to mouth)
 - East Fork Grassy Creek
 - North Toe River (Avery County line to SR 1121, Altapass Road)
- (Q) Polk County:
 - Broad River (not trout water)
 - North Pacolet River (Pacolet Falls to NC 108 bridge)
 - Fork Creek (Fork Creek Church on SR ~~1128~~ 1100 to North Pacolet River)
 - Big Fall Creek (portion above and below water supply reservoir)
 - Green River (Henderson County line to mouth of Brights Creek)
 - Little Cove Creek (including portions of tributaries on game lands)
 - Cove Creek (including portions of tributaries on game lands)
 - Camp Creek [Henderson County line (top of falls) to Green River]
 - Fulloms Creek (SR 1154 to Green River, including portions of tributaries on game lands)
- (R) Rutherford County:
 - ~~Broad River (not trout water)~~
 - Rocky ~~(Rocky)~~ Broad River (Henderson County line to head of rapids at Goose Pond Hole, except where posted against trespass)
- (S) Stokes County:
 - Dan River (SR 1416 bridge downstream to a point 200 yards below the end of SR 1421)
- (T) Surry County:
 - Yadkin River (not trout water)
 - Ararat River (SR 1727 downstream to the Business US 52 bridge) Delayed Harvest regulations apply. See Subparagraph (5) of

- Paragraph (a) of this Rule.
 - Stewarts Creek (not trout water)
 - Pauls Creek (Virginia State line to 0.3 mile below SR 1625 bridge - lower Caudle property line)
 - Fisher River (Cooper Creek) (Virginia State line to NC 89 bridge)
 - Little Fisher River (Virginia State line to NC 89 bridge)
- (U) Swain County:
 - Little Tennessee River (not trout water)
 - Calderwood Reservoir (Cheoah Dam to Tennessee State line)
 - Cheoah Reservoir
 - Fontana Reservoir (not trout water)
 - Alarka Creek
 - Nantahala River (Macon County line to existing Fontana Reservoir water level)
 - Tuckasegee River (not trout water)
 - Deep Creek (Great Smoky Mountains National Park boundary line to Tuckasegee River)
 - Connelly Creek (including portions of tributaries on game lands)
- (V) Transylvania County:
 - French Broad River (junction of west and north forks to US 276 bridge)
 - Davidson River (Avery Creek to Ecusta intake)
 - East Fork French Broad River (Gladly Branch Fork to French Broad River)
 - Middle Fork French Broad River
 - West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks, including portions of tributaries within this section located on game lands)
 - Savannah River (not trout water)
 - Thompson River (SR 1152 to South Carolina state line, except where posted against trespass, including portions of tributaries within this section located on game lands)
- (W) Watauga County:
 - New River (not trout waters)
 - North Fork New River (from confluence with Maine and Mine branches to Ashe County line)
 - Maine Branch (headwaters to North Fork New River)
 - South Fork New River (not trout water)
 - Meat Camp Creek
 - Norris Fork Creek
 - Howards Creek (downstream from lower falls)
 - Middle Fork New River (Lake Chetola Dam to South Fork New River)

- Yadkin River (not trout water)
 Stony Fork (headwaters to Wilkes County line)
 Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)
 Watauga River (SR 1559 at Foscoe downstream to NC 105 bridge) Delayed Harvest Regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
 Beech Creek
 Buckeye Creek Reservoir
 Coffee Lake
 Laurel Creek
 Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)
 Dutch Creek (second bridge on SR 1134 to mouth)
 Boone Fork (headwaters to SR 1562)
- (X) Wilkes County:
 Yadkin River (not trout water)
 Roaring River (not trout water)
 East Prong Roaring River (Bullhead Creek to Brewer's Mill on SR 1943) (Delayed harvest regulations apply to portion on Stone Mountain State Park) See Subparagraph (5) of Paragraph (a) of this Rule.
 Stone Mountain Creek (Delayed Harvest Regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.)
 Middle Prong Roaring River (headwaters to second bridge on SR 1736)
Double Creek (Harris Creek to Middle Prong Roaring River)
 Harris Creek (end of SR ~~1716~~ 1736 to ~~mouth~~) Double Creek
~~Pett~~ Bell Branch Pond
 Boundary Line Pond
 West Prong Roaring River (not trout waters)
 Pike Creek
 Pike Creek Pond
 Reddies River (not trout water)
 Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)
 South Fork Reddies River (headwaters to ~~NC 16~~ bridge) confluence with Middle Fork Reddies River
 North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on SR 1559)
~~Darnell Creek North Prong Reddies River (Darnell Creek)~~
(North Prong Reddies River)
- (downstream ford on SR 1569 to confluence with North Fork Reddies River)
 Lewis Fork Creek (not trout water)
 South Prong Lewis Fork (headwaters to Lewis Fork Baptist Church)
 Fall Creek (except portions posted against trespass)
- (Y) Yancey County:
 Nolichucky River (not trout water)
 Cane River [Bee Branch (SR 1110) to Bowlens Creek]
 Bald Mountain Creek (except portions posted against trespass)
 Indian Creek (not trout water)
 Price Creek (junction of SR 1120 and SR 1121 to Indian Creek)
 North Toe River (not trout water)
 South Toe River (Clear Creek to lower boundary line of Yancey County recreation park except where posted against trespass)
- (2) Wild Trout Waters. All waters designated as Public Mountain Trout Waters on the game lands listed in Subparagraph (b)(2) of 15A NCAC 10D .0004, are classified as Wild Trout Waters unless specifically classified otherwise in (A)(1) of this Rule. The trout waters listed in this Subparagraph are also classified as Wild Trout Waters.
- (A) Alleghany County:
 Big Sandy Creek (portion on Stone Mountain State Park)
 Ramey Creek (entire stream)
 Stone Mountain Creek (that portion on Stone Mountain State Park)
- (B) Ashe County:
 Big Horse Creek (Virginia State Line to SR 1361 bridge) Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.
- (C) Avery County:
 Birchfield Creek (entire stream)
 Cow Camp Creek (entire stream)
 Cranberry Creek (entire stream)
 Horse Creek (entire stream)
 Jones Creek (entire stream)
 Kentucky Creek (entire stream)
 North Harper Creek (entire stream)
 Plumtree Creek (entire stream)
 Roaring Creek (entire stream)
 Rockhouse Creek (entire stream)
 South Harper Creek (entire stream)
 Wilson Creek (Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.)
- (D) Buncombe County:
 Carter Creek (game land portion) (Catch and Release/Artificial Lures only regulations apply.)

See Subparagraph (3) of Paragraph (a) of this Rule.)

(E) Burke County:

All waters located on South Mountain State Park, except the main stream of Jacob Fork between the mouth of Shinnny Creek and the lower park boundary where delayed harvest ~~regulations apply~~; regulations, and Henry Fork and tributaries where catch and release/artificial lures only regulations apply. See Subparagraph Subparagraphs (3) and (5) of Paragraph (a) of this Rule.

(F) Caldwell County:

Buffalo Creek (headwaters to lower Dahl property line)
Joe Fork (Watauga County line to falls)
Rockhouse Creek (entire stream)

(G) Graham County:

South Fork ~~Squatta~~ Squally Creek (entire stream)
~~Squatta~~ Squally Creek (entire stream)

(H) Jackson County:

Gage Creek (entire stream)
North Fork Scott Creek (entire stream)
Tanasee Creek (entire stream)
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)

(I) Madison County

Spillcorn Creek (entire stream)

(J) Mitchell County:

Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)
Little Rock Creek (headwaters to Green Creek Bridge, including all tributaries, except where posted against trespass)
Wiles Creek (game land boundary to mouth)

(K) Transylvania County:

Whitewater River (downstream from Silver Run Creek to South Carolina State line)

(L) Watauga County:

Boone Fork (Blue Ridge Parkway boundary line to Watauga River) [Catch and Release Fly Fishing Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]

Dutch Creek (headwaters to second bridge on SR 1134)

Howards Creek (headwaters to lower falls)

Watauga River (Avery County line to SR 1559)

(M) Wilkes County:

Big Sandy Creek (portion on Stone Mountain State Park)

Garden Creek (portion on Stone Mountain State Park)

Harris Creek and tributaries [portions on Stone Mountain State Park] [Catch and Release Artificial Lures Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]

Widow Creek (portion on Stone Mountain State Park)

(N) Yancey County:

Licksillet Creek (entire stream)

Middle Creek (game land boundary to mouth)

Rock Creek (game land boundary to mouth)

South Toe River (game land boundary downstream to Clear Creek)

- (3) Catch and Release/Artificial Lures Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:

(A) Ashe County:

Big Horse Creek (Virginia State line to SR 1361 bridge excluding tributaries)

Three Top Creek (portion located on Three Top Mountain Game Lands)

(B) Avery County:

Wilson Creek (game land portion)

(C) Buncombe County:

Carter Creek (game land portion)

(D) Burke County:

Henry Fork (portion on South Mountains State Park)

(E) ~~(D)~~ Jackson County:

Flat Creek

Tuckasegee River (upstream of Clarke property)

(F) ~~(E)~~ McDowell County:

Newberry Creek (game land portion)

(G) ~~(F)~~ Wilkes County:

Harris Creek (portion on Stone Mountain State Park)

(H) ~~(G)~~ Yancey County:

Lower Creek

Upper Creek

- (4) Catch and Release/Artificial Flies Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:

(A) Avery County:

Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)

(B) Transylvania County:

- Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
- (C) Watauga County:
Boone Fork (portion between Blue Ridge Parkway boundary and the Watauga River)
- (D) Yancey County:
South Toe River (portion from the concrete bridge above Black Mountain Campgroup downstream to game land boundary, excluding Camp Creek and ~~Neats~~ Big Lost Cove Creek)
- (5) Delayed Harvest Trout Waters. Those portions of designated Hatchery Supported Trout Waters as listed in this Subparagraph, excluding tributaries except as noted, are further classified as Delayed Harvest Waters. Between 1 October and one-half hour after sunset on the Friday before the first Saturday of the following June, inclusive, it is unlawful to possess natural bait and only artificial lures with one single hook may be used. No fish may be harvested or be in possession while fishing these streams during this time. These waters are closed to fishing between one-half hour after sunset on the Friday before the first Saturday in June and 6:00 a.m. on the first Saturday in June. At 6:00 a.m. on the first Saturday in June these streams open for fishing under Hatchery Supported Waters regulations:
- (A) Ashe County:
Trout Lake
- (B) Burke County:
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- (C) Haywood County:
Richland Creek (Russ Avenue bridge to US 19A-23 bridge)
- (D) Henderson County:
North Fork Mills River (game land portion below the Hendersonville watershed dam)
- (E) Jackson County:
Tuckasegee River (NC 107 bridge at Love Field Downstream to NC 116 bridge at Webster)
- (F) Macon County:
Nantahala River (portion from Whiteoak Creek to the Nantahala Power and Light power house discharge canal)
- (G) Surry County:
Ararat River (SR 1727 downstream to Business US 52 bridge)
- (H) Watauga County:
Watauga River (SR 1559 bridge at Foscoe downstream to NC 105 bridge)
- (I) Wilkes County:
East Prong Roaring River (from Bullhead Creek downstream to the Stone Mountain State Park lower boundary)
- Stone Mountain Creek (from falls at Allegheny County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park)
- (6) Wild Trout/Natural Bait Waters. Those portions of designated Wild Trout Waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Wild Trout/Natural Bait Waters. All artificial lures and natural baits, except live fish, are allowed provided they are fished using only one single hook. The creel limit, size limit, and open season are the same as other Wild Trout Waters [see 15A NCAC 10C .0305(a)].
- (A) Cherokee County:
Tellico River (Fain Ford to Tennessee state line excluding tributaries)
- (B) Clay County:
Buck Creek (game land portion downstream of US 64 bridge)
- (C) Graham County:
Deep Creek
Long Creek (game land portion)
- (D) Jackson County:
Chattooga River (SR 1100 bridge to South Carolina state line)
(lower) Fowler Creek (game land portion)
Scotsman Creek (game land portion)
- (E) Macon County:
Chattooga River (SR 1100 bridge to South Carolina state line)
Jarrett Creek (game land portion)
Kimsey Creek
Overflow Creek (game land portion)
Park Creek
Tellico Creek (game land portion)
Turtle Pond Creek (game land portion)
- (F) Transylvania County:
North Fork French Broad River (game land portions downstream of SR 1326)
- (b) Fishing in Trout Waters
- (1) Hatchery Supported Trout Waters. It is unlawful to take fish of any kind by any manner whatsoever from designated public mountain trout waters during the closed seasons for trout fishing. The seasons, size limits, creel limits and possession limits apply in all waters, whether designated or not, as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line. Night fishing is not allowed in most hatchery supported trout waters on game lands [see 15A NCAC 10D .0004(b)(1)].
- (2) Wild Trout Waters. Except as otherwise provided in Subparagraphs (3), (4), and (6) of Paragraph (a) of this Rule, the following rules apply to fishing in

wild trout waters.

- (A) Open Season. There is a year round open season for the licensed taking of trout.
- (B) Creel Limit. The daily creel limit is four trout.
- (C) Size Limit. The minimum size limit is seven inches.
- (D) Manner of Taking. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing wild trout waters except those waters

- (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

History Note: Authority G.S. 113-134; 113-272; 113-292; Eff. February 1, 1976;

Amended Eff. July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993.

SECTION .0300 - GAME FISH

.0305 OPEN SEASONS: CREEL AND SIZE LIMITS

(a) Generally. Subject to the exceptions listed in Paragraph (b) of this Rule, the open seasons and creel and size limits are as indicated in the following table:

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout Waters	4	7 in.	ALL YEAR (exc. 2)
Hatchery Supported Trout Waters and undesignated waters	7	None	All year, except March 1 to 6:00 a.m. on first Saturday in April (exc. 2)
Muskellunge and Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None	None	ALL YEAR
Walleye	8 (excs. 8 & 9)	None	ALL YEAR (exc. 8)
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5 (exc. 9)	14 in. (excs. 3, 7 & 10)	ALL YEAR (exc. 18)
Smallmouth and Spotted	5 (exc. 9)	12 in. (excs. 3, 7 & 10)	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	10	12 in.	ALL YEAR
Flounder	None	13 in.	ALL YEAR
Red drum (channel	5	18 in.	ALL YEAR

bass, red fish,
puppy drum)

Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excs. 1 & 5)	16 in. (excs. 1, 5 & 11)	ALL YEAR (excs. 5, 13, & 15)
Shad: (American and hickory)	None	None	ALL YEAR (exc. 19)
Kokanee Salmon	7	None	ALL YEAR
Panfishes	None (excs. 4, 12, & 16)	None (exc. 12)	ALL YEAR (exc. 4)
NONGAME FISHES	None (exc. 14)	None (exc. 14)	ALL YEAR (excs. 6 & 17)

(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, and Lake Norman, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.
- (2) In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from Nantahala River and all tributaries (excluding impoundments) upstream from Nantahala Lake, and the impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing.
- (3) Bass taken from Calderwood Reservoir may be retained without restriction as to size limit.
- (4) On Mattamuskeet Lake, special federal regulations apply.
- (5) In the inland fishing waters of Cape Fear, Neuse, Pee-Dee, Pungo and Tar-Pamlico rivers and their tributaries and the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers, extending upstream to the first impoundment, the daily creel limit for striped bass and their hybrids is three fish and the minimum length limit is 18 inches. In the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers-from April 1 to May 31 no fish between the lengths of 22 inches and 27 inches may shall be retained.
- (6) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (7) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, in Reedy Creek Park lakes in Mecklenburg County, in Lake Rim in Cumberland County, in Currituck Sound and tributaries north of Wright Memorial Bridge, in North River and tributaries in Currituck and Camden Counties north of a line between Camden Point and the end of SR 1124, in High Rock Lake downstream of I-85, in Badin Lake, in Falls Lake, in Lake Tillery, in Blewett Falls Lake, and in the New River and its tributaries in Onslow County. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches. In B. Everett Jordan Reservoir a minimum size limit of 16 inches, with no exception, applies to largemouth bass. In Falls of Neuse Reservoir, east of SR 1004, and Tuckertown Lake no black bass between the lengths of 12 inches and 16 inches may be retained, and the minimum size limit for black bass is 16 inches, except that the daily creel may contain two black bass of less than 12 inches in length. In W. Kerr Scott Reservoir there is no minimum size limit for spotted bass.
- (8) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (9) The creel limit for black bass and walleye taken from Calderwood Reservoir is 10.
- (10) The minimum size limit for all black bass, with no exception, is 18 inches in the following trophy bass lakes:
 - (A) Cane Creek Lake in Union County;
 - (B) Lake Thom-A-Lex in Davidson County; and
 - (C) Sutton Lake in New Hanover County.
- (11) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.

- (12) In Lake Tillery, Falls Lake, High Rock Lake, Badin Lake, Tuckertown Lake, Lake Hyco, Lake Ramseur and Cane Creek Lake a daily creel limit of 20 fish and a minimum size limit of 8 inches apply to crappie.
- (13) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by duly adopted rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.
- (14) The daily creel and length limits for channel, white, and blue catfish in designated urban lakes are provided for in 15A NCAC 10C .0401(d).
- (15) The Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.
- (16) In the entire Lumber River from the Camp MacKall bridge (SR 1225, at the point where Richmond, Moore, Scotland, and Hoke counties join) to the South Carolina state line and in all public fishing waters east of I-95, except Tar River Reservoir in Nash County, the daily creel limit for sunfish is 30 in aggregate, no more than 12 of which may shall be redbreast sunfish.
- (17) It is unlawful to possess bowfin taken from the Lumber River and its tributaries.
- (18) In Sutton Lake, no largemouth bass may be retained from December 1 through March 31.
- (19) In the Pee Dee River downstream from the Blewett Falls dam, shad may be taken with special fishing devices as provided for in 15A NCAC 10C .0404 (b) during the permitted special fishing device seasons specified in 15A NCAC 10C .0407.

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Authority G.S. 113-134; 113-292; 113-304; 113-305;

Eff. February 1, 1976;

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SUBCHAPTER 10D - GAME LANDS REGULATIONS

.0003 HUNTING ON GAME LANDS

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with special restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic, gates or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts or wire to a tree on any game land designated herein. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by this Chapter, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys may not be set out prior to 4:00

a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment. No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods. No live wild animals or wild birds shall be removed from any game land.

(e) Definitions:

- (1) For purposes of this Section "Eastern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(A); "Central" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(D); "Northwestern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(B); "Western" season refers to seasons set for those counties or parts of counties listed in 15A NCAC

- 10B .0203(b)(1)(C).
- (2) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the federally-announced season.
 - (3) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. These open days also apply to either-sex hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
 - (4) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which ~~Any~~ any game may be taken ~~on the following game lands during the open season; seasons,~~ except that:
 - (A) Bears ~~may~~ shall not be taken on lands designated and posted as bear sanctuaries;
 - (B) Wild boar may not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle-loading deer season and the regular gun season on male deer on bear sanctuaries;
 - (C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, the following rules apply to the use of dogs during the regular season for hunting deer with guns:
 - (i) Except for the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, game birds ~~may~~ shall be hunted with dogs.
 - (ii) In the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, small game in season ~~may~~ shall be hunted with dogs on all game lands except on bear sanctuaries.
 - (D) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk counties dogs ~~may~~ shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15;
 - (f) Game Lands Seasons and Other Restrictions:
 - (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the first Wednesday after Thanksgiving through the third Saturday after Thanksgiving except that part in Davie County where the season is the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving.~~
 - (2) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. ~~from the Wednesday of the week following Thanksgiving through January 1.~~
 - (3) Anson Game Land in Anson County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
 - (4) Bachlelor Bay Game Land in Bertie and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
 - (5) Bertie County Game Land in Bertie County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through January 1.~~
 - (6) Bladen County Game Land in Bladen County
 - (A) ~~Six~~ Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through January 1.~~
 - (7) Bladen Lakes State Forest Game Land in Bladen County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the~~

next succeeding week. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program.

- (C) Handguns may shall not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire may shall not be used or possessed.
- (D) On the Breece Tract and the Singletary Tract deer and bear may be taken only by still hunting.
- (E) Wild turkey hunting is by permit only.
- (8) Brushy Mountains Game Land in Caldwell County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the third Friday after Thanksgiving through the third Saturday after Thanksgiving.~~
- (9) Bullard and Branch Hunting Preserve Game Lands in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
- (10) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the first Wednesday after Thanksgiving through the following Saturday.~~
 - (C) Waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons. On the posted waterfowl impoundments a special permit is required for all waterfowl hunting.
 - (D) Horseback riding, including all equine species, is prohibited.
 - (E) Target shooting is prohibited
- (11) Carson Woods Game Land in Ashe County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. ~~from the second Wednesday after Thanksgiving through the~~

third Saturday after Thanksgiving.

- (12) Caswell Game Land in Caswell County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~ Deer of either sex may also be taken the Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.
- (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
- (13) Caswell Farm Game Land in Lenoir County
 - (A) Dove-Only Area
- (14) Catawba Game Land in Catawba and Iredell counties
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving in that portion in Iredell County and the third Friday after Thanksgiving through the third Saturday after Thanksgiving in that portion in Catawba County.~~
 - (C) ~~No deer may be taken from the tract known as Island Point and deer~~ Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- (15) Chatham Game Land in Chatham County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
- (16) Cherokee Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving.~~

- (17) Cherry Farm Game Land in Wayne County
 (A) Three Days per Week Area
 (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
 (C) The use of centerfire rifles and handguns is prohibited.
- (18) Chowan Game Land in Chowan County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
- (19) Chowan Swamp Game Land in Gates County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through January 1.~~
- (20) Columbus County Game Land in Columbus County.
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (21) ~~(20)~~ Croatan Game Land in Carteret, Craven and Jones counties
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
 (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
 (D) Bear season extends from the second Monday in November through the following Saturday in that portion in Jones and Craven counties and runs with the county season in Carteret.
- (22) ~~(21)~~ Dare Game Land in Dare County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from Wednesday through~~
- ~~Saturday of the week following Thanksgiving.~~
 (C) No hunting on posted parts of bombing range.
 (D) The use and training of dogs is prohibited from March 1 through June 30.
- (23) ~~(22)~~ Dysartsville Game Land in McDowell and Rutherford counties
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving in that portion in Rutherford County and from the third Friday after Thanksgiving through the third Saturday after Thanksgiving in that portion in McDowell County.~~
- (24) ~~(23)~~ Elk Knob Game Land in Ashe and Watauga counties
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving in that portion in Ashe County and the third Friday after Thanksgiving through the third Saturday in that portion in Watauga County.~~
- (25) ~~(24)~~ Gardner-Webb Game Land in Cleveland County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving.~~
- (26) ~~(25)~~ Goose Creek Game Land in Beaufort and Pamlico counties
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the first Wednesday after Thanksgiving through the following Saturday.~~
 (C) On posted waterfowl impoundments waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons. After November 1, on the Pamlico Point, Campbell Creek, and Spring Creek impoundments, a special

permit is required for hunting on opening and closing days of the duck seasons, Saturdays of the duck seasons, and on Thanksgiving and New Year's day.

- (27) ~~(26)~~ Green River Game Land in Henderson, Polk and Rutherford counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season ~~Deer of either sex may be taken from the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving in that portion in Rutherford County; and deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season from the third Friday after Thanksgiving through the third Saturday after Thanksgiving in that portion in Polk and Henderson counties. County, and on the second Saturday in December in that portion in Henderson County.~~

- (28) ~~(27)~~ Green Swamp Game Land in Brunswick County

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through January 1.~~

- ~~(28)~~ Guilford County Farm Game Land in Guilford County

- ~~(A) Dove-Only Area~~

- (29) Gull Rock Game Land in Hyde County

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
- (C) On the posted waterfowl impoundments of Gull Rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas, and New Year's Days; and the opening and closing days of the applicable waterfowl seasons.

- (30) Hofmann Forest Game Land in Jones and Onslow counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the first Wednesday following Thanksgiving through~~

~~the following Saturday.~~

- (31) Holly Shelter Game Land in Pender County

- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the fourth Saturday after Thanksgiving. Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program~~
- (C) Waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur.

- (32) Huntsville Community Farms Game Land in Yadkin County

- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving.~~

- (33) ~~Hyco Game land in Person and Caswell counties~~

- ~~(A) Six Days per Week Area~~
- ~~(B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season.~~

- (34) ~~(33)~~ Jordan Game Land in Chatham, Durham, Orange and Wake counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~

- (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.

- (D) Horseback riding, including all equine species, is prohibited.

- (E) Target shooting is prohibited.

- (35) ~~(34)~~ Lantern Acres Game Land in Tyrrell and Washington counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex~~

- may be taken from Wednesday through Saturday of the week following Thanksgiving in that portion in Tyrrell County and Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week in that portion in Washington County.
- (36) ~~(35)~~ Lee Game Land in Lee County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.
- (37) ~~(36)~~ Linwood Game Land in Davidson County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.
- (38) ~~(37)~~ Moore Game Land in Moore County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.
- (39) ~~(38)~~ Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken the second Saturday in December in that portion located in Transylvania County.
- (C) Raccoon and opossum may be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to the Monday on or nearest October 15.
- (D) It is unlawful to train dogs or allow dogs to run unleashed on any game land in Graham County between March 1 and the Monday on or nearest October 15.
- (40) ~~(39)~~ Neuse River Game Land in Craven County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.
- (41) ~~(40)~~ New Lake Game Land in Hyde County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.
- (42) ~~(41)~~ North River Game Land in Currituck County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.
- (43) ~~(42)~~ Northeast Cape Fear Game Land in Pender County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through January 1.
- (44) ~~(43)~~ Northwest River Marsh Game Land in Currituck County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.
- (45) ~~(44)~~ Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.

- (C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
- (46) (45) Person Game Land in Person County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
- (C) Waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons.
- (47) (46) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season except on that portion of Avery County north of the Blue Ridge Parkway. ~~Deer of either sex may be taken from the third Friday after Thanksgiving through the third Saturday after Thanksgiving in that portion in Burke, Caldwell, McDowell and Watauga counties and on the second Saturday in December in that portion in Avery (that part south of the Blue Ridge Parkway), Buncombe, Haywood, Henderson, Madison, Mitchell, Transylvania and Yancey counties.~~
- (C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to the Monday on or nearest October 15 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.
- (48) (47) Pungo River Game Land in Hyde County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
- (49) (48) Roanoke River Wetlands in Bertie, Halifax and Martin counties
- (A) Hunting is by Permit only. Vehicles are prohibited on roads or trails except those operated on official Commission business or by permit holders.
- (50) (49) Robeson Game Land in Robeson County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
- (51) (50) Sampson Game Land in Sampson County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through January 1.~~
- (52) (51) Sandhills Game Land in Moore, Richmond and Scotland counties
- (A) Three Days per Week Area
- (B) The Deer With Visible Antlers regular gun season for deer consists of the open hunting dates from the second Monday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting dates during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on Monday, Wednesday and Saturday of the second week before Thanksgiving week, and during the Deer With Visible Antlers regular gun season.
- (C) Gun either-sex deer hunting is by permit only the Thursday and Friday before Thanksgiving Week. For participants in the Disabled Sportsman Program, either-sex deer hunting with any legal weapon is permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in the preceding paragraph. Except for the deer seasons indicated in the preceding paragraph and the managed either-sex permit hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31.
- (D) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons
- (E) Wild turkey hunting is by permit only.
- (F) Dove hunting on the field trial grounds will

- be prohibited from the second Sunday in September through the remainder of the hunting season.
- (53) ~~(52)~~ Sauratown Plantation Game Land in Stokes County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving.~~
- (54) ~~(53)~~ Shearon Harris Game Land in Chatham and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through the Saturday of the next succeeding week.~~
- (C) Waterfowl may be taken only on Tuesdays, Fridays, Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
- (55) ~~(54)~~ South Mountains Game Land in Burke and Cleveland counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving in that portion in Cleveland County and from the third Friday after Thanksgiving through the third Saturday after Thanksgiving in that portion in Burke County.~~
- (56) ~~(55)~~ Sutton Lake Game Land in New Hanover County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from Wednesday through Saturday of the week following Thanksgiving.~~
- (57) ~~(56)~~ Three Top Mountain Game Land in Ashe County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the second Wednesday~~
- ~~after Thanksgiving through the third Saturday after Thanksgiving.~~
- (58) ~~(57)~~ Thurmond Chatham Game Land in Wilkes County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the second Wednesday after Thanksgiving through the third Saturday after Thanksgiving.~~ Participants of the Disabled Sportsman Program may also take either-sex deer with bow and arrow on the Saturday prior to Northwestern bow and arrow season.
- (C) Horseback riding is only allowed during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to horseback riding on this area.
- (59) ~~(58)~~ Toxaway Game Land in Transylvania County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken on the second Saturday in December.~~ Participants of the Disabled Sportsman Program Deer may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
- (60) ~~(59)~~ Uwharrie Game Land in Davidson, Montgomery and Randolph counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six days and the last six days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the first Wednesday after Thanksgiving through the Saturday of the next succeeding week.~~
- (61) ~~(60)~~ Vance Game Land in Vance County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may be taken from the Wednesday of the week following Thanksgiving through January 1.~~
- (C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- (62) ~~(61)~~ White Oak River Impoundment Game Land in Onslow County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open

days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the first Wednesday after Thanksgiving through January 1.

- (C) Waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur.

(63) ~~(62)~~ Yadkin Game Land in Caldwell County

- (A) Six Days per Week Area
(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may be taken from the third Friday after Thanksgiving through the third Saturday after Thanksgiving.

(g) On permitted type hunts deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, are mailed to the permittees prior to the hunt, and are nontransferable. A hunter making a kill must tag the deer and report the kill to a wildlife cooperator agent.

(h) The following game lands and refuges shall be closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

Bertie, Halifax and Martin counties--Roanoke River Wetlands;
Bertie County--Roanoke River National Wildlife Refuge.
Burke County--John's River Waterfowl Refuge
Dare County--Dare Game Lands (Those parts of bombing range posted against hunting)
Davie--Hunting Creek Swamp Waterfowl Refuge
Gaston, Lincoln and Mecklenburg counties--Cowan's Ford Waterfowl Refuge.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305.

Eff. February 1, 1976.

Amended Eff. July 1, 1997; July 1, 1996; August 1, 1995; July 1, 1995; September 1, 1994.

CHAPTER 13 - SOLID WASTE MANAGEMENT

SUBCHAPTER 13C - INACTIVE HAZARDOUS SUBSTANCES AND WASTE DISPOSAL SITES

SECTION .0300 - VOLUNTARY REMEDIAL ACTION OVERSIGHT BY REGISTERED ENVIRONMENTAL CONSULTANTS

.0302 GENERAL PROVISIONS

(a) The rules in this Section are the rules required by G.S. 130A-310.12(b) to govern the selection and use of private environmental consulting and engineering firms to implement

and oversee voluntary remedial actions by owners, operators, or other responsible parties under G.S. 130A-310.9(c).

(b) No provision of the rules in this Section shall be construed to relieve any person of the necessity of complying with applicable federal, state or local laws.

(c) Any person who violates any provision of this Section, or any other requirement in connection with the voluntary remedial action program, including making any false statement, representation or certification, or knowingly rendering inaccurate any recording or monitoring device or method, shall be subject to enforcement including disqualification as an REC or RSM.

(d) A party wishing to conduct a voluntary remedial action shall enter into a written agreement with the Department pursuant to G.S. 130A-310.9(c).

(e) For the purpose of administration and enforcement of the voluntary remedial action program and for protection of human health or the environment, employees, agents and contractors of the Department may enter any site, vessel or other location undergoing a voluntary remedial action pursuant to this Section, at reasonable times and upon reasonable notice, to investigate, sample or inspect any documents, conditions, equipment, practice or property. In the event that the Department reasonably determines as a result of an investigation, sampling or inspection that there has been a release or that there exists a threat of release of a hazardous substance, the Department may enter a site, vessel or location, and areas proximate thereto, and perform or arrange for the performance of such response actions as it reasonably deems necessary.

(f) Remedial Actions conducted pursuant to this Section shall be overseen by an REC. All work performed by an REC shall be under the supervision and direction of an RSM representing the REC. Rule .0306 of this Section specifies requirements relating to certifications by RSMs.

(g) The Department shall have complete discretion to effect cleanup itself, or directly oversee a remediating party's cleanup, if the Department determines that the site poses an imminent hazard, if there is significant public concern, if the Department has initiated an enforcement action, if the Department is concerned about material misrepresentations or environmental non-compliance on the part of a party seeking to effect or effecting remedial action at a site pursuant to this Section, if hazardous substances have migrated to adjoining property, or if other conditions, such as the presence of sensitive environments or mixed wastes (commingled radioactive and chemical wastes), so warrant.

(h) The remedial investigation shall be completed within three years of the effective date of the agreement to conduct a voluntary remedial action. Non-groundwater remedial action shall be completed within eight years of the effective date of that agreement. Groundwater remedial action shall be initiated within two years of completion of the remedial investigation. Responsible parties failing to meet these deadlines shall be subject to enforcement and loss of approved voluntary remedial action status. The affected sites shall no longer be eligible for exemption from the Inactive

Hazardous Waste Sites Priority List pursuant to G.S. 130A-310.9(b).

(i) Any information, document, or particular part thereof obtained by the Department or its contractors upon request pursuant to this Section shall be confidential, and shall not be considered to be a public record, when it is determined by the Department that such information, if made public, would divulge a trade secret.

(j) The Department shall be under no obligation to act upon any request for confidentiality in relation to this Section that is not made and substantiated in accordance with G.S. 66, Article 24, and such information may be made available to the public by the Department without further notice to the remediating party.

(k) The rules in this Section may not serve as grounds for refusal to disclose any information necessary for an enforcement or cost recovery action or to comply with any provision of law.

(l) The REC shall preserve and maintain all documents submitted to the REC on behalf of or by the remediating party, prepared by the REC, or within the REC's possession, custody or control, that in any way relate to work performed pursuant to the Rules in this Section including, but not limited to, documents of sufficient detail to substantiate the facts, data, conclusions and other information set forth in any REC opinion or certification. Such documents shall be kept at one or more locations reasonably accessible to the Department and in such a form as to enable the Department to ascertain whether the response actions which are the subject of the REC opinion or certification have been performed in compliance with the provisions of the Rules in this Section until such time as the record is provided to the Department for the public file. The REC shall submit to the Department for the public file all work plans and reports within 30 days of their completion. The REC shall submit to the Department for the public file all other site documents at the following milestones:

- (1) completion of each phase of the remedial investigation;
- (2) completion of the remedial investigation;
- (3) at the close of the 30-day public comment period which follows notice of the proposed remedial action plan;
- (4) completion of remedial design and construction; and
- (5) completion of all remedial action activities.

(m) Any person required by Paragraph (l) of this Rule to preserve and maintain any documents shall preserve and maintain those documents for six years after termination of the remediating party's agreement with the Department to perform a voluntary remedial action pursuant to the Rules in this Section. With the Department's written approval based on the likelihood of future need for enforcement or review purposes, documents required to be maintained need no longer be maintained.

(n) Failure to comply with Department site-related requests for information shall cause revocation of an REC's

approval to perform work and disapproval of any work product in question. Remediating parties shall lose their eligibility for the voluntary remedial action program unless, within 60 days of notice by the Department of revocation of the REC's approval, the name of a successor REC is submitted to the Department. Program ineligibility shall also result from failure by a remediating party to provide written notice to the Department within 60 days of a change in RECs for any other reason.

(o) Nothing in this Section shall be construed to limit the Department's authority to take or arrange, or to require a responsible party to perform, any response action which the Department deems necessary to protect public health, safety or welfare or the environment.

(p) Nothing in this Section shall be construed to imply authorization by the Department to any person other than the Department, or the Department's employees, agents or contractors, to enter any property not owned by him or her to carry out a response action, or otherwise injure or interfere with any other person's rights or interests in real or personal property, without that person's consent. After making reasonable efforts to obtain reasonable access to any site or other location to be investigated as a possible site not owned by the remediating party, an REC or remediating party who is unable to obtain such access may request, in writing, that the Department authorize him or her, or his or her employees, agents, representatives or contractors, to enter such site or location for the purpose of performing one or more necessary response actions. Each such request for authorization shall include all of the following information:

- (1) the identity of the person making the request and his or her relationship to the site or location;
- (2) the nature and location of the action(s) that he or she intends to undertake, the anticipated duration of the action(s) and the reasons(s) such access is (are) necessary to perform the action(s);
- (3) the identity of each person who owns or operates the site or location to which access is sought;
- (4) the results of any and all attempts to obtain such access; and
- (5) certification that a copy of the request has been sent to each person who owns or operates such sites or locations.

History Note: Authority G.S. 130A-310.12(b); 130A-310.1(c); 130A-310.1(e); 130A-310.3(c); 130A-310.5(a); 130A-310.6; 132-1; 132-1.2; 132-6;

Eff. April 1, 1997.

.0304 MINIMUM QUALIFICATIONS FOR REGISTERED ENVIRONMENTAL CONSULTANTS

In order to be approved to perform work as an REC, an environmental consulting or engineering firm shall meet the following requirements.

- (1) REC applicants shall demonstrate that one or more persons in their employ individually meet all of the

following standards and requirements and therefore qualify to perform the role of RSM for the REC. To qualify as an RSM, an individual shall:

(a) Have the following minimum relevant professional experience:

- (i) five years experience in investigation and remediation of hazardous substance or waste disposal sites;
- (ii) three years direct experience in supervising site investigation and remedial action projects; and
- (iii) eight years of total relevant professional experience, which shall be work of a professional grade and character performed for a minimum average of 20 hours per week that indicates the applicant is competent to render waste site cleanup activity opinions. Total relevant professional experience performed for less than a minimum average of 20 hours per week shall be applied toward the satisfaction of these requirements on a pro rata basis. If an individual works more than 40 hours in a week, even if having multiple jobs, that individual may get credit only for one week's worth of work. The Department shall consider the following criteria in evaluating whether an applicant RSM's waste site cleanup decision-making experience and practical experience constitute sufficient relevant experience: the nature of work activities; the field of work activities; the types of reports, studies and documents prepared; the range of methods evaluated and selected; the number of individuals and disciplines of other professionals supervised or coordinated; the extent of review of conclusions, recommendations and opinions by supervisors; the duration of employment; and any other factors the Department deems pertinent.

(b) Have sufficient training to meet the hazardous waste operations and emergency response training standard, 29 CFR 1910.120.

(c) Have a four-year or graduate degree from a college or university accredited by a regional accrediting agency in one of the following fields or a field which the Department determines would provide the educational background necessary to oversee a remedial action:

- (i) Biochemistry;
- (ii) Biology;
- (iii) Chemical Engineering;
- (iv) Chemistry;
- (v) Civil Engineering;
- (vi) Earth Science;
- (vii) Environmental Engineering;
- (viii) Environmental Science;
- (ix) Epidemiology;
- (x) Geochemistry;
- (xi) Geological Engineering;
- (xii) Geology;
- (xiii) Geophysics;
- (xiv) Geotechnical Engineering;
- (xv) Hydrogeology;
- (xvi) Hydrology;
- (xvii) Industrial Hygiene;
- (xviii) Mechanical Engineering;
- (xix) Physics;
- (xx) Soil Science; and
- (xxi) Toxicology.

(d) Have a record of professionalism and integrity, demonstrated by the absence of:

- (i) conviction of a felony;
- (ii) conviction of a misdemeanor involving fraud, deceit, misrepresentation or forgery;
- (iii) an adverse civil judgment in an action involving fraud, deceit, misrepresentation, or forgery;
- (iv) disbarment or disciplinary action relating to any professional license; and
- (v) disqualification from government contracts for negligent acts or failure to perform required work.

(2) The applicant shall demonstrate that it has an established environmental consulting practice.

History Note: Authority G.S. 130A-310.12(b); Eff. April 1, 1997.

.0306 TECHNICAL STANDARDS FOR REGISTERED ENVIRONMENTAL CONSULTANTS

(a) The REC shall ensure that all documents and plans comply with the remediating party's agreement with the Department and the Inactive Hazardous Sites Response Act and associated rules.

(b) All work phase completion statements, schedules, work plans, and reports require REC certification. An REC's certification shall comply with the following:

(1) REC certification of any document requires inclusion of the following statement, signed by the RSM and notarized:

"I certify under penalty of law that I am personally familiar with the information

contained in this submittal, including any and all supporting documents accompanying this certification, and that the material and information contained herein is, to the best of my knowledge and belief, true, accurate, and complete and complies with the Inactive Hazardous Sites Response Act G.S. 130A-310, et seq. and the voluntary remedial action program Rules 15A NCAC 13C .0300. I am aware that there are significant penalties for willfully submitting false, inaccurate or incomplete information."

- (2) The RSM shall certify only documents that contain the following notarized declaration signed and dated by, and including the title of, the highest ranking official of the remediating party having day-to-day responsibility for the performance of the response action which is the subject of the submittal:

"I certify under penalty of law that I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this certification, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, the material and information contained herein is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for willfully submitting false, inaccurate or incomplete information."

- (3) Any work which would constitute the "practice of engineering" as defined by G.S. 89C shall be performed under the responsible charge of, and signed and sealed by, a professional engineer registered in the state of North Carolina. Any work which would constitute the "public practice of geology" as defined by G.S. 89E shall be performed under the responsible charge of, and signed and sealed by, a geologist licensed in the state of North Carolina.

- (4) RSM certification of the following documents shall occur prior to implementation:

- (A) remedial investigation work plans prepared in accordance with Paragraph (g) of this Rule;
- (B) remedial action plans prepared in accordance with Paragraph (l) of this Rule;
- (C) remedial action preconstruction reports prepared in accordance with Paragraph (m) of this Rule; and
- (D) any modifications of work schedules.

- (5) The RSM shall prepare certified completion statements for the following work phases and provide them to the Department at the times specified in Rule .0302(l) of this Section:

- (A) completion of phase I of the remedial

investigation;

- (B) completion of the remedial investigation;
 - (C) REC approval of the proposed remedial action plan;
 - (D) completion of the remedial design and construction; and
 - (E) completion of all remedial action activities.
- (6) RSM certification pursuant to the preceding paragraph shall include the following statement signed by the RSM and notarized:

"The [insert work phase] which is the subject of this certification has, to the best of my knowledge, been completed in compliance with the Inactive Hazardous Sites Response Act G.S. 130A-310, et seq. and the voluntary remedial action program Rules 15A NCAC .0300, and [insert name of the REC] is in compliance with Rules .0305(b)(2) and .0305(b)(3) of this Section. I am aware that there are significant penalties for willfully submitting false, inaccurate or incomplete information."

Certification of the completion of all remedial action activities shall also include the following statement:

"The approved and certified site remedial action plan has been implemented, and to the best of my knowledge and belief, cleanup levels determined pursuant to Rule .0308 of this Section have been achieved, and no significant or otherwise unacceptable risk or harm to human health or the environment remains at the site."

(c) The REC may approve and certify site activities and documents pursuant to the Rules in this Section only when the following environmental sample collection and analyses criteria are met:

- (1) The REC shall employ analytical and environmental monitoring data, to support recommendations or conclusions with respect to assessment, removal, treatment, or containment actions, which are scientifically valid and of a level of precision and accuracy commensurate with their stated or intended use.

- (2) Procedures and methodologies employed for the collection and analysis of soil, sediment, water, vapor, air, and waste samples shall be:

- (A) methods published by the United States Environmental Protection Agency (USEPA), the American Society for Testing and Materials (ASTM), the American Public Health Association (APHA), the National Institute for Occupational Safety and Health (NIOSH), the American Water Works Association (AWWA), or other organizations with expertise in the development of standardized analytical testing methods; or

- (B) modifications of published methods, provided that all modifications are completely documented.
- (3) The REC may only use laboratories certified to analyze applicable certifiable parameters under 15A NCAC 2H .0800, or a contract laboratory under the United States Environmental Protection Agency Contract Laboratory Program to analyze samples collected pursuant to rules under this Section.
- (4) Laboratory and other reports of analyses of aqueous samples shall be reported as mass per unit volume; such reports of analyses of solid samples shall be reported as mass per unit mass.
- (5) The REC shall only allow sample collection and analyses to be performed by persons who are qualified by education, training, and experience.
- (6) All documents prepared pursuant to the Rules in this Section that contain the results of sample collection and analyses shall include the following information:
- (A) the date, location, and time of sampling, and the name of the individual who collected the sample;
 - (B) specification of all sample filtration or preservation procedures used;
 - (C) the date of receipt of the sample at the laboratory, and the date(s) the sample was extracted and analyzed;
 - (D) the name and address of the laboratory, and proof of certification under 15A NCAC 2H .0800 or the USEPA Contract Laboratory Program;
 - (E) the sample matrix description and identification number(s);
 - (F) the sample preparation and analytical method name(s) and number(s);
 - (G) the results of the analysis, in clearly expressed concentration units;
 - (H) the sample quantitation limit of each reported analyte based upon analytical conditions;
 - (I) details of any known conditions or findings which may affect the validity of analytical data, including but not limited to equipment blank, trip blank, method blank, surrogate, spiked sample, or other quality control data;
 - (J) the laboratory's written justification for any sample dilution, additional sample preparation, or deviation from specified analytical methods; and
 - (K) complete chain of custody documentation for each sample.
- (d) The REC may approve and certify site activities and documents pursuant to this Section only when procedures to protect health, safety, public welfare and the environment during the performance of response actions are being implemented. The scope and detail of health and safety procedures shall be commensurate with the degree and nature of the risks posed to human and ecological populations by the disposal site and response actions. Standardized health and safety plans may be appropriate for routine activities conducted during response actions. Such procedures shall include, without limitation, at least the following:
- (1) Measures to protect human populations from exposure to hazardous substances.
 - (2) Air monitoring activities, if necessary to protect the public from exposure to gases and air-borne particulates.
 - (3) Measures necessary to contain hazardous substances, including:
 - (A) measures to control stormwater runoff;
 - (B) measures to control dust and other environmental media (e.g., wetting soils);
 - (C) measures to decontaminate vehicles and equipment to minimize the spread of contaminated soil from the disposal site;
 - (D) measures to secure on-site excavations and stockpiles of contaminated materials; and
 - (E) discontinuance of response actions where necessary to protect public health and safety.
 - (e) The REC shall plan and implement the remedial investigation so that to the extent practicable the location and identity of all hazardous substances discharged to the environment at a site have been established. All areas known, suspected, or having a reasonable probability of being contaminated by hazardous substances shall be investigated.
 - (f) The REC shall plan and implement the remedial investigation so that the areal and vertical extent of hazardous substance contamination is delineated for each area of concern.
 - (g) The REC may certify only remedial investigation plans which are prepared in compliance with Paragraphs (c), (d), (e), and (f) of this Rule and any other applicable requirements and which contain at least the following:
 - (1) site location information including street address, longitude and latitude, and site and surrounding property land use;
 - (2) a summary of all management practices employed at the site for hazardous wastes and any wastes that may have contained hazardous substances including: a list of types and amounts of waste generated (with RCRA waste codes), treatment and storage methods, and ultimate disposition of wastes; a description of the facility's past and current RCRA status; the location and condition of all identified vessels currently or previously used to store any chemical products, hazardous substances or wastes; and a summary of the nature of all identified on-site hazardous substance releases, including disposal or spills;
 - (3) United States Geological Survey topographic maps

sufficient to display topography within a one-mile radius of the site;

- (4) a site survey plat including: scale; benchmarks; north arrow; locations of property boundaries, buildings, structures, all perennial and non-perennial surface water features, drainage ditches, dense vegetation, known and suspected spill or disposal areas, underground utilities, storage vessels, existing on-site wells; and identification of all adjacent property owners and land usage. As provided in G.S. 89C-2, it is unlawful for any person to practice land surveying in North Carolina, as defined in G.S. 89C, unless such person has been duly registered as a registered land surveyor;
- (5) a description of local geologic and hydrogeologic conditions;
- (6) inventory and map of all identifiable wells, springs, and surface-water intakes used as sources of potable water within a one-half mile radius of each source area, or, if the source area is unknown, within a one-half mile radius of each point where contamination has been identified at the site;
- (7) an evaluation of the site and all adjacent property for the existence of any environmentally sensitive areas;
- (8) a copy of the current owner's(s') deed(s) to the property;
- (9) a chronological listing of all previous owners and each period of ownership since the property was originally developed from pristine land;
- (10) operational history with aerial photographs and Sanborne Fire Insurance maps to support land-use history;
- (11) a list of all hazardous substances which have been used or stored at the site, and approximate amounts and dates of use or storage as revealed by available written documentation and interviews with a representative number of former and current employees or occupants possessing relevant information;
- (12) site environmental permit history, including copies of all federal, state, and local environmental permits, past and present, issued to the remediating party or within its custody or control;
- (13) a summary of all previous and ongoing environmental investigations and environmental regulatory involvement with the site, and copies of all associated reports and laboratory data in public records, or within the custody or control of the REC or remediating party;
- (14) intended procedures for characterizing site geologic and hydrogeologic conditions and identifying and delineating each contamination source as to each affected environmental medium, including any plan for special assessment such as

a geophysical survey;

- (15) intended methods, locations, depths of, and justification for, all sample collection points for all media sampled, including monitoring well locations and anticipated screened intervals;
- (16) proposed field and laboratory procedures for quality assurance/quality control;
- (17) proposed analytical parameters and analytical methods for all samples;
- (18) equipment and personnel decontamination procedures; and
- (19) a health and safety plan that conforms to the federal Occupational Safety and Health Act, 29 U.S.C. § 651, et seq. and Title 29 of the Code of Federal Regulations, and assures that the health and safety of nearby residential and business communities will not be adversely affected by activities related to the remedial investigation.

(h) The REC may certify only remedial investigation reports which are prepared in compliance with Paragraph (c) of this Rule and any other applicable requirements and which contain at least the following:

- (1) a narrative description of how the investigation was conducted, including a discussion of any variances from the approved work plan;
- (2) a description of groundwater monitoring well design and installation procedures, including drilling methods used, completed drilling logs, "as built" drawings of all monitoring wells, well construction techniques and materials, geologic logs, and copies of all well installation permits;
- (3) a map, drawn to scale, showing all soil sample and monitoring well locations in relation to known disposal areas or other sources of contamination. Monitoring wells shall be surveyed to a known benchmark and groundwater elevations to a known datum. Soil sample locations shall be surveyed to a known benchmark or flagged with a secure marker until after the remedial action is completed. As provided in G.S. 89C-2, it is unlawful for any person to practice land surveying in North Carolina, as defined in G.S. 89C, unless such person has been duly registered as a registered land surveyor;
- (4) a description of all field and laboratory quality control and quality assurance procedures followed during the remedial investigation;
- (5) a description of procedures used to manage drill cuttings, purge water and decontamination water;
- (6) a summary of site geologic conditions, including a description of soils and vadose zone characteristics;
- (7) a description of site hydrogeologic conditions (if groundwater assessment is determined to be necessary), including current uses of groundwater, notable aquifer characteristics, a water table elevation contour map with groundwater flow

- patterns depicted, and tabulated groundwater elevation data;
- (8) tabulation of analytical results for all sampling (including sampling dates and soil sampling depths) and copies of all laboratory reports including quality assurance/quality control documentation;
 - (9) soil, groundwater, surface water and sediment contaminant delineation maps and cross sections, including scale and sampling points with contaminant concentrations;
 - (10) a description of procedures and the results of any special assessments such as geophysical surveys, immunoassay testing, soil gas surveys, or test pit excavations; and
 - (11) color copies of site photographs.
- (i) Any proposed remedy which would:
- (1) be conducted entirely on site and for which a permit waiver is desired under G.S. 130A-310.3(e);
 - (2) involve on-site containment or capping; or
 - (3) exceed the three million dollars (\$3,000,000) cost maximum contained in G.S. 130A-310.9(a) without a waiver, shall require Department concurrence prior to implementation. The REC shall submit to the Department a brief summary of available remedies, their projected costs, and in each case reasons why a remedy was accepted or rejected.
- (j) Thirty days prior to approving any remedial action plan, the REC shall provide notice of the remedial action plan to those who have requested notice that such plans have been developed, as provided in G.S. 130A-310.4(c)(2). The REC shall provide proof of such notice and any resulting comments from the public to the Department prior to approval of the remedial action plan.
- (k) Remedial actions that involve the emission or discharge of hazardous substances to the atmosphere shall be conducted in a manner that provides for the protection of human health and the environment, in conformance with this Section and any applicable permits, approvals, laws or other rules or regulations.
- (l) The REC may certify only remedial action plans which are prepared in compliance with Paragraphs (c), (d), (i), (j), and (k), of this Rule and any other applicable requirements and which contain at least the following:
- (1) A discussion of the results of the remedial investigation including media contaminated, contaminants of concern, and the areal and vertical extent of contamination.
 - (2) A brief statement of objectives for the remedial action.
 - (3) An evaluation of available remedial alternatives using the following feasibility study criteria:
 - (A) protection of human health and the environment, including attainment of cleanup levels;
 - (B) compliance with applicable federal, state and local regulations;
 - (C) long-term effectiveness and permanence;
 - (D) reduction of toxicity, mobility and volume;
 - (E) short-term effectiveness, i.e., effectiveness at minimizing the impact of the site remedial action on the environment and the local community;
 - (F) implementability, i.e., technical and logistical feasibility, including an estimate of time required for completion;
 - (G) cost; and
 - (H) community acceptance.
- (4) A detailed description and conceptual design of the proposed remedy, including process flow diagrams and pre-design drawings of all major components of the treatment train.
 - (5) A demonstration that the proposed remedy is supported by the remedial alternative feasibility study conducted pursuant to Subparagraph (l)(3) of this Rule.
 - (6) A description of all activities necessary to implement the proposed method(s) of remedial action in compliance with applicable laws and regulations and in a manner such that cleanup standards are met. These activities include, but are not limited to, well installation and abandonment, sampling, run-on/run-off control, discharge of treated waste streams, and management of investigation and remedial action derived wastes.
 - (7) A description of any proposed treatability studies and additional site characterization needed to support the final design.
 - (8) A description of procedures and a schedule for additional site characterization, treatability studies, final design, construction, operation and maintenance, system monitoring and performance evaluation, and progress reporting.
 - (9) A description of the criteria for remedial action completion, including procedures for post-remedial and confirmatory sampling.
 - (10) A health and safety plan that conforms to the federal Occupational Safety and Health Act, 29 U.S.C. § 651, et seq. and Title 29 of the Code of Federal Regulations, and assures that the health and safety of nearby residential and business communities will not be adversely affected by activities related to the remedial action.
 - (11) Equipment and personnel decontamination procedures.
- (m) Prior to beginning construction, the REC shall certify remedial action preconstruction reports which contain at least the following:
- (1) the results of all treatability studies and additional site characterization work completed since the remedial investigation;
 - (2) final engineering design report, including a

narrative description of process design, final plans and specifications, and an updated project schedule; and

- (3) copies of final registrations, permits and approvals.

(n) The REC may certify only remedial action construction completion reports which contain at least:

- (1) "as built" plans and specifications;
- (2) a summary of major variances from the final design plans; and
- (3) a summary of any problems encountered during construction.

(o) The REC shall prepare and certify quarterly remedial action progress reports for remedial actions of greater than three months duration. Groundwater remedial action progress reports may be prepared on an annual basis after the first full year of remedial action and the completion of four quarterly monitoring events. The REC may certify only remedial action progress reports which are prepared in compliance with Paragraph (c) of this Rule and any other applicable requirements and which contain at least the following:

- (1) operation and maintenance results, i.e., summaries of remedial action operating and maintenance requirements and a discussion of major problems encountered;
- (2) performance evaluation results, i.e., tabulated and graphical presentations of monitoring data and a comparison of remedial action performance to design goals;
- (3) a description of all field and laboratory quality control and quality assurance procedures followed during any sampling and analysis;
- (4) tabulation of analytical results for all sampling and copies of all laboratory reports including quality assurance/quality control documentation; and
- (5) a map, drawn to scale, showing all soil sample and monitoring well locations.

(p) The REC may certify only final remedial action completion reports which contain at least the following:

- (1) a final progress report which includes all the information required under Paragraph (o) of this Rule;
- (2) a summary of remedial action operating experience and effectiveness in meeting design goals, based on all performance monitoring data and progress reporting to date;
- (3) a discussion of criteria for remedial action completion, and a demonstration, supported by confirmatory sampling data, that such criteria have been satisfied; and
- (4) a summary of total project costs.

(q) In the performance of its role pursuant to the Rules in this Section, the REC shall manage investigation or remedial action derived wastes in a manner that provides for the protection of human health and the environment and that complies with all applicable federal, state, and local laws,

rules, and regulations.

History Note: Authority G.S. 130A-310.12(b); Eff. April 1, 1997.

TITLE 17 - DEPARTMENT OF REVENUE

CHAPTER 7 - SALES AND USE TAX

SUBCHAPTER 7B - STATE SALES AND USE TAX

SECTION .1600 - SALES TO OR BY HOSPITALS: EDUCATIONAL: CHARITABLE OR RELIGIOUS INSTITUTIONS: ETC., AND REFUNDS THERETO

.1602 REFUNDS TO NONPROFIT ENTITIES AND MEDICINES AND DRUGS PURCHASED BY HOSPITALS

(a) The refund provisions contained in this Rule do not apply to the tax on taxable sales by the nonprofit entities named in G.S. 105-164.14(b) and no part thereof shall be refunded or claimed as a refund. Nonprofit entities registered for sales and use tax purposes may purchase the tangible personal property which they resell without paying tax thereon to their suppliers provided they have furnished such suppliers with properly executed Certificates of Resale, Form E-590. Certificates of resale may not be used by any nonprofit entity in making purchases of tangible personal property to be used or consumed by such purchaser.

(b) All refund claims shall be substantiated by proper documentary proof and only the taxes actually paid by the claimant during the period for which the claim for refund is filed may be included in the claim. Any local sales or use taxes included in the claim shall be separately stated in the claim for refund. In cases where more than one county's tax has been paid, a breakdown shall be attached to the claim showing the amount of each county's local tax separately.

(c) As to taxes paid on the claimant's purchases for use, other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase and the amount of state and local sales or use tax paid during the refund period ~~will~~ shall constitute proper documentary proof.

(d) To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures and equipment by its contractor, the claimant shall secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of state and local sales or use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, such certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices and the sales and use taxes paid thereon. Such statement shall also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of state and local sales or

use tax paid thereon by the contractor. Similar certified statements by his subcontractors shall be obtained by the general contractor and furnished to the claimant. Any local sales or use taxes included in the contractor's statements shall be shown separately from the state sales or use taxes. The contractor's statements shall not contain sales or use taxes paid on purchases of tangible personal property by such contractors for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure being erected, altered or repaired which is owned or leased by a nonprofit entity for use by a nonprofit entity named in G.S. 105-164.14(b) for carrying on its nonprofit activities. Examples of property on which sales or use tax has been paid by the contractor and which shall not be included in the contractor's statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment repair parts, equipment rentals and blueprints.

(e) The refund provisions set forth in this Rule apply only to the nonprofit entities described in G.S. 105-164.14(b), but do not apply to nonprofit fraternal, civic or patriotic organizations, notwithstanding that such organizations may perform certain charitable functions. The refund provisions set forth in this Rule do not apply to nonprofit entities which are owned and controlled by the United States, the state or a unit of local government except hospitals and medical accommodations created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under G.S. 105-164.14(b) instead of annual refunds under G.S. 105-164.14(c). Any nonprofit hospital owned and controlled by a unit of local government may submit a written request to receive semiannual refunds under G.S. 105-164.14(b) instead of annual refunds under G.S. 105-164.14(c). The request shall be effective beginning with the six-months refund period following the date of the request and applies to sales or use taxes paid on or after the first day of the refund period for which the request is effective.

(f) The refund provisions of this Rule are not applicable to sales taxes incurred by employees on purchases of food, lodging or other taxable travel expenses paid by employees and reimbursed by the type of nonprofit entities named in G.S. 105-164.14(b). Such expenses are personal to the employee since the contract for food, shelter and travel is between the employee and the provider and payment of the tax is by the employee individually and personally. Such nonprofit entities have not incurred and have not paid any sales tax liability. In such cases, it has chosen to reimburse a personal expense of the employee. The refund provisions of this Rule do not apply to sales tax paid by the nonprofit entities named in G.S. 105-164.14(b) on charges by a utility for electricity, piped natural gas and local, toll or private telecommunications services; to the occupancy taxes levied and administered by certain counties and cities in this state; to the prepared food and beverage taxes levied by various local governments in North Carolina; to the highway use

taxes paid on the purchase, lease or rental of motor vehicles; to the scrap tire disposal tax levied on new ~~motor vehicle~~ tires; or to the white goods disposal tax levied on new white goods. Such taxes shall not be included in any claim for refund filed by such nonprofit entities.

History Note: Authority G.S. 105-164.14; 105-262; 105-264;

Eff. February 1, 1976;

Amended Eff. April 1, 1997; August 1, 1996; October 1, 1993; March 1, 1993; June 1, 1992; October 1, 1991.

SECTION .1700 - SALES TO OR BY THE STATE: COUNTIES: CITIES: AND OTHER POLITICAL SUBDIVISIONS

.1702 REFUNDS TO COUNTIES: CITIES: ETC.

(a) Governmental entities, as defined by G.S. 105-164.14(c), are entitled to an annual refund of sales and use taxes paid by them on their direct purchases of tangible personal property, subject to the terms and conditions hereafter set forth. The refund provisions of this Rule are not applicable to sales taxes incurred by employees on purchases of food, lodgings or other taxable travel expenses paid by employees and reimbursed by governmental entities. Such expenses are personal to the employee since the contract for food, shelter and travel is between the employee and the provider and payment of the tax is by the employee individually and personally. The governmental entity has not paid any sales tax liability. In such cases, it has chosen to reimburse a personal expense to the employee. The refund provisions of this Rule do not apply to sales taxes paid by the governmental entities named in G.S. 105-164.14(c) on charges by a utility for electricity, piped natural gas and local, toll or private telecommunications services; to the occupancy taxes levied and administered by counties and cities in this state; to the prepared food and beverage taxes levied by various local governments in North Carolina; to the highway use taxes paid on the purchase, lease or rental of motor vehicles; to the scrap tire disposal tax levied on new ~~motor vehicle~~ tires; or to the white goods disposal tax levied on new white goods. Governmental entities, as defined, and the Federal Government are entitled to annual refunds of sales and use taxes paid in North Carolina by their contractors on purchases of building materials, supplies, fixtures and equipment which become a part of or are annexed to any building or structure being erected, altered or repaired under contract with such governmental entities which is owned or leased by such governmental entities for their use.

(b) Nonprofit hospitals owned and controlled by a unit of local government may file claims for refund of sales and use taxes on a semiannual basis under the provisions of G.S. 105-164.14(b) rather than file annually as a part of the local government. In order to file semiannually, the hospital shall submit a written request to the Secretary of Revenue and the request shall be effective beginning with the six-month

refund period following the date of the request and applies to sales and use taxes paid on or after the first day of the refund period for which the request is effective.

(c) All refund claims must be substantiated by proper documentary proof and only those taxes actually paid by the claimant during the fiscal year covered by the refund claim may be included in the claim. Any local sales or use taxes included in the claim must be separately stated in the claim for refund. In cases where more than one county's sales and use tax has been paid, a breakdown must be attached to the claim for refund showing the amount of each county's local tax separately.

(d) As to taxes paid by governmental entities on purchases for use, other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase, the amount of state and local sales or use tax paid thereon and a record reflecting the date of payment ~~will~~ shall constitute proper documentary proof.

(e) To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, and equipment by its contractor, the claimant shall secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of state and local sales or use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, such certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the state and local sales and use taxes paid thereon. Such statement shall also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of state and local sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors shall be obtained by the general contractor and furnished to the claimant. Any local sales or use taxes included in the contractor's statements shall be shown separately from the state sales or use taxes. The contractor's statements shall not contain sales or use taxes paid on purchases of tangible personal property purchased by such contractors for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure being erected, altered or repaired that is owned or leased by a governmental entity for use by the governmental entity as defined by G.S. 105-164.14(c). Examples of property on which sales or use tax has been paid by the contractor and which shall not be included in the contractor's statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment repair parts, equipment rentals and blueprints.

History Note: Authority G.S. 105-164.14; 105-262;

Eff. February 1, 1976;

Amended Eff. April 1, 1997; August 1, 1996; October 1, 1993; October 1, 1991; May 1, 1990; February 1, 1987.

SECTION .1800 - HOSPITALS AND SANITARIUMS

.1802 REFUNDS TO HOSPITALS: ETC.

(a) Hospitals, sanitariums, religious institutions and organizations, charitable nursing homes, and charitable rest homes not operated for profit are entitled to semiannual refunds of sales and use taxes paid by them on their direct purchases of tangible personal property, including medicines and drugs, for use in carrying on their work. For the purpose of the refund, sales or use taxes paid by contractors on their purchases of building materials, supplies, fixtures and equipment which become a part of or are annexed to a building or structure being erected, altered or repaired under contract with such hospitals, sanitariums, charitable nursing homes and charitable rest homes that is owned or leased by such institutions and used in carrying on their nonprofit activities are deemed to be taxes paid on direct purchases.

(b) As to taxes paid on purchases for use other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase and the amount of sales or use tax paid thereon during the refund period ~~will~~ shall constitute proper documentary proof. To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures and equipment by its contractor, the claimant shall secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of sales and use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, the certified statements may indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices and the sales or use taxes paid thereon in lieu of an itemized listing of each separate invoice. The statements shall also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors shall be obtained by the general contractor and furnished to the claimant.

(c) Sales and use taxes paid by hospitals, sanitariums, charitable nursing homes and charitable rest homes which are agencies of counties and incorporated cities and towns on their direct purchases of tangible personal property, including medicines and drugs, and by their contractors on purchases of building materials, supplies, fixtures and equipment becoming a part of or annexing to a building or structure being erected, altered or repaired under contract with such institutions that is owned or leased by such institutions for their own use are also refundable; however, such refund shall be included in the claim filed by the county or incorporated city or town which is to be filed within six months after the close of the claimant's fiscal year. The documentary proof as explained in Paragraph (b) of this Rule shall be submitted to the county or incorporated city or town filing the claim. The refund provisions are not applicable to hospitals, sanitariums, charitable nursing homes and charitable rest homes which are agencies of the state or any political subdivisions thereof other than counties and incorporated cities and towns. Nonprofit hospitals owned and controlled

by a unit of local government may file for a refund on a semiannual basis under G.S. 105-164.14(b) rather than file annually as a part of the local government unit. In order to file semiannually, the institution shall submit a written request to do so to the Secretary of Revenue and the request is effective beginning with the six-months refund period following the date of the request and applies to sales and use tax paid on or after the first day of the refund period for which the request is effective.

(d) The refund provisions set forth in Paragraphs (a), (b) and (c) of this Rule are not applicable to taxes paid by hospitals, sanitariums, religious institutions and organizations, charitable nursing homes and charitable rest homes on their taxable sales and these taxes shall not be refunded or claimed as a refund. The refund provisions are not applicable to sales tax incurred by employees on purchases of food, lodgings or other taxable travel expenses paid by employees and reimbursed by the institution. Such expenses are personal to the employee since the contract for food, shelter and travel is between the employee and the provider and payment of the tax is by the employee individually and personally and such tax shall not be refunded under the provisions of this Rule. The institution has incurred and paid no sales tax liability. In such cases, it has chosen to reimburse a personal expense of the employee.

(e) The refund provisions set forth in Paragraphs (a), (b) and (c) of this Rule are not applicable to sales taxes paid by hospitals, sanitariums, charitable nursing homes and charitable rest homes on charges by a utility for electricity, piped natural gas and local, toll or private telecommunications services; to the occupancy taxes levied and administered by certain counties and cities in this state; to the prepared food and beverage taxes levied by various local governments in North Carolina; to the highway use taxes paid on the purchase, lease or rental of motor vehicles; to the scrap tire disposal tax levied on new ~~motor vehicle~~ tires; or to the white goods disposal tax levied on white goods.

History Note: Authority G.S. 105-164.14; 105-262; 105-264;

Eff. February 1, 1976;

Amended Eff. April 1, 1997; August 1, 1996; October 1, 1993; October 1, 1991; May 1, 1990; May 1, 1985.

SECTION .3100 - RADIO AND TELEVISION STATIONS: MOTION PICTURE THEATRES

.3106 COMMERCIAL CABLE TELEVISION COMPANIES

(a) For the purpose of applying the maximum tax of eighty dollars (\$80.00) per article, a television tower is a single article when the complete tower is sold by the same vendor. The tower antenna is considered to be a separate single article. Sales of antenna cable, transmission cable and trunk, feeder and drop cable to cable television companies for use in broadcasting are subject to a one percent rate of tax

without any maximum tax applicable thereto. The term "commercial cable television company," as used in this Rule, means a cable television company that receives consideration from its subscribers and uses broadcasting equipment and parts and accessories ~~and/or~~ and a tower to receive and prepare signals for transmission over their cable systems and also is regulated and supervised by the Federal Communications Commission.

(b) ~~Charges The sale of developed movie film~~ to commercial cable television stations which operate under the regulation and supervision of the Federal Communications Commission ~~for developed film~~ for use by them in broadcasting and telecasting programs ~~are~~ is subject to the one percent rate of tax.

(c) Taxable tangible personal property purchased by cable television companies other than towers, antennas and purchases of broadcasting equipment and parts and accessories thereto are subject to the four percent state tax and any applicable local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262;

Eff. March 1, 1984;

Amended Eff. April 1, 1997; October 1, 1993; October 1, 1991; August 1, 1986; December 1, 1984.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 60 - BOARD OF REFRIGERATION EXAMINERS

SECTION .0200 - EXAMINATIONS

.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 or commercial refrigeration experience or a combination of both gained while engaged actively and directly in the installation, maintenance, servicing or repairing of transport or commercial refrigeration equipment or a combination of both.

(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.

(e) (b) The deadline for receipt of applications for a regular examination shall be six weeks prior to the examination 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 shall publish the deadline for application receipt in selected newspapers, on posters mailed to all refrigeration wholesalers in North Carolina and in its quarterly newsletter.

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

*History Note: Authority G.S. 87-54; 87-58;
Eff. October 1, 1984;
Amended Eff. April 1, 1997; December 1, 1993; April 1, 1989; September 1, 1988.*

CHAPTER 63 - CERTIFICATION BOARD FOR SOCIAL WORK

SECTION .0300 - EXAMINATIONS

.0306 EXAMINATION FEES

(a) An examination fee of ~~one hundred dollars (\$100.00)~~ fifteen dollars (\$15.00) plus the cost of the examination to the Board will shall be assessed for administration and processing of any written examination.

(b) An applicant who fails to appear for an examination shall be assessed a fee of ~~one hundred dollars (\$100.00)~~ fifteen dollars (\$15.00) plus the cost of the examination to the Board in order to take the examination at a later date.

*History Note: Authority G.S. 90B-6;
Eff. August 1, 1987;
Amended Eff. September 1, 1993;
Temporary Amendment Eff. January 1, 1996;
Amended Eff. April 1, 1997.*

TITLE 23 - DEPARTMENT OF COMMUNITY COLLEGES

CHAPTER 2 - COMMUNITY COLLEGES

SUBCHAPTER 2D - COMMUNITY COLLEGES: FISCAL AFFAIRS

SECTION .0300 - BUDGETING: ACCOUNTING: FISCAL MANAGEMENT

.0325 LIMITATION IN REPORTING STUDENT MEMBERSHIP HOURS

(a) Student hours may shall not be reported for budget/FTE which result from:

- (1) Conferences or visits. General types of meetings usually of one or more day's duration, attended by a fairly large number of people. A conference or visit may have a central theme, but is loosely structured to cover a wide range of topics. The emphasis is on prepared presentations by authoritative speakers, although division into small group sessions for discussion purposes is often a related activity.
- (2) Seminars or Meetings. A small group of people meeting primarily for discussion under the direction of a leader or resource person or persons. Seminars and meetings are generally one-time offerings even though they may continue for more than one day.
- (3) Programs of a service nature rather than instructional classes.
- (4) Enrollment of high school students not in compliance with 23 NCAC 2C.0301 and 2C.0305.
- (5) Unsupervised classes.

- (6) Proficiency or challenge exams except that the actual time required to take the exam may be counted in membership; students ~~must~~ shall be registered in the class consistent with Paragraph (a) of Rules .0202 and .0203 of this Subchapter.
- (7) Homework assignments.
- (8) Inter-institutional or intramural sports activities including those of prison inmates.
- (9) Effective July 1, 1993, no budget/FTE shall be generated by occupational extension students after their first repetition of an occupational extension course. Students who take an occupational extension course more than twice within a five-year period shall pay their cost for the course based on the amount of funds generated by a student membership hour for occupational extension multiplied by the number of actual hours the class is to be taught. These students ~~will~~ shall not generate budget/FTE. The funds collected from these students ~~will~~ shall be used by the colleges to offer additional educational courses. This subparagraph does not apply to fire, rescue, or law enforcement training courses taken by fire, rescue, or law enforcement personnel.

(b) (A) A statement on occupational extension course repetitions consistent with the requirements of this rule shall be included in college advertisements, schedules and catalogs. Students shall be notified during registration that they will be charged the full cost of courses which they have taken twice within a five-year period and in which they wish to enroll. Students shall be primarily responsible for monitoring course repetitions; however, the colleges shall review records and charge students full cost for courses taken more than twice.

(c) (B) Senior citizens who are legal residents of North Carolina and who wish to enroll in an occupational extension course, ~~will~~ shall not be required to pay for taking the course twice. Senior citizens who take an occupational extension course more than twice within a five-year period shall pay their cost for the course based on the amount of funds generated by a student membership hour for occupational extension multiplied by the number of actual hours the class is to be taught. These senior citizens ~~will~~ shall not generate budget/FTE. The funds collected from these senior citizens ~~will~~ shall be used by the colleges to offer additional educational courses.

(d) (C) Students may repeat occupational extension courses more than once if the repetitions are required for certification, licensure, or recertification. The colleges shall

submit annual reports to the State Board of Community Colleges naming the students and the certification, licensure or recertification requirements that necessitated the repetition.

(e) (b) Self-supporting classes ~~are~~ shall not to be reported for regular budget purposes (those classes supported by student fees or a class in which instruction is provided gratis); all recreational extension classes fall in this category.

(f) (c) Occupational extension instruction shall not be offered in sheltered workshops and adult developmental activity centers (ADAP) except sheltered workshops and ADAP centers may contract with the community college to provide occupational extension courses on a self-supporting basis.

(g) (d) Educational programs offered in a correctional department setting shall report full-time equivalent (FTE) student hours on the basis of contact hours.

History Note: Filed as a Temporary Amendment Eff. November 1, 1993, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Filed as a Temporary Amendment Eff. October 15, 1992, for a period of 180 days to expire on April 15, 1993; Authority G.S. 115D-5; Eff. September 1, 1988; Amended Eff. March 1, 1997; June 1, 1994; September 1, 1993.

CHAPTER 3 - MISCELLANEOUS PROGRAMS

SUBCHAPTER 3A - PROPRIETARY SCHOOLS

SECTION .0100 - BUSINESS, TRADE AND TECHNICAL SCHOOLS

.0113 STUDENT REFUND

Any proprietary business, trade, or technical school that is licensed by the State Board of Community Colleges is subject to the refund policies set forth in Subparagraphs (e)(1) through (3) of Rule 2D.0202 and Subparagraphs (d) (1) through (3) and (5) of Rule 2D.0203 of this Title. Proprietary schools are not required to deposit funds collected for tuition with the State Treasurer's Office.

History Note: Authority G.S. 115D-90; Eff. March 1, 1997.

The List of Rules Codified is a listing of rules that were filed with OAH in the month indicated and have been entered into the Code.

K_{ey}:

Citation	= Title, Chapter, Subchapter and Rule(s)
AD	= Adopt
AM	= Amend
RP	= Repeal
With Chgs	= Final text differs from proposed text
Corr	= Typographical errors or changes that requires no rulemaking
Temp.	= Rule was filed as a temporary rule
Eff. Date	= Date rule becomes effective

NORTH CAROLINA ADMINISTRATIVE CODE

NOVEMBER 96

TITLE	DEPARTMENT	TITLE	DEPARTMENT
10	Human Resources	21	Occupational Licensing Boards
15A	Environment, Health, and Natural Resources	32	Medical Examiners

RULE CITATION				AD	AM	RP	WITH CHGS	CORR	TEMP	EFFECTIVE DATE
10	NCAC	3R	TOC					✓		
			.2412	✓			✓			12/01/96
			.2413	✓			✓			12/01/96
			.2502					✓		
			.2510	✓			✓			12/01/96
			.2512	✓			✓			12/01/96
			.2612	✓			✓			12/01/96
			.3103					✓		
15A	NCAC	2Q	.0102					✓		
		3M	.0503		✓				✓	12/23/96
			.0506		✓				✓	12/23/96
			.0514	✓					✓	12/23/96
		7H	.0308		✓		✓			12/01/96
21	NCAC	32F	.0003		✓				✓	11/25/96

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, January 16, 1997, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. 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, January 13, 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

Bill Graham
James Mallory, III
Paul Powell
Anita White

RULES REVIEW COMMISSION MEETING DATES

January 16, 1997	April 17, 1997
February 20, 1997	May 15, 1997
March 20, 1997	June 19, 1997

RULES REVIEW OBJECTIONS

BOARD OF DENTAL EXAMINERS

21 NCAC 16H .0104 - <i>Approved Education and Training Programs</i>	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96
21 NCAC 16H .0202 - <i>Specific Permitted Functions of Dental Assistant I</i>	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Coastal Management

15A NCAC 7H .0104 - <i>Development Initiated Prior to Eff. Date of Revisions</i>	RRC Objection	11/21/96
15A NCAC 7H .0304 - <i>AECs Within Ocean Hazard Areas</i>	RRC Objection	11/21/96
15A NCAC 7H .0305 - <i>General Identification and Description of Landforms</i>	RRC Objection	11/21/96

Environmental Management

15A NCAC 2B .0101 - <i>General Procedures</i>	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0103 - <i>Analytical Procedures</i>	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0201 - <i>Antidegradation Policy</i>	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96

15A NCAC 2B .0202 - Definitions	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0229 - Tar Pamlico River Basin-Nutrient Sensitive Waters Mgmt Strategy	RRC Objection	11/21/96
15A NCAC 2B .0231 - Wetland Standards (Rule .0231 was Noticed as Rule .0220)	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0501 - Purpose	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0502 - Application	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0503 - Public Notice	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0504 - Hearing	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0506 - Criteria for Review of Applications	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0507 - Issuance of Certification	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96

Commission for Health Services

15A NCAC 13C .0302 - General Provisions	RRC Objection	09/19/96
No Response from Agency	Obj. Cont'd	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
15A NCAC 13C .0304 - Minimum Qualifications for Registered Env. Consultants	RRC Objection	09/19/96
No Response from Agency	Obj. Cont'd	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
15A NCAC 13C .0306 - Technical Standards for Registered Environmental Consultants	RRC Objection	09/19/96
No Response from Agency	Obj. Cont'd	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96

Parks and Recreation Area Rules

15A NCAC 12B .1206 - Fees and Charges	RRC Objection	11/21/96
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HUMAN RESOURCES

Child Day Care Commission

10 NCAC 3U .0102 - Definitions	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3U .0704 - Preservice Requirements for Administrators	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3U .0710 - Preservice Requirements for Teachers and Aides	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3U .2701 - Application for Permits	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3U .2702 - Criminal Record Check Requirements for Child Care Providers	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3U .2703 - Criminal Record Check Reqs for Current Child Care Providers	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3U .2704 - Criminal Record Check Reqs for Nonregistered Home Providers	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96

Facility Services

10 NCAC 3R .0305 - Filing Applications		
Rule Withdrawn by Agency		10/17/96
10 NCAC 3R .1003 - State Medical Facilities Plan		
Rule Withdrawn by Agency		10/17/96
10 NCAC 3R .1127 - Required Staffing and Staff Training		
Rule Withdrawn by Agency		10/17/96
10 NCAC 3R .2410 - Information Required of Applicant	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3R .2412 - Staffing and Staff Training	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3R .2510 - Information Required of Applicant	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3R .2512 - Staffing and Staff Training	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3R .2612 - Information Required of Applicant	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3R .3030 - Facility and Service Need Determinations	RRC Objection	10/17/96
Agency Revised Rule	Obj. Cont'd	11/21/96
10 NCAC 3R .3030 - Facility and Service Need Determinations	RRC Objection	11/21/96
10 NCAC 3R .3040 - Reallocations and Adjustments	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96
10 NCAC 3R .3050 - Policies	RRC Objection	10/17/96
Agency Revised Rule	Obj. Removed	11/21/96

Social Services Commission

10 NCAC 41P .0002 - Organization and Administration (Renumbered as .0102)	RRC Objection	11/21/96
10 NCAC 41P .0005 - Placement Services to Families and Children (Renumbered as .0105)	RRC Objection	11/21/96
10 NCAC 41P .0013 - Fees (Renumbered as .0113)	RRC Objection	11/21/96
10 NCAC 42A .0703 - Designated Agencies	RRC Objection	11/21/96
10 NCAC 42C .2011 - Staff Competency and Training	RRC Objection	11/21/96
10 NCAC 42C .2012 - Training Program Content and Approval	RRC Objection	11/21/96
10 NCAC 42D .1410 - Staff Competency and Training	RRC Objection	11/21/96
10 NCAC 42D .1411 - Training Program Content and Approval	RRC Objection	11/21/96

PUBLIC INSTRUCTION

16 NCAC 7.0101 - Definitions	RRC Objection	11/21/96
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16 NCAC 7.0102 - General Information	RRC Objection	11/21/96
16 NCAC 7.0103 - Exemptions from Certification Requirements of the Standards Board	RRC Objection	11/21/96
16 NCAC 7.0104 - Program Reqs. for Certification As a Public School Administrator		
Rule Withdrawn by Agency		11/21/96
16 NCAC 7.0105 - Certification Patterns for Public School Administration		
Rule Withdrawn by Agency		11/21/96
16 NCAC 7.0106 - Standard Examinations		
Rule Withdrawn by Agency		11/21/96
16 NCAC 7.0107 - Certificate Renewal for Public School Administrators		
Rule Withdrawn by Agency		11/21/96
16 NCAC 7.0108 - Expired Certificates		
Rule Withdrawn by Agency		11/21/96
16 NCAC 7.0109 - Reciprocity in Certification		
Rule Withdrawn by Agency		11/21/96
16 NCAC 7.0110 - Temporary Permit		
Rule Withdrawn by Agency		11/21/96
16 NCAC 7.0111 - Certificate Suspension and Revocation		
Rule Withdrawn by Agency		11/21/96
16 NCAC 7.0112 - Criminal History Checks		
Rule Withdrawn by Agency		11/21/96

BOARD OF REFRIGERATION EXAMINERS

21 NCAC 60.0314 - Use of License	RRC Objection	11/21/96
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REVENUE

17 NCAC 5C.0102 - Doing Business Defined	RRC Objection	11/21/96
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BOARD FOR LICENSING OF SOIL SCIENTISTS

21 NCAC 69.0102 - Duties of Officers	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96
21 NCAC 69.0302 - Definitions	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96
21 NCAC 69.0303 - Requirements	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96
21 NCAC 69.0304 - Units	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96
21 NCAC 69.0305 - Determination of Credit	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96
21 NCAC 69.0307 - Exemptions	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96
21 NCAC 69.0401 - Code of Professional Conduct	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96
21 NCAC 69.0402 - Rules of Conduct of Advertising	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96

TRANSPORTATION

Division of Motor Vehicles

19A NCAC 3E.0511 - Registration of Interstate Authority	RRC Objection	09/19/96
Agency Revised Rule	Obj. Removed	10/17/96

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 O. Smith
Thomas R. West

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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	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	
Anderson I. Wardlow v. Department of Human Resources	96 CSE 0412	Mann	08/05/96	
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	Smith	08/01/96	
Michael S. Covington v. Department of Human Resources	96 CSE 0428	Becton	08/02/96	
Gary Steele v. Department of Human Resources	96 CSE 0429	Chess	08/26/96	
Terry Sealey v. Department of Human Resources	96 CSE 0430	Phipps	05/29/96	
Jackie L. Kopezick 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	

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Claude R. Anderson v. Department of Human Resources	96 CSE 0502	Reilly	07/22/96	
Alan Kendall Locklear v. Department of Human Resources	96 CSE 0503	West	05/30/96	
Douglas F. McBryde v. Department of Human Resources	96 CSE 0518	Becton	08/19/96	
Thomas White v. Department of Human Resources	96 CSE 0519	Chess	08/29/96	
James Trevor Emerson v. Department of Human Resources	96 CSE 0545	Phipps	07/25/96	
Ray Davis Hood v. Department of Human Resources	96 CSE 0547	Mann	09/12/96	
Leon McNair v. Department of Human Resources	96 CSE 0557	Morrison	08/08/96	
John William White v. Department of Human Resources	96 CSE 0558	Reilly	08/14/96	
Hazel L. Walker v. Department of Human Resources	96 CSE 0559	West	06/24/96	
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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	
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Sandra Kay Carpenter v. Department of Human Resources	96 CSE 0595	Gray	08/29/96	
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Jonathan Bernard Copper v. Department of Human Resources	96 CSE 0642	Phipps	09/03/96	
Lisa Privette v. Department of Human Resources	96 CSE 0651	Becton	09/30/96	
Franklin D. Deese v. Department of Human Resources	96 CSE 0690	Mann	07/23/96	
Jan Smith Osborne v. Department of Human Resources	96 CSE 0703	Gray	10/04/96	
Mark Allen Rose Sr. v. Department of Human Resources	96 CSE 0732	Morrison	09/30/96	
Mark P. Crosby v. Department of Human Resources	96 CSE 0733	Reilly	09/30/96	
Bernard D. Brothers v. Department of Human Resources	96 CSE 0774	Smith	11/13/96	
Renee G. Arriola v. Department of Human Resources	96 CSE 0790	Becton	08/14/96	
Isaac Massey Jr. v. Department of Human Resources	96 CSE 0844	Phipps	10/25/96	
Darryl Leon White v. Department of Human Resources	96 CSE 0845	Mann	10/29/96	
Philip Purnell v. Department of Human Resources	96 CSE 0878	Phipps	10/25/96	
Edwin Southards v. Department of Human Resources	96 CSE 0968	Gray	10/25/96	
Mary Vanover v. Department of Human Resources	96 CSE 0981	Morrison	10/24/96	
Cabot S. Pollard v. Department of Human Resources	96 CSE 1012	Reilly	10/28/96	
Johnnie B. Walton v. Department of Human Resources	96 CSE 1071	Smith	11/14/96	
Timothy P. Ruth v. Department of Human Resources	96 CSE 1086	Becton	10/30/96	
Thomas Lee Glenn v. Department of Human Resources	96 CSE 1170	Reilly	12/10/96	
Randy Dale Finnium v. Department of Human Resources	96 CSE 1191	Gray	12/12/96	
Washington J. James, III v. Department of Human Resources	96 CSE 1276	Chess	11/04/96	
Tommy R. Thompson v. Department of Human Resources	96 CSE 1328	Mann	12/10/96	
Anthony Bernard Crawford v. Department of Human Resources	96 CSE 1333	Smith	11/14/96	
Harry J. Cook v. Department of Human Resources	96 CSE 1339	Gray	12/12/96	
Jethero Davidson Jr. v. Department of Human Resources	96 CSE 1347	Morrison	11/14/96	
Wilbert J. Boykin v. Department of Human Resources	96 CSE 1375	Morrison	12/10/96	
Raymond G. Molina v. Department of Human Resources	96 CSE 1378	Gray	12/12/96	
Marion A. Ward v. Department of Human Resources	96 CSE 1380	Reilly	11/15/96	
Robin G. Staten v. Department of Human Resources	96 CSE 1402	Gray	12/12/96	
Edward F. Murphy v. Department of Human Resources	96 CSE 1412	Smith	12/12/96	
Robert A. Green v. Department of Human Resources	96 CSE 1437*12	Gray	12/12/96	
Charlie Thomas Smith v. Department of Human Resources	96 CSE 1445	Phipps	12/12/96	
Reginald A. Barnes v. Department of Human Resources	96 CSE 1581	Mann	12/10/96	
John William Vestal Sr. v. Department of Human Resources	96 CRA 1244	Reilly	12/10/96	
Charles F. Haag, Jr. v. Department of Human Resources	96 CRA 1289	Phipps	12/12/96	
Walter Richardson, Jr. v. Department of Human Resources	96 CRA 1302	Morrison	12/10/96	
Scott Sanders v. Department of Human Resources	96 CRA 1320	Morrison	12/12/96	
Mark Stephens v. Department of Human Resources	96 CRA 1321	Reilly	12/13/96	
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Tessa Jones v. Department of Human Resources	96 CRA 1372	Mann	12/10/96	
John G. Howard, Jr. v. Department of Human Resources	96 CRA 1386	Reilly	12/13/96	
Gregory B. Phy v. Department of Human Resources	96 CRA 1399	West	11/14/96	
Robert A. Green v. Department of Human Resources	96 CRA 1436*12	Gray	12/12/96	
George D. Brickell v. Department of Human Resources	96 CRA 1526	Morrison	12/10/96	
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*6	Chess	06/11/96	
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Laura Heidorf v. Department of Human Resources	96 DCS 0065	Reilly	03/22/96	
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INSURANCE

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Carol M. Hall v. Teachers & State Employees Comp. Major Medical Plan	95 INS 1141	Phippa	04/01/96	11:05 NCR 308	
Arthur Wayne Dempsey v. Department of Insurance	95 INS 1255	Smith	04/22/96		
Deborah B. Beavers v. Teachers & St. Emp. Comp. Major Med. Plan	95 INS 1411	Smith	05/10/96		
Nadia A. Hakim v. Department of Insurance	95 INS 1422	Smith	03/26/96		
Kathleen D. Jarvis v. Teachers & St. Emp. Comp. Major Med. Plan	96 INS 0075	Morrison	10/16/96		
Mary Alice Casey v. Department of Insurance	96 INS 0148	Reilly	08/14/96		
Nancy C. Lowe v. Teachers & State Employees Comp. Major Med. Plan	96 INS 0726	West	11/20/96		
JUSTICE					
Wendy Atwood v. Department of Justice (Company Police Program)	96 DOJ 0111	Chess	08/07/96	11:10 NCR 874	
Deborah K. Torrance v. Company Police Program Administrator	96 DOJ 0363	Becton	08/14/96		
John O. Beach v. Alarm Systems Licensing Board	96 DOJ 1362	West	11/19/96		
Ronald R. Coats v. Alarm Systems Licensing Board	96 DOJ 1364	Phipps	11/26/96		
Education and Training Standards Division					
Freddie Levern Thompson v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 0731	Chess	02/29/96	11:10 NCR 874	
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	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		
Sherrie Ann Gainey v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0028	Becton	08/09/96		
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	Smith	06/12/96		
Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0068	Gray	03/26/96		
Ken Montie 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		
Demetrius Arnez Brown v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0138	Becton	08/09/96		
Claude F. Nunnery v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0305	Gray	08/28/96		
John Charles Maloney v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0306	Smith	08/16/96		
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		
Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0432	Becton	08/07/96		
Woodrow Andrew Clark v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0515	West	10/07/96		
Warren Scott Nail v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0576	Becton	08/07/96		
Zoriana Lyczkowski v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0619	Morrison	10/21/96		
Philip A. Berezik, Jr. v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0652	Reilly	11/13/96		
George Willie Gilliam v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0656	Morrison	08/02/96		
Glenn R. Brammer v. Sheriffs' Ed. & Training Standards Comm.	96 DOJ 0839	Smith	09/05/96		
Timothy Wayne Fulford v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0840	Smith	09/16/96		
Brent Lee Millsaps v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0841	Chess	09/24/96		
James Michael Doe v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0957	Phipps	12/06/96		
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Timothy A. Hawkins v. Private Protective Services Board	95 DOJ 1419	West	04/12/96	11:08 NCR 555	
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	Smith	06/10/96		
Robert A. Gibson v. Private Protective Services Board	96 DOJ 0386	Smith	07/03/96		
Jimmy D. Matthews 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		
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Private Protective Services Board v. Charles T. Mathis	96 DOJ 0798	Mann	08/27/96		
Private Protective Services Board v. Ricky C. Mullinax	96 DOJ 0800	Becton	10/04/96		
Private Protective Services Board v. Michael A. Smith	96 DOJ 0801	Becton	10/09/96		
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	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		

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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	
W. and G.B., on Behalf of C.B. v. Winston-Salem/Forsyth Cty. Schools	96 EDC 0349	Mann	09/03/96	
Cyvonne Rush Bryant v. NC State Board of Education	96 EDC 0591	Becton	09/11/96	
Steve Wright Brown v. State Board of Education	96 EDC 0593	Reilly	10/11/96	
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0613	Chess	08/14/96	
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0614	Chess	08/14/96	
John Barlow v. Watauga County Board of Education	96 EDC 0623	Reilly	07/24/96	
John L. Archer v. Department of Public Instruction	96 EDC 0678	Smith	08/02/96	
Pamela F. Cummings v. Department of Public Instruction	96 EDC 0742	Smith	08/16/96	
Susie Whitley/Brandon Whitley v. Charlotte-Mecklenburg Bd. of Ed.	96 EDC 0964	Chess	09/17/96	
Michael Wayne Geter v. Charlotte-Mecklenburg School Board	96 EDC 1036	West	09/23/96	
Felicia M. Moore v. Charlotte-Mecklenburg Schools & Dept. of Public Ins.	96 EDC 1303	Smith	11/25/96	
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<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	Smith	03/15/96	
<i>Albemarle Mental Health Center</i>				
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<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	
Theresa Louise Whittington v. Appalachian State University	96 OSP 0350	Smith	10/09/96	
<i>A & T State University</i>				
Joey M. Carey v. A & T State University	96 OSP 0393	West	10/10/96	
<i>Caldwell County</i>				
Blake C. Pace v. Caldwell County	96 OSP 0047	Morrison	04/01/96	
<i>Catawba County Mental Health</i>				
Tonyer J. Ruff v. Catawba County Mental Health	96 OSP 0951	Becton	10/22/96	
<i>NC Central University</i>				
Francina Y. Tate v. Chancellor Julius L. Chambers, NC Central Univ.	95 OSP 1432	Smith	04/22/96	
Renee Lynch v. NC Central University	95 OSP 1461	Smith	10/03/96	11:15 NCR 1255
<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>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	
Carolyn Cheek v. Department of Correction	95 OSP 1441	Smith	09/19/96	
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	
Alisha Louise Staley v. Randolph Correctional Center	96 OSP 0261	Morrison	08/05/96	
Ann Williams v. Department of Correction	96 OSP 0279	Phipps	10/31/96	
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*	Smith	07/05/96	
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Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0375**	Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0376**	Smith	07/05/96	
Rebecca A. Faison v. Department of Correction for Women	96 OSP 0383	Becton	10/01/96	
Calvia L. Hill v. Department of Correction, McCain Correctional Hospital	96 OSP 0397	Gray	08/15/96	
James A. Klein v. Department of Correction	96 OSP 0434	Gray	10/29/96	
Tony R. Broffman v. Department of Correction	96 OSP 0625	Becton	08/29/96	
Mary Hargraves v. Department of Correction	96 OSP 0674	Smith	09/05/96	
Michael S. Doe v. Caswell Center	96 OSP 0691	Phipps	09/23/96	
Timothy L. Willia v. Caswell Correctional Center	96 OSP 0715	West	07/30/96	
Alisha Louiae Staley v. Randolph Correctional Center	96 OSP 0780	Smith	10/16/96	
Sharon Oxendine v. Department of Correction	96 OSP 0999	Becton	10/22/96	
<i>Department of Crime Control and Public Safety</i>				
Jerry Lee Fielda v. State Highway Patrol	94 OSP 1174* ¹⁰	Gray	08/05/96	
Gene Wells v. Crime Control & Public Safety, State Highway Patrol	95 OSP 0249* ⁹	Smith	07/23/96	
Hearl Oxendine v. Crime Control & Public Safety, St. Highway Patrol	95 OSP 0697	Smith	10/16/96	
Jerry Lee Fields v. State Highway Patrol	95 OSP 0836* ¹⁰	Gray	08/05/96	
Gene Wells v. Crime Control & Public Safety, State Highway Patrol	95 OSP 1050* ⁹	Smith	07/23/96	
Peter Mason Griffin v. Crime Control & Public Safety, St. Highway Patrol	96 OSP 1309	Gray	12/12/96	
<i>Durham County Health Department</i>				
Lylla D. Stockton v. Durham County Health Department	95 OSP 0176	West	07/02/96	
<i>East Carolina University</i>				
Gregory Lapicki v. East Carolina University	94 OSP 1721	Reilly	09/26/96	
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	
Kathy B. Vinson v. Dept. of Environment, Health, & Natural Resources	95 OSP 0203	Gray	09/18/96	11:13 NCR 1087
Donald E. Batts v. Division of Adult Health, EHNHR	95 OSP 1071	Smith	10/01/96	
<i>Fayetteville State University</i>				
William C. Neal v. Fayetteville State University	95 OSP 0392	Smith	04/22/96	
<i>Guilford County Area Mental Health, Developmental Disabilities and Substance Abuse</i>				
Stuart Klatt v. Guilford Cty Area MH/DD/SAS, St. Per Comm, OSP	95 OSP 1179	Smith	07/19/96	11:10 NCR 865
<i>Department of Human Resources</i>				
Myron A. Smith v. DHR, Division of Child Development	95 OSP 1033	Morrison	11/27/96	
Ophelia Webb v. Edard R. Inman, Dir. Alamance Cty DSS, Alamance Cty DSS, Alamance County, and DHR	96 OSP 0112	Gray	03/13/96	
Peggy Pledger v. Department of Human Resources, Dorothea Dix Hosp.	96 OSP 0114* ¹¹	Gray	11/05/96	
Peggy Pledger v. Department of Human Resources, Dorothea Dix Hosp.	96 OSP 0146* ¹¹	Gray	11/05/96	
Peggy Pledger v. Department of Human Resources, Dorothea Dix Hosp.	96 OSP 0147* ¹¹	Gray	11/05/96	
Gail Marie Rodgers Lincoln v. DHR, DMH/DD/SAS-Cherry Hosp., Cherry Hospital	96 OSP 0159	Chess	06/17/96	
Cynthia D. Hickman v. DHR, Central School for the Deaf	96 OSP 0191	Becton	09/23/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0217	Reilly	08/13/96	
Peggy Pledger v. Department of Human Resources, Dorothea Dix Hosp.	96 OSP 0241* ¹¹	Gray	11/05/96	
Mary A. Boogaerts v. Cherry Hospital, Goldsboro, NC	96 OSP 0269	Becton	05/29/96	
Kelvin Parter v. Dorothea Dix Hospital	96 OSP 0294	Chess	08/07/96	
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	

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Kim A. Bell v. Walter B. Jones Alcohol & Drug Abuse Treatment Center	96 OSP 0597	Becton	09/11/96	
Lynn S. Halcs v. John Umstead Hospital	96 OSP 0729	West	10/02/96	
Deborah Ayala v. DHR/DSS/Child Support Enforcement	96 OSP 1062	Smith	10/29/96	
Jacqueline C. Branch v. Division of Facility Services	96 OSP 1089	Smith	12/09/96	
<i>Buncombe County Department of Social Services</i>				
Kathy Davis v. Buncombe County Department of Social Services	95 OSP 1487	West	08/09/96	
<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	Smith	03/21/96	
<i>Cumberland County Department of Social Services</i>				
Ruth Fortner v. Cumberland County Department of Social Services	96 OSP 0829	Becton	12/02/96	
<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>Haywood County Department of Social Services</i>				
Carol Hubbard v. Haywood County Department of Social Services	95 OSP 1084	Reilly	08/30/96	11:13 NCR 1092
<i>Lenoir County Department of Social Services</i>				
Sharron S. Moten v. Lenoir County DSS, Jack B. Jones	96 OSP 1100	Gray	12/06/96	
Felicia Ann Baker v. Lenoir County DSS, Jack B. Jones	96 OSP 1101	Gray	12/12/96	
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<i>Rockingham County Department of Social Services</i>				
Loretta Lawson v. Rockingham County DSS	96 OSP 0471	West	06/13/96	
<i>Vance County Department of Social Services</i>				
Robert Eugene Davis v. Vance County Department of Social Services	96 OSP 0157	Reilly	10/28/96	
<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>Wilson County Department of Social Services</i>				
Karen R. Davis v. Wilson County Department of Social Services	96 OSP 0394	Chess	11/01/96	
<i>Department of Insurance</i>				
Larry W. Creech v. Department of Insurance	95 OSP 0631	Reilly	06/06/96	11:07 NCR 434
<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	Smith	03/01/96	
<i>Pembroke State University</i>				

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Bruce W. Hunt v. Pembroke State University	95 OSP 1288	Becton	12/02/96	
<i>Department of Public Instruction</i>				
Johnny Leak v. Public Schools of NC, Dept. of Public Instruction	96 OSP 0861	Phipps	09/05/96	
McLennard Jay v. Person County Schools	96 OSP 0862	Phipps	09/04/96	
<i>Sandhill Community College</i>				
Earl Levon Womack v. Sandhill Community College Bd. of Trustees	96 OSP 0573	Phipps	07/25/96	
<i>Office of the State Controller</i>				
Angela M. Terry v. Office of the State Controller	96 OSP 0402	Becton	08/07/96	
<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
James H. Broyhill v. Department of Transportation	95 OSP 0673	Gray	12/02/96	
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	Smith	05/17/96	
Jessie L. Allen et al. v. DMV Enforcement Section	96 OSP 0408	Becton	08/12/96	
Dwight Odell Graves v. DOT Maintenance, Caswell County	96 OSP 0616	Morrison	10/24/96	
R.L. Singleton v. Department of Transportation	96 OSP 0683	Becton	08/12/96	
William Dean Gillenwater v. Department of Transportation	96 OSP 0684	Gray	12/13/96	
Stephanie Taylor v. Department of Motor Vehicles	96 OSP 0955	Becton	08/29/96	11:13 NCR 1095
<i>Tri-County Mental Health Complex</i>				
Deborah Heil v. Tri-County Mental Health Complex	95 OSP 1100	Smith	03/22/96	
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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	
J. Scott Spears v. Ralph Pederson and UNC-C	96 OSP 0548	Chess	08/30/96	
Nellie Joyce Ferguson v. UNC Physicians & Assoc., Charles Foskey, Dir.	96 OSP 0977	Phipps	10/02/96	
Mae Helen Lewis v. UNC Greensboro - Physical Plant	96 OSP 1000	Reilly	10/21/96	
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James E. Phillips v. Department of Transportation, Div. of Motor Vehicles	96 DOT 1829	Reilly	12/10/96	

* Consolidated cases.

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALL</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
UNIVERSITY OF NORTH CAROLINA				
Sylvia Jeffries v. University of NC Hospitals at Chapel Hill	96 UNC 0067	Gray	04/16/96	
James E. Boudwin v. University of NC Hospitals at Chapel Hill	96 UNC 0343	Chess	07/22/96	
Rufus T. Moore Jr. v. UNC Hospital	96 UNC 0470	Reilly	08/12/96	
Marcia Spruill v. UNC Hospitals - Patient Accounts	96 UNC 0500	Becton	07/10/96	
Charles E. Houlk v. UNC Hospitals	96 UNC 0588	Morrison	08/09/96	

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF CARTERET

96 EHR 0692

JULIAN G. GILGO,
Petitioner,

v.

N.C. DEHNR,
Respondent.

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**RECOMMENDED DECISION
GRANTING
SUMMARY JUDGMENT**

This matter came before the undersigned administrative law judge September 17, 1996, upon Respondent's Motion for Summary Judgment pursuant to Rule 56 of the North Carolina Rules of Civil Procedure. Respondent's motion alleges that there is no genuine issue of material fact as shown by the pleadings and affidavits, and that the moving party is entitled to judgment as a matter of law.

APPEARANCES

For Petitioner: Julian G. Gilgo, *pro se*

For Respondent: Jay L. Osborne
Assistant Attorney General

ISSUE

Whether Petitioner's Application for Lease of Shellfish Bottom no. 9520 was improperly denied by Respondent.

SUMMARY OF UNDISPUTED FACTS

Based upon the parties' pleadings and affidavits, the undersigned summarizes the undisputed facts as follows:

1. On November 27, 1995, Petitioner submitted to the Division of Marine Fisheries his Application for Lease of Shellfish Bottom (application no. 9520). The bottom for which the lease application was made is described as "(a)n area of bottom in Core Sound, between the oyster creek and Davis community harbor in Davis."

2. On May 23, 1996, the General Assembly ratified House Bill 1074 which, among other things, stated that Respondent "shall not grant shellfish cultivation leases for the area along Portsmouth Island and Core Banks in Carteret County." (section 1 of the bill). Additionally, the bill retroactively placed a moratorium on the issuance of all shellfish cultivation lease applications "in the remaining area of Carteret County not described in Section 1 of this act," which were pending as of May 1, 1996. The moratorium is to remain in effect until July 1, 1997.

3. On June 21, 1996, the General Assembly ratified House Bill 1077 which ended the Carteret County moratorium and substituted an identical moratorium for Core Sound. The Core Sound moratorium also applied to shellfish cultivation lease applications pending as of May 1, 1996.

4. Petitioner's proposed lease is located within both the Carteret County and the Core Sound moratorium areas.

5. On April 18, 1996, the Director of the Division of Marine Fisheries drafted and signed a letter to Petitioner entitled "Notice of Request for Shellfish Lease Application Amendment." This letter requested that Petitioner make certain amendments to his application and asked that he respond within 30 days. The letter also indicated:

Failure to respond within thirty days will be considered a refusal of the amendments. Marine Fisheries Rules require denial of applications when applicants fail to make the requested amendments.

6. The April 18 letter was placed in Petitioner's application file but was never mailed or delivered to Petitioner, and was, in some manner, released to members of the public.

7. On May 8, 1996, Respondent issued a letter to Petitioner denying the lease application at issue.

CONCLUSIONS OF LAW

The moratoriums enacted by the General Assembly clearly and unambiguously applied to all shellfish lease applications pending as of May 1, 1996. Assuming, *arguendo*, that the April 18, 1996 letter contained in Petitioner's file had any legal effect, then it must be construed as a counteroffer to Petitioner's offer -- his application for a shellfish lease. It cannot be construed as an acceptance of Petitioner's offer since it varied the material terms of his offer; thus, it operates simultaneously as a rejection and a counteroffer. Since this counteroffer was never communicated to Petitioner, Petitioner was never in a position where he could manifest assent to the counteroffer.

Further, assuming *arguendo* that when Respondent placed the letter in the file and it was released to some members of the public, Petitioner received constructive communication of Respondent's counteroffer and as Petitioner alleges, would have accepted the counteroffer, Petitioner's application still would not have vested into an enforceable contract upon Petitioner's assent due to a condition precedent. The Division of Marine Fisheries is required by statute to conduct a public hearing in the county where the proposed leasehold lies and is also required to give notice at least 20 days prior to the public hearing. G.S. 113-202(f). Thus, assuming Petitioner would have manifested assent to Respondent's counteroffer on April 18, the legislation imposing a moratorium would have taken place prior to the condition precedent being satisfied, rendering the negotiations moot.

SUMMARY JUDGMENT

IT IS THEREFORE recommended that summary judgment under Rule 56 of the North Carolina Rules of Civil Procedure, applicable to contested cases under 26 NCAC 3 .0101(1), be entered in favor of Respondent because there is no genuine issue of material fact and, as a matter of law, Petitioner is not entitled to the relief sought in his Petition.

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 Department of Environment, Health and Natural Resources.

This the 6th day of December, 1996.

Thomas R. West
Administrative Law Judge

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

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
		Mortuary Science	34
*21	Occupational Licensing Boards	Nursing	36
22	Administrative Procedures	Nursing Home Administrators	37
23	Community Colleges	Occupational Therapists	38
24	Independent Agencies	Opticians	40
25	State Personnel	Optometry	42
26	Administrative Hearings	Osteopathic Examination & Reg. (Repealed)	44
27	NC State Bar	Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Practicing Psychologists	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

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

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					Action	Date				

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

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

ACUPUNCTURE LICENSING BOARD

21 NCAC 01 .0101	11:18 NCR 1368									
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	*	Approve	10/17/96			11:16 NCR 1291	
26 NCAC 03 .0302	11:03 NCR 110		11:09 NCR 588	*	Approve	10/17/96			11:16 NCR 1291	
26 NCAC 03 .0303	11:03 NCR 110		11:09 NCR 588	*	Approve	10/17/96			11:16 NCR 1291	
26 NCAC 03 .0304	11:03 NCR 110		11:09 NCR 588	*	Approve	10/17/96			11:16 NCR 1291	
26 NCAC 03 .0305	11:03 NCR 110		11:09 NCR 588	*	Approve	10/17/96			11:16 NCR 1291	

Rules Division

26 NCAC 02C	11:19 NCR 1413									
26 NCAC 02C .0102	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0103	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0111	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0307	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0401	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0502	11:09 NCR 570		11:13 NCR 1058	*						

ADMINISTRATION

1 NCAC 39 .0101	10:16A NCR 1672		11:14 NCR 1111	*						
1 NCAC 39 .0201	10:16A NCR 1672		11:14 NCR 1111	*						

State Building Commission

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1 NCAC 30G .0101		11:04 NCR 194	11:19 NCR 1414	*						
1 NCAC 30G .0102		11:04 NCR 194	11:19 NCR 1414	*						
1 NCAC 30G .0103		11:04 NCR 194	11:19 NCR 1414	*						
1 NCAC 30G .0104		11:04 NCR 194	11:19 NCR 1414	S/L						
1 NCAC 30G .0105		11:04 NCR 194	11:19 NCR 1414	S/L						
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	*						
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 .0200	11:14 NCR 1107									
2 NCAC 52B .0201	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 52B .0300	11:14 NCR 1107									
2 NCAC 52C .0700	11:14 NCR 1107									
Marketing Authority										
2 NCAC 43F	11:14 NCR 1107									
2 NCAC 43H	11:14 NCR 1107									
2 NCAC 43L	11:14 NCR 1107									
Plant Conservation Board										
2 NCAC 48F .0301	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0302	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0304	11:07 NCR 407		11:11 NCR 883	*						

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2 NCAC 48F .0305	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0306	11:07 NCR 407		11:11 NCR 883	*						
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21 NCAC 04B .0202	11:18 NCR 1368									
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4 NCAC 01E	11:09 NCR 569									
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4 NCAC 01H	11:09 NCR 569									
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4 NCAC 01K .0501	11:09 NCR 569									
4 NCAC 01K .0502	11:09 NCR 569									
4 NCAC 01K .0503	11:09 NCR 569									
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		11:14 NCR 1113	*						
4 NCAC 19L .0403	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0404	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0407	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0501	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0502	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0505	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0706	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0707	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0708	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0802	11:09 NCR 569		11:14 NCR 1113	*						

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4 NCAC 19L .0805	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0901	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0906	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0907	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0911	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1002	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1004	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1009	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1011	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1301	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1302	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1303	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1701	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1702	11:09 NCR 569		11:14 NCR 1113	*						
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4 NCAC 19L .1802	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1803	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1804	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1805	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1900	11:09 NCR 569		11:14 NCR 1113	*						
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					Approve	07/18/96			11:10 NCR 843	
State Ports Authority										
4 NCAC 13A .0101	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A .0102	10:24 NCR 3056		11:13 NCR 1040	*						

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4 NCAC 13A .0105	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13A .0202	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13A .0203	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13A .0204	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13B .0001	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13B .0002	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13B .0003	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13B .0004	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13B .0005	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13C .0001	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13D .0101	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0101	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0102	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0103	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0201	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0202	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0301	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0302	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0401	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0402	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0403	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0404	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0405	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0501	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0502	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0601	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0602	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0603	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0701	10:24 NCR 3056		11:13 NCR 1040	*							
4 NCAC 13E .0702	10:24 NCR 3056		11:13 NCR 1040	*							

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4 NCAC 13E .0801	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0803	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0901	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0902	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13F .0301	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13F .0302	10:24 NCR 3056		11:13 NCR 1040	*						
COMMUNITY COLLEGES										
23 NCAC 01A .0001	11:18 NCR 1369									
23 NCAC 02C .0108	11:18 NCR 1369									
23 NCAC 02C .0202	11:18 NCR 1369									
23 NCAC 02C .0207	11:18 NCR 1369									
23 NCAC 02C .0305	11:18 NCR 1369									
23 NCAC 02C .0604	11:18 NCR 1369									
23 NCAC 02C .0701	11:18 NCR 1369									
23 NCAC 02D .0103	11:18 NCR 1369									
23 NCAC 02D .0201	11:18 NCR 1369									
23 NCAC 02D .0202	11:17 NCR 1336									
23 NCAC 02D .0202	11:18 NCR 1369									
23 NCAC 02D .0203	11:18 NCR 1369									
23 NCAC 02D .0301	11:18 NCR 1369									
23 NCAC 02D .0323	11:18 NCR 1369									
23 NCAC 02D .0324	11:18 NCR 1369									
23 NCAC 02D .0325	10:24 NCR 3058		11:09 NCR 585	*	Approve	11/21/96	*		11:19 NCR 1449	
23 NCAC 02D .0327	11:18 NCR 1369									
23 NCAC 02E .0101	11:18 NCR 1369									
23 NCAC 02E .0102	11:18 NCR 1369									
23 NCAC 02E .0201	11:18 NCR 1369									
23 NCAC 02E .0203	10:24 NCR 3058		11:09 NCR 585	*						
23 NCAC 02E .0203	11:18 NCR 1369									
23 NCAC 02E .0204	11:18 NCR 1369									

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23 NCAC 02E .0205	11:18 NCR 1369									
23 NCAC 02E .0501	11:18 NCR 1369									
23 NCAC 02E .0604	11:18 NCR 1369									
23 NCAC 03A .0113	10:24 NCR 3058		11:09 NCR 585	*	Approve	11/21/96	*	11:19 NCR 1449		
CULTURAL RESOURCES										
USS North Carolina Battleship Commission										
7 NCAC 05 .0202	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0203	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0203		11:19 NCR 1436								
7 NCAC 05 .0204	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0207	10:18 NCR 2398		11:04 NCR 188	*						
ENVIRONMENT, HEALTH, AND NATURAL RESOURCES										
15A Public Notice										11:01 NCR 2
15A Public Notice										11:09 NCR 590
15A NCAC 01K	10:19 NCR 2506									
15A NCAC 01M .0101		11:06 NCR 368								
15A NCAC 01M .0101		11:19 NCR 1439								
15A NCAC 01M .0102		11:06 NCR 368								
15A NCAC 01M .0102		11:19 NCR 1439								
15A NCAC 01M .0201		11:06 NCR 368								
15A NCAC 01M .0201		11:19 NCR 1439								
15A NCAC 01M .0202		11:06 NCR 368								
15A NCAC 01M .0202		11:19 NCR 1439								
15A NCAC 01M .0301		11:06 NCR 368								
15A NCAC 01M .0301		11:19 NCR 1439								
15A NCAC 01M .0302		11:06 NCR 368								
15A NCAC 01M .0302		11:19 NCR 1439								
15A NCAC 01M .0303		11:06 NCR 368								
15A NCAC 01M .0303		11:19 NCR 1439								

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15A NCAC 01M .0304		11:06 NCR 368								
15A NCAC 01M .0304		11:19 NCR 1439								
15A NCAC 01M .0305		11:06 NCR 368								
15A NCAC 01M .0305		11:19 NCR 1439								
15A NCAC 01M .0306		11:06 NCR 368								
15A NCAC 01M .0306		11:19 NCR 1439								
Coastal Resources Commission										
15A NCAC 07	11:04 NCR 183									
15A NCAC 07H .0104	10:24 NCR 3045		11:07 NCR 409	*	Object	11/21/96				11:09 NCR 575
15A NCAC 07H .0106	10:16 NCR 1921		11:04 NCR 190	*	Approve	09/19/96	*			Notice Subject Matter
15A NCAC 07H .0106	11:19 NCR 1408		11:11 NCR 907	*						
15A NCAC 07H .0208	11:04 NCR 183									
15A NCAC 07H .0208	11:19 NCR 1408									
15A NCAC 07H .0304	10:24 NCR 3045		11:07 NCR 409	*	Object	11/21/96				11:09 NCR 575
15A NCAC 07H .0304	11:15 NCR 1200	11:15 NCR 1226								
15A NCAC 07H .0305	11:15 NCR 1200	11:15 NCR 1226								
15A NCAC 07H .0306	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0309	11:08 NCR 442		11:12 NCR 981	*						
15A NCAC 07H .1104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1202	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1204	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1205	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1304	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1404	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1504	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1600	11:15 NCR 1200		11:11 NCR 907	*						
15A NCAC 07H .1704	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1804	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1904	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2004	11:04 NCR 183		11:11 NCR 907	*						

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15A NCAC 07H .2104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07J .0102	10:24 NCR 3045		11:04 NCR 190	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 07K .0203	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07M .0301	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0302	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0303	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0304	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0305	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0306	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0307	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0308	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0309	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0401	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0402	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0403	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .1200	11:19 NCR 1408		11:11 NCR 907	*						
Environmental Management Commission										
15A NCAC 02	10:24 NCR 3045									
15A NCAC 02	11:04 NCR 183									
15A NCAC 02	11:19 NCR 1408									
15A NCAC 02B .0223	11:02 NCR 75									
15A NCAC 02B .0223	11:03 NCR 109									
15A NCAC 02B .0224	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0227	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0229	11:03 NCR 109		11:09 NCR 572	*	Object	11/21/96				
15A NCAC 02B .0231	11:02 NCR 75		11:10 NCR 824	L/S/E						
			11:14 NCR 1136							
15A NCAC 02B .0232	11:02 NCR 75		11:10 NCR 824	L						
			11:14 NCR 1136							
15A NCAC 02B .0233	11:02 NCR 75		11:10 NCR 824	L						
			11:14 NCR 1136							

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15A NCAC 02B .0234	11:02 NCR 75		11:10 NCR 824 11:14 NCR 1136	*						
15A NCAC 02B .0235	11:02 NCR 75		11:10 NCR 824 11:14 NCR 1136	*						
15A NCAC 02B .0236	11:02 NCR 75		11:10 NCR 824 11:14 NCR 1136	L						
15A NCAC 02B .0303	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0315	11:02 NCR 75		11:09 NCR 572	L	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 02D .0101	11:15 NCR 1200									
15A NCAC 02D .0104	11:15 NCR 1200									
15A NCAC 02D .0105	11:15 NCR 1200									
15A NCAC 02D .0108	11:15 NCR 1200									
15A NCAC 02D .0202	11:15 NCR 1200									
15A NCAC 02D .0302	11:15 NCR 1200									
15A NCAC 02D .0307	11:15 NCR 1200									
15A NCAC 02D .0501	11:15 NCR 1200									
15A NCAC 02D .0518	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .0518	11:19 NCR 1408									
15A NCAC 02D .0521	11:15 NCR 1200									
15A NCAC 02D .0524	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 02D .0524	11:15 NCR 1200									
15A NCAC 02D .0525	11:15 NCR 1200		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .0530	10:24 NCR 3045									
15A NCAC 02D .0531	11:15 NCR 1200									
15A NCAC 02D .0535	10:18 NCR 2317		11:16 NCR 1271	*						
15A NCAC 02D .0610	11:15 NCR 1200									
15A NCAC 02D .0902	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .0902	11:19 NCR 1408									
15A NCAC 02D .0907	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .0909	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .0909	11:19 NCR 1408									

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15A NCAC 02D .0910	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .0911	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .0912	11:15 NCR 1200									
15A NCAC 02D .0917	11:19 NCR 1408									
15A NCAC 02D .0918	11:19 NCR 1408									
15A NCAC 02D .0919	11:19 NCR 1408									
15A NCAC 02D .0920	11:19 NCR 1408									
15A NCAC 02D .0921	11:19 NCR 1408									
15A NCAC 02D .0922	11:19 NCR 1408									
15A NCAC 02D .0923	11:19 NCR 1408									
15A NCAC 02D .0924	11:19 NCR 1408									
15A NCAC 02D .0934	11:19 NCR 1408									
15A NCAC 02D .0946	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .0948	11:19 NCR 1408									
15A NCAC 02D .0949	11:19 NCR 1408									
15A NCAC 02D .0950	11:19 NCR 1408									
15A NCAC 02D .0951	11:19 NCR 1408									
15A NCAC 02D .0953	11:15 NCR 1200									
15A NCAC 02D .0954	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 02D .0954	11:15 NCR 1200									
15A NCAC 02D .1005	11:15 NCR 1200									
15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1107	11:15 NCR 1200									
15A NCAC 02D .1110	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 02D .1111	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 02D .1201	10:24 NCR 3045		11:16 NCR 1271	L/SE						
15A NCAC 02D .1202	10:24 NCR 3045		11:16 NCR 1271	L/SE						
15A NCAC 02D .1203	10:24 NCR 3045		11:16 NCR 1271	L/SE						
15A NCAC 02D .1203	11:15 NCR 1200									
15A NCAC 02D .1204	10:24 NCR 3045		11:16 NCR 1271	L/SE						

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15A NCAC 02D .1205	10:24 NCR 3045		11:16 NCR 1271	L/SE						
15A NCAC 02D .1206	10:24 NCR 3045		11:16 NCR 1271	L/SE						
15A NCAC 02D .1207	10:24 NCR 3045		11:16 NCR 1271	L/SE						
15A NCAC 02D .1208	10:24 NCR 3045		11:16 NCR 1271	L/SE						
15A NCAC 02D .1209	10:24 NCR 3045		11:16 NCR 1271	L/SE						
15A NCAC 02D .1402	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .1403	10:24 NCR 3045		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02D .1500	11:19 NCR 1408									
15A NCAC 02D .1902	11:19 NCR 1408									
15A NCAC 02D .1903	11:19 NCR 1408									
15A NCAC 02D .2200	11:15 NCR 1200									
15A NCAC 02H .0225	11:15 NCR 1200	11:15 NCR 1225								
15A NCAC 02H .0610	11:08 NCR 442									
15A NCAC 02H .1202	11:15 NCR 1200									
15A NCAC 02H .1203	11:15 NCR 1200									
15A NCAC 02H .1204	11:15 NCR 1200									
15A NCAC 02H .1205	11:15 NCR 1200									
15A NCAC 02L	11:15 NCR 1200									
	11:15 NCR 1204									
15A NCAC 02L .0106		10:19 NCR 2508								
15A NCAC 02L .0115	11:15 NCR 1200									
	11:15 NCR 1204									
15A NCAC 02L .0202	10:20 NCR 2591									
15A NCAC 02N	11:15 NCR 1200									
	11:15 NCR 1204									
15A NCAC 02P	11:15 NCR 1200									
	11:15 NCR 1204									
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	Approve	11/21/96	*		11:19 NCR 1449	

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15A NCAC 02Q .0102	11:19 NCR 1408									
15A NCAC 02Q .0104	10:24 NCR 2400		11:08 NCR 472	*	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 02Q .0107	10:18 NCR 2400		11:08 NCR 472	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02Q .0207	11:19 NCR 1408									
15A NCAC 02Q .0312	10:24 NCR 3045		11:16 NCR 1271	*						
15A NCAC 02Q .0313	10:24 NCR 3045		11:16 NCR 1271	*						
15A NCAC 02Q .0507	10:24 NCR 2400		11:08 NCR 472	S/L	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02Q .0512	10:24 NCR 2400		11:08 NCR 472	S/L	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02Q .0514	10:24 NCR 2400		11:08 NCR 472	S/L	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02Q .0515	10:24 NCR 2400		11:08 NCR 472	S/L	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02Q .0517	10:24 NCR 2400		11:08 NCR 472	S/L	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 02Q .0525	10:24 NCR 3045		11:16 NCR 1271	*						
15A NCAC 02Q .0527	10:24 NCR 3045		11:16 NCR 1271	*						
15A NCAC 02Q .0607	10:24 NCR 3045		11:16 NCR 1271	*						
15A NCAC 02Q .0700	11:08 NCR 442									
NPDES Permits										
NPDES Permits										
Health Services, Commission for										
15A NCAC 13A .0001	11:16 NCR 1269									11:06 NCR 317
15A NCAC 13A .0005	11:16 NCR 1269									11:07 NCR 406
15A NCAC 13A .0007	11:16 NCR 1269									
15A NCAC 13A .0011	11:16 NCR 1269									
15A NCAC 13A .0012	11:16 NCR 1269									
15A NCAC 13A .0019	11:16 NCR 1269									
15A NCAC 13B .1627	11:08 NCR 442		11:13 NCR 1055	*						
15A NCAC 13B .1800	11:08 NCR 442									
15A NCAC 13C .0301	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	
15A NCAC 13C .0302	10:18 NCR 2317		11:06 NCR 357	*	Object	09/19/96	*			
					Approve	11/21/96			11:19 NCR 1449	
15A NCAC 13C .0303	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	

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15A NCAC 13C .0304	10:18 NCR 2317		11:06 NCR 357	*	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 13C .0305	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	
15A NCAC 13C .0306	10:18 NCR 2317		11:06 NCR 357	*	Object	09/19/96	*		11:19 NCR 1449	
					Approve	11/21/96			11:14 NCR 1156	
15A NCAC 13C .0307	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	
15A NCAC 13C .0308	10:18 NCR 2317		11:06 NCR 357	*	Approve	09/19/96	*		11:14 NCR 1156	
15A NCAC 18A	11:04 NCR 183									
15A NCAC 18A .0134	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0136	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0137	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0159	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0168	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0169	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0173	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0174	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0175	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0176	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0182	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0183	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0184	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0185	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0186	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0187	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0301	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0302	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0401	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0421	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0424	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0425	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0614	11:08 NCR 442		11:12 NCR 987	*						

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15A NCAC 18A .0615	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0616	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0617	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0618	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0620	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0621	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0901	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1301	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1302	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1319	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1805	11:04 NCR 183		11:09 NCR 576	*						
15A NCAC 18A .1814					Approve	04/18/96			11:04 NCR 209	
15A NCAC 18A .1937	11:19 NCR 1408									
15A NCAC 18A .1938	11:19 NCR 1408									
15A NCAC 18A .1958	11:19 NCR 1408									
15A NCAC 18A .1961	11:19 NCR 1408									
15A NCAC 18A .2601		11:01 NCR 24	11:05 NCR 273	*	Approve	10/17/96			11:16 NCR 1291	
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								
15A NCAC 21H .0113		11:06 NCR 371								
15A NCAC 21H .0101		11:07 NCR 422								
15A NCAC 21J .0101		11:07 NCR 422								
15A NCAC 26C .0001	11:19 NCR 1408									
15A NCAC 26C .0002	11:19 NCR 1408									
15A NCAC 26C .0003	11:19 NCR 1408									
15A NCAC 26C .0004	11:19 NCR 1408									
15A NCAC 26C .0005	11:19 NCR 1408									
15A NCAC 26C .0006	11:19 NCR 1408									
15A NCAC 26C .0007	11:19 NCR 1408									

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Marine Fisheries Commission										
15A NCAC 03	11:11 NCR 881									
15A NCAC 031 .0001	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 031 .0005	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 031 .0019			10:21 NCR 2737	*	Approve	05/16/96	*			
15A NCAC 031 .0202	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 031 .0401			10:21 NCR 2688	*	Approve	05/16/96	*			
15A NCAC 03L 0102	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03L 0201	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03M 0202	11:03 NCR 110	11:11 NCR 938		*						
15A NCAC 03M 0204		11:14 NCR 1153	11:18 NCR 1371	*						
15A NCAC 03M 0503	11:07 NCR 407		11:11 NCR 938	*						
15A NCAC 03M 0503		11:18 NCR 1383								
15A NCAC 03M 0504	11:03 NCR 110	11:11 NCR 938		*						
		11:14 NCR 1153								
15A NCAC 03M 0506	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03M 0506		11:18 NCR 1383								
15A NCAC 03M 0507		11:11 NCR 938		*						
15A NCAC 03M 0511	11:03 NCR 110	11:11 NCR 938		*						
15A NCAC 03M 0514		11:18 NCR 1383								
15A NCAC 03R 0006	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03R 0007	11:07 NCR 407		11:11 NCR 888	*						
Parks and Recreation										
15A NCAC 12B 1206	10:18 NCR 2317		11:12 NCR 985	*	Object		11/21/96			
Soil and Water Conservation										
15A NCAC 06E 0002	11:08 NCR 442		11:12 NCR 979	*						
15A NCAC 06E 0002		11:12 NCR 1004								
15A NCAC 06E 0003	11:08 NCR 442		11:12 NCR 979	*						
15A NCAC 06E 0005		11:12 NCR 1004								
Water Pollution Control System Operators Certification Commission										

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15A NCAC 08F .0101		11:19 NCR 1442								
15A NCAC 08F .0102		11:19 NCR 1442								
15A NCAC 08F .0201		11:19 NCR 1442								
15A NCAC 08F .0202		11:19 NCR 1442								
15A NCAC 08F .0203		11:19 NCR 1442								
15A NCAC 08F .0301		11:19 NCR 1442								
15A NCAC 08F .0401		11:19 NCR 1442								
15A NCAC 08F .0402		11:19 NCR 1442								
15A NCAC 08F .0403		11:19 NCR 1442								
15A NCAC 08F .0404		11:19 NCR 1442								
15A NCAC 08F .0405		11:19 NCR 1442								
15A NCAC 08F .0406		11:19 NCR 1442								
15A NCAC 08F .0407		11:19 NCR 1442								
15A NCAC 08F .0501		11:19 NCR 1442								
15A NCAC 08F .0502		11:19 NCR 1442								
15A NCAC 08F .0503		11:19 NCR 1442								
15A NCAC 08F .0504		11:19 NCR 1442								
15A NCAC 08F .0505		11:19 NCR 1442								
15A NCAC 08F .0506		11:19 NCR 1442								
Wildlife Resources Commission										
15A NCAC 10B .0106	11:02 NCR 76		11:08 NCR 495	*	Approve	10/17/96	*		11:16 NCR 1291	
15A NCAC 10B .0113	11:07 NCR 408		11:12 NCR 983	*						
15A NCAC 10B .0115	11:07 NCR 408		11:12 NCR 984	*						
15A NCAC 10B .0115	11:11 NCR 882									
15A NCAC 10B .0116	11:12 NCR 959		11:18 NCR 1372	*						
15A NCAC 10B .0123	11:02 NCR 76		11:08 NCR 495	*	Approve	10/17/96			11:16 NCR 1291	
15A NCAC 10B .0203	11:02 NCR 76		11:08 NCR 495	*	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 10B .0208	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0209	11:02 NCR 76		11:08 NCR 495	*	Approve	11/21/96			11:19 NCR 1449	
15A NCAC 10C .0107	11:02 NCR 76									

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15A NCAC 10C .0205	11:02 NCR 76		11:08 NCR 495	*	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 10C .0305	11:02 NCR 76		11:08 NCR 495	*	Approve	11/21/96	*		11:19 NCR 1449	
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	*	Approve	11/21/96	*		11:19 NCR 1449	
15A NCAC 10E .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	*	Approve	08/15/96	*		11:12 NCR 1006	
15A NCAC 10F .0105	10:19 NCR 2506		11:01 NCR 14	*	Approve	08/15/96	*		11:12 NCR 1006	
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		11:14 NCR 1150	*						
15A NCAC 10F .0303	10:24 NCR 3057		11:06 NCR 355	*	Approve	09/19/96			11:14 NCR 1156	
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	*	Approve	10/17/96			11:16 NCR 1291	
15A NCAC 10F .0307	11:08 NCR 451		11:14 NCR 1150	*						
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	*	Approve	09/19/96			11:14 NCR 1156	
15A NCAC 10F .0317	11:13 NCR 1039		11:19 NCR 1427	*						
15A NCAC 10F .0327	11:14 NCR 1109									
15A NCAC 10F .0339	11:13 NCR 1039		11:19 NCR 1427	*						
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 10F .0367	11:16 NCR 1269									
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	*	Approve	10/17/96			11:16 NCR 1291	

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15A NCAC 10G .0103	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			11:16 NCR 1291	
15A NCAC 10G .0202	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			11:16 NCR 1291	
15A NCAC 10G .0203	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			11:16 NCR 1291	
15A NCAC 10G .0206	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			11:16 NCR 1291	
15A NCAC 10G .0302	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			11:16 NCR 1291	
15A NCAC 10G .0303	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			11:16 NCR 1291	
15A NCAC 10G .0401	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			11:16 NCR 1291	
15A NCAC 10G .0402	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96	*		11:16 NCR 1291	
15A NCAC 10G .0403	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96	*		11:16 NCR 1291	
15A NCAC 10G .0404	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96	*		11:16 NCR 1291	
15A NCAC 10G .0501	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96	*		11:16 NCR 1291	
15A NCAC 10I .0001	10:22 NCR 2829		11:04 NCR 191	*	Approve	09/19/96			11:14 NCR 1156	
15A NCAC 10I .0002	11:02 NCR 76		11:08 NCR 495	*	Approve	10/17/96	*		11:16 NCR 1291	11:03 NCR 104 11:04 NCR 182
Wildlife Proclamation										11:01 NCR 1 11:04 NCR 181 11:06 NCR 315 11:07 NCR 405 11:13 NCR 1038 11:16 NCR 1263 11:18 NCR 1367
Wildlife Proclamation										
Voting Rights Act										
Voting Rights Act										
Voting Rights Act										
Voting Rights Act										
Voting Rights Act										
Voting Rights Act										
Voting Rights Act										
GENERAL CONTRACTORS LICENSING BOARD										
21 NCAC 12 .0204	10:22 NCR 2829	11:06 NCR 372	11:09 NCR 583	*	Approve	10/17/96			11:16 NCR 1291	
21 NCAC 12 .0503	10:22 NCR 2829	11:06 NCR 372	11:09 NCR 584	*	Approve	10/17/96	*		11:16 NCR 1291	
GOVERNOR'S EXECUTIVE ORDERS										
Number 95 - Eff. 04/24/96										
Number 96 - Eff. 06/14/96										

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Number 97 - Eff. 07/12/96										11:10 NCR 817
Number 98 - Eff. 08/09/96										11:11 NCR 880
Number 99 - Eff. 09/05/96										11:14 NCR 1101
Number 100 - Eff. 09/12/96										11:14 NCR 1101
Number 101 - Eff. 09/12/96										11:14 NCR 1101
Number 102 - Eff. 10/02/96										11:15 NCR 1197
Number 103 - Eff. 10/10/96										11:15 NCR 1197
Number 104 - Eff. 10/10/96										11:15 NCR 1197
Number 105 - Eff. 12/02/96										11:19 NCR 1406
HOUSING FINANCE AGENCY										
24 NCAC 01P .0101		11:14 NCR 1154								
24 NCAC 01P .0102		11:14 NCR 1154								
24 NCAC 01P .0103		11:14 NCR 1154								
24 NCAC 01P .0201		11:14 NCR 1154								
24 NCAC 01P .0202		11:14 NCR 1154								
24 NCAC 01P .0203		11:14 NCR 1154								
HUMAN RESOURCES										
10 NCAC 41P .0013	11:06 NCR 323	11:08 NCR 528	11:12 NCR 966	L						
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	Object Approve	10/17/96 11/21/96	*		11:19 NCR 1449	
10 NCAC 03U .0604	11:03 NCR 109		11:09 NCR 571	*						
10 NCAC 03U .0700	11:08 NCR 449									
10 NCAC 03U .0704	10:19 NCR 2506		11:04 NCR 188	*	Object Approve	10/17/96 11/21/96	*		11:19 NCR 1449	
10 NCAC 03U .0705	11:14 NCR 1108									
10 NCAC 03U .0707	11:08 NCR 449		11:17 NCR 1338	*						
10 NCAC 03U .0710	10:22 NCR 2829		11:04 NCR 188	*	Object	10/17/96				

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10 NCAC 03U .0901	11:08 NCR 449		11:17 NCR 1338	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 03U .1717	11:14 NCR 1108									
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	Object	10/17/96	*		11:19 NCR 1449	
					Approve	11/21/96				
10 NCAC 03U .2702		10:20 NCR 2593	11:10 NCR 819	S	Object	10/17/96	*		11:19 NCR 1449	
					Approve	11/21/96				
10 NCAC 03U .2703		10:20 NCR 2593	11:10 NCR 819	S	Object	10/17/96	*		11:19 NCR 1449	
					Approve	11/21/96				
10 NCAC 03U .2704		10:20 NCR 2593	11:10 NCR 819	S	Object	10/17/96	*		11:19 NCR 1449	
					Approve	11/21/96				
Facility Services										
10 NCAC 03	10:18 NCR 2399									
10 NCAC 03R .3001		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Approve	10/17/96	*		11:16 NCR 1291	11:11 NCR 888
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	Approve	10/17/96			11:16 NCR 1291	11:11 NCR 888
10 NCAC 03R .3020		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Approve	10/17/96	*		11:16 NCR 1291	11:11 NCR 888
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	Object	10/17/96	*			11:11 NCR 888
					Object	11/21/96				
10 NCAC 03R .3030	10:23 NCR 2956		11:06 NCR 328	S/L/SE	Approve	10/17/96	*		11:16 NCR 1291	11:11 NCR 888
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	Object	10/17/96	*		11:19 NCR 1449	11:11 NCR 888
			11:11 NCR 888		Approve	11/21/96				
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	Object	10/17/96	*		11:19 NCR 1449	11:11 NCR 888
					Approve	11/21/96				
10 NCAC 03R .3050	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
Medical Assistance										
Disproportionate Share List										
										11:03 NCR 101

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10 NCAC 26B .0105	10:18 NCR 2398		10:22 NCR 2831	*	Approve	04/18/96	*		11:04 NCR 207	
10 NCAC 26B .0123		11:19 NCR 1436								
10 NCAC 26G .0707	11:08 NCR 450	11:15 NCR 1205	11:18 NCR 1371	*						
10 NCAC 26H .0101	11:14 NCR 1108									
10 NCAC 26H .0102	11:14 NCR 1108									
10 NCAC 26H .0104	11:16 NCR 1268									
10 NCAC 26H .0212		11:15 NCR 1205								
10 NCAC 26H .0213		11:15 NCR 1205								
10 NCAC 26H .0213	11:18 NCR 1368									
10 NCAC 26H .0506		11:02 NCR 77								
10 NCAC 26H .0506	10:21 NCR 2686									
10 NCAC 26H .0506		11:19 NCR 1438								
10 NCAC 26H .0602	11:09 NCR 569	11:13 NCR 1062		S/L						
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 03B	11:16 NCR 1268									

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10 NCAC 03C .6208					Approve	04/18/96			11:04 NCR 206	
Mental Health, Developmental Disabilities and Substance Abuse Services										
10 NCAC 14V .3402	11:08 NCR 449		11:14 NCR 1124	*						
10 NCAC 14V .3803	11:08 NCR 449		11:14 NCR 1124	*						
10 NCAC 14V .5602	11:08 NCR 449		11:14 NCR 1124	*						
10 NCAC 15A .0128	11:08 NCR 449		11:14 NCR 1124	*						
10 NCAC 15A .0129	11:08 NCR 449		11:14 NCR 1124	*						
10 NCAC 18W .0201	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0202	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0203	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0204	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0205	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0206	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0207	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0208	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0209	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0210	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0211	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0212	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0213	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0214	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0215	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0216	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0217	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0218	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 18W .0219	10:15 NCR 1478		11:14 NCR 1124	S						
10 NCAC 45H .0200	11:08 NCR 449		11:14 NCR 1124	S						
Social Services Commission										
10 NCAC 35E .0101		11:16 NCR 1288								
10 NCAC 35E .0105		11:16 NCR 1288								

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10 NCAC 35E .0106		11:16 NCR 1288								
10 NCAC 35E .0308		11:16 NCR 1288								
10 NCAC 41F	10:23 NCR 2956									
10 NCAC 41F .0705	10:23 NCR 2956		11:03 NCR 111	L	Approve	07/18/96	*		11:15 NCR 1229	
10 NCAC 41F .0706		10:21 NCR 2726	11:03 NCR 111	*	Approve	07/18/96				
10 NCAC 41F .0707		10:21 NCR 2726	11:03 NCR 111	S	Object	07/18/96	*		11:15 NCR 1229	
					Approve	09/19/96			11:15 NCR 1229	
10 NCAC 41F .0812		10:21 NCR 2726	11:03 NCR 111	*	Approve	07/18/96				
10 NCAC 41F .0813		10:21 NCR 2726	11:03 NCR 111	S	Object	07/18/96	*		11:15 NCR 1229	
					Approve	09/19/96			11:15 NCR 1229	
10 NCAC 41F .0814	10:23 NCR 2956		11:03 NCR 111	L	Object	07/18/96	*		11:15 NCR 1229	
					Approve	09/19/96				
10 NCAC 41I .0100	10:17 NCR 2228									
10 NCAC 41I .0102	10:17 NCR 2228		10:21 NCR 2687	*						
10 NCAC 41P .0102	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*	Object	11/21/96				
10 NCAC 41P .0105	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*	Object	11/21/96				
10 NCAC 41P .0106	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 41P .0108	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96	*		11:19 NCR 1449	
					Approve	10/17/96			11:16 NCR 1291	Notice Not Required
10 NCAC 41P .0109	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 41P .0110	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 41P .0111	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 41P .0112	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 42A .0701		10:21 NCR 2728	11:10 NCR 823	S/L/SE	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42A .0702		10:21 NCR 2728	11:10 NCR 823	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 42A .0703		10:21 NCR 2728	11:10 NCR 823	*	Object	11/21/96				
10 NCAC 42B .1209		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42B .1210		10:21 NCR 2729	11:12 NCR 967	S/L	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 42B .1211		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 42B .2402		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42B .2403		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	

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10 NCAC 42B .2404		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42B .2405		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42C .2010		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42C .2011		10:21 NCR 2729	11:12 NCR 967	S/L	Object	11/21/96				
10 NCAC 42C .2012		10:21 NCR 2729	11:12 NCR 967	*	Object	11/21/96				
10 NCAC 42C .3701		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42C .3702		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 42C .3703		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 42C .3704		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42D .1409		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42D .1410		10:21 NCR 2729	11:12 NCR 967	S/L	Object	11/21/96				
10 NCAC 42D .1411		10:21 NCR 2729	11:12 NCR 967	*	Object	11/21/96				
10 NCAC 42D .1827		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42D .1828		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42D .1829		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42D .1830		10:21 NCR 2729	11:12 NCR 967	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 42J .0001		11:16 NCR 1288		*	Approve	11/21/96				
10 NCAC 42J .0004		11:16 NCR 1288								
10 NCAC 42J .0005		11:16 NCR 1288								
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 .0102		11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96			11:19 NCR 1449	
10 NCAC 49B .0202		11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 49B .0310		11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 49B .0502		11:08 NCR 528	11:12 NCR 960	*	Approve	11/21/96	*		11:19 NCR 1449	
10 NCAC 49C .0107		10:18 NCR 2402		*	Approve	11/21/96			11:19 NCR 1449	
Vocational Rehabilitation Services										
10 NCAC 20B .0204	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0205	11:08 NCR 450		11:13 NCR 1051	*						

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10 NCAC 20B .0206	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0208	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0209	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0210	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0214	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0218	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0222	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0224	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0226	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0227	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20C .0603	11 08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20D .0204	11 08 NCR 450		11:13 NCR 1051	*						
INSURANCE										
11 NCAC 08 .1001		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1002		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1003		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1004		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1005		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1006		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1007		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1008		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1009		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1010		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1011		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1101		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1102		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1103		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1104		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1105		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1106		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection

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11 NCAC 08 .1107		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1108		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1109		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1110		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1111		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1112		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1113		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1114		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1115		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1116		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1201		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1202		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1203		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1204		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1205		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1206		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1207		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1208		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 08 .1209		11:15 NCR 1212	11:19 NCR 1416	*						Filed over objection
11 NCAC 10 .0602		11:15 NCR 1223	11:19 NCR 1426	*						Filed over objection
11 NCAC 10 .0603		11:15 NCR 1223	11:19 NCR 1426	*						Filed over objection
11 NCAC 10 .0606		11:15 NCR 1223	11:19 NCR 1426	*						Filed over objection
11 NCAC 12 .0551	10:18 NCR 2399		10:22 NCR 2831	*	Approve	05/16/96	*		11:05 NCR 283	
11 NCAC 16 .0703	10:18 NCR 2399		10:22 NCR 2832	*	Approve	05/16/96			11:05 NCR 284	
JUSTICE										
Attorney General/Company Police										
12 NCAC 021 .0101					Approve	04/18/96			11:04 NCR 208	
12 NCAC 021 .0206					Approve	04/18/96			11:04 NCR 208	
12 NCAC 021 .0210					Approve	04/18/96			11:04 NCR 208	
Alarm Systems Licensing Board										

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12 NCAC 11 0202 10:24 NCR 3057

11:14 NCR 1136

*

Criminal Justice Education and Training Standards Commission

12 NCAC 09A 0103 11:14 NCR 1109

12 NCAC 09B 0102 11:14 NCR 1109

12 NCAC 09B 0111 11:14 NCR 1109

12 NCAC 09B 0206 11:14 NCR 1109

12 NCAC 09B 0224 11:14 NCR 1109

12 NCAC 09B 0225 11:14 NCR 1109

12 NCAC 09B 0409 11:14 NCR 1109

12 NCAC 09C 0304 11:14 NCR 1109

12 NCAC 09C 0307 11:14 NCR 1109

12 NCAC 09C 0309 11:14 NCR 1109

12 NCAC 09C 0601 11:14 NCR 1109

12 NCAC 09C 0602 11:14 NCR 1109

12 NCAC 09C 0603 11:14 NCR 1109

12 NCAC 09C 0604 11:14 NCR 1109

12 NCAC 09C 0605 11:14 NCR 1109

12 NCAC 09C 0606 11:14 NCR 1109

Private Protective Services Board

12 NCAC 07D 11:10 NCR 818

12 NCAC 07D 11:16 NCR 1268

12 NCAC 07D 0100 11:16 NCR 1268

12 NCAC 07D 0104 11:16 NCR 1268

12 NCAC 07D 0201 11:10 NCR 818

12 NCAC 07D 0204 11:14 NCR 1108

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

12 NCAC 07D 1106 11:14 NCR 1108

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					Action	Date				
State Bureau of Investigation/Division of Criminal Information										
12 NCAC 04E .0103	11:11 NCR 881		11:17 NCR 1339	*						
12 NCAC 04E .0104	11:17 NCR 1336									
12 NCAC 04E .0401	11:17 NCR 1336									
12 NCAC 04E .0404	11:17 NCR 1336									
12 NCAC 04E .0405	11:17 NCR 1336									
LABOR										
Occupational Safety and Health										
13 NCAC 07A .0900	11:11 NCR 881									
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 32B	11:18 NCR 1369									
21 NCAC 32F .0003		11:18 NCR 1386								
21 NCAC 32H	10:18 NCR 2400									
21 NCAC 32H .0101	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0102	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0201	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0203	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			
21 NCAC 32H .0301	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0302	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0303	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0401	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0402	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0403	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0404	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	

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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	*	Approve	04/18/96			11:04 NCR 221	
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	
21 NCAC 320	11:18 NCR 1369			*	Approve	04/18/96	*		11:04 NCR 221	
NURSING, BOARD OF										
21 NCAC 36 .0320	11:14 NCR 1109		11:19 NCR 1428	*						
NURSING HOME ADMINISTRATORS										
21 NCAC 37D .0202		11:11 NCR 940	11:18 NCR 1372	*						
21 NCAC 37G .0102		11:11 NCR 940	11:18 NCR 1372	*						
OPTOMETRY, BOARD OF										
21 NCAC 42B .0107	11:18 NCR 1369									
PSYCHOLOGY BOARD										
21 NCAC 54 .1802			11:18 NCR 1373	*						
21 NCAC 54 .1803			11:18 NCR 1373	*						
21 NCAC 54 .2001			11:18 NCR 1373	*						

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21 NCAC 54 .2002			11:18 NCR 1373	*						
21 NCAC 54 .2003			11:18 NCR 1373	*						
21 NCAC 54 .2004			11:18 NCR 1373	*						
21 NCAC 54 .2005			11:18 NCR 1373	*						
21 NCAC 54 .2007			11:18 NCR 1373	*						
21 NCAC 54 .2008			11:18 NCR 1373	*						
21 NCAC 54 .2009			11:18 NCR 1373	*						
21 NCAC 54 .2704					Approve	04/18/96			11:04 NCR 236	
21 NCAC 54 .2706					Approve	04/18/96			11:04 NCR 236	
PUBLIC EDUCATION										
16 NCAC 01A .0001					Approve	05/16/96			11:05 NCR 286	
16 NCAC 01A .0003					Approve	05/16/96			11:05 NCR 283	
Standards Board for Public School Administration										
16 NCAC 07 .0101	10:23 NCR 2957		11:09 NCR 576	*	Object	11/21/96				
16 NCAC 07 .0102	10:23 NCR 2957		11:09 NCR 576	*	Object	11/21/96				
16 NCAC 07 .0103	10:23 NCR 2957		11:09 NCR 576	*	Object	11/21/96				
16 NCAC 07 .0104	10:23 NCR 2957		11:09 NCR 576	*	Returned	11/21/96				
16 NCAC 07 .0105	10:23 NCR 2957		11:09 NCR 576	*	Returned	11/21/96				
16 NCAC 07 .0106	10:23 NCR 2957		11:09 NCR 576	*	Returned	11/21/96				
16 NCAC 07 .0107	10:23 NCR 2957		11:09 NCR 576	*	Returned	11/21/96				
16 NCAC 07 .0108	10:23 NCR 2957		11:09 NCR 576	*	Returned	11/21/96				
16 NCAC 07 .0109	10:23 NCR 2957		11:09 NCR 576	*	Returned	11/21/96				
16 NCAC 07 .0110	10:23 NCR 2957		11:09 NCR 576	*	Returned	11/21/96				
16 NCAC 07 .0111	10:23 NCR 2957		11:09 NCR 576	*	Returned	11/21/96				
16 NCAC 07 .0112	10:23 NCR 2957		11:09 NCR 576	*	Returned	11/21/96				
REAL ESTATE COMMISSION										
21 NCAC 58A .0101	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0104	11:07 NCR 408		11:11 NCR 935	*						
21 NCAC 58A .0105	10:22 NCR 2829		11:03 NCR 114	*						

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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	*						
REFRIGERATION EXAMINERS										
21 NCAC 60 .0204	11:05 NCR 272		11:10 NCR 839	*	Approve	11/21/96			11:19 NCR 1449	
21 NCAC 60 .0207	11:05 NCR 272		11:10 NCR 839	*	Approve	11/21/96	*		11:19 NCR 1449	
21 NCAC 60 .0314	11:05 NCR 272		11:10 NCR 839	*	Object	11/21/96				
REVENUE										
17 NCAC 01C .0504		10:20 NCR 2599		*	Object	08/15/96			11:14 NCR 1156	
17 NCAC 01C .0506		10:20 NCR 2599		*	Approve	09/19/96				
17 NCAC 01C .0506			11:10 NCR 838	*	Approve	08/15/96				
17 NCAC 05C .0102			11:03 NCR 113	*						
			11:09 NCR 582	*						
17 NCAC 05C .2101			10:24 NCR 3059	*	Object	11/21/96				
17 NCAC 06B .0612			10:22 NCR 2833	*	Approve	05/16/96	*		11:05 NCR 284	
17 NCAC 06B .3716			10:22 NCR 2833	*	Approve	04/18/96	*		11:04 NCR 211	
17 NCAC 07B .0118			11:12 NCR 998	*	Approve	04/18/96	*		11:04 NCR 211	
17 NCAC 07B .1101			10:21 NCR 2688	*	Approve	11/21/96			11:19 NCR 1449	
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	

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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 .1602			11:12 NCR 998	*	Approve	11/21/96	*		11:19 NCR 1449	
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 .1702			11:12 NCR 998	*	Approve	11/21/96	*		11:19 NCR 1449	
17 NCAC 07B .1802			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1802			11:12 NCR 998	*	Approve	11/21/96	*		11:19 NCR 1449	
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 .3103			11:12 NCR 998	*	Approve	11/21/96			11:19 NCR 1449	
17 NCAC 07B .3106			11:12 NCR 998	*	Approve	11/21/96	*		11:19 NCR 1449	
17 NCAC 07B .4002			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .4004			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .4008			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .4202			11:12 NCR 998	*	Approve	11/21/96			11:19 NCR 1449	
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 .4501			11:12 NCR 998	*	Approve	11/21/96			11:19 NCR 1449	
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
Tax Review Board										11:14 NCR 1104
Tax Review Board										11:16 NCR 1266
Tax Review Board										11:17 NCR 1332
SOCIAL WORK, BOARD OF										
21 NCAC 63 .0306		10:21 NCR 2739	11:03 NCR 118	*	Approve	11/21/96	*		11:19 NCR 1449	
SOIL SCIENTISTS, BOARD FOR LICENSING										
21 NCAC 69 .0101	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*	Approve	09/19/96			11:14 NCR 1156	

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21 NCAC 69 .0102	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Object	09/19/96			11:16 NCR 1291	
21 NCAC 69 .0103	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	10/17/96	*			
21 NCAC 69 .0104	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	09/19/96			11:14 NCR 1156	
21 NCAC 69 .0201	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	09/19/96			11:14 NCR 1156	
21 NCAC 69 .0202	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	09/19/96	*		11:14 NCR 1156	
21 NCAC 69 .0301	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	09/19/96			11:14 NCR 1156	
21 NCAC 69 .0302	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	09/19/96			11:14 NCR 1156	
21 NCAC 69 .0303	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Object	09/19/96	*		11:16 NCR 1291	
21 NCAC 69 .0304	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	10/17/96	*		11:16 NCR 1291	
21 NCAC 69 .0305	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Object	09/19/96	*		11:16 NCR 1291	
21 NCAC 69 .0306	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	10/17/96	*		11:16 NCR 1291	
21 NCAC 69 .0307	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Object	09/19/96	*		11:16 NCR 1291	
21 NCAC 69 .0308	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	10/17/96	*		11:16 NCR 1291	
21 NCAC 69 .0401	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	09/19/96	*		11:14 NCR 1156	
21 NCAC 69 .0402	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Object	09/19/96	*		11:16 NCR 1291	
21 NCAC 69 .0501	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200 11:08 NCR 523	*	Approve	10/17/96	*		11:16 NCR 1291	
STATE PERSONNEL COMMISSION										
25 NCAC 01D .2501		11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/19/96	*		11:14 NCR 1156	
25 NCAC 01D .2503		11:13 NCR 1062	11:19 NCR 1429	*						

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25 NCAC 01D .2504		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2505		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2507		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2508		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2509		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2511		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2513		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2514		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2516		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01E .0705	11:14 NCR 1110		11:19 NCR 1434	*						
25 NCAC 01E .0707	11:14 NCR 1110		11:19 NCR 1434	*						
25 NCAC 01E .0709	11:14 NCR 1110		11:19 NCR 1434	*						
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	
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	

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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	Approve	08/15/96				
19A NCAC 06B.0402	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0403	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0404	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0405	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0406	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0407	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0408	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0409	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0410	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0411	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B.0412	10:23 NCR 2957		11:05 NCR 279	S	Object	08/15/96				

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19A NCAC 06B .0413	10:23 NCR 2957		11:05 NCR 279	S	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 06B .0414	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0415	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0416	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0417	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
Highways, Division of										
19A NCAC 02D .0425					Approve	08/15/96			11:12 NCR 1006	
19A NCAC 02D .1101	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1102	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96	*		11:14 NCR 1156	
					Approve	09/19/96				
19A NCAC 02D .1103	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1104	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1105	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1106	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1107	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1108	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96	*		11:14 NCR 1156	
					Approve	09/19/96				
19A NCAC 02D .1109	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1110	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1111	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96	*		11:14 NCR 1156	
					Approve	09/19/96				
19A NCAC 02D .1112	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
Motor Vehicles, Division of										
19A NCAC 03E .0501	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0502	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0510	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0511	11:01 NCR 13		11:07 NCR 416	*	Approve	10/17/96	*		11:16 NCR 1291	
19A NCAC 03E .0512	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0513	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0514	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	

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19A NCAC 03E .0515	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0518	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03E .0519	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96			11:14 NCR 1156	
19A NCAC 03E .0522	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*		11:14 NCR 1156	
19A NCAC 03I .0100	11:19 NCR 1413									
19A NCAC 03I .0200	11:19 NCR 1413									
19A NCAC 03I .0300	11:19 NCR 1413									
19A NCAC 03I .0400	11:19 NCR 1413									
19A NCAC 03I .0500	11:19 NCR 1413									
19A NCAC 03I .0600	11:19 NCR 1413									
19A NCAC 03I .0700	11:19 NCR 1413									
19A NCAC 03I .0800	11:19 NCR 1413									
19A NCAC 03J .0101	11:11 NCR 882									
19A NCAC 03J .0102	11:11 NCR 882		11:17 NCR 1340	*						
19A NCAC 03J .0201	11:11 NCR 882									
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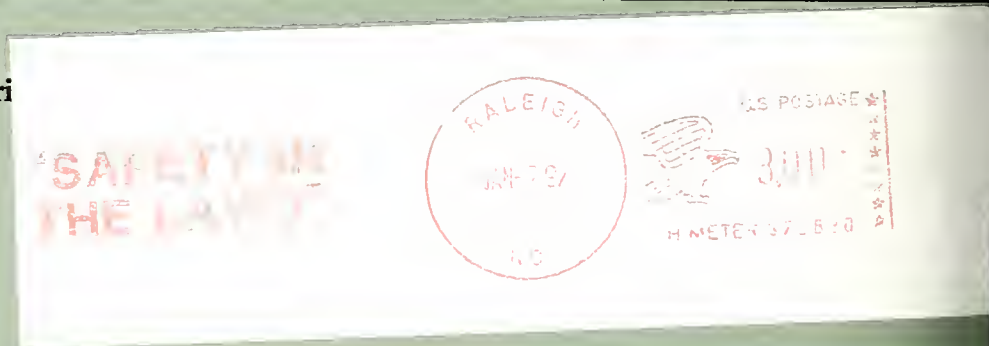
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