# NORTH CAROLINA REGISTER 

## VOLUME 12 • ISSUE 18 • Pages 1692-1748 March 16, 1998 <br> IN THIS ISSUE <br> Voting Rights fetters <br> Athletic Trainer examithers, Board of <br> Environment and Darural Resources <br> Health and Human Services <br> Justice <br> Transportation <br> Rules Review Commission <br> Contested Case Decisions

## PUBLISHED BY

The Office of Administrative Hearings
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For those persons that have questions or concerns regarding the Administrative Procedure Act or any of components, consult with the agencies below. The bolded headings are typical issues which the giv agency can address, but are not inclusive.
Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.
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## Rule Review and Legal Issues

Rules Review Commission 1307 Glenwood Ave., Suite 159
(919) 733-2721
Raleigh, North Carolina 27605
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contact: Joe DeLuca Jr., Staff Director Counsel Bobby Bryan, Staff Attorney

## Legislative Process Concerning Rule Making

Joint Legislative Administrative Procedure Oversight Committee 545 Legislative Office Building 300 North Salisbury Street (919) 733-2578
Raleigh, North Carolina 27611
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marys@ms.ncga.state.nc.us

## County and Municipality Government Questions or Notification

NC Association of County Commissioners
215 North Dawson Street
Raleigh, North Carolina 27603
contact: Jim Blackbum or Rebecca Troutman
NC League of Municipalities
215 North Dawson Street
Raleigh, North Carolina 27603
contact: Paula Thomas
(919) 715-2893
(9) 715

## NORTH CAROLINA

## REGISTER

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Volume 12, Issue 18<br>Pages 1692-1748

March 16, 1998

This issue contains documents officially filed through February 23, 1998.

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EXPLANATION OF THE PUBLICATION SCHEDULE
controlling. Time is computed according to 26 NCAC 2C . 0302 and the Rules of Civil Procedure, Rule 6.
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

NOTICE OF RULE-MAKING PROCEEDINGS
END OF COMMENT PERIOD TO A NOTICE OF rule-making pro-ceedings: This date is 60 days from the issue date. An agency shall accept comments on the notice of rulemaking 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 rulemaking proceedings was published.

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

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

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;
text of proposed rules;
text of permanent rules text of permanent rules approved
by the Rules Review Commission; notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;

Executive Orders of the Governor; 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; orders of the Tax Rezpiew Board issued under G.S. 105-241.2; and other information the Codifier of Rules detcrmines to be helpful to the public.

## GENERAL

## FILING DEADLINES

NOTICE OF TEXT
EARLIEST DATE FOR PUBLIC IIEARING: hearing date shall be at least 15 days the date a notice of the hearing is publis

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deadline to submit To THE R review commission: The Commis shall review a rule submitted to it o before the twentieth of a month by the day of the next month.

N gill do ava gallvisiog liskid REGULAR SESSION OF THE GENE assembly: This date is the first legisl day of the next regular session of General Assembly following approval o rule by the Rules Review Commission. G.S. 150B-21.3, Effective date of rule

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

U.S. Department of Justice<br>Civil Rights Division

EJ:DHH:NT:tlb<br>DJ 166-012-3<br>97-3855

Voting Section<br>PO. Box 66128<br>Washington, D.C. 20035-6128

February 5, 1998

Robert C. Cogswell, Jr., Esq.
City Attorney
P.O. Box 1513

Fayetteville, North Carolina 28302-1513

Dear Mr. Cogswell:
This refers to the increase in salary for the mayor, mayor pro-tem, and city councilmembers for the City of Fayetteville in Cumberland County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on December 8, 1997.

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

Sincerely,

Elizabeth Johnson
Chief, Voting Section

# U.S. Department of Justice 

Civil Rights Division

EJ:DHC:TGL:emr
DJ 166-012-3
98-0400

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

February 13, 1998

Michael Crowell, Esq.
Tharrington, Smith
P.O. Box 1151

Raleigh, North Carolina 27602-1151

Dear Mr. Crowell:

This refers to the change to staggered terms for the election of county commissioners and the implementation schedule for Cleveland County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on February 4, 1998; supplemental information was received on February 10, 1998.

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

Since the Section 5 status of this change is a matter before the court in Campbell v. Cleveland County Board of Commissioners, No. 94-0845-SSS (D.D.C.), we are providing a copy of this letter to the court and counsel of record in that case.

Sincerely,

Elizabeth Johnson
Chief, Voting Section
cc: The Honorable Stanley Sporkin
United States District Judge
Counsel of Record


#### Abstract

A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed nule 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 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES

## CHAPTER 26 - MEDICAL ASSISTANCE

$N_{0}$Totice of Rule-making Proceedings is hereby given by the DHHS-Division of Medical Assistance 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: 10 NCAC 26B.0103. Other nules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 108A-25(b); 108A-54
Statement of the Subject Matter: Home health provider agreements require that home health agencies be Medicare cerified to participate in Medicaid.

Reason for Proposed Action: The term used in this nule is "certified" but not "Medicare certified." Since North Carolina does not have a separate Medicaid certification, the term "certified" refers to Medicare certification. As a technical amendment, Medicare is being inserted to read "Medicare certified."

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

## TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

## CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

$N^{2}$Totice of Rule-making Proceedings is hereby given by the North Carolina Wildlife Resources Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:

15A NCAC 10D; 15A NCAC 10H .0300. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: 15A NCAC 10D - G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113305; 113-306
15A NCAC 10H .0300-G.S. 113-134; 113-272.5; 113-274; 113-292

Statement of the Subject Matter: 15A NCAC 10D - Use of non-highway licensed vehicles on state game lands.

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\text { 15A NCAC } 10 \mathrm{H} .0300 \text { - Holding wildlife in captivity. }
$$

Reason for Proposed Action: $15 A$ NCAC 10D - To set/amend game land regulations for use of non-highway licensed vehicles on state game lands necessary to manage and conserve the resource and provide for the orderly and efficient operation of game lands. The Wildlife Resources Commission may adopt this rule as a temporary rule pursuant to S.L. 1997-0403 following this abbreviated notice. 15A NCAC 10H .0300-To set/amend the rule holding wildlife in captivity regarding possession and transportation of box trapped rabbits which is necessary to manage and conserve the resource. The Wildlife Resources Commission may adopt this rule as a temporary rule pursuant to S.L. 1997-0403 following this abbreviated notice.

Comment Procedures: Written comments must be delivered or mailed to the NC Wildlife Resources Commission, 512 N . Salisbury St., Raleigh, NC 27604-1188.

## TITLE 19A - DEPARTMENT OF TRANSPORTATION

## CHAPTER 2 - DIVISION OF HIGHWAYS

## SUBCHAPTER 2D - HIGHWAY OPERATIONS

$N^{2}$Totice of Rule-making Proceedings is hereby given by the North Carolina Department of Transportation - Division of Highways 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 rulemaking proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 19A NCAC 02D .0415. Other rules may be proposed in the
course of the rule-making process.
Authority for the rule-making: G.S. 136-18(5)
Statement of the Subject Matter: Rule states times and conditions for drawbridges to open in North Carolina.

Reason for Proposed Action: The City of Elizabeth City requested this schedule for the US 158 drawbridge over the Pasquotank River to alleviate traffic congestion. The U.S. Coast Guard concurred. The N.C. Division of Highways Bridge Maintenance staff requested the rule change.

Comment Procedures: Any interested person may submit written comments on the proposed amendment by mailing the comments to Emily Lee, NC Department of Transporation, PO Box 25201, Raleigh, NC 27611.

## CHAPTER 3 - DIVISION OF MOTOR VEHICLES

SUBCHAPTER 3I - RULES AND REGULATIONS GOVERNING THE LICENSING OF COMMERCIAL DRIVER TRAINING SCHOOLS AND INSTRUCTIONS

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 031.0202-.0203, .0501-.0503. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 20-322 through 20-324
Statement of the Subject Matter: Rules list conditions under which commercial driver training schools must operate.

Reason for Proposed Action: Pursuant to G.S. 20-324, the renewal time for commercial driver training school licenses has been lengthened from 1 to 2 years. Application fee has been increased from $\$ 40.00$ to $\$ 80.00$. This change was effective July 1, 1997.

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

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

## TITLE 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES

NTotice is hereby given in accordance with G.S. 150B-21.2 that the DHHS-Division of Medical Assistance intends to amend rules cited as 10 NCAC 26 H .0102 and .0211. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: August 1, 1998
A Public Hearing will be conducted at 1:30 p.m. on March 31, 1998 at the Kirby Building, Room 132, 1985 Umstead Drive, Raleigh, NC 27603.

Reason for Proposed Action: This action is necessary to reduce future growth rate in the Medicaid program as mandated by the General Assembly. This change also allows the Division to calculate annual inpatient hospital inflation based on lower of current method or amount allowed by Medicare.

Comment Procedures: Written comments concerning this rule-making action must be submitted by May 15, 1998 to Portia W. Rochelle, Rule-making Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.

Fiscal Note: These Rules do affect the expenditures or revenues of state or local government funds. These Rules do have a substantial economic impact of at least five million dollars $(\$ 5,000,000)$ in a 12-month period.

## CHAPTER 26 - MEDICAL ASSISTANCE

## SUBCHAPTER 26H - RELMBURSEMENT PLANS

## SECTION . 0100 - REIMBURSEMENT FOR NURSING FACILITY SERVICES

. 0102 RATE SETTING METHODS
(a) A rate for skilled nursing care and a rate for intermediate nursing care shall be determined annually for each facility to be effective for dates of service for a twelve month period beginning each October 1. Each patient shall be classified in one of the two categories depending on the services needed. Rates are derived from either filed, desk, or field audited cost reports for a base year period to be selected by the state. Rates developed from filed cost reports may be
retroactively adjusted if there is found to exist more than a two percent difference between the filed direct per diem cost and either the desk audited or field audited direct per diem cost for the same reporting period. Cost reports shall be filed and audited under provisions set forth in 10 NCAC 26 H .0104. The minimum requirements of the 1987 OBRA are met by these provisions.
(b) Each prospective rate consists of two components: a direct patient care rate and an indirect rate computed and applied as follows:
(1) The direct rate shall based on the Medicaid cost per day incurred in the following cost centers:
(A) Nursing,
(B) Dietary or Food Service,
(C) Laundry and Linen,
(D) Housekeeping,
(E) Patient Activities,
(F) Social Services,
(G) Ancillary Services (includes several cost centers).
(2) To compute each facility's direct rate for skilled care and intermediate care, the direct base year cost per day shall be increased by adjustment factors for price changes as set forth in Rule .0102 (c).
(A) A facility's direct rates cannot exceed the maximum rates set for skilled nursing or intermediate nursing care. However, the Division of Medical Assistance may negotiate direct rates that exceed the maximum rate for ventilator dependent patients. Payment of such special direct rates shall be made only after specific prior approval of the Division of Medical Assistance.
(B) A standard per diem amount shall be added to each facility's direct rate, including facilities that are limited to the maximum rates, for the projected statewide average per diem costs of the salaries paid to replacement nurse aides for those aides in training and testing status and other costs deemed by HCFA to be facility costs related to nurse aide training and testing. The standard amount shall be based on the product of multiplying the average hourly wage, benefits, and payroll taxes of replacement nurse aides by the number of statewide hours required for training and testing of all aides divided by the projected total patient days.
(3) If a facility did not report any costs for either skilled or intermediate nursing care in the base year, the state average direct rate shall be assigned as determined in Rule .0102(d) of this Section for the new type of care.
(4) The direct maximum rates shall be developed by ranking base-year per diem costs from the lowest to the highest in two separate arrays, one for skilled care and one for intermediate care. Each array shall be weighted by total patient days. The per diem cost at the 80th percentile in each array shall be selected as the base for the maximum rate. The base cost in each array shall be adjusted for price changes as set forth in Rule .0102(c) of this Section to determine the maximum statewide direct rates for skilled care and intermediate care.
(5) Effective October 1, 1990, the direct rates shall be adjusted as follows:
(A) A standard per diem amount shall be added to each facility's skilled and intermediate rate to account for the combined expected average additional costs for the continuing education of nurses' aides; the residents' assessments, plans of care, and charting of nursing hours for each patient; personal laundry and hygiene items; and other non-nursing staffing requirements. The standard amount is equal to the sum of:
(i) the state average annual salary, benefits, and payroll taxes for one registered nurse position multiplied by the number of facilities in the state and divided by the state total of patient days;
(ii) the total costs of personal laundry and hygiene items divided by the total patient days as determined from the FY 1989 cost reports of a sample of nursing facilities multiplied by the annual adjustment factor described in Rule .0102(c)(4)(B) of this Section; and
(iii) the state average additional pharmacy consultant costs divided by 365 days and then divided by the average number of beds per facility.
(B) A standard amount shall be added to the intermediate rate of facilities that were certified only for intermediate care prior to October 1, 1990. This amount will be added to account for the additional cost of providing eight hours of RN coverage and 24 hours of licensed nursing coverage. The standard amount is equal to the state average hourly wage, benefits and payroll taxes for a registered nurse multiplied by the 16 additional hours of required licensed nursing
staff divided by the state average number of beds per nursing facility. A lower amount will be added to a facility only if it can be determined that the facility's intermediate rate prior to October 1, 1990 already includes licensed nursing coverage above eight hours per day. The add-on amount in such cases shall be equal to the exact additional amount required to meet the licensed nursing requirements.
(C) The standard amounts in Subparagraphs (2)(B), (5)(A), and (5)(B) of this Rule, will be retained in the rates of subsequent years until the year that the rates are derived from the actual cost incurred in the cost reporting year ending in 1991 which shall reflect each facility's actual cost of complying with all OBRA '87 requirements.
(6) Upon completion of any cost reporting year any funds received by a facility from the direct patient care rates which have not been spent on direct patient care costs as defined herein shall be repaid to the State. This shall be applied by comparing a facility's total Medicaid direct costs with the combined direct rate payments received for skilled and intermediate care. Costs in excess of a facility's total prospective rate payments shall not be reimbursable.
(7) The indirect rate is intended to cover the following costs of an efficiently and economically operated facility:
(A) Administrative and General,
(B) Operation of Plant and Maintenance,
(C) Property Ownership and Use,
(D) Mortgage Interest.
(8) Effective for dates of service beginning October 1 , 1984 and ending September 30, 1985 the indirect rates shall be fourteen dollars and sixty cents ( $\$ 14.60$ ) for each SNF day of care and thirteen dollars and fifty cents (\$13.50) for each ICF day of care. These rates represent the first step in a two step transition process from the different SNF and ICF indirect rates paid in 1983-84 and the nearly equal indirect rates that shall be paid in subsequent years under this plan as provided in this Rule.
(9) Effective for dates of service beginning October 1 , 1985 and annually thereafter per diem indirect rates shall be computed as follows:
(A) The average indirect payment to all facilities in the fiscal year ending September 30, 1983 [which is thirteen dollars and two cents (\$13.02)] shall be the base rate.
(B) The base rate shall be adjusted for estimated price level changes from fiscal year 1983 through the year in which the rates shall apply in accordance with the procedure set forth in Rule .0102(c) of this Section to
establish the lCF per diem indirect rate.
(C) The lCF per diem indirect rate shall be multiplied by a factor of 1.02 to establish the SNF per diem indirect rate. This adjustment shall be made to recognize the additional administrative expense incurred in the provision of SNF patient care.
(10)

Effective for dates of service beginning October l, 1989, a standard per diem amount will be added to provide for the additional administrative costs of preparing for and complying with all nursing home reform requirements. The standard amount shall be based on the average annual salary, benefits and payroll taxes of one clerical position multiplied by the number of facilities in the state divided by the state total of patient days.
(11) Effective for dates of service beginning October 1, 1990, the indirect rate will be standard for skilled and intermediate care for all facilities and shall be determined by applying the 1990-91 indirect cost adjustment factors in Rule .0102(c) of this Section to the indirect rate paid for SNF during the year beginning October 1, 1989. Thereafter the indirect rate shall be adjusted annually by the indirect cost adjustment factors.
(c) Adjustment factors for changes in the price level. The rate bases established in Rule .0102(b), shall be adjusted annually to reflect increases or decreases in prices that are expected to occur from the base year to the year in which the rate applies. The price level adjustment factors shall be computed using aggregate base year costs in the following manner:
(1) Costs shall be separated into direct and indirect cost categories.
(2) Costs in each category shall be accumulated into the following groups:
(A) labor,
(B) other,
(C) fixed.
(3) The relative weight of each cost group shall be calculated to the second decimal point by dividing the total costs of each group (labor, other, and fixed) by the total costs for each category (direct and indirect).
(4) Price adjustment factors for each cost group shall be established as follows:
(A) Labor. The expected annual percentage change in direct labor costs as determined from a survey of nursing facilities to determine the average hourly wages for RNs, LPNs, and aides paid in the current year and projected for the rate year. The percentage change for indirect labor costs shall be based on the projected average hourly wage of N.C. service workers.
(B) Other. The expected annual change in the
implicit price deflator for the Gross National Product as provided by the North Carolina Office of State Budget and Management.
(C) Fixed. No adjustment shall be made for this category, thus making the factor zero.
(D) The weights computed in (c)(3) of this Rule shall be multiplied times the percentage change computed in $(\mathrm{c})(4)(\mathrm{A}),(\mathrm{B})$ and $(\mathrm{C})$ of this Rule. These products shall be added separately for the direct and indirect categories.
(E) The sum computed for each category in (c)(4)(D) of this Rule shall be the price level adjustment factor for that category of rates (direct or indirect) for the coming fiscal year.
(F) However, effective October 1.1997 for fiscal year 1998 the price level adjustment factors calculated in Part (c)(4)(E) of this Rule shall be adjusted to $2.04 \%$ for direct rates and $1 \%$ for indirect rates. in order to produce fair and reasonable reimbursement of efficient operators. for the rate period beginning October 1, 1991 through September 30 , 1992 the foreeast of the N.C. Service Wages pereent applied to the 1991-92 Inpatient Hospital and Intermediate Care Facility for the Mentally Retartect rates shall be applied to the Labor component weight computedin (c)(4)(A) of this Rule-
(G) For the rate period beginning Oetober 1 , 1991-through September 30, 1992 the direet adjustment factor determined under (e)(4) of this Rute shall be applied to the direet rate adjustments determined unter (b)(2), (b) $(5)(\mathrm{A})$ and $(\mathrm{b})(5)(\mathrm{B})$ of this Rule.
(d) The skilled and intermediate direct patient care rates for new facilities shall be established at the lower of the projected costs in the provider's Certificate of Need application inflated to the current rate period or the average of industry base year costs and adjusted for price changes as set forth in Rule .0102(c) of this Section. A new facility receives the indirect rate in effect at the time the facility is enrolled in the Medicaid program. In the event of a change of ownership, the new owner receives the same rate of payment assigned to the previous owner.
(e) Each out-of-state provider shall be reimbursed at the lower of the appropriate North Carolina maximum rate or the provider's payment rate as established by the State in which the provider is located. For patients with special needs who must be placed in specialized out-of-state facilities, a payment rate that exceeds the North Carolina maximum rate may be negotiated.
(f) Specialized Service Rates:
(1) Head Injury Intensive Rehabilitation Services.
(A) A single all-inclusive prospective per diem
rate combining both the direct and indirect cost components may be negotiated for nursing facilities that specialize in providing intensive rehabilitation services for head-injured patients. The rate may exceed the maximum rate applicable to other Nursing Facility services. A facility must specialize to the extent of staffing at least 50 percent of its Nursing Facility licensed beds for intensive head-injury rehabilitation services. The facility must also be accredited by the Commission for the Accreditation of Rehabilitation Facilities (CARF).
(B) A facility's initial rate is negotiated based on budget projections of revenues, allowable costs, patient days, stafting and wages. A complete description of the facility's medical program must also be provided. Rates in subsequent years are determined by applying the average annual skilled nursing care adjustment factors to the rate in the previous year, unless either the provider or the State requests a renegotiation of the rate within 60 days of the rate notice.
(C) Cost reports for this service must be filed in accordance with the rules in 10 NCAC 26 H .0104 , but there will be no cost settlements for any differences between cost and payments. Since it is appropriate to include all financial considerations in the negotiation of a rate, a provider shall not be eligible to receive separate payments for return on equity as defined in 10 NCAC 26 H .0105.
(2) Ventilator Services.
(A) Ventilator services approved for nursing facilities providing intensive services for ventilator dependent patients shall be reimbursed at higher direct rates as described in Subparagraph (b)(2)(A) of this Rule. Ventilator services shall be paid by combining the enhanced direct rate with the nursing facility indirect rate determined under Subparagraph (b)(11) of this Rule.
(B) A facility's initial direct rate shall be negotiated based on budget projections of revenues, allowable costs, patient days, staffing and wages. Rates in subsequent years shall be determined by applying the nursing facility direct adjustment factor to the previous 12 month cost report direct cost.
(C) Cost reports and settlements for this service shall be in accordance with 10 NCAC 26 H .0104 and return on equity shall be allowed as defined in 10 NCAC 26 H .0105.
(D) A single all-inclusive prospective per diem rate combining both the direct and indirect
cost components may be negotiated for nursing facilities that specialize in providing intensive services for ventilator-dependent patients. The rate may exceed the maximum rate applicable to other Nursing Facility services. For ventilator services, the only facilities that shall be eligible for a combined single rate are small freestanding facilities with fewer than 21 Nursing Facility Beds and that serve only patients requiring ventilator services. Ventilator services provided in larger facilities shall be reimbursed at higher direct rates as described in Subparagraph (b) (2)(A) of this Rule.
(g) Effective October 1, 1994 the bloodborne pathogen cost required under Title 29, Part 1910, Subpart 2, Section 1910.0130 of the Code of Federal Regulations shall be included in the nursing facility's direct cost reimbursement. The initial per diem amount shall be set at the lower of the actual or eightieth percentile of bloodbome pathogen costs incurred in fiscal year 1993.
(h) Religious Dietary Considerations.
(1) A standard amount may be added to a nursing facility's skilled and intermediate care rates, that may exceed the maximum rates determined under Paragraph (b) of this Rule, for special dietary need for religious reasons.
(2) Facilities must apply to receive this special payment consideration. In applying, facilities must document the reasons for special dietary consideration for religious reasons and must submit documentation for the increased dietary costs for religious reasons. Fac lities must apply for this special benefit each time rates are determined from a new data base. Fifty or more percent of the patients in total licensed beds must require religious dietary consideration in order for the facility to qualify for this special dietary rate add-on.
(3) The special dietary add-on rate may not exceed more than a 30 percent increase in the average skilled and intermediate care dietary rates calculated for the 80th percentile of facilities determined under Subparagraph (b)(4) of this Rule and adjusted for annual inflation factors. This maximum add-on will be adjusted by the direct rate inflation factor each year until a new data base is used to determine rates.
(4) This special dietary add-on rate shall become part of the facility's direct rates to be reconciled in the annual cost report settlement.
(i) Effective October 1, 1994 nursing facilities shall be responsible for providing medically necessary transportation for residents, unless ambulance transportation is needed. Reimbursement shall be included in the nursing facility's direct cost. The initial amount shall be based on a per diem fee derived from estimated industry cost for transportation and associated salaries.
(j) This reimbursement limitation shall become effective in accordance with the provisions of G.S. 108A-55(c).

Authority G.S. 108A-25(b); 108A-54; 108A-55; 29 C.F.R. 1910, Subpart Z; 42 C.F.R. 447, Subpart C; S.L. 1991, c. 689, s. 95.

## SECTION . 0200 - HOSPITAL INPATIENT REIMBURSEMENT PLAN

. 0211 DRG RATE SETTING METHODOLOGY
(a) Diagnosis Related Groups is a system of classification for hospital inpatient services. For each hospital admission, a single DRG category shall be assigned based on the patient's diagnoses, age, procedures performed, length of stay, and discharge status. For claims with dates of services prior to January 1, 1995 payments shall be based on the reimbursement per diem in effect prior to January 1, 1995. However, for claims related to services where the admission was prior to January 1, 1995 and the discharge was after December 31, 1994, then the greater of the total per diem for services rendered prior to January 1, 1995, or the appropriate DRG payment shall be made.
(b) The Division of Medical Assistance (Division) shall use the DRG assignment logic of the Medicare Grouper to assign individual claims to a DRG category. Medicare revises the Grouper each year in October. The Division shall install the most recent version of the Medicare Grouper implemented by Medicare.

The initial DRG in Version 12 of the Medicare Grouper, related to the care of premature neonates and other newborns numbered 385 through 391 , shall be replaced with the following classifications:

385 Neonate, died or transferred, length of stay less than 3 days

801 Birthweight less than 1,000 grams
802 Birthweight 1,000-1,499 grams
803 Birthweight 1,500-1,999 grams
804 Birthweight $>=2,000$ grams, with Respiratory Distress Syndrome

805 Birthweight $>=2,000$ grams, premature with major problems

810 Neonate with low birthweight diagnosis, age greater than 28 days at admission

389 Birthweight $>=2,000$ grams, full term with major problems

390 Birthweight $>=2,000$ grams, full term with other
problems or premature without major problems
391 Birthweight $>=2,000$ grams, full term without complicating diagnoses
(c) DRG relative weights are a measure of the relative resources required in the treatment of the average case falling within a particular DRG category. The average DRG weight for a group of services, such as all discharges from a particular hospital or all North Carolina Medicaid discharges, is known as the Case Mix lndex (CM1) for that group.
(1) The Division shall establish relative weights for each utilized DRG based on a recent data set of historical claims submitted for Medicaid recipients. Charges on each historical claim shall be converted to estimated costs by applying the cost conversion factors from each hospital's submitted Medicare cost report to each billed line item. Cost estimates are standardized by removing direct and indirect medical education costs at the appropriate rates for each hospital.
(2) Relative weights shall be calculated as the ratio of the average cost in each DRG to the overall average cost for all DRGs combined. Prior to calculating these averages, low statistical outlier claims shall be removed from the data set, and the costs of claims identified as high statistical outliers shall be capped at the statistical outlier threshold. The Division of Medical Assistance shall employ criteria for the identification of statistical outliers which are expected to result in the highest number of DRGs with statistically stable weights.
(3) The Division of Medical Assistance shall employ a statistically valid methodology to determine whether there are a sufficient number of recent claims to establish a stable weight for each DRG. For DRGs lacking sufficient volume, the Division shall set relative weights using DRG weights generated from the North Carolina Medical Data Base Commission's discharge abstract file covering all inpatient services delivered in North Carolina hospitals. For DRGs in which there are an insufficient number of discharges in the Medical Data Base Commission data set, the Division sets relative weights based upon the published DRG weights for the Medicare program.
(4) Relative weights shall be recalculated whenever a new version of the DRG Grouper is installed by the Division of Medical Assistance. When relative weights are recalculated, the overall average CMI will be kept constant.
(d) The Division of Medical Assistance shall establish a unit value for each hospital which represents the DRG payment rate for a DRG with a relative weight of one. This rate is established as follows:
(1) Using the methodology described in Paragraph (c)
of this Rule, the Division shall estimate the cost less direct and indirect medical education expense on claims for discharges occurring during calendar year 1993, using cost reports for hospital fiscal years ending during that period or the most recent cost report available. All cost estimates are adjusted to a common 1994 fiscal year and inflated to the 1995 rate year. The average cost per discharge for each provider is calculated.
(2) Using the DRG weights effective on January 1, 1995, a CMI is calculated for each hospital for the same population of claims used to develop the cost per discharge amount in Subparagraph (d)(1) of this Rule. Each hospital's average cost per discharge is divided by its CMl to get the cost per discharge for a service with a DRG weight of one.
(3) The amount calculated in Subparagraph (d)(2) of this Rule is reduced by $7.2 \%$ to account for outlier payments.
(4) Hospitals are ranked in order of increasing CMI adjusted cost per discharge. The DRG Unit Value for hospitals at or below the 45th percentile in this ranking is set using $75 \%$ of the hospital's own adjusted cost per discharge and $25 \%$ of the cost per discharge of the hospital at the 45 th percentile. The DRG Unit Value for hospitals ranked above the 45th percentile is set at the cost per discharge of the 45th percentile hospital. The DRG unit value for new hospitals and hospitals that did not have a Medicaid discharge in the base year is set at the cost per discharge of the 45 th percentile hospital.
(5) The hospital unit values calculated in Subparagraph (d)(4) of this Rule shall be updated annually by the National Hospital Market Basket Index as published by Medicare and applied to the most recent actual and projected cost data available from the North Carolina Office of State Budget and Management. Effective October 1, 1997, for fiscal vear ended September 30, 1998 only the hospital unit values calculated in Subparagraph (d)(4) of this Rule shall be updated by the lower of the National Hospital Market Basket Index as published by Medicare and applied to the most recent actual and projected cost data available from the North Carolina Office of State Budget and Management or the Medicare approved Inpatient Prospective Payment update factor.
(6) Allowable and reasonable costs will be reimbursed in accordance with the provisions of the Medicare Provider Reimbursement Manual referred to as HCFA Publication 15-1.
(e) Reimbursement for capital expense is included in the DRG hospital rate described in Paragraph (d) of this Rule.
(f) Hospitals operating Medicare approved graduate medical education programs shall receive a DRG payment rate adjustment which reflects the reasonable direct and indirect costs of operating those programs.
(1) The Division defines reasonable direct medical education costs consistent with the base year cost per resident methodology described in 42 CFR 413.86. The ratio of the aggregate approved amount for graduate medical education costs at 42 CFR 413.86 (d) (1) to total reimbursable costs (per Medicare principles) is the North Carolina Medicaid direct medical education factor. The direct medical education factor is based on information supplied in the 1993 cost reports and the factor will be updated annually as soon as practicable after July 1 based on the latest cost reports filed prior to July 1.
(2) The North Carolina Medicaid indirect medical education factor is computed by the following formula:

$$
1.89\left((1+R)^{0.405}-1\right)
$$

where $R$ equals the number of approved full time equivalent residents divided by the number of staffed beds, not including nursery beds. The indirect medical education factor will be updated annually as soon as practicable after July 1 based on statistics contained in the latest cost reports filed prior to July 1.
(3) Hospitals operating an approved graduate medical education program shall have their DRG unit values increased by the sum of the direct and indirect medical education factors.
(g) Cost outlier payments are an additional payment made at the time a claim is processed for exceptionally costly services. These payments shall be subject to retrospective review by the Division of Medical Assistance, on a case-by-case basis. Cost Outlier payments may be reduced if and to the extent that the preponderance of evidence on review supports a determination that the associated cost either exceeded the costs which must be incurred by efficiently and economically operated hospitals or was for services that were not medically necessary or for services not covered by the North Carolina Medical Assistance program.
(1) A cost outlier threshold shall be established for each DRG at the time DRG relative weights are calculated, using the same information used to establish those relative weights. The cost threshold is the greater of twenty-five thousand dollars $(\$ 25,000)$ or mean cost for the DRG plus 1.96 standard deviations.
(2) Charges for non-covered services and services not reimbursed under the inpatient DRG methodology (such as professional fees) shall be deducted from total billed charges. The remaining billed charges are converted to cost using a hospital specific cost to charge ratio. The cost to charge ratio excludes medical education costs.
(3) If the net cost for the claim exceeds the cost outlier threshold, a cost outlier payment is made at $75 \%$ of the costs above the threshold.
(h) Day outlier payments are an additional payment made
for exceptionally long lengths of stay on services provided to children under six at disproportionate share hospitals and children under age one at non-disproportionate share hospitals. These payments shall be subject to retrospective review by the Division of Medical Assistance, on a case-by-case basis. Day outlier payments may be reduced if and to the extent that the preponderance of evidence on review supports a determination that the associated cost either exceeded the costs which must be incurred by efficiently and economically operated hospitals or was for services that were not medically necessary or for services not covered by the North Carolina Medical Assistance program.
(1) A day outlier threshold shall be established for each DRG at the time DRG relative weights are calculated, using the same information used to establish the relative weights. The day outlier threshold is the greater of 30 days or the arithmetical average length of stay for the DRG plus 1.50 standard deviations.
(2) A day outlier per diem payment may be made for covered days in excess of the day outlier threshold at $75 \%$ of the hospital's payment rate for the DRG rate divided by the DRG average length stay.
(i) Services which qualify for both cost outlier and day outlier payments under this rule shall receive the greater of the cost outlier or day outlier payment.

Authority G.S. 108A-25(b); 108A-54; 108A-55; 42 C.F.R. 447, Subpart C.

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

## TITLE 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: Department of Health and Human Services

Rule Citation: 10 NCAC 49B.0315
Effective Date: March 1. 1998
Findings Reviewed by Beecher R. Gray: Approved
Authority for the rule-making: S.L. 1997-443

Reason for Proposed Action: P.L. 104-193 changed the face of welfare for all states. The most fundamental change was to establish the Temporary Assistance for Needy Families (TANF) Block Grant. In addition to other requirements, the law mandated stricter work participation rates than had been in place under prior law. For FY 1998, 75\% of families with two able-bodied parents must be working or participating in a countable work activity an average of 35 hours per week (or 55 hours if child care is provided). The participation rate was $50 \%$ under prior law. Further, states who fail to meet this two-parent participation rate stand to lose part of their Temporary Assistance for Needy Families (TANF) Block Grant. This could be approximately $\$ 15$ million in North Carolina although proposed federal regulations may soften this sanction slightly by stating the fiscal sanction would be in the same ratio that two-parent families are of the total Work First families. Two-parent families make up slightly over $2 \%$ of the State's total Work First families. So, in North Carolina, the sanction would be approximately $2 \%$ of the $5 \%$ fiscal sanction.

Comment Procedures: Anyone wishing to comment should contact Sharnese Ransome, APA Coordinator, NC Division of Social Services, 325 N. Salisbury St., Raleigh. NC 27603, phone 919-733-3055.

## CHAPTER 49 - AFDC

## SUBCHAPTER 49B - ELIGIBILITY DETERMINATION

## SECTION . 0300 - ELIGIBILITY FACTORS

## .0315 TWO-PARENT FAMILIES

(a) Assistance Units with two able-bodied parents shall be eligible to receive cash assistance only for months during which the parents meet the federal work participation requirement as described in Section 407 of Public Law 104193 which is hereby adopted by reference under G.S. 150B-

14(c).
(b) The parents shall verify as prescribed by the State, that they have satisfied the federal work requirement. If the assistance unit is otherwise eligible for a payment the payment shall be made within five calendar days of the date the county receives the parent's verification.
(c) The amount of the cash assistance payment shall be calculated for the month as it is for all other assistance units.

History Note: Authority G.S. 108A-25; S.L. 1997-443;
P.L. 107-193;

Temporary Adoption Eff. March 1. 1998.

## TITLE 12 - DEPARTMENT OF JUSTICE

Rule-making Agency: North Carolina Sheriffs' Standards Commission

Rule Citation: 12 NCAC 10B . 0103, .0206, .0304, . 0401 $.0403, .0406-.0409, .0701-.0702, .1101-.1104, .1301-$ .1304, .2002, . $2101-.2102, .2104-.2105$

Effective Date: March 1, 1998
Instructions on How to Demand a Public Hearing to amend rule cited as 12 NCAC 10B .0206: Anyone can demand a public hearing by contacting Barbara D. Moore, NC Sheriffs' Commission, 919-716-6460. However a public hearing was held on this subject matter on February 11, 1998. This rule was inadvertently left out of that process.

Reason for Proposed Action: 12 NCAC 10B . 0206 - adds the rule cite for telecommunicator training (.1300) so that summany suspensions of telecommunicator certification can be issued when a telecommunicator fails to complete the statemandated training. Also clarifies that only deputies and detention officers are required to comply with the in-service firearm requirement.

Findings For Temporary Rules Reviewed by Beecher R. Gray: Approved

## Authority for the rule-making: G.S. 17E-2

Reason for Proposed Action: 12 NCAC 10B . 0103 - Rule changes will: 1) define telecommunicator's date of appointment; 2) modify the definition of "department head" to include the chief administrator of communication centers; 3) expand the definition of dual certification to include telecommunicators; and 4) define telecommunicator.

12 NCAC 10B . 0206 - Adds the rule cite for telecommunicator training (.1300) so that summary suspensions of telecommunicator certification can be issued when a telecommunicator fails to complete the state-mandated training. Also clarifies that only deputies and detention officers are required to comply with the in-senvice firearm requirement.
12 NCAC 10B . 0304 - Rule changes the language from deputy sheriffs and detention officers to Justice Officers.
12 NCAC $10 B$. 0401 - Rule change will set out that telecommunicators under the control of the Sheriff must be certified and telecommunicators not under the Sheriff's control may be presented to the Division for certification.
12 NCAC 10B . 0402 - Rule change will set out when the probationary period for a telecommunicator will begin.
12 NCAC 10B . 0403 - Rule change will make rule applicable to telecommunicators.
12 NCAC $10 B$. 0406 - Rule change will allow for the reinstatement of a telecommuricator's certification.
12 NCAC 10B . 0407 - Rule change will allow for the cerrification of a former Sheriff as a telecommunicator.
12 NCAC 10B . 0408 - Rule change will allow for the waiver of compliance with this Rule, provided an individual holds certification in another capacity (to include telecommunicators) at the same agency and changes capacity (to include telecommunicators) with no break in service.
12 NCAC $10 B .0409$ - Rule change will allow for the waiver of compliance with this Rule, provided an individual holds cerification in another capacity at the same agency and changes capacity with no break in service.
12 NCAC 10B . 0701 - Rule change will substitute "justice officers" for "sheriffs' department personnel", so that it will apply to telecommunicators, as well as deputy sheriffs and detention officers.
12 NCAC 10B . 0702 - Rule change will set out administration matters concerning the Basic Telecomnunicator Course.
12 NCAC 10B . 1101 - .1104-Rule changes the program from Justice officers to Sheriffs, deputy sheriffs and detention officers.
12 NCAC 10B . 1300 - Rule adoption will set out Minimum Standards of Training for Telecommunicators as follows: 1) .1301-Purpose; 2) . 1302 - Basic Telecommunicator Course; 3) 1303 - Time Requirement for Completion of Basic Telecommunicator Course; and 4) . 1304 - Evaluation for Training Waiver.
12 NCAC 10B .2002, .2101, .2102, .2104, . 2105 - Rule changes will make in-service Firearms Training and Requalification mandated only for deputy sheriffs and detention officers. Language, if left alone, would require all Justice Officers (which would include telecommunicators) to qualify annually.

Comment Procedures: 12 NCAC 10B .0103, .0304, .0401 .0403,. $0406-.0409, .0701-.0702, .1101-.1104, .1301-$ .1304, .2002, .2101-.2102, .2104-. 2105 - These temporary rules have been through the rule-making process and comment
period and are pending review by the Rules Review Commission on March 19, 1998. 12 NCAC $10 B$. 0206 - This Rule was inadvertently omitted in the Notice of Text published on December 5, 1997. Publication of this temporary rule will serve as Notice of Text. Public comments must be submitted by April 15, 1998. Comments must be submitted to the agency contact person Barbara D. Moore, PO Drawer 629, Raleigh, NC 27602, 919-716-6460.

Fiscal Note: 12 NCAC $10 B .0206$ does not affect the expenditures or revenues of state or local government funds. 12 NCAC 10B . 0206 does not have a substantial economic impact of at least five million dollars $(\$ 5,000,000)$ in a 12 month period.

## CHAPTER I0 - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

## SUBCHAPTER IOB - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

## SECTION . 0100 - COMMIISSION ORGANIZATION AND PROCEDURES

## . 0103 DEFINITIONS

In addition to the definitions set forth in G.S. 17E-2, the following definitions apply throughout this Chapter, unless the context clearly requires otherwise:
(1) "Appointment" as it applies to a deputy sheriff means the date the deputy's oath of office is administerect, administered; and as it applies to a detention officer means either the date the detention officer's oath of office was administered, if applicable, or the detention officer's actual date of employment as reported on the Report of Appointment (Form $\mathrm{F}=4$ ) (Form $\mathrm{F}-4 \mathrm{~T}$ ) by the employing agency, whichever is eartier. earlier: and as it applies to a telecommunicator the telecommunicator's actual date of employment as reported on the Report of Appointment (Form F4T).
(2) "Convicted" or "Conviction" means and includes, for purposes of this Chapter, the entry of:
(a) a plea of guilty;
(b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established, and recognized adjudicating body, tribunal, or official, either civilian or military; or
(c) a plea of no contest, nolo contendere, or the equivalent.
(3) "Department Head" means the chief administrator of any criminal justice ageney. agency or communications center. Department head includes the sheriff or a designee formatly appointed in writing by the Department head.
(4) "Director" means the Director of the Sheriffs' Standards Division of the North Carolina Department of Justice.
(5) "Division" means the Sheriffs' Standards Division.
(6) "High School" means a school accredited as a high school by:
(a) the Department or Board of Education of the state in which the high school is located; or
(b) the regional accrediting body; or
(c) the state university of the state in which the high school is located.
(7) "Enrolled" means that an individual is currently actively participating in an on-going formal presentation of a commission-accredited basic training course which has not been concluded on the day probationary certification expires.
(10) "Misdemeanor" means those criminal offenses not classified by the North Carolina General Statutes, the United States Code, the common law, or the courts as felonies. Misdemeanor offenses are classified by the Commission as follows:
(a) "Class A Misdemeanor" means an act committed or omitted in violation of any common law, duly enacted ordinance or criminal statute of this statewhich is not classified as a Class B Misdemeanor pursuant to Sub-item (10)(b) of this Rule. Class A Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Specifically excluded from this grouping of "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions, or duly enacted
ordinances of an authorized governmental entity with the exception of the offense of driving while impaired which is expressly included herein as a class A misdemeanor, if the offender could have been sentenced for a term of not more than six months. Also specifically included herein as a Class A Misdemeanor is the offense of driving while impaired, if the offender was sentenced under punishment level three [G.S. 20179(i)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)]. Class "A" Misdemeanor shall also include acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance or criminal statute, of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of not more than six months.
(b) "Class B Misdemeanor" means an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state which is classified as a Class B Misdemeanor as set forth in the "Class B Misdemeanor Manual" as published by the North Carolina Department of Justice and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. Copies of the publication may be obtained from the North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602. There is no cost per manual at the time of adoption of this Rule. Class B Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, or criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Specifically excluded from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor does expressly include, either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six
months but not more than two years, and driving while license permanently revoked or permanently suspended. "Class B Misdemeanor" shall also include acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance, or criminal statute, of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years. Specifically excluded from the grouping of "Class B misdemeanors" committed or omitted in North Carolina prior to October 1, 1994 are motor vehicle or traffic offenses designated as being misdemeanors under Chapter 20 (motor vehicles) of the General Statutes of North Carolina, with the following exceptions: "Class B misdemeanors" committed or omitted in North Carolina prior to October 1, 1994 expressly include, either first or subsequent offenses of G.S. 20-138(a) or (b), G.S. 20-166 (duty to stop in the event of an accident), G.S. 20-138.1 (impaired driving) if the defendant was sentenced under punishment level one [G.S. 20-179(g)] or punishment level two [G.S. 20-179(h)] for the offense, and shall also include a violation of G.S. 20-28(b) [driving while license permanently revoked or suspended].
(12) "Dual Certification" means that a justice officer holds probationary, general, or grandfather certification in two or more of the following positions with the same agency: as both-a deputy sheriff-and-sheriff, a detention offfeer or tetecommunieator with the same employing ageney.
(a) deputy sheriff;
(b) detention officer:
(c) telecommunicator.
"Detention Officer" means any person performing responsibilities, either on a full-time, part-time, permanent or temporary basis, which include but are not limited to the control, care, and supervision of any inmates incarcerated in a county jail or other confinement facility under the direct supervision and management of the sheriff. "Detention Officer" shall also mean the administrator and the other custodial personnel of district confinement facilities as defined in G.S. 153A-219.
(14) "Deputy Sheriff" means any person who has been duly appointed and sworn by the sheriff and who is authorized to exercise the powers of arrest in
accordance with the laws of North Carolina.
(15)
"Telecommunicator" means any person performing responsibilities, either on a full-time part-time, permanent or temporary basis, for communication functions to include but not limited to receiving calls or dispatching for emergency and law enforcement services.
(15)(16) "Commission" as it pertains to criminal offenses shall mean a finding by the North Carolina Sheriffs' Education and Training Standards Commission or an administrative body, pursuant to the provisions of Chapter 150B of the North Carolina General Statutes, that a person performed the acts necessary to satisfy the elements of a specified criminal offense.
(16)(17) "Sworn Law Enforcement Position" means a position with a criminal justice agency of the United States, any state, or a political subdivision of any state which, by law, has general power of arrest held by a person who has successfully completed the North Carolina Basic Law Enforcement Training Course.

History Note: Filed as a Temporary Amendment Eff. October 1, 1994 for a period of 180 days or until the permanent rule becomes effective whichever is sooner;
Authority G.S. 17E-7;
Eff. January 1, 1989;
Amended Eff. January 1, 1996; March 1, 1995;
January 1, 1994; January 1, 1993;
Temporary Amendment Eff. March $1,1998$.

## SECTION . 0200 - ENFORCEMENT RULES

## . 0206 SUMMARY SUSPENSIONS: OR DENIALS

(a) The Commission may summarily suspend or deny the certification of a justice officer or instructor when, in the opinion of the Commission, the public health, safety, or welfare requires this emergency action of summary suspension or denial. The Commission has determined that the following conditions specifically affect the public health, safety, or welfare and therefore it, by and through the Director, shall utilize summary suspension or denial following a full investigation of the matter when:
(1) the applicant for certification or the certified justice officer has committed or been convicted of a violation of the criminal code which would require a permanent revocation or denial of certification; or
(2) the justice officer has failed to comply with the training requirements of 12 NCAC 10 B .0500 and $.0600, .0500, .0600$, and .1300 or
(3) the certified justice offieer deputy sheriff or detention officer fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12 NCAC 10B . 2100.
(b) Without limiting the application of Chapter 17E of the

General Statutes of North Carolina, a person who has had his or her certification summarily suspended or denied may not exercise the authority or perform the duties of a justice officer during the period of suspension or denial.

History Note: Authority G.S. 17E-8; 17E-9; 150B-3(c);
Eff. January 1, 1992;
Amended Eff. January 1, 1993;
Temporary Amendment Eff. March 1.1998.

## SECTION . 0300 - MINIMUM STANDARDS FOR EMPLOYMENT AND CERTIFICATION AS A JUSTICE OFFICER

## . 0304 MEDICAL EXAMINATION

(a) Each applicant shall complete the Commission's Medical History Statement Form (F-1) and shall be examined by a physician or surgeon licensed in North Carolina to help determine his/her fitness in carrying out the physical requirements of the position of deputy sheriff or detention offrer justice officer. The examining physician shall read the F-2A form attached to the Medical Examination Report Form (F-2) prior to beginning the examination. The examining physician shall record the results of the examination on the Medical Examination Report Form (F-2) and sign and date the form. The F-2 form shall be valid one year from the date the Medical Examination was completed and signed by the physician. The physical examination shall be conducted and the Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be completed prior to whichever of the following occurs first:
(1) the applicant's beginning the Detention Officer Certification Course, Course, the Telecommunicator Certification Course, or the Basic Law Enforcement Training Course; or
(2) the applicant's applying to the Commission for certification.
(b) Although not presently required by these Rules, it is recommended by the Commission that each candidate for the position of justice officer be examined by a licensed psychiatrist or clinical psychologist, or be administered a psychological evaluation test battery, to determine his/her suitability to perform the essential job functions of a justice officer.

History Note: Authority G.S. 17E-7;
Eff. Januaņ 1. 1989:
Amended Eff. Januan 1, 1996; January 1, 1993;
January 1, 1991; Januaṛ 1, 1990;
Temporan: Amendment Eff. March 1.1998.

## SECTION . 0400 - CERTIFICATION OF JUSTICE OFFICERS

## .040I CERTIFICATION OF PERSONNEL

(a) Every person performing the duties of a deputy sheriff or a detention officer as defined in 12 NCAC 10 B .0103 (13)
and (14), except those certified pursuant to 12 NEAC 108 $.0407,12$ NCAC 10B . 0407 ; and every person performing the duties of a telecommunicator as defined in 12 NCAC 10 B $.0103(15)$ and who is under the direct supervision and control of the Sheriff shall meet the certification requirements of this Subchapter.
(b) Every person performing the duties of a telecommunicator as defined in 12 NCAC 10B . 0103 (15) who is not under the direct supervision and control of the Sheriff, may be appointed to the Division by the employing entity for purposes of obtaining certification; and if so appointed, shall meet the requirements of this Subchapter.

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;
Amended Eff. February 1, 1998; January 1, 1996;
January 1, 1993; January 1, 1991;
Temporary Amendment Eff. March 1, 1998.

## . 0402 PROBATIONARY CERTIFICATION

All justice officers, except those transferred or reinstated pursuant to Rule .0406 shall serve a probationary certification period of one year; provided that the one year probationary period has not been extended for cause pursuant to 12 NCAC 10B .0303(c); .0503(a); or .0602(a). .0602(a) or . $1303(\mathrm{a})$. For certification as a deputy sheriff the probationary period begins on the date the officer took the Oath of Office. For certification as a detention offieer, officer or telecommunicator, the probationary period begins on the date the offreer person was appointed as a detention offieer. appointed.

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;
Amended Eff. January 1, 1996; January 1, 1994;
January 1, 1991;
Temporary Amendment Eff. March $1,1998$.

## . 0403 PROBATIONARY CERTIFICATION REQUIREMENT

(a) For certification as a justice officer, teputy sheriff or detention offreer, a Report of Appointment Depury Sheriff/Detention Officer (Form F-4) (Form F-4T) must be submitted to the Division. Report of Appointment forms must be submitted to the Division by the sheriff's-offree appointing agency no later than 10 days after the deputy sheriff has taken the Oath of Offree Office, or the detention officer or the telecommunicator has been appointed. The Division shall forward the justice officer's certification to the appointing agency. Offiee-
(b) No justice offreer deputy sheriff or detention officer probationary certification shall be issued by the Division prior to the applicant meeting the conditions set forth in this Paragraph. As an additional requirement for probationary certification, the applicant shall meet the following requirements:
(1) If the applicant for probationary certification is authorized to carry a firearm pursuant to the
provisions of 12 NCAC 10B .2104, the employing agency shall submit evidence of satisfactory completion of the employing agency's in-service firearms training and requalification program pursuant to 12 NCAC 10B . 2000 and .2100 ; or
(2) If the applicant for probationary certification is not authorized to carry a firearm pursuant to the provisions of 12 NCAC 10B .2104, the employing agency shall notify the Division, in writing, that the applicant is not authorized to carry a firearm.

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;
Amended Eff. February 1, 1998, January 1, 1996;
January 1, 1994; January 1, 1991;
Temporary Amendment Eff. March $1,1998$.

## . 0406 LATERAL TRANSFER/REINSTATEMENTS

(a) An officer meeting the requirements of 12 NCAC 10B .0103(9) may laterally transfer to an agency and be certified upon compliance with this Rule.
(b) The employing agency shall verify the applicant's certification status with the Division prior to submission of the application for certification as a justice officer.
(c) In order for an officer to be certified pursuant to this Rule, the employing agency shall submit to the Division, along with the Report of Appointment (F-4), the following documents:
(1) fingerprint cards and criminal history records checks as specified in 12 NCAC 10B .0303;
(2) the applicant's Medical History Statement (F-1) and Medical Examination Report (F-2) as specified in 12 NCAC 10B .0304;
(3) evidence of a negative result on a drug screen administered according to the specifications as outlined in 12 NCAC 10B .0301(6);
(4) a copy of the Oath of Office for applicants requesting certification as a deputy sheriff;
(5) evidence of satisfactory completion of the employing agency's in-service firearms training and requalification program pursuant to 12 NCAC 10B .2000 and .2100 ;
(6) documentary evidence of high school, college or university graduation to the employing-ageney. graduation. Documentary evidence consists of diplomas from recognized public schools or approved private high schools, colleges or universities which meet approval guidelines of the North Carolina Department of Public Instruction or a comparable out of state agency, agency. or documentary Documentary evidence of the attainment of satisfactory scores on any military high school equivalency examination will be acceptable as evidence of high school school graduation if verified by a true copy of the veteran's DD214.
(d) An officer whose certification has been suspended pursuant to 12 NCAC 10B .0204(b)(1) may have that certification reinstated provided that:
(1) the period of suspension has been one year or less; and
(2) the officer has successfully completed the basic training requirements as prescribed in 12 NCAC 10B .0500 or $.060 \theta .0600$ or .1300.
(e) Requirements of Paragraph (c) of this Rule are waived for officers whose certifications are reinstated pursuant to Paragraph (d) of this Rule.
(f) All information maintained pursuant to the requirements of this Rule shall be subject to all state and federal laws governing confidentiality.

## History Note: Authority G.S. 17E-4; 17E-7;

Eff. January 1, 1989;
Amended Eff. January 1, 1994; January 1, 1993;
January 1, 1992; July 1, 1990;
Temporary Amendment Eff. March 1.1998.

## . 0407 CERTIFICATION OF FORMER SHERIFF

(a) The Division shall issue a General Certification to any person as either a deputy sheriff sheriff or a detention offieer officer or telecommunicator who has previously served as an elected or appointed sheriff, if the person:
(1) applies to the Commission within one year of ceasing to serve as an elected or appointed sheriff; and
(2) has served as an elected or appointed sheriff for a minimum of eight years; and
(3) left the office of sheriff in good standing.
(b) In order for an officer to be certified under this Rule .0407, there must be:
(1) compliance with the Report of Appointment form requirement of Rule .0403;
(2) submitted to the Division, a copy of the Oath of Office for applicants requesting certification as a deputy sheriff; and
(3) submitted to the Division verification that the applicant meets the requirement of this Rule $.0407(a)(2)$.

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1991;
Amended Eff. January 1, 1996;
Temporary Amendment Eff. March $1,1998$.

## . 0408 VERIFICATION OF RECORDS TO DIVISION

(a) Prior to the probationary certification of each justice officer, for the purpose of verifying compliance with these Rules, the employing agency shall submit to the Division, along with the Report of Appointment (F-4), copies of the following documents:
(1) verification of the applicant's compliance with the educational requirement pursuant to 12 NCAC 10 B

0302(a);
(2) certified copy of the applicant's Oath of Office, if applying for certification as a deputy sheriff;
(3) the applicant's Medical History Statement (F-1);
(4) the applicant's Medical Examination Report (F-2 and F-2A);
(5) the applicant's notarized Personal History Statement (F-3);
(6) a summary of the applicant's background investigation;
(7) documentation of negative results on a drug screen pursuant to 12 NCAC 10B .0301(6);
(8) certified copies of criminal charges and dispositions as required in $12 \mathrm{NCAC} \mathrm{10B} .0305$ (e) and (f); and
(9) verification of the applicant's compliance with the probationary certification requirements pursuant to 12 NCAC 10D . 0403 (b). 12 NCAC 10 B . 0403 (b). if the applicant is a deputy sheriff or a detention officer.
(b) Compliance with this Rule is waived, with the exception of the requirements of 12 NCAC 10B .0408(a)(9), for officers applying for dual certification as defined in 12 NCAC 10B .0103(12) provided that:
(1) the officer holds a valid certification as either a deputy sheriff sheriff, or detention offieer officer, or telecommunicator with the employing agency requesting dual certification; and
(2) the officer has not had a break in service since initial certification with the employing agency requesting dual certification.
(c) All information maintained pursuant to the requirements of this Rule shall be subject to all state and federal laws governing confidentiality.

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;
Recodified from 12 NCAC 10B . 0407 Eff. January 1, 1991;
Amended Eff. January 1, 1996; January 1, 1994;
January 1, 1993; January 1, 1992;
Temporan Amendment Eff. March 1.1998.

## . 0409 EMPLOYING AGENCY RETENTION OF CERTIFICATION RECORDS

(a) Each employing agency shall place in the appropriate justice officer's personnel file the official notification of either probationary or general certification. Such files shall be available for examination at any reasonable time by representatives of the Commission for the purpose of verifying compliance with these Rules. Each personnel file shall also contain:
(1) a copy of the applicant's Report of Appointment (F-4);
(2) verification of the applicant's compliance with the educational requirement pursuant to 12 NCAC 10B .0302(a);
(3) a certified copy of the applicant's Oath of Office, if applying for certification as a deputy sheriff;
the results of the applicant's fingerprint records check and the criminal history records check;
(5) the applicant's Medical History Statement (F-1);
(6) the applicant's Medical Examination Report (F-2 and F-2A);
(7) the applicant's Personal History Statement (F-3);
(8) a summary of the applicant's background investigation;
(9) a copy of a commission-approved Firearms Requalification Record Form; Form for deputy sheriffs and detention officers who have been authorized to carry a weapon;
(10) documentation of negative results on drug screen pursuant to $12 \mathrm{NCAC} \mathrm{10B} .0301(\mathrm{a})(6)$; and
(11) verification of the applicant's compliance with the probationary certification requirements pursuant to 12 NCAC 10B .0403(b).
(b) Compliance with this Rule is waived, with the exception of the requirements of 12 NCAC 10B $.0409(11)$, for officers applying for dual certification as defined in 12 NCAC 10B .0103(12) provided that:
(1) the officer holds a valid certification as either a deputy sheriff sheriff, or detention officer officer. or telecommunicator with the employing agency requesting dual certification; and
(2) the officer has not had a break in service since initial certification with the employing agency requesting dual certification.
(c) All information maintained pursuant to the requirements of this Rule shall be subject to all state and federal laws governing confidentiality.

History Note: Authority G.S. $17 E-4$; Eff. January 1, 1989;
Recodified from 12 NCAC 10B . 0408 Eff. January 1, 1991;
Amended Eff. January 1, 1996; January 1, 1994;
January 1, 1993; January 1, 1991;
Temporary Amendment Eff. March $1,1998$.

## SECTION . 0700 - MINIMUM STANDARDS FOR JUSTICE OFFICER SCHOOLS AND TRAINING PROGRAMS OR COURSES OF INSTRUCTION

## . 0701 PURPOSE

This Section establishes the minimum standards for the schools from which justice officers sheriffs' offfee personnet shall receive training. These Rules with serve to define the areas of responsibility for the institutions and personnel associated with and responsible for the delivery of said training programs.

History Note: Authority G.S. 17E-4;
Eff. January 1, 1989;
Amended Eff. February 1, 1998;
Temporary Amendment Eff. March 1. 1998.

## . 0702 ADMINISTRATION OF JUSTICE OFFICER

## SCHOOLS

The rules covering the administration of Criminal Justice Schools and training programs or courses of instruction, codified as Title 12, Subchapter 9B, Section .0200 of the North Carolina Administrative Code, effective and previously adopted by the North Carolina Criminal Justice Education And Training Standards Commission are hereby incorporated by reference and shall automatically include any later amendments and editions of the incorporated material to apply to actions of the North Carolina Sheriffs' Education and Training Standards Commission with the exception of the Detention Officer Certification Course. Course and the Telecommunicator Certification Course. Copies of the incorporated materials may be obtained at no cost from the Criminal Justice Standards Division, North Carolina Department of Justice, Sam J. Ervin, Ir. Justice Building at 114 Edenton Street, West Morgan Street, Post Office Drawer 149, Raleigh, North Carolina 27602.

History Note: Authority G.S. 17E-4; Eff. January 1, 1989;
Amended Eff. January 1, 1996; January 1, 1990;
Temporary Amendment Eff. March 1.1998.

## SECTION . 1100 - SHERIFFS', DEPUTY SHERIFFS' AND DETENTION OFFICERS' SERVICE AWARD PROGRAM

## . 1101 PURPOSE

In order to recognize Sheriffs' and Justice-Officers' Sheriffs' deputy sheriffs' and detention officers' loyal and competent service to a particular sheriff's office, and also to the State of North Carolina, the Commission establishes the Sheriffs' and Justic Offieers' Sheriffs' deputy sheriffs' and detention officers' Service Award Program. This program is a method by which dedicated officers may receive local, state-wide and nation-wide recognition for their loyal and competent law enforcement service.

History Note: Authority G.S. 17E-4; Eff. January 1, 1989;
Amended Eff. February 1, 1998; January 1, 1992;
Temporary Amendment Eff. March 1.1998.

## . 1102 GENERAL PROVISIONS

(a) In order to be eligible for one or more of the service awards, a fustice Offieer Deputy Sheriff, Detention Officer, or Sheriff shall first meet the following preliminary qualifications:
(1) Be an elected or appointed sheriff or be a justice offieer deputy sheriff or detention officer that holds a valid general or grandfather certification. An officer serving under a probationary certification is not eligible for consideration.
(2) The Sheriff or justice-offieer deputy sheriff or detention officer shall be familiar with and
subscribe to the Law Enforcement Code of Ethics. Also, employees of a North Carolina Sheriff's Office who have previously held certification, but are presently, by virtue of promotion or transfer, serving in positions not subject to certification are eligible to participate in the service award program. Eligibility for this exception requires continuous employment with a sheriff's office from the date of promotion or transfer from a certified position to the date of application for a service award as certified in writing by the Sheriff.
(b) Only experience as a certified member of a law enforcement agency or experience as an elected or appointed sheriff shall be acceptable for consideration.

History Note: Authority G.S. 17E-4;
Eff. January 1, 1989;
Amended Eff. February 1, 1998; January 1, 1990;
Temporary Amendment Eff. March 1.1998.

## . 1103 INTERMEDIATE SERVICE AWARD

In addition to the qualifications set forth in Rule . 1102 an applicant must have served a minimum of 15 years as an elected or appointed Sheriff or a certified deputy sheriff or detention officer to receive an intermediate service award. justice officer. Years of service as-an electech appointed sheriff are also applieable.

History Note: Authority G.S. 17E-4;
Eff. January 1, 1989;
Amended Eff. January 1, 1992; January 1, 1990;
Temporary Amendment Eff. March 1. 1998.

## . 1104 ADVANCED SERVICE AWARD

In addition to the qualifications set forth in Rule . 1102 an applicant must have served a minimum of 20 years as an elected or appointed Sheriff a certified deputy sheriff or detention officer to receive an advanced service award. justice officer. Years of serviee as an elected or appointed sheriffareatso applieable.

History Note: Authority G.S. 17E-4;
Eff. January 1, 1989;
Amended Eff. January 1, 1992; January 1, 1990;
Temporary Amendment Eff. March 1.1998.

## SECTION . 1300 - MINIMUM STANDARDS OF TRAINING FOR TELECOMMUNICATORS

## . 1301 PURPOSE

This Section establishes the current minimum standards by which telecommunicators shall receive telecommunicator certification training.

History Note: Authority G.S. 17E-4(a);
Temporary Adoption Eff. March $1 \underline{1998}$.

## . 1302 TELECOMMUNICATOR CERTIFICATION COURSE

(a) The Commission hereby accredits as its telecommunicator certification training program, the 40 -hour Telecommunicator Certification Course developed by the North Carolina Justice Academy.
(b) Instructors for the Telecommunicator Certification Course shall be certified as General Instructors by the Criminal Justice Education and Training Standards Commission. The use of guest participants in a delivery of the Telecommunicator Certification Course is permissible. However such guest participants are subject to the direct onsite supervision of the primary instructor and must be authorized by the school director. In addition, such guest participants may only be used to complement the primary certified instructor and shall in no way replace the primary instructor.
(c) Institutions wishing to deliver the Telecommunicator Certification Course must designate a school director for the Course.
(d) Institutions may offer to deliver the Telecommunicator Certification Course after the Commission has approved the institution's pre-delivery report documenting who will be teaching the blocks of instruction for each course offering.

History Note: Authority G.S. 17E-4(a);
Temporary Adoption Eff. March L1 1998.

## . 1303 TIME REQ/COMPLETION/ TELECOMMUNICATOR CERTIFICATION COURSE

(a) Each telecommunicator holding temporary or probationary certification shall satisfactorily complete a commission-accredited Telecommunicator Certification Course. The telecommunicator shall complete such course within one year from the date of his/her appointment. Any telecommunicator who does not comply with this Rule or other training provisions of this Chapter shall not be authorized to exercise the powers of a telecommunicator. If, however a telecommunicator has enrolled in a commission-accredited Telecommunicator Certification Course that concludes later than the end of the telecommunicator's probationary period, the Commission may extend the probationary period for a period not to exceed six months.
(b) Persons having completed a commission-accredited Telecommunicator Certification Course and not having been duly appointed and certified in a telecommunicator position as defined in 12 NCAC 10 B . $0103(15)$ within one year of completion of the Telecommunicator Certification Course shall complete a subsequent commission-accredited Telecommunicator Certification Course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B 0402, unless the Director determines that a delay in applying for certification was due to an act of God or simple
negligence on the part of the applicant or employing agency, in which case the Director may accept a commission-accredited Telecommunicator Certification Course which is over one year old. Such extension of the one year period shall not exceed 30 days from the expiration date of a commission-accredited Telecommunicator Certification Course.

History Note: Authority G.S. 17E-4; 17E-7;
Temporany Adoption Eff. March 111998.
. 1304 EVALUATION FOR TRAINING WAIVER
(a) Applicants for certification with prior telecommunicating experience shall have been employed and certified in a telecommunicator position in order to be considered for training evaluation under this Rule.
(b) Persons who separated from a telecommunicator position during their probationary period after having completed a commission-accredited Telecommunicator Certification Course and who have been separated from a telecommunicator position for one year or less shall serve the remainder of the initial probationary period, but need not complete an additional training program.
(c) Persons who separated from a telecommunicator position during their probationary period without having completed a commission-accredited Telecommunicator Certification Course or whose certification was suspended pursuant to 12 NCAC 10 B .0204(b)(1), and who have remained separated or suspended for over one year shall complete a commission-accredited Telecommunicator Certification Course in its entirety and pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in 12 NCAC 10B $.1303(\mathrm{a})$.
(d) Persons previously holding Grandfather telecommunicator certification in accordance with G.S. 17E-7(cl) who have been separated from a telecommunicator position for more than one year shall be required to complete a commission-accredited Telecommunicator Certification Course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10 B 1303(a).

History Note: Authority G.S. 17E-4; 17E-7;
Temporan Adoption Eff March $L \perp 1998$.

## SECTION . 2000 - IN-SERVICE TRAINING FOR JUSTICE OFFICERS

## . 2002 TOPICAL AREAS

The-following topieal area(s) are hereby established as minimum topies to be ineluded in the Justice- Officers' m-Service fraining Program:
(1) Firearms Truining and Requaliffeation.

The Firearms Training and Requalification for deputy sheriffs and detention officers shall be included in the Justice Officers' In-Service Training Program.

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;
Amended Eff. January 1, 1990;
Temporan Amendment Eff. March L. 1998.

## SECTION . 2100 - DEPUTY SHERIFFS' AND DETENTION OFFICERS' FIREARMS IN-SERVICE TRAINING REQUALIFICATION PROGRAM

## . 2101 SHERIFF RESPONSIBILITIES

The Đepartment head sheriff is responsible for ensuring shall ensure that the fustice-Offieers' deputy sheriffs' and detention officers' In-Service Firearms Training and Requalification Program is conducted according to minimum specifications as outlined in 12 NCAC 10B . 2103 and .2104 . In addition, the Đepartment heaty sheriff:
(1) shall maintain copies of each course of fire adopted for use by his department and shall make those courses available for review by the Commission's representative upon request; and
(2) shall maintain in each officer's personnel file a copy of a commission-approved Firearms Requalification Record Form which verifies that the officer did, or did not, successfully complete the minimum annual in-service firearms training requirement; and
(3) may, where the officer fails to sueesfulty qualify with any of the weapons specified in 12 NCAC 10B .2104 prohibit access or possession of such weapon while on duty or when acting in the discharge of that agency's official duties and may deny the officer authorization to carry such weapons concealed when off-duty, except when the officer is on his/her own premises; and
(4) shall report to the Division once each calendar year a roster of all justice officers deputy sheriffs and detention officers who fail to successfully complete the annual in-service firearms training and qualification and shall certify that all justiee officers deputy sheriffs and detention officers required to qualify pursuant to 12 NCAC 10B . 2104 who are not listed did successfully complete the traming. This roster shall reflect the annual in-service firearms training and qualification status of all justie offieers deputy sheriffs and detention officers employed by the agency as of December 31 st of each calendar year and shall be received by the Division no later than the following January 15th; and
shall report to the Division not later than January 15th of each calendar year a list of those jutrice offieers deputy sheriffs and detention officers employed by the agency who are not authorized by the sheriff to carry a weapon; and
(6) may ensure that once each year all officers receive a review of departmental policies regarding the use
of force. It is recommended by the Commission that all officers be tested on departmental policies.

History Note: Authority G.S. 17E-4; 17E-7;
Eff.January 1, 1989;
Amended Eff. January 1, 1995; January 1, 1993;
Temporary Amendment Eff. March 11998.

## . 2102 INSTRUCTORS

The following requirements and responsibilities are hereby established for instructors who conduct the fustice Offieers' Deputy Sheriffs' and Detention Officers' In-Service Firearms Training and Requalification Program:
(1) The instructor shall hold "Specific Instructor Certification-Firearms" issued by the North Carolina Criminal Justice Education and Training Standards Commission;
(2) The instructor shall deliver the training consistent with the minimum specifications as established by 12 NCAC 10B . 2103 and .2104; and shall be present at all times during which said training is being conducted to personally provide all supervision, classroom training, range training, and scoring for certification purposes;
(3) The instructor shall document the successful or unsuccessful completion of training for each officer on a commission-approved Firearms Requalification Record Form and forward such form to each officer's tepartment heat, sheriff;
(4) The instructor shall submit to the head sheriff copies of all courses of fire used for qualification of justie offieers deputy sheriffs and detention officers in compliance with 12 NCAC 10B. 2101(1).

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;
Amended Eff. January 1, 1995; January 1, 1993;
January 1, 1991;
Temporary Amendment Eff. March 111998.

## . 2104 IN-SERVICE FIREARMS REQUALIFICATION SPECIFICATIONS

(a) All justice officers deputy sheriffs and detention officers who are authorized by the sheriff to carry a handgun shall qualify a minimum of once each year with their individual and department-approved service handgun. The course of fire shall not be less stringent than the "Basic Law Enforcement Training Course" requirements for firearms qualification.
(b) All justice-offreers deputy sheriffs and detention officers who are issued, or otherwise authorized by the sheriff to carry a shotgun, rifle, or automatic weapon shall be required to qualify with each weapon respectively a minimum of once each year.
(c) Qualifications conducted pursuant to Paragraphs (a)
and (b) of this Rule shall be completed with duty equipment and duty ammunition or duty-type ammunition meeting the specifications of the duty ammunition as to type projectile, weight and velocity.
(d) All justiee-officers deputy sheriffs and detention officers who are authorized by the sheriff to carry off duty handguns shall qualify with their off duty handgun a minimum of once each year pursuant to 12 NCAC 10B . 2103 and .2104 (a) and (b) with each handgun the officer carries off duty using ammunition approved by the sheriff.
(e) All justice-officers deputy sheriffs and detention officers who are issued or have access to any weapons not stated in this Rule must qualify with these weapons once each year using ammunition approved by the sheriff.
(f) In cases where reduced-sized targets are used to simulate actual distances, a modified course of fire may be used.
(g) To satisfy the minimum training requirements for all in-service firearms requalifications, a justiee offieer deputy sheriff or detention officer shall attain a minimum qualification score of 70 percent accuracy with each weapon once in three attempts with no more than three attempts on each course of fire per day.
(h) The "In-Service Firearms Qualification Manual" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments or editions of the referenced materials to apply as a minimum guide for conducting the annual in-service firearms qualification. Copies of the publication may be obtained from the North Carolina Justice Academy, Post Office Drawer 99, Salemburg, North Carolina 28385. There is no cost per manual at the time of adoption of this Rule.

History Note: Authority G.S. 17E-4; 17E-7;
Eff. Januany 1, 1989;
Amended Eff. January 1, 1994; January 1, 1993;
January 1, 1992; January 1, 1991;
Temporary Amendment Eff. March $\underline{1} 1998$.

## . 2105 FAILURE TO QUALIFY

(a) fustice officers Deputy sheriffs and detention officers who fail to qualify pursuant to Rule .2104 shall immediately surrender their weapons to the sheriff, upon his request, and shall have 30 days in which to obtain the qualification score required in 12 NCAC 10B . 2104 .
(b) Failure to qualify within the time period allowed in 12 NCAC 10B .2105(a) shall result in the summary suspension of the jutice offreer's deputy sheriff's or detention officer's certification by the Commission.
(c) No justice officer deputy sheriff or detention officer summarily suspended under Paragraph (b) of this Rule and in compliance with 12 NCAC 10B .0206(a)(3) may work as a certified justice officer until:
(1) the sheriff forwards to the Commission documentary evidence verifying that the officer has complied with the requirements of 12 NCAC 10B
.2103 and .2104 ; and
(2) the justiee officer deputy sheriff or detention officer and the sheriff receive from the Commission documentation that the Commission has terminated the suspension and reinstated the certification to the justice offfeer: deputy sheriff or detention officer.
(d) Any justice offreer deputy sheriff or detention officer previously unauthorized to carry a weapon but whose status changed to "authorized to carry a weapon," must comply with the provisions set out in 12 NCAC 10B . 2103 and .2104 ; and may not carry a firearm until:
(1) the sheriff forwards to the Commission documentary evidence verifying that the officer has complied with the requirements of 12 NCAC 10B .2103 and .2104; and
(2) the justice offieer deputy sheriff or detention officer and the sheriff receive from the Commission documentation that the Commission has amended the officer's status to "authorized to carry a weapon" and all certification files reflect the same.

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;
Amended Eff. March 1, 1995; January 1, 1995;
January 1, 1993; January 1, 1990;
Temporan Amendment Eff. March 1.1998.

## TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Rule-making Agency: Commission for Health Services

Rule Citation: 15A NCAC 18A.1720(c)(2)(L)
Effective Date: March 1, 1998
Findings Reviewed by Beecher R. Gray: Approved
Authority for the rule-making: G.S. 95-225; 130A-5(3);
130A-230; 130A-235; 130A-236; 130A-248; 130A-257
Reason for Proposed Action: The current rule contains a requirement for wells constructed after July 1, 1993 to be located at least 50 feet from building foundations. Other administrative rules within DENR allow wells serving singlefamily residences to be located as close as 25 feet from building foundations. Unless the rule is amended, the welfare of foster children will be unnecessarily jeopardized because of the current requirements being overly stringent, resulting in the denial of licenses for foster homes during a period of critical shortages of foster homes across North Carolina. The amendment will not endanger the health of children placed in homes with wells 25 feet from building foundations.

Comment Procedures: Comments may be made to Malcolm

Blalock, P.O. Box 29596, Raleigh, NC 27626-0596 or by email at Malcolm_Blalock@mail.ehnr.state.nc.us.

## CHAPTER 18 - ENVIRONMENTAL HEALTH

## SUBCHAPTER 18A - SANITATION

## SECTION . 1700 - PROTECTION OF WATER SUPPLIES

## . 1720 WATER SUPPLIES

(a) A water supply for which requirements are established in this Subchapter shall be from a community water supply regulated pursuant to 15 A NCAC 18 C or from a supply located, constructed, maintained, and operated in accordance with this Section.
(b) The requirements found in Rules . 1720(c) through .1728 of this Section shall not apply to community water supplies.
(c) The following setback requirements shall apply:
(1) A well shall not be located in an area having a propensity for flooding. Areas which have a propensity for flooding include those with concave slope, alluvial or colluvial soils, gullies, depressions or drainage ways.
(2) A well constructed on or after July 1, 1993 shall be located at a minimum horizontal distance from:
(A) Septic tank or nitrification field; 100 ft .
(B) Other subsurface ground absorption waste disposal; 100 ft .
(C) Industrial or municipal sludge spreading or wastewater irrigation site; 100 ft .
(D) Watertight sewage or liquid-waste collection or transfer facility; 50 ft .
(E) Other sewage or liquid-waste collection or transfer facility; 100 ft .
(F) Animal feedlot or manure pile; 100 ft .
(G) Fertilizer, pesticide, herbicide or other chemical storage area; 100 ft .
(H) Non-hazardous waste storage, treatment or disposal lagoon; 100 ft .
(1) Sanitary landfill; 500 ft .
(J) Other non-hazardous solid waste landfill; 100 ft .
(K) Animal barn; 100 ft .
(L) Building foundation; 50 ft .
(i) for a facility other than a Family Foster Home or a Therapeutic Home for children and Adolescents: 50 ft .
(ii) for a Family Foster Home or a Therapeutic Home for Children and Adolescents; 25 ft.
(M) Surface water body; 50 ft .
(N) Chemical or petroleum fuel underground storage tank regulated under 15A NCAC 2N:
(i) with secondary containment; 50 ft .
(ii) without secondary containment; 100 ft .
(O) Any other source of groundwater contamination. 100 ft .
(3) For a well constructed prior to July 1, 1993, the minimum horizontal distances specified in Parts (c)(2)(A),(B),(D), and (L) of this Rule shall be reduced to no less than the following:
(A) Septic tank or nitrification field; 50 ft .
(B) Other subsurface ground absorption waste disposal system; 50 ft .
(C) Water-tight sewage or liquid-waste collection or transfer facility; 25 ft .
(D) Building foundation; 25 ft .
(4) A well constructed prior to July l, 1993 serving an establishment regulated under 15A NCAC 18A in operation prior to July 1,1993 shall be required to meet only the following minimum horizontal distance requirements:
(A) Septic tank or nitrification field; 50 ft .
(B) Other subsurface ground absorption waste disposal system; 50 ft .
(5) An owner, licensee or permittee shall not place or have placed a new source of contamination within the minimum horizontal distances in Subparagraphs (c)(1)-(4) of this Rule.
(6) If different minimum horizontal distances requirements are set by the Division of Environmental Management pursuant to 15 A NCAC 2C . 0118 and .0119, those minimum horizontal distance requirements shall be used. The owner, licensee or permittees shall provide a written copy of the adjusted minimum horizontal distance requirements from the Division of Environmental Management to the local health department.

History Note: Authority G.S. 95-225; 130A-5(3); 130A-230; 130A-235; 130A-236; 130A-248; 130A-257;
Eff. September 1, 1990;
Amended Eff. May 1, 1996; July 1, 1993;
Temporary Amendment Eff. March 1. 1998.

## TITLE 21 - OCCUPATIONAL LICENSING BOARDS

## CHAPTER 3 - NORTH CAROLINA BOARD OF ATHLETIC TRAINER EXAMINERS

Rule-making Agency: North Carolina Board of Athletic Trainer Examiners

Rule Citation: 21 NCAC $3.0101-.0103, .0201, .0301$ .0304, . 0401

Effective Date: March 16, 1998

Findings Reviewed and Approved by: Julian Mann III

Authority for the rule-making: G.S. 90-523; 90-525; $90-$ 528 through 90-530; 90-532 through 90-534; 90-536.

Reason for Proposed Action: The 1997 Session of the General Assembly enacted SB 660 (S.L. 1998-387) establishing an Occupational Licensing Board for Athletic Trainers.

Comment Procedures: Written comments should be sent to Jennie Dorsett, NC Board of Athletic Trainer Examiners, PO Box 10769, Raleigh, NC 27605.

## SECTION . 0100 - LICENSURE

## . 0101 APPLICATION FOR LICENSURE

(a) An application for licensure shall be completed on the forms provided by the Board and shall include:
(1) Proof of having passed the examination administered by the National Athletic Trainers' Association Board of Certification. Inc.. by enclosing a copy of the certification card.
(2) Evidence of good moral character.
(3) A copy of the diploma from a college or university in Sports Medicine or Athletic Training or a transcript showing the following courses of study or substantially similar courses of study: Human Anatomy, Human Physiology Kinesiology/Biomechanics, Psychology Exercise Physiology, Prevention of Athletic Injuries, Evaluation of Athletic Injuries. First Aid and Emergency Care Therapeutic Modalities, Therapeutic Exercise, Personal Community Health, Nutrition and Administration of Athletic Training Programs.
(b) The license issuance fee shall accompany the application.

History Note: Authority G.S. 90-525; 90-528; 90-529;
90-530;
Temporary Adoption Eff. March $16,1998$.

## . 0102 GOOD MORAL CHARACTER

Evidence of good moral character shall be shown by two affidavits from persons not related to the applicant.

History Note: Authority G.S. 90-525; 90-528; 90-529; 90-530,
Temporary Adoption Eff. March 16. 1998.

## . 0103 ATHLETIC TRAINERS NOT CERTIFIED

Proof of practice in the State shall be shown by an employer verification on a form provided by the Board.

History Note: Authority G.S. 90-525; 90-530;
Temporary Adoption Eff. March 16, 1998.

SECTION . 0200 - FEES

## . 0201 FEES

The following fees are payable to the Board by cash check or money order:

| License Issuance Fee | \$100.00 |
| :---: | :---: |
| License Renewal Fee | \$ 50.00 |
| Reinstatement of Lapsed License Fee | \$ 75.00 |
| Duplicate License Fee | \$ 10.00 |

History Note: Authority G.S. 90-525; 90-534;
Temporan' Adoption Eff. March 16, 1998.

## SECTION . 0300 - RENEWAL OF LICENSE

## .030I RENEWAL REQUEST FORM

Requests for license renewal shall be submitted on the form provided by the Board.

History Note: Authority G.S. 90-525; 90-532;
Temporary Adoption Eff. March 16. 1998.

## . 0302 CONTINUING EDUCATION

(a) Continuing education courses appropriate for license renewal are those in one or more of the following content areas: Human Anatomy, Human Physiology. Kinesiology/Biomechanics, Psychology Exercise Physiology Prevention of Athletic Injuries, Evaluation of Athletic Injuries, First Aid and Emergency Care. Therapeutic Modalities. Therapeutic Exercise Personal Community Health. Nutrition, and Administration of Athletic Training Programs.
(b) A licensee shall complete 80 contact hours of continuing education during a three-year license renewal period. Contact hours are defined as the number of actual clock hours spent. One semester hour of credit is equivalent to 10 contact hours.
(c) Licensed athletic trainers who fail to document sufficient appropriate continuing education to renew their licenses shall be notified in writing of the deficiency and shall be allowed 45 days to respond. Continuing education cannot be undertaken during this period to supplement the deficiency. The licenses of athletic trainers who fail to respond within the 45 -day period or who are unable to provide sufficient continuing education shall lapse and be subject to the lapsed license requirements.

History Note: Authority G.S. 90-525; 90-533;
Temporary Adoption Eff. March 16, 1998.

## . 0303 LAPSED LICENSE

(a) The lapsed license may be renewed within a period of five years after expiration upon payment of the lapsed license fee and the completion of 25 contact hours of continuing education for each year that the license has lapsed.
(b) A license that has lapsed for more than five years shall be renewed upon payment of the lapsed license fee and the
completion of $\underline{28}$ hours of continuing education for each year that the license has lapsed.

History Note: Authority G.S. 90-525; 90-532;
Temporary Adoption Eff. March 16. 1998.

## . 0304 BOARD APPROVAL OF COURSES

The Board shall approve any of the following programs or courses:
(1) Those provided by a college or university authorized to grant degrees.
(2) Those sponsored by the North Carolina Athletic Trainers' Association.
(3) Those that the Board is satisfied meet the requirement of G.S. 90-533.

History Note: Authority G.S. 90-525; 90-533;
Temporary Adoption Eff. March 16. 1998.

## SECTION . 0400 - DISCIPLINARY PROCEDURES

## . 0401 DISCIPLINARY ACTIONS

Board disciplinary actions may include the following:
(1) Reprimand. Reprimand is a public rebuke for misconduct as an athletic trainer.
(2) Restriction. Restriction is a stay of suspension or revocation allowing limited practice within conditions stipulated by the Board.
(3) Suspension. Suspension is the withdrawal of the privilege to practice for a specified time.
(4) Revocation. Revocation is the withdrawal of the privilege to practice as a licensed athletic trainer in the State of North Carolina.

History Note: Authority G.S. 90-525; 90-536;
Temporary Adoption Eff. March 16. 1998.

## CHAPTER 3 - NORTH CAROLINA BOARD OF ATHLETIC TRAINER EXAMINERS

Rule-making Agency: North Carolina Board of Athletic Trainer Examiners/NC Medical Board Committee

Rule Citation: 21 NCAC 3.0501
Effective Date: April 1, 1998
Findings Reviewed and Approved by: Julian Mann 111
Authority for the rule-making: G.S. $90-523 ; 90-525 ; 90-$ 528 through 90-530; 90-532 through 90-534; 90-536.

Reason for Proposed Action: The 1997 Session of the General Assembly enacted SB 660 (S.L. 1998-387) establishing an Occupational Licensing Board for Athletic Trainers.

Comment Procedures: Written comments should be sent to Jennie Dorsett, NC Board of Athletic Trainer Examiners, PO Box 10769, Raleigh, NC 27605.

## SECTION . 0500 - ATHLETIC TRAINER PROTOCOL

## . 0501 MINIMUM REQUIREMENTS

The practice protocol for each athletic trainer pursuant to G.S. $90-523(1)$ shall be individualized to accommodate the skills of the athletic trainer and the collaborating physician and shall be consistent with the third or succeeding editions of The Role Delineation Study of the National Athletic Trainers Board of Certification. Inc. published for the National Athletic Trainers Association Board of Certification. Inc. incorporated herein by reference. All or portions of The Role Delineation Study of the National Athletic Trainers Board of Certification. lnc may be incorporated by reference into the written protocol of an athletic trainer submitted to the North Carolina Medical Board pursuant to G.S. 90-523(1). The Athletic Trainer and the physician shall sign and file a statement with the North Carolina Medical Board agreeing to abide by the protocol. Copies of The Role Delineation Study of the National Athletic Trainers Board of Certification Inc. may be obtained from the publisher at cost. The address of the publisher may be obtained from the North Carolina Board of Athletic Trainer Examiners.

History Note: Authority G.S. 90-523; 90-525;
Temporary Adoption Eff. April 1.1998.
$\boldsymbol{T}_{\text {his Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, March } 19 \text {, 1998. }}^{10}$, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Amyone wishing to submit written comment on any rule be,ore the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, March 16, 1998, 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<br>Teresa L. Smallwood, Vice Chairman<br>Jim Funderburke<br>Vernice B. Howard<br>Philip O. Redwine David Twiddy

Appointed by House<br>Paul Powell, Chairman<br>Anita White, $2^{\text {nd }}$ Vice Chairman<br>Mark Garside<br>Steve Rader<br>George Robinson

## RULES REVIEW COMMISSION MEETING DATES

March 19, 1998
April 15, 1998
May 21, 1998

June 18, 1998
July 16, 1998
August 20, 1998

MEETING DATE: MARCH 19, 1998
LOG OF FILINGS
RULES SUBMITTED: JANUARY 20, 1998 THROUGH FEBRUARY 20, 1998

AGENCY/DIVISION
RULE NAME
rule citation
ACTION

CULTURAL RESOURCES/NC HISTORICAL COMMISSION

| Overview | 7 NCAC 4R.0909 | Adopt |
| :--- | :--- | :--- |
| Definitions | 7 NCAC 4R .0910 | Adopt |
| Introduction | 7 NCAC 4R.0911 | Adopt |
| Certifications | 7 NCAC 4R.0912 | Adopt |
| Standards | 7 NCAC 4R .0913 | Adopt |
| Certifications of Rehabilitation | 7 NCAC 4R .0914 | Adopt |
| Certifications of Rehabilitation | 7 NCAC 4R .0915 | Adopt |

## DHHS/CHILD CARE COMMISSION

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Parental Access
Capacity of the Center
School-Age Children
Pre-Licensing Requirements
Application for a License
Renewal of a License
On-Going Requirements
Provisional Licenses

| 10 NCAC 3U . 0102 | Amend |
| :---: | :---: |
| 10 NCAC 3U . 0201 | Amend |
| 10 NCAC 3U . 0202 | Repeal |
| 10 NCAC 3U . 0204 | Amend |
| 10 NCAC 3U . 0205 | Amend |
| 10 NCAC 3U . 0206 | Amend |
| 10 NCAC 3U . 0207 | Repeal |
| 10 NCAC 3U . 0301 | Amend |
| 10 NCAC 3U . 0302 | Amend |
| 10 NCAC 3U . 0303 | Repeal |
| 10 NCAC 3U . 0304 | Adopt |
| 10 NCAC 3U . 0401 | Amend |

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Activity Schedules
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Activity Areas
Activities for Children
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Building Code Requirements
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10 NCAC 3U . 0505
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10 NCAC 3U . 0707
10 NCAC 3U . 0708
10 NCAC 3U . 0709
10 NCAC 3U . 0710
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10 NCAC 3U . 0714
10 NCAC 3U . 0802
10 NCAC 3U . 0803
10 NCAC 3U . 0804
10 NCAC 3 U . 0806
10 NCAC 3U . 0901
10 NCAC 3U . 0902
10 NCAC 3 U .1001
10 NCAC 3U . 1002
10 NCAC 3U . 1003
10 NCAC 3U . 1004
10 NCAC 3U . 1301
10 NCAC 3U . 1302
10 NCAC 3U. 1303
10 NCAC 3U . 1304
10 NCAC 3 U .1401
10 NCAC 3U . 1701
10 NCAC 3U . 1702
10 NCAC 3U . 1703
10 NCAC 3U . 1705
10 NCAC 3U . 1716
10 NCAC 3U . 1717
10 NCAC 3 U .1718
10 NCAC 3U . 1719
10 NCAC 3 U .1720
10 NCAC 3 U .1721
10 NCAC 3 U .1722
10 NCAC 3U . 1723
10 NCAC 3U . 2506
10 NCAC 3U . 2510
10 NCAC 3U . 2601
10 NCAC 3U . 2602
10 NCAC 3U . 2603

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License Renewal Process
Maintaining Compliance
Staff Requirements
Staff/Child Ratios
Age Appropriate Activities
Other Caregiving Requirements
Health Requirements
Physical Facility
Transportation Requirements
DHHS/VOCATIONAL REHABILITATION
Eligibility and Ineligibility
Processing Referrals
Applicant Notification
Applicability
Priority Categories
Procedures
Case Finding

## INSURANCE/NC FIRE AND RESCUE COMMISSION

Definitions<br>Membership Cancellation<br>Roster of Covered Individuals

10 NCAC 3U . 2604
10 NCAC 3U . 2605
10 NCAC 3U . 2606
10 NCAC 3U . 2607
10 NCAC 3U . 2608
10 NCAC 3U . 2609
10 NCAC 3U . 2610
10 NCAC 3U . 2611
10 NCAC 3 U .2612

10 NCAC 20C . 0201
10 NCAC 20C . 0202
10 NCAC 20C . 0203
10 NCAC 20C . 0601
10 NCAC 20C . 0603
10 NCAC 20C . 0604
10 NCAC 20C . 0606

| 11 NCAC 5C. 0101 | Adopt |
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| 11 NCAC 5C.0102 | Adopt |
| 11 NCAC 5C.0103 | Adopt |

INSURANCE/NC HOME INSPECTOR LICENSURE BOARD

Definitions
Renewal of Active License
Inactive License
Course Requirements
Attendance Requirements
Extensions of Time
Denial or Withdrawal
Duties of Licensees

11 NCAC 8.1301
11 NCAC 8.1302
11 NCAC 8.1303
1I NCAC 8.1304
11 NCAC 8.1305
11 NCAC 8.1306
11 NCAC 8.1307
11 NCAC 8.1308

| 11 NCAC 10.0105 | Amend |
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| 11 NCAC 11B. 0601 | Repeal |
| 11 NCAC 11B.0602 | Repeal |
| 11 NCAC 11B. 0603 | Repeal |
| 11 NCAC 11B.0604 | Repeal |
| 11 NCAC 11B. 0605 | Repeal |
| 11 NCAC 11B. 0606 | Repeal |
| 11 NCAC 11B.0607 | Repeal |
| 11 NCAC 11B.0608 | Repeal |
| 11 NCAC 11B. 0609 | Repeal |
| 11 NCAC 11B. 0610 | Repeal |
| 11 NCAC 11B.0611 | Repeal |
| 11 NCAC 11B.0612 | Repeal |
| 11 NCAC 11B. 0613 | Repeal |
| 11 NCAC 11B.0614 | Repeal |
| 11 NCAC 11B. 0615 | Repeal |
| 11 NCAC 11B. 0616 | Repeal |
| 11 NCAC 11B.0617 | Repeal |
| 11 NCAC 11 C .0108 | Repeal |
| 11 NCAC 11C. 0109 | Repeal |
| 11 NCAC 19.0002 | Amend |
| 11 NCAC 19.0003 | Amend |


| Policy Records | 11 NCAC 19.0004 | Amend |
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| Records Required | 11 NCAC 19.0006 | Amend |

JUSTICE/NC PRIVATE PROTECTIVE SERVICES BOARD

| Definitions | 12 NCAC 7D .0104 |
| :--- | :--- |
| Application for Licenses | 12 NCAC 7D .0201 |
| Determination of Experience | 12 NCAC 7D .0204 |
| Polygraph Instruments | 12 NCAC 7D .0504 |
| Application for Unarmed Reg. | 12 NCAC 7D .0701 |
| Application for Armed Registration | 12 NCAC 7D .0801 |
| Application for Firearm Trainer Cert. | 12 NCAC 7D .0902 |
| Time Limits | 12 NCAC 7D .1106 |

JUSTICE/SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

Definitions
Medical Examination
Certification of Personnel
Probationary Certification
Probationary Certification Req. Lateral Transfer
Certification of Former Sheriff
Verification of Records
Employing Agency Retention Purpose
Administration of Justice
Purpose
General Provisions
Intermediate Service Award
Advanced Service Award
How to Apply
Purpose
Telecommunicator Cert. Course
Time Requirements
Evaluation
Topical Areas
Sheriff Responsibility
Instructors
In-Service Firearms
Failure to Qualify

12 NCAC 10B . 0103
12 NCAC 10B . 0304
12 NCAC 10B . 0401
12 NCAC 10B . 0402
12 NCAC 10B . 0403
12 NCAC 10B . 0406
12 NCAC 10B . 0407
12 NCAC 10B . 0408
12 NCAC 10B . 0409
12 NCAC 10B . 0701
12 NCAC 10B . 0702
12 NCAC 10B . 1101
12 NCAC 10B . 1102
12 NCAC 10B. 1103
12 NCAC 10B . 1104
12 NCAC 10B . 1105
12 NCAC 10B . 1301
12 NCAC 10B . 1302
12 NCAC 10B . 1303
12 NCAC 10B . 1304
12 NCAC 10B . 2002
12 NCAC 10B . 2101
12 NCAC 10B . 2102
12 NCAC 10B . 2104
12 NCAC 10B . 2105

13 NCAC 13.0213

15A NCAC 2B . 0305
15A NCAC 2B . 0308
15A NCAC 2B . 0313
15A NCAC 2B . 0315
15A NCAC 2D . 0506
15A NCAC 2D . 0507
15A NCAC 2D . 0508
15A NCAC 2D . 0509
15A NCAC 2D . 0510
15A NCAC 2D . 0511
15A NCAC 2D . 0513
15A NCAC 2D . 0514

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Particulates from Miscellaneous Control of Visible Emissions Particulates from Fugitive Sources Determination
Bulk Gasoline Terminals
Perchloroethylene Dry Cleaning
Vapor Return Piping
Case-by-Case Maximum
Case-by-Case Maximum
Required Air Quality Permits
Applicability
Facilities
Permits
Application Processing Schedule Case-by-Case MACT

15A NCAC 2D . 0515
15A NCAC 2D . 0521
15A NCAC 2D . 0540
15A NCAC 2D . 0914
15A NCAC 2D . 0927
15A NCAC 2D . 0938
15A NCAC 2D . 0953
15A NCAC 2D . 1109
15A NCAC 2D . 1112
15A NCAC 2Q . 0101
15A NCAC 2Q . 0201
15A NCAC 2Q . 0302
15A NCAC 2Q . 0306
15A NCAC 2Q . 0312
15A NCAC 2Q . 0528

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Additional Fire
Premium Finance Charges
Group Premiums
Terms Requiring Special Attention
Federal Forms
Extensions
Joint Returns
Transitional Adjustments
Electronic Filing
Credit for NC Dividends
Partnership Returns
Tax Credits
Tax Credits
Administration Expenses
Taxable Income
New Employers
Returns
Purchases by Manufacturers
Advertising
Out-of-State Deliveries
Medical Supplies
Refunds
Governmental Sales
Refunds to Counties
Sales to State
Sales to and by Hospitals
Refunds
Food and Food Products
Sea Foods
Broadcasting Accessories
Exempt Orthopedic Appliances
Exempt Therapeutic Devices
Appliances
Protective Helmits
Hearing Aids
Invalid Walkers
Containers
Returnable Containers
Refunds
Operations of Vehicles Excluded
Types of Acceptable Bonds
Types of Acceptable Bonds
Types of Acceptable Bonds
Municipal Corporation
Eligibility for Refunds

## SECRETARY OF STATE

Definitions<br>Limited Offerings<br>Limited Offering Exemption<br>Notice Filing Procedures<br>Notice Filing<br>Securities Registration<br>Application<br>Minimum Financial Requirements<br>Record Keeping Requirements

17 NCAC 5E . 0102
17 NCAC 5E . 0103
17 NCAC 5E . 0105
17 NCAC 6B . 0104
17 NCAC 6B. 0106
17 NCAC 6B. 0107
17 NCAC 6B . 0112
17 NCAC 6B . 0117
17 NCAC 6B. 0118
17 NCAC 6B . 0609
17 NCAC 6B . 3503
17 NCAC 6B . 3526
17 NCAC 6B . 3714
17 NCAC 6B . 3725
17 NCAC 6B . 3904
17 NCAC 6C . 0201
17 NCAC 7B . 0104
17 NCAC 7B . 0207
17 NCAC 7B . 0901
17 NCAC 7B. 1301
17 NCAC 7B . 1404
17 NCAC 7B. 1602
17 NCAC 7B. 1701
17 NCAC 7B . 1702
17 NCAC 7B . 1703
17 NCAC 7B. 1801
17 NCAC 7B. 1802
17 NCAC 7B . 2201
17 NCAC 7B . 2212
17 NCAC 7B . 3104
17 NCAC 7B . 3301
17 NCAC 7B . 3302
17 NCAC 7B . 3303
17 NCAC 7B . 3304
17 NCAC 7B. 3305
17 NCAC 7B . 3306
17 NCAC 7B . 3901
17 NCAC 7B .3910
17 NCAC 7B . 4301
17 NCAC 91.0102
17 NCAC 9I. 0304
17 NCAC 9J . 0203
17 NCAC 9K . 0205
17 NCAC 9K . 0511
17 NCAC 9K . 0513

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18 NCAC 6.1104
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Financial Statements
Public Information
Forms
Application for Investment
Application
Minimum Financial Requirements
Bonding Requirements
Recordkeeping Requirements
Change of Name
Invest Adviser Merger
Registration of Partners
Dishonest or Unethical Practices
Custody/Client Funds
Agency Cross Transactions
Exemption
Performance-Based Compensation
Transactions
Public Information
Forms
DEPARTMENT OF TRANSPORTATION
Location of Panels
Eligibility for Program
Composition of Signs
Fees
Contracts with the Department

18 NCAC 6.1412
18 NCAC 6.1506
18 NCAC 6.1509
18 NCAC 6.1702
18 NCAC 6.1703
18 NCAC 6.1704
18 NCAC 6.1705
18 NCAC 6.1706
18 NCAC 6.1712
18 NCAC 6.1713
18 NCAC 6.1714
18 NCAC 6.1801
18 NCAC 6.1802
18 NCAC 6.1803
18 NCAC 6.1804
18 NCAC 6.1805
18 NCAC 6.1806
18 NCAC 6.1809
18 NCAC 6.1811

19A NCAC 2E . 0218
19A NCAC 2E . 0219
19A NCAC 2E. 0220
19A NCAC 2E. 0221
19A NCAC 2E . 0222

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TRANSPORTATION/DIVISION OF MOTOR VEHICLES
Pre-Inspection Requirements
19A NCAC 3D . 0525
Amend
NC BOARD OF ARCHITECTURE

| Individual Licenses | 21 NCAC 2.0213 | Amend |
| :--- | :--- | :--- |
| Scope | 21 NCAC 2.0901 | Adopt |
| Definitions | 21 NCAC 2.0902 | Adopt |
| Requirements | 21 NCAC 2.0903 | Adopt |
| Determination of Credits | 21 NCAC 2.0904 | Adopt |
| Record Keeping | 21 NCAC 2.0905 | Adopt |
| Exceptions | 21 NCAC 2.0906 | Adopt |
| Reinstatement | 21 NCAC 2.0907 | Adopt |
| Reciprocity | 21 NCAC 2.0908 | Adopt |
| Forms | 21 NCAC 2.0909 | Adopt |
| Non-Compliance | 21 NCAC 2.0910 | Adopt |

NC STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

Definitions
Concentration in Accounting
Filing of Exam
Conditioning Requirements
Education
Waiver of Education
Work Experience Required
Education Required
Requirements for CPE Credit
Compliance with CPE
Reciprocal Certificates
Modification of Discipline
Revocation of Certificates

NCAC 8A . 0301
NCAC 8A . 0309
NCAC 8F . 0103
NCAC 8F . 0105
NCAC 8 F . 0302
NCAC 8F . 0304
NCAC 8 F .0401
NCAC 8 F . 0410
NCAC 8G . 0404
NCAC 8G . 0406
NCAC 8H 0001
NCAC 8I 0004
NCAC 8I.0005 Amend

Annual Renewal
Retired and Inactive Status
Forfeiture or Surrender
Firm Registration
Registration and SQR Fees
Registered Limited Liability
Purpose
Registration Requirements
Selection of Engagements
Certain Offices Excused
NC STATE BOARD OF COSMETIC ART EXAMINERS
Definitions
Cosmetologist License Fee
Space Requirements
Equipment and Teachers
Teacher/Student Ratio
Sanitary Ratings
Cleanliness
Systems of Grading
Notice to Board
Withdrawals
Transfer of Credit
Report of Enrollment
Summary
Application/Licensure
Uniform
Time Requirements
Scientific Study
Mannequin Practice
Practical Work
Course Work Requirement
Live Model
Equipment
Live Model
Student's Personal Supplies
Course Work Requirements
Tests
Curriculum Required
Practical Aspects
Relative Subjects
Tests
Approval of Credit
Uniforms
Equipment and Instruments
Qualifications
Teacher Trainee Notebook
Fee
Initial Applications
Live Model Requirements
Mannequin Requirements
Special Arrangements
Failure to Appear
Re-Examination

21 NCAC 8J. 0001
Amend
21 NCAC 8J. 0005
21 NCAC 8J. 0006
21 NCAC 8 J .0008
21 NCAC 8 J .0010
21 NCAC 8K. 0301
21 NCAC 8 M .0101
21 NCAC 8 M .0102
21 NCAC 8 M .0201
21 NCAC 8M. 0204

21 NCAC 14A. 0101
21 NCAC 14B. 0605
21 NCAC 14G. 0003
21 NCAC 14G . 0007
21 NCAC 14G . 0013
21 NCAC 14 H .0005
21 NCAC 14H. 0013
21 NCAC 14 H .0018
21 NCAC 14H. 0019
21 NCAC 14I .0104
21 NCAC 141.0105
21 NCAC 141.0107
21 NCAC 14I .0109
21 NCAC 14I .0401
21 NCAC 14J. 0102
21 NCAC 14J. 0103
21 NCAC 14J. 0104
21 NCAC 14J. 0105
21 NCAC 14J . 0202
21 NCAC 14J . 0204
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21 NCAC 14J . 0206
21 NCAC 14J. 0207
21 NCAC 14J . 0303
21 NCAC 14J. 0306
21 NCAC 14J . 0307
21 NCAC 14J. 0401
21 NCAC 14J . 0402
21 NCAC 14J . 0403
21 NCAC 14J . 0404
21 NCAC 14 J .0501
21 NCAC 14 K .0001
21 NCAC 14 K .0003
21 NCAC 14L . 0101
21 NCAC 14L . 0108
21 NCAC 14L . 0214
21 NCAC 14 N .0102
21 NCAC 14 N .0104
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21 NCAC 14 N .0107
21 NCAC 14 N .0108
21 NCAC 14 N .0113

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NC STATE BOARD OF DENTAL EXAMINERS

Continuing Education Required
Definition
Definition

21 NCAC 161.0002
21 NCAC 16 V .0101
21 NCAC 16V . 0102

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Adopt Adopt

NC STATE BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

| Processing Fee | 21 NCAC 18B.0107 | Amend |
| :--- | :--- | :--- |
| Fees | $21 \mathrm{NCAC} \mathrm{18B.0209}$ | Amend |
| Annual License Fees | $21 \mathrm{NCAC} \mathrm{18B.0404}$ | Amend |
| Establishing a Special Restricted C1. | $21 \mathrm{NCAC} \mathrm{18B.0802}$ | Amend |
| Administrative Hearing Procedures | 21 NCAC 18B.0904 | Amend |

NC BOARD OF MORTUARY SCIENCE

Complaints<br>Fees and Penalties<br>Traineeship<br>Authorized Practice<br>Dates of Examinations<br>Requirement<br>Approval of Contract Forms<br>Certificate of Performance

21 NCAC 34 A .0126
21 NCAC 34 A .0201
21 NCAC 34 B .0102
21 NCAC 34 B .0103
21 NCAC 34 B .0201
21 NCAC 34 B .0403
21 NCAC 34 D .0101
21 NCAC 34 D .0303

NC BOARD OF NURSING
Name of Limited Liability Co.
Prerequisites for Organization
Certificate of Registration
General and Administrative Documents
Fees

| 21 NCAC 36.0601 | Adopt |
| :--- | :--- |
| 21 NCAC 36.0602 | Adopt |
| 21 NCAC 36.0603 | Adopt |
| 21 NCAC 36.0604 | Adopt |
| 21 NCAC 36.0605 | Adopt |
| 21 NCAC 36.0606 | Adopt |

NC STATE BOARD OF OPTICIANS
Information and Application
Fees
Registration of Place of Business
Duty to Provide Direct Supervision
Complaints
Applicants from Other States
Character

## NC BOARD OF PHARMACY

Pharmacy Permits

## NC BOARD OF PHYSICAL THERAPY EXAMINERS

Membership of Board
Definitions
Licenses by Endorsement
Permitted Practice
Responsibilities
Prohibited Practice
Permitted Activities
Authorization
Definitions
Function
Schedule and Location
Notice of Examination
Examination Scores

21 NCAC 46.1601
Amend Amend

| 21 NCAC 40.0104 | Amend |
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| 21 NCAC 40.0108 | Amend |
| 21 NCAC 40.0202 | Amend |
| 21 NCAC 40.0212 | Amend |
| 21 NCAC 40.0214 | Amend |
| 21 NCAC 40.0319 | Amend |
| 21 NCAC 40.0324 | Adont |

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Notification of Exam Results
Retaking Exam
Administration of Exam
Computer Exam
Filing Application
Exam Scores
Foreign-Trained Physical Therapists Fees
Notification
Revival of Lapsed License
Grounds for Warning
Conditions for Probation
Notification and Hearing
Complaints and Investigations
Prohibited Actions
Petitions
Declaratory Rulings

21 NCAC 48D . 0106
21 NCAC 48D . 0109
21 NCAC 48D . 0110
21 NCAC 48D . 0112
21 NCAC 48E . 0101
21 NCAC 48E . 0104
21 NCAC 48E . 0110
21 NCAC 48 F .0102
21 NCAC 48G. 0202
21 NCAC 48G. 0203
21 NCAC 48G . 0402
21 NCAC 48G . 0403
21 NCAC 48G. 0404
21 NCAC 48G. 0504
21 NCAC 48G. 0601
21 NCAC 48 H .0701
21 NCAC 48 H .0704

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## NC REAL ESTATE COMMISSION

Proof of Licensure
Licensee Name and Address
Agency Agreements
Advertising
Handling and Accounting
Retention of Records
Brokerage Fees
Broker-in-Charge
Residential Property
Filing and Fees
Business Entities
Reinstatement of Expire License
Salesman
Complaints/Inquiries/Motions
Scope
Summary Suspension
Continuing Education
Time Share Agency
Per Student Fee

21 NCAC 58A . 0101
21 NCAC 58A. 0103
21 NCAC 58A . 0104
1 NCAC 58A . 0105
NCAC 58A . 0107
21 NCAC 58A . 0108
21 NCAC 58A . 0109
21 NCAC 58A. 0110
NCAC 58A . 0114
NCAC 58A . 0302
NCAC 58A . 0502
NCAC 58A . 0505
NCAC 58A. 0506
NCAC 58A . 0601
NCAC 58A . 0613
NCAC 58A . 0614
NCAC 58A . 1702
NCAC 58B . 0402
NCAC 58E . 0407

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OFFICE OF ADMINISTRATIVE HEARINGS
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## RULES REVIEW COMMISSION

## February 19, 1998 <br> MINUTES

The Rules Review Commission met on February 19, 1997, in the West Wing Conference Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners in attendance were Chairman Paul Powell, Mark P. Garside, George S. Robinson, Teresa L. Smallwood, Vernice B. Howard, David R. Twiddy, and Anita A. White.

Staff members present were: Joseph J. DeLuca, Staff Director; Bobby Bryan, Rules Review Specialist; Glenda Gruber, Administrative Assistant; and Sandy Webster.

The following people attended:

Charles Jones
Mike Lopacanski
Craig Bromby
Phil Telfer
Mike Eddinger
Lena Williams
Dan Cathey
Ron Ferrell
Sarah Meacham
Liz Kovasckitz
Dedra Alston
Kirsten Allen
Fred Allen
Clay Tee Hines
Denise Haskell
Kim Crawford
Robin Smith

DENR/Coastal Management
DENR/Coastal Management
Hunton \& Williams
Attorney General
DHHS/DFS
DENR/DEH
DENR/DEH
DENR/DWQ
Attorney General
DENR/DWQ
DENR
Hunton \& Williams
NC Aggregates Association
Community Colleges
NC Board of Pharmacy
DENR/Coastal Management
Attorney General

## APPROVAL OF MINUTES

The meeting was called to order at 10:05 a.m. with Chairman Powell presiding. He asked for any discussion, comments, or corrections concerning the minutes of the January 15, 1998 meeting. There being none, the minutes were approved.

## FOLLOW-UP MATTERS

10 NCAC 1B . 0502 - DHHS: The rewritten rule submitted by the agency was approved by the Commission.
10 NCAC 3D $.0915, .0916, .0925, .1202, .1203, .1301, .1302, .1401$, and .1403 : DHHS/Medical Care Commission: The rewritten rules submitted by the agency were approved by the Commission.

15A NCAC 2B $.0202, .0232, .0233, .0234, .0235, .0238$, and .0239 - DENR/Environmental Management Commission: The rewritten rules submitted by the agency were approved by the Commission.

15A NCAC 2D . 1005 - DENR/Environmental Management Commission: The rewritten rule submitted by the agency was approved by the Commission.

15A NCAC 2L . 0115 - DENR/Environmental Management Commission: The rewritten rule submitted by the agency was approved by the Commission.

15A NCAC 2 N .0707 - DENR/Environmental Management Commission: The rewritten rule submitted by the agency was approved by the Commission.

15A NCAC 3I . 0117 - DENR/Marine Fisheries Commission: The agency responded that their Commission was meeting today and tomorrow. They will respond in time for next month's Rules Review Commission. No action was necessary on this rule.

15A NCAC $7 \mathrm{H} .0106, .0201, .0202, .0204, .0205, .0206$, and .0208 - DENR/Coastal Resources Commission: The rules submitted by the agency were approved by the Commission. Commissioner Garside voted against approving these rules.

15A NCAC 7H . 1204 - DENR/Coastal Resources Commission: The agency did no respond to the RRC request and the rule is off the agenda.

15A NCAC 7M . 1201 and . 1202 - DENR/Coastal Resources Commission: The rewritten rules submitted by the agency were approved by the Commission.

15A NCAC $18 \mathrm{~A} .2301, .2302, .2303, .2304, .2306, .2308$, and .2309 - DENR/Commission for Health Services: The agency repealed rules $.2301, .2302, .2303, .2304$, and .2306 . The Commission approved these repeals. The agency withdrew rules .2308 and .2309 .

23 NCAC 1 A .0001 - NC State Board of Community Colleges: The rewritten rule submitted by the agency was approved by the Commission.

23 NCAC 2D .0301 and .0327 - NC State Board of Community Colleges: The rewritten rules submitted by the agency were approved by the Commission.

## LOG OF FILINGS

Chairman Powell presided over the review of the log and all rules were approved with the following exceptions:
10 NCAC 14 V .7104 - DHHS/Secretary of Health and Human Services: The Commission objected to this rule due to ambiguity. In (4)(f), it is not clear what medical information is pertinent. In (5), it is not clear what is meant by the system "shall recognize earnings." It is also not clear what is meant by "Peer QA Review." Apparently the "Thomas S. unit cost reimbursement system" is not set out in the rules so this whole provision points to the agency setting requirements outside rulemaking.

15A NCAC 2R . 0503 - DENR/Environmental Management Commission: The Commission objected to this rule due to lack of statutory authority. Insofar as paragraph (d) implies that the fee schedule can be updated and revised without amending this rule, there is no authority for the paragraph.

15A NCAC 18D .0201, .0308, and . 0405 - DENR/Water Treatment Facility Operators Certification Board - The Commission objected to .0201 due to ambiguity. In (1), it is not clear what is meant by "approved A - Surface school." In (2)(b), it is not clear what is meant by "approved B - Surface school." In (3)(b), it is not clear what is mean by "approved C - Surface school." In (4), it is not clear what is meant by "Approved A - Well school." In (5)(b), it is not clear what is meant by "approved B Well school." $\ln (6)(b)$ and (c), it is not clear what is meant by "approved C - Well school." ln (7), it is not clear what is meant by "approved A - Distribution school." $\ln (8)(\mathrm{b})$, it is not clear what is meant by "approved B - Distribution school." In (9), it is not clear what the standards for approval of trench shoring training are. In (9)(b) and (c), it is not clear what is meant by "approved C - Distribution school." In (10)(a), (b), (c), and (d), it is not clear what is meant by "approved cross connection control school." They objected to .0308 due to lack of statutory authority and ambiguity. In (a), it is not clear what format has been designated by the Board for operators to report contact hours. In (b), it is not clear what is meant by "qualified" thirdparty instructor and there is no authority cited for setting instructor qualifications. They objected to .0405 due to lack of statutory authority. There is no authority for this rule as written. G.S. 90A-25(b) allows, but does not require, the Board to issue a certificate, without examination, to a person who holds a comparable certificate in another state if the requirements for the certificate in the other state are not of a lower standard than this state's. This rule proposes to do the opposite by deleting the education and experience requirements and keeping the examination. There is also no authority for the requirement that the applicant be a resident of North Carolina or have a job waiting. The objections to .0201 and .0308 apply to existing language in the rules.

16 NCAC 7 . 0202 - Education/NC Standards Board for Public School Administration: The Commission objected to this rule due to lack of statuary authority and ambiguity. There is no authority for paragraph (a). Pursuant to G.S. 115C-290.5(c), the Standards Board merely proposes, but the State Board of Education actually has the final authority to adopt the exam. The rule also implies that the exam is only for principalship. The statutes only speak of one exam for all administrators. G.S. 115C$290.5(a)(2)$ requires the Board to establish and collect an exam fee and credit it to the General Fund as a non-tax revenue. There is no authority for allowing ETS to establish, collect, and presumably keep the fee. In (c), it is not clear what the passing score is and there is no authority cited for setting it outside of rulemaking.

21 NCAC 12.0204 - NC Licensing Board for General Contractors: The Commission objected to this rule due to lack of statuary authority and ambiguity. In (a)(3), (b)(3), and (c)(3), it is not clear how much experience and education is sufficient to reveal the possession of competency and ability to engage in the practice of general contracting within a specified classification. In (b)(2) and (c)(2), it is not clear what constitutes a "qualified" independent accountant and there is no authority cited for the Board to set qualifications for accountants. This objection applies to existing language in the rule.

21 NCAC 46 . 1810-NC Board of Pharmacy: The Commission objected to this rule due to lack of statutory authority. There was no authority cited for the Board to regulate advertising as the rule does in (2).

21 NCAC $50.0301, .0304, .0404, .0405, .0510, .1102, .1104, .1210$, and .1212 - State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors: Rules $.0301, .0304, .0404, .0405, .0510, .1102$, and .1104 were withdrawn by the agency because the agency had not fully complied with the Administrative Procedure Act. The Commission objected to .1210 and .1212 due to lack of statutory authority and lack of necessity. Neither of these rules is consistent with the current APA, and if they were they would not be necessary. The objections to .1210 and .1212 apply to existing language in the rules.

## DIRECTOR'S REPORT

The internal grievance policy was approved by the Commission. The bylaws will be discussed at next month's meeting after review by the Commissioners. The OSHA inspector found only one problem. There is a glass window in the office that they think needs a decal. Commission and staff goals for the upcoming year are to be considered and discussed at a later date. Commissioner Robinson feels that some agencies are unappreciative of the driving time of Commissioners and often ignore their objections. Mr. DeLuca feels that the opposite is true.

## COMMISSION PROCEDURES AND OTHER MATTERS

The next meeting of the Rules Review Commission is to be held on March 19, 1998.
The meeting adjourned at 12:22 p.m.
Respectfully submitted,
Sandy Webster
$T_{\text {his Section contains the full text of some of the more significant Administrative Law Judge decisions along with an }}$ 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 mininal charge by contacting the Office of Administrative Hearings, (919) 733-2698.

# OFFICE OF ADMINISTRATIVE HEARINGS 

Chief Administrative Law Judge<br>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<br>Robert Roosevelt Reilly Jr.<br>Dolores O. Smith

| AGENCY | $\begin{gathered} \text { CASE } \\ \text { NUMBER } \end{gathered}$ | ALJ | $\begin{aligned} & \text { DATE OF } \\ & \text { DECISION } \end{aligned}$ | PUBLISHED DECISION <br> REGISTER CITATION |
| :---: | :---: | :---: | :---: | :---: |
| ADMINISTRATION |  |  |  |  |
| E. Edward Gambill v. Department of Administration | 97 DOA 0364 | Reilly | 09/10/97 |  |
| Triangle CAD Solutions, Inc. v. Div. Purchase and Contract, EHNR | 97 DOA 0670 | Reilly | 12/19/97 |  |
| Henry Bryon Brewer v. NC Commission of Indian Affairs | 97 DOA 0959 | Gray | 12/17/97 |  |
| ALCOHOLIC BEVERAGE CONTROL COMMISSION |  |  |  |  |
| Michael's Mini Mart v. Alcoholic Beverage Control Commission | 92 ABC 1601 | Gray | 08/18/97 |  |
| Everette Craig Hornbuckle v. Alcoholic Beverage Control Commission | 93 ABC 0987 | Gray | 08/18/97 |  |
| Saleh Ahmed Ali Futhah v. Alcoholic Beverage Control Commission | 94 ABC 0264 | Gray | 08/18/97 |  |
| Carolyn T. Ray v. Alcoholic Beverage Control Commission | 95 ABC 0429 | Gray | 09/23/97 |  |
| Alcoholic Beverage Control Commission v. Fast Fare, Inc. | 96 ABC 0483 | Morrison | 06/18/97 |  |
| Alcoholic Beverage Control Commission v. Mendoza Enterprises, Inc. | 96 ABC 1196 | Gray | 08/26/97 |  |
| Paul Tyler IV Enterprises, Inc., Alpha Vinson T/A Mirrors (Sid's Showgirls) v. Alcoholic Beverage Control Commission and | 96 ABC 1804 | Morrison | 09/29/97 |  |
| City of Goldsboro and |  |  |  |  |
| Gurnan Khera |  |  |  |  |
| George Robert Scott v. Alcoholic Beverage Control Commission | 96 ABC 1995 | Reilly | 12/05/97 |  |
| Nasar Sader v. Alcoholic Beverage Control Commission | 97 ABC 0030 | Phipps | 10/08/97 |  |
| Alcoholic Beverage Control Commission v. Paradise Landing, Inc. | 97 ABC 0031 | Gray | 06/13/97 |  |
| OFFISS, Inc. v. Alcoholic Beverage Control Commission | 97 ABC 0118 | Gray | 09/17/97 |  |
| Alcoholic Beverage Control Commission v. Fast Fare, Inc. No. 576 | 97 ABC 0197 | Morrison | 01/15/98 |  |
| Alcoholic Beverage Control Commission v. Altaf Hussain | 97 ABC 0312 | Mann | 07/29/97 |  |
| Alcoholic Beverage Control Commission v. Robert Johnson | 97 ABC 0321 | Gray | 08/25/97 |  |
| Alcoholic Beverage Control Commission v. Masonboro County Store, Inc. | 97 ABC 0432 | Reilly | 09/09/97 |  |
| Daniel Gary Ledbetter v. Alcoholic Beverage Control Commission | 97 ABC 0443 | Gray | 07/08/97 |  |
| Alcoholic Beverage Control Comm. v. Raymond Lee | 97 ABC 0488 | Smith | 10/30/97 |  |
| Alcoholic Beverage Control Comm. v. Percy Daniel Bowen | 97 ABC 0495 | Morrison | 09/24/97 |  |
| Alcoholic Beverage Control Commission v. Bridgette Dee Williams | 97 ABC 0576 | Phipps | 09/04/97 |  |
| Alcoholic Beverage Control Commission v. Westside Tavern, Inc. | 97 ABC 0586 | Phipps | 09/17/97 |  |
| Alcoholic Beverage Control Commission v. Grove Park Inn Resort, Inc. | 97 ABC 0706 | Morrison | 09/15/97 | 12:07 NCR 609 |
| Bradford Allan Capps \& Garland Lewis Williams v. Alc. Bev. Cu. Comm. | 97 ABC 0820 | Reilly | 02/05/98 |  |
| Sunset Enterprises, Inc.v. Alcoholic Beverage Control Commission | 97 ABC 0846 | Gray | 12/10/97 |  |
| Alcoholic Beverage Control Commission v. 6 Twelve Corporation | 97 ABC 0895 | Reilly | 12/16/97 |  |
| Alcoholic Beverage Control Commission v. Kimberly Loette Hankins | 97 ABC 0897 | Gray | 10/06/97 |  |
| Alcoholic Bev. Ctl. Comm. v. Monterrey Mex. Rest. of Greensboro, Inc. | 97 ABC 0965 | Morrison | 01/15/98 |  |
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Mary A Kearney v CPS, Victims Compensation Commission
Mae Allen Murray v Crime Victims Compensation Commission
Beverly McLaughlin v Crime Victims Compensation Commission
Malcolm W Fields v. Crime Victims Compensation Commission
Rodney P. Hodge v. Crime Victims Compensation Commission
Billy Steen v. Crime Victims Compensation Commission
Clifford R. Pulley v Crime Victims Compensation Commission
Curtis Jermaine Newkirk v. Crime Victims Compensation Commission
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Percival R Johnson, AKA Reeves Johnson v. Crime Victims Comp. Comm.
Gregory Bynum v Crime Victims Compensation Commission
Michaela Dionne Brewington v. Crime Victims Compensation Commission
Lisa S Snead v. Crime Victims Compensation Commission
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Connie Cowan v. Crime Victims Compensation Commission
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| 97 ABC 1115 | Morrison | $02 / 19 / 98$ |
| 97 ABC 1250 | Gray | $02 / 24 / 98$ |
| 97 ABC 1289 | Morrison | $02 / 26 / 98$ |
| 97 ABC 1429 | Smith | $12 / 31 / 97$ |

Riggings Homeowners Assoc. Inc. v Environment. Health, \& Natural Res, John Ronald Taylor v Environment, Health, \& Natural Resources Rick Parker v. Pitl County Healch Dept./Mr. Ernie Nichols James R. Melvin v. Environment and Natural Resources
Lee A Riggs v. Craven County Health Department
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Robert E. Cahoon v. Carteret County Health Department
John Martin v. Environment, Health, and Natural Resources
John Martin v. Environment, Health, and Natural Resources
Jack R. Whitmore y. Dept. of Environment \& Natural Resources
Rachel S Tugwell v. Environment. Health and Natural Resources
Joanne B Huff v. Dept. of Environment and Natural Resources
NC Waste Awareness \& Reduction Network, Inc. v. EHNR and
Carolina Solite Corporation and Oldover Corporation
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Gilbert T. Davis, Jr v. Forsyth County Environmental Affairs Dept.
Selby Franklin Brown v Wayne County Environmental Health
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| 96 EHR 0161 | Chess | $09 / 23 / 97$ |
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| 96 EHR 0264 | Becton | $07 / 16 / 97$ |
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| 96 EHR 0855 | Gray | $10 / 30 / 97$ |
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James H Lowdermilk \& J Wayne Lowdermilk v. EHNR, Land Res. Charles G. Smith v. EHNR, Division of Land Resources Henry Yancey Ingram, II \& Hope Fanning Ingram v EHNR, Land Res.

12:03 NCR 223

12:13 NCR 1222

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## AGENCY

Thomas Windell Foster, Minnie Foster Tate, Carolyn D. Hughes, Joseph \& Lorrie Voliva v. EHNR, Division of Land Resources
Thomas Windell Foster, Minnie Foster Tate, Carolyn D. Hughes, Joseph \& Lorrie Voliva v. EHNR, Division of Land Resources
Thomas Windell Foster, Minnie Foster Tate, Carolyn D. Hughes, Joseph \& Lorrie Voliva v. EHNR, Division of Land Resources
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## Marine Fisheries

William B. Tate $v$. Division of Marine Fisheries
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Hassell B. Lawrence, Sr., Gordon Lawrence, Bobby G. Gillikin, Norman W. Gillikin, Oliver C. Lawrence, Hiram Gillikin, Louis Gray Thomas, Jr., Faye Thomas, Mark Allen Gillikin, Millie Lawrence, June Martin
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Hassell B. Lawrence, Sr., Gordon Lawrence, Bobby G. Gillikin, Norman W. Gillikin, Oliver C. Lawrence, Hiram Gillikin, Louis Gray Thomas, Jr., Faye Thomas, Mark Allen Gillikin, Millie Lawrence, June Martin
Hassell B. Lawrence, Sr., Gordon Lawrence, Bobby G. Gillikin, Norman W. Gillikin, Oliver C. Lawrence, Hiram Gillikin, Louis Gray Thomas, Jr., Faye Thomas, Mark Allen Gillikin, Millie Lawrence, June Martin
Hassell B. Lawrence, Sr., Gordon Lawrence, Bobby G. Gillikin, Norman W. Gillikin, Oliver C. Lawrence, Hiram Gillikin, Louis Gray Thomas, Jr., Faye Thomas, Mark Allen Gillikin, Millie Lawrence, June Martin
Hassell B. Lawrence, Sr., Gordon Lawrence, Bobby G. Gillikin, Norman W. Gillikin, Oliver C. Lawrence, Hiram Gillikin, Louis Gray Thomas, Jr., Faye Thomas, Mark Allen Gillikin, Millie Lawrence, June Martin James Fletcher v. EHNR, Division of Marine Fisheries
Hassell B. Lawrence, Sr., Gordon Lawrence, Bobby G. Gillikin, Norman W. Gillikin, Oliver C. Lawrence, Hiram Gillikin, Louis Gray Thomas, Jr., Faye Thomas, Mark Allen Gillikin, Millie Lawrence, June Martin
Hassell B. Lawrence, Sr., Gordon Lawrence, Bobby G. Gillikin, Norman W. Gillikin, Oliver C. Lawrence, Hiram Gillikin, Louis Gray Thomas, Jr.. Faye Thomas, Mark Allen Gillikin, Millie Lawrence, June Martin

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Evan's Mini Mart v. EHNR, Maternal \& Child Health, Nutrition Svcs Sec.
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RAYCO Utilities, Inc., Melbille Heights MHP and
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## HUMAN RESOURCES

Sampson Health Care Facilities Inc. v. Dept. of Health \& Human Services John \& Veronica Spearman v. Department of Human Resources
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| 97 EHR $1003^{* 34}$ | Mann | $02 / 05 / 98$ |
| 97 EHR $1043^{* 34}$ | Mann | $02 / 05 / 98$ |
| 97 EHR $1057^{* 34}$ | Mann | $02 / 05 / 98$ |


| 96 EHR 1922 | Becton | $12 / 16 / 97$ |
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| 97 EHR 0400 | Chess | $10 / 30 / 97$ |
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| 97 EHR $0927^{* 30}$ | Morrison | $12 / 30 / 97$ |
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| 97 EHR 0928*30 | Morrison | $12 / 30 / 97$ |


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| 97 EHR $0935^{* 30}$ | Morrison | $12 / 30 / 97$ |


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| 97 EHR 0962*30 | Morrison | $12 / 30 / 97$ |


| 97 EHR 0979*30 | Morrison | $12 / 30 / 97$ |
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| 97 EHR 0985 | Chess | $01 / 28 / 98$ |
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| Helen Wyman v. Deparment of Human Resources | 97 DHR 0407 | Reilly | 08/08/97 |  |
| DeRothea G. Williams d/b/a Dee Williams \& Company, a proprietorship v. Buncombe County Partnership for Children, Inc., a NC Nonprofit Corp.; NC Department of Human Resources [Division of Child Development]: NC Department of Environment, Health, and Natural Resources [Dıvision of Maternal and Child Health] | 97 DHR 0424 | Morrison | 09/22/97 |  |
| Lorraine M Monree v. Department of Human Resources | 97 DHR 0540 | Gray | 10/30/97 |  |
| Ruby Woodward v. Department of Human Resources | 97 DHR 0552 | Chess | 02/02/98 | 12:17 NCR 1682 |
| Linda Rouse Sharp v Deparment of Human Resources | 97 DHR 0610 | Mann | 08/28/97 |  |
| William \& Deborah Gilbert v. Deparment of Human Resources | 97 DHR 0616 | Chess | 01/29/98 |  |
| Ocelee Gibson v. Department of Human Resources | 97 DHR 0658 | Reilly | 07/22/97 |  |
| Larry Patton v. Department of Human Resources | 97 DHR 0829 | Phipps | 10/17/97 |  |
| Rita Faircloth v. Deparument of Human Resources | 97 DHR 0900 | Reilly | 08/15/97 |  |
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| HILCO v. Forsyh County Environmental Affairs Department | 97 DHR 1454 | Gray | 12/19/97 |  |
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| Geneva B. Horne v DHR, Division of Child Development | 97 DHR 0746 | Chess | 01/26/98 |  |
| Raleigh Child Care, Inc. v. DHR, Div./Child Dev., Child Day Care Comm. | 97 DHR 0854 | Reilly | 02/12/98 |  |
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| Mary Ann Edge v. DHR, Division of Child Development | 97 DHR 1067 | Phipps | 02/23/98 |  |
| Kathleen G. McBride v. Division of Child Development | 97 DHR 1604 | Becton | 02/12/98 |  |
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| Marie Emma Wimbush v. DHR, Division of Facility Services | 97 DHR 0296 | Morrison | 02/20/98 |  |
| Mercy Egbuleonu v. Human Resources, Division of Facility Services | 97 DHR 0450 | Gray | 09/02/97 |  |
| Kizzıe Cooper v. DHR, Facility Svcs, Health Care Personnel Registry Sec. | 97 DHR 0459 | Phipps | 06/09/97 |  |
| Maggie J. Barnhill v. DHR, Facility Sves, Health Care Pers. Reg Sec. | 97 DHR 0465 | Gray | 07/30/97 |  |
| Emma Faison v. DHR, Division of Facility Services | 97 DHR 0471 | Gray | 07/15/97 |  |
| Eugene Donald Caldwell v. DHR, Division of Facility Services | 97 DHR 0480 | Gray | 10/10/97 |  |
| Patricia Addison v. DHR, Facility Svcs, Health Care Personnel Reg. Sec. | 97 DHR 0521 | Mann | 07/25/97 |  |
| Selena Louise Holley v. DHR, Facility Sves, Health Care Persl. Reg. Sec. | 97 DHR 0524 | Phipps | 08/28/97 |  |
| Shirley Ebron v. DHR, Facility Svcs, Health Care Pers. Reg. Sec. | 97 DHR 0528 | Gray | 10/02/97 |  |
| Carolyn Forbes v. DHR, Division of Facility Services | 97 DHR 0532*31 | Phipps | 12/18/97 |  |
| Sally Hutchins v. DHR, Division of Facility Services | 97 DHR 0547*31 | Phipps | 12/18/97 |  |
| Claudia K. Thomerson v. DHR, Facility Sves, Health Care Pers. Reg. Sec. | 97 DHR 0551 | Chess | 07/15/97 |  |
| Janice Amn McClintonv. DHR, Facility Sves, Healh Care Pers. Reg. Sec. | 97 DHR 0558 | Creech | 10/17/97 |  |
| Michelle R. Griffin v. DHR. Facility Sves, Health Care Pers. Reg. Sec. | 97 DHR 0559 | Gray | 07/30/97 |  |
| Deborah L. McBurnie v. DHR, Facility Sves, Health Care Pers. Reg. Sec. | 97 DHR 0608 | Chess | 09/02/97 |  |
| Kelly M. Poole v. DHR, Facility Sves, Health Care Pers. Reg. Sec. | 97 DHR 0629 | Chess | 09/02/97 |  |
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$\begin{array}{lll}97 \text { DHR 0626 } & \text { Phipps } & 02 / 19 / 98 \\ 97 \text { DHR 0925**5 } & \text { Smith } & 02 / 13 / 98\end{array}$

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| AGENCY | $\begin{gathered} \text { CASE } \\ \text { NUMBER } \end{gathered}$ | ALJ | DATE OF <br> DECISION | PUBLISHED DECISION REGISTER CITATION |
| :---: | :---: | :---: | :---: | :---: |
| David S. McCullar v. Department of Human Resources | 97 CSE 1546 | Mann | 01/12/98 |  |
| Dennis McNeill v. Department of Human Resources | 97 CSE 1552 | Reilly | 02/02/98 |  |
| David Hobson v. Department of Human Resources | 97 CSE 1747* ${ }^{11}$ | Phipps | 07/24/97 |  |
| Jerry Whitley v. Mecklenburg County Child Support Enforcement | 97 CSE 2037 | Reilly | 08/21/97 |  |
| Ernest Smith Sr. v. Department of Human Resources | 98 CSE 0016 | Morrison | 02/23/98 |  |
| Douglas K. Johnson v. Department of Human Resources | 98 CSE 0017 | Becton | 02/23/98 |  |
| Gregory Alan Jett v. Department of Human Resources | 98 CSE 0018 | Smith | 02/19/98 |  |
| William Jerrell Seawell v. Department of Human Resources | 98 CSE 0058 | Mann | 02/24/98 |  |
| Bruce A. Carter v. Department of Human Resources | 98 CSE 0059 | Gray | 02/24/98 |  |
| Linda Wade-Hargrove v. Deparment of Human Resources | 97 DCS 0365 | Becton | 07/11/97 |  |
| Regina C. Sullivan v. Department of Human Resources | 97 DCS 0482 | Becton | 07/18/97 |  |
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| Katrina T. Johnson v. Department of Human Resources | 97 DCS 0856 | Becton | 09/24/97 |  |
| Clarisa Carter Watson v. Deparment of Human Resources | 97 DCS 0909 | Gray | 10/02/97 |  |
| Paulette Duggins Rodgers v. Department of Human Resources | 97 DCS 1238 | Smith | 12/08/97 |  |
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| Joseph J. Peacock v. Deparment of Insurance | 96 INS 0433 | Becton | 07/25/97 | 12:04 NCR 327 |
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| Barbara Carter Irons v. DHR. Division of Facility Services | 97 DOJ 0669 | Phipps | 08/27/97 | 12:06 NCR 501 |
| Paul Harvey Taylor v. Department of Justice, Company Police Program | 97 DOJ 0916 | Reilly | 10/03/97 |  |
| Christopher Michael Lynn v. Company Police Program | 97 DOJ 1120 | Chess | 10/22/97 |  |
| William G. Fisher v. Consumer Protection, Department of Justice | 97 DOJ 1300 | Mann | 01/15/98 |  |
| Imran Ramnarine v. Department of Justice, Company Police Program | 97 DOJ 2071 | Becton | 06/31/97 |  |
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| Kim Brian Phelps v. Alarm Systems Licensing Board | 96 DOJ 1785 | Gray | 08/08/97 |  |
| Daniel Joseph Dunne, Ill v. Alarm Systems Licensing Board | 97 DOJ 0868 | Phipps | 09/12/97 |  |
| Education and Training Standards Division |  |  |  |  |
| Charles Thomas Ohnmacht, Jr.v. Criml. Justice Ed./Training Stds. Comm. | 96 DOJ 0353 | Phipps | 06/13/97 |  |
| Jon Randolph O'Dell v. Criml. Justice Ed. /Training Stds. Comm. | 96 DOJ 1466 | Phipps | 09/16/97 |  |
| James Haywood Mathews, Jr. v. Criml. Justice Ed./Training Stds. Comm. | 96 DOJ 1957 | Reilly | 07/31/97 |  |
| Teresa D. Wright v. Sheriffs' Ed. \& Training Stds. Comm. | 97 DOJ 0035 | Morrison | 01/08/98 |  |
| Christopher Lee v. Criminal Justice Ed. \& Training Standards Comm. | 97 DOJ 0076 | Morrison | 06/19/97 |  |
| Steven Wayne Olsen v. Criminal Justice Ed. \& Training Standards Comm. | 97 DOJ 0077 | Phipps | 08/21/97 |  |
| Edward Delano Hammock v. Criminal Justice Ed. \& Training Sds Comm. | 97 DOJ 0078 | Gray | 12/19/97 |  |
| Garfield Duncan Whitaker v. Criminal Justice Ed. \& Training Sids. Comm. | 97 DOJ 0121 | Phipps | 11/04/97 |  |
| Joseph Lonnie Wesson v. Criminal Justice Ed. \& Training Standards Comm. | 97 DOJ 0136 | Reilly | 08/26/97 |  |
| Frank Arlander Hearne v. Criml. Justice Ed. \& Training Stds. Comm. | 97 DOJ 0137 | Reilly | 06/10/97 |  |
| Audrey McDonald Rodgers v. Sheriffs' Ed. \& Training Stds. Comm. | 97 DOJ 0308 | Reilly | 07/31/97 |  |
| Gerald S. Wingate v. Sheriffs' Ed. \& Training Stds. Comm. | 97 DOJ 0428 | Gray | 10/09/97 |  |
| William Malcolm Mourino v. Sheriffs' Ed. \& Training Stds. Comm. | 97 DOJ 0430 | Phipps | 09/16/97 |  |
| Derrick W. Bowens v. Sheriffs' Education \& Training Standards Comm. | 97 DOJ 0661 | Smith | 08/29/97 |  |
| Joseph Ray Davis v. Sheriffs' Ed. \& Training Stds. Comm. | 97 DOJ 0747 | Gray | 10/02/97 |  |
| William Wayne McDowell v. Sheriffs' Education \& Training Stds. Comm. | 97 DOJ 0817 | Morrison | 08/22/97 |  |
| Roy Randolph Carpenter, Jr. v. Crim. Justice Ed. \& Training Stds Comm. | 97 DOJ 0977 | Becton | 12/31/97 |  |
| Karen Poole Daniels v. Sheriffs' Ed. \& Training Stds. Comm. | 97 DOJ 1128 | Morrison | 02/02/98 |  |
| James Earl Everett v. Crim. Justice Ed. \& Training Stds Comm. | 97 DOJ 1218 | Gray | 01/26/98 |  |
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| Private Protective Services Board v. Phillip L. Hanson | 96 DOJ 0795 | Smith | 06/05/97 |  |
| Ronald Anthony Bobeck v. Private Protective Services Board | 97 DOJ 0476 | Morrison | 06/20/97 |  |
| Joseph D. White v. Private Protective Services Board | 97 DOJ 0724 | Gray | 10/06/97 |  |
| Harry A. House v. Private Protective Services Board | 97 DOJ 0727 | Phipps | 09/11/97 |  |
| Earl Thomas Wilson v. Private Protective Services Board | 97 DOJ 0996 | Gray | 10/06/97 |  |
| Patti Jones v. Private Protective Services Board | 97 DOJ 1195 | Reilly | 11/03/97 |  |
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| Steven M. Riley v. Private Protective Services Board | 97 DOJ 1445 | Mann | 01/30/98 |  |
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| Nicholas Eirschele, by his parents, Charles \& Kathy Eirschele v. Craven County Board of Education | 96 EDC 0655 | Mann | 09/02/97 |  |
| Jay and Elisabeth Miller v. Henderson County Public Schools | 96 EDC 0766**9 | Phipps | 12/11/97 | 12:13 NCR 1201 |
| Karen L. Holgersen v. Department of Public Instruction | 96 EDC 0808 | Smith | 05/27/97 |  |
| Meridith Kirkpatrick, by her parent, Susan Kirkpatrick and Meridith Kirkpatrick, Individually v. Lenoir County Board of Education | 96 EDC 0979 | Overby | 06/02/97 |  |
| Brian Allen Hoffman v. Department of Public Instruction | 96 EDC 1013 | Gray | 10/24/97 |  |
| Alexander \& Linda Brody \& their son, James Brody v. Dare County | 96 EDC 1095 | Creech | 08/25/97 | 12:07 NCR 581 |

## AGENCY

Jay and Elisabeth Miller v Henderson County Public Schools Brenda Joyce Brooks Lovely v State Board of Education John G. Schaenman v State Board of Education Norman D Crotts v. State Board of Education Paul W. Bonhamv State Board of Education. Dept. of Public Instruction Fred W. Craw iord II v Charlotte Mecklenburg Board of Education Walter R Bennell v. Sate Board of Education Julius O. Webb y Hertford County Board of Education Charles Beverly Whuley v State Board of Education H Sargaret Willets v Department of Public Instruction Karen Clark Ceccato v. Department of Public Instruction Carl Smith Herman v. State Board of Education
Cynthia Chisley y Cumberland County Board of Education Thomas Jenkıns (Student), Bernitha Jenkins (Parent) v. Ralph Fike Senior High, Wilson County Public School

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## STATE PERSONNEL

## Administration

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Brunswick Community College
Dr Donald W. Skinner v. Brunswick Community College
Correction
Janice Harding $\vee$ Department of Correction
William H Williamson v. A K. Pruitt. Sup. Blanch Youth Inst. Correction William H Williamson v. A K Pruitt. Sup Blanch Youth 1nst, Correction Michael McKimmey v. Deparument of Correction
Pamela Robinson v. Department of Correction
Pamela Robinson v. Department of Correction
Stephen Dubay v. Department of Correction
Rodney Jones, Paula Haukins, James McKoy v. Depı. of Correction
Rodney Jones, Paula Haukins, James Mckoy v. Dept. of Correction Rodney Jones, Paula Hawkins, James McKoy v. Dept. of Correction Larry Wayne Pruitt. Jr v. Deparmment of Correction
Margarer Martin Roberts v . Deparment of Correction
William Hershe! Bradley v. Franklin Freeman, Supt. Mark Hughes,
Grant Spicer, Asst. Supt. W'ade Hatley; et al, Department of Correction Dennis Harrell $v$. Department of Correction
Ray Evans Joyner v. Correction. Div. of Adult Probation Parole Morton Floyd $v$. New Hanover Department of Correction
Fannie P. Greene ヶ. Adult Probation, State of NC
William G. Jordan v. Deparmment of Correction
Joe Nathan Graham v Department of Correction
William A. Rich: Dennis Rowland (Asst. Supt.) Wake Corr. Ctr DOC Deborah R Dixon v. Department of Correction
Torie M. Osborne v. Deparment of Correction
Stanford R Peerless v. Department of Correction Dennis M. Butcher v. Department of Correction Lonnie F. McCaskill, IIl v. Department of Correction
William E. McCaskill v Department of Correction
William A. Rich * Department of Correction
Andrew Pintov. Department of Correction
Regina Draughonv. Department of Correction. Duplin Correctional Cur.
Ronald M Johnson v. Emp. Rel. Comm., DOC (Morrison Y'outh Inst.)
Bernie B. Kelly v. Harry Chambers, Department of Correction
Stanley L. Ingram v Deparment of Correction
Randy L. Tompkins v. Department of Correction
Constance L. Hines y Personnel Depi. Polk Youth Institute Andrew Pinto v. Department of Correction
Reginald W Lewis v. Piedmont Corr. Institute, Mr. T Pinion, Cpt. K Fr. Sgr, Dancy, SCT, B. Crauford
Donald W Ketth v. Department of Correction
Frances A. Holden v. Lumberton Correctional Institute
Thomas Woolridge $v$. Lumberton Correctional Instutute

## Crime Control and Public Safery

Timothy MI Lassiter v. Crime Control \& Public Safety, St. Huy Patrol Carroll E. Ward v. State Highway Patrol

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97 OSP 0310

87 OSP 1250 93 OSP 0687*3.3 93 OSP 1379*33 96 OSP 0254 96 OSP 0403*32 96 OSP 0654**32 96 OSP 0896 96 OSP 1051* ${ }^{1^{-}}$ 96 OSP $1119^{* *}$ 96 OSP 1120* 96 OSP 1133 96 OSP 1157 96 OSP 1604

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97 OSP 0100 97 OSP 0152 97 OSP 0261 97 OSP 0469 97 OSP 0539 97 OSP 054? 97 OSP 0594
97 OSP 0601
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## Morrison

12.14 NCR 1363
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| AGENCY | CASE <br> NUMBER | ALJ | DATE OF DECISION | PUBLISHED D REGISTER CI | $\begin{aligned} & \text { ECISION } \\ & \text { rATION } \end{aligned}$ |
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| Employment Security Commission |  |  |  |  |  |
| Broxie J. Nelson v. Employment Security Commission | 96 OSP 0378 | Becton | 07/10/97 |  |  |
| Sandra T. Shearin v. Employment Security Commission | 97 OSP 0293 | Phipps | 01/07/98 |  |  |
| Mary H. Ranson v. Employment Security Commission | 97 OSP 0387 | Mann | 07/24/97 |  |  |
| Carrie F. Luther v. Employment Security Commission | 97 OSP 0943 | Mann | 01/12/98 |  |  |
| Frances P. Gray v. Employment Security Commission | 97 OSP 0948 | Smith | 01/13/98 |  |  |
| Environment, Health, and Natural Resources |  |  |  |  |  |
| Yin-Pong G. Chang v. EHNR, Div. Environmental Management | 95 OSP 0937 | Reilly | 02/18/98 |  |  |
| Dowell Gray v. Deparment of Environment and Natural Resources and | 97 OSP 0374**7 | Gray | 12/01/97 | 12:13 NCR | 1222 |
| Onslow County Department of Health |  |  |  |  |  |
| James Fred Swain v. Environment, Health, and Natural Resources | 96 OSP 0440 | Gray | 10/02/97 | 12:09 NCR |  |
| James S Kantor v. Environment, Health, and Natural Resources | 96 OSP 0633 | Smith | 09/30/97 | 12:09 NCR | 854 |
| Health and Human Services |  |  |  |  |  |
| Betty J. Souther v. New River Area MH/DD/SA Program | 94 OSP 0327 | Becton | 10/20/97 |  |  |
| Kenneth B. Cooper v. Piedmont Area Mental Health | 95 OSP 0312 | Smith | 12/19/97 |  |  |
| Willie D. Parks v. Cherry Hospital, Department of Human Resources | 96 OSP 0617 | Phipps | 09/10/97 |  |  |
| Robert Tilson Morley v. Department of Human Resources | 96 OSP 0969 | Gray | 08/21/97 |  |  |
| Glen Sutton v. Cumberland County Department of Social Services | 96 OSP 1296 | Gray | 07/17/97 |  |  |
| Brenda C. Burgess v. Dept of Human Resources (Broughton Hospital) | 96 OSP 1485 | Phipps | 10/13/97 |  |  |
| Felicia Ann Baker v. Lenoir County DSS. Jack B. Jones | 96 OSP 1664 | Becton | 12/05/97 |  |  |
| Sharron S. Moten v. Lenoir County DSS, Jack B. Jones | 96 OSP 1665 | Becton | 12/05/97 | 12:13 NCR | 1215 |
| Pamela Massey v. Department of Human Resources | 96 OSP 1927 | Becton | 08/28/97 | 12:06 NCR |  |
| Clifton Dean Hill v. Deparment of Human Resources | 97 OSP 0007 | Phipps | 06/20/97 | 12:02 NCR |  |
| Bennie Allen Sutle v. Department of Human Resources | 97 OSP 0069 | Reilly | 09/30/97 |  |  |
| Calvin E. Kaiser v. Southeastern Mental Health Center | 97 OSP 0073 | Gray | 08/08/97 |  |  |
| Sandra Riley v. Onslow County Deparment of Social Services | 97 OSP 0217 | Reilly | 10/14/97 |  |  |
| Vicky Angel Morgan v. Buncombe County Deparunent of Social Services | 97 OSP 0283 | Becton | 10/02/97 |  |  |
| Antoinette Leveille v. Onslow County Department of Social Services | 97 OSP 0305 | Chess | 01/30/98 |  |  |
| Rick A. Sanders v. Department of Health and Human Services | 97 OSP 0307 | Reilly | 10/16/97 |  |  |
| Troy Gaines v. Durham County Mental Health Department | 97 OSP 0347 | Mann | 08/05/97 |  |  |
| Edward Percell Eason v. Department of Human Resources | 97 OSP 0363 | Gray | 08/15/97 |  |  |
| Dale Dees v. Trend Community Mental Healh Services | 97 OSP 0402 | Mann | 11/24/97 | 12:12 NCR | 1087 |
| Lisha Dawn Byrd v. Human Resources (Western Carolina Center) | 97 OSP 0491 | Morrison | 08/28/97 |  |  |
| Richard G. Steeves v. Scotland County Board of Health | 97 OSP 0622*23 | Phipps | 10/21/97 |  |  |
| Antonio A. Archibeque v. Barbara D. Whitley, Dir, Stanly County DSS | 97 OSP 0663 | Smith | 09/02/97 |  |  |
| DHR, Deaf \& Hard of Hearing CNCSD, Evonne Broadnax v. DHR, Deaf \& Hard of Hearing CNCSD | 97 OSP 0756 | Becton | 09/03/97 |  |  |
| Richard G. Steeves v. Scotland County Board of Health \& Scotland County | 97 OSP 0760*33 | Phipps | 10/21/97 |  |  |
| Julia R. Baker v. Union County Department of Social Services | 97 OSP 0783 | Gray | 10/13/97 |  |  |
| Mary E. Reed v. Deparment of Human Resources (Broughton Hospital) | 97 OSP 0907 | Smith | 02/05/98 |  |  |
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| Frances Phillips Melott v. Deparment of Public Instruction | 95 OSP 0907 | Trawick | 06/09/97 |  |  |
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| Transportation |  |  |  |  |  |
| Tommie R. Jones, Samuel W. Winstead, Timothy C. Sturges, Michael J. Boone, and Ronnie Batchelor v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section | 96 OSP 0781** ${ }^{\text {² }}$ | Phipps | 11/13/97 | 12:11 NCR | 979 |
| Tommie R. Jones, Samuel W. Winstead. Timothy C. Sturges. Michael J. Boone, and Ronnie Batchelor v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section | 96 OSP 0782** ${ }^{\text {* }}$ | Phipps | 11/13/97 | 12:11 NCR | 979 |
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| Georgia B. Warren v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section | 96 OSP 0784** ${ }^{\text {* }}$ | Phipps | 11/13/97 | 12:11 NCR | 979 |
| Tommie R. Jones, Samuel W. Winstead, Timothy C. Sturges, Michael J. Boone, and Ronnie Batchelor v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section | 96 OSP 0785*26 | Phipps | 11/13/97 | 12:11 NCR | 979 |
| Tommie R. Jones, Samuel W. Winstead. Timothy C. Sturges, Michael J. Boone, and Ronnie Batchelor v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section | 96 OSP 0786** ${ }^{* 6}$ | Phipps | 11/13/97 | 12:11 NCR |  |
| Wendell L. Webb v. Department of Transportation, Ferry Division | 96 OSP 1710** | Phipps | 10/31/97 |  |  |
| Wendell L. Webb v. Deparment of Transportation. Ferry Division | 97 OSP 0198**4 | Phipps | 10/31/97 |  |  |
| Danjel H. Spaulding v. Department of Transportation | 97 OSP 0221 | Becton | 02/26/98 | 12:18 NCR | 1742 |


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| Frank A Tice, 111 v . Deparument of Transportation | 97 OSP 0380 | Mann | 09/05/97 |  |
| Roy J. Abbott v , Department of Transportation | 97 OSP 0697 | Morrison | 12/05/97 |  |
| James French v. Department of Transportation | 97 OSP 1252 | Smith | 12/16/97 |  |
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| Boyd S. Taylorv. NC Central University | 94 OSP 0363 | Chess | 09/12/97 |  |
| Gregory Lapickiv. East Carolina University | 94 OSP 1721 | Reilly | 02/11/98 |  |
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| Helen AicIntyre v. UNC-TV University of North Carolina | 96 OSP 0822 | Gray | 09/26/97 |  |
| Elaine P Browne v. Winston-Salem State University | 96 OSP 1007 | Reilly | 09/24/97 |  |
| Carol Glosson v. Unıversity of NC Hospitals at Chapel Hill | 96 OSP 1015 | Becton | 10/08/97 |  |
| Theresa Rogers v. University of NC Hospitals at Chapel Hill | 96 OSP 1065 | Morrison | 10/23/97 |  |
| Ann O. Meares y NC State University | 96 OSP 1870 | Chess | 09/22/97 |  |
| Jesse Daniels $v$. East Carolina Unıversity | 97 OSP 0123 | Morrison | 01/13/98 |  |
| Darrell J Hampton v. NC Central University | 97 OSP 0155 | Mann | 08/11/97 |  |
| Clinton A. Browne v. NC A\&T State University | 97 OSP 0199 | Phipps | 09/18/97 |  |
| Kenneth L. Jarman v. East Carolina University | 97 OSP 0249 | Gray | 09/26/97 |  |
| William A Covington v. NC A \& T State University | 97 OSP 0686 | Becton | 08/29/97 |  |
| Beth W. Vinson v. Western Carolina University | 97 OSP 0762 | Phipps | 10/10/97 |  |
| Viola Simmons $v$. UNC-Wilmington | 97 OSP 0859 | Gray | 11/18/97 |  |
| Helen McIntyre v. UNC-TV University of North Carolina | 97 OSP 0991 | Gray | 09/26/97 |  |
| Helen McIntyre v. UNC-TV University of North Carolina | 97 OSP 1148 | Gray | 10/16/97 |  |
| E. Julius Carter v. UNC-Greensboro | 97 OSP 1202 | Phipps | 11/05/97 |  |
| Kevin K Kaffenberger v. University of North Carolina Chapel Hill | 97 OSP 1249 | Mann | 02/13/98 |  |
| Cindy Hartzell v. N.C.S.U. Facilities Operations | 97 OSP 1299 | Phipps | 02/13/98 |  |
| Eduard L. Chatman v. UNC Hospital Marriot | 97 OSP 1384 | Phipps | 01/20/98 |  |
| Winifred Birdv University of NC Hospitals at Chapel Hill | 97 OSP 1413 | Phipps | 01/12/98 |  |
| Sharon McLawhorn v. East Carolina University | 97 OSP 1560 | Phipps | 02/05/98 |  |
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| Greenway Capital Corp. \& Stacey Lee Davis v. Securities Div Sec'y/State | $94 \operatorname{SOS} 0097$ | Gray | 10/28/97 |  |
| Teresa 11 Coltrain v. Secretary of State | 97 SOS 0499 | Reilly | 10/22/97 | 12:10 NCR 914 |
| STATE TREASURER |  |  |  |  |
| Shelby H. Underwood. et.al. v. Trustees Teachers/St. Emp Ret. Sys. | 96 DST 0390 | Reilly | 08/05/97 |  |
| Richard Albert Jose v. State Treasurer Retirement Systems Div. | 97 DST 0281 | Reilly | 10/02/97 |  |
| Annie Tharrington Harrington v. Trustees Teachers/St. Emp Ret. Sys. | 97 DST 0866 | Mann | 01/15/98 | 12:15 NCR 1468 |
| TRANSPORTATION |  |  |  |  |
| Audrey W. Harris v. Transportation, Manson/Wheat Contr., \& Wake Elec. | 97 DOT 0566 | Gray | 07/28/96 |  |
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| Clinton S. Rogers v. UNC-Chapel Hisl | 97 UNC 1062 | Becton | 10/31/97 |  |

STATE OF NORTH CAROLINA
COUNTY OF HARNETT

## IN THE OFFICE OF ADMINISTRATIVE HEARINGS 97 OSP 022 I

| DANIEL H. SPAULDING, | ) |  |
| :---: | :--- | :--- |
| Petitioner, | ) | RECOMMENDED DECISION |
| v. | ) |  |
| NORTH CAROLINA DEPARTMENT OF | ) |  |
| TRANSPORTATION | ) |  |
| Respondent. | ) |  |

This matter was heard before the undersigned administrative law judge in Raleigh, North Carolina on January 12, 1998.

## APPEARANCES

For Petitioner: Browne, Flebotte, Wilson \& Horn, Attorneys at Law, Durham, North Carolina; Joy Rhyne Webb appearing.

For Respondent: Robert O. Crawford, Ill, Assistant Attorney General and Sarah Ann Lannom, Assistant Attorney General, N.C. Department of Justice, Raleigh, North Carolina.

## ISSUE

Whether the Respondent discriminated against the Petitioner on account of a handicapping condition in violation of N.C. Gen. Stat. §126-36 in not selecting him for promotion to the position of Transportation Electrical Engineer I (Position No. 13410, Pay Grade 74).

## STATUTES AND RULES INVOLVED

N.C. Gen. Stat. §126-36

N.C. Gen. Stat. §168A-3(4)

## EXHIBITS

The following exhibits offered by the Petitioner were received in evidence:
P1. Vacancy posting for \#13410
P2. Petitioner's application for position \#13410
P3. North Carolina Department of Transportation Performance Management Work Plan for Daniel Spaulding for period from April 1, 1995 to March 31, 1996

P4. Seminar Certificate from seminar entitled "How to Manage Conflict, Anger and Emotion"
P5. Certificate of Completion--"Troubleshooting \& Maintenance of IBM PCS \& Compatibles
P6. Certificate of Completion from Pace Incorporated
P7. Certificate of Completion from NCDOT Personnel Training "Concepts of Leadership"
P8. Certificate of Completion from NCDOT Personnel Training "Effective Writing Techniques"

P9. Certificate of Completion from NCDOT Personnel Training "Interaction Management"
P10. Certificate of Completion from NCDOT Personnel Training "Performance Management Overcoming Rater Bias"

P11. Certificate of Completion from NC DOT Personnel Training "Performance Management Conducting the Performance Appraisal"

P12. Certificate of Completion from NC DOT Personnel Training "Performance Management Gaining Commitment to Performance Expectations"

P13. Certificate of Completion from NCDOT Personnel Training "Performance Management Coaching/Reinforcing"

P14. Certificate of Completion from NCDOT Personnel Training "Performance Management Tracking Performance"

P15. Associate Traffic Signal Technician Level 1 Certification
P16. Work Zone Safety Specialist Certification
P17. Traffic Signal Technician Level 1I Certification
P18. Central Carolina Community College Certificate in Fundamentals of Fiber Optics
P19. Siecor Certificate of Achievement "Hands-On Fiber Optic Installation and Splicing for Intelligent Transportation Systems"

P20. Certificate of Completion "Coordinated Systems Solid-State Microprocessor Type"
P21. Certificate of Achievement in Microprocessor Traffic Control
P22. Certificate of Completion for "Control Technologies 170E Traffic Control Operation and Bl Tran Systems Inc. 233 Local Controller Software"

P23. Medical records from Triangle Health Care Group, P.C.
The following exhibits offered by the Respondent were received in evidence:
R1. Vacancy posting for \#13410
R2. Petitioner's application for position \#13410
R3. Interview record for Petitioner
R4. Nolan Kirkman's application for position \#13410
R5. Interview record for Nolan Kirkman
R6. Memorandum dated 12/2/96 from Milton Dean to Troy Peoples
R7. PO-700 Form
R8. Letter dated 1/7/97 from Milton Dean to Petitioner
Based upon the official documents in the file, sworn testimony of the witnesses, and other competent and admissible evidence, the undersigned makes the following:

## FINDINGS OF FACT

## Stipulated Facts

1. The Petitioner has been employed with the DOT Traffic Engineering Branch as follows:

| Date | $\underline{\text { Position }}$ | Pay Grade |
| :--- | :--- | :--- |
| $06 / 11 / 86-11 / 22 / 91$ | Electronic Technician I | 64 |
| $11 / 23 / 91-04 / 22 / 93$ | Traffic Control Shop Supervisor | 67 |
| $04 / 23 / 93-$ present | Electronics Technician III | 70 |

2. After April 1993, the Petitioner's duties included the repair of high-tech IVHS equipment used on the state highway system. The Petitioner supervised and trained approximately five (5) lower-level employees in the DOT Traffic Electronics Center and advised field technicians.
3. The Petitioner was relieved of his supervisory duties on or about March 11, 1996.
4. The Petitioner's supervisory responsibilities were assumed on an interim basis by Mark Harrison, a DOT Transportation Technician IV.
5. The Petitioner, on or about July 29, 1996, filed a grievance with the DOT Personnel Director, regarding his overall "Good" rating on his Performance Management Work Plan for the period encompassing April 1, 1995 through March 31, 1996. The Petitioner's supervisors, Milton Dean and Troy Peoples, met with him on August 7, 1996, to discuss his performance evaluation. As a result of that meeting, the Petitioner's rating was amended from "Good" to "Very Good." The Petitioner thereupon withdrew his request for a grievance hearing relating to his performance evaluation on September 5, 1996.
6. Effective October 19, 1996, the Petitioner was granted an eight percent ( $8 \%$ ) in-range salary increase, which increased his salary to $\$ 39,766$, in compliance with DOT's in-range salary adjustment plan.
7. From October 15, 1996, to October 28, 1996, DOT posted a notice of vacancy for the position of Transportation Electrical Engineer I (TEE I) (Position No. 13410, Pay Grade 74).
8. The Petitioner submitted an application for the position and was interviewed.
9. Another DOT employee, Nolan P. Kirkman, was selected for promotion into the TEE I position.
10. By letter dated January 7, 1997, the Petitioner was notified that another candidate had been selected for the TEE I position.

## Adjudicated Facts

11. The successful applicant, Nolan Kirkman, graduated from N. C. State University in 1994 with a Bachelor of Science degree in Electrical Engineering. At the time he was interviewed for the position in question, Mr. Kirkman had 2.5 years of directly-related experience supplemented by 1 year of related experience as a Transportation Technician II. Mr. Kirkman had 2.5 years of supervisory experience. At the time he applied for the TEE I position, Mr. Kirkman had been employed by DOT as a Transportation Technician IV for two years.
12. The Petitioner has a diploma in Electrical Entry from Fayetteville Technical College. The Petitioner has also completed several courses in basic electronics, digital computer repair, and performance management. The Petitioner has received certification as an Associate Traffic signal Technician Level I, Work Zone Safety Specialist, and Traffic Signal Technician Level II. At the time the Petitioner applied for the TEE I position, he had a total of 26 years of experience in electrical work, 10.5 years of directly related experience, and 10 years, 1 month of indirect experience.
13. Approximately some twenty years ago, the Petitioner was involved in an automobile accident that resulted in him suffering many broken bones. Since then, the Petitioner has suffered from progressive arthritis which limits his ability to walk, stand, lift, and bend. There is also a discrepancy in the length of his legs. Cold and dampness aggravate his arthritis.
14. The Petitioner does exercises, such as stretching, walking, riding a stationary bike, and a special karate class for people with handicaps, in order to maintain some range of motion.
15. Approximately three years ago, the Petitioner asked for and received a special chair with lumbar support due to problems he was having with his back.
16. In 1995, the Petitioner began receiving treatment for depression. He is currently taking medication for his depression.
17. The Petitioner lives in Lillington and drives to work in Raleigh everyday with the help of a lumbar support.
18. The Petitioner suffers from arthritis, a leg length discrepancy, depression, back problems, and hearing problems and has received treatment for these conditions. The Petitioner's impairments either could be handicapping conditions or could be considered by others to be handicapping conditions.
19. Barry Saunders is employed by DOT in management training and development. He was asked to study the organization of the Traffic Shop in 1994. Mr. Saunders interviewed all of the Traffic Shop employees. As a result of his conclusions and recommendations, he was asked to work with the Petitioner and another employee, Michael Smith, to assist them with ironing out problems they were having working together.
20. The Petitioner testified that when he was the Shop Supervisor, he was not allowed to enforce policies regarding leave, tardiness, and the comings and goings of the employees he supervised. The Petitioner feels that the reason that he did not receive support from upper management with respect to enforcing policies is related to how his co-workers view his physical impairments. The Petitioner believes that his co-workers feel that his physical impairments make him inferior to them.
21. There were incidents that occurred while the Petitioner was Shop Supervisor that indicated that some employees in the shop did not like or respect the Petitioner. Some employees voiced negative comments about the Petitioner's supervisory style. Others played practical jokes on the Petitioner. Some did both.
22. Milton Irvin Dean has been a Signals Management Engineer with DOT since approximately April 1993. He is the section head in the chain of command that supervises the Traffic Shop where the Petitioner is employed. Mr. Dean was a part of the interview team that interviewed the Petitioner and eight other applicants for the TEE I position. The Petitioner's physical limitations were not discussed during the hiring process for the TEE I position.
23. Mr. Dean became aware that the Petitioner had a back problem when the request for a special chair was approved. In addition, Mr. Dean has on occasion observed the Petitioner limp while walking. Mr. Dean was not aware that the Petitioner suffered from depression.
24. The Traffic Engineering Branch of DOT has been undergoing reorganization since 1990. During 1996, the Traffic Shop underwent reorganization. It was determined that the agency's needs would best be met if the head of the Traffic Shop was an engineer. The duties of the Traffic Control Shop Supervisor (the position the Petitioner held from 10/23/91-1/22/93) were subsumed by the job description for the TEE I position.
25. The vacancy posting for the TEE I position listed the qualifications for the position as "graduation from a four-year college or university with a major in electrical engineering and one year of experience in transportation electrical engineering; or a bachelor or engineering technology degree and two years of experience in transportation electrical engineering; or an equivalent combination of training and experience."
26. Troy A. Peoples has been employed by DOT as a Traffic Management and Signal System Engineer since January 1996. He is the unit head in the chain of command under which the Traffic Shop falls. The interview committee made its recommendations regarding the TEE I position to Mr. Peoples. Mr. Peoples made the final decision and extended the job offer. The number one choice had already accepted another position when the job offer for the TEE I position

> 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 | Athletic Trainer Examiners | 3 |
| 4 | Commerce | Auctioneers | 4 |
| 5 | Correction | Barber Examiners | 6 |
| 6 | Council of State | Certified Public Accountant Examiners | 8 |
| 7 | Cultural Resources | Chiropractic Examiners | 10 |
| 8 | Elections | General Contractors | 12 |
| 9 | Governor | Cosmetic Art Examiners | 14 |
| 10 | Human Resources | Dental Examiners | 16 |
| 11 | Insurance | Dietetics/Nutrition | 17 |
| 12 | Justice | Electrical Contractors | 18 |
| 13 | Labor | Electrolysis | 19 |
| 14A | Crime Control \& Public Safety | Foresters | 20 |
| 15A | Environment, Health, and Natural | Geologists | 21 |
|  | Resources | Hearing Aid Dealers and Fitters | 22 |
| 16 | Public Education | Landscape Architects | 26 |
| 17 | Revenue | Landscape Contractors | 28 |
| 18 | Secretary of State | Marital and Family Therapy | 31 |
| 19A | Transportation | Medical Examiners | 32 |
| 20 | Treasurer | Midwifery Joint Committee | 33 |
| *21 | Occupational Licensing Boards | Mortuary Science | 34 |
| 22 | Administrative Procedures | Nursing | 36 |
| 23 | Community Colleges | Nursing Home Administrators | 37 |
| 24 | Independent Agencies | Occupational Therapists | 38 |
| 25 | State Personnel | Opticians | 40 |
| 26 | Administrative Hearings | Optometry | 42 |
| 27 | NC State Bar | Osteopathic Examination \& Reg. (Repealed) | 44 |
|  |  | Pastoral Counselors, Fee-Based Practicing | 45 |
|  |  | Pharmacy | 46 |
|  |  | Physical Therapy Examiners | 48 |
|  |  | Plumbing, Heating \& Fire Sprinkler Contractors | 50 |
|  |  | Podiatry Examiners | 52 |
|  |  | Professional Counselors | 53 |
|  |  | Psychology Board | 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 \& Audiolngists | 64 |
|  |  | Substance Abuse Professionals | 68 |
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Note: Title 21 contains the chapters of the various occupational licensing boards.
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This index provides information related to notices, rules and other documents published in the Register. It includes information about rules for which Notice of Rule-Making Proceedings or Notice of Text have been published, rules submitted to the Rules Review Commission and rules codified since the last session of the General Assembly. For assistance contact the Rules Division at $919 / 733-2678$.
Fiscal Note: $S=$ Ruic 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 $\mathbf{\$ 5 , 0 0 0 , 0 0 0}$ 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. $150 B-21.4$.

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| 2 NCAC 43L. 0402 | 11:14 NCR 1107 |  | 11:22 NCR 1706 | * | Approve | 05/15/97 |  |  | 11:30 NCR 2314 |  |  |
| 2 NCAC 43L. 0403 | 11:14 NCR 1107 |  | 11:22 NCR 1706 | * | Approve | 05/15/97 |  |  | 11:30 NCR 2314 |  |  |
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| 2 NCAC 48F 0302 | 11:07 NCR 407 |  | 11.11 NCR 883 | * | Approve | 03/20/97 |  |  | 11:26 NCR 2004 |  |  |
| 2 NCAC 48F. 0304 | 11:07 NCR 407 |  | 11:11 NCR 883 | * | Approve | 03/20/97 | * |  | 11:26 NCR 2004 |  |  |
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$\begin{array}{lr}\text { State Budget } & 12 / 18 / 97 \\ \text { Extend Review } & 01 / 15 / 98 \\ \text { Approve } & 02 / 19 / 98 \\ \text { State Budget } & 12 / 18 / 97 \\ \text { Extend Review } & 01 / 5 / 98 \\ \text { Approve } & 02 / 19 / 98\end{array}$
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| 15A NCAC'07110202 | 1122 NCR 1704 |  | 11.27 NCR 2058 | * | Statc Budget lixtend Review Approve | $\begin{aligned} & 12 / 18 / 97 \\ & 01 / 15 / 98 \\ & 02 / 19 / 98 \end{aligned}$ |  |  |  |  |
| 15ANCAC'07110203 | 1122 NCR 1704 |  | agency withdrew |  |  |  |  |  |  |  |
| 15A NCAC'0711 0204 | 1122 NCR 1704 |  | 1127 NCR 2058 | * | State Budget Extend luadget Approve | $\begin{aligned} & 12 / 18 / 97 \\ & 01 / 15 / 98 \\ & 02 / 19 / 98 \end{aligned}$ |  |  |  |  |
| 15A NCAC'0711 0205 | 1122 NCR 1704 |  | 1127 NCR 2058 | * | Statc Budget lixtend Review Approve | $\begin{aligned} & 12 / 18 / 97 \\ & 01 / 15 / 98 \\ & 02 / 19 / 98 \end{aligned}$ | * |  |  |  |
| 15ANCACO 07110206 | 1122 NCR 1704 |  | 1127 NCR 2058 | * | State Budget Extend Review Approve | $\begin{aligned} & 12 / 18 / 97 \\ & 01 / 15 / 98 \\ & 02 / 19 / 98 \end{aligned}$ | * |  |  |  |
| 15A NCAC'0711.0207 | 1122 NCR 1704 |  | agency withdrew |  |  |  |  |  |  |  |
| 15ANCAC'0711 0208 | 11.22 NCR 1704 |  | 11.27 NCR 2058 | * | State Budget I:xlend Review Approve | $\begin{aligned} & 12 / 18 / 97 \\ & 01 / 15 / 98 \\ & 02 / 19 / 98 \end{aligned}$ | * |  |  |  |
| 15ANCAC'0711 0208 | 1104 NCR 183 |  | 1111 NCR 907 | * | Object <br> Approve | $\begin{aligned} & 08 / 21 / 97 \\ & 09 / 18 / 97 \end{aligned}$ |  |  | 1210 NCR 878 |  |
| 15A NCAC'0711 0208 | 1119 NCR 1408 |  | 1127 NCR 2058 | * |  |  |  |  |  |  |
| $15 \wedge N C A C C^{\circ} 07110210$ | 1202 NCR 52 |  |  |  |  |  |  |  |  |  |
| 15ANCAC'07110304 | 1115 NCR 1200 | 11 15 NCR 1226 Temp Ixpured 12.08 NCR 726 | 1127 N(R 2069 | S | Approve | 10/16/97 | * |  | 12.11 NCR 947 |  |
| 15ANCACO7110305 | 1115 NCR 1200 | 1115 NCR 1226 limp Expired 1208 NCR 726 | 11.27 NCR 2069 | S | Approve | 10/16/97 |  |  | 12:11 NCR 947 |  |
| 15A NCAC'0711.0306 | 1104 NCR 183 |  | 1111 NCR 907 | * |  |  |  |  |  |  |
| 15A NCAC'0711 0308 | 12.16 NCR 1489 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 07110309 | 11:08 NCR 442 |  | 11.12 NCR981 | * | Approve | 01/16/97 | * |  | 11:22 NCR 1717 |  |
| 15A NCAC'0711 0310 | 1211 NCR919 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 07111104 | 11.04 NCR 183 |  | 1111 NCR 907 | * | Objcct <br> Object <br> Approve | $\begin{aligned} & 11 / 20 / 97 \\ & 12 / 18 / 97 \\ & 01 / 15 / 98 \end{aligned}$ | * |  |  |  |
| 15A NCAC'07ll 1202 | 1104 NCR 183 |  | 1111 NCR 907 | * | Approve | 08/21/97 | * |  | 12:07 NCR 561 |  |
| $15 A N C A C 07111204$ $15 A N C A C 07111205$ | 1104 NCR 183 1104 NCR 183 |  | 1111 NCR 907 1111 NCR 907 | * | Object <br> Approve Approve | $\begin{aligned} & 08 / 21 / 97 \\ & 09 / 18 / 97 \\ & 08 / 21 / 97 \end{aligned}$ | * |  | 12:10 NCR 878 <br> 12:07 NCR 561 |  |

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| 15ANCAC 02D 1209 | 10:24 NCR 3045 |  | 11.16 NCR 1271 | L/SE | Approve | 04/17/97 | * |  | 1129 NCR 2211 |  |
| 15ANCAC 02d 1305 | 11.04 NCR 183 |  | 1204 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15ANCAC 02D 1404 | 11.15 NCR 1200 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02D 1500 | 1119 NCR 1408 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02 D 1503 | 11.15 NCR 1200 |  | 12:04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15 NCAC 02D 1603 | 11:15 NCR 1200 |  | 12.04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 0201701 | 11:15 NCR 1200 |  | 12.04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02D . 1702 | 11:15 NCR 1200 |  | 12:04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 12 D 1703 | 11:15 NCR 1200 |  | 12.04 NCR 270 | L | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02D 1704 | 11:15 NCR 1200 |  | 12.04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02D 1705 | 1115 NCR 1200 |  | 12:04 NCR 270 | 1 | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02 D 1706 | 11.15 NCR 1200 |  | 12.04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15ANCAC 02D 1707 | 11.15 NCR 1200 |  | 12:04 NCR 270 | 1 | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02D 1708 | 11.15 NCR 1200 |  | 12.04 NCR 270 | 1 | Approve | 01/15/98 | * |  |  |  |
| 15A NCAC 02D 1709 | 11.15 NCR 1200 |  | 12.04 NCR 270 | 1 | Approve | 01/15/98 | * |  |  |  |
| 15A NCAC 02D. 1710 | 11:15 NCR 1200 |  | 1204 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02 D .1700 | 12:02 NCR 52 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02D 1902 | 11:19 NCR 1408 |  | 12:04 NCR 270 | * | Approve | 01/15/98 | * |  |  |  |
| 15A NCAC 02D. 1903 | 11:19 NCR 1408 |  | 12:04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02D. 1903 | 1216 NCR 1482 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02D . 1904 | 1216 NCR 1482 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02D 2200 | 11:26 NCR 1976 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 0211.0225 | 11.15 NCR 1200 | 1115 NCR 1225 | $11: 20$ NCR 1550 $11: 27$ NCR 2073 | * | Object |  |  |  |  |  |
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| 15A NCAC 0211.0610 | 10:18 NCR 2317 |  | 1208 NCR 650 | * |  |  |  |  |  |  |
| 15A NCAC 0211.0610 | 11:08 NCR 442 |  |  |  |  |  |  |  |  |  |
| $15 \wedge$ NCAC 0211.0610 | 12:02 NCR 52 | 12:02 NCR 77 |  |  |  |  |  |  |  |  |
| 15A NCAC 024. 1202 | 11:15 NCR 1200 |  |  |  |  |  |  |  |  |  |
| 15 N NCAC 0211.1203 | 11:15 NCR 1200 |  |  |  |  |  |  |  |  |  |

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| 15ANCAC 0211.1204 | 11:15 NCR 1200 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 0211.1205 | 11:15 NCR 1200 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02L | 11:15 NCR 1200 11:15 NCR 1204 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02L . 0106 |  | $\begin{aligned} & 10: 19 \text { NCR } 2508 \\ & 12.08 \text { NCR } 713 \end{aligned}$ | II:21 NCR 1639 | * | Approve | 12/18/97 | * |  | 12:17 NCR 1620 |  |
| 15A NCAC 02L 0115 | 11:15 NCR 1200 |  | 11:21 NCR 1639 | L | Object <br> Approve | $\begin{aligned} & 12 / 18 / 97 \\ & 02 / 19 / 98 \end{aligned}$ | * |  |  |  |
|  | 11:15 NCR 1204 | 12:08 NCR 713 |  |  |  |  |  |  |  |  |
| 15A NCAC 02L 0202 | 10:20 NCR 2591 |  |  |  | , |  |  |  |  |  |
| $15 A$ NCAC 02 N 15 A NCAC 02 N | 11.15 NCR 1200 11:15 NCR 1204 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02N . 0701 | 11:15 NCR 1200 | 12.08 NCR 713 | 11:21 NCR 1639 | * | Approve | 12/18/97 | * |  | 12:17 NCR 1620 |  |
| 15A NCAC 02N 0707 | 11:15 NCR 1204 | 12.08 NCR 713 | 11:21 NCR 1639 | * | Object <br> Approve | $\begin{aligned} & 12 / 18 / 97 \\ & 02 / 19 / 98 \end{aligned}$ |  |  |  |  |
| 15A NCAC 02P 15A NCAC 02P 0.402 | 11:15 NCR 1200 <br> 11:15 NCR 1204 | $\begin{aligned} & 10.19 \text { NCR } 2512 \\ & 12.08 \text { NCR } 713 \end{aligned}$ | 11:21 NCR 1639 | * | Approve | 12/18/97 |  |  | 12:17 NCR 1620 |  |
| 15A NCAC 02Q . 0101 | 10:18 NCR 2317 |  | 12:08 NCR 650 | * |  |  |  |  |  |  |
| 15A NCAC 02Q . 0102 | 10:18 NCR 2317 |  | 12:08 NCR 650 | * |  |  |  |  |  |  |
| 15A NCAC 02Q . 0102 |  |  | 11:06 NCR 350 | * |  |  |  |  |  |  |
| 15A NCAC 02Q . 0102 | 11:19 NCR 1408 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02Q . 0102 | 12:02 NCR 52 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02Q . 0102 | 12:16 NCR 1482 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02Q . 0103 | 11:15 NCR 1200 |  | 12:04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02Q . 0103 | 1216 NCR 1482 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02Q 0107 | 12.16 NCR 1482 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02Q . 0108 | 11.15 NCR 1200 |  | 12:04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02Q 0201 | 12:02 NCR 52 |  | 12.10 NCR 867 | * |  |  |  |  |  |  |
| 15A NCAC 02Q . 0207 | 11:19 NCR 1408 |  | 12.04 NCR 270 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 02Q . 0300 | 11:26 NCR 1976 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 02Q . 0301 | 10:18 NCR 2317 |  | 12:08 NCR 650 | * |  |  |  |  |  |  |

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| S | Approve | $01 / 15 / 98$ |
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| S | Approve | $01 / 15 / 98$ |
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| 15A NCAC'13A 0105 | 11.16 NCR 1269 |  | 1120 NCR 1552 | * | Approve | 04/17/97 |  |  | 1129 NC'R 2211 |  |
| 15A NCAC 13A 0107 | 1116 NCR 1269 |  | 11:20 NCR 1552 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 15A NCAC' 13A 0109 | 1207 NCR 509 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 13A 0110 | 1207 NCR 509 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 13A 0111 | 1116 NCR 1269 |  | 1120 NCR 1552 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 15A NCAC 13A 0111 | 1207 NCR 509 |  |  |  |  |  |  |  |  |  |
| 15A NCAC13A 0112 | 1116 NCR 1269 |  | 1120 NCR 1552 | * | Approve | 04/17/97 |  |  | 11.29 NCR 2211 |  |
| 15A NCAC 13A 0119 | 11 16 NCR 1269 |  | 1120 NCR 1552 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 15A NCAC 1313 1301 |  | 12.12 NCR 1064 |  |  |  |  |  |  |  |  |
| 15A NCAC 13 B 1627 | 1108 NCR 442 |  | 11:13 NCR 1055 | * |  |  |  |  |  |  |
| 15A NCAC 13131800 | 11.08 NC'R 442 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 13131800 | 11:26 NCR 1976 |  |  |  |  |  |  |  |  |  |
| 15ANCAC 18A | 11.04 NCR 183 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 18A.0134 | 1108 NCR 442 |  | 11.12 NCR 987 | * | Object | 12/19/96 |  |  |  |  |
| 15A NCAC 18A.0168 | 1108 NCR 442 |  | 1112 NCR 987 | * | Approve <br> Object <br> Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 12 / 19 / 96 \\ & 01 / 16 / 97 \end{aligned}$ | * |  | $\begin{aligned} & 1122 \text { NCR } 1717 \\ & 1122 \text { NCR } 1717 \end{aligned}$ |  |
| 15A NCAC 18A 0176 | 1108 NCR 442 |  | 11.12 NCR 987 | * | Objcet <br> Approve | $\begin{aligned} & 12 / 19 / 90 \\ & 01 / 16 / 97 \end{aligned}$ |  |  | 11.22 NCR 1717 |  |
| 15A NCAC 18A.0182 | 11.08 NCR 442 |  | 11.12 NCR 987 | * | Object <br> Approve | $\begin{aligned} & 12 / 19 / 96 \\ & 01 / 16 / 97 \end{aligned}$ | * |  | 1122 NCR 1717 |  |
| 15A NCAC 18A 0183 | 1108 NCR 442 |  | 11.12 NCR 987 | * | Object <br> Approve | $\begin{aligned} & 12 / 19 / 96 \\ & 01 / 16 / 97 \end{aligned}$ | * |  | 1122 NCR 1717 |  |
| 15A NCAC 18A.0185 | 11.08 NCR 442 |  | 11:12 NCR 987 | * | Object <br> Approve | $\begin{aligned} & 12 / 19 / 96 \\ & 01 / 16 / 97 \end{aligned}$ |  |  | 1122 NCR 1717 |  |
| 15A NCAC 18A.0187 | 11.08 NCR 442 |  | 1112 NCR 987 | * | Objuct <br> Approve | $\begin{aligned} & 12 / 19 / 96 \\ & 01 / 16 / 97 \end{aligned}$ | * |  | $11: 22$ NCR 1717 |  |
| 15A NCAC 18A 0301 | 1108 NCR 442 |  | 11.12 NCR 987 | * | Object <br> Approve | $\begin{aligned} & 12 / 19 / 96 \\ & 01 / 16 / 97 \end{aligned}$ | * |  | 11:22 NCR 1717 |  |
| 15A NCAC 18A 0421 | 11.08 NCR 442 |  | 11.12 NCR 987 | * | Object <br> Approve | $\begin{aligned} & 12 / 19 / 96 \\ & 01 / 16 / 97 \end{aligned}$ | * |  | 11:22 NCR 1717 |  |
| 15A NCAC 18A 0425 |  | 12.14 NCR 1352 |  |  |  |  |  |  |  |  |
| 15^ NCAC 18A 0432 |  | 12.14 NCR 1352 |  |  |  |  |  |  |  |  |
| 15A NCAC 18A.0614 | 11.08 NCR 442 |  | 11:12 NCR 987 | * | Object | 12/19/96 |  |  |  |  |

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12.07 NC'R $519 \quad * \quad$| lixt. Revicw | $12 / 18 / 97$ |
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|  | Approve |
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$\begin{array}{ll}\text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98 \\ \text { Approve } & 01 / 15 / 98\end{array}$
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15A NCAC 18A.2809 1216 NCR 1482 15 A NCAC 18 A $2810 \quad 1216$ NCR 1482 15 A NCAC $18 \mathrm{~A} .2811 \quad 1216$ NCR 1482 $15 A$ NCAC 18 A 281212.16 NCR 1482 15A NCAC 18A. 2813 12.16 NCR 1482 15A NCAC 18A. 2814 12.16 NCR 1482 15A NCAC 18A $2815 \quad 12.16$ NCR 1482 15A NCAC 18 A. $2816 \quad 12.16$ NCR 1482 15A NCAC 18 A .2817 12.16 NCR 1482 15A NCAC 18A. $2818 \quad 1216$ NCR 1482 15A NCAC 18A. 2819 12:16 NCR 1482 15A NCAC 18A $2820 \quad 12.16$ NCR 1482 15A NCAC 18A. $2821 \quad 12: 16$ NCR 1482 $15 \wedge$ NCAC 18 A $2822 \quad 12.16$ NCR 1482 15A NCAC $18 \mathrm{~A} .2823 \quad 12.16$ NCR 1482 15 A NCAC 18 A $2824 \quad 12.16$ NCR 1482 15A NCAC 18A. $2825 \quad 12.16$ NCR 1482 15A NCAC 18 A. 2826 12.16 NCR 1482
 15A NCAC 18A. $2828 \quad 12.16$ NCR 1482 15A NCAC 18A 2829 12:16 NCR 1482 15A NCAC 18A. $2830 \quad 12.16$ NCR 1482 15A NCAC 18A. 2831 12:16 NCR 1482 15A NCAC 18A $2832 \quad 1216$ NCR 1482 15A NCAC 18A. 2833 12.16 NCR 1482 15A NCAC 18A 2834 12:16 NCR 1482
 15A NCAC 18A 2836 12:16 NCR 1482
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| $15 \wedge$ NCAC 24A 0202 |  | 1124 NCR 1827 | 12.02 NCR 61 | S | Approve | 10/16/97 |  |  | 1211 NCR 947 |  |
| 15 N NCAC 24^0202 |  | 1201 NCR 31 | 12.07 NCR 519 | S | Approve | 12/18/97 |  |  | 1217 NCR 1620 |  |
| 15 A NCAC 26 C (0001 | 1119 NCR 1408 |  |  |  |  |  |  |  |  |  |
| 15A NCAC $26 \mathrm{C}^{\circ} 0002$ | 11.19 NCR 1.408 |  |  |  |  |  |  |  |  |  |
| 15 N NCAC $26 \mathrm{C}^{\circ} 0003$ | 1119 NCR 1408 |  |  |  |  |  |  |  |  |  |
| $15 \wedge$ NCAC $260^{\circ} 0004$ | 1119 NCR 1408 |  |  |  |  |  |  |  |  |  |
| 15 N NCAC 26 C 0005 | 1119 NCR 1408 |  |  |  |  |  |  |  |  |  |
| $15 \wedge$ NCAC $26 C^{\circ} 0006$ | 1119 NCR 1408 |  |  |  |  |  |  |  |  |  |
| 15A NCAC $26 \mathrm{C}^{\circ} 0007$ | 1119 NCR 1408 |  |  |  |  |  |  |  |  |  |
| Marime Fisheries Commission |  |  |  |  |  |  |  |  |  |  |
| 15 N NCAC03 | 1111 NCR 881 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 03 | 1120 NCR 1537 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 03 | 1126 NCR 1985 |  |  |  |  |  |  |  |  |  |
| 15ANCACO310101 | 1126 NCR 1976 |  | 12.05 NCR 418 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 0310117 | 11:26 NCR 1976 | 11.26 NCR 2000 | 1205 NCR 418 | * | Object | 01/15/98 |  |  |  |  |
| 15A NCAC 03J 0103 | 1126 NCR 1976 |  | 1205 NCR 418 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC'03J 0104 | 1126 NCR 1976 |  | 12.05 NCR 418 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 03 J .0202 | 11:07 NCR 407 |  | 1111 NCR 888 | * |  |  |  |  |  |  |
| 15ANCAC'03J 0202 | 11.26 NCR 1976 | 12:12 NCR 1063 | 1205 NCR 418 <br> 12.12 NC'R 1002 |  |  |  |  |  |  |  |
| 15 N NCAC 03 J .0208 | 11:26 NCR 1976 |  | 12.05 NCR 418 | * | Approve | 01/15/98 |  |  |  |  |
| $15 \wedge$ NCAC 03 J 0301 | 1126 NCR 1976 |  | 12:05 NCR 418 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 031.0102 | 11.07 NCR 407 |  | 1111 NCR 888 | * |  |  |  |  |  |  |
| 15A NEACO3M 0204 |  | 1114 NCR 1153 | 1118 NCR 1371 | * | Approve | 04/17/97 |  |  | 11.29 NCR 2211 |  |
| $15 A N C A C 03 M 0503$ |  | 1118 NCR 1383 | 11.26 NCR 1988 | * | Approve | 08/21/97 |  |  | 1207 NCR 561 |  |
| 15A NCAC 03 M .0503 | 11.20 NCR 1537 | 12:05 NCR 431 | 1205 NCR 418 | * | Approve | 01/15/98 | * |  |  |  |
| 15A NCAC 03 M 0506 |  | 1118 NCR 1383 | 11:26 NCR 1988 | * | Approve | 08/21/97 | * |  | 12:07 NCR 561 |  |
| 15A NCAC 03 M 0506 | 11:26 NCR 1976 |  | 12.05 NCR 418 | * | Approve | 01/15/98 |  |  |  |  |
| 15A NCAC 03 M .0507 |  | 1111 NCR 938 | 11:26 NCR 1988 | * | Approve | 08/21/97 |  |  | 12.07 NCR 561 |  |

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| 15A NCAC 03M. 0513 | 11:26 NCR 1976 |  | 12:05 NCR 418 | * |  |  |  |  |  |  |
| 15A NCAC 03 M .0513 | 11.26 NCR 1985 |  | 12:12 NCR 1002 | * |  |  |  |  |  |  |
| 15A NCAC 03M . 0514 |  | 11:18 NCR 1383 | 11:26 NCR 1088 | * | Approve | 08/21/97 |  |  | 12:07 NCR 561 |  |
| 15A NCAC 030.0204 | $\mathrm{N} / \mathrm{A}$ | N/A | N/A |  | Approve | 08/21/97 |  |  | 12:07 NCR 561 |  |
| 15A NCAC 030.0211 | 11:26 NCR 1976 |  | 12:05 NCR 418 | * | 'Approve | 01/15/98 | * |  |  |  |
| Parks and Recreation Commission |  |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12A 0001 | 12.13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12A.0004 | 12:13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12A . 0005 | 12:13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12B.0101 | 12:13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12B.0104 | 1213 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12B.0106 | 12:13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12B.0203 | 12.13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| $15 \wedge$ NCAC 12 B .0401 | 12:13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12B. 0402 | 12.13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 1213.0501 | 12.13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 1213.0602 | 12.13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15 A NCAC 1213.0701 | 12.13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 1213.0702 | 12.13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12B.0802 | 1213 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 1213.0901 | 1213 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15 N NCAC 1213.1001 | 1213 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12131004 | 12.13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12B.1102 | 1213 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12B.1201 | 12.13 NCR 1097 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 12K. 0101 | 12:02 NCR 52 |  | 12:12 NCR 1046 | * |  |  |  |  |  |  |
| 15A NCAC 12K. 0103 | 12:02 NCR 52 |  | 12:12 NCR 1046 | * |  |  |  |  |  |  |
| 15A NCAC 12K. 0104 | 12:02 NCR 52 |  | 12:12 NCR 1046 | * |  |  |  |  |  |  |

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| 15A NCAC 11.0414 | 12.04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: |
| 15A NCAC 11.0415 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 110416 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0417 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 110418 | 12.04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0419 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0420 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0421 | 12.04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0422 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0423 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0424 | 12.04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0425 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0426 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0427 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.0428 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.1100 | 12:04 NCR 240 |  |  |  |  |  |
| 15A NCAC 11.1400 | 12:04 NCR 240 |  |  |  |  |  |
| 15A NCAC 11.1601 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.1603 | 12.04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.1611 | 12.04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.1620 | 12:04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| 15A NCAC 11.1647 | 12.04 NCR 240 |  | 12:09 NCR 749 | * | Approve | 01/15/98 |
| Soil \& Water Conservation |  |  |  |  |  |  |
| 15A NCAC 06E . 0104 | N/A | N/A | N/A |  | Object Approve | $\begin{aligned} & 10 / 16 / 97 \\ & 12 / 18 / 97 \end{aligned}$ |
| 15A NCAC 06E . 0105 | N/A | N/A | N/A |  | Object Approve | $\begin{aligned} & 10 / 16 / 97 \\ & 12 / 18 / 97 \end{aligned}$ |
| 15A NCAC 06E . 0106 | N/A | N/A | N/A |  | Approve | 10/16/97 |
| 15A NCAC 06E . 0107 | N/A | N/A | N/A |  | Approve | 10/16/97 |
| 15A NCAC 06E . 0108 | N/A | N/A | N/A |  | Approve | 10/16/97 |

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Water Dolluison Control System Operators Certification Commisuion
11.26 NCR 1976
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11.26 NCR 1976
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| 1119 NCR 1442 | 1128 NCR 2123 |
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| 1119 NCR 1442 | 11.28 NCR 2123 |
| 1119 NCR 1442 | 11.28 NCR 2123 |
| 1119 NCR 1442 | 11.28 NCR 2123 |
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| 15A NCAC 18D . 0105 | 10:18 NCR 2317 |  | 12.11 NCR 922 | * | Approve | 02/19/98 | * |  |  |  |
| 15A NCAC 18D .0201 | 10.18 NCR 2317 |  | 12:11 NCR 922 | S/L |  |  |  |  |  |  |
| 15A NCAC 18D . 0307 | 10:18 NCR 2317 |  | 12:11 NCR 922 | * | Approve | 02/19/98 |  |  |  |  |
| 15A NCAC 18D . 0308 | 10:18 NCR 2317 |  | 12:11 NCR 922 | S/L |  |  |  |  |  |  |
| 15A NCAC 18D . 0309 | 10:18 NCR 2317 |  | 12:11 NCR 922 | * | Approve | 02/19/98 | * |  |  |  |
| 15A NCAC 18D 0405 | 10:18 NCR 2317 |  | 12:11 NCR 922 | * |  |  |  |  |  |  |
| 15A NCAC 18D . 0701 | 10:18 NCR 2317 |  | 12:11 NCR 922 | * | Approve | 02/19/98 | * |  |  |  |
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| 15A NCAC 10B.0111 | 12:06 NCR 445 |  | 12:12 NCR 1004 | * |  |  |  |  |  |  |
| 15A NCAC 10B 0113 | 12:06 NCR 445 |  | 12:12 NCR 1004 | * |  |  |  |  |  |  |
| 15A NCAC 10B . 0115 | 11:11 NCR 882 | Agency Withdrew Rule-making |  |  |  |  |  |  |  |  |
| 15A NCAC 10B. 0116 | 11:12 NCR 959 |  | 11:18 NCR 1372 | * | Approve | 04/17/97 |  |  | 11:29 NCR 2211 |  |
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| 15A NCAC 10B . 0203 | 12:06 NCR 445 |  | 12:12 NCR 1004 | * |  |  |  |  |  |  |
| 15A NCAC 10B . 0208 | 11:02 NCR 76 |  | 11:08 NCR 495 | * | Agency Withdrew Rule-making |  |  |  |  |  |
| 15A NCAC 10B . 0209 | 12:06 NCR 445 |  | 12:12 NCR 1004 | * |  |  |  |  |  |  |
| 15A NCAC 10B 0216 | 12:06 NCR 445 |  | 12:12 NCR 1004 | * |  |  |  |  |  |  |
| 15A NCAC 10B . 0300 | 12:06 NCR 445 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 10B . 0400 | 12:06 NCR 445 |  |  |  |  |  |  |  |  |  |
| 15A NCAC 10C . 0101 | 12:06 NCR 445 |  |  |  |  |  |  |  |  |  |
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| 10 NCAC 03U 0302 | 11:24 NCR 1817 | Agency withdrew rule-making |  |  |  |  |  |  |  |  |
| 10 NCAC 03U 0302 | 12:08 NCR 617 |  | 12:13 NCR 1098 | * |  |  |  |  |  |  |
| 10 NCAC 03U . 0303 | 12.08 NCR 617 |  | 12:13 NCR 1098 | * |  |  |  |  |  |  |
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| 10 NCAC 03U.0403 | 12:08 NCR 617 |  | 12:13 NCR 1098 | * |  |  |  |  |  |  |
| 10 NCAC 03U 0505 | 12:08 NCR 617 |  | 1213 NCR 1098 | * |  |  |  |  |  |  |
| 10 NCAC 03U.0506 | 11:24 NCR 1817 | Agency withdrew rule-making |  |  |  |  |  |  |  |  |
| 10 NCAC 03U . 0506 | 12.08 NCR 617 |  | 12.13 NCR 1098 | * |  |  |  |  |  |  |
| 10 NCAC 03 U .0507 | 12:08 NCR 617 |  | $12 \cdot 13$ NCR 1098 | * |  |  |  |  |  |  |
| 10 NCAC 03U . 0508 | 12:08 NCR 617 |  | 12:13 NCR 1098 | * |  |  |  |  |  |  |
| 10 NCAC 03 U .0509 | 11.24 NCR 1817 | Ageney withdrew rule-making |  |  |  |  |  |  |  |  |
| 10 NCAC 03U . 0509 | 12:08 NCR 617 |  | 12.13 NCR 1098 | * |  |  |  |  |  |  |
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| 10 NCAC 03 U .0803 | 12:08 NCR 617 |  | 12.13 NCR 1098 | * |  |  |  |  |  |  |
| 10 NCAC 03 U .0804 | 12:08 NCR 617 |  | 12.13 NCR 1098 | * |  |  |  |  |  |  |
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| 10 NCAC 03 U 1402 | 11:24 NCR 1817 | Agency withd | le-making |  |  |  |  |  |  |  |
| 10 NCAC 03 U 1403 | 1124 NCR 1817 | Agency withdr | -making |  |  |  |  |  |  |  |
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| 10 NCAC 03R . 6141 |  | 11:15 NCR 1431 |  |  |  |  |  |  |  |  |
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| 10 NCAC 26B. 0103 | 12:18 NCR 1694 |  |  |  |  |  |  |  |  |  |
| 10 NCAC 26B . 0113 | 10:16 NCR 1721 |  | 11:28 NCR 2118 | S/L | Agency w | w09/18/97 |  |  |  |  |
| 10 NCAC 26B. 0123 |  | 11:19 NCR 1436 | 11.24 NCR 1824 | * | Approve Approve | $\begin{aligned} & 10 / 16 / 97 \\ & 06 / 19 / 97 \end{aligned}$ |  |  | 12:11 NCR 947 <br> 12:03 NCR 213 |  |
| 10 NCAC 26D 0110 | 12:06 NCR 444 |  |  |  |  |  |  |  |  |  |
| 10 NCAC 26 G .0707 | 11.08 NCR 450 | 11:15 NCR 1205 | 1118 NCR 1371 | * | Approve | 04/17/97 |  |  | 11:29 NCR 2211 |  |
| 10 NCAC 26 H .0101 | 11:14 NCR 1108 |  |  |  |  |  |  |  |  |  |
| 10 NCAC 26 H 0102 | 11:14 NCR 1108 |  |  |  |  |  |  |  |  |  |
| 10 NCAC 26 H .0102 | 12:09 NCR 743 | 12:14 NCR 1341 | 12:18 NCR 1696 | S/L/SE |  |  |  |  |  |  |
| 10 NCAC 26 H .0104 | 11:16 NCR 1268 | 12:14 NCR 1341 | 11:23 NCR 1781 | S/L | Approve | 05/15/97 | * |  | 11:30 NCR 2314 |  |
| 10 NCAC 26 H .0211 | 12:09 NCR 743 | 1214 NCR 1341 | 12:18 NCR 1696 | S/L/SE |  |  |  |  |  |  |
| 10 NCAC 26H 0212 |  | 11:15 NCR 1205 | Temp Expired |  |  |  |  |  |  |  |
| 10 NCAC 26H 0212 |  | 12:09 NCR 827 |  |  |  |  |  |  |  |  |
| 10 NCAC 26 H .0213 |  | 11:15 NCR 1205 | Temp Expired |  |  |  |  |  |  |  |
| 10 NCAC 26 H 0213 | 1118 NCR 1368 |  | 12:07 NCR 511 | S/SE | Approve | 01/15/98 | * |  |  |  |
| 10 NCAC 264.0213 |  | 11.26 NCR 1997 |  |  |  |  |  |  |  |  |
| 10 NCAC 26 H .0213 |  | 12:09 NCR 827 |  |  |  |  |  |  |  |  |
| 10 NCAC 26 H 0401 | 12:08 NCR 618 | 1214 NCR 1341 |  |  |  |  |  |  |  |  |
| 10 NCAC 26110506 | 10:21 NCR 2686 |  |  |  |  |  |  |  |  |  |
| 10 NCAC 2611.0506 |  | 11:19 NCR 1438 | 11:29 NCR 2205 | S/L/SE | Approve | 09/18/97 | * |  | 12:10 NCR 878 |  |
| 10 NCAC 2611.0602 |  | 12:04 NCR 313 | 12.15 NCR 1419 | S $\ \mathrm{~L}$ |  |  |  |  |  |  |
| 10 NCAC 26 K .0106 | 12.05 NCR 337 |  |  |  |  |  |  |  |  |  |
| 10 NCAC 26 K .0106 | 12:06 NCR 444 |  |  |  |  |  |  |  |  |  |
| 10 NCAC 26M. 0201 | 12:06 NCR 444 |  |  |  |  |  |  |  |  |  |
| 10 NCAC 26 M .0202 | 12.06 NCR 444 |  |  |  |  |  |  |  |  |  |
| 10 NCAC 26 M .0203 | 12:05 NCR 337 |  |  |  |  |  |  |  |  |  |

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| 10 NCAC 03D | 11.23 NCR 1779 | 1205 NCR 339 | * | Object Approve | $\begin{aligned} & 01 / 15 / 98 \\ & 02 / 19 / 98 \end{aligned}$ |
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| 10 NCAC 03D . 1204 | 11:23 NCR 1779 | 12.05 NCR 339 | * | Approve | 01/15/98 |
| 10 NCAC 03D 1205 | 11:23 NCR 1779 | 12.05 NCR 339 | S/L | Approve | 01/15/98 |
| 10 NCAC 03D 1206 | 11:23 NCR 1779 | 12:05 NCR 339 | S/L | Approve | 01/15/98 |
| 10 NCAC 03D | 11:23 NCR 1779 | 12:05 NCR 339 | * | Object | 01/15/98 |
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| 10 NCAC 03D 1302 | 11:23 NCR 1779 | 12:05 NCR 339 | * | Object | 01/15/98 |
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| 10 NCAC 03D | 11.23 NCR 1779 | 12:05 NCR 339 | * | Object | 01/15/98 |
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| 10 NCAC 03D 1 | 11.23 NCR 1779 | 12:05 NCR 339 | * | Object | 01/15/98 |
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| 10 NCAC 03D 1500 | 11.23 NCR 1779 |  |  |  |  |
| 10 NCAC 03D 2001 | 10.18 NCR 2399 | 11.29 NCR 2187 | * | Object | 10/16/97 |
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| 10 NCAC 03D 2101 | 10.18 NCR 2399 | 11:29 NCR 2187 | * | Object | 10/16/97 |
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| 10 NCAC 03D 2102 | 10.18 NCR 2399 | 1129 NCR 2187 | * | Object | 10/16/97 |
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| 10 NCAC 03D 2103 | 10:18 NCR 2399 | 11.29 NCR 2187 | * | Approve | 10/16/97 |
| 10 NCAC 03D 2104 | 10.18 NCR 2399 | 11.29 NCR 2187 | * | Approve | 10/16/97 |
| 10 NCAC 03D 2105 | 10.18 NCR 2399 | 1129 NCR 2187 | * | Object | 10/16/97 |
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| 10 NCAC 03D 2106 | 1018 NCR 2399 | 11.29 NCR 2187 | * | Object | 10/16/97 |
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| 10 NCAC 03D 2201 | 10.18 NCR 2399 | 11.29 NCR 2187 | * | Object | 10/16/97 |
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| 10 NCAC 03D 2202 | 10.18 NCR 2399 | 11.29 NCR 2187 | * | Approve | 10/16/97 |
| 10 NCAC 03D 2203 | 10:18 NCR 2399 | 11:29 NCR 2187 | * | Approve | 10/16/97 |
| 10 NCAC 03D . 2301 | 10:18 NCR 2399 | 11:29 NCR 2187 | * | Approve | 10/16/97 |
| 10 NCAC 03D 2302 | 10:18 NCR 2399 | 11.29 NCR 2187 | * | Approve | 10/16/97 |
| 10 NCAC 03D 2303 | 10:18 NCR 2399 | 11.29 NCR 2187 | * | Object | 10/16/97 |
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| 10 NCAC 03D 2401 | 10:18 NCR 2399 | 11:29 NCR 2187 | * | Approve | 10/6/97 |
| 10 NCAC 03M 0105 | 11:23 NCR 1779 | 1206 NCR 459 | * | Approve | 01/15/98 |

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| 10 NCAC 03 M .0205 | 11.23 NCR 1779 |  | 12.06 NCR 459 | * | Approve | 01/15/98 |  |  |  |  |
| Nental Health, Developmental Disabilities and Substance Abuse Services |  |  |  |  |  |  |  |  |  |  |
| 10 NCAC 14G. 0102 |  | 12:12 NCR 1060 |  |  |  |  |  |  |  |  |
| 10 NCAC 14V 3402 | 11:08 NCR 449 |  | $\begin{aligned} & \text { 11:14 NCR } 1124 \\ & 11: 24 \text { NCR } 1822 \end{aligned}$ |  | Withdrawn Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 05 / 15 / 97 \end{aligned}$ | * |  | 11:30 NCR 2314 |  |
| 10 NCAC 14 V .3803 | 11.08 NCR 449 |  | $\begin{aligned} & 11: 14 \text { NCR } 1124 \\ & 11: 24 \text { NCR } 1822 \end{aligned}$ | * | Withdrawn Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 05 / 15 / 97 \end{aligned}$ | * |  | 11:30 NCR 2314 |  |
| 10 NCAC 14V 5602 | 11:08 NCR 449 |  | $\begin{aligned} & 11: 14 \text { NCR } 1124 \\ & 11: 24 \text { NCR } 1822 \end{aligned}$ |  | Withdrawn Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 05 / 15 / 97 \end{aligned}$ |  |  | 11:30 NCR 2314 |  |
| 10 NCAC 15A. 0128 | 11.08 NCR 449 |  | 11:14 NCR 1124 11:24 NCR 1822 | * | Withdrawn Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 05 / 15 / 97 \end{aligned}$ |  |  | 11:30 NCR 2314 |  |
| 10 NCAC 15A. 0129 | 11.08 NCR 449 |  | 11.14 NCR 1124 <br> $11: 24$ NCR 1822 |  | Withdrawn Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 05 / 15 / 97 \end{aligned}$ |  |  | 11.30 NCR 2314 |  |
| 10 NCAC 18W 0201 | 10:15 NCR 1478 |  | 11:14 NCR 1124 | S | Object <br> Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 02 / 20 / 97 \end{aligned}$ | * |  |  |  |
| 10 NCAC 18W. 0202 | 10:15 NCR 1478 |  | 11.14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18W. 0203 | 10:15 NCR 1478 |  | 1114 NCR 1124 | S | Object <br> Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 02 / 20 / 97 \end{aligned}$ | * |  |  |  |
| 10 NCAC 18W 0204 | 1015 NCR 1478 |  | 11.14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18W . 0205 | 10:15 NCR 1478 |  | 11.14 NCR 1124 | S | Object <br> Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 02 / 20 / 97 \end{aligned}$ | * |  |  |  |
| 10 NCAC 18W . 0206 | 10:15 NCR 1478 |  | 11:14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18W 0207 | 10:15 NCR 1478 |  | 11:14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18W 0208 | 10:15 NCR 1478 |  | 11:14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18W 0209 | 10:15 NCR 1478 |  | 11:14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18 W .0210 | 10:15 NCR 1478 |  | 11:14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18W 0211 | 10:15 NCR 1478 |  | 11.14 NCR 1124 | S | Object <br> Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 02 / 20 / 97 \end{aligned}$ | * |  |  |  |
| 10 NCAC 18 W .0212 | 10:15 NCR 1478 |  | 11.14NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18W 0213 | 10:15 NCR 1478 |  | 11:14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18W . 0214 | 10.15 NCR 1478 |  | 11:14 NCR 1124 | S | Object <br> Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 02 / 20 / 97 \end{aligned}$ | * |  |  |  |
| 10 NCAC 18W. 0215 | 10:15 NCR 1478 |  | 11:14 NCR 1124 | S | Object <br> Approve | $\begin{aligned} & 01 / 16 / 97 \\ & 02 / 20 / 97 \end{aligned}$ | * |  |  |  |
| 10 NCAC 18 W .0216 | 1015 NCR 1478 |  | 11.14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |
| 10 NCAC 18W. 0217 | 10:15 NCR 1478 |  | 11.14 NCR 1124 | S | Approve | 01/16/97 | * |  |  |  |

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| 10 NCAC 42C. 3601 |  | 12.13 NCR 1180 |  |  |  |  |  |  |  |  |
| 10 NCAC 42J. 0001 |  | 11:16 NCR 1288 | 11:30 NCR 2301 | * | Approve | 08/21/97 | * |  | 12:07 NCR 561 |  |
| 10 NCAC 42J 0004 |  | 11.16 NCR 1288 | 11:30 NCR 2301 | * | Approve | 08/21/97 |  |  | 12.07 NCR 561 |  |
| 10 NCAC 42J. 0005 |  | 11:16 NCR 1288 | 11:30 NCR 2301 | * | Object Approve | $\begin{aligned} & 08 / 21 / 97 \\ & 09 / 18 / 97 \end{aligned}$ | * |  | 12:10 NCR 878 |  |
| 10 NCAC 42R 0201 | 12:11 NCR 919 | 12:13 NCR 1180 |  |  |  |  |  |  |  |  |
| 10 NCAC 47 A .0502 |  | 12:11 NCR 938 | 12.15 NCR 1420 | * |  |  |  |  |  |  |
| 10 NCAC 478.0102 |  | 12:11 NCR 938 | 12:15 NCR 1420 | * |  |  |  |  |  |  |
| 10 NCAC 47B.0303 |  | 12:11 NCR 938 | 12:15 NCR 1420 | * |  |  |  |  |  |  |
| 10 NCAC 47B. 0304 |  | 12:11 NCR 938 | 12:15 NCR 1420 | * |  |  |  |  |  |  |
| 10 NCAC 47B.0305 |  | 12:11 NCR 938 | 12.15 NCR 1420 | * |  |  |  |  |  |  |
| 10 NCAC 47B 0403 |  | 12:11 NCR 938 | 12:15 NCR 1420 | * |  |  |  |  |  |  |
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| 10 NCAC 20C . 0201 | 12.08 NCR 618 |  | 12:13 NCR 1135 | * |  |  |  |  |  |  |
| 10 NCAC 20C . 0202 | 12:08 NCR 618 |  | 12.13 NCR 1135 | * |  |  |  |  |  |  |
| 10 NCAC 20C. 0203 | 12:08 NCR 618 |  | 12:13 NCR 1135 | * |  |  |  |  |  |  |
| 10 NCAC 20C . 0601 | 12:08 NCR 618 |  | 12:13 NCR 1135 | * |  |  |  |  |  |  |
| 10 NCAC 20C . 0603 | 12:08 NCR 618 |  | 12:13 NCR 1135 | * |  |  |  |  |  |  |
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| 11 NCAC 10.0105 | 12.09 NCR 744 |  | 12:14 NCR 1255 | * |  |  |  |  |  |  |
| 11 NCAC 10.0602 |  | 11:15 NCR 1223 | 11:19 NCR 1426 | * | Approve | 03/20/97 | * |  | 11:26 NCR 2004 |  |
| 11 NCAC 10.0603 |  | 11:15 NCR 1223 | 11:19 NCR 1426 | * | Approve | 03/20/97 | * |  | 11:26 NCR 2004 |  |
| 11 NCAC 10.0606 |  | 11:15 NCR 1223 | 11:19 NCR 1426 | * | Approve | 03/20/97 | * |  | 11:26 NCR 2004 |  |
| 11 NCAC 11130601 | 12:09 NCR 744 |  | 12:14 NCR 1255 | * |  |  |  |  |  |  |
| 11 NCAC 11B 0602 | 12:09 NCR 744 |  | 12:14 NCR 1255 | * |  |  |  |  |  |  |

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| 12 NCACO | 1114 NCR H109 |  | 1120 NCR 1539 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 12 NCACO 0 CO 0307 | 1114 NCR 1109 |  | 11.20 NCR 1539 | * | Approve | 04/17/97 | * |  | 1129 NCK 2211 |  |
| 12 NCACO 0 CO 0309 | 1114 NCR 1109 |  | 1120 NCR 1539 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 12 NCACO 09 C 0601 | 1114 NCR 1109 |  | 1120 NCR 1539 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 12 NCAC09C 0602 | 1114 NGR 1109 |  | 1120 NCR 1539 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 12 NCAC 09C 0603 | 1114 NeR 1109 |  | 1120 NCR 1539 | * | Approve | 04/17/97 |  |  | 11.29 NCR 2211 |  |
| 12 NCAC 09 C 0604 | 1114 NCR 1109 |  | 1120 NCR 1539 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 12 NCACOgCO 0605 | 1114 NCR 1109 |  | 1120 NCR 1539 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 12 NCAC 09C.0606 | 1114 NeR 1109 |  | 1120 NCR 1539 | * | Approve | 04/17/97 |  |  | 11.29 NCR 2211 |  |
| 12 NCAC OMC 0607 | 1114 NCR 1109 |  | 11.20 NCR 1539 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
| 12 NCACOMCO 0608 | 1114 NCR 1109 |  | 1120 NCR 1539 | * | Approve | 04/17/97 |  |  | 1129 NCR 2211 |  |
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| 12 NCAC 10B 1202 | 12.04 NCR 242 |  | 12.08 NCR 624 | * | Approve | 12/18/97 | * |  | 12.17 NCR 1620 |  |
| 12 NCAC 10B 1202 | N/A | N/A | N/A |  | Approve | 01/15/98 |  |  |  |  |
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| 12 NCAC 10 B 1205 | 1204 NCR 242 |  | 12.08 NCR 624 | * | Approve | 12/18/97 |  |  | 12.17 NCR 1620 |  |
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| 12 NCAC 10B 1304 | 12.07 NCR 508 | 12.18 NCR 1703 | 12.12 NCR 995 | S |  |  |  |  |  |  |
| 12 NCAC 10 B 2001 | N/A | N/A | N/A |  | Approve | 01/15/98 |  |  |  |  |
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| 12 NCAC 04E 0103 | 1111 NCR 881 |  | 1117 NCR 1339 | * | Approve | 05/15/97 |  |  | 11.30 NCR 2314 |  |
| 12 NCAC 04E . 0104 | 11.17 NCR 1336 |  | 11:22 NCR 1710 | * | Approve | 07/17/97 | * |  | 1204 NCR 317 |  |
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| 21 NCAC 32110203 | 11.26 NCR 1986 |  | 1204 NCR 294 | * | Approve | 12/18/97 |  |  | 1217 NCR 1620 |  |
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| 21 NCAC 32 H .0302 | 1126 NCR 1986 |  | 12.04 NCR 294 | * | Approve | 12/18/97 |  |  | 12.17 NCR 1620 |  |
| 21 NCAC 32 H .0303 | 11.26 NCR 1986 |  | 12.04 NCR 294 | * | Approve | 12/18/97 |  |  | 12.17 NCR 1620 |  |
| 21 NC'AC 32110401 | 1126 NCR 1986 |  | 12.44 NCR 294 | * | Approve | 12/18/97 |  |  | 12.17 NCR 1620 |  |
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| 21 NCAC 3211.0403 | 1126 NCR 1986 |  | 120.4 NCR 294 | * | Approve | 12/18/97 | * |  | 12.17 NCR 1620 |  |
| 21 NCAC 32110404 | 11.26 NCR 1986 |  | 12.04 NCR 294 | * | Approve | 12/18/97 | * |  | 12:17 NCR 1620 |  |
| 21 NCAC 3211.0405 | 1126 NCR 1986 |  | 12.0) + NCR 294 | * | Approve | 12/18/97 |  |  | 12:17 NCR 1620 |  |
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| 21 NCAC 3211.0408 | 11.26 NCR 1986 |  | 12:04 NCR 294 | * | Approve | 12/18/97 |  |  | 12.17 NCR 1620 |  |
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| 21 NCAC 3211.0507 | 1126 NCR 1986 |  | 12.04 NCR 294 | * | Approve | 12/18/97 | * |  | 12:17 NCR 1620 |  |
| 21 NCAC 3211.0508 | 1126 NCR 1986 |  | 12:04 NCR 294 | * | Approve | 12/18/97 |  |  | 12.17 NCR 1620 |  |
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| 21 NCAC 32110602 | 11:26 NCR 1986 |  | 12.04 NCR 294 | * | Approve | 12/18/97 |  |  | 12.17 NCR 1620 |  |
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| 21 NCAC 32H. 1004 | 11:26 NCR 1986 |  | 12.04 NCR 294 | * | Approve | 12/18/97 |  |  | 12.17 NCR 1620 |  |
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| 21 NCAC 34A . 0201 |  | 12:07 NCR 556 |  |  |  |  |  |  |  |  |
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| 21 NCAC 34C | 12.09 NCR 745 |  |  |  |  |  |  |  |  |  |
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| 21 NCAC 40.0108 | 1209 NCR 745 |  | 12.14 NCR 1338 | S |  |  |  |  |  |  |
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| 21 NCAC 46.1813 | 12.03 NCR 168 |  | 12.07 NCR 527 <br> 12.09 NCR 797 | * | Approve | 02/19/98 | * |  |  |  |
| 21 NCAC 462103 | 1203 NCR 168 |  | 12.07 NCR 527 <br> 12:09 NCR 797 | * |  |  |  |  |  |  |
| 21 NCAC 46.2201 | 1203 NCR 168 |  | 1207 NCR 527 <br> 1209 NCR 797 |  | Approve | 02/19/98 | * |  |  |  |
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| 21 NCAC 501201 | $1207 \text { NCR } 509$ | N/A | N/A |  |  | 02/19/480 |  |  |  |  |
| 21 NCAC 501205 | 1207 NCR 509 |  |  |  | Approse | 02/19/0 |  |  |  |  |
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| 21 NCAC 501206 | $\begin{aligned} & 1207 \text { NCR } 509 \\ & \text { N/A } \end{aligned}$ | N/A | $\mathrm{N} / \mathrm{A}$ |  | Approve | $02 / 19 / 98$ |  |  |  |  |
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| 16 NCAC 070303 |  | 12.07 NCR 533 | 1212 NCR 1052 | * | Approve | 02/19/98 | * |  |  |  |
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| 21 NCAC 58A 0613 | 12.08 NCR 620 |  | 12:13 NCR 1159 | * |  |  |  |  |  |  |
| 21 NCAC 58 A .0614 | 1208 NCR 620 |  | 12.13 NCR 1159 | * |  |  |  |  |  |  |
| 21 NCAC 58A 1501 | 10:22 NCR 2829 |  | 11:03 NCR 114 | * | Object <br> Approve | $\begin{aligned} & 12 / 19 / 96 \\ & 01 / 16 / 97 \end{aligned}$ | * |  | 11.22 NCR 1717 |  |
| 21 NCAC 58A 1502 | 10.22 NCR 2829 |  | 11.03 NCR 114 | * | Object <br> Approve | $\begin{aligned} & 12 / 19 / 96 \\ & 01 / 16 / 97 \end{aligned}$ | * |  |  |  |
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[^1]:    - Consolidated Cases.

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    11.06 NCR 324

    1106 NCR 324
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[^3]:    12:04 NCR 270

[^4]:    12.12 NCR 1046

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