

NORTH CAROLINA REGISTER

VOLUME 13 • ISSUE 8 • Pages 621 - 752

October 15, 1998

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Health and Human Services
Insurance
Labor
Medical Board
Nursing, Board of
Revenue
Transportation
Rules Review Commission
Contested Case Decisions

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For those persons that have questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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NORTH CAROLINA REGISTER

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This issue contains documents officially filed
through September 24, 1998.

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NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

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	Employee Assistance Professionals	11
9	Governor	General Contractors	12
10	Health and Human Services	Cosmetic Art Examiners	14
11	Insurance	Dental Examiners	16
12	Justice	Dietetics/Nutrition	17
13	Labor	Electrical Contractors	18
14A	Crime Control & Public Safety	Electrolysis	19
15A	Environment and Natural Resources	Foresters	20
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16	Public Education	Hearing Aid Dealers and Fitters	22
17	Revenue	Landscape Architects	26
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volume and issue number	issue date	last day for filing	earliest register issue for publication of text	earliest date for public hearing	A. non-substantial economic impact			B. substantial economic impact			270 th day from issue date
					end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	
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13:01	07/01/98	06/10/98	09/01/98	07/16/98	07/31/98	08/20/98	01/27/99	08/31/98	09/21/98	01/27/99	03/28/99
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EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <ol style="list-style-type: none"> (1) temporary rules; (2) notices of rule-making proceedings; (3) text of proposed rules; (4) text of permanent rules approved by the Rules Review Commission; (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165; (6) Executive Orders of the Governor; (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.911; (8) orders of the Tax Review Board issued under G.S. 105-241.2; and (9) other information the Codifier of Rules determines to be helpful to the public. 	<p>ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p>	<p>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS: This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceedings until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p>	<p>EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p>END OF REQUIRED COMMENT PERIOD</p> <ol style="list-style-type: none"> (1) RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer. (2) RULE WITH SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.
	<p>LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT: The date of the next issue following the end of the comment period.</p>	<p>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p>
<p>COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.</p>			<p>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p>

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

TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

This agenda will serve as the notice of rule-making proceedings for the following rule-making bodies from October 15, 1998 through December 15, 1998:

Environmental Management Commission - to rules codified in 15A NCAC 2B, 2D, 2H, & 2Q;

Commission for Health Services - to rules codified in 15A NCAC 18A.

AIR QUALITY

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2681	Permit Content	15A NCAC 2Q .0508
E2682	New Source Performance Standards	15A NCAC 2D .0524
E2683	Activities Exempt from Permit Requirements	15A NCAC 2Q .0102
E2684	Activities Exempted from Permit Requirements	15A NCAC 2Q .0102
E2685	Concrete Batch Plants	15A NCAC 2D .0541 (New Rule)

WATER QUALITY

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2697	1997-1998 Triennial Surface Water Quality Standards Review	15A NCAC 2B .0100 and .0200

WATER QUALITY/LABORATORY SERVICES

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2655	Laboratory Certification	15A NCAC 2H .0800

APA #: E2655

SUBJECT: Laboratory Certification

RULE CITATION #: 15A NCAC 2H .0800

STATUTORY AUTHORITY: G.S. 143-215.3(a)(1); 143-215.3(a)(10)

DIVISION/SECTION: WATER QUALITY/LABORATORY SERVICES

DIVISION CONTACT: James W. Meyer

DIVISION CONTACT TEL#: (919)733-3908

DATE INITIATED: 7/23/98

DURATION OF RULE: Permanent 4/1/99

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: Local

REASON FOR ACTION:

The present fee collection schedule is not adequate to support the program. To date, salaries have risen 24% for employees; travel expenses have risen 25-30%; operation costs for materials, supplies, equipment maintenance, etc. have risen 25-30%. The ability to keep the program functional with these cost increases under the old fee schedule has become impossible, which has prompted the proposed action.

SCOPE/NATURE/SUMMARY:

The purpose of these Rules is to set out certification criteria for laboratory facilities performing any tests, analyses, measurements, or monitoring required under Article 21 of G.S. 143 or any rules adopted thereunder, and to establish fees for certification.

APA #: E2681

SUBJECT: Permit Content

RULE CITATION #: 15A NCAC 2Q .0508

STATUTORY AUTHORITY: G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(10); 143-215.108

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thom Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 8/12/98

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

To delete Paragraph (z) of Rule 15A NCAC 2Q .0508, Permit Content.

SCOPE/NATURE/SUMMARY :

Paragraph (z) of Rule 15A NCAC 2Q .0508 states that "the permit shall not include sources for which there are no applicable requirements." At the time that this language was adopted, the Division of Air Quality was under the impression that sources for which there were no applicable requirements did not have to be in a Title V permit. However, the EPA policy prohibits blanket exclusion of sources for which there are no applicable requirements from permitting. Therefore, this Paragraph needs to be removed to prevent conflict with EPA's permitting requirements.

APA #: E2682

SUBJECT: New Source Performance Standards

RULE CITATION #: 15A NCAC 2D .0524

STATUTORY AUTHORITY: G.S. 143-215.3(a)(1); 143-215.107(a)(5); 150B-21.6

DIVISION SECTION: AIR QUALITY

DIVISION CONTACT: Thom Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 8/12/98

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

To update exemptions and exclusions in 15A NCAC 2D .0524, New Source Performance Standards.

SCOPE/NATURE/SUMMARY :

Rule 15A NCAC 2D .0524 incorporates by references the federal new source performance standards (NSPS) in 40 CFR Part 60. It identifies sections of 40 CFR Part 60 that are not incorporated by reference. Further, it identifies categories of sources covered under NSPS that are eligible for permit exemption. This rule needs to be revised to update it and to correct an omission.

The permit exemption rule is in the process of being amended to allow exemption of certain municipal waste landfills from permitting. Rule 15A NCAC 2D .0524 needs to be amended (in Paragraph (g)) to add municipal waste landfills to the list of sources that are eligible for permit exemption.

Rule 15A NCAC 2D .0524 also needs to be amended to clarify that emission guidelines in 40 CFR Part 60 are not incorporated by reference in this rule. This can be accomplished by adding to Paragraph (b) this language: "Subparts identified in 40 CFR Part 60, Subpart C."

APA #: E2683

SUBJECT: Activities Exempt from Permit Requirements

RULE CITATION #: 15A NCAC 2Q .0102

STATUTORY AUTHORITY: G.S. 143-215.3(a)(1); 143-215.107(a)(4), (5); 143-215.108; 150B-21.6

DIVISION SECTION: AIR QUALITY

DIVISION CONTACT: Thom Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 8/12/98

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION :

To allow storage tanks covered under 40 CFR part 60, Subpart K or Ka to use permit exemptions.

SCOPE/NATURE/SUMMARY:

The permit exemption rule 15A NCAC 2Q .0102, Activities Exempted from Permit Requirements, currently disqualifies, with a few exceptions, sources subject to new source performance standards. (NSPS in 40 CFR Part 60 are incorporated by reference in the North Carolina rules under 15A NCAC 2D .0524.) Currently tanks covered under 40 CFR Part 60, Subparts K and Ka, are not eligible for permit exemption. To make these tanks eligible, Rule 15A NCAC 2Q .0102 needs to be amended. This eligibility

would be limited to facilities not required to have a permit under Title V. This amendment would allow tanks covered under these two subparts that store fuel oils to be exempted from permitting provided the tanks are at a facility not required to have a permit under Title V. Also Rule 15A NCAC 2D .0524, New Source Performance Standards, would also need amending to reflect the change in 15A NCAC 2Q .0102.

APA #: E2684

SUBJECT: Activities Exempted from Permit Requirements

RULE CITATION #: 15A NCAC 2Q .0102

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

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thom Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 8/12/98

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

To correct an omission that occurred with a previous amendment to 15A NCAC 2Q .0102, Activities Exempted from Permit Requirements.

SCOPE/NATURE/SUMMARY:

Subpart (b)(2)(E)(I) of 15A NCAC 2Q .0102, which is the miscellaneous exemption, contains a list of activities ineligible for the miscellaneous exemption. These activities are ineligible for the miscellaneous exemption because the Rule contains specific exemptions for these activities. However, several of the specific combustion exemptions are currently worded such that they are not available for Title V facilities. The specific exemption does not allow its use at a Title V facility. An example is non-emergency generators. The rule should be amended to allow the use of the specific exemption for sources at Title V facilities or to allow the use of the miscellaneous exemption for these sources at Title V facilities.

APA #: E2685

SUBJECT: Concrete Batch Plants

RULE CITATION #: 15A NCAC 2D .0541 (New Rule)

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

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thom Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 8/12/98

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

To adopt a rule to control dust emissions from concrete batch plants.

SCOPE/NATURE/SUMMARY:

Concrete batch plants are a significant source of complaints and violations. The primary sources of problems are non-process fugitive dust, such as dust from haul roads, and improperly maintained bag filters on storage silos. To address these problems, a new rule is being considered to control fugitive dust from concrete batch plants and emissions for storage silos. The existing fugitive dust control rule could be amended to extend it to concrete batch plants or the general fugitive dust control rule that is being developed could include concrete batch plants. A specific rule may be developed to control emissions from storage silos.

APA #: E2697

SUBJECT: 1997-1998 Triennial Surface Water Quality Standards Review

RULE CITATION #: 15A NCAC 2B .0100 and .0200

STATUTORY AUTHORITY: G.S. 143-214.1

DIVISION/SECTION: WATER QUALITY

DIVISION CONTACT: Dianne Reid

DIVISION CONTACT TEL#: (919)733-5083

DATE INITIATED: 8/31/98

DURATION OF RULE: Permanent 8/1/00

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

Every three years, the U. S. Environmental Protection Agency (EPA) requires that the state review and revise, as necessary, the surface water quality standards and classifications rules which are designed to protect human health and aquatic life. This review process is mandated by the Clean Water Act and is termed the Triennial Review. The next review of North Carolina's water quality standards is to be completed by September 1, 1999 and submitted to the EPA. The proposed rule changes are part of the Triennial Review process.

COPE/NATURE/SUMMARY:

The rule changes will include modifications to the surface water classifications and standards rules found in 15A NCAC 2B .0100 and .0200. The major issues in this Triennial Review consist of corrections and clarifications and additions related to: nutrient sensitive waters, endangered species, outstanding resource waters and the antidegradation policy. These issues were identified through consultation with the EPA and the Triennial Review Advisory Committee (TRAC). The TRAC was formed by the Division of Water Quality to provide more public input sooner in the rule-making process. Members of the TRAC included environmental interests, local governments, business, industry and state and federal agencies.

APA #: E2708

SUBJECT: Common areas and guestrooms within lodging establishments

RULE CITATION #: 15A NCAC 18A .1808 and .1812

STATUTORY AUTHORITY: G.S. 130A-248

DIVISION/SECTION: ENVIRONMENTAL HEALTH/ENV. HEALTH SERVICES

DIVISION CONTACT: Susan Grayson

DIVISION CONTACT TEL#: (919)715-0923

DATE INITIATED: 9/24/98

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

SCOPE/NATURE/SUMMARY:

.1808 seeks to reduce lighting requirements in lobbies, halls, stairs, in hotels, motels, tourist homes and other lodging establishments.

.1812 should reduce lighting requirements in guestrooms of hotels, motels and lodging establishments. It also eliminates the requirement for sanitizing tableware in hotel efficiencies, per the ruling of the 1997 General Assembly.

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

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

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

SUBCHAPTER 10B - HUNTING AND TRAPPING

Notice 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 10B.0100, .0200, .0300. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 113-134; 113-270; 113-273; 113-274; 113-276; 113-291; 113-297; 113-300; 113-305; 113-307; 113-331; 113-333; 113-334; 113-337

Statement of the Subject Matter: Set/Amend Hunting and Trapping Regulations.

Reason for Proposed Action: To set/amend hunting and trapping regulations, seasons and bag limits, which are 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: The Record will be open for receipt of written comments from October 15, 1998 to December 16, 1998. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, North Carolina 27604-1188.

**SUBCHAPTER 10C - INLAND FISHING
REGULATIONS**

Notice 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 10C.0100, .0200, .0300, .0400. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 113-132; 113-134; 113-138; 113-272; 113-273; 113-292; 113-302; 113-304; 113-305.

Statement of the Subject Matter: Set/Amend Inland Fishing Regulations including Jurisdiction of Agencies, General Regulations, Game Fish and Nongame Fish.

Reason for Proposed Action: To set/amend inland fishing regulations, size and creel limits, which are 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: This record will be open for receipt of written comments from October 15, 1998 to December 16, 1998. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, North Carolina 27604-1188.

**SUBCHAPTER 10D - GAME LAND
REGULATIONS**

Notice 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 .0002, .0003. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 113-134; 113-264; 113-270; 113-291; 113-305; 113-306.

Statement of the Subject Matter: Set/Amend Game Lands Regulations including General Regulations Regarding Use and Hunting on Game Lands.

Reason for Proposed Action: To set/amend seasons and regulate manner of hunting on game lands, which are 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: This record will be open for receipt of written comments from October 15, 1998 to December 16, 1998. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, North Carolina 27604-1188.

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

Notice 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 10F .0317. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 75A-3; 75A-15.

Statement of the Subject Matter: NO WAKE ZONES.

Reason for Proposed Action: The Stanly County Board of Commissioners initiated the No-Wake Zone Modification Pursuant to G.S. 75A-15.

Comment Procedures: This record will be open for receipt of written comments from October 10, 1998 to December 16, 1998. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

times for North Carolina drawbridges to open.

Reason for Proposed Action: Amendments are proposed as a result of a request by the Carteret County Board of Commissioners. Drawbridge openings on US 70 over Beaufort Channel in Beaufort are proposed to be reduced to alleviate traffic congestion. The U.S. Coast Guard approved the revised opening schedule effective August 10, 1998.

Comment Procedures: Any interested person may submit written comments on the proposed rule by mailing the comments to Emily Lee, NC DOT, PO Box 25201, Raleigh, NC 27611 by February 15, 1999.

TITLE 19A - DEPARTMENT OF TRANSPORTATION

CHAPTER 2 - DIVISION OF HIGHWAYS

SUBCHAPTER 2D - HIGHWAY OPERATIONS

Notice of Rule-making Proceedings is hereby given by the North Carolina Department of Transportation, Divisions of Highway 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 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 conditions and

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

TITLE 1 - DEPARTMENT OF ADMINISTRATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Administration intends to adopt the rules cited as 1 NCAC 5B .0315-.0317, .1604-.1605, amend the rules cited as 1 NCAC 5A .0001, .0008, .0012; 1 NCAC 5B .0101-.0102, .0201, .0203, .0206, .0208, .0301, .0303, .0305-.0306, .0309-.0310, .0314, .0503, .0601, .0701, .0901, .0905-.0906, .1101-.1102, .1105, .1401-.1402, .1501, .1505, .1507, .1509-.1513, .1518-.1521, .1601-.1603, .1901, .1903 and repeal the rules cited as 1 NCAC 5B .0302, .0401-.0403, .0801-.0802, .1301, .1303, .1517, .1906-.1907, .1909. Notice of Rule-making Proceedings was published in the Register on August 14, 1998 for 1 NCAC 5A .0001, .0008, .0012; 1 NCAC 5B .0101-.0102, .0201, .0203, .0206, .0208, .0303, .0305-.0306, .0309, .0314, .0503, .0601, .0701, .0901, .0905, .0906, .1101-.1102, .1105, .1401-.1402, .1501, .1505, .1507, .1509-.1513, .1518, .1520-.1521, .1601-.1603, .1901, .1903; 1 NCAC 5B .0402-.0403, .1303, .1517, .1907, .1909; 1 NCAC 5B .0315, .0317, .1605; Notice of Rule-making Proceedings was published in the Register on March 2, 1998 for 1 NCAC 5B .0301-.0302, .0310, .0316, .0401, .0801-.0802, .1301, .1519, .1604, .1906.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 2:00 p.m. on November 3, 1998 at the Administration Building, ABC Conference Room, 5th Floor, 116 West Jones Street, Raleigh, NC 27603.

Reason for Proposed Action:

1 NCAC 5A .0001, .0008, .0012; 1 NCAC 5B .0101-.0102, .0201, .0203, .0206, .0208, .0303, .0305-.0306, .0309, .0314-.0315, .0317, .0402-.0403, .0503, .0601, .0701, .0901, .0905-.0906, .1101-.1102, .1105, .1303, .1401-.1402, .1501, .1505, .1507, .1509-.1513, .1517-.1518, .1520-.1521, .1601-.1603, .1605, .1901, .1903, .1907, .1909 - S.L. 1997-412 requires the changing of certain rules relating to the increase in purchasing benchmarks and delegation limits for universities and agencies. In addition, there is a need to change/clarify other rules as they pertain to the university and agency purchasing policies and procedures as a result of the increase. Further modifications are needed to improve the procurement process and to provide more flexibility for the universities and agencies.

1 NCAC 5B .0301-.0302, .0310, .0316, .0401, .0801-.0802, .1301, .1519, .1604, .1906 - Session Law 1997-412 amended State procurement laws, increasing benchmarks for universities and State agencies, and also mandated the Secretary of Administration to make rules in certain areas of procurement as a result of the benchmark changes. These include advertising of

solicitations handled by the Division of Purchase & Contract, universities and State agencies as well as contract language consistency and protest procedures. These rule changes clarify the process for all State procurement, which was altered significantly by S.L. 1997-412.

Comment Procedures: Any person interested in making written or verbal comments to these proposed rule changes should submit such comment to R. Glen Peterson, General Counsel, NC Department of Administration, 116 West Jones Street, Raleigh, NC 27603-8003; telephone (919) 733-7232; fax (919) 733-9571; email: glen_peterson@mail.doa.state.nc.us.

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

CHAPTER 5 - PURCHASE AND CONTRACT

SUBCHAPTER 5A - DIVISION OF PURCHASE AND CONTRACT

.0001 RESPONSIBILITY

The Department of Administration is responsible for administering the state's program for the acquisition, management, and disposal of personal property, property, as well as, the acquisition of services for its agencies. The Secretary of the Department of Administration (Secretary) is authorized and responsible for adopting and carrying out the rules promulgated herein. The administration of this program is delegated to the State Purchasing Officer (SPO) who reports to the Secretary.

Authority G.S. 143-49.

.0008 FORMS: PROCEDURES: TERMS AND CONDITIONS

The Division of Purchase and Contract establishes procedures for acquiring equipment, materials, supplies, commodities, printing and services and prescribes forms, consistent language, terms and conditions applicable to such actions, and advertisement requirements, applicable to all agencies for such action. The procedures, forms, consistent language, terms and conditions and advertisement requirements shall be established, taking into consideration market conditions and trends, legal requirements, and factors determined to be in the state's best interest. These shall be furnished to all agencies.

Authority G.S. 143-51; 143-53; 143-55; 143-60.

.0012 DEFINITIONS

(a) For the purpose of this Chapter, agency is defined as all departments, institutions, boards, commissions, universities, or other units of the State, State (including the Division of Purchase and Contract), and community colleges and local school administrative units, unless specifically exempted herein by reference. For the purpose of identifying a special responsibility constituent institution, as designated by the University Board of Governors, just the name "university(ies)" shall be used to distinguish any differences in the rules.

(b) A service contract shall mean any agreement in which an independent contractor performs services requiring specialized knowledge, experience, expertise or similar capabilities for a state agency for compensation from state funds, involving an expenditure of public funds. The services may include (by way of illustration, not limitation) services such as maintenance of buildings or equipment, auditing, film production, employee training and food services, provided that the service is not primarily for review, analysis or advice in formulating or implementing improvements in programs or services (in which case rules relating to consultants shall be applicable).

(c) Where the term "offer" is used, it refers to a bid, proposal or offer submitted in response to an Invitation for Bids, Request for Proposals, Negotiation, or Request for Quotations.

(d) For the purpose of this Chapter, commodity(ies) is defined as any equipment, materials or supplies. It does not include services or printing.

Authority: G.S. 143-49; 143-53; 143-53.1; 116-31.10.

SUBCHAPTER 5B - PURCHASE PROCEDURES

SECTION .0100 - REQUISITIONING

.0101 PROCEDURE

Using agencies shall request quotation, bid and purchase actions of the Division of Purchase and Contract by means of electronic or written requests.

Authority: G.S. 143-49; 143-51; 143-55.

.0102 VERBAL REQUESTS

Verbal or other means of request are not satisfactory substitutes for electronic or written requests except in emergencies. Electronic or Written written confirmation must follow any such request made in an emergency situation.

Authority: G.S. 143-49; 143-51; 143-55.

SECTION .0200 - SPECIFICATIONS

.0201 TYPES OF SPECIFICATIONS

There shall be two general types of purchase specifications. A standard specification shall be originated and developed by the Standards Section, Division of Purchase and Contract. It shall be comprehensive in nature and intended for repeated use. The other type of specification shall be originated by the

requesting agency user and modified as necessary by the Division of Purchase and Contract, to accomplish the intent of the rules of this Subchapter. It shall be, by the nature of the commodity or pattern of user demand, not intended for repetitive use. Sometimes, such other type specifications may be presented in the form of used, including, but not limited to, "brand name or equal" or, in the form of or "brand name only specific".

Authority: G.S. 143-49(2); 143-53.

.0203 DEVELOPMENT OF SPECIFICATIONS

(a) A standard specification is intended for general use, applicable insofar as practicable to the needs of agencies and kept current by the Standards Section, Division of Purchase and Contract. In formulating such a specification, advisory committees made up of personnel from various agencies, and the private sector are often employed for advice and assistance. This type of specification is customarily offered also for the review and comments of manufacturers and suppliers who may participate in future bidding on the items in question.

(b) North Carolina's purchasing program is built on the principle of competition. There is a duty to seek competitive offers, except as may be permitted by statute or rule, from qualified and responsible sources of supply. Where competition is available, it is every purchaser's responsibility to use write specifications and requirements that are reasonable to satisfy the need, but not unduly restrictive, which shall encourage competition in the open market and result in the best possible contract for the commodity, printing or service needed.

Authority: G.S. 143-49(2); 143-53.

.0206 SUBMISSION FOR ADOPTION

Upon completion of all necessary studies, reviews and drafts, any proposed standard specification shall be submitted to the SPO for consideration and recommendation to the Secretary, consideration. When a specification is adopted as a standard, it becomes applicable to state agency purchases generally. A standard specification may be modified by the Division of Purchase and Contract on an interim basis as deemed necessary or advantageous until such time as the Secretary SPO can consider the proposed revision.

Authority: G.S. 143-49(2); 143-53.

.0208 QUALIFIED PRODUCTS LIST

A qualified products list (QPL) is a type of specification which may be adopted as a standard, standard by the Division of Purchase and Contract. The essential characteristic of this procedure is the examination and prequalification of brands and models of products on the basis of samples and tests. The prequalification limits bidding offers to products included on the list (QPL). Manufacturers are invited to submit products for evaluation and inclusion on the list. Sources for manufacturers are the Division's active bidder mailing lists, if still maintained, and notifications of interest received in advance from other firms. The Division may impose a deadline for

submission of samples. If a product is added to the list, it is then eligible to be offered against an Invitation for Bids, in response to a solicitation document.

Authority G.S. 143-49(2); 143-53.

SECTION .0300 - PROCUREMENT AUTHORIZATION AND PROCEDURES

.0301 CONTRACTING REQUIREMENTS

(a) Where the total requirements for any given commodity or service involve an expenditure in excess of the expenditure benchmark established under the provisions of G.S. 143-53.1, and where competition is solicited, sealed offers shall be solicited by direct mailing. Rules applying to service contracts do not apply to local school administrative units or community colleges.

(b) In addition to Paragraph (a) of this Rule, for the procurement of equipment, materials, and supplies, sealed offers shall be solicited by this Division by direct mail and by advertisement in a newspaper of statewide circulation or by electronic media when deemed more advantageous for certain items or commodities at least 10 days prior to the date designated for opening of the bids.

(c) In addition to Paragraph (a) of this Rule, for the procurement of services, the following shall apply:

(1) The final decision-making authority in regard to any phase of procurement or performance of any service contract is with the SPO. In addition to service contracts delegated under Rules .0401 and .1301 of this Subchapter, the SPO may delegate agencies the authority to handle the solicitation phase for contracts over the benchmark established under G.S. 143-53.1.

(2) For each service contract, the using agency shall prepare a task description of the services and desired results. For statewide or multiagency term contracts this Division will establish the task description of services and desired results. Task descriptions shall contain all of the following:

- (A) the date(s) of service (The contract shall not be for more than three years including extensions and renewals, without the prior approval of the SPO.);
- (B) detailed specifications or type and level of work required;
- (C) what the State will furnish;
- (D) what the contractor will furnish;
- (E) the method, schedule, and procedures for billing and payments;
- (F) other terms and conditions, specifications or procedures bearing on the conduct of the work.

(3) Upon completion of the task description and desired results, competition shall be solicited, where available, utilizing a RFP or IFB, which shall contain the task description and desired results, and specify or provide for all of the following:

(A) the laws of North Carolina shall govern the

contract;

- (B) the contract shall be cancelable upon a specified written notice at any time by the State for unsatisfactory performance or for the convenience of the State;
- (C) provide for the option to require a performance bond or other suitable means of ensuring faithful performance when deemed by the State to be necessary;
- (D) that the contract is entered into in compliance with State and Federal antitrust laws;
- (E) the contractor shall furnish all worker's compensation, liability insurance, and other insurance as may be required to protect himself and the State from claims which may arise;
- (F) payment schedule;
- (G) price adjustment provisions, if any;
- (H) identify the agency liaison personnel and any other agency resources that will be available to the contractor;
- (I) the criteria for evaluation;
- (J) request a description of the offeror's qualifications and references;
- (K) have the cost of the service broken down by components;
- (L) have the offeror identify the proposed methodology for accomplishing the work (if not furnished in the RFP).

An exception to Paragraph (c) of this Rule is where an emergency condition exists:

- (4) After opening, and completion of the evaluation, the using agency shall prepare a written recommendation for award, and if over the benchmark established under G.S. 143-53.1, shall submit a copy of all offers received and their recommendation to this Division for award of contract or other action deemed necessary by the SPO (Examples: cancellation, negotiation, etc.). Notice of the Division's decision shall be sent to the using agency.

Except where a waiver, special delegation, exemption, or an emergency purchase is permitted by rule, all purchases involving the expenditure of public funds made by universities and other agencies for commodities, services and printing, not covered by statewide term contracts, shall comply with the following delegations and procedures:

- (1) Small Purchases: A small purchase is defined as the purchase of commodities, services or printing, not covered by a term contract, involving an expenditure of public funds of five thousand dollars (\$5,000) or less. The executive officer or his designee, of each agency shall set forth, in writing, purchasing procedures for making small purchases. The awarding of contracts for small purchases shall be the responsibility of the using agency. The SPO may require a copy of the small purchase procedures be sent to the Division of Purchase and Contract.
- (2) Purchases Governed by General Delegation or

Statute:

(a) For purchases made by a university or agency involving an expenditure of public funds over five thousand dollars (\$5,000), up to the benchmark established for a university under the provisions of G.S. 116-31.10, and up to the general delegation limit for agencies established by the SPO under the provisions of G.S. 143-53(a)(2):

- (i) Competition shall be solicited;
- (ii) Solicitation documents requesting or inviting offers shall be issued;
- (iii) Solicitation documents shall include standard language, including terms and conditions issued by the Division of Purchase and Contract, unless prior written approval is obtained from the Division. If additional terms and conditions are used, they shall not conflict with Division's standard terms and conditions, unless prior written approval is obtained from the Division; and
- (iv) Mailing lists, if still maintained by the Division of Purchase and Contract, may be requested and used in addition to mailing lists maintained by the university or agency for the purpose of soliciting competition.

(b) In addition, agencies and universities shall advertise their solicitations through the Division of Purchase and Contract, effective September 1, 1998, for the following purchases:

- (i) Agencies: For purchases involving an expenditure of public funds exceeding ten thousand dollars (\$10,000), up to the general delegation limit for an agency established by the SPO under the provisions of G.S. 143-53(a)(2);
- (ii) Universities: For purchases involving an expenditure of public funds exceeding twenty five thousand dollars (\$25,000), up to the benchmark established for a university under the provisions of G.S. 116-31.10.

Agencies and universities may advertise sooner than the effective date and may also advertise solicitations on smaller dollar purchases through the Division of Purchase and Contract.

(c) The awarding of contracts under the statutory limit for universities and the general delegation for all other agencies, shall be the responsibility of the using agency.

(3) Competitive Bidding Procedure: Where the total requirements for commodities, services or printing jobs involve an expenditure of public funds in excess

of the expenditure benchmark established under the provisions of G.S. 116-31.10 or the general delegations established by the SPO under the provisions of G.S. 143-53(a)(2), the competitive bidding procedure as defined in G.S. 143-52 shall be utilized as follows:

- (a) Sealed offers for commodities and printing shall be solicited by the Division of Purchase and Contract via advertisement;
- (b) For service contracts, the SPO delegates to the universities and other agencies the authority to solicit sealed offers for their university/agency in accordance with the rules established for Subitems (2)(a) and (b) of this Rule. After opening and completing the evaluation of offers received, the agency shall prepare a written recommendation for award, and if over the benchmark established under G.S. 116-31.10 or the general delegations established by the SPO, shall submit a copy of all offers received and their recommendation of award or other action to the Division of Purchase and Contract for approval or other action deemed necessary by the SPO (Examples: cancellation, negotiation, etc.). Notice of the Division of Purchase and Contract's decision shall be sent to the agency. The awarding of contracts for services shall be the responsibility of the using agency;

(c) Sealed offers for statewide term contracts for commodities, printing and services shall be solicited by the Division of Purchase and Contract via advertisement;

(4) For each service contract handled by the agency, the agency shall prepare a task description of the services and desired results. Task descriptions shall contain all of the following:

- (a) The date(s) of service (The contract shall not be for more than three years including extensions and renewals, without the prior approval of the SPO.);
- (b) Detailed specifications or type and level of work required;
- (c) What the State shall furnish;
- (d) What the contractor shall furnish;
- (e) The method, schedule, and procedures for billing and payments; and
- (f) Other subject matters bearing on the conduct of the work.

(5) Rules applying to service and printing contracts do not apply to local school administrative units or community colleges.

Authority: G.S. 143-49; 143-52; 143-53; 143-53.1.

.0302 MAILING LISTS (REPEALED)

Authority G.S. 143-49; 143-52.

.0303 TELEGRAPH, FACSIMILE, AND TELEPHONE OFFERS

Telegraph, facsimile, and telephone bids or proposals are not acceptable offers shall not be accepted in response to sealed competitive bids or proposals; solicitations that are required to be sealed.

Authority G.S. 143-49; 143-52; 143-53.

.0305 PUBLIC OPENING

(a) Advertised procurements shall be publicly opened, in accordance with the procurement document instructions, opened at the time, date, and place identified in the procurement document. At the time of opening, the names of the companies, the manufacturer(s) and catalog number(s) of the item(s) they have offered and the prices, deliveries and payment terms they have submitted shall be tabulated and this tabulation shall become public records subject to the provisions of Rules .0309 and .1501 of this Subchapter, record, except as provided in Paragraph (b) of this Rule.

(b) Under a two step process the cost/price offer shall not become public record until the technical offer(s) has been evaluated (first step) and then only those determined by the agency which issued the solicitation document, to have an acceptable technical offer shall have their cost/price offer opened (second step). The cost/price offers from offerors whose technical offer was deemed unacceptable shall remain unopened. The opening of the cost/price offers shall be publicly opened, by means of notifying the company(s) with the acceptable technical offer(s) of the time and place for the opening. At least two agency working days notice shall be given prior to the opening. In addition, there shall be at least two agency employees present at the opening.

Authority G.S. 143-49; 143-52; 143-53.

.0306 LATE OFFERS, MODIFICATIONS, OR WITHDRAWALS

No late offer, late modification, or late withdrawal shall be considered unless received before contract award, and the offer, modification, or withdrawal would have been timely but for the action or inaction of State agency personnel directly serving the procurement process. It is the sole responsibility of the offeror to have his offer delivered on time, regardless of the mode of delivery used, including the U.S. Postal Service or any other delivery services available.

Authority G.S. 143-49; 143-52.

.0309 EVALUATION

In determining the award of contracts, bona fide offers shall be considered and evaluated as provided by statute and applicable rules. Unexecuted offers or an offer without delivery shall not be accepted. Nonacceptance of an offer shall not be

construed as outright rejection or that it lacks merit but that another is deemed more advantageous. During the period of evaluation and prior to award, possession of the offers and accompanying information shall be limited to persons designated by the SPO, and to those in using agencies who are responsible for participating in the evaluation. After award of the contract, the complete file shall be available to any interested person with the exception of trade secrets subject to the provisions of Rules .1501 and .1518 of this Subchapter.

(a) In determining the award of contracts, bona fide offers shall be considered and evaluated as provided by statute and applicable rules. The evaluation criteria to be used in determining the award of contract shall be identified in the procurement document.

(b) An unexecuted offer or an offer without a delivery time shall be rejected.

(c) During the period of evaluation and prior to award, only the information provided in the tabulation is public record. Possession of offers, including any accompanying information submitted with the offers, shall be limited to persons in the agency who are responsible for handling the offers and accompanying information, and to others determined necessary by the agency which issued the solicitation document, for the purpose of evaluation and award of contract. Offeror participation in the evaluation process shall not be permitted. Any communication with an offeror that may be necessary for purpose of clarification of their offer shall be conducted by the agency which issued the solicitation document. After award of the contract or the need for the item or service is canceled, the complete file shall be available to any interested party with the exception of trade secrets subject to the provisions of Rules .1501 and .1518 of this Subchapter.

Authority G.S. 143-49; 143-52; 143-53.

.0310 NOTIFICATION OF AWARD

If a solicitation is required to be advertised through the Division of Purchase and Contract, then notice of the resulting contract award shall be posted via the Division of Purchase and Contract's home page by the agency issuing the solicitation document in accordance with Rule .0316 of this Section. In addition, After after contracts are awarded, successful companies and agencies shall be notified in writing or electronically, electronically by the agency issuing the solicitation document.

Authority G.S. 143-49; 143-52; 143-53.

.0314 SOLICITATION DOCUMENTS

(a) An alternate acquisition procurement method to the Invitation for Bids (IFB) is a Request for Proposals (RFP). When using a RFP, the rules of Subchapters 5A and 5B of this Chapter shall also apply. A RFP may also be handled as a two step process.

(1) For the purchase of equipment, materials and supplies (commodities), when using a RFP, the rules of this Subchapter shall apply.

(2) The Rules applying to the use of a RFP for service contracts are specified in Rule .0301 of this Section.

(b) A RFP may also be handled as a two step process. Where a two step process is used only the technical proposal shall be opened on the opening date. The cost proposal shall be opened only if the technical proposal is determined by the State to be acceptable.

(b) For the purpose of Subchapters 5A and 5B of this Chapter, a solicitation document is defined as a written Request for Quotes (RFQ), RFP or an IFB.

(c) All agencies shall use the IFB or RFP document, whichever is applicable, when soliciting competition on contracts valued over twenty five thousand dollars (\$25,000). The IFB and RFP solicitation documents used by agencies shall require bidders or offerors to certify that each bid or offer is submitted competitively and without collusion.

Authority G.S. 143-49; 143-52; 143-53; 143-54.

.0315 DIVISION OF REQUIREMENTS

An agency shall not divide requirements in order to keep the expenditure under their benchmark or delegation, and thereby avoid following the appropriate contracting requirement. In the case of similar and related items and groups of items, the dollar limits apply to the total cost rather than the cost of any single item.

Authority G.S. 143-52; 143-53.

.0316 ADVERTISEMENT REQUIREMENTS

(a) Unless already required by statute, effective September 1, 1998 all advertisements required by rule shall be through the Division of Purchase and Contract via the Division's home page on the internet. If advertisement is required by rule, the solicitation shall be advertised at least once and at least 10 days prior to the date designated for opening. This Rule does not prevent solicitation of offers by additional direct mailings or additional advertisement by an agency.

(b) Agencies required by rule to advertise their solicitations shall electronically transmit the required data directly to the Division's home page. The required data shall include, the complete solicitation document (specifications, requirements, terms and conditions, etc), with agency name, buyer name, phone number and address for accessing hard copies of the solicitation, solicitation identification number, title (a short description of the commodity, service or printing requirement), and the opening date, time and place. If the solicitation requires potential offerors to attend a mandatory conference or mandatory site visit, this information shall also be furnished with the advertisement, to include date and time, location, and contact person and phone number.

(c) Within three agency working days from award of contract that has been advertised through the Division, agencies shall be required to electronically transmit an award notice directly to the Division's home page on the internet. The award notice shall be posted for at least 30 consecutive calendar days. This award notice shall identify the contract and award information.

(d) The exact format and instructions for submitting the advertisement, summary notice, and award notice will be furnished to all agencies by the Division.

(e) Exceptions to this Rule are as follows:

(1) When it is deemed by the agency's executive officer or his designee that there is a valid reason for the agency not to transmit the advertisement or award notice electronically, that agency may submit the data to the Division, so the Division may transmit it electronically; or, the agency may place the advertisement (excluding the complete solicitation document) via newspaper. If advertised via newspaper, the agency which issued the solicitation document shall be responsible for the advertisement and the award notice shall not be required. Some valid reasons include computer equipment failure or networking difficulties, or insufficient copies of samples for a printing job.

(2) If there is an attachment to a solicitation that the agency determines will not be electronically transmitted, then the solicitation document, when electronically transmitted, shall include instructions to contact the agency which issued the solicitation to obtain the attachment.

(3) If an agency determines that it is not feasible to electronically transmit a particular solicitation document through the Division's home page, then the agency shall electronically transmit a summary notice, the same way as if they had electronically transmitted the solicitation document, which will instruct someone inquiring on the Division's home page about the solicitation, to contact the agency for a hard copy.

Authority G.S. 143-52; 143-53.

.0317 MANDATORY CONFERENCES/SITE VISITS

(a) It is recommended, except in unusual cases, for agencies to only urge and caution potential offerors to attend scheduled conferences or site visits.

(b) When a solicitation requires potential offerors to attend a mandatory conference or mandatory site visit, the date, time, location, and other pertinent details of the conference or site visit shall be given in the solicitation document, and in the advertisement (if required by rule).

(c) If only one potential offeror attends the mandatory conference or mandatory site visit, the conference or site visit may continue to be conducted, but the solicitation shall be canceled immediately following the conference or site visit. If this occurs, the agency shall investigate why only one potential offeror was in attendance and ascertain if there is any competition available. If it is determined that competition is available, the agency shall again attempt to obtain competition by following the rules of this Subchapter, unless otherwise permitted by rule. If it is determined that there is no competition available, then the procurement may be handled as a waiver as permitted by rule.

(d) Any and all questions by a company regarding a solicitation document shall be addressed to the purchaser named on the document. Any and all revisions to the solicitation document shall be made only by written addendum from the purchaser. Verbal communications from whatever source are of no effect.

Authority G.S. 143-52; 143-53.

SECTION .0400 - INFORMAL PROPOSALS (QUOTATIONS) PROCEDURE

.0401 GENERAL DELEGATION (REPEALED)

Authority G.S. 143-52; 143-53; 143-53.1.

.0402 REVIEW BY BOARD OF AWARD AND SECRETARY OF ADMINISTRATION

The review and award procedure is not a requirement in acting on proposed contracts less than the benchmark established in G.S. 143-53.1. However, any controversial matters or questions of policy which might be involved in these proposed contracts may be reviewed with the Board of Award and Secretary.

Authority G.S. 143-52; 143-53.

.0403 DIVISION OF REQUIREMENTS

An agency shall not divide requirements in order to keep them under the established benchmark or general delegation amounts, and thereby avoid the required competitive bid/proposal procedure or the required quotation procedure, whichever applies. In the case of similar and related items and groups of items, the dollar limits apply to the total cost rather than the cost of any single item.

Authority G.S. 143-52; 143-53.

SECTION .0500 - REJECTION OF OFFERS

.0503 NEGOTIATION

If all offers are rejected, the Secretary may authorize the SPO to negotiate the purchase, with the award of contract handled in accordance with the rules in this Subchapter.

If an agency does not receive a satisfactory offer in response to a solicitation and all offers are rejected, negotiations may be conducted with all known qualified sources of supply to satisfy the requirement, if it is determined by the agency that issued the solicitation document that soliciting offers again would serve no purpose. The negotiations shall be conducted by that agency if under their benchmark or delegation. Negotiations shall be conducted in writing and shall include standard language and terms and conditions issued by the Division of Purchase and Contract, unless otherwise provided by rule. If the negotiations are conducted with only one source or if only one source responds to the negotiations, the reason for lack of competition shall be documented in writing for public record. Negotiations

may also be conducted under conditions that merit a waiver of competition, or in other situations that are advantageous as determined by the SPO.

Authority G.S. 143-52; 143-53; 143-60.

SECTION .0600 - PURCHASE OF USED ITEMS

.0601 GENERAL PROCEDURES

When it appears to the SPO that the acquisition of used equipment, materials or supplies is in the public interest, competitive procedures shall be followed wherever feasible.

Rules of this Subchapter regarding seeking competition shall be followed, wherever feasible, when it appears that the acquisition of used commodities is in the public interest.

Authority G.S. 143-53.

SECTION .0700 - REMOVAL OF CERTAIN ITEMS FROM GENERAL CONSTRUCTION

.0701 POLICY

As may be practicable, the Secretary may remove items from general construction contracts and require those items to be purchased under the rules of this Chapter.

Every agency shall thoroughly review the items being included in a construction/renovation project and remove any items that they consider are non-related to the actual construction/renovation of the building. Items that are considered commodities, or just furnishings, to complete the project for use by the agency, shall be handled in accordance with the rules of this Chapter. Items that are usually removed for construction/renovation projects include carpet, office panel systems, food service equipment, and furniture. If an agency determines that one of these items, or any item that is normally handled as a commodity purchase, is best suited for inclusion in the construction/renovation project, their justification shall be documented in writing for public record.

Authority G.S. 143-53.

SECTION .0800 - PRINTING

.0801 GENERAL POLICY (REPEALED)

Authority G.S. 143-49; 143-53.

.0802 PROCEDURE (REPEALED)

Authority G.S. 143-49; 143-53.

SECTION .0900 - INSPECTION AND TESTING

.0901 RESPONSIBILITY

In general, it is the responsibility of the receiving agency to inspect all materials, supplies, and equipment commodities.

services and printing upon delivery to insure compliance with the contract requirements and specifications. However, when the contract requires an inspection by the Division of Purchase and Contract, it shall be conducted by a designee of the Division. However, there are certain commodities that require inspection by a designee of the Division of Purchase and Contract. When purchasing one of those commodities, agencies shall include in their solicitation document the requirement that payment for the commodity shall be subject to the inspection and acceptance of the commodity by a designee of the Division. The commodities listed, as determined by the SPO, are based on their complexity and cost, and shall be furnished to all agencies.

Authority G.S. 143-53; 143-60.

.0905 SPECIFICATIONS

The SPO When it is determined to be advantageous, the agency which awarded the contract may authorize revisions to a contract specification, including any cost adjustment associated with any such revision, as part of contract administration. If an increase in cost results in the total contract value being more than the agency's benchmark or delegation, then prior written approval shall be obtained from the Division of Purchase and Contract, regardless of who initially awarded the contract.

Authority G.S. 143-53; 143-60.

.0906 REPORT OF DISCREPANCY

Where products commodities, services or printing delivered fail to meet the specifications or contract requirements, the discrepancy shall be reported to the Division of Purchase and Contract for resolution, resolved by the agency which issued the solicitation document.

Authority G.S. 143-53; 143-60.

SECTION .1100 - TERM CONTRACTS

.1101 USE

(a) Term contracts, known also as indefinite quantity or requirements contracts, are used generally to establish suppliers and prices of a given commodity, group of commodities commodities, printing, or services for a period of time without guaranteed quantities being specified. Such contracts generally serve Statewide term contracts shall be handled by the Division of Purchase and Contract and are used generally to consolidate normal requirements of various all agencies into one agreement. While many of the state's term contracts are effective for a period of one year, conditions sometimes call for issuance for a shorter or longer period.

(b) A term contract is a binding agreement between purchaser and seller to buy and sell certain commodities commodities, printing, or services at certain prices and under stipulated terms and conditions. It is neither an "approved list" nor a list of approved or ceiling prices. No agency may purchase any supplies, materials, equipment commodities, printing, or services

covered by a statewide term contract from any other sources.

(c) A term contract is based upon competition, where available with the companies being advised as to whose business they are competing for and, if successful, whose business they have earned.

(d) Agencies may handle agency specific term contracts for use by their agency if the expenditure over the term of the contract is under their benchmark or delegation, and the commodity, printing, or service is not covered by a statewide term contract.

(e) Rules applying to service and printing contracts do not apply to local school administrative units or community colleges.

Authority G.S. 115C-522; 115D-58.5; 143-52; 143-53; 143-55.

.1102 DETERMINING FACTORS

In determining whether a product should be on a statewide term contract, the Division considers shall consider such factors as volume, nature of the product, repetitiveness of use, relative stability of prices, transportation costs and other appropriate considerations. In determining whether a product should be on an agency specific term contract, the agency shall consider such factors as volume, nature of the product, repetitiveness of use, relative stability of prices, transportation costs and other appropriate considerations.

Authority G.S. 143-52; 143-53; 143-55.

.1105 SPECIAL ITEMS

In situations where a general type of item is covered by a term contract but a special type item is needed for a particular application, the Division should be consulted for appropriate action. agency may proceed with the purchase of the special type item under the rules of this Chapter. The need for the special type item in lieu of the general type item shall be justified by the agency/user in writing and the agency file documented for public record.

Authority G.S. 143-52; 143-53; 143-55.

SECTION .1300 - SMALL PURCHASES

.1301 PROCEDURES (REPEALED)

Authority G.S. 143-53.

.1303 DESIGNATION OF AUTHORIZED PERSONS

Persons authorized to make purchases are to be designated in writing and be held personally liable for unauthorized purchases or improper practices.

Authority G.S. 143-53.

SECTION .1400 - WAIVER OF COMPETITION

.1401 POLICY

Under certain conditions, and otherwise if deemed to be in the

public interest, competition may be waived. Conditions permitting waiver include but are not limited to cases where performance or price competition are not available; where a needed product or service is available from only one source of supply; where emergency action is indicated; where competition has been solicited but no satisfactory offers received; where standardization or compatibility is the overriding consideration; where a donation predicates the source of supply; where personal or particular professional services are required; where a particular medical product or service, or prosthetic appliance is needed; where a product or service is needed for the blind or severely disabled and there are overriding considerations for its use; where additional products or services are needed to complete an ongoing job or task; where products are bought for "over the counter" resale; where a particular product or service is desired for educational, training, experimental, developmental or research work; where equipment is already installed, connected and in service, and it is determined advantageous to purchase it; where items are subject to rapid price fluctuation or immediate acceptance; where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies which thwarts normal competitive procedures; where the amount of the purchase is too small to justify soliciting competition or where a purchase is being made and a satisfactory price is available from a previous contract; where the requirement is for an authorized cooperative project with another governmental unit(s) or a charitable non-profit organization(s); where a used item(s) is available on short notice and subject to prior sale.

Authority G.S. 143-53.

.1402 APPROVAL AND DOCUMENTATION

Although competition may be waived for proper cause, its use is required wherever ~~practicable; and further, where practicable.~~ Where waiver is contemplated, except for delegated, small, or authorized printing purchases, it must be explained in writing to the Division. agencies are authorized to negotiate with a company(s) in an effort to acquire the quality of commodity, service or printing needed at the best possible price, delivery, terms and conditions, when the expenditure is less than their benchmark or delegation. A solicitation document requesting or inviting an offer(s) shall be issued by the agency, including standard language, terms and conditions issued by the Division of Purchase and Contract. Under an emergency or pressing need situation, a solicitation document requesting or inviting an offer(s) shall be issued by the agency, including standard language, terms and conditions issued by the Division, unless circumstances prohibit their use. Negotiations may also be conducted with a company(s) for contracts exceeding an agency's benchmark or delegation, but are subject to the prior approval of the Secretary, except where otherwise permitted by rule.

Authority G.S. 143-53.

SECTION .1500 - MISCELLANEOUS

.1501 CONFIDENTIALITY

(a) Trade secrets which the offeror does not wish disclosed shall be identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Cost information shall not be deemed confidential.

(b) To promote maximum competition and to protect the public competitive procedure from being used to obtain information which would normally not be available otherwise, ~~the Division of Purchase and Contract agency which issued the solicitation document~~ may maintain the confidentiality of certain types of information. Such information includes trade secrets, as determined by North Carolina law, and like information as the SPO or the agency's executive officer or his designee may determine to insure the integrity of the public purchasing process.

~~Trade secrets which the offeror does not wish disclosed shall be identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Cost information shall not be deemed confidential.~~

Authority G.S. 143-52; 143-53.

.1505 FUNDS FROM DIFFERENT SOURCES

(a) All public funds irrespective of source, whether special, federal, local, gifts, bequests, receipts, fees, etc., or state appropriated, used for the purchase, rental, lease, installment purchase and lease-purchases of equipment, materials, supplies commodities, printing and services are to be handled under the provisions of Article 3 of G.S. 143 and in accordance with rules adopted pursuant thereto by the Division of Purchase and Contract.

(b) ~~Community Colleges and local educational administrative units are not required to use the Division of Purchase and Contract on rentals, leases and services. Rules applying to service, rental, lease, and printing contracts do not apply to local school administrative units or community colleges.~~

Authority G.S. 143-53; 143-60(5).

.1507 CHANGE IN CORPORATE STRUCTURE

In cases where contractors are involved in corporate consolidations, acquisitions or mergers, the ~~Division of Purchase and Contract agency which issued the solicitation document~~ resulting in the contract may negotiate agreements for the transfer of contractual obligations and the continuance of contracts within the framework of the new corporate structures but with the understanding that the state's contracts are not instruments for sale and shall not be assigned.

Authority G.S. 143-53.

.1509 PURCHASING FROM OR THROUGH AGENCY EMPLOYEES

Every reasonable effort shall be made to avoid making purchases from or through employees of any agency. Prior

written approval from the Secretary SPO is required in any instances which may develop of doing business with such personnel. In deciding whether to grant approval, the Secretary SPO shall consider the type item or service needed, the prevailing market conditions, whether competition is available, the cost involved, and the effects of doing business with the employee.

Authority G.S. 143-53; 143-60(5).

.1510 USE OF PURCHASING POWER FOR PRIVATE GAIN

The purchasing power of the state or the agency shall not be used for private advantage or gain. Purchases under contracts made by the state, state or the agency, except those in accordance with G.S. 143-58.1 shall not be allowed for personal use out of private funds nor shall agencies place orders for articles for ownership by employees or other individuals.

Authority G.S. 143-53; 143-58.1.

.1511 ANTITRUST VIOLATIONS

In instances of identical offers or where there are otherwise indications of collusion, awards may be made in a manner intended to discourage or prevent its continuance as deemed to represent the state's best interest. Instances of suspected antitrust violation shall be reported to appropriate law enforcement authorities by the SPO: agency which issued the solicitation document. In submitting offers to the Division, each company must certify under penalty of perjury that their offer has been arrived at competitively and without collusion and that they have not violated any federal or North Carolina antitrust laws.

Authority G.S. 143-53; 143-54.

.1512 AVAILABILITY OF SERVICES TO CERTAIN NON-STATE AGENCIES

(a) The Division of Purchase and Contract shall make purchasing services available to certain non-state agencies as defined by G.S. 143-49 and 143-49.1. This may be affected by budgetary allowances for personnel, time and related costs.

(b) The Division shall inquire periodically among non-state agencies to determine the types of items available from state term contracts for which they would want the Division to contract for them. Based on this information, the Division shall develop an implementing schedule of items together with the times for handling them and the methods of purchasing or contracting. The Division has final decision as to items included on the schedule.

(c) (b) Where non-state agencies covered by this provision elects to participate in a contract, its resulting contractual duties, obligations and responsibilities shall be the same as those required for agencies. Non-state agencies covered by this provision shall make payments to suppliers in a timely manner and in accordance with the terms of the contracts.

(d) (c) As may be practicable in terms of personnel, time and

costs, the Division may offer its services, in addition to purchasing and contracting, to non-state agencies with respect to preparation of specifications, contracts for services, inspection and testing of products, expediting deliveries and advising as to market conditions.

Authority G.S. 143-49(6); 143-49.1; 143-52.

.1513 COOPERATIVE PURCHASING

Where an agency is a participant in an authorized cooperative project with another governmental activity or with a charitable non-profit organization, goods and services necessary to the project shall be acquired according to ~~these Rules; the rules of this Chapter~~; provided, however, that if the interest of the State would be better served by one of the following acquisition methods, the SPO may ~~do so with prior approval of the Secretary~~: authorize that acquisition method to be used:

- (1) by making acquisition on behalf of such governmental activity or charitable non-profit organization; or
- (2) by authorizing acquisition on the State's behalf under the provisions of G.S. 143, Article 8; or
- (3) by authorizing acquisition on the State's behalf under the provisions of another State or another governmental entity, provided due consideration is given by the Secretary SPO to the differences in purchasing rules, regulations and procedures of the contracting entity.

Authority G.S. 143-49; 143-53; 143-60.

.1517 GOODS REQUIRING IMMEDIATE ACCEPTANCE

~~In the purchase of items which are subject to rapid price fluctuation or immediate acceptance, the SPO may award contracts as deemed advisable provided that each such action is made a matter of record and reported promptly to the Board of Award and Secretary.~~

Authority G.S. 143-52; 143-49.

.1518 BOARD OF AWARD

(a) When the dollar value of a contract for the purchase, lease, or lease/purchase of equipment, materials, and supplies commodities or printing exceeds the benchmark established by G.S. 143-53.1; agency's benchmark or delegation, the Board of Award (Board) shall canvass the Division's recommended action. This also includes reporting of emergency and pressing need purchases over the agency's benchmark or delegation. The Division will submit the Board's recommendation (award, cancellation, approval, negotiation, etc.) to the Secretary. The Secretary may either concur with the recommendation of the Board by awarding contracts or approving other recommended action, or take other action as deemed necessary. A Board of Award meeting is comprised of at least two voting members. The SPO or designee conducts the meeting and one division employee takes the minutes of the meeting. The Advisory Budget Commission may designate two or more voting members

to serve as members of the Board. The Secretary SPO may further designate the following persons who may serve in this capacity in the absence of member(s) of the Commission:

- (1) Assistant Superintendent for Financial Services, Department of Public Instruction;
- (2) Representative from Attorney General's Office;
- (3) All Council of State members with the exception of the Governor.

These alternate members shall not further delegate this responsibility. The Board meets weekly.

(b) ~~Recommendations for the award of contracts shall be reviewed only by the Division of Purchase and Contract, the Board, and the Secretary.~~ Records shall be kept of each meeting and made public by the SPO unless the SPO determines a specific record of the meeting needs to be confidential due to the nature of the purchase (Ex: Law enforcement surveillance equipment). The Secretary may elect to proceed with the award of contracts without the recommendation of the Board in cases of emergencies or in the event that a Board is not available. In such cases, contracts awarded without Board review shall be reported to a subsequent Board as a matter of record.

(c) Exemptions: Approval by the Board or Secretary is not required for the following purchase actions: exemption by statute, by rule, by Special Delegation, or where one agency is buying from another agency or through State or Federal Surplus.

Authority G.S. 143-53; 143-318.18(10).

.1513 PROTEST PROCEDURES

~~A party wanting to protest a contract award handled by the Division of Purchase and Contract must submit a written request for a protest meeting to the SPO which must be received in the Division of Purchase and Contract within 30 consecutive calendar days from the date of the protested contract award. This letter must contain specific sound reasons and any supporting documentation for why the party is protesting the award or the protest will be promptly rejected. If the SPO can render a decision based on the facts without a meeting, a written response with a decision will be rendered within 10 consecutive calendar days of the receipt of the protest letter. If not, the SPO will schedule a meeting with the protesting party to hear their complaint. This meeting will be held within 30 consecutive calendar days after receipt of the written protest. The SPO will respond to the protesting party in writing with a decision within 30 consecutive calendar days from the date of the protest meeting. All decisions of the SPO shall be the final administrative review.~~

(a) To insure fairness to all offerors and to promote open competition, agencies and the Division of Purchase and Contract shall actively follow-up and be consistent in responding to an offeror's protest over contract awards.

(b) This Rule applies only to contracts with an actual or estimated dollar value over ten thousand dollars (\$10,000). It is recommended that agencies establish procedures to handle an offeror's concerns for contracts with less dollar value.

(c) When an offeror wants to protest a contract awarded by an agency over ten thousand dollars (\$10,000), the agency and the

offeror shall comply with the following:

- (1) The offeror shall submit a written request for a protest meeting to the agency's executive officer which shall be received by the agency's executive officer's office within 30 consecutive calendar days from the date of the contract award. The executive officer shall furnish a copy of this letter to the SPO within five consecutive calendar days of receipt. The offeror's letter shall contain specific sound reasons and any supporting documentation for why they have a concern with the award. If the letter does not contain this information, or if the executive officer determines that a meeting would serve no purpose, then he may, within 10 consecutive calendar days from the date of receipt of the letter, respond in writing to the offeror and refuse the protest meeting request. A copy of the executive officer's letter shall be forwarded to the SPO.
- (2) If the protest meeting is granted, the executive officer shall attempt to schedule the meeting within 30 consecutive calendar days after receipt of the letter, or as soon as possible thereafter. Within 10 consecutive calendar days from the date of the protest meeting, the executive officer shall respond to the offeror in writing with his decision. A copy of the executive officer's letter shall be forwarded to the SPO.
- (3) The agency shall notify the SPO, in writing, of any further administrative or judicial review of the contract award.
- (4) The executive officer may appoint a designee to act on his behalf under this Rule.

(d) When an offeror wants to protest a contract awarded by the Secretary over ten thousand dollars (\$10,000), the SPO and the offeror shall comply with the following:

- (1) The offeror shall submit a written request for a protest meeting to the SPO which shall be received by the Division within 30 consecutive calendar days from the date of the contract award. The offeror's letter shall contain specific sound reasons and any supporting documentation for why they have a concern with the award. If the letter does not contain this information, or if the SPO determines that a meeting would serve no purpose, then he may, within 10 consecutive calendar days from the date of receipt of the letter, respond in writing to the offeror and refuse the protest meeting request.
- (2) If the protest meeting is granted, the SPO shall attempt to schedule the meeting within 30 consecutive calendar days after receipt of the letter, or as soon as possible thereafter. Within 10 consecutive calendar days from the date of the protest meeting, the SPO shall respond to the offeror in writing with his decision.

Authority G.S. 150B-2; 150B-22; 150B-23; 143-53.

.1520 DEFAULT PROCEEDINGS; DEBARMENT

(a) ~~The SPO, who may consult with the Board of Award. The agency which issued the solicitation document resulting in the contract may find a contractor in default of contract for failing to perform in accordance with the contract requirements, terms and conditions. If a contractor is found in default of contract, the SPO, agency which issued the solicitation document resulting in the contract, may take action, immediate if necessary, to purchase the needed products commodities, printing or services on the open market and charge any additional cost for the product commodity, printing or service and expense for doing so to the defaulting contractor. (If there was a performance bond required of the company as part of the contract, it may be redeemed with the cash proceeds going to the State.) In addition, that company may be removed from all mailing lists and debarred from doing business with any agency, for a period of time at the discretion of the SPO. If an agency finds a contractor in default, such action and the circumstances, shall be reported by the agency to the Division of Purchase and Contract in writing. This does not limit any other remedies that may be available to the State or agency.~~

(b) ~~The Division may remove the company from any mailing lists which may be utilized and debar the company from doing business with the agency, or any agency, for a period of time at the discretion of the Division.~~

Authority G.S. 143-49; 143-52; 143-53; 143-60.

.1521 FAITHFUL PERFORMANCE

(a) ~~A bond, or other suitable means of ensuring insuring faithful performance, may be required of the contractor at the contractor's expense, expense and in the discretion of the State Purchasing Officer.~~

(b) ~~Liquidated damages, in the form of a monetary penalty for late delivery, may be provided for in the contract, as a means of insuring faithful performance from the contractor.~~

Authority G.S. 143-52; 143-53.

SECTION .1600 - EXEMPTIONS, EMERGENCIES, AND GENERAL AND SPECIAL DELEGATIONS

.1601 EXEMPTIONS

(a) Except as provided in Paragraph (c) of this Rule, it is not mandatory for the items and services listed in this Rule to be purchased through the Division of Purchase and Contract.

- (1) purchase of liquor;
- (2) perishable articles such as fresh meats;
- (3) published books, manuscripts, subscriptions to printed material, packaged copyrighted software products, and like material;
- (4) services provided by individuals by direct employment contracts with the state;
- (5) public utility services (gas, water and electricity);
- (6) telephone, telegraph and cable services furnished by those companies;
- (7) services provided which are subject to published tariff rates as established by the Interstate Commerce

~~Commission; State Utilities Commission;~~

- (8) services which are merely incidental to the purchase of supplies, materials or equipment such as installation services;
- (9) contracts for construction of and structural changes to public buildings;
- (10) personal services provided by a professional individual (person) on a temporary or occasional basis, including (by way of illustration, not limitation) those provided by a doctor, dentist, attorney, architect, professional engineer, scientist or performer of the fine arts and similar professions; the exemption applies only if the individual is using his/her professional skills to perform a professional task; a personal service may also be a consulting service;
- (11) services provided directly by an agency of the state, federal or local government, or their employees when performing the service as a part of their normal governmental function.

~~Where Whether such purchases are made directly by using agencies, the agency or by the Division, competition is required wherever possible, unless a small purchase is being made, good purchasing practices shall be followed.~~

(b) In addition to products and services exempted by Statute, the SPO may exempt other products and services from purchase through the Division provided that the SPO makes findings:

- (1) that competition will not enhance the price that the State would receive for the product or service; and
- (2) that competition will not enhance the quality of the product or service that the State would receive.

(c) Contracts for bakery products and dairy products shall be awarded through the Division of Purchase and Contract, if over the agency's expenditure benchmark.

Authority G.S. 7A-6(B); 143-53; 143-56; 143-62.

.1602 EMERGENCIES

(a) ~~The SPO may make or authorize~~ An agency is authorized to make purchases of commodities commodities, printing or services in the open market in cases of emergency or pressing need. For this purpose, a pressing need is one arising from unforeseen causes including but not limited to delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work; while emergencies are defined as situations which endanger lives, property or the continuation of a vital program and which can be rectified only by immediate on-the-spot purchases or rental of equipment, supplies, materials, commodities, printing or services.

~~(b) When circumstances require such action, and the expenditure is over the agency's benchmark established by G.S. 143-53.1, verbal approval shall be obtained from the Division of Purchase and Contract if time permits. Subsequently, whether or not such prior approval was possible, an explanation of the emergency must be reported in writing to the Division. The Division will report the purchase of equipment, materials and supplies commodities and printing to the Board as a matter of record.~~

(b) Agencies are authorized to negotiate with a company(s) in an effort to acquire the quality of commodity, service or printing needed at the best possible price, delivery, terms and conditions. A solicitation document requesting or inviting an offer(s) shall be issued, including standard language, terms and conditions issued by the Division of Purchase and Contract, unless circumstances prohibit their use.

(c) When emergency or pressing need action is necessary, and the expenditure is over the agency's benchmark or delegation, prior verbal approval shall be obtained from the Division if time permits. Subsequently, whether or not such prior approval was possible, if the expenditure is over the agency's benchmark or delegation, an explanation of the emergency or pressing need purchase shall be reported in writing to the Division. The Division shall report such purchases of commodities and printing to the Board as a matter of record.

Authority: G.S. 143-53; 143-57; 143-60.

.1603 SPECIAL DELEGATIONS

(a) The SPO may authorize, by special delegation, any agency to purchase specific items and quantities, commodities, printing or services without limitation as to expenditure. Such delegation is normally confined, but not limited to, items and quantities, commodities, printing or services which by their nature or circumstance, such as perishableness, transportation costs, local conditions or local availability, would result in handling by the Division of Purchase and Contract serving no practical purpose. Every such delegation shall be in writing and made a matter of record.

(b) The SPO may require that offers received under such delegations be sent to the Division for determination of the successful company.

(c) The Division of Purchase and Contract shall periodically review its special delegations of purchase to ascertain the availability of these supplies, materials, equipment, commodities, printing or services and their continued suitability for delegation.

Authority: G.S. 143-53.

.1604 GENERAL DELEGATIONS

The general purchasing delegation for agencies (except the universities) shall be not more than ten thousand dollars (\$10,000). The SPO may lower or raise this general delegation for a specific agency, up to the amount established by G.S. 143-53.1, after consultation with the State Budget Officer and the State Auditor for State agencies, and upon consideration of the agency's (except the universities) overall capabilities, including staff resources, organizational structure, training, purchasing compliance reviews, electronic communication capabilities, and audit reports. If an agency wishes to obtain an increase in their general delegation, they shall submit a request in writing, outlining their overall capabilities, to the SPO for his consideration.

Authority: G.S. 143-53.

.1605 COMPLIANCE REVIEWS

(a) The Division of Purchase and Contract shall conduct compliance reviews on purchasing practices at all agencies. The purpose of the compliance reviews shall be for determining if agencies are complying with North Carolina's purchasing statutes and rules adopted thereunder, and whether they should continue having the same level of delegation, have it reduced, or do they qualify for an increase. A copy of the compliance report shall be provided to the agency's executive officer, the State Auditor, the State Budget Officer, the local school administrative unit's Board, any of which are applicable.

(b) The Division's staff shall have the authority to enter the premises and obtain an agency's purchasing records for the purpose of the compliance review. The agency shall cooperate with the Division's staff, providing them with requested records, adequate office space for conducting the review, and agency purchasing staff for discussion of purchase transactions. The Division shall not unnecessarily require of the agency any more than is needed to complete the review.

(c) The SPO shall have the authority to lower, or raise if requested, an agency's (excluding the universities) general delegation, if the results of a compliance review by the compliance staff of the Division, merits such action as determined by the SPO. The SPO may lower the delegation to any level, including the complete removal of the delegation, depending on the nature of any violations found. The SPO shall report to the University's Board of Governors the results of any compliance review conducted at the universities, and shall provide to them his recommendation, based on those results, on what that university's benchmark should be.

(d) The SPO shall provide to agencies, upon request, the Division's assistance in educational training for an agency's staff, to better acquaint them with the purchasing statutes and rules.

Authority: G.S. 143-53.

SECTION .1900 - RECORDS AND FILES

.1901 RECORD MAINTENANCE

Except where State law provides to the contrary, after the award of a contract, the records of the Division an agency are public documents. Purchase files shall be maintained for a period of five years after the expiration date of the contract.

Authority: G.S. 143B-10(f); 143-53.

.1903 FILES

(a) Each requisition received by the Division of Purchase and Contract shall be assigned a unique, sequential control number and placed in a pre-numbered folder. This number shall then become the file number for the requisition and subsequent documents issued by the Division. Each contract file shall be identified individually so it can be readily located and referenced.

(b) The file shall include the requisition, worksheet, mailing

list, offers, tabulation, related correspondence, and the certification of award to the successful contractor. All purchase transactions shall be documented. As applicable, each file shall include:

- (1) Original offers if in writing, or written documentation of verbal offers received;
- (2) Reasons for award or cancellation;
- (3) Worksheets/evaluations;
- (4) Mailing list, if used;
- (5) Written justification for waiver or emergency purchase;
- (6) Tabulation of offers received;
- (7) Copy of purchase order(s);
- (8) Related correspondence;
- (9) Reason(s) for receiving only one offer in response to a solicitation;
- (10) Negotiated contracts; and
- (11) Reasons for not accepting technical proposals.

(c) After award of contract all material in the file, except confidential information, shall be open to interested persons during normal office hours, may be hand copied, or copies will be ~~furnished~~ furnished in accordance with the Public Records Act.

Authority: G.S. 143B-10(f); 143-53.

.1906 APPLICATIONS FOR ADDITION TO MAILING LIST (REPEALED)

Authority: G.S. 143B-10(f).

.1907 TERM CONTRACTS

A copy of each current and expired term contract may be seen upon request if still retained in the Division of Purchase and Contract or the State Records Center.

Authority: G.S. 143B-10(f).

.1909 CANVASSING BID FILES

A summary of actions taken in canvassing bids and awarding contracts may be seen upon request, if still retained in the Division of Purchase and Contract or the State Records Center.

Authority: G.S. 143B-10(f).

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC State Commission of Indian Affairs intends to amend rules cited as 1 NCAC 15 .0202 - .0204, .0207 - .0209, .0211, .0214; and repeal rule cited as 1 NCAC 15 .0210. Notice of Rule-making Proceedings was published in the Register on July 15, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 10:00 a.m. on November

19, 1998 at the Moore Hall Auditorium, University of North Carolina at Pembroke, Pembroke, NC.

Reason for Proposed Action: *In the United States, Indian tribes have had special relationships with state and federal governments. State recognition is the state government's acknowledgment of an interrelated Indian people's historic existence as a tribe, identified as a separate and distinct group, exercising social, political, or economic influence over its people. Tribal representatives have expressed the concern that official recognition of mere "organizations" threatens tribal status and sovereignty as they presently exist.*

Comment Procedures: *All written comments should be made to Gregory A. Richardson, Executive Director of the North Carolina State Commission of Indian Affairs, at the Commission offices, 217 West Jones Street, Raleigh, NC 27603-1336. Telephone (919) 733-5998. E-mail Gregory_Richardson@mail.doa.state.nc.us. All written comments must be received by Mr. Richardson no later than 5:00 p.m. EST on November 18, 1998.*

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

CHAPTER 15 - COMMISSION OF INDIAN AFFAIRS

SECTION .0200 - LEGAL RECOGNITION OF INDIAN GROUPS

.0202 ORGANIZATIONAL ASSISTANCE

It is a legislative requirement for the Commission to assist a local group to organize and achieve recognition.

When a group of Indians has identified themselves they should request organizational assistance from the Commission. The Commission will then explain organizational options to this group and assist them in developing a representative tribal organization.

Authority: G.S. 143B-406.

.0203 TRIBAL ORGANIZATIONAL OPTIONS

(a) Each group seeking recognition shall organize itself as an Indian tribe, as defined in 1 NCAC 15 .0208, and shall meet the criteria set out in 1 NCAC 15 .0209 and .0211. Methods of tribal organization ~~acceptable to recommended by~~ the Commission are:

- (1) to organize a private nonprofit corporation under the laws of North Carolina, or
- (2) to organize a tribal ~~council~~ council.

(b) Once recognized by the Commission, the tribal organization to may represent the group both locally and at the Commission level.

(c) The type of tribal organization is to be representative and give opportunity for all Indians in the area to be represented.

When more than one group is involved, opportunity shall be given for all areas to be represented on either the tribal board of directors or the tribal council.

Authority: G.S. 143B-406.

.0204 PETITION FOR RECOGNITION

Once an acceptable method of tribal organization has been achieved the group may petition the Commission for recognition. The petition shall include name, number, location, origin and existing recognition.

Authority: G.S. 143B-406.

.0207 PROCEDURE FOR RECOGNITION

The procedure to be followed for recognition will be:

- (1) Petitioner (~~tribe or organization~~) submits a petition as set out in Rule .0204 of this Section to the Commission of Indian Affairs;
- (2) Commission certifies receipt and explains procedure to petitioner;
- (3) With assistance from the Commission, petitioner prepares a full application (may take up to one year), which is sent to the special committee on recognition;
- (4) Hearing before the special committee on recognition;
- (5) Decision is rendered by special committee on recognition;
- (6) If petitioner is not satisfied with the decision of the special committee on recognition, an appeal may be taken to the full Commission;
- (7) The decision by the full Commission will be rendered by at least a two-thirds majority of Indian members;
- (8) If requested, an informal hearing will be held before the full Commission; ~~The procedure as set out in Sections .0600 and .0700 of this Chapter will be followed;~~
- (9) If the decision is for recognition, the ~~tribe or~~ group is recognized as an Indian tribe by the state. If the decision is against recognition, petitioner may apply to the Office of Administrative Hearings for a formal hearing pursuant to G.S. 150B-23.

Authority: G.S. 143B-406; 150B-23.

.0208 TRIBAL DEFINITION

A petitioner may apply to be recognized only as an "Indian tribe", defined as one of the following:

- (1) ~~"Indian tribe"~~ is a population of Indian people all related to one another by blood, tracing their heritage to Indians Indian tribes indigenous to North Carolina within the last 200 years.
- (2) ~~"Indian organization or group"~~ is a population of Indian people made up of members of state or federally recognized Indian tribes. Ninety percent of the organization or group must be Indian.

Authority: G.S. 143B-406.

.0209 CRITERIA FOR RECOGNITION AS A TRIBE

(a) The criteria to be used in the decision whether to extend official state recognition as a tribe are:

- (1) traditional North Carolina Indian names;
- (2) kinship relationships with other recognized Indian tribes;
- (3) official records such as birth, church, school or other recognizing the people as Indian;
- (4) letters or statements from state or federal authorities recognizing the people as Indian;
- (5) anthropological or historical accounts tied to the ~~tribes'~~ group's Indian ancestry;
- (6) letters or statements from presently recognized tribes or groups or their representatives attesting to the Indian heritage of the ~~tribe;~~ group;
- (7) any other documented traditions, customs, legends, etc. that signify the ~~tribes'~~ group's Indian heritage;
- (8) participation in or grants from sources or programs designated as for Indian only.

(b) In addition to the criteria listed in Paragraph (a) of this Rule, the following are also relevant to the decision:

- (1) any other material or documents the ~~tribe~~ group may wish to present;
- (2) any other material or documents the Commission or special committee on recognition may request.

(c) Five of the recognition criteria listed in Paragraph (a) of this Rule must be satisfactorily met to achieve state recognition.

Authority: G.S. 143B-406.

.0210 CRITERIA FOR RECOGNITION AS A GROUP OR ORGANIZATION

~~(a) To be recognized as an Indian group or Indian organization, the petitioner must show that at least 90 percent of their registered members are certified members of recognized state or federal tribes. The remaining up to 10 percent may be either members of unrecognized tribes or non-Indians.~~

~~(b) Inquiries will be made with the named tribes as to the tribal status of the members listed.~~

Authority: G.S. 143B-406.

.0211 RECOGNITION REQUIREMENT

Only tribes groups tracing back to Indian tribes indigenous to North Carolina at least for the last 200 years will be considered for recognition by the Commission.

Authority: G.S. 143B-406.

.0214 TRIBAL ROLL

Each petitioning ~~tribe or organization~~ group must submit to the Commission a roll of its members as a condition to recognition. The ~~tribal~~ roll should list the names and addresses of the people and relate each one to their kinship ties. ~~For organizations, the roll should list the names and addresses of all members and if Indian, the recognized tribe to which the person~~

belongs. These rolls This roll must be submitted prior to the recognition decision of the Commission of Indian Affairs.

Authority G.S. 143B-406.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Administration intends to amend rules cited as 1 NCAC 25 .0211 - .0213, .0301 - .0303, .0402, .0504 - .0506, .0602 - .0603, .0605. Notice of Rule-making Proceedings was published in the Register on June 1, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 10:00 a.m. on November 9, 1998 at the Administration Building, Advisory Budget Commission Room 5034, 116 West Jones Street, Raleigh, NC 27603.

Reason for Proposed Action: The Departments of Administration and Environment and Natural Resources, in conjunction with representatives of local and State government and environmental interests, convened the Environmental Policy Act Advisory Committee ("EPAAC") to study the North Carolina Environmental Policy Act and to recommend means to make the act's implementation more efficient and responsive. These amendments are a part of EPAAC's recommendations.

Comment Procedures: All written comments should be made to Chrys Baggett, Director, State Clearinghouse, 116 West Jones Street, Administration Building, Room 5106B, Raleigh, NC 27603-8003, telephone (919) 733-7232, e-mail chrys_baggett@mail.doa.state.nc.us.

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

CHAPTER 25 - NORTH CAROLINA ENVIRONMENTAL POLICY ACT

SECTION .0200 - NCEPA ADMINISTRATION/ENVIRONMENTAL IMPACT

.0211 STATE CLEARINGHOUSE

(a) The Department of Administration shall maintain a clearinghouse to coordinate and administer the requirements of this Chapter.

(b) Among its responsibilities the Clearinghouse shall:

- (1) receive and circulate environmental documents for review and comment as provided by these Rules;
- (2) forward all written comments generated by the review process to the State Project Agency and, where appropriate, prepare a single integrated letter of response;

- (3) retain a complete record of environmental documents, review documents, and other substantive materials related to the operation of the Clearinghouse;
- (4) train review coordinators from within all state agencies; and
- (5) coordinate the establishment of minimum criteria and ensure that thresholds are consistent among all agencies.

Authority G.S. 113A-11.

.0212 ENVIRONMENTAL BULLETIN

(a) The Environmental Bulletin will be published twice a month by the Clearinghouse and will contain notice of any filing with the Department of any environmental document, request for establishment of minimum criteria, or other documents and decisions as set out by this Chapter.

(b) The Environmental Bulletin shall be made available to all review agencies and will be available to local governments, institutions, and individuals upon request.

(c) The Environmental Bulletin is available on the Internet at www.doa.state.nc.us/doa/clearing/ebnet.htm. Notices of Availability of documents received for review and comment are added daily to the Environmental Bulletin at this website.

Authority G.S. 113A-1 through 113A-10.

.0213 ENVIRONMENTAL POLICY ACT ADVISORY COMMITTEE

(a) The Secretary of the Department of Administration or a person so designated by the Secretary, shall serve as the Chair of the Environmental Policy Act Advisory Committee.

(b) The purpose of the Committee is to provide technical advice to the Secretary of the Department on environmental issues related to the NCEPA.

(c) The Secretary will solicit nominations for the Committee from those state departments and other organizations most involved in environmental protection. These include but are not limited to, the Departments of Cultural Resources, Health and Human Resources, Services, Environment, Health, Environment and Natural Resources, Justice, and Transportation. From the list of nominees, the Secretary shall select the Committee members. The Committee shall consist of no less than five seven or more than nine 13 members.

Authority G.S. 113A-11.

SECTION .0300 - MINIMUM CRITERIA

.0301 MINIMUM CRITERIA

(a) State agencies may choose to establish specific minimum criteria designating minimum levels of environmental impact. Once these criteria have been approved, no filing of environmental documents will be required for projects whose impacts do not exceed the criteria thresholds.

(b) If an agency establishes minimum criteria, the agency will review the criteria every five years and revise them as necessary.

(c) All proposed minimum criteria and revisions to minimum criteria shall be approved by the Secretary of Administration prior to an agency's submission of proposed rules establishing or revising such minimum criteria under G.S. 150B.

Authority G.S. 113A-11.

.0302 APPROVAL OF CRITERIA

The following procedures will be used ~~in the establishment to gain approval~~ of minimum criteria:

- (1) The agency will prepare a draft list of the minimum criteria, describing the ease of measuring the criteria, and how the criteria predict the environmental impact of projects. The agency will submit these lists to the Clearinghouse for circulation and review.
- (2) Upon receipt of these lists from the agency, the ~~The~~ Clearinghouse will will:
 - (a) solicit written comments on the criteria from interested parties or agencies having expertise or jurisdiction by law, and will publish a notice of the criteria in the Environmental Bulletin. The period of review is 30 working calendar days from the date of publication in the Environmental ~~Bulletin~~. Bulletin; and
 - (b) review the criteria to ensure they are consistent with Department of Administration rules and make any necessary recommendations to the agency as to consistency.
- (3) ~~The Clearinghouse will forward all comments on the criteria to the submitting agency. In addition, Clearinghouse staff will review the criteria to ensure consistent thresholds among agencies and make any necessary recommendations. If there are no written comments and the criteria are consistent with Department of Administration rules, the criteria will be approved by the Secretary of Administration.~~
- (4) ~~If there are no comments, the criteria will be approved by the Secretary of Administration. If there are any written comments on the criteria, the Clearinghouse will forward all those received to the submitting agency, along with any Clearinghouse recommendations as to consistency.~~
- (5) The agency will ~~review~~ consider all written comments and ~~decide whether to submit a final revised list of minimum criteria to the Clearinghouse. Clearinghouse or whether to continue with its original list.~~
 - (a) If the agency submits a revised list, the new list of criteria will follow the same procedure for solicitation of comments, publication of notice, and consistency review as did the original list. This process will be continued until the agency decides it no longer wishes to make further amendments to its proposed criteria, or until no further written comment is received.
 - (b) If the agency decides to continue with its original list or no longer wishes to amend its list as provided for in Rule .0302(5)(a) of this

Section, it will notify the Clearinghouse of that decision.

- (6) The Clearinghouse will recommend to the Secretary of Administration approval or rejection of the final list of minimum criteria based on the consideration of all ~~comments, written comments and the criteria's consistency.~~
- (7) ~~Minimum criteria shall be reviewed every five years and revised as necessary. The Clearinghouse will notify the agency of the Secretary's approval or rejection of its proposed final list of minimum criteria.~~

Authority G.S. 113A-11.

.0303 REVISION OF CRITERIA

The same process as cited in Rule .0302 of this Section for initial adoption of minimum criteria will be followed by agencies seeking to revise ~~their those~~ minimum ~~criteria as is used in the initial adoption.~~ criteria.

Authority G.S. 113A-1 through 113A-10.

SECTION .0400 - COMPLIANCE

.0402 DOCUMENT UNDER NEPA DEEMED ADEQUATE

If an environmental document is prepared under the provisions of the National Environmental Policy Act (NEPA) for a specific activity, and if that document is reviewed through the Clearinghouse process, then this review shall constitute compliance with the requirements of this Chapter for that activity. If a specific activity has been designated as categorically excluded from the provisions of the National Environmental Policy Act, then the requirements of this Chapter shall have been met for that activity.

Authority G.S. 113A-1 through 113A-10.

SECTION .0500 - ENVIRONMENTAL ASSESSMENT

.0504 INTERNAL REVIEW

(a) Once an EA is prepared, the State Project Agency must decide if it is satisfied as to the completeness of its assessment. If no significant environmental impacts are predicted, the agency may then submit both the EA and FONSI to the Clearinghouse for review.

(b) The agency may choose to submit only the EA and use the comments, if any, to determine how to proceed. If an agency chooses this procedure, the review process for the EA shall be the same as Rule .0506 of this Section for ~~both reviews.~~ review of an EA or a FONSI. If an agency proceeds with an Environmental Impact Statement, then the review process shall be the same as that in Section .0600 of this Chapter.

Authority G.S. 113A-11.

.0505 CONTENT OF FONSI

A FONSI shall contain the following information:

- (1) a brief narrative description of the proposed activity including a description of the area affected by the proposed activity and a site location map, where appropriate;
- (2) a list of probable environmental impacts of the proposed activity;
- (3) a list of the reason(s) for concluding that the action will not have a significant adverse effect on the quality of the environment, with reference to any mitigation activities to be carried out, thereby negating the necessity of preparation of an EIS;
- (4) a statement that no EIS is to be prepared and that the FONSI completes the environmental review record which is available for inspection at the Clearinghouse.

Authority G.S. 113A-11.

.0506 REVIEW PROCESS

(a) The State Project Agency must submit 16 copies of the EA and FONSI to the Clearinghouse. Clearinghouse, and any additional copies as may be requested. The Clearinghouse will circulate these documents to state and local officials to obtain comments and will publish a Notice of Availability in the Environmental Bulletin. In order to have a Notice of Availability published in the Environmental Bulletin, the documents must be submitted to the Clearinghouse no later than noon on the Friday preceding the publication date of the Bulletin. Reading copies will be made available at the Clearinghouse for any interested parties. The review period is 30 working calendar days after publication in the Bulletin.

(b) Each reviewing agency and any interested party may make comments on the adequacy of the documents.

(c) Based on consideration of the comments submitted, the Clearinghouse will advise the state project agency as follows:

- (1) the document has been determined to lack sufficient information. Supplemental documentation which provides adequate information should be submitted to the Clearinghouse for review and comment;
- (2) the document does not satisfy a finding of no significant impact and an EIS should be prepared;
- (3) the document is adequate and the next appropriate level document should be prepared for review; or
- (4) the document is adequate and completes the review process requirements for the act.

(d) The State Project Agency may adopt or reject the Clearinghouse's recommendation.

(e) No administrative or judicial review is permitted unless undertaken in connection with review of the agency action. No other review of an environmental document is permitted.

Authority G.S. 113A-11.

SECTION .0600 - ENVIRONMENTAL IMPACT STATEMENTS

.0602 SCOPING

If an agency determines that an EIS is required on a project, it may choose to request advice from the general public and other agencies on what alternatives and issues should be addressed in the EIS. The agency ~~may request the Clearinghouse to~~ must submit a copy of a scoping notice to the Clearinghouse, which will publish a the scoping notice in the Environmental Bulletin. The comment period is 30 calendar days after publication in the Bulletin.

Authority G.S. 113A-1 through 113A-10.

.0603 FORMAT AND CONTENT

Agencies shall use a format for EIS's which will encourage good analysis and clear presentation of all alternatives, including the proposed activity while minimizing length and complexity. These documents shall not exceed 60 pages and shall include 8 $\frac{1}{2}$ " x 11" site location maps. The document shall include the following:

- (1) A single cover sheet including the following information:
 - (a) designation of the document as a draft, supplementary or final statement;
 - (b) title of the proposed activity that is the subject of the statement;
 - (c) list of any involved cooperating agencies; and
 - (d) name, address, and telephone number of the person in the State Project Agency who can supply further information.
- (2) An accurate summary of the statement stressing the major conclusions, areas of controversy, and issues to be resolved. The summary shall also list all federal, state, and local permits, licenses, certifications, and other approvals which must be obtained in implementing the proposal. If there is any uncertainty about whether any one of these is necessary, it should be so indicated.
- (3) Purpose and Need. The underlying purpose and need being responded to by the proposed activity.
- (4) Alternatives including proposed activity. Based upon information and analysis presented in Items (5) through (8) of this Rule on the affected environment and environmental consequences, the agency shall present the environmental impacts of the alternatives including the proposed activity in comparative form. To the extent possible the comparison of alternatives shall quantify how the purpose and need would be satisfied by each alternative and the proposed activity. This section of the document is the heart of the EIS, sharply defining the issues and providing a clear basis for choice among options by decision makers and the public. It shall also:
 - (a) explore and evaluate all reasonable alternatives, including those not within the jurisdiction of the State Project Agency and the alternative of no action;
 - (b) discuss the reasons for the elimination of

- alternatives from detailed study;
- (c) identify the agency's preferred alternative(s) in the draft statement and identify such alternatives in the final statement, unless another law prohibits the expression of such a preference;
- (d) include appropriate mitigation measures not already included in the alternatives; and
- (e) assess the social and economic impacts of each alternative. Impacts shall be quantified for each alternative, where feasible, but when quantification by standard economic tools is not feasible or intangibles are involved, a description of each impact is required.
- (5) Affected Environment. The EIS must describe the environment of the area(s) to be affected and the environment to be created by the alternatives under consideration. The description shall be no longer than is necessary to understand the effects of the alternatives. Data and analysis in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced.
- (6) Environmental Consequences. This section of the document forms the scientific and analytic basis for the comparisons under Item (4) of this Rule. It includes:
 - (a) direct effects and significance;
 - (b) indirect effects and significance;
 - (c) cumulative effects and significance;
 - (d) the relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity;
 - (e) any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented; and
 - (f) possible conflicts between the proposed activities and the objectives of federal, state, and local plans, policies, and controls for the affected area.
- (7) List of Preparers. The EIS shall list the names and qualifications of the persons who were primarily responsible for preparing the EIS.
- (8) Appendix. If an appendix is included in an EIS, it shall meet the following requirements:
 - (a) consist of materials substantiating any analysis fundamental to the principal document, as distinct from material of lesser significance that may accompany the document or be incorporated by reference;
 - (b) normally be analytic and relevant to the decision to be made;
 - (c) not be counted in the EIS 60 page limit; and
 - (d) be circulated with the EIS or be readily available upon request.

Authority G.S. 113A-11.

.0605 REVIEW PROCESS

(a) Draft EIS. ~~This document~~ Sixteen copies and any additional copies as may be requested shall be submitted by the State Project Agency and circulated for comment by the Clearinghouse as set out in Rule .0506 of this Chapter. A Notice of the availability ~~Availability~~ of the EIS shall be printed in the Environmental Bulletin, and a 45 calendar-day period of review after this notice is published shall be allowed.

(b) The Clearinghouse will forward copies of all comments made by reviewers to the State Project Agency for incorporation in the final document.

(c) Final EIS. The State Project Agency shall submit 16 copies of the final EIS and any additional copies as may be requested to the Clearinghouse. These documents shall be circulated to the original reviewers for a final review. Notice shall also be given in the Environmental Bulletin. Thirty calendar days after publication of the ~~bulletin~~ Bulletin shall be allowed for final review.

(d) Based on consideration of the comments submitted, the Clearinghouse will advise the state project agency as follows:

- (1) the document has been determined to lack sufficient information. Supplemental documentation which provides adequate information should be submitted to the Clearinghouse for review and comment;
- (2) a final EIS should be prepared for review addressing the comments submitted; or
- (3) the document is adequate and completes the review process requirements for the act.

(e) The State Project Agency may adopt or reject the Clearinghouse's recommendation.

(f) No administrative or judicial review is permitted unless undertaken in connection with review of the agency action. No other review of an environmental document is permitted.

Authority G.S. 113A-11.

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Building Commission intends to amend rule cited as 1 NCAC 30F .0305. Notice of Rule-making Proceedings was published in the Register on August 14, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 10:00 a.m. on November 17, 1998 at the Education Building, State Construction Office, Suite 450, 301 North Wilmington Street, Raleigh, NC 27603.

Reason for Proposed Action: This proposal was requested by members of the State Building Commission who had expressed concern that the present rules have no intermediate action in cases where some doubts are raised in the contractor evaluation process. This proposal allows the Commission to provide a

warning to the contractor rather than disqualify the contractor whatsoever. Under the present procedures, if the panel finds that the contractor should be removed from pre-bid disqualification, the records are purged and the contractor starts out with a new record. Under the proposed revision, the records would be retained.

Comment Procedures: All written comments should be made to Dan R. Murray, State Construction Office, 301 North Wilmington Street, Education Building, Suite 450, Raleigh, NC 27601-2827, telephone (919) 733-7962, e-mail Dan_Murray@mail.doa.state.nc.us.

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

CHAPTER 30 - STATE CONSTRUCTION

SUBCHAPTER 30F - STATE BUILDING COMMISSION CONTRACTOR EVALUATION PROCEDURES

SECTION .0300 - EVALUATION OF CONTRACTORS

.0305 EVALUATION REVIEW

(a) SCO will be responsible for maintaining contractor evaluation data. This data shall be maintained on an individual job basis, and shall also be maintained cumulatively by contractor (based on contractor license number).

(b) The data maintained by the SCO will reflect performance history for a period of five years. All evaluation data on completed projects over five years old will be removed from SCO files and will not be used as a factor in the cumulative evaluation.

(c) A ~~contractor's~~ contractor whose cumulative evaluation ~~which~~ falls below a mark of 3.5 will be determined to have provided an unsatisfactory level of performance and may not be allowed to bid on or serve as a sub-contractor on State capital improvement projects during a corrective period. All references to pre-bid disqualification status in this Section shall also be considered to apply to disqualification of a prime contractor to serve as a sub-contractor on State capital improvement projects during the disqualification period.

(d) To be utilized for pre-bid disqualification, a prime contractor's cumulative evaluation must be based on a minimum of three evaluations on at least three separate capital projects. Further, if a contractor is assigned a single final evaluation of 2.5 or lower, this action alone shall be sufficient to call the contractor's performance into question ~~resulting and may result~~ in pre-bid disqualification during a corrective period.

(e) In both instances, i.e., a cumulative mark falling below 3.5 or a single evaluation of 2.5 or lower, the SCO shall convene a panel of five persons to review the evaluation and ~~made~~ make a recommendation to the SBC ~~for disqualification of the contractor for bidding, SBC. (A single final evaluation of 2.5 or~~

lower, when applied to the cumulative total, will not initiate further immediate review if it causes the cumulative rating to fall below 3.5.) The panel shall consist of three ~~design/construction~~ design/construction professional State employees of which a minimum of one employee shall be a licensed architect or engineer as appointed by the Director of State Construction and two members of the SBC as appointed by the Chairman of the Commission of which a minimum of one shall be a licensed contractor.

(f) The panel may recommend to the State Building Commission either of the following actions as a result of its review:

- (1) disqualification of the contractor from bidding and placement of the contractor in a pre-bid disqualification status for a corrective period of two years;
- (2) rejection of disqualification but issuance of a warning to the contractor that continued poor performance may result in disqualification.

The SCO will retain file copies of the ratings, disqualifications and warnings.

(f) (g) In all instances, notification of a contractor having been assigned to a pre-bid disqualification status or having been issued a warning shall be by the Chairman of the State Building Commission and only then after review and approval by the Commission of the disqualification or warning action.

(g) (h) The normal disqualification as approved by the Commission shall be for a period of two years. The two-year period is intended to provide opportunity for a contractor to implement significant corrective action to improve performance. At the completion of the two-year period, the prime contractor can make application for reinstatement to the qualified bidders list; reinstatement will be subject to action by the SBC. If the SBC approves reinstatement, the contractor's pre-bid disqualification will be removed, thus allowing the contractor to bid.

(h) (i) Removal of a contractor from the pre-bid disqualification status, upon approval by the SBC, will involve deletion of all evaluations from the State Construction Office's records.

(i) (j) If a contractor has been removed from the qualified bidders list by virtue of accumulated evaluations falling below 3.5 and routine removal of five-year old evaluations causes the contractor to achieve an overall evaluation score of 3.5 or higher, the contractor will not be automatically reinstated to the qualified bidders list but rather must remain in a disqualified status for a total of two years with reinstatement considered by the SBC as outlined in this Rule. If after the two-year corrective period the SBC does not approve removal of a contractor from the pre-bid disqualification status, the prime contractor will be allowed the opportunity to reapply after a period of 12 months and annually thereafter until the pre-bid disqualification status is removed.

(j) (k) Lists of all contractors who are in a pre-bid disqualification status will be maintained by the SCO. Prior to bid opening, the project designer will be responsible for obtaining from the SCO a list of those contractors in a pre-bid

disqualification status and shall ensure that no bids for State capital ~~improvements~~ improvement projects will be read from a contractor in such status.

Authority G.S. 143-135.26(4).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Administration intends to amend rules cited as 1 NCAC 35 .0101, .0103, .0202, .0205, .0304, .0308. Notice of Rule-making Proceedings was published in the Register on August 14, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 10:00 a.m. on November 18, 1998 at the Administration Building, Governor's Press Conference Room, 1st Floor, 116 West Jones Street, Raleigh, NC.

Reason for Proposed Action: The Campaign has grown greatly in recent years and many charitable organizations wish to participate in the campaign. More detailed application procedures have become necessary, and clearer definition of local responsibilities are now desirable. Small organizations needed flexibility in providing financial information, which is set out in the proposed rules, along with technical changes.

Comment Procedures: All written comments should be made to E. Glen Peterson, General Counsel, Department of Administration, 116 West Jones Street, Raleigh, NC 27603-8003, telephone (919) 733-7232.

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

CHAPTER 35 - STATE EMPLOYEES COMBINED CAMPAIGN

SECTION .0100 - PURPOSE AND ORGANIZATION

.0101 DEFINITIONS

For purposes of this Chapter, the following definitions apply:

- (1) "Charitable organization." A non-partisan organization that is tax-exempt for both the IRS and NC tax purposes. The organization must receive contributions that are tax deductible by the donor.
- (2) "Audit" or "audited financial statement." An examination of financial statements of an organization by a CPA, conducted in accordance with generally accepted auditing standards, to determine whether, in the CPA's opinion, the statements conform with generally accepted accounting principles or, if

applicable, with another comprehensive basis of accounting.

- (3) "State Employees Combined Campaign" or "SECC." The official name of the state employees charitable fund-raising drive.
- (4) "Federation" or "Federated Group" means a group of voluntary charitable human health and welfare agencies organized for purposes of supplying common fund-raising, administrative, and management services to its constituent members.
- (5) "Fund-raising expenses" (supporting activities) means expenses of all activities that constitute, or are an integral and inseparable part of, an appeal for financial support. Fund-raising expenses represent the total expenses incurred in soliciting contributions, gifts, grants, etc.; participating in federated fund-raising campaigns; maintaining donor mailing lists; preparing and distributing fund-raising manuals, instructions and other materials; and conducting other activities involved with soliciting contributions.
- (6) "Administrative expenses" (supporting activities) means expenses for reporting and informational activities related to business management and administrative activities which are neither educational, nor direct conduct of program services, nor fund-raising services.
- (7) "Program service expenses" means expenses for those activities that the reporting organization was created to conduct which fulfill the purpose or mission for which the organization exists, exclusive of fund-raising and administrative expenses, and which, along with any activities commenced subsequently, form the basis of the organization's current exemption from tax.
- (8) "Fund-raising consultant" means any person who meets all of the following:
 - (a) Is retained by a charitable organization or sponsor for a fixed fee or rate under a written agreement to plan, manage, conduct, consult, or prepare material for the solicitation of contributions in this State;
 - (b) Does not solicit contributions or employ, procure, or engage any person to solicit contributions; and
 - (c) Does not at any time have custody or control of contributions.
- (9) "Fund-raising solicitor" means any person who is not a fund-raising consultant and does either of the following for compensation:
 - (a) Performs any service, including the employment or engagement of other persons or services, to solicit contributions for a charitable organization or sponsor; or
 - (b) Plans, conducts, manages, consults, whether directly or indirectly, in connection with the solicitation of contributions for a charitable organization or sponsor.
- (10) "Review" or "reviewed financial statement." An

examination of financial statements of an organization by a CPA. The CPA performs inquiry and analytical procedures that provide the CPA with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

Authority: G.S. 143-3.3; 143B-10.

.0103 ORGANIZATION OF THE CAMPAIGN

The State Employees Combined Campaign is organized as follows:

- (1) Chair. Each year the Governor may appoint a Statewide Combined Campaign Chair from one of the Executive Cabinet, Council of State, System of Community Colleges, or University Administration agencies. The Campaign Chair or the Campaign Chair's designee shall serve as director of the campaign. The responsibilities of the Chair include setting the dates and approving the published materials for the Combined Campaign, contracting for the Statewide Campaign Organization, and appointing and serving as chair of the SECC Advisory Committee. For the purposes of selecting a Statewide Campaign Organization, the Statewide Combined Campaign Chair will consider the following criteria:
 - (a) The organization must have demonstrated ability to manage large-scale fund-raising campaigns.
 - (b) The organization must have the ability and willingness to work with a statewide system of local organizations capable of effectively managing local combined campaigns and relating to the Statewide Campaign Organization.
 - (c) The organization must have an audit to demonstrate acceptable financial accountability.
 - (d) The organization must be a tax-exempt organization under the Internal Revenue Code.
 - (e) The organization must be willing and able, if required, to provide a bond in an amount satisfactory to the SECC Advisory Committee to protect the participant organizations and ~~donors, contributors.~~
- (2) SECC Advisory Committee. This ongoing committee serves as a central application point for all charitable organizations applying to participate in the SECC. The Committee recommends overall policy for the campaign to the Governor, the Statewide Campaign Chair, and necessary state agencies and recommends the criteria for participation by charitable organizations. The Committee reviews the recommendations made by the Statewide Campaign

Organization and accepts or rejects its recommendations. The Committee may, in its discretion, require the Statewide Campaign Organization to provide a bond, as provided in Sub-item (1)(e) of this Rule. The Committee is composed of at least 10 state employee members appointed by the Statewide Campaign Chair. Members serve three-year staggered terms at the pleasure of the Statewide Campaign Chair. If a vacancy occurs, the Statewide Campaign Chair shall appoint a replacement to fill the unexpired term. Any member may be reappointed at the end of his or her term.

- (3) Statewide Campaign Organization. The Statewide Campaign Organization shall be selected by the Statewide Campaign Chair. The duties of the Statewide Organization include, but are not limited to, the following:
 - (a) serving as the financial administrator of the SECC;
 - (b) determining if the applicant agencies meet the requirements of Rule .0202 of this Chapter;
 - (c) submitting to the Statewide Campaign Chair the name of an organization to serve as Local Campaign Organization;
 - (d) providing the necessary supervision of data processing services in order to process all payroll deduction pledge forms of state employees;
 - (e) receiving reports from the Local Campaign Organization;
 - (f) transmitting to each Local Campaign Organization its share of the state employees payroll deduction funds;
 - (g) printing and distributing the pledge form, the campaign report form and collection envelopes to the Local Campaign Organization;
 - (h) maintaining an accounting of all funds raised and submitting an interim unaudited end-of-campaign report of the following:
 - (i) amounts contributed and pledged;
 - (ii) number of contributions; and
 - (iii) amounts distributed to each participating agency;
 - (i) Once applications for acceptance into the campaign have been recommended to the SECC Advisory Committee by the Statewide Campaign Organization, preparing a list of all accepted organizations and distributing them to all ~~applicants, applicants;~~
 - (j) coordinating an annual statewide or regional training session for Local Campaign Organizations and state employee volunteers;
 - (k) serving as liaison to participating charitable organizations.
- (4) Local Campaign Chair. The Governor, if asked by the local charitable organizations accepted into the Combined Campaign, may appoint an area

representative from either state government or the University of North Carolina system to serve as the Local Chair. This person will be responsible for forming a Local Advisory Committee for recruitment of volunteer state ~~employees~~; employees, confirming top management support, communicating to area state employees the Chair's support for and participation in the campaign, and providing that the campaign is conducted using the knowledge and expertise of the SECC to insure success. The Local Advisory Committee is responsible for the ~~approval of local campaign literature~~, review of past performance, the establishment of local goals as needed, ~~and the distribution of any undesignated funds made available for distribution.~~ distribution, the development of a budget and campaign plan, the approval of local publicity materials, the conduct of the campaign, and the recognition of volunteers and contributors.

(5) The Campaign Chair shall approve or reject the State Campaign Organization's recommendation for Local Campaign Organization and name an agency as the Local Campaign Organization. The Local Campaign Organization must identify itself on all printed materials as the local SECC organization.

(a) Any SECC charitable organization wishing to be selected as a Local Campaign Organization must submit a timely application in accordance with the deadline set by the Statewide Campaign Organization that includes:

(i) A written campaign plan sufficient in detail to allow the SCO to determine if the applicant could administer an efficient and effective SECC. The campaign plan must include a proposed SECC budget that details all estimated costs required to operate the SECC. The budget may not be based on the percentage of funds raised in the local campaign.

(ii) A statement signed by the applicant's director or equivalent pledging to:

(A) administer the SECC fairly and equitably,

(B) conduct campaign operations (such as training, kick-off and other events) and fiscal operations (such as banking, auditing, reporting and distribution) separate from the applicant's non-SECC operations, and

(C) abide by the directions, decisions and supervision of the Statewide Campaign Organization, State Advisory Committee and the Local Campaign Advisory Committee.

(iii) A statement signed by the applicant's director or equivalent acknowledging that applicant is subject to the provisions of Title 1, Chapter 35, North Carolina Administrative Code, State Employees Combined Campaign.

(a) (b) For the purpose of selecting a Local Campaign Organization, the Statewide Campaign Chair and Statewide Campaign Organization will consider the following criteria:

(i) whether the local organization is willing to conduct a local SECC;

(ii) whether the organization agrees to comply with the terms of the State/Local Organizations contract;

(iii) whether the organization has community and state employee support and volunteer involvement;

(iv) whether the organization has a demonstrated ability and successful history of managing fund-raising campaigns that include:

(A) development of campaign strategy;

(B) development of campaign materials;

(C) development of volunteer campaign structures;

(D) training of volunteer solicitors;

(E) a financial structure and resources that can efficiently manage, account for, and disburse funds;

(F) being a participant organization of the campaign;

(G) ability to develop financial relationships with a network of statewide organizations so as to ensure the orderly transmittal, disbursement, accounting of, and reporting of donations and pledges;

(v) whether the organization is willing and able to provide a bond, if required, in an amount satisfactory to the SECC Advisory Committee to protect the participant organizations and ~~donors~~, contributors.

(b) (c) The Local Campaign Organization shall assist the Local Campaign Chair and Local Campaign Advisory Committee in the training of volunteers, the ordering printing and distribution of campaign literature, the collection of pledge reports and envelopes from the state agency volunteers, the development of campaign reports, and the

forwarding of one copy of each payroll deduction pledge to the Statewide Campaign Organization. In addition, an end of campaign report shall be sent to the Statewide Campaign Organization by February 1 following the close of the campaign on December 31 for inclusion in the required fiscal reports.

- (e) (d) The Local Campaign Organization shall:
 - (i) ~~establish~~ consider establishing an interest-bearing account with a bank in order to receive deposits of collected funds. Interest earnings shall be disbursed to each participating federation and independent agency based on its proportionate share of the campaign's total gross ~~contributions;~~ contributions if an interest-bearing account is established;
 - (ii) distribute the funds from the contributions in accordance with designations made by state employees. Undesignated funds shall be distributed in accordance with the rules in this Chapter. Each Local Campaign Organization shall distribute contributions quarterly to participating federations and independent agencies;
 - (iii) be permitted to deduct, before any disbursements are made, direct costs of operating the campaign from the gross contributions, and shall charge each federation or independent agency its proportionate share of the campaign's operational cost. The Local Campaign Organization shall justify the actual costs of the campaign, which should not exceed 10% of gross receipts; and
 - (iv) notify the federations and independent agencies no later than March 1 following the close of the campaign on December 31 of the amounts designated them and their member agencies and of the amounts of the undesignated funds allocated to them.
- (6) A contract between the state and the Statewide Campaign Organization, and the Statewide and Local Campaign Organizations, will be executed in order to develop an acceptable audit trail. The contracts will allow a reasonable charge for campaign expenses to be claimed by the Statewide Campaign Organization and the Local Organization. All terms and conditions of these contracts are subject to review and approval by the Statewide Campaign Chair.
 - (a) The Statewide Campaign Organization and Local Campaign Organizations shall recover from gross receipts of the campaign their expenses, which should reflect the actual costs

of administering the campaign. Actual costs of the campaign must be justified and should not exceed 10% of gross receipts. The campaign expenses shall be shared proportionately by all the recipient organizations reflecting their percentage share of gross campaign receipts.

- (b) The failure of the Statewide Campaign Organization or the Local Campaign Organization to perform any of its respective responsibilities listed in this Section may be grounds for removal and disqualification by the Chair to serve in its capacity for one year. Before deciding on removing or disqualifying an organization, the Chair shall give the organization an opportunity to respond to any allegations of failure to perform its responsibilities. The organization must submit its response to the Chair within 10 days from notification postmark date. The Chair shall issue a written determination based on a review of all of the information submitted.

Authority G.S. 143-3.3; 143B-10.

SECTION .0200 - APPLICATION PROCESS AND SCHEDULE

.0202 CONTENT OF APPLICATIONS

(a) All organizations seeking inclusion in the State Employees Combined Campaign must submit an application to the state campaign. The application must include a completed State Employees Combined Campaign Certificate of Compliance, provided by the Statewide Campaign Organization. Included in or attached to the Certificate of Compliance must be:

- (1) A letter from the board of directors requesting inclusion in the campaign.
- (2) A complete description of services provided the service area of the organization, and the percentage of its total support and revenue that is allocated to administration and fund-raising.
- (3) The most recent audited financial statement prepared by a CPA within the past two years. The SECC Advisory Committee shall permit organizations with annual budgets of less than three hundred thousand dollars (\$300,000) total support and revenue to submit an audited financial statement or review prepared by a CPA. Total support and revenue is determined by the IRS Form 990 covering the organization's most recent fiscal year ending not more than two years prior to the current year's campaign date. The year-end of such audited financial statement or review must be no earlier than two years prior to the current year's campaign date. The SECC Advisory Committee may grant an exception to this requirement if an organization has filed its Articles of Incorporation with the Secretary of State's Office since March 1 of the preceding year of the current

campaign.

- (4) A signed copy of the organization's IRS 990 form, regardless of whether or not the IRS requires the organization to file this form, or sufficient documentation to indicate program services, administrative and fund-raising expenses. The IRS 990 form and CPA audit or review shall cover the same fiscal year and, if revenue and expenses on the two documents differ, these amounts must be reconciled on an accompanying statement by the CPA who completed the financial audit or review.
 - (5) A board statement of assurance of non-discrimination of employment, board membership and client services.
 - (6) A description of the origin, purpose and structure of the organization.
 - (7) A list of the current members of the board, including their addresses.
 - (8) A letter from the board of directors certifying compliance with the eligibility standards listed in Paragraph (b) of this Rule.
 - (9) When a federated fund-raising organization submits an application, they may submit the credentials of the federation only, not each member agency. By the submission of such, the federations certify that all of their member agencies comply with all the SECC regulations, unless there are exceptions. If there are exceptions to the requirements, the federations must disclose such and explain to the satisfaction of the Statewide Combined Campaign Advisory Committee the reasons for the exception. The SECC Advisory Committee may elect to review, accept or reject the certifications of the eligibility of the member agencies of the federations. If the Committee requests information supporting a certification of eligibility, that information shall be furnished promptly. Failure to furnish such information within 10 days of the notification postmark date constitutes grounds for the denial of eligibility of that member agency.
 - (10) The SECC Advisory Committee may elect to decertify a federation or independent agency which makes a false certification, subject to the requirement that any federation or independent agency that the Committee proposes to decertify shall be notified by the Statewide Campaign Organization of the Committee's decision stating the grounds for decertification. The federation or independent agency may file an appeal to the Committee within 10 days of the notification postmark date. False certifications are presumed to be deliberate. The presumption may be overcome by evidence presented at the appeal hearing.
- (b) Organizations must meet the following criteria to be accepted as participants in the Combined Campaign:
- (1) Must be licensed to solicit funds in North Carolina if a license is required by law.
 - (2) Must provide written proof of tax exempt status for both federal and NC tax purposes. Organizations must certify that contributions from state employees are tax deductible by the ~~donor~~ contributor under NC and federal law.
 - (3) Must prepare and make available to the general public an audited financial ~~statement~~: statement prepared by a CPA within the past two years. The SECC Advisory Committee shall permit organizations with annual budgets of less than three hundred thousand dollars (\$300,000) total support and revenue to submit an audited financial statement or review prepared by a CPA. Total support and revenue is determined by the IRS 990 form covering the organization's most recent fiscal year ending not more than two years prior to the current year's campaign date. The SECC Advisory Committee may grant an exception to this requirement if an organization has filed its Articles of Incorporation with the Secretary of State's Office since March 1 of the preceding year of the current campaign.
 - (4) If fund-raising and administrative expenses are in excess of 25 percent of total revenue, must demonstrate to the satisfaction of the SECC that those expenses for this purpose are reasonable under all the circumstances of the case. The SECC may reject any application from an agency with fund-raising and administrative expenses in excess of 25 percent of total revenue, unless the agency demonstrates to the satisfaction of the Committee that its actual expenses for those purposes are reasonable under all the circumstances in its case.
 - (5) Must certify that all publicity and promotional activities are truthful and non-deceptive and that all material provided to the SECC is truthful, non-deceptive, includes all material facts, and makes no exaggerated or misleading claims.
 - (6) Must agree to maintain the confidentiality of the contributor list.
 - (7) Must permit no payments of commissions, kickbacks, finders fees, percentages, bonuses, or overrides for fund-raising, and permit no paid solicitations by a fund-raising consultant or solicitor in the SECC.
 - (8) Must have a policy of non-discrimination on the basis of race, color, religion, sex, age, national origin or physical or mental disability for clients of the agency, employees of the agency and members of the governing board.
 - (9) Must provide benefits or services to state employees or their families within a solicitation area. Examples of services include:
 - (A) research and education in the health and welfare or education fields;
 - (B) family and child care services;
 - (C) protective services for children and adults;
 - (D) services for children and adults in foster care;
 - (E) services related to the management and maintenance of the home;
 - (F) day care services for adults and children;

- (G) transportation services, information referral and counseling services;
- (H) the preparation and delivery of meals;
- (I) adoption services;
- (J) emergency shelter care and relief services;
- (K) safety services;
- (L) neighborhood and community organization services;
- (M) recreation services;
- (N) social adjustment and rehabilitation services;
- (O) health support services; or
- (P) a combination of services designed to meet the needs of special groups such as the elderly or disabled.

However, an international organization which provides health and welfare services overseas, whose activities do not require a local presence and which meet the other eligibility criteria in these Rules, may be accepted for participation in the campaign.

Authority G.S. 143-3.3; 143B-10.

.0205 AGREEMENTS

(a) Following acceptance into the SECC, federations and independent agencies shall execute a contract with the State. The parties shall agree to abide by the terms and conditions of the rules. The contract shall be signed by the State Chair, the Statewide Campaign Organization, the organization's board chair and the organization's chief executive officer.

(b) Each federation shall accept responsibility for the accuracy of the distribution amount to their member agencies. Each federation must be able to justify amounts deducted from their disbursements to participating agencies. These deductions shall not exceed 10% of gross receipts. Each federation must be willing and able to provide a bond, if required, in an amount satisfactory to the SECC Advisory Committee to protect the participant organizations and ~~donors~~ contributors.

Authority G.S. 143-3.3; 143B-10.

SECTION .0300 - GENERAL PROVISIONS

.0304 PAYMENT METHOD AND TERMS OF CONTRIBUTION

Payment may be made by payroll deduction, cash, or personal check. If an employee chooses to use the payroll deduction method of contributing, he/she must agree to have the deduction continue for one year with equal amounts deducted from each check (~~monthly~~ monthly, semi-monthly or biweekly depending on the payroll). All deductions will start with the January payroll and continue through December. If the employee discontinues employment, or actively chooses to discontinue payment, the state will not be responsible for the collection of the unpaid pledge. No deduction will be made for any period in which the employee's net pay, after all legal and previously authorized deductions, is sufficient to cover the allotment. No adjustments will be made in subsequent periods to make up for deductions missed.

Authority G.S. 143-3.3; 143B-10.

.0308 EFFECTIVE DATE OF AMENDED RULES

These amended rules shall be effective for the ~~1994~~ 1999 SECC and thereafter.

Authority G.S. 143-3.3; 143B-10.

TITLE 4 - DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Commerce-Commerce Finance Center intends to amend rules cited as 4 NCAC 1E .0104, .0202, .0205-.0207, .0303, .0306; 4 NCAC 1I .0101-.0102, .0201-.0202, .0301-.0302, .0402-.0404, .0501-.0503, .0701; 4 NCAC 1K .0101-.0105, .0202-.0206, .0301-.0302, .0401-.0402, .0404; and repeal rules cited as 4 NCAC 1I .0303-0304, .0401, .0405, .0601.

Proposed Effective Date: *April 1, 1999*

A Public Hearing will be conducted at 10:00 a.m. on October 30, 1998 at the Department of Commerce Conference Room, New Education Building, Fourth Floor, 301 N. Wilmington Street, Raleigh, NC 27626-0571.

Reason for Proposed Action:

4 NCAC 1E .0104, .0201-.0202, .0205-.0207, .0303, .0306 - For the Industrial Revenue Bond program, rule changes arise from the 1995 amended legislation, which allow the initial operator of an industrial project to be replaced by a new operator during the term of the bonds if certain findings are made by the Secretary as to the new operator.

4 NCAC 1I .0101-.0102, .0201-.0202, .0301-.0304, .0401-.0405, .0501-.0503, .0601, .0701 - For the Industrial Development Fund, rule changes arise from recent additions or changes to the William S. Lee Act: increase in IDF funding, the allowance of 2% of the funds for grant administration, the addition of Tier Area designations, local government matching requirements specified, editorial changes needed to effect efficient administration of the program.

4 NCAC 1K .0101-.0105, .0202-.0206, .0301-.0302, .0401-.0402, .0404 - For the Community Development Block Grant program, changes include revision of criteria for necessary findings, no longer requiring local match in Tier One areas, priority given to Tier One counties or Development Zones, requiring cities to have a development zone committee and a strategy to improve the zone, and basic coordination with CDBG-related provisions of the William S. Lee Act.

Comment Procedures: Comments may be submitted to North Carolina Department of Commerce, Attention: Robert Hinshaw, Commerce Finance Center, 301 N. Wilmington Street, PO Box 29571, Raleigh, NC 27626-0571.

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

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1E - INDUSTRIAL AND POLLUTION CONTROL REVENUE BONDS

SECTION .0100 - PURPOSE AND DEFINITIONS

.0104 OPERATOR

(a) An "operator" shall mean the persons or corporate entity entitled to the use or occupancy of a project. Where all or virtually all of the stock in one corporate entity is owned (either directly or indirectly) by another corporation (i.e., a relationship commonly known as a "parent-wholly-owned subsidiary") and where final management control rests with the parent, "operator" shall be construed so as to include the total corporate responsibility implied by such a relationship. Such presumption may be rebutted where the Department finds clear and convincing evidence of the independence of the subsidiary from the parent.

(b) ~~Once the persons or corporate entities have been defined as the operators of the project, then except as herein provided, those persons or entities will continue as the operators during the term of any bonds issued to finance the project. If the initial proposed operator of a project is not expected to be the operator for the term of the bonds proposed to be issued, the Secretary may make the findings required pursuant to Rules .0303 and .0307 of this Subchapter only with respect to the initial operator identified in the application for approval of the project. When the current operator discontinues serving as operator, and arrangements have been made by the obligor for a new operator, the new operator will be subject to the approval of the Secretary pursuant to Rules .0303 and .0307 of this Subchapter.~~

(c) If an operator subsequently seeks to sell, to lease, or to sublease the project to a non-affiliated person(s) or entity, the operator must give written notice to the Department of Commerce including information prescribed by the Secretary.

Authority G.S. 159C-7; 159C-8.

SECTION .0200 - APPLICATION PROCEDURES

.0202 PRE-APPLICATION CONFERENCE

(a) Authorities are encouraged to advise the Department when the authority enters serious consideration of financing a project. The Department will assist the authority, as requested, within the limits of available resources. Information, liaison and coordination will be effected by the Department through the industrial financing section, Commerce Finance Center. Available services include:

- (1) provision of forms and documents relating to the application process with informative comments;
- (2) comment on the type of projects consummated by

other authorities;

- (3) examination of and comment on assembled facts and data which might be used in the preparation of application;
- (4) analysis of likely or potential procedural or environmental problems.

(b) At least one week prior to submission to the Department of a project application, the authority shall arrange for a pre-application conference with the Department. Parties present at the pre-application conference will include representatives from the authority, the Department, the operator, the obligor, if other than the operator, ~~and the Local Government Commission, Commission, and The the Department of Environment and Natural Resources Resources, and Community Development, or its successor agency, agency, will be informed of and invited to participate in the conference.~~

(c) The purpose of the conference is to help ensure that application procedures and requirements are clearly understood. ~~understood and that the application, when accepted, will be complete and, therefore, the application period is shortened to whatever extent possible.~~

(d) The operator shall offer verbal, and if available, written project descriptions. The operator will be encouraged to provide data relative to the character and volume of process wastes, water and air discharges of pollutants, as well as any comment already received from the Division of Environmental Management.

(e) Another purpose of this conference will be to reach an understanding among all parties that the project is of the type that may be considered for approval by the Secretary. ~~Although the secretary will make no decisions, however tentative, prior to a full consideration of the completed application, the secretary will issue a letter of summary comment — if that letter is requested by the authority. This letter will convey the secretary's comments pertinent to the project and the preparation of the authority application. The secretary will enumerate any points of concern which are developed as a result of information made available in the conference. These points of concern will be enumerated so that the authority application may include facts and data pertinent to those points. The issuance of a letter of summary comment will not preclude the secretary from raising new questions and areas of concern after an application is received.~~

Authority G.S. 159C-7.

.0205 FORMAL APPLICATION PROCEDURES: REQUIRED DATA: INFORMATION

(a) When making application for an approval of an industrial project for a prospective industry or for an existing industry, a pollution control project for a prospective industry or for an existing industry, or a pollution control project for a utility, the authority will complete the pertinent application form developed by the Secretary and made available by the industrial financing section, Commerce Finance Center in the Department of Commerce.

- (b) Any application which has factual data which is

incomplete or lacking in sufficient detail will be returned to the authority with reasons for the return being stated in writing. Missing or deficient information will be noted. Once the requested information is provided, the application will be accepted as officially received and processing will begin.

Authority: G.S. 159C-7; 159C-8.

**.0206 FORMAL APPLICATION PROCEDURES:
PUBLIC HEARING**

(a) Where the project has caused significant adverse public reaction as determined from the responses to the public notice or the public hearing held by the elected board of county commissioners, or the authority, or where the facts are unclear and do not support clear finding, the Secretary may hold a public hearing on the proposed project for the purpose of obtaining the views of the community to be affected. The community is hereby defined as the county in which the project is to be located.

(b) Public notice shall be given at least seven days prior to the hearing. The notice shall specify the date, time, place and subject matter of the hearing.

(c) A complete transcript of the hearing shall be prepared by the Secretary. The Secretary shall provide to the Secretary of the Department of Environment and Natural Resources and Community Development, a copy of the transcript.

Authority: G.S. 159C-7.

**.0207 PROJECT CERTIFICATION FROM DENR:
OR ITS SUCCESSOR AGENCY**

(a) Prior to giving final consideration to the authority application, the Secretary will inform the Secretary of the Department of Environment and Natural Resources, Resources and Community Development, or its successor agency, that the particular application is pending, will furnish him with a copy of the authority application, and will make a request that the Department of Environment and Natural Resources and Community Development, or its successor agency, issue a certification, under G.S. 159C-7(3) that in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on the environment and that, in the case of the proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which could otherwise occur.

(b) Prior to making any of the findings required in 159C-7(1)(b) and (2), the Secretary of the Department of Commerce will have received the project certification requested from the Department of Environment and Natural Resources, Resources and Community Development, or its successor agency.

Authority: G.S. 159C-7.

SECTION .0300 - REVIEW CRITERIA

.0303 MANUFACTURING WAGE TEST

(a) G.S. 159C-7 specifies that the secretary may not approve the project unless he finds that the operator of the proposed project pays or has agreed to pay thereafter an average weekly manufacturing wage which is either:

- (1) above the average weekly manufacturing wage paid in the county, or
- (2) not less than 10 percent above the average weekly manufacturing wage paid in the state.

(b) The Department will be able to make the required finding that either the operator pays an above-average weekly manufacturing wage or that the operator has agreed to pay an above-average weekly manufacturing wage, if the operator presents clear and convincing evidence to substantiate the finding. The presentation of wage data will relate to a specific time frame. If the presentation is from an industry with an existing work force, the operator may compare the annual average weekly manufacturing wages paid to his employees for a time period which coincides with that used by the Employment Security Commission in compiling the latest available annual average insured weekly manufacturing wages by county. If, for a stated reason the existing company wants to compare the wages paid to its employees during a later time period, or if the operator is a proposed industry which will present data on proposed and planned average weekly manufacturing wages, the operator will make that comparison against a figure which has been prepared by ~~the Labor Resources Section of the Department of Commerce, or its successor, Commerce Finance Center.~~ That figure will provide an estimate of the average weekly manufacturing wage for the county and for the state during a time period corresponding to that period of time used by the operator. ~~The Labor Resources Section Commerce Finance Center will prepare that figure by:~~

- (1) posting the latest available annual average weekly manufacturing wages per worker ~~from the table of statistics entitled "Insured Employment and Wages by Broad Industry Groups by County" in the volume "North Carolina Insured Employment and Wage Payments," as published by the Employment Security Commission of North Carolina; and~~
- (2) applying adjustment factors to those figures to yield estimates of current and projected annual average weekly manufacturing wages by county and for the state. ~~Annual adjustment factors will be developed by computing the average annual percent change in insured weekly manufacturing wages for the State of North Carolina for the most recent five-year period. If the operator is a proposed industry, the operator will present data on proposed and planned average weekly manufacturing wages for a particular time period. The comparison to show that the operator has agreed to pay an above-average weekly manufacturing wage, which will be made against a figure prepared by the Labor Resources Section, or its successor, as provided above.~~

(c) An applicant may attempt to show that this methodology does not yield valid results for the county in question. To prevail, the applicant must be prepared to prove that his estimate

of average weekly manufacturing wages is correct by showing of clear and convincing evidence.

(d) Where the industrial project does not meet the requirements in (a) of this Rule, a project may nonetheless be approved by the Secretary if:

(1) The governing body of the county submits a resolution to the effect that the project be approved notwithstanding the fact that the operator will not pay an average weekly manufacturing wage which is above the average weekly manufacturing wage paid in the county; and

(2) The Labor Resources Section of the Department of Commerce, or its successor, makes a finding from various labor statistics available to the Department that unemployment in the county is especially severe. For the purpose of this Section, "especially severe unemployment" will be defined as:

(A) unemployment which the Employment Security Commission statistics indicate ~~to be at least five percent for the most recent month, and that for the most recent six month period ending with that month, have~~ has averaged either:

- (i) at least 10 percent, or
- (ii) at least 125 percent of the average unemployment rate for the State of North ~~Carolina; Carolina, and is at least five percent; or~~

(B) where the Department can determine that there has been within the past 12 months, or will be in the immediate future, a permanent closing by any employer in the county which resulted, or will result in the loss of employment by ~~at least 300 workers, or at least a number of workers that, at the discretion of the Secretary, is determined to be large enough to have a measurable adverse impact upon the labor force of the county, equal to or greater than five percent of the current labor force for the county, as published in the most recent "North Carolina Labor Force Estimate by County."~~ The purpose of this provision is to assist in the creation of employment opportunities for individuals displaced by industrial plant closings. This provision may not be used as justification for a finding of especially severe unemployment if approvals granted on the basis of a particular plant closing have created more jobs than were lost in the closing.

(3) In the case of a finding made on the basis of (d)(2)(A) or (d)(2)(B) of this Paragraph, the finding will document that:

(A) the condition of "especially severe unemployment" existed at the time the authority agreed to make financing available for the project by executing an inducement agreement; and

(B) the condition of "especially severe

unemployment" still exists at the time the project is approved by the Secretary.

Authority: G.S. 159C-7.

.0306 JOBS SAVED OR GENERATED TEST

(a) G.S. 159C-7 specifies that in the case of either "... an industrial or a pollution project, except a pollution control project for a public utility: that the jobs to be generated or saved, directly or indirectly by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project."

(b) The Department will use as a guideline, a standard of requiring one job saved or generated for each ~~one hundred thousand dollars (\$100,000)~~ two hundred fifty thousand dollars (\$250,000) of bond financing for a project located in an Enterprise Tier 4 or 5 area, or one job saved or generated for each three hundred thousand dollars (\$300,000) of bond financing for a project located in an Enterprise Tier 1, 2 or 3 area. This ratio may be lower and still acceptable depending upon other critical factors, including but not limited to:

- (1) the wage scale of the facility;
- (2) the present economic situation in the county;
- (3) effect of the facility on the tax base of the county;
- (4) the expected effect that the industrial facility will have on the development of new industry and services as well as any other factors which the applicant feels pertinent to the ~~issue.~~ issue;
- (5) the machinery and equipment financed is "state of the art" in technology increasing efficiency with moderate effect on employment.

(c) The applicant has the burden of demonstrating that the jobs saved or generated will have a measurable impact on the county. The applicant must show by clear and convincing evidence the number and type of such jobs generated or saved.

Authority: G.S. 159C-7.

SUBCHAPTER 11 - INDUSTRIAL DEVELOPMENT FUND

SECTION .0100 - PURPOSE AND DEFINITIONS

.0101 BACKGROUND AND OBJECTIVES

(a) ~~BASIC—~~The purpose of the North Carolina Industrial Development Fund ~~(also to be known as the Industrial Building and Renovation Fund)~~ is to assist ~~local, town, city or county governments with incentive industrial financing located in the most economically depressed counties in the state in areas of the state that have been designated as eligible tier areas by NC General Statutes.~~ This assistance ~~will be~~ is intended to help ~~those units of government create new jobs by providing financing for the renovation or improvement and expansion of manufacturing or industrial buildings so as to induce "private profit making" entities to occupy, by lease or purchase, and to operate manufacturing or industrial businesses.~~ units of

government offer to its new and expanding industry, new or improved infrastructure, or funds for building renovation and equipment in exchange for commitments to create new, full-time jobs in industries currently eligible under NC General Statutes. (The fund is not designed to be used for the acquisition of land and buildings or constructing new buildings.) If the assistance is used for infrastructure, it will be granted to local governments with no repayment; however, if it is used to purchase equipment or to renovate industrial buildings, then the funds must be repaid. But whether a grant or a loan, the amount of funds to be made available for a project will be determined by the number of new jobs committed, with a maximum job limit and project limit as currently authorized for the program by NC General Statutes.

(b) The objective of this program will be to provide new full-time jobs for North Carolina citizens. The Department will necessarily determine that the renovations and improvements are a necessary part of the private firm's decision to provide the new jobs. If it is determined that the private firm would have (or has already begun to) spend private money to make these renovations and create these jobs, no funds from this program will be expended.

(b) **EMERGENCY ECONOMIC DEVELOPMENT ASSISTANCE**—This special assistance from the Industrial Development Fund, which is used at the discretion of the Secretary, is available to units of government that have, or will imminently experience, a loss of 500 or more manufacturing jobs in the county, or a number of manufacturing jobs equal to at least 10% of the manufacturing workforce in the county. Where a unit of government relies on the 500 jobs loss as the threshold for obtaining this special assistance, it must submit convincing evidence that the loss seriously impacts the county's economy, taking into account the county's tier ranking under Rule .0701 of this Subchapter. The funding obtainable under this emergency assistance category will not necessarily be determined by the number of new jobs to be created, although the project should lead to new jobs, or save jobs, or both, and help alleviate a jobs dislocation problem. The Secretary will determine the amount of funds for a project, up to the maximum currently authorized for the program by NC General Statutes and according to new job loss criteria expressed in the Statutes if that has changed. This assistance will be in the form of a low interest loan to the governmental unit, amortized over five years with repayment beginning at the end of the second year.

(c) **UTILITY ACCOUNT**—Within the IDF structure, the Utility Account provides financing to units of government for jobs creation and investment in the tier area(s), and for benefiting firms currently authorized by NC General Statutes. Funds may be used for construction or improvements to water, sewer, gas, or electrical utility lines and equipment for existing or proposed industrial buildings. There is no specific amount of funding specified for each new job or project, but the impact of the funding should lead to the creation of new jobs and new investment. As with basic IDF financing, if Utility Account funds are spent for public property, the assistance is a grant; for private property, it is a loan.

Authority G.S. 143B-437A.

.0102 DEFINITIONS

(a) "Department" means the Department of Economic and Community Development, or its Secretary.

(a) "Department" means the North Carolina Department of Commerce, or its Secretary.

(b) "Act" means Section 111 Part XXII of the consolidated budget act codified as Chapter 830 of the 1987 Session Laws and amended by G.S. 143B-437A, 1989.

(b) "Applicant" means a North Carolina unit of government that applies for IDF funds.

(c) "Applicant" means a unit of city government located in a qualified county or a unit of county government which meets the definition of a qualified county.

(c) "Industrial Development Fund" means the fund within the Department's fiscal structure in which the appropriation of monies for industrial development projects is received and disbursed.

(d) "Industrial Development Fund" means the appropriation of monies given to the Department for these purposes. This fund will also be known as and referred to as the Industrial Building Renovation and Improvement Fund.

(d) "IDF" means the Industrial Development Fund.

(e) "Qualified County" means one of the 50 most economically depressed counties in the state. The Secretary of the Department shall determine which counties are the most economically depressed counties in the state based on: rate of unemployment, per capita income, and relative population and work force growth or lack of growth, as determined by the Secretary. The figures used in making this comparison and the delineation of "most" and "least" will be the latest available per capita income figures by county, as documented in a published form by any State or Federal Agency generally recognized as having expertise and creditability in these fields.

(f) "Emergency Assistance Qualified County" means any county which is facing the threat of, or which is experiencing a major economic dislocation. A major economic dislocation would mean the actual or imminent loss of manufacturing jobs caused by one or more plant closing(s) or one or more announced plant layoff(s) which affect:

- (1) at least 500 jobs; or
- (2) a number of jobs which is equal to or exceeds ten percent of the existing manufacturing work force.

In the case of Subparagraph (f)(2) of the Rule, the number of jobs impacted must exceed 50.

(e) Eligible tier areas means the aggregation of North Carolina counties into groups in which certain economic benefits apply, as currently authorized by NC General Statutes.

(f) "Unit of Government" means a town, city or county of the state.

(g) "Project" means one or more activities proposed for funding, or for partial funding, under this Rule. Such a project will be described in a narrative and accompanied by a preliminary set of drawings which set out the exact factual situation and a detailed schedule of costs from a contractor or engineer. The schedule must constitute an ability to complete such project with no more than a ten percent contingency. All such project material will provide evaluations of potential for

unusual site characteristics which might influence construction or operating costs. In each case, the project description will document the direct relationship between the project and the jobs created.

(g) "Full-time Job" means a job that requires at least 1600 hours of work in a year.

(h) "Renovation" shall have the same meaning as project, as described in Paragraph (g) of this Rule.

(h) "Infrastructure" means utilities, typically referred to as "public utilities," and in some cases a rail spur where there is public ownership of the rail property.

(i) "Secretary" means the Secretary of the Department, or his designee.

(i) "Grant" means money given to a unit of government to pay for an economic development project and does not have to be repaid, if the terms of the grant are fulfilled, i.e. the jobs commitment is met.

(j) "State" means the State of North Carolina.

(j) "Loan" means money loaned to a unit of government to pay for an economic development project, to be repaid by the borrower based on an amortization schedule approved by the Department.

(k) "Severely Depressed" counties means those counties so designated under G.S. 105-130.10(c) or G.S. 105-151.17 (c) or units of governments within those counties.

(k) "Project" means an activity proposed for IDF funding. It will be described narratively in an application and accompanied by a preliminary set of drawings, or sketches, or other data that present the project in factual detail, together with a schedule or itemization of costs from an engineer or contractor. The schedule of costs shall constitute the ability to complete a project with no more than a 10 percent contingency.

(h) Project expenditures for existing buildings may include:

(l) Project expenditures may include:

(1) For basic IDF

(A) the construction of, or improvements to existing water, sewer, gas or electrical utility systems, distribution lines, or required storage facilities, or a rail spur when either is publicly owned and operated, and or;

(B) the renovation of buildings to include including structural repairs, structural improvements such as roof repair, repairs, addition of docks, or the erection of walls, or special structural supports to support cranes; for heavy equipment, electrical upgrades, or HVAC upgrades;

(C) improvements to the building that are necessary to make the a building suitable for the occupancy of the building by the occupant and the operator of the project. Such improvements may include mechanical equipment such as heating or and air conditioning equipment, plumbing, pipes or trenching to handle effluents or process water, special electrical additions necessary for ovens, furnaces or other processors and lighting. If a renovation or

an improvement is critical to the operation of a particular manufacturing or industrial businesses, business, or, if such improvements are or is critical to the decision making process pertinent to the creation of such jobs, the actual improvement need not be located on the site of the industrial main project building. If, however, a grant of funds is involved, the improvement must be constructed on public right-of-ways or on property which the unit of government has an easement to treat as it normally would do as if it owned the property. However, when extending infrastructure to a firm, IDF assistance ends at the private property line. Still, In either situation, the application must document the exact relationship of between the jobs and the project. An example of a fundable project would be the case where a the unit of government must construct an elevated water tank and service water lines to provide water to a building so as to provide sprinkler water to a building where such service is directly required to operate the an industrial or manufacturing business. An example of an unfundable project would be where a unit of government seeks to expand or to repair its water utility (or other infrastructure) system and where the relationship to the creation of jobs is fairly general or indirect vague. The project will be described in—from the perspective of employment to be created in the and its impact area of to the project. Direct and indirect jobs will be treated separately in the discussion. The operator of the project will provide details as to the nature of direct jobs created, including the skills required, work conditions, wages paid and seasonal influences on the number of work days per year.

(D) the installation of or purchase of manufacturing equipment or process productions equipment.
(D) the purchase and installation of equipment that is associated with the industrial classification of the project.

(2) In the case of counties designated as "severely depressed", project expenditures may include construction of or improvement to new or existing water, sewer, gas, or electrical utility distribution lines or equipment to serve new or proposed industrial buildings to be used for manufacturing and industrial operations. Such infrastructure shall be located on the site of the building or directly related to the specific manufacturing activity.

(2) For Emergency Economic Development Assistance - Loans to local units of government for economic development projects designed to create jobs, lead to the creation of jobs, or save jobs, and to assist in

alleviating the economic dislocation created by the loss of jobs.

(3) For the Utility Account:

(A) the construction of, or improvements to water, sewer, gas or electrical utility systems, distribution lines, or required storage facilities, or a rail spur or rail line when either is publicly owned and operated, and or:

(B) equipment for existing or proposed industrial buildings for operations in the industrial classifications that are currently eligible to receive Utility Account funding within the tier area.

(m) "State" means the State of North Carolina.

(n) "Application" means the pages of documents in which an applicant for IDF funds identifies itself, describes a project, specifies the funds required, provides a breakdown of project costs, and submits the benefiting firm's commitment to create jobs and evidence of its credit worthiness.

(o) "Local Matching Funds" means funds of a unit of government contributed to an economic development project for the purpose of assisting in a total financing package and earning (or winning) other funds by doing so. Matching is usually expressed as a ratio, i.e. one local dollar for three state dollars, or one for three.

(p) "Local Matching Requirement." The Department requires local matching in grant projects except for Emergency Economic Development Assistance projects and those located in a tier area that has been exempted from matching by NC General Statutes. The required rate will be one for three, or one local dollar for each three state dollars.

(q) "Participation Loan" means a loan between at least three parties, to wit: A bank or financial institution, the private firm, and the unit of government. The essence of a participation loan is that the bank, or financial institution, and the unit of government will share at least equally in the lending arrangements, meaning the money loaned and the risk involved and collateral shared.

(r) "Borrower" means the private firm identified in a participation loan for building improvement or equipment in the basic IDF, or the unit of government when the money is spent for emergency economic dislocation assistance or when the money is reloaned in a utility account project. Additionally, the unit of government will be the borrower when IDF is used to assist local matching, or in other cases when the Department believes the project can be more prudently structured as a loan rather than a grant.

(s) "Preapplication Conference" means a meeting held at the Department to discuss a proposed IDF application and includes: a representative of Commerce Finance Center; the applicant; an official of the benefiting firm; and a banker, if a participation loan is involved. A preapplication conference may be waived when the total IDF expenditures are expected to be fifty thousand dollars (\$50,000) or less.

Authority: G.S. 105-129; 143B-437A; 143B-437.01.

SECTION .0200 - GENERAL REQUIREMENTS

.0201 DATE OF RECEIPT OF APPLICATIONS

The Department of Commerce will receive applications after November 15, 1987 on a first-come, first-serve basis. An application Applications will be assigned a processing ease number when that application it is received and is judged to be sufficiently complete for consideration. Where When possible, applications will be processed in the order of the processing numbers assigned.

Authority: G.S. 143B-437A.

.0202 APPLICATION CATEGORIES AND REQUIREMENTS

(a) Applicants can apply for funding under different grant categories, including the categories of

- (1) utility improvements or additions owned by public bodies;
- (2) utility improvements or additions owned by private entities;
- (3) industrial facilities owned by public bodies but being leased or being improved for immediate or delayed sale to private operators, or to private "arms-length" landlords;
- (4) industrial and manufacturing facilities owned by private "non-profit" entities such as "Community Development Corporations" or Committees of 100" funded and/or endorsed by the elected leadership of the unit of Government; and
- (5) industrial and manufacturing facilities owned by "for profit" entities to be improved by funds loaned to the private "profit-making" entity by a unit of city or county government.

(a) Applicants can apply for funding under different categories, including:

- (1) Basic IDF;
- (2) Emergency Economic Development Assistance;
- (3) The Utility Account.

(b) There is no set minimum grant amount of funding which applicants may request or to be awarded. If there are practical difficulties about a small amount or cost disadvantages, these will be discussed with the applicant in a preapplication conference. Grant IDF awards shall not exceed the total amount specified appropriated by the General Assembly in its appropriation process. Chapter 830 of the 1987 Session Laws, in Section 111, Paragraph (2), limited the maximum grant to a sum not to exceed the lesser amount the two hundred fifty thousand dollars (\$250,000), or a total of twelve hundred dollars (\$1,200) for each job created. For basic IDF, per job or per project maximum funding limitation will be the amounts established under current law, as well as Emergency Economic Development Assistance. There is no maximum set for Utility Account funding; but the amount of awards will be determined by the Secretary. For the purpose of this Section basic IDF, the per job limitation will be imposed applied on the basis of requiring a commitment from the occupying industrial or

manufacturing firm operator of the business as to the number of jobs it will create that will be created over a reasonable period of time, not to exceed three years. The number of jobs created will include only those people directly employed in permanent or seasonal jobs by the operator who occupies the facility; indirect and temporary jobs will not be included. Those will be permanent, full-time jobs; no temporary or contract jobs.

(e) When a project renovation or improvement is to be accomplished to a building or on a site owned by a private entity, whether the private entity is conducted on a "for profit" or on a "not for profit" basis, the project will be financed by a loan to that private entity. This loan will be made to the private entity by the local unit of government with funds made available from this program. In each case, the local unit of government will establish its own authority to do that financing. The applicant will require and provide to the Department of Commerce satisfactory documentation that all costs are reasonable and that all funds are to be expended with regard to the conflict of interest statutes regulating business transactions between government officials and other involved parties. The applicant will propose a plan of project administration which is satisfactory for the Department of Commerce.

(d) All funds expended which directly assist participating private entities must be repaid to grant recipients and then returned to the Department of Commerce as such repayments are received. Such repaid funds will not be returned to the General Fund, but set aside to fund new projects approved under this Subchapter. Generally, project grants classified under Rule .0202 (a) (1) will not be repaid. Repayment for projects otherwise classified may be given subordinate collateral positions, interest costs which are at less than market rates, or amortization which defers cash flow, in so long as requests are documented as necessary to the creation of jobs and the success of the project.

(e) A project will be subject to review by the Department of Commerce at any time during the first three years after the project begins. For a project classified under Rule .0202 (a) (2) (3) (4) and (5) of this Rule, any repayment balance that it owes the local unit of government may be partially or fully accelerated if the business has closed, or if the operating company has not made reasonable progress towards its jobs creation goal.

(c) The Department may authorize a local unit of government that receives IDF funds to use up to two percent of the funds to verify that expenditures are made in accordance with the law and rules and to otherwise administer the IDF project.

(d) Under basic IDF, improvements to building properties and equipment purchases (either of which becomes private property) will be loan projects and will be accomplished with participation loans. The three parties to a participation loan will be: the borrower's North Carolina bank, the borrower, and the unit of government. The bank and the unit of government (using IDF funds) will be at least equal participants, sharing equally in the funds provided and in the risk and collateral involved. The bank, however, may supply more money than just matching IDF; in this case, the bank's pro rata share is simply larger. Also, in the matter of sharing equally, this means that if the bank takes a certain collateral position, the unit of government will share in

that position. If either an out-of-state bank or a financial institution other than a bank is used in a participation loan, that must be approved by the Department.

(e) Also under basic IDF, if funds are provided to a unit of government to accomplish a project apart from the uses described under Paragraph (c) of this Rule, i.e. providing matching funds, that may be handled by a loan directly to the unit of government. In this case the Department will furnish a loan repayment schedule to the mayor, city manager or county manager, which, in addition to the award letter and application, will establish the responsibility for repayment, and times and amounts of repayment.

(f) Loans for Emergency Economic Development projects will be accomplished as in Paragraph (d) of this Rule.

(g) Loans for Utility Account projects will be accomplished as in Paragraph (d) of this Rule except for building improvements or equipment that the operator will own. In that case, the loan will be a participation loan as in Paragraph (c) of this Rule.

(h) With either grants or loans, the Department will require financial information from the project owner or operator to establish financial capability. The usual requirement will be the preceding three years' financial and operating statements; for new businesses, at least three years pro forma statements and a business plan. In any case, the Department may use credit reports, bank information, or other data that it deems appropriate to establish the credit worthiness of the borrower.

(i) A project will be subject to review by the Department at any time during the first three years after the project begins.

(j) The Department may require a unit of government to partially or fully accelerate loan repayments if the operator's business has closed, moved, or if the company has not made reasonable progress toward its jobs creation commitment. The Department may require repayment of a grant, partially or fully, if the operating company has moved, closed, or has not made satisfactory progress towards its jobs creation commitment; and, in the case of Emergency Economic Development Assistance or the Utility Account, if funds are not spent in the manner for which they were approved.

Authority G.S. 143B-437A.

SECTION .0300 - SELECTION PROCESS

.0301 REVIEW OF APPLICATIONS AND FUNDING

(a) Applications will be submitted in a manner prescribed by the Department. Selection of applications for funding will be based primarily on information contained in the application. Thusly the application application, which must provide sufficient information so as to allow the Department to rate it against the selection approval criteria. When an application is deemed complete, it will be assigned a processing ease number.

(b) Applications for funding of Emergency Assistance projects may be submitted directly to the Secretary of the Department. They may also be submitted to the Department's Commerce Finance Center, Room 2174, Dobbs Building, 430 N. Salisbury Street, Post Office Box 29571, 301 North Wilmington

Street, Raleigh, North Carolina 27644; 27626-0571. The Department will maintain a policy that applications be approved or denied by the last day of the calendar month following assignment of a processing ease number as set out in Rule .0204(a) number. When possible, applications will be processed in the order that ease processing numbers are assigned.

Authority G.S. 143B-437A.

.0302 ELIGIBILITY REQUIREMENTS

Applications will show that:

- (1) That this funding is a vital part of the proposal to create the jobs set out and that the jobs will not be created if the project goes unfunded, and
- (2) That the project is completely funded or financed, except for the particular funds sought in the application, and
- (3) The the involvement of the local unit of government is formally authorized by its elected board under specific resolution and by specific State Statute, and
- (4) The the participating private entity must provide a letter statement of commitment relating to the project. That letter commitment will state that the project is to be carried out as described in the application, with specificity as to time schedules and to the parties involved, involved,
- (5) the expenditure of private money on the project has not begun, and
- (6) the project has not yet begun, i.e. money spent on the project, or public announcements made that the benefiting firm plans to do the project before the Department has been requested to participate with IDF,
- (7) for Emergency Economic Development Assistance Projects, there exists an emergency in the economy large enough to be considered an economic dislocation as set out in G.S. 143B-437A, and
- (8) The project for which funding is sought might help to alleviate the economic emergency described in Subparagraph (7) of this Rule.

Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.

.0303 REVIEW: APP/FUNDING/EMGCY ASST PROJ DEFINED/RULE .0102(h)

Applications for funding for projects defined in Rule .0102 (h) will show that:

- (1) There exists an emergency in the economy large enough to be considered an economic dislocation as set out in G.S. 143B-437(d) and,
- (2) That the project for which funding is sought might help to alleviate the economic emergency described in Subparagraph (1) of this Rule.

Authority Chapter 754, 1989 S.L.

.0304 ELIGIBILITY REQ/EMGY ASST PROJ DEFINED/RULE .0102(h)

Application for Emergency Assistance projects defined in Rule .0102(h) will show that:

- (1) the economic emergency exists, or is imminent, and
- (2) the project will, or will tend to, alleviate the especially severe economic emergency caused by the described economic dislocation.

Authority Section IX of Chapter 754, 1989 S.L.

SECTION .0400 - APPROVAL CRITERIA

.0401 GENERAL

In order for the Department to approve a project, or an "Emergency Assistance project", the Secretary is required to make certain findings necessary to document that the Department is conducting the duties specifically given to it in Chapter 830 of the 1987 Session Laws, those duties expressed in other General Statutes, and in Rule .0402 of these procedures, in a responsible and prudent manner.

Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws; Section IX of Chapter 754, 1989 S.L.

.0402 REQUIRED FINDINGS

(a) Before the Department can begin to make the approval as specified in G.S. Chapter 830, approve a project, a finding must be made that the project:

- (1) Will will assist a unit of Government in one of the most economically depressed counties eligible tier areas of the State; State as measured by median per capita income; and
- (2) The the funds will be used for renovation of buildings buildings or infrastructure or equipment to be used in manufacturing and industrial operations currently eligible under NC General Statutes by firms that have industry classifications currently eligible for tax incentives under G.S. 105-129.

(b) The secretary Department will document, document a finding based on data provided to him either in the application or by staff research, that the jobs to be created by this a project project, over no more than a three year period, will be large enough in number to have a measurable favorable impact on the area immediately surrounding the project and will be commensurate with the size and cost of the grant to the project. The Department will use as a guideline, a standard of requiring one job saved or generated for each one thousand two hundred dollars (\$1,200) in grant financing. The applicant has the burden of demonstrating that the jobs will have a measurable impact on the county. The applicant must show by clear and convincing evidence the number and type of such jobs generated.

(c) The secretary Department will make a finding that the operator of the proposed project has demonstrated the capabilities to operate such a facility. The applicant has the burden of showing that capability exists in the operator to operate and maintain the facility efficiently and effectively.

Financial strength and prior related experience by the operator will be ~~given great weight; evaluated.~~ Where little or no prior experience can be demonstrated, the qualifications of management, including production or engineering staff, as applicable, will be of great prime significance.

(d) The ~~secretary~~ Department will make a finding that the ~~IDF~~ financing of ~~such for a~~ project by the ~~authority~~ will not cause or result in the abandonment of an existing similar industrial or ~~manufacturing~~ facility of the proposed operator of an affiliate elsewhere in the state unless the facility is to be abandoned because of obsolescence, lack of available labor, or site limitations. The Department shall consider an abandonment statement as prima facie proof of lack of abandonment.

(e) The Department shall use the definitions of terms found in Section .0200 of this Subchapter to make these findings.

(e) For Emergency Economic Development projects, the Department will make a finding that:

- (1) the economic emergency exists, or is imminent, and
- (2) the project will, or will tend to, alleviate the especially severe economic emergency caused by the described economic dislocation.

(f) For Utility Account projects, the Department will make a finding that the proposed funding should create new jobs or reasonably be expected to lead to the creation of new jobs in the industries currently eligible for Utility Account financing assistance as specified in NC General Statutes.

(g) The Department shall use the definitions of terms found in Rule .0102 of this Subchapter to make these findings.

Authority G.S. 143B-437A.

.0403 FORMAL APPLICATIONS PROCEDURES: DENIAL

(a) Unless the applicant has met its various burdens of proof, the ~~secretary~~ Department shall not make ~~his the~~ required findings.

(b) ~~All findings shall be in writing and where~~ Where adverse findings are made, they shall specifically indicate in detail which elements of proof were weak, the required conclusions which could not be ~~made~~ made, and any suggestions for amending the application.

Authority G.S. 143B-437A.

.0404 FORMAL APPLICATION PROCEDURES: APPROVAL

(a) Where the Secretary Department makes all the findings necessary, ~~he it~~ will do so in writing to the applicant at the earliest possible date after following the procedures as set forth in this Subchapter.

(b) The Secretary Department will prepare a letter of approval in which all his findings as set forth and cause this letter to be mailed to the applicant.

Authority G.S. 143B-437A.

.0405 FINDINGS REQ/APPROVAL/EMGCY PROJ

DEFINED/RULE .0102(h)

(a) ~~Before the Department can begin to make the approval of and to fund an Emergency project as defined in Rule .0102(h), the Secretary will determine that the economic dislocation described has caused an economic emergency and that the emergency is of such size that extraordinary measures are required to help alleviate the emergency.~~

(b) ~~That the funding for Emergency projects during the current budget has not.~~

(c) ~~Even with the funding for the Emergency project so approved, will not exceed one hundred thousand dollars (\$100,000.00).~~

Authority Section IX of Chapter 754, 1989 S.L.

SECTION .0500 - RESERVATION OF FUNDS

.0501 GENERAL

Units of government may apply for a "~~420~~ 45 day reservation" of funds, relating to a particular ~~building renovation, so as~~ IDF project to allow local units of government to induce prospective private sector employers to locate or expand and ~~thusly, to create~~ new jobs. The ~~Secretary~~ Department may accept and approve the requests where local units of government can: can document that:

- (1) ~~Document that they have the potential for a project of strong merit;~~
- (2) ~~Where a particular employer is interested in a proposed industrial building;~~
- (3) ~~Where strong competitive offers have been made to the a client in by other states or where more comparative proposals have been made to the potential employer by communities located in the least distressed counties, tier areas not currently eligible for IDF funding. That application would be A request will be prepared along the lines of the application for approval described in Rule .0302 of this Subchapter, except that the data normally obtained from the client or potential employees would not be necessarily be prepared by the client and would not be required in such detail.~~

Authority G.S. 143B-437A.

.0502 LIMITATIONS

~~Such approvals~~ Approvals to requests may be made in so long as that the "reservation of funds" for ~~that a~~ project will not cause the total program funds "reserved" in that manner to exceed a ~~sum not larger than an amount equal to one-third~~ one-half of the total of program funds available and not previously committed. ~~committed in the regular approval process.~~ The total of programs funds not previously committed will include appropriated funds, those funds received in repayment from recipients, interest earned, ~~accrual in escrow accounts~~ and funds not used and reverted from either approved projects or from "reserved" funds.

Authority G.S. 143B-437A.

.0503 REVERSION OF FUNDS

An approval for "reservation" of funds for projects will not predicate approval or funding of a project. When a formal and complete application for approval of a project has not been filed by the applicant that requested the reservation of funds, before the expiration date of the "reservation of funds", the Department may revert those funds back to the program without any obligation to the unit of government. Such reversion of funds will be communicated to the unit of government in writing. It shall be the responsibility of the unit of government to keep track of when the reservation of funds expires.

Authority G.S. 143B-437A.

SECTION .0600 - REPORTING REQUIREMENTS

.0601 REPORTING REQUIREMENTS

(a) ~~The Department of Commerce will report annually to the General Assembly concerning the applications made to the fund and the payments made from the fund and the impact of the payments in the targeted counties. This report will be filed annually with the General Assembly either at the expressed convenience of the House and the Senate or by March 1 of each year at the offices of the Lt. Governor and the Speaker of the House.~~

(b) ~~The Department of Commerce will also file monthly reports with the Joint Legislative Commission and the Fiscal Research Division. These reports will commence on November 30, 1987 and shall name the party(s) to whom payments were made, in what amounts, and, for what purposes.~~

Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.

SECTION .0700 - DESIGNATION OF QUALIFIED COUNTIES

.0701 DESIGNATION OF THE FIFTY MOST ECONOMICALLY DEPRESSED COUNTIES

~~Each year, on or before December 31, the Secretary of the Department of Economic and Community Development shall designate the 50 most economically depressed counties in the state; this designation shall be for the following calendar year.~~

Each year, on or before December 31, the Secretary of the Department of Commerce shall rank each of the 100 counties of the state according to criteria currently set by NC General Statutes. The highest numerically ranked county shall reflect the most adverse economic data, whereas the lowest ranked county shall reflect the most favorable data. This listing of all counties shall then be divided into groups or tier areas. The Secretary shall designate at that time those counties and their tier areas that are eligible to participate in the Industrial Development Fund using the priority specified under current statutes. This designation is effective for the following year; however, a Tier One county retains its designation for at least two consecutive

years.

Authority G.S. 105-129.3.

SUBCHAPTER 1K - ECONOMIC DEVELOPMENT ACTIVITY OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SECTION .0100 - GENERAL PROVISIONS

.0101 PROGRAM PURPOSE AND OBJECTIVE

The purposes and objectives of the North Carolina Community Development Block Grant program are set out in full in the North Carolina Administrative Codes Title 4, Subchapter 19L, as promulgated by the Division of Community Assistance of the Department of Economic and Community Development, Commerce. While the Division of Community Assistance is the lead agency for the Community Development Block Grant Program, the Commerce Finance Center is responsible for the administration of ~~the Economic Development program and activities conducted as under the Economic Development section of that program.~~ Economic Development projects and grant activities consist of projects which directly ~~create or retain support the creation or retention of jobs,~~ principally for persons of low and moderate income, family income (LMI) status. The major guideline requires that 60 percent of jobs created ~~or retained~~ will be held filled by persons with LMI status who qualified as persons of low and moderate income when they were prior to being hired by the Employer, Employer, or who are documented as having LMI status at the time of project application in the case of retained jobs. Such creation of jobs must take place within the grant period. If at any time during the grant period the percentage of jobs held by persons who qualified as low and moderate income LMI when hired drops below 51% of the jobs retained or created, the beneficiary or beneficiaries and the grantee will be directly liable for repayment of the grant. All CDBG expenditures which directly assist participating private businesses must be provided as loan funds, and be returned to the Department, repaid under terms established at the time the program funds are awarded to the local government grantee. Certain other program income, or a portion of other program income, such as connection fees, acreage development fees, or consideration received for the sale of public utilities to private concerns or regulated utilities will be considered as money that will be returned to the CDBG Economic Development Program and used to finance other such Economic Development projects. ~~One example of such a situation would be when CDBG Economic Development money is originally used to finance a gas line owned by a city or county, and the gas line is then acquired by a regulated natural gas distributor. Some negotiated portion of the acquisition cost paid by the private utility would then be returned to the state and used to finance other utilities extensions such as natural gas lines to other employers of low and moderate income people.~~

Authority G.S. 143B-431; 24 C.F.R. 570.489; 24 C.F.R. 570.494; 42 U.S.C.A. 5301.

.0102 DEFINITIONS

(a) "Act" means Title I of the Housing and Community Development Act of 1974, P.L. 93-383, as amended.

(b) "Applicant" means a local government which makes application pursuant to the provisions of this Subchapter.

(c) "CDBG" means the State administered Community Development Block Grant Program.

(d) "Chief Elected Official" of a local government means either the elected mayor of a city or the chairman of a county board of commissioners.

(e) "Community Development Program" means the program of projects and activities to be carried out by the applicant with funds provided annually under this Subchapter and other resources.

(f) "HUD" means the U.S. Department of Housing and Urban Development.

(g) "Local Government" means any unit of general city municipal or county government in the State.

(h) "Low-Income Families" means those with a family income of 50 percent or less of median-family income. For purposes of such terms, the area involved and median income shall be determined in the same manner as provided for under the Act.

(i) "Moderate-Income Families" means those with a family income greater than 50 percent and less than or equal to 80 percent of median-family income.

(j) "Low and Moderate Income Persons" means members of families whose incomes are within the income limits of low and moderate income families as defined in Paragraphs (h) and (i) of this Rule.

(k) "Metropolitan Area" means a standard metropolitan statistical area, as established by the U.S. Office of Management and Budget.

(l) "Metropolitan City" means a city as defined by Section 102(a)(4) of the Act.

(m) "Department" means the North Carolina Department of Economic and Community Development, Commerce (DOC).

(n) "Project" means any ~~Industrial Project or Industrial Processing Facility~~ eligible business as defined in Paragraph (o) of this Rule and which the Economic Development Grant sector of the CDBG Program may consider so long as ~~they are separable, identifiable and directly create or retain jobs, the project business (or businesses) presents separate, identifiable opportunities to create or retain jobs, principally for low and moderate income people. Such jobs must be created within the grant period.~~

(o) "Industrial Project" or "Industrial Processing Facility" shall mean any land, equipment or any buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with any: The following definitions apply regarding eligible business types for projects for which CDBG assistance is requested:

(1) ~~industrial project for industry, which project may be any industrial or manufacturing factory, mill assembly plant or fabricating plant, or freight terminal, or industrial research development or laboratory facility,~~

~~or industrial processing facility or distribution facility for industrial or manufactured products; or~~

(1) All business types identified as eligible for New and Expanding Business tax incentives under the North Carolina William S. Lee Quality Jobs and Business Expansion Act (G.S. 105-3A), as amended; and

(2) ~~any pollution control project for industry or for public utilities which project may be any air pollution control facility, water pollution control facility, or solid waste disposal facility in connection with any factory, mill or plant described in Subparagraph (p)(1) of this Rule or in connection with a public utility plant; or~~

(3) ~~any combination of projects mentioned in Subparagraphs (p)(1) and (p)(2) of this Rule. Any project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, warehouses, distribution centers, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, landing strips and other facilities for aircraft, waterways, docks, wharves and other improvements necessary or convenient for the construction, maintenance and operation of any building or structure, or addition thereto.~~

(2) Other project businesses that provide public benefit and can reasonably be interpreted as being eligible for CDBG assistance under sections 105(a)(14) and 105(a)(17) of the Housing and Community Development Act of 1974, as amended. (Also see Rule .0105 of this subchapter regarding projects not to be considered for funding in NC)

(p) "Utility Project" shall mean any water, sewer, electric or natural gas utility improvement needed to provide services to the economic development project. The applicant shall delineate which projects are to be owned and operated by a unit of government, which projects are to be owned by a unit of government and leased to an operating utility company, and which projects are to be owned and operated by a private utility company. ~~Whenever a utility project is owned by a unit of government and leased to a private utility operator, there will be a determination by the applicant as to the point and time where the utility project shall be acquired by the private operator. At that time, the project shall be acquired by the private operator once it has grown or developed to the point that it has what would be determined as commercial project feasibility". The purpose of this delineation will be to have such utility projects produce Ad Valorem tax income for the local units of government and additional money to be used by the State for new economic development facilities. If the project is for infrastructure which will be leased to and maintained by a privately owned and regulated natural gas distributor, the application will state the terms of the lease between the unit of government and the private entity. Such stated terms must include provisions as follows:~~

(1) ~~natural gas lines constructed will be constructed to the safety requirements maintained by the distributor, and~~

(2) ~~the private entity will remit lease payments annually to the unit of government equal to any moneys which~~

would normally have represented a return to stockholders on lines constructed under normal business conditions, and

- (3) ~~the private entity will annually determine if the leased line has a positive net present value, and when that determination is made, the private entity will within 90 days purchase the leased line at its cost of construction and.~~
- (4) ~~the unit of government will return those private moneys to the Department of Economic and Community Development and then to an economic development rotating fund set up to finance new natural gas lines for industry or industrial process users which will create or retain jobs for North Carolina citizens.~~
- (2) the natural gas distributor will calculate annually, in January of each year, the Net Present Value (NPV) of the project gas facilities according to the N. C. Department of Commerce CDBG Program Policy - Resale of Gas Lines of June, 1994, as amended. If the calculation of the NPV is positive, the unit of local government that was awarded CDBG funds for the project is obligated to sell and the natural gas distributor will, subject to the approval of the North Carolina Utilities Commission (NCUC), purchase the facilities at the depreciated book value (computed using the depreciation formula most recently allowed by the NCUC for that natural gas distributor for similar facilities).
- (3) In the case of such sale, the unit of local government will return to the DOC for deposit in an economic development revolving fund the proceeds of the sale, less such appropriate direct expenses, such as legal or advertising fees, that the unit of government expended in the execution of the sale.

Authority G.S. 105-3A; 143B-431; 24 C.F.R. 570.489.

.0103 ELIGIBLE APPLICANTS

(a) All counties except those designated as urban counties and all cities except those designated as entitlement cities or urban county cities may be applicants under this Economic Development Program.

(b) Eligibility to submit an application shall depend upon an applicant's ~~audit history of administering its prior HUD programs and its current participation in projects which are funded from the current annual grant award from HUD.~~ satisfactory administrative performance with present or prior CDBG program projects. A letter of certification of eligibility from the Division of Community Assistance shall be evidence of eligibility.

Authority G.S. 143B-431; 42 U.S.C.A. 5301.

.0104 FUNDING LIMITATIONS

- (a) Economic Development Grant awards are limited by:
- (1) maximum dollar amounts for each unit of government

determined by the amount of (HUD) money received in any one funding year; and

- (2) maximum dollar amounts for each project, the State- HUD approved program statement of operation for each respective CDBG program year. Those program and project maximums are specifically set out in the Grant Agreement between the state and HUD and in the official program statement issued by the State and approved by HUD.

(b) This Rule will set both program and project maximum dollar limits shall be those set out in the effective and approved grant agreement from HUD and the approved Official Statement from the State of North Carolina. If projects have sufficient measurable impact and community benefits, especially to low and moderate income people, both city and county governments with jurisdiction may apply for separate project grants in amounts up to the permitted maximum economic development Project limitation. An example of this situation would be when a city applies for a grant to build a water tank for a prospective employer and a county applies for a grant to build a natural gas line for the same employer. Each grant may be in amounts up to project limits but it should be noted that such a project must have sufficient beneficial impact to justify the total commitment of funds.

(c) "Sufficient beneficial impact" will be measured by:

- (1) ~~obs created or retained, especially for low and moderate income people;~~
- (2) ~~revenues for units of government; and~~
- (3) ~~solutions to local economic program development needs and problems. The relative dollar demands of pending projects will be compared to community benefits and community hardships or distress when worthy applications exceed fund availability.~~

Authority G.S. 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5301.

.0105 PROJECTS NOT TO BE CONSIDERED FOR FUNDING

(a) ~~Projects that have evidence of prior major financial commitment by the local government applicant or the proposed project business.~~ After an operator or beneficiary becomes economically committed to a project, it shall not be eligible for funding and the unit of government shall not be eligible to request any funding assistance to serve that project with ~~utilities, utilities or CDBG loan assistance.~~ "Economic commitment" is not a quantitative measure, but those types of prohibited situations shall include the following:

- (1) when construction contracts have been signed;
- (2) when equipment purchase orders for site specific installations have been issued;
- (3) when true, simple options for the purchase of an existing facility are bound with deposits that are so large that the option constitutes a sales contract;
- (4) when conditions or contingencies in a contract of sale have all been met; or
- (5) when public announcements include no expression of the need for CDBG participation. As provided in a

later section, a unit of government may request a letter of non-prejudice to solve this problem.

(b) Proposed projects that are specifically prohibited by current State and HUD rules due to lack of public benefit and potential failure to meet required program objectives. Examples of such projects include those that would:

- (1) provide general, non-specific promotion of a community as a whole;
- (2) assist professional sports teams;
- (3) assist privately-owned recreational facilities that would serve a predominantly higher-income clientele, where such recreational benefit clearly outweighs employment or other benefits to LMI persons;
- (4) acquire land for which no specific purpose has yet been identified; or
- (5) assist a for-profit business while that business or any other business owned by the same person, persons or entity is the subject of unresolved findings of non-compliance relating to present or previous CDBG assistance provided by the applicant.

~~In order to provide local units of governments with a time and method of transition, any project which has been reviewed in a pre-application conference and has been the subject of a favorable Letter of Encouragement will be grandfathered as to eligibility until December 31, 1992. If the project will not be completed by that date the grant shall be rewritten to reflect a practical closing date and the Commerce Finance Center so notified by registered mail.~~

Authority G.S. 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5301.

SECTION .0200 - APPLICATION PROCEDURE

.0202 PRE-APPLICATION CONFERENCE

(a) Local units of government are encouraged to advise the Department when they enter into serious consideration of an economic development project which may lead to an application. The Department will assist the community as requested within the limits of available resources. Documentation, Technical advice, liaison and coordination will be effected by the Department through the Commerce Finance Center. Available services include:

- (1) forms and documents relating to the application process with informative comments.
- (2) comment advice on the type of projects consummated by other authorities, that are considered eligible for CDBG program assistance,
- (3) examination of, and comment on, assembled facts and data which might be used in the preparation of application, and
- (4) analysis of approach to likely or potential procedural or environmental problems.

(b) ~~At least one week prior~~ Prior to submission to the Department of a project application, the unit of government shall arrange for a pre-application conference with the Commerce Finance Center. Parties whose presence are required at the pre-application conference shall include a member of the elected

governing board for the unit of government, or an authorized designee and designee, a corporate official, or authorized designee, from the employer or beneficiary, project company. ~~In addition, invitees to the pre-application conference must include the Community Assistance Division, the Division of Environmental Management, the a staff member from the Regional Official from of the Business/Industry Division, the Environmental Specialist in the Business/Industry Division, and the a representative from the Local Government Commission, and a representative from a participating bank -- if the proposed project will involve a loan and a bank has been selected.~~

(c) The purpose of the conference is to ensure that the application procedures are clearly understood so that the application, ~~when accepted,~~ will be complete complete, thereby ~~shortening the application period as much as possible, when submitted and all parties involved will be made aware of the application process and its anticipated time frame.~~

(d) The operator shall offer written project descriptions whenever possible and will be encouraged to provide data relative to the character and volume of process wastes, water and air discharges of pollutants, as well as any comment or permits already received from the Division of Environmental Management.

(e) The applicant will provide documentation of the first federally required program- public hearing if such a public hearing has been held within the provisional 12 most recent six months.

(f) ~~Another purpose of this conference will be to reach an understanding among all parties that the project is of the type that may be considered for approval and funding by the Secretary. The Department will make not no decisions, however tentative, funding decision regarding a prospective project prior to a full consideration of the completed application. However, the Commerce Finance Center may issue a Letter of Encouragement or a Letter of Concerns if so requested by the unit of government. This letter will convey comments pertinent to the project and the preparation of the application and will enumerate any points of concern which are developed as a result of the information made available at the conference. These points of concern will be generated so that the applicant's response may include pertinent facts and data. The issuance of a letter of encouragement will not preclude the Secretary or the Commerce Finance Center from raising new questions or areas of concern after an application is received.~~

Authority G.S. 143B-431; 24 C.F.R. 570.489; 24 C.F.R. 570.496.

.0203 APPLICATIONS

Each Applicant that proceeds with a formal application shall take the following steps:

- (1) It is suggested but not required that the applicant employ or designate an application preparer and service provider for its application. If applicable, federal procurement guidelines will be followed. Documentation of compliance or non-applicability will be provided to the Commerce Finance Center.

- (2) The applicant is encouraged to proceed with three critical areas of the application as follows:
 - (a) the environmental assessment, or the state clearing ~~house~~ review process.
 - (b) the determination of Davis-Bacon applicability and the pertinent wage decision, and
 - (c) the second project specific public hearing.
- ~~(3) Based on the satisfactory completion of the three critical elements in Item (2) of this Rule and the actual submission of the application to the Department, the unit government may request a letter of "Non-Prejudice". In that letter, the Department may state that the unit of government or the potential employer may begin to make commitments and expenditures on the project without causing the Department to prejudice its consideration of project approval and project funding because of such expenditures. This letter is not to be construed as project approval, an indication of approval or any priority in the allocation of funds. The letter will convey the critical understanding that any money so spent is spent at the risk of the unit or the beneficiary employer, and that the Department accepts no real, moral or implied liability for such spending funds, or for losses sustained because funds were so expended.~~
- ~~(4)(3)~~ All applications for CDBG funds, irrespective of the Federal threshold of two hundred thousand dollars (\$200,000), funds will include a disclosure report. Such report, in addition to requesting identifying information and the amount of funds requested, will disclose whether or not, and the extent, to which interested parties have a financial interest in the application. Interested parties include developers, contractors, consultants, individuals, entities including units of government with a financial interest greater than fifty thousand dollars (\$50,000) or 10 percent of the assistance requested, whichever is lower. Additionally, the report will show any sources and uses of funds for the project which are not identified in the application's ~~sources and used~~ source and use of funds statement.
- ~~(5)(4)~~ The unit of government will complete its application on forms developed by the Department and made available by the Commerce Finance Center.
- ~~(6)(5)~~ Any application which has incomplete factual data or lacks sufficient detail ~~will may~~ be returned to the unit applicant with specific reasons for the return being stated in writing. Upon receipt of the requested information ~~a processing number will be assigned and consideration the Department's review of the application will be completed.~~
- (6) In the event that an application is received at a time when current year funding is no longer available (all funds have been allocated), the Department will so advise the applicant of the funding status. My mutual agreement between the applicant and the Department, the application may be retained by the Department for

final review of the application and the proposed project when CDBG program funds are available.

Authority: G.S. 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5301.

.0204 DISCRETIONARY PUBLIC HEARING BY THE DEPARTMENT

- (a) The Secretary may hold a public hearing on the proposed project.
- (b) If a public hearing is held, the applicant shall give at least seven 10 days notice prior to the hearing. The notice shall specify the date, time, place and subject matter of the hearing and be published in a the non-legal section of a newspaper of general circulation in the applicant's county.
- (c) A transcript of the hearing shall be prepared by the Secretary and, along with any exhibits, made a part of the application.

Authority: G.S. 143B-431; 42 U.S.C.A. 5301.

.0205 FORMAL APPLICATION PROCEDURES: APPROVAL

- (a) The Secretary shall prepare a Letter of Approval and Grant Offer setting forth all findings and grant conditions.
- (b) ~~The Secretary shall designate the unit of government, the employer, or the Department to publish notice of approval of the grant in a newspaper having general circulation in the project area. The notice shall specify the jobs created or retained and a contact for employment applications.~~
- (b) The chief elected official who signed the original application will be the addressee of the Letter of Approval and Grant Offer from the Secretary.

Authority: G.S. 143B-431; 42 U.S.C.A. 5301.

.0206 FORMAL APPLICATION PROCEDURES: DENIAL

- (a) The Secretary shall indicate in writing the reasons for denial of an application.
- (b) The Secretary shall indicate in writing that the unit of government ~~is invited to~~ may prepare a presentation, either written or oral which speaks factually to the unresolved issues. The Secretary or designee shall be present at the meeting to hear and discuss the issues with the unit of government. It shall be the responsibility of the unit of government to persuade the Secretary that all the necessary findings should be made.
- (c) Where the unit of government does accomplish its responsibility to persuade the Secretary, further procedures shall be as in Rule .0205 of this Section.
- (d) Where the unit of government does not accomplish its responsibility to persuade the Secretary, the Secretary shall notify the unit of government the decision in writing, again specifying the reasons for denial.

Authority: G.S. 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5301.

SECTION .0300 - FINDINGS REQUIRED FOR APPROVAL

.0301 GENERAL

In order to approve a project it is necessary for the Secretary to find that:

- (1) the project will have a measurable beneficial and desirable impact on the community;
- (2) that the funding for the project is appropriate under state and federal rules and guidelines for the Community Development Block Grant programs.

Authority G.S. 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5301.

.0302 CRITERIA FOR MAKING NECESSARY FINDINGS

The Department shall use certain criteria for making the approval findings, as follows:

- (1) it must be determined that the operator project business is capable of operating the project completing its proposed project activities in a successful manner. Capable means that there is a business history, a financial condition, or other outstanding business qualifications which support the conclusion that the entity operating the project business is capable of operating it in a successful manner;
- (2) that the project is identifiable and separable free-standing, with its own measurable and significantly beneficial impact. Identifiable and separable free-standing means a project which can literally be separated out and specifically identified and determined as the project being discussed, and as such will have its own measurable and significantly beneficial impact; result at the project location;
- (3) that the project will be completed. The provision of legally binding commitments from the grantee and the beneficiary employer or employers will be sufficient evidence that the project is to be completed;
- (4) that there is a substantial benefit to persons of low and moderate income, income, or to neighborhoods when census tracts or surveys document numbers of low and moderate income residents. Substantial benefit to persons of low and moderate income may be evidenced by employer commitments to assure that 60% and no less than 51% of jobs created or saved will be held by persons of prior low and moderate incomes; family income status; benefits to low and moderate income neighborhoods can be evidenced by unanimous actions of the elected board of those units of government having jurisdiction;
- (5) that there is a favorable and strong ratio or relationship between the jobs created and the number of CDBG dollars invested in the project. Favorable and strong will mean that a project will create or retain jobs at a rate equal to a ratio of one or more jobs per five thousand dollars (\$5,000) of CDBG

money, or, at a rate equal to a ratio of one or more jobs per fifteen thousand dollars (\$15,000) of CDBG money when either, the unit of government matches CDBG money at a rate of one local tax dollar for each three CDBG dollars, or, when the project is a manufacturing plant or an industrial processing facility, of CDBG dollars required for the type of project company involved, and the local government has committed to meet the local to CDBG match requirement as required by current program rules and policies for the project type proposed;

- (6) that there is a favorable and strong ratio or relationship between the total dollars invested in the project, the amount of CDBG money invested, and the measured or retained Ad Valorem tax income anticipated taxes or other revenues to either or both the municipality and county having taxing authority and jurisdiction. Favorable and strong means that a project will create or retain revenue such as Ad Valorem tax revenue or direct sales taxes, or other governmental utility operating profits such taxes or revenues that will either:
 - (a) in the case of an infrastructure grant, equal the cost of the infrastructure grant over a period of time of no less than 12 years or contribute significantly to the proposed infrastructure costs within a period of five years; except that in the case of a project located in a "most economically distressed" county, as defined in G.S. 143B-437A(b), this requirement may be waived by the Secretary; or
 - (b) in the case of a loan project, that will equal the maximum loss expected in such projects (a sum equal to 25% of the CDBG funds invested) in a period of time of no less than 12 years;
- (7) that there is a favorable and strong relationship between the number of jobs saved or created and the unemployment situation in the unit or units of government impacted. Favorable and strong means that the labor pool in the county is at least three times as large as the number of jobs created;
- (7) in terms of jobs to be created (or retained), the NC Enterprise Tier or Development Zone designation level of the project site will be considered for each application, along with the latest unemployment figures and impact on the actual number of unemployed persons. To the extent feasible, priority consideration will be given for CDBG assistance for projects in the most distressed areas of the state;
- (8) that the necessary extent of required compliance with federal and state guidelines and legal requirements has been must be documented. The extent of documentation required will be that as considered as reasonable by a prudent person; and the Director of the Commerce Finance Center;
- (9) if the project is similar to the retail or service establishments described in the 1987 North Carolina

~~General Assembly Resolution in Sec. 6, House Bill 2055, the Secretary shall state the basis for the approval in the face of those concerns expressed: involves retail, service or other local market business, the Secretary shall consider application shall include surveys or other market studies as evidence that similar businesses in the 15-25 mile labor work force area support the project and that the project will not jeopardize the jobs in their businesses; and~~
(10) that the application presents evidence for a finding that the local government applicant, or the project business in the case of a loan project, has a reasonable and appropriate gap or need for the CDBG assistance requested.

Authority G.S. 105-3A; 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5301.

SECTION .0400 - GRANT ADMINISTRATION

.0401 GRANT AGREEMENT AND FUNDING APPROVAL

When the Secretary approves the project, ~~an~~ offer of the grant agreement and funding approval and all modifications will accompany and be attached to the communication of project approval. When the grant agreement is received by the unit of government, it will be signed and returned to the Department ~~for the Secretary's signature. When signed by all parties, it and~~ will be deemed to be effective.

Authority G.S. 143B-431; 24 C.F.R. 570.489.

.0402 METHOD OF PAYMENT

Recipients will receive payments based on requisitions submitted for immediate disbursing needs as and approved by the Department. ~~Except for the closing requisition, all such requests shall be for at least five thousand dollars (\$5,000). No funds will be kept on deposit for more than three banking days by the local government grantee. If for any reason the grant costs for which funds were requisitioned cannot be paid as intended within three days, the local government finance officer shall return the unused funds or contact the Commerce Finance Center for special instructions.~~

Authority G.S. 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5304(g).

.0404 MONITORING AND GRANT CLOSE OUT

The Commerce Finance Center shall provide copies of the forms and documents needed to fulfill grant requirements in an annual performance report and in a final grant close out audit. Location visits and conferences with benefiting employers shall be conducted by the Commerce Finance Center, ~~and the regional offices of the business and industry division. Whenever possible the visits shall be made with the support and presence of the local economic development representative and both visits shall be combined into one session whenever~~

possible. A minimum of one on-site visit for monitoring purposes by Commerce Finance Center staff is required before the active grant agreement between the State and the local government grantee can be closed.

Authority G.S. 143B-431; 24 C.F.R. 570.489.

TITLE 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the DHHS - Division of Medical Assistance intends to amend rule cited as 10 NCAC 26H. 0304.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 1:30 p.m. on November 5, 1998 at the 1985 Umstead Dr., Room 132, Kirby Building, Raleigh, NC.

Reason for Proposed Action: The Division of Facility Services has cited many ICF-MR facilities as needing fire sprinkler systems. In addition, providers recognize the need for installation of said systems.

Comment Procedures: Written comments concerning this rule-making action must be submitted by November 16, 1998 to Portia W. Rochelle, Rule-making Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.

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

SUBCHAPTER 26H - REIMBURSEMENT PLANS

SECTION .0300 - ICF-MR PROSPECTIVE RATE PLAN

.0304 RATE SETTING METHOD FOR NON-STATE FACILITIES

(a) A prospective rate shall be determined annually for each non-state facility to be effective for dates of service for a 12 month rate period beginning each July 1. The prospective rate shall be paid to the provider for every Medicaid eligible day during the applicable rate year. The prospective rate may be determined after the effective date and paid retroactively to that date. The prospective rate may be changed due to a rate appeal under Rule .0308 of this ~~State Plan~~ Section or facility reclassification under Paragraph (b) of this Rule. Each non-state facility, except those facilities where Paragraph (v) of this Rule applies, shall be classified into one of the following groups:

- (1) Group 1- Facilities with 32 beds or less.
- (2) Group 2- Facilities with more than 32 beds.

- (3) Group 3- Facilities with medically fragile clients. For rate reimbursement purposes under this Rule medically fragile clients are defined as any individual with complex medical problems who have chronic debilitating diseases or conditions of one or more physiological or organ systems which generally make them dependent upon 24-hour a day medical/nursing/health supervision or intervention.
- (4) Facilities in group 1 or 2 in Subparagraph (a)(1) or (2) of this Rule shall be further classified in accordance to the level of disability of the facility's clients, as

measured by the Developmental Disabilities Profile (DDP) assessment instrument which along with the scoring instrument are hereby incorporated by reference, including subsequent amendments and editions. This material is available for inspection and copies may be obtained from the Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina 27603 at a cost of twenty cents (\$.20) per page. A summary of the levels of disability is shown in the following chart:

FACILITY DDP SCORE

Level	Low	High
1	200.00	300.00
2	125.00	199.99
3	100.00	124.99
4	75.00	99.99
5	50.00	74.99

(b) Facilities shall be reclassified into appropriate groups as defined in Paragraph (a) of this Rule.

- (1) When a facility is reclassified, the rate shall be adjusted retroactively back to the date of the event that caused the reclassification. This adjustment shall give full consideration to any reclassification based on the change in facts or circumstances during the year. Overpayments related to this retroactive rate adjustment shall be repaid to the Medicaid program. Underpayments related to this retroactive rate adjustment shall be paid to the provider.
- (2) The provider shall be given the opportunity to appeal the merits of the reclassification of any facility, prior to any decision by the Division of Medical Assistance.
- (3) The provider shall be notified in writing 30 days before the implementation of new rates resulting from the reclassification of any facility.
- (4) The providers and the Division of Medical Assistance shall make every reasonable effort to ensure that each facility is properly classified for rate setting purposes.
- (5) A provider shall file any request for facility reclassification in writing with the Division of Medical Assistance no later than 60 days subsequent to the proposed reclassification effective date.
- (6) For facilities certified prior to July 1, 1993, the facility DDP score calculated for fiscal year 1993 shall be used to establish proper classification at July 1, 1995.
- (7) For facilities certified after June 30, 1993, the most recent facility DDP score shall be used to establish proper classification.
- (8) A facility reclassification review shall use the most current facility DDP score.
- (9) A facility's DDP score shall be subject to independent

validation by the Division of Medical Assistance.

- (10) A new facility that has not had a DDP survey conducted on its clients shall be categorized as a level 2 facility for rate setting purposes, pending completion of the DDP survey. Upon completion of the DDP survey, the facility shall be subject to reclassification and rates shall be adjusted retroactively back to the date of certification. Overpayments related to this retroactive adjustment shall be paid to the Medicaid program. Underpayments related to this retroactive rate adjustment shall be paid to the provider.

(c) Facility rates under this Rule shall be established at July 1, 1995, under the following:

- (1) For facilities certified prior to July 1, 1993, rates shall be derived from the 1993 cost reports.
- (2) For facilities certified during fiscal year 1993-1994, the fiscal year 1994 facility specific cost report shall be used to derive rates.
- (3) For facilities certified during fiscal year 1994-1995, the fiscal year 1995 facility specific cost report shall be used to derive rates.
- (A) Rates for these facilities shall not be adjusted, except for the impact of inflation under Paragraph (k) of this Rule, until the fiscal year 1995 cost report has been properly reviewed. Rates for these facilities shall be adjusted retroactively back to July 1, 1995, once the fiscal year 1995 facility specific cost report has been properly reviewed. Overpayments related to this retroactive rate adjustment shall be repaid to the Medicaid program. Underpayments related to this retroactive rate adjustment shall be paid to the provider.
- (4) Facilities with rates established during a rate appeal

proceeding with the Division of Medical Assistance during fiscal years 1994 or 1995 shall not have their rates established in accordance with Subparagraph (c)(1), (c)(2), or (c)(3) of this Rule.

(A) The rates for these facilities shall remain at the level approved in the rate appeal proceeding adjusted only for inflation, as reflected in Paragraph (k) of this Rule.

(d) For facilities certified after June 30, 1993, rates developed from filed cost reports for fiscal years subsequent to 1993 may be retroactively adjusted if there is found to exist more than a two percent difference between the filed per diem cost and either the desk audited or field audited per diem cost for the same reporting period. Rates developed from desk audited cost reports may be retroactively adjusted if there is found to exist more than a two percent difference between the desk audited per diem cost and the field audited per diem cost for the same reporting period. The rate adjustment may be made after written notification to the provider 30 days prior to implementation of the rate adjustment.

(e) Each prospective rate developed in accordance with Subparagraph (c)(1), (c)(2), or (c)(3) of this Rule consists of the sum of two components as follows:

- (1) Indirect care rate.
- (2) Direct care rate.

(f) A uniform industry wide indirect care rate shall be established for each facility category shown under Subparagraph (a)(1), (a)(2), or (a)(3) of this Rule.

(1) The indirect rate for group 1 facilities is based on the fiftieth percentile of the following costs incurred by all group 1 facilities with six beds or less, except those related by common ownership or control to more than 40 said facilities:

(A) The sum of the cost of property ownership and use, administrative and general, and operation and maintenance of plant, as determined by the Myers and Stauffer study performed on the 1993 base year cost reports.

(2) The indirect rate for group 2 facilities is based on the fiftieth percentile of the costs noted in Part (f)(1)(A) of this Rule incurred by the group 2 facilities, as determined by the Myers and Stauffer study performed on the 1993 base year cost reports.

(3) The indirect rate for group 3 facilities is based on the fiftieth percentile of the costs noted in Part (f)(1)(A) of this Rule incurred by the group 3 facilities, as determined by the Myers and Stauffer study performed on the 1993 base year cost reports.

(4) The indirect rates established under Subparagraphs (f)(1), (f)(2), and (f)(3) of this Rule shall be reduced as determined based on industry cost analysis by an amount not to exceed four percent to account for expected operating efficiencies.

(g) The direct care rate for facilities certified prior to July 1, 1993, shall be based on the Myers and Stauffer study performed on the 1993 base year cost reports.

(1) The direct care rate for all facilities certified during

fiscal years subsequent to fiscal year 1993 is based on the first facility specific cost report filed after certification. Based on said cost report, the direct care rate is equal to the sum of all allowable costs reflected in the ICF-MR cost report cost centers, as included in the ICF-MR cost report format effective July 1, 1993, except for the following indirect cost centers:

- (A) Property Ownership and Use.
- (B) Operation and Maintenance of Plant and Housekeeping-Non-Labor,
- (C) Administrative and General.

(2) The direct care rate shall be limited to the lesser of the actual amount incurred in the base year or the cost limit derived from the fiftieth percentile of direct care costs incurred by the related facility group in the fiscal year 1993 base year, based on the Myers and Stauffer study.

(3) The fiftieth percentile cost limit shall be reduced by one percent each year, for the four year period beginning July 1, 1996, in order to account for expected operating efficiencies, as determined based on industry cost analysis.

(4) The fiftieth percentile cost limit shall be increased each year by price level changes calculated in accordance with Paragraph (k) of this Rule.

(h) The indirect rate shall not be subject to cost settlement.

(1) Costs above the indirect rate shall not be paid to the provider.

(2) Costs savings below the indirect rate shall not be recouped from the provider.

(i) The direct care rate shall be subject to cost settlement, based on the cost report, subject to audit, filed with the Division of Medical Assistance.

(1) Costs above the direct rate shall not be paid to the provider.

(2) Cost savings below the direct rate shall be recouped from the provider.

(j) Facilities with rates established during a rate appeal proceeding with the Division of Medical Assistance during fiscal years 1994 or 1995 may choose to cost settle under the provisions of Paragraphs (h) and (i) of this Rule, or under the following procedure:

(1) If, during a cost reporting period, total allowable costs are less than total prospective payments, then a provider may retain one-half of said difference, up to an amount of five dollars (\$5.00) per patient day. The balance of unexpended payments shall be refunded to the Division of Medical Assistance. Costs in excess of a facility's total prospective payment rate are not reimbursable.

(2) The facilities subject to the Paragraph shall make the election on cost settlement methodology on or before the filing of the annual cost report with the Division of Medical Assistance.

(3) An election to follow the cost settlement procedures of Paragraphs (h) and (i) of this Rule shall be irrevocable.

- (4) Rates established for these facilities during future rate appeal proceedings shall be subject to the cost settlement procedures of Paragraphs (h) and (i) of this Rule.

(k) To compute each facility's current prospective rate, the direct and indirect rates established by Paragraphs (f) and (g) of this Rule shall be adjusted for price level changes since the base year. No inflation factor for any provider shall exceed the maximum amount permitted for that provider by federal or state law and regulations.

- (1) Price level adjustment factors are computed using aggregate costs in the following manners:

- (A) Costs shall be separated into three groups:
- (i) Labor.
 - (ii) Non-labor.
 - (iii) Fixed.
- (B) The relative weight of each cost group is calculated to the second decimal point by dividing the total costs of each group (labor, nonlabor, and fixed) by the total cost of the three categories.
- (C) Price level adjustment factors for each cost group shall be established as follows:
- (i) Labor. The percentage change for labor costs is based on the projected average hourly wage of North Carolina service workers. Salaries for all personnel shall be limited to levels of comparable positions in state owned facilities or levels specified by the Division of Medical Assistance.
 - (ii) Nonlabor. The percentage change for nonlabor costs is based on the projected annual change in the implicit price deflator for the Gross National Product as provided by the North Carolina Office of State Budget and Management.
 - (iii) Fixed. No price level adjustment shall be made for this category.
- (D) The weights computed in Part (k)(1)(B) of this Rule shall be multiplied by the rates computed in Part (k)(1)(C) of this Rule. These weighted rates shall be added to obtain the composite inflation rate to be applied to both the direct and indirect rates.

(l) Effective July 1, 1995, any rate reductions resulting from this ~~State Plan Rule~~ shall be implemented based on the following deferral methodology:

- (1) Rates shall be reduced for the excess of current rates over base year costs plus inflation.
- (2) Rates shall be reduced a maximum of 50 percent of the fiscal 1996 inflation rate for the excess of actual costs over applicable cost limits. This reduction shall result in the facility receiving at a minimum 50 percent of the 1996 inflation rate. Any excess reduction shall be carried forward to future years.

- (3) Total reduction in future years related to the excess reduction carried forward from Subparagraph (l)(2) of this Rule, shall not exceed the annual rate of inflation. This reduction shall result in the facility receiving at a minimum the rate established in Paragraph (l)(2) of this Rule. Any excess reduction shall be carried forward to future years, until the established rate equals that generated by Paragraphs (f), (g), and (k) of this Rule.

- (4) Rates calculated based on Subparagraphs (l)(2) and (3) of this Rule shall be cost settled based on the provisions of Subparagraph (j)(1) of this Rule until the fiscal year that the facility receives full price level increase under Paragraph (k) of this Rule.

- (A) A provider may make an irrevocable election to cost settle under the provisions of Paragraphs (h) and (i) of this Rule during the deferral period.
- (B) Once the rates calculated based on Subparagraphs (l)(2) and (3) of this Rule reach the fiscal year that the facility receives the full price level increase under Paragraph (k) of this Rule, then said fiscal year's rates shall be cost settled based on Paragraphs (h) and (i) of this Rule.
- (C) Chain providers are allowed to file combined cost reports, for cost settlement purposes, for facilities that use the same cost settlement methodology and have the same uniform rate.
- (D) A provider may request from the Division of Medical Assistance permission to continue cost settlement under Subparagraph (j)(1) of this Rule after the deferral period expires. Said request shall be made each year, 30 days prior to the cost report due date.

(m) The initial rate for facilities that have been awarded a Certificate of Need is established at the lower of the fair and reasonable costs in the provider's budget, as determined by the Division of Medical Assistance, or the projected costs in the provider's Certificate of Need application, adjusted from the projected opening date in the Certificate of Need application to the current rate period in which the facility is certified based on the price level change methodology set forth in Paragraph (k) of this Rule, or the rate currently paid to the owning provider, if the provider currently has an approved chain rate for facilities in the related facility category. The rate may be rebased to the actual cost incurred in the first full year of normal operations in the year an audit of the first year of normal operation is completed.

- (1) In the event of a change in ownership, the new owner receives no more than the rate of payment assigned to the previous owner.
- (2) Except in cases wherein the provider has failed to file supporting information as requested by the Division of Medical Assistance, initial rates shall be granted to new enrolled facilities no later than 60 days from the provider's filing of properly prepared budgets and supporting information.

- (3) The initial rate for a new facility shall be applicable to all dates of service commencing with the date the facility is certified by the Medicaid Program.
- (4) The initial rate for a new facility shall not be entered into the Medicaid payment system until the facility is properly enrolled in the Medicaid program and a Medicaid identification number has been assigned to the facility by the Division of Medical Assistance.
- (n) A provider with more than one facility may be allowed to recover costs through a combined uniform rate for all facilities.
 - (1) Combined uniform rates for chain providers shall be approved upon written request from the provider and after review by the Division of Medical Assistance.
 - (2) In determining a combined uniform rate for a particular facility group, the weighted average of each facility's rate, calculated in accordance to all other provisions of this Rule, shall be used.
 - (3) A chain provider with facility(s) that fall under Paragraphs (h) and (i) of this Rule and with facility(s) that fall under Subparagraph (l)(4) of this Rule may elect to include the facilities in a combined cost report and elect to cost settle under either Paragraphs (h) and (i) or Subparagraph (l)(4) of this Rule. The cost settlement election shall be made each year, 30 days prior to the cost report due date.
- (o) Each out-of-state provider shall be reimbursed at the lower of the applicable North Carolina rate, as established by this ~~plan~~ Rule for in-state facilities, or the provider's per diem rate as established by the state in which the provider is located. An out-of-state provider is defined as a provider that is enrolled in the Medicaid program of another state and provides ICF-MR services to a North Carolina Medicaid client in a facility located in the state of enrollment. Rates for out-of-state providers are not subject to cost settlement.
- (p) Under no circumstances shall the Medicaid per diem rate exceed the private pay rate of a facility.
- (q) Should the Division of Medical Assistance be unable to establish a rate for a facility, based on this Rule and the applicable facts known, the Division of Medical Assistance may approve an interim rate.
 - (1) The interim rate shall not exceed the rate cap established under this Rule for the applicable facility group.
 - (2) The interim rate shall be replaced by a permanent rate, effective retroactive to the commencement of the interim rate, by the Division of Medical Assistance, upon the determination of said rate based on this Rule and the applicable facts.
 - (3) The provider shall repay to the Division of Medical Assistance any overpayment resulting from the interim rate exceeding the subsequent permanent rate.
- (r) In addition to the prospective per diem rate developed under this Rule, effective July 1, 1992, an interim payment add on shall be applied to the total rate to cover the estimated cost required under Title 29, Part 1910, Subpart 2, Rule 1910.1030 of the Code of Federal Regulations. The interim rate shall be subject to final settlement reconciliation with reasonable cost to

meet the requirements of Rule 1910.1030. The final settlement reconciliation shall be effectuated during the annual cost report settlement process. An interim rate add on to the prospective rate shall be allowed, subject to final settlement reconciliation, in subsequent rate periods until cost history is available to include the cost of meeting the requirements of Rule 1910.1030 in the prospective rate. This interim add on shall be removed, upon 10 days written notice to providers, should it be determined by appropriate authorities that the requirements under Title 29, Part 1910, Subpart 2, Rule 1910.1030 of the Code of Federal Regulations do not apply to ICF-MR facilities.

(s) All rates, except those noted otherwise in this Rule, approved under this Rule are considered to be permanent.

(t) In the event that the rate for a facility cannot be developed so that it shall be effective on the first day of the rate period, due to the provider not submitting the required reports by the due date, the average rate for facilities in the same facility group, or the facility's current rate, whichever is lower, shall be in effect until such time as the Division of Medical Assistance can develop a new rate.

(u) When the Division of Medical Assistance develops a new rate for a facility for which a rate was paid in accordance with Paragraph (t) of this Rule, the rate developed shall be effective on the first day of the second month following the receipt by the Division of Medical Assistance of the required reports. The Division of Medical Assistance may, upon its own motion or upon application and just cause shown by the provider, within 60 days subsequent to submission of the delinquent report, make the rate retroactive to the beginning of the rate period in question. Any overpayment to the provider resulting from this temporary rate being greater than the final approved prospective rate for the facility shall be repaid to the Medicaid Program.

(v) ICF-MR facilities meeting the requirements of the North Carolina Division of Facility Services as a facility affiliated with one or more of the four medical schools in the state and providing services on a statewide basis to children with various developmental disabilities who are in need of long-term high acuity nursing care, dependent upon high technology machines (i.e. ventilators and other supportive breathing apparatus) monitors, and feeding techniques shall have a prospective payment rate that approximates cost of care. The payment rate may be reviewed periodically, no more than quarterly, to assure proper payment. A cost settlement at the completion of the fiscal period year end is required. Payments in excess of cost are to be returned to the Division of Medical Assistance.

(w) A special payment in addition to the prospective rate shall be made in the year that any provider changes from the cash basis to the accrual basis of accounting for vacation leave costs. The amount of this payment shall be determined in accordance with Title XVIII allowable cost principles and shall equal the Medicaid share of the vacation accrual that is charged in the year of the change including the cost of vacation leave earned for that year and all previous years less vacation leave used or expended over the same time period and vacation leave accrued prior to the date of certification. The payment shall be made as a lump sum payment that represents the total amount due for the entire fiscal year. An interim payment may be made based on an estimate of

the cost of the vacation accrual. The payment shall be adjusted to actual cost after audit.

(x) The annual prospective rate, effective beginning each July 1, for facilities that commenced operations under the Medicaid Program subsequent to the base year used to establish rates, and therefore did not file a cost report for the base year, shall be based on the facility's initial rate, established in accordance with Paragraph (m) of this Rule, and the applicable price level changes, in accordance with Paragraph (l) of this Rule.

(y) Effective for fiscal years beginning on or after fiscal year 1998, installation cost of Fire Sprinkler Systems in an ICF-MR Facility shall be reimbursed in the following manner.

- (1) Upon receipt of the documentation listed in Parts (A) through (E) of this Subparagraph, the Division of Medical Assistance shall reimburse directly to the provider 90 percent of the verified cost.
 - (A) All related invoices.
 - (B) Verification from the Division of Facility Services that the Sprinkler System is needed.
 - (C) Statement from appropriate authorities that the Sprinkler System has been installed.
 - (D) Three bids to install the system.
 - (E) Prior approval from the Division of Medical Assistance for any installation projected to cost more than twenty-five thousand dollars (\$25,000).
- (2) The unreimbursed installation cost shall be reimbursed after audit through the annual Cost Settlement Process. This portion shall be offset by profits, after taking into consideration any indirect profits and direct losses. Any overpayments determined after audit shall be returned to the program by the provider through the annual cost settlement process.
- (3) The installation of the Sprinkler System is subject to Prudent Buyer Standards contained in the HCFA-15.
- (4) The Sprinkler System's installation costs shall be properly recorded on the provider's ICF-MR Cost Report.

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

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Insurance intends to adopt rules cited as 11 NCAC 12 .0840 - .0842. Notice of Rule-making Proceedings was published in the Register on August 3, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 10:00 a.m. on November 5, 1998 at the Dobbs Building, 3rd Floor Hearing Room, Raleigh, NC 27611.

Reason for Proposed Action: *The Balanced Budget Act of 1997 became effective on July 1, 1998, and requires state agencies to adopt NAIC Medicare Supplement Insurance Minimum Standards model regulations.*

Comment Procedures: *Written comments may be sent to Theresa Shackelford, NC Department of Insurance, PO Box 26387, Raleigh, NC 27611, or call (919) 733-5060.*

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

CHAPTER 12 - LIFE AND HEALTH DIVISION

SECTION .0800 - MEDICARE SUPPLEMENT INSURANCE

.0840 HIGH DEDUCTIBLE PLANS

(a) In addition to the benefit plans specified in 11 NCAC 12 .0836, the following high deductible benefit plans are authorized for use in this State. The provisions of 11 NCAC 12 .0836(a) through (d) apply to the plans in this Rule.

- (1) Standardized Medicare supplement benefit high deductible Plan F shall include only the following: 100% of covered expenses following the payment of the annual high deductible Plan F deductible. The covered expenses include the core benefit as defined in 11 NCAC 12 .0835(2), plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in 11 NCAC 12 .0835(3)(a), (b), (c), (e), and (h) respectively. The annual high deductible Plan F deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan F policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan F deductible shall be one thousand five hundred dollars (\$1500) for 1998 and 1999, and shall be based on the calendar year.
- (2) Standardized Medicare supplement benefit high deductible Plan J shall consist of only the following: 100% of covered expenses following the payment of the annual high deductible Plan J deductible. The covered expenses include the core benefit as defined in 11 NCAC 12 .0835(2), plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100% of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in 11 NCAC 12 .0835(3)(a), (b), (c), (e), (g), (h), (i), and (j).

respectively. The annual high deductible Plan J deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan J policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be one thousand five hundred dollars (\$1500) for 1998 and 1999, and shall be based on a calendar year.

(b) After 1999, the annual deductibles for the plans described in Subparagraphs (a)(1) and (a)(2) of this Rule shall be those established annually by the Secretary of the United States Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars (\$10.00).

Authority: G.S. 58-2-40; 58-54-10; 58-54-15; 58-54-25.

.0841 CREDITABLE COVERAGE

(a) As used in this Rule:

- (1) "Continuous period of creditable coverage" means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than 63 days.
- (2) "Creditable coverage" has the same meaning as in G.S. 58-68-30(c)(1).

(b) If an applicant qualifies under 11 NCAC 12 .0837(a) and submits an application during the time period referenced in 11 NCAC 12 .0837(a) and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition.

(c) If the applicant qualifies under 11 NCAC 12 .0837(a) and submits an application during the time period referenced in 11 NCAC 12 .0837(a) and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The manner of the reduction under this Paragraph shall be as prescribed by the Secretary of the United States Department of Health and Human Services.

(d) 11 NCAC 12 .0837(b) does not apply to this Rule.

Authority: G.S. 58-2-40; 58-54-10; 58-54-15; 58-54-25.

.0842 GUARANTEED ISSUE FOR ELIGIBLE PERSONS

(a) As used in this Rule:

- (1) "Bankruptcy" means when a Medicare-Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state.
- (2) "Employee welfare benefit plan" means a plan, fund or program of employee benefits as defined in 29 U.S.C. §1002 (Employee Retirement Income Security

Act).

- (3) "Insolvency" means when an issuer, licensed to transact the business of insurance in this State, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile.
- (4) "Medicare-Choice plan" means a plan of coverage for health benefits under Medicare Part C as defined in Section 1859, Title IV, Subtitle A, Chapter 1 of P.L. 105-33, and includes:

(A) Coordinated care plans which provide health care services, including but not limited to health maintenance organization plans (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans;

(B) Medicare medical savings account plans coupled with a contribution into a Medicare-Choice medical savings account; and

(C) Medicare-Choice private fee-for-service plans.

(b) Eligible persons are those individuals described in Paragraph (c) of this Rule who apply to enroll under the policy not later than 63 days after the date of the termination of enrollment described in Paragraph (c) of this Rule, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Paragraph (d) of this Rule that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

(c) An eligible person is an individual described in any of the following Subparagraphs:

- (1) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual;
- (2) The individual is enrolled with a Medicare-Choice organization under a Medicare-Choice plan under part C of Medicare, and there are circumstances permitting discontinuance of the individual's election of the plan under the first sentence of Section 1851(e)(4) of the federal Social Security Act, which consists of the following:

"Effective as of January 1, 2002, an individual may discontinue an election of a Medicare-Choice plan offered by a Medicare-Choice organization other than during an annual coordinated election period (under Medicare) and make a new election under this section if:

(A) The organization's or plan's certification (under

this part) has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

(B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary of the United States Department of Health and Human Services, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area;

(C) The individual demonstrates, in accordance with guidelines established by the Secretary of the United States Department of Health and Human Services, that:

(i) The organization offering the plan substantially violated a material provision of the organization's contract under this Part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

(ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

(D) The individual meets such other exceptional conditions as the Secretary of the United States Department of Health and Human Services may provide."

(3) The individual is enrolled with:

(A) An eligible organization under a contract under Section 1876 (Medicare risk or cost); or

(B) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; or

(C) An organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan); or

(D) An organization under a Medicare Select policy; and

(E) The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under the first sentence of Section

1851(e)(4) of the federal Social Security Act as delineated in Subparagraph (2) of this Paragraph.

(4) The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:

(A) Of the insolvency of the issuer or bankruptcy of the nonissuer organization or of other involuntary termination of coverage or enrollment under the policy;

(B) The issuer of the policy substantially violated a material provision of the policy; or

(C) The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

(5) The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under part C of Medicare, any eligible organization under a contract under Section 1876 (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan), or a Medicare Select policy; and the subsequent enrollment is terminated by the enrollee during any period within the first 12 months after the subsequent enrollment (during which the enrollee is permitted to terminate the subsequent enrollment under Section 1851(e) of the federal Social Security Act); or

(6) The individual, upon first becoming eligible for benefits under part A of Medicare at age 65, enrolls in a Medicare+Choice plan under part C of Medicare, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

(d) The Medicare supplement policy to which eligible persons are entitled under:

(1) Subparagraphs (c)(1), (2), (3) and (4) of this Rule is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer.

(2) Subparagraph (c)(5) is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in Subparagraph (1) of this Paragraph.

(3) Subparagraph (c)(6) shall include any Medicare supplement policy offered by any issuer.

(e) At the time of an event described in Paragraph (c) of this Rule because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under Paragraph (b) of this

Rule. Such notice shall be communicated contemporaneously with the notification of termination. At the time of an event described in Paragraph (c) of this Rule because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under Paragraph (b) of this Rule. Such notice shall be communicated within 10 working days of the issuer receiving notification of disenrollment.

Authority G.S. 58-2-40; 58-54-10; 58-54-15; 58-54-25.

TITLE 13 - DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to amend rules cited as 13 NCAC 12 .0303 - .0307, .0602, .0604, .0701 - .0702; adopt rules cited as 13 NCAC 12 .0308 - .0310, .0803 - .0807; and repeal rules cited as 13 NCAC 12 .0101, .0104, .0502, .0603, .0605. Notice of Rule-making Proceedings was published in the Register on August 3, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 10:00 a.m. on November 3, 1998 at the Administrative Office of the Courts Classroom, 322 Chapin Road, Raleigh, NC 27603.

Reason for Proposed Action: To update the Wage and Hour rules to accord with statutory amendments and to reflect current policy and interpretations.

Comment Procedures: Written comments will be accepted through 5:00 p.m. on November 16, 1998. Written comments must be delivered or mailed to Ann B. Wall, NC Department of Labor, 4 West Edenton Street, Raleigh, NC 27601.

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

CHAPTER 12 - WAGE AND HOUR

SECTION .0100 - GENERAL PROVISIONS

.0101 WAGE AND HOUR DIVISION

The main office of the Wage and Hour Division, which administers the provisions of Article 2A of G.S. Chapter 95, is maintained in the Raleigh office of the Department of Labor at 4 West Edenton Street, Raleigh, North Carolina 27601. The Division maintains branch offices at 20 South Spruce Street,

Asheville, North Carolina; 115 Broadfoot Avenue, Fayetteville, North Carolina; and 500 West Trade Street, Charlotte, North Carolina. The mailing address is:

Wage and Hour Division
North Carolina Department of Labor
4 West Edenton Street
Raleigh, North Carolina 27601
919/733-2152.

Authority G.S. 95-25.17.

.0104 FORMS

(a) An Investigation Report will be used to cite employers for violations of the Wage and Hour Act. A report will include such information as employer identification, date of writing, a listing of violations by reference to the general statutes, a description of each violation, the investigating compliance officer's signature and, if possible, the signature of the employer.

(b) Wage Transcription and Computation Sheets will be used to compute back wages due under the Wage and Hour Act. A separate sheet may be used for each employee. Each sheet will include such information as employer and employee identification, date of writing, dates and hours of employment for which back wages are being computed, rates of pay for the period of employment, wages actually paid, the amount due the employee, and the investigating compliance officer's identification.

(c) A Summary of Unpaid Wages will be used to summarize for employers the unpaid back wages and the amounts owed all employees. A summary will include such information as employer identification, date of writing, identification of the investigating compliance officer and the total amount of unpaid wages due by the employer. A summary will list each employee by name, the time period for which wage claims for each employee are being computed and the gross amount due each employee. If the employer agrees to pay the back wages or some portion of them, the expected date of payment will be included on the summary.

(d) A Back Wage Receipt may be used to verify payments of wages to employees by employers. A receipt will include such information as employer and employee identification, the employment period for which the back wages are being paid, the amount of wages received by the employee (detailing any deductions or withholdings), and a release or waiver by the employee of the right to bring a civil action pursuant to the Wage and Hour Act to recover back wages. A receipt will also include the signatures of the employee and the employer and the date of signing.

(e) A Youth Employment Certificate will be used for application and issuance of employment certificates for workers under 18 years of age. A certificate will include such information as youth identification, including age, and employer identification, including a job description of the work to be performed by the youth and the hours to be worked. A certificate will also include the signatures of a parent or guardian, the employer, and the youth. An approved certificate will include the signature of the Director of Social Services.

(f) An Application for a Handicapped Worker's Permit will be used for requesting subminimum wage rates for handicapped workers. An application will include employer and employee identification. An application will also include such information as a job classification and a description of the duties required in the classification, the wage rate (as a percentage of the minimum wage) which the employer proposes to pay the worker, the wage rates of nonhandicapped workers in the same job classification, and the total number of handicapped and other workers employed. An application will also contain a description of the nature of the worker's disability and the degree of handicap in relation to the duties required by the job classification. An application will include the signatures of the employer and the handicapped worker and the date of signing.

(g) When a medical examination is required pursuant to Rule .0202 of this Chapter, the examining physician may complete a Doctor's Certificate of Worker's Handicap to indicate any physical or mental disabilities the handicapped worker has. This certificate will include such information as employee and employer identification, job classification and description, and certification by the physician that the physical or mental defect constitutes a disability for the particular job which the worker will be performing. The certificate will also include the dated signature of the examining physician.

(h) A Handicapped Worker Certificate will be used to authorize subminimum wage rates for disabled or handicapped workers. A certificate will include employer and employee identification and the job classification. A certificate will also include the subminimum wage rate which may be paid to the handicapped worker and the effective date of the certificate. A certificate will be dated and signed by the Director of the Wage and Hour Division.

(i) An Employment Information Form will be used to reduce wage and hour complaints received by the Wage and Hour Division to written form. A complaint form will include such information as employer and employee identification, filing date of complaint, period of employment, job classification and description, method of payment of wages, and work schedule. The alleged wage and hour violation will be identified on the complaint. Any complaints reduced to writing by the Wage and Hour Division will also include the identification of the intake person.

(j) Federal wage and hour forms used to certify sheltered workshops for the handicapped pursuant to the F.L.S.A. may be used by the Wage and Hour Division for certification under the Wage and Hour Act.

Authority: G.S. 95-25.3; 95-25.5; 95-25.17; 95-25.19; 95-25.22.

SECTION .0300 - WAGES

.0303 TIPS AND TIP CREDITS

(a) For the purpose of counting tips as wages pursuant to G.S. 95-25.3(f), acceptance of wages from the employer does not constitute certification by the employee of tips received. Tips are not wages. Tips may be counted toward wages only to the extent set forth in Paragraphs (e), (f) and (g) of this Rule.

(b) An employer must maintain accurate and complete records of each employee's tips, whether received individually or as part of a tip pooling arrangement. Individual contributions and resulting shares of any tip pooling must be recorded. In addition, an employer's records must show the amount claimed as a tip credit for each employee for each workweek. If the amount claimed as a credit cannot be calculated from the records for any workweek, the employer may not count the tips as wages. A tip shall not include a service charge which the employer requires the customer to pay, no matter what the charge is labeled.

(c) If an employer maintains the required records of each employee's tips, obtaining the signature or initials of the employees monthly or for each pay period constitutes certification by the employees and these tips will be counted as wages pursuant to G.S. 95-25.3(f). Tips belong to the employee for whom they were left by the customer. Employees and employers may not agree that the employee will surrender tips to the employer. However, if there is a tip pooling arrangement under 95-25.3(f), the employee may be required to surrender tips received for distribution in accord with the tip pooling arrangement.

(d) If a customer pays by credit, charge or debit card and includes a tip for an employee:

- (1) the tips so charged accrue to the employee at the time of the charge. The employer shall pay the employee the charged tip no later than the payday for the pay period in which the customer signs the charge; and
- (2) employers may retain from the tips an amount up to or equal to the pro rata portion of the fee charged by the card issuing company which is attributable to the tips. When employers make such retentions, they do so without violating G.S. 95-25.6 and without becoming disqualified from claiming the tip credit on the charged tip.

(e) In order for an employer to claim a tip credit toward the minimum wage:

- (1) the employee must be a tipped employee within the meaning of the Act;
- (2) the employer shall notify the employee in advance of the pay period in which the employer intends to claim the tip credit; and
- (3) the employee must retain all tips, subject to any valid tip pooling arrangement as described in Paragraph (h) of this Rule.

(f) The following records shall be kept by the employer for each employee for whom a tip credit is claimed:

- (1) Complete and accurate records of the amount of tips received for each workweek. The sole exception to this requirement is set forth in Paragraph (g) of this Rule;
- (2) Certification by the employee of amount of tips received. The employee certification is the employee's signature or initials on the employer's records. Certification shall occur either monthly or for each pay period. The sole exception to this requirement is set forth in Paragraph (g) of this Rule.

An employee's acceptance of wages from the employer shall not constitute certification by the employee of tips received:

- (3) The amount claimed by the employer as tip credit for each employee for each workweek;
- (4) For each employee participating in a tip pool, for each workweek, the amount of contributions to the tip pool; and
- (5) For each employee participating in a tip pool, for each workweek, the amount received from the tip pool.

(g) If the employee refuses to certify or to certify accurately and completely the amount of tips received, a tip credit may be claimed if the employer:

- (1) meets the requirements of Paragraphs (e)(3) and (f) of this Rule; and
- (2) can demonstrate with written documentation for each workweek for which a credit is claimed:
 - (A) that the tipped employee certifies having received tips in the amount for which the credit is taken, or
 - (B) that a similarly situated tipped employee received tips in the amount for which the credit is taken, or
 - (C) by other method which reliably establishes that the tipped employee regularly receives tips in the amount for which the credit is taken.

(h) "Tip pooling" as used in G.S. 95-25.3(f) is an arrangement in which all or a part of the tips of the contributing employees are combined into a common pool and then divided among the participating employees according to a pre-determined formula. An employee's share of a tip pool is that portion of the total amount in the pool which the employee receives. A tip pooling arrangement is valid under G.S. 95-25.3(f) when:

- (1) the contributing employees are notified of the arrangement before the pay period in which it will be used;
- (2) the share of each contributing employee is at least 85% of the employee's tips before the employee contributes to the tip pool; and
- (3) only employees who customarily and regularly receive tips receive a share from the pool.

The requirement of 95-25.6 that the employer pay "tips accruing to the employee" shall be satisfied if the employee in a tip pooling arrangement receives 85% of the employee's actual tips before pooling or the employee's share received from the pool, whichever is greater.

By complying with Subparagraph (h)(2) of this Rule, the employer has also satisfied the provision of G.S. 95-25.3(f) requiring the employer to allow the tipped employee to retain all tips.

Authority G.S. 95-25.3; 95-25.6; 95-25.13; 95-25.15; 95-25.19.

.0304 WITHHOLDING OF WAGES

(a) An employer may withhold, deduct or divert any portion of an employee's wages if the employer has obtained a written authorization from the employee in accordance with G.S.

95-25.8, and the deductions comply with the following monetary limitations:

- (1) The combined amount of any authorized payroll deductions for cash shortages, inventory shortages, loss or damage to an employer's property and deposits made by the employee for the use of the employer's property may not reduce an employee's paycheck for any pay period below the amount specified in G.S. 95-25.10.
- (2) Any recoupment or payment received by an employer from an employee for shortages, losses, damages and deposits by methods other than payroll deductions (such as cash payments or endorsing over of paychecks) is also limited so that the combined amount of any such recoupment may not reduce an employee's wages for any pay period below the amount specified in G.S. 95-25.10.

(b) Payroll deductions for cash shortages, inventory shortages, or loss or damage to an employer's property are further limited in that even when properly authorized, they may not be deducted from an employee's wages unless the employee receives notice of the amount to be deducted seven days prior to the payday on which the deduction is to be made. This seven day advance notice does not apply to such deductions in a final paycheck, although if a blanket authorization is in effect some advance notice and a reasonable opportunity to withdraw must be given in accordance with G.S. 95-25.8.

(c) (a) The employer must shall furnish the employee an itemized statement indicating the amount and purpose of all deductions, diversions, payments or withholding of wages for each pay period in which deductions or recoupments are made.

(d) (b) A repayment in excess of the statutory limitation prescribed in Paragraph (a) of this Rule and G.S. 95-25.10, is permitted if the repayment is voluntary. A repayment is voluntary if it is made without fraud, misrepresentation, or undue influence, influence, duress, or coercion.

(e) (c) In the case of employees for whom there is no hourly record-keeping requirement, an average number of hours worked per pay period may be agreed upon in writing in advance by the employer and each employee and may be used for calculating the amount of protected wages each pay period. Such agreements are subject to modification as necessary to reflect permanent and substantial changes in the average number of hours worked per pay period.

Authority G.S. 95-25.8; 95-25.9; 95-25.10; 95-25.11; 95-25.13; 95-25.19.

.0305 AUTHORIZATION FOR WITHHOLDING OF WAGES

(a) An authorization by an employee which will allow the employer to withhold or divert a portion of the employee's wages must be in writing and must specify the reason for the deduction. employer may withhold or divert a portion of an employee's wages without the employee's authorization only when the employer is required or empowered to do so by North Carolina or federal law. A valid authorization by an employee is required

in all other circumstances for an employer to make a deduction from an employee's wages. Two types of authorization are permitted:

- (1) A specific authorization shall be used when the amount or rate of the proposed deduction is known and agreed to at the time the employee signs the authorization.
- (2) A blanket authorization shall be used when the amount of the proposed deduction is not known and agreed to at the time the employee signs the authorization.

(b) An authorization for withholding of wages must be signed on or before the payday for the pay period from which the deduction is to be made. The two permissible types of authorization are the specific authorization and the blanket authorization. by an employee, to be valid, shall:

- (1) be written;
- (2) be signed by the employee on or before the payday for the pay period for which the deduction is being made;
- (3) show the date of signing by the employee;
- (4) state the reason for the deduction; and
- (5) if it is a specific authorization, state the specific dollar amount or percentage of wages to be deducted from each paycheck and the number of paychecks or length of time for which the deduction is authorized.

(c) A specific authorization may be for one or more paychecks and must shall state the dollar amount or percentage of wages which the employee agrees may be deducted from each paycheck. Employees Employers shall give employees must be given a reasonable opportunity to withdraw specific authorizations if such deductions are for their convenience. Deductions for the convenience of the employees include, but are not limited to, such things as insurance, savings plans, credit union installments, savings bonds, union or club dues, uniform rental, uniform cleaning, parking and charitable contributions. All other authorizations for withholding of specific amounts, once agreed upon by an employee, may not be withdrawn.

(d) A blanket authorization may be signed by an employee which authorizes specific categories of deductions or withholdings without specifying an actual dollar amount. When the amount of any such deduction becomes known, the employer may not make the deduction until the employee has been given advance notice of the specific amount of the proposed deduction and has been given a reasonable opportunity to withdraw his authorization before the deduction is made. What constitutes advance notice for deductions involving cash shortages, inventory shortages, or loss or damage to an employer's property is at least the seven day period proscribed by G.S. 25-9 and Rule .0304 of this Section. An employer shall not make a deduction under a blanket authorization until the employee has been given:

- (1) Advance notice of the specific amount of the proposed deduction. For purposes of deductions involving cash shortages, inventory shortages, or loss or damage to an employer's property, advance notice shall be at least the seven day period prescribed in G.S. 95-25.9.
- (2) A "reasonable opportunity to withdraw" the

authorization before the deduction is made. A reasonable opportunity to withdraw a blanket authorization shall be at least three calendar days from the date of the employer's notice of the specific amount of the deduction to be taken.

(e) Specific and blanket authorizations signed by an employee may not waive and must comply with the authorization requirements. When an authorization is required by the Act, the monetary limitations and time requirements specified in G.S. 95-25.8, 95-25.9 and 95-25.10 of the Wage and Hour Act, and the rules and regulations promulgated thereunder, Act apply and shall not be waived.

(f) Advances of wages to the employee at the employee's request are considered to be prepayment of wages. Advances of wages to a third party at the employee's request are also considered to be prepayment of wages. A dated receipt, signed by the employee, for the advanced wages, shall be sufficient to show that the advance was requested and made. No withholding authorizations are required by G.S. 95-25.8(2) when the employer deducts for the advanced wages.

(g) In the absence of an executed loan document, the principal of a loan from an employer to an employee is considered to be an advance of wages. Such loans may include credit advanced by the employer to an employee at the employee's request for purchasing from the employer items not primarily for the benefit of the employer. Deductions for interest and other related charges require written authorizations in accordance with these Rules. Personal loans from a supervisor to a subordinate or loans made by third parties to an employee with payroll deduction arrangements are not an advance of wages.

(h) An overpayment of wages to an employee as a result of a miscalculation of wages or other bona fide error may be treated as an advance of wages by the employer. An underpayment of wages to an employee as a result of a miscalculation of wages or other bona fide error shall be a violation of G.S. 95-25.6. The employer shall pay any such underpayment owed as soon as possible upon the discovery of the error along with accrued interest at the legal rate set forth in G.S. 24-1 from the date the wages first became due.

(i) Authorizations for deductions that are not permitted by law are invalid. For example:

- (1) G.S. 97-21 invalidates agreements by an employee to pay any portion of a premium paid by his or her employer to a workers' compensation insurance carrier;
- (2) 13 NCAC 7F .0101(a)(2) requires the employer to provide, at no cost to the employee, all personal protective equipment which the employee does not wear off the jobsite for use off the job.

If an employer withholds or diverts wages for purposes not permitted by law, the employer shall be in violation of G.S. 95-25.6 or G.S. 95-25.7, or both, even if the employee authorizes the withholding in writing pursuant to G.S. 95-25.8(2), because that authorization is invalid.

(j) An employer may obtain a written authorization pursuant to G.S. 95-25.8(2)(a) and include in the authorization a provision for deducting the balance of the unpaid amount from the

employee's paycheck in the event the employee separates before the full amount has been collected. If the employer obtains such an authorization, the employer may deduct as much of the balance possible from the final paycheck without having to give the employee notice of the amount and a reasonable opportunity to withdraw his or her authorization as required by G.S. 95-25.8(2)(b), subject to the withholding limitations of G.S. 95-25.10. If the employer does not include in the specific authorization an express provision to deduct the balance upon an employee's separation, then an employer shall not deduct from the final paycheck an unpaid balance which is greater than the specific amount or percentage authorized unless an additional authorization is obtained.

(k) A wage credit in the form of tips in accordance with Rule .0303 of this Section, or the reasonable costs of meals, lodging or other facilities in accordance Rule .0301 of this Section, is not a withholding of wages and does not require written authorization pursuant to G.S. 95-25.8(2).

(l) An employer is permitted to establish an escrow or bond account funded by an employee's wages to recover amounts owed to the employer, as long as the employer obtains a valid authorization from the employee pursuant to G.S. 95-25.8(2) before diverting wages to such an account. An employer must also obtain a valid authorization from the employee before making a deduction from the account. Upon discontinuance of employment for any reason, remaining funds shall be returned to the employee.

Authority G.S. 95-25.8; 95-25.9; 95-25.10; 95-25.11; 95-25.13; 95-25.19.

.0306 VACATION PAY

(a) The purposes of the vacation provisions of the Wage and Hour Act are to ensure that employees know what their vacation benefits are and that they receive the promised benefits. Employees must ~~Employers shall be notified~~ notify employees of company the employer's policies and practices concerning vacation pay in two ways: as follows:

- (1) Pursuant to G.S. 95-25.13(1), an employee must be notified orally ~~Orally~~ or in writing at the time of hiring. Pursuant to G.S. 95-25.13(2), an employees must also be notified
- (2) By making a copy of the policies and practices available to them in writing or through a posted notice maintained in a place accessible to the employee-employees.
- (3) Before the effective date of any changes, in writing or through a posted notice maintained in a place accessible to the employees.

(b) All vacation policies and practices communicated to employees must ~~shall~~ address: the method of vacation calculation

- (1) how and when vacation is earned so that the employee knows employees know the number of days amount of vacation to which he is they are entitled;
- (2) whether or not vacation days time may be carried forward from one year to another; another, and if so,

in what amount;

- (3) when vacation days time must be taken;
- (4) when and if vacation pay may be paid in lieu of time off; and
- (5) under what conditions and in what amount vacation pay will be paid upon termination; discontinuation of employment.

(c) Ambiguous policies and practices will ~~shall~~ be construed against the employer and in favor of the employees.

(b) If a company provides vacations, all vacation time or payment in lieu of time off must be paid to the employees in accordance with established company policy or past practice as known and understood by the employees.

(e) (d) Any employer who fails to notify an employee in accordance with G.S. 95-25.13 and Paragraph (a) of this Rule, of any policy or practice which requires or results in a loss or forfeiture of vacation time or pay, is liable for such vacation time and pay without loss or forfeiture by the employee.

Authority G.S. 95-25.2; 95-25.12; 95-25.13; 95-25.19.

.0307 BONUSES AND COMMISSIONS

(a) Payment of Employers may pay wages based on bonuses, commissions or other forms of calculation may be paid as infrequently as annually, so long as if the employees are so notified in advance of the employer's time for payment of such wages, before earning such wages. Employees must also be notified Employers shall notify employees in accordance with the provisions of G.S. 95-25.13 of any company policy or practice which requires or results in forfeiture of such wages.

(b) Employees must be notified of the time for payment and of forfeiture policies relating to wages based on bonuses, commissions or other forms of calculation in two ways. Pursuant to G.S. 95-25.13(1), an employee must be notified orally or in writing at the time of hiring. Pursuant to G.S. 95-25.13(2), an employee must also be notified in writing or through a posted notice maintained in a place accessible to the employee. Employers shall notify employees of the employer's policies and practices concerning pay, wages based on bonuses, commissions, or other forms of calculation as follows and in accordance with Rule .0801 of this Chapter:

- (1) Orally or in writing at the time of hiring;
- (2) By making a copy of the policies and practices available to them in writing or through a posted notice maintained in a place accessible to the employees; and
- (3) Before the effective date of any changes, in writing or through a posted notice maintained in a place accessible to the employees.

(c) Any employer who fails to notify an employee in accordance with G.S. 95-25.13, and Paragraphs (a) and (b) of this Rule, is liable for such wages based on bonuses, commission or other forms of calculation without forfeiture by the employee.

Authority G.S. 95-25.6; 95-25.7; 95-25.13; 95-25.19.

.0308 FINAL PAY FOR SEPARATED EMPLOYEES

(a) For purposes of G.S. 95-25.7 and these Rules:

- (1) "Separated employees" are employees whose employment has been discontinued either voluntarily or involuntarily for any reason.
- (2) "The next regular payday" is the payday for the pay period in which the separated employee's employment is discontinued, except for bonuses, commissions and other forms of compensation. "The next regular payday" for bonuses, commissions and other forms of compensation is the first regular payday for the pay period in which such wages become calculable.

(b) If an employee requests that the employee's final paycheck be mailed, the employer shall mail the paycheck to the employee at the employer's expense. Employers shall not withhold the final paycheck because the employee refuses to come to the business office or place of employment to pick up the paycheck. The employer may require the employee to provide a notarized or witnessed written request for the mailing of the final paycheck.

(c) If a final paycheck mailed at the employee's request:

- (1) Is lost or stolen before the employee receives it, the employer shall replace the paycheck upon request of the employee. The employer shall not deduct costs related to replacing the check without written authorization from the employee in accordance with Rule .0305 of this Section.
- (2) Is lost or stolen after the employee receives it, the employer shall replace the paycheck upon request of the employee. The employer may deduct costs related to replacing the paycheck without a written authorization from the employee.

"Costs of replacing the paycheck" shall include the cost of stopping payment on the lost or stolen check.

(d) An employer owes the employee the wages due until the employee receives the final paycheck. However, if the check is dishonored by the financial institution against which it is drawn, then the employer's obligation to pay the wages remains.

Authority G.S. 95-25.2; 95-25.6; 95-25.7; 95-25.7A; 95-25.8; 95-25.19.

.0309 FORM OF PAYMENT OF WAGES

G.S. 95-25.6 and G.S. 95-25.7 do not require a specific form of payment. Therefore, the employer may select any legal form of payment, so long as payment is made in full on the designated payday, subject to authorized deductions and legal withholdings. Acceptable forms of payment include cash, money order, negotiable checks, and direct deposit into an institution whose deposits are insured by the United States government or an institution selected by the employee.

Authority G.S. 95-25.2; 95-25.6; 95-25.7; 95-25.19.

.0310 "OTHER AMOUNTS PROMISED" AS WAGES

"Other amounts promised" as that term is used in G.S. 95-25.2(16) are those amounts which the employer has promised or has a policy or practice of paying. These amounts are wages.

These amounts include, but are not limited to, travel expenses, holiday pay, birthday pay, jury duty pay, shift premium pay, prizes, moving expenses, educational expenses, or telephone expenses.

Authority G.S. 95-25.2; 95-25.6; 95-25.7; 95-25.19.

SECTION .0500 - JURISDICTION AND EXEMPTIONS

.0502 COUNTING EMPLOYEES

(a) For the purpose of establishing jurisdiction pursuant to G.S. 95-25.14(b)(5), a proprietor or owner who works in and about his enterprise is not counted as a person employed in the enterprise.

(b) With respect to a business set up as a corporation, if an officer of the corporation only performs duties of an executive nature, he will not be counted as an employee. However, if an officer performs managerial or other non-executive duties, he is an employee of the corporation and will be counted for jurisdictional purposes.

(c) With respect to partnerships, a partner who has a substantial ownership interest and functions as a proprietor or owner will be treated as an employer. Where the partnership interest and incidence of ownership authority are de minimis, a partner will be counted as an employee.

(d) Part-time employees and family members who work in an enterprise will be counted in determining the number of persons employed for jurisdictional purposes.

(e) The number of employees at an enterprise who work during the course of a workweek, not the number of employees working on any particular day, determines the wage and hour jurisdiction for any workweek.

Authority G.S. 95-25.14; 95-25.19.

SECTION .0600 - INVESTIGATION AND ENFORCEMENT

.0602 INVESTIGATIONS

(a) Investigations will take place at such times and in such places as the Director or Division compliance officers direct. At the beginning of an investigation, compliance officers shall present their credentials to the owner, operator or agent in charge at the establishment, explain the nature and purpose of the investigation, and indicate generally the scope of the investigation, the records to be reviewed and the personnel to be questioned. The Commissioner shall afford the employer an opportunity to bring to the Commissioner's attention any information pertinent to the possible violations under investigation and any computation of wages possibly due an employee. The employer's failure to timely bring to the Commissioner's attention such information will not prevent the Commissioner from proceeding to a determination.

(b) Investigations will be conducted so far as possible in a manner which does not unreasonably disrupt the operation of an employer's establishment. The Commissioner shall notify the employer of the Commissioner's findings in accordance with

Rule .0604 of this Section.

(c) Investigations of places of employment by compliance officers will be initiated by requesting voluntary cooperation from the employer. When an employer refuses to permit a compliance officer to enter and inspect any place of employment and gather the facts essential to determine whether or not the employer is a covered establishment, or refuses to permit a compliance officer to inspect the place of employment, inspect records, transcribe records, question employees and investigate as necessary to determine whether the employer has violated provisions of the Wage and Hour Act, the compliance officer shall attempt to determine the reason for such refusal. He shall immediately report the facts to the Wage and Hour office in Raleigh. The Director of the Wage and Hour Division shall attempt to gain voluntary cooperation from the employer. Where voluntary inspection is not achieved, the matter will be referred to the Chief Deputy Commissioner to consider an administrative search warrant. If sufficient information is available from other sources, the Department may proceed to negotiate or litigate on behalf of affected employees without further investigation.

(d) At the conclusion of the investigation, the compliance officer shall confer with the employer or his representative and advise him of apparent violations and computations of unpaid wages disclosed by the investigation. During such final conference the employer will be afforded an opportunity to bring to the compliance officer's attention any information pertinent to the violations and computations. At the conclusion of the conference the compliance officer shall complete, sign and leave with the employer an investigation report which sets forth the violations found and a back wage summary which computes unpaid wages owed to employees by the employer. The compliance officer shall request the employer to sign the investigation report.

(e) Compliance officers shall try to reach an agreement with the employer concerning the violations and unpaid wages at the final conference. If the employer agrees to pay the back wages or some portion of them, the expected date of payment is to be specified on the summary of unpaid wages. If a settlement is not reached, the investigation file with the compliance officer's recommendations and conclusions will be forwarded to the Raleigh office for further action in accordance with Rule .0604 of this Section.

Authority G.S. 95-25.15; 95-25.16; 95-25.17; 95-25.19.

.0603 SUPERVISION OF PAYMENT

(a) The Wage and Hour Division may devise, implement and supervise a plan for the payment of unpaid wages. A payment plan should be in writing and signed by the employer. The payment agreement should include a waiver of the statute of limitations by the employer in the event the agreement becomes void for any reason. An employee's signed agreement to accept the amount specified in the plan constitutes a waiver by the employee of the right to bring an action, or to request the commissioner to bring an action, in the General Court of Justice for the unpaid wages. This waiver by the employee must be stated in the written plan or agreement.

(b) Non-compliance by an employer in making payments to the employee under a plan renders the agreement void and the agreement must so state. The employee and the commissioner may then proceed to seek all back wages and damages due through the administrative and legal methods provided by the Wage and Hour Act and the rules and regulations promulgated thereunder.

Authority G.S. 95-25.16; 95-25.17; 95-25.19; 95-25.22.

.0604 ADMINISTRATIVE REMEDIES

(a) After investigation and computation of the wages due employees for violations of G.S. 95-25.3 (Minimum Wage), G.S. 95-25.4 (Overtime), and G.S. 95-25.6 through G.S. 95-25.12 (Wage Payment), the Wage and Hour Division shall try to discuss the violations and computations with the employer and try to resolve the matter by agreement pursuant to Rules .0602 and .0603 of this Section.

(b) If an agreement cannot be reached with the employer, or non-compliance by an employer nullifies an agreement, the Director of the Wage and Hour Division or other official acting on his behalf shall notify the employer:

- (1) that he may exercise an opportunity to be heard which consists of and is exercised by the means provided in (c) of this Rule;
- (2) that this opportunity may be waived in accordance with (d) of this Rule; and
- (3) the name, address and telephone number of the Director of the Wage and Hour Division or other official acting on his behalf whom he must contact.

(c) The employer's opportunity to be heard is an informal process which is exercised by communicating his side of the wage and hour dispute and any information he deems pertinent directly to the Director of the Wage and Hour Division, or an official acting on his behalf, by telephone, in person or by letter. When the employer has so communicated to the Division, he has fully exercised his opportunity to be heard.

- (1) Upon receiving notice under (b) of this Rule, if the employer cannot adequately exercise his opportunity to be heard without more time to prepare or if the Director or other official was not available, the employer shall notify the Wage and Hour Division by telephone, in person or by letter within ten days after receiving his notice that he intends to exercise his opportunity and shall request the Division to set a time period. This prevents automatic waiver under (d) of this Rule.
- (2) Upon receiving notice from the employer that he intends to exercise his opportunity to be heard, the Director or other official acting on his behalf shall promptly set a reasonable time period, not to exceed 15 days, during which the employer must communicate with the Division and shall so notify the employer. Should the employer fail to communicate with the Division by the end of the time period so established, the Director or other official acting on his behalf may proceed to make and record a

determination pursuant to (e) of this Rule, or may order a continuance for just cause. Should the employer fail to exercise his opportunity to be heard following the granting of one continuance, the employer's request may be dismissed and the Division may proceed pursuant to (e) of this Rule.

(d) The employer may waive his opportunity to be heard by so stating orally or in writing to the Wage and Hour Division. If the employer has not exercised his opportunity to be heard in accordance with (c) of this Rule within 10 days after receiving notice under (b) of this Rule, it will be deemed waived. When an employer waives his opportunity to be heard, the Division may proceed in accordance with (e) of this Rule.

(e) Once the employer has had the opportunity to resolve the matters at issue in accordance with Rules .0602 and .0603 of this Section, and to be heard in accordance with (b), (c) and (d) of this Rule, the Director or official acting on his behalf shall make and record a determination of the matters. If it is found that the employer has not violated the Wage and Hour Act or is not liable to an employee, then the matter will be dismissed. If it is found that the employer has violated the Wage and Hour Act or is liable to an employee, all administrative remedies have been exhausted and the Director or other official acting on his behalf shall:

(1) — notify the employer that he has violated the Wage and Hour Act and is liable to an employee. If the original conclusions and computations of the investigating compliance officer have been modified, these modifications will be specifically set out in this notification.

(2) — proceed in accordance with Rule .0605 of this Section.

(a) For purposes of G.S. 95-25.22(g), "exhausting administrative remedies" means that the Commissioner shall:

(1) Investigate the alleged violations of the Act and afford the employer the opportunity to present evidence in its defense during such investigation; and

(2) Notify the employer and complainant(s), after completion of the investigation, of:

(A) The violations found and amounts found due; and

(B) The employer's right to be heard further in the matter; and

(3) Hear any additional evidence presented by the employer exercising its right to be heard further as set forth in Paragraphs (b) and (c) of this Rule; and

(4) Notify the employer of any pending action.

(b) Employers wishing to exercise the right to be heard further shall:

(1) Notify the Commissioner, within 14 days from the date the Commissioner notified the employer of the findings. The 14 days begins on the date the Commissioner mailed notification to the employer pursuant to Subparagraph (a)(2) of this Rule. The employer may notify the Commissioner either orally or in writing.

(2) Present additional evidence to the Commissioner on

disputed issues within 14 days from the date the employer notified the Commissioner of its intent to exercise the right to be heard further. The employer may request an extension of time of no more than an additional 14 days.

(c) The employer shall waive its right to be heard further if it:

(1) fails to notify the Commissioner in accordance with Subparagraph (b)(1) of this Rule; or

(2) fails to submit evidence in accordance with Subparagraph (b)(2) of this Rule; or

(3) agrees to remedy the violations found and to pay in full the amounts found due.

(d) If the employer presents additional evidence in accordance with Paragraph (b) of this Rule, the Commissioner shall notify the employer and complainant(s) of any modifications which are made to the Commissioner's findings.

(e) For purposes of G.S. 95-25.22(g) and this Rule, the Commissioner shall make all notifications to the last known addresses of the employer and complainants.

Authority G.S. 95-25.16; 95-25.17; 95-25.19; 95-25.22.

.0605 LITIGATION

(a) The Commissioner of Labor may bring an action in the General Court of Justice to recover unpaid wages due an employee under G.S. 95-25.3 (Minimum Wage), G.S. 95-25.4 (Overtime) and G.S. 95-25.6 through G.S. 95-25.12 (Wage Payment), when:

(1) The employee affected so requests;

(2) The commissioner has exhausted the administrative remedies provided under Rule .0604 of this Section;

(3) The claims are not barred by the two year statute of limitations provided in G.S. 95-25.22(f); and

(4) The action requested is not frivolous.

(b) The Department of Labor may recommend that employees maintain their own actions to recover unpaid wages and exemplary damages in the General Court of Justice.

(c) Complaints by employees pursuant to G.S. 95-25.20 alleging discharge or discrimination as a result of filing a complaint or participating in an investigation or proceeding under the Wage and Hour Act have priority and will be investigated within 30 days by the Wage and Hour Division. Results of such investigation will be reported promptly to the Commissioner for determination and legal action.

(d) If an employer violates provisions of G.S. 95-25.21, the Commissioner or his designated representative may apply to the Magistrate's Office or District Attorney's Office for appropriate action. Such criminal redress will be sought only if the action of an employer intentionally and grossly hinders or delays the Commissioner or his designated representative from investigating or ascertaining any violations or liability of the employer under the Wage and Hour Act.

Authority G.S. 95-25.15; 95-25.17; 95-25.19; 95-25.20; 95-25.21; 95-25.22.

SECTION .0700 - CIVIL MONEY PENALTIES

.0701 CIVIL PENALTIES

(a) Any employer who violates the provisions of G.S. 95-25.5 (Youth Employment), G.S. 95-25.15(b) (Record Keeping) or any of the rules and regulations promulgated thereunder in this Chapter, these Rules is subject to a civil penalty for each violation.

(b) Any person or establishment required to comply with or subject to regulation of child labor under the F.L.S.A. who violates the non-exempt provisions of G.S. 95-25.5, or any of the rules and regulations promulgated thereunder in this Chapter, these Rules is subject to a civil penalty for each violation.

(c) ~~The amount of all civil penalties will be determined in accordance with Rule .0702 of this Section. The Commissioner shall determine the amount of all civil penalties in accordance with Rule .0702 of this Section.~~

(d) In civil penalty cases, ~~the Director of the Wage and Hour Division~~ the Commissioner shall notify the employer by certified mail of the following:

- (1) the nature of the violation;
- (2) the amount of the civil penalty; and
- (3) that the civil penalty determination will become be final, unless within 15 days after receiving notice thereof the employer charged with a violation and penalty takes exception to the determination; and the employer takes exception to the penalty as set forth in G.S. 95-25.23 and G.S. 95-2. A of the penalty from the Commissioner.
- (4) ~~the procedure for taking exception as provided in Rule .0703 of this Section.~~

(e) ~~If the employer has not filed an exception to the civil penalty within 15 days after receiving notice in accordance with (d) of this Rule, the penalty assessment by the Director becomes the final determination of the Commissioner of Labor.~~

Authority G.S. 95-25.5; 95-25.14; 95-25.17; 95-25.19; 95- G.S. 25.23; 95-25.23A.

.0702 CIVIL PENALTY ASSESSMENT

(a) ~~If upon inspection or investigation, the Director the Commissioner finds that an employer has violated any of the provisions of G.S. 95-25.5, G.S. 95-25.15(b) or the rules and regulations issued thereunder these Rules, the Director of the Wage and Hour Division the Commissioner may assess a civil penalty for each violation.~~

(b) The maximum amount of a civil penalty will be based on the nature and the gravity of the violation or violations. Matters which are indications of the gravity of a violation ~~and which justify maximum civil penalty assessments are include, but are not limited to:~~

- (1) the likelihood of injury and the seriousness of the potential injuries to which a youth has been exposed;
- (2) ~~multiplicity of multiple~~ violations by a business or employer;
- (3) recurring violations;
- (4) employment of any youth in a hazardous or detrimental occupation without a waiver from the Commissioner;

- (5) violations involving youths under 14 years of age; age.
- (6) ~~a substantial number of hours worked in excess of the statutory limits.~~

(c) ~~If an employer violates this Chapter by employing a youth without a youth employment certificate, a penalty for this particular violation The Commissioner shall assess a penalty of:~~

- (1) ~~two hundred fifty dollars (\$250.00) will be assessed if the a youth employment certificate would not have been issued because the employment was for a hazardous or detrimental occupation; occupation.~~
- (2) ~~a penalty of one hundred twenty-five dollars (\$125.00) will be assessed if the certificate would not have been issued, but the employment was non-hazardous or non-detrimental.~~
- (3) ~~If a certificate would have been issued, a penalty of fifty dollars (\$50.00) will be assessed for failure to have or if a certificate would have been issued but the employer did not have or maintain the certificate.~~

(d) Reductions in the penalty amount may be made based on the size of a business (number of employees and gross volume) and its past record of compliance with youth employment requirements the Wage and Hour Act.

Authority G.S. 95-25.17; 95-25.19; 95-25.23; 95-25.23A.

SECTION .0800 - RECORDKEEPING

.0803 SCOPE OF PROMISED WAGES

For the purposes of G.S. 95-25.13, the term "promised wages" includes all forms of wages as defined in G.S. 95-25.2(16), and any policy or practice that may affect the rate, amount or payment of wages.

Authority G.S. 95-25.2; 95-25.13; 95-25.19.

.0804 NOTIFICATION AT TIME OF HIRING

(a) An employee's signature on an employer's written notice of the promised wages which bears the date on which the employee was provided with the notice shall be presumptive evidence of the employer's notification in accordance with G.S. 95-25.13(1) and this Rule.

(b) A policy or practice which decreases the employee's wages or has the effect of decreasing the employee's wages shall not apply to any employee until after the employee has been provided with specific oral or written notice of the policy or practice.

Authority G.S. 95-25.13; 95-25.19.

.0805 NOTIFICATION DURING EMPLOYMENT

(a) Employers shall satisfy the notice requirements of G.S. 95-25.13(2) by posting or making available to its employees in writing all policies and practices relating to promised wages in a manner, place and time which ensures that employees have ready access to those policies and practices throughout their tenure with the employer and are able to use that information.

(b) Acceptable means of ensuring that the policies and

practices are readily accessible to the employees include, but are not limited to:

- (1) Providing employees with an up-to-date employee handbook or other written statement of policies and practices with regard to promised wages;
- (2) Providing employees with payroll records, including check stubs, for wages promised in the form of hourly pay or salary or other form whose terms are readily identifiable from the payroll records.

(c) The employer shall pay the promised wages to the employee even if the employer has failed to comply with the requirements of G.S. 95-25.13(2). For purposes of G.S. 95-25.13(2) and these Rules, "promised wages" includes wages promised in accordance with an unwritten policy or practice with regard to the wages. The only exception to this Rule is that an employer shall not enforce an unwritten policy or practice resulting in the loss or forfeiture of vacation time or pay, commissions, bonuses or other forms of calculation. The employer shall not deny to any employee any vacation time or pay, commissions, bonuses or other forms of calculation on the basis of the application of an unwritten forfeiture or loss policy or practice.

Authority G.S. 95-25.6; 95-25.7; 95-25.13; 95-25.15; 95-25.19.

.0806 MEANING OF "MAINTAINED IN A PLACE ACCESSIBLE"

For the purposes of G.S. 95-25.13(2) and (3) and these Rules, the phrase "maintained in a place accessible" applies to the posting and to the writing. "Accessible" with respect to posting means "easily approached and viewed for reading," at a place designated for such purposes and regularly frequented by the affected employees. "Accessible" with respect to the writing means "easily and promptly obtained or viewed for reading" at a place designated for maintaining such writings.

Authority G.S. 95-25.13; 95-25.19.

.0807 METHODS OF PROVIDING EMPLOYEES WITH ITEMIZED STATEMENT OF DEDUCTIONS

The employer may provide the itemized statement required by G.S. 95-25.13(4) of deductions under G.S. 95-25.8:

- (1) in writing; or
- (2) by electronic mail, but only if such a transmission is capable of being printed out as a paper copy by the employee; or
- (3) by any other means which supplies the required information in a form the employees can retain in written form.

Authority G.S. 95-25.13; 95-25.19.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to amend rules cited

as 13 NCAC 13 .0406, .0409. Notice of Rule-making Proceedings was published in the Register on August 3, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 2:00 p.m. on November 2, 1998 at 4 West Edenton Street, Room 249, Raleigh, NC 27601.

Reason for Proposed Action: To modify the requirement for manual resets on high limit controls to apply to high pressure boilers only.

Comment Procedures: Written comments will be accepted through 5:00 p.m. on November 16, 1998. Written comments must be delivered or mailed to Ann B. Wall, NC Department of Labor, 4 West Edenton Street, Raleigh, NC 27601.

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

CHAPTER 13 - BOILER AND PRESSURE VESSEL

SECTION .0400 - GENERAL REQUIREMENTS

.0406 HIGH PRESSURE OR TEMPERATURE LIMIT CONTROL

(a) Each automatically fired boiler or pressure vessel shall be protected from overpressurization by two pressure or temperature operated controls which monitor the upper pressure or temperature of the water, steam, or other fluid in the boiler or pressure vessel. At least one of the controls shall be wired to interrupt the fuel supply to the burner and stop burner operation, or for electric boilers to interrupt the electrical supply to the heating elements or electrodes, before the maximum pressure or temperature is exceeded. One of the controls may be used as a normal operating control.

(b) In a multiple boiler or pressure vessel installation, where the pressure or temperature actuated operating control may be installed in a header or other point common to all boilers and pressure vessels in the installation, and can be isolated from any of the boilers or pressure vessels in the installation, the owner or user shall equip each boiler or pressure vessel with at least one high-limit control.

(c) For all high pressure boilers installed after January 1, 1995, and for all high pressure boilers after January 1, 2000, the high limit control shall be equipped with a manual reset which shall prevent the boiler from being fired after the maximum temperature or pressure has been reached until the operator resets the switch manually.

Authority G.S. 95-69.11; 95-69.14.

.0409 AUTOMATIC LOW-WATER FUEL CUTOFF

AND WATER-FEEDING DEVICE

(a) Each automatically fired steam or vapor system boiler, and each hot water heating boiler or hot water supply boiler having a minimum safety valve relieving capacity greater than 400,000 Btu/hr. shall be equipped with an automatic low-water fuel cutoff so located as to automatically cut off the fuel supply and stop the operation of the burner before the surface of the water falls to the lowest safe water line. For electric boilers, the low-water fuel cutoff shall cut off the electrical supply to the electric elements or electrodes. The lowest safe water line shall be that level identified by the manufacturer which indicates the lowest safe water level for safe operation of the boiler. Low water fuel cutoff devices embodying a float and float bowl shall be installed so that the boiler feedwater or makeup water can not be introduced through the float chamber.

(b) Steam and vapor boilers fired by the combustion of fuels and installed after January 1, 1995 and all steam and vapor boilers fired by the combustion of fuels after January 1, 2000 shall be protected by two low-water fuel cutoffs, one of which may also be used to regulate the normal water level.

(c) The low-water fuel cutoff shall be attached directly to the boiler or to the water column. Piping from the boiler shall be not less than one-half inch nominal pipe size. The ends of all nipples shall be reamed to full-size inside diameter. The low-water fuel cutoff installed in a water boiler system may be installed anywhere in the system so long as there is no isolation valve installed between the device and the boiler.

(d) For steam and vapor system boilers, low-water fuel cutoff designs embodying a float and float bowl shall have a vertical straightaway valve drain pipe at the lowest point in the water-equalizing pipe connections by which the bowl and the equalizing pipe can be flushed and the device tested.

(e) A coil type boiler or a watertube boiler requiring forced circulation to prevent overheating of the coils or tubes may have a flow-sensing device installed at or near the boiler proper, in lieu of a low-water fuel cutoff, to automatically cut off the fuel supply when the circulation of flow is interrupted.

(f) For all high pressure boilers installed after January 1, 1995, and for all high pressure boilers after January 1, 2000, for which a low-water fuel cutoff is required by this Chapter, at least one of these devices shall be equipped with a manual reset which shall prevent the boiler from being fired after a low-water condition until the operator resets the switch manually.

(g) Automatically fired boilers installed after January 1, 1995 and all automatically fired boilers after January 1, 2000 shall be provided with a system to automatically maintain a constant water level so that the water level can not fall below the lowest safe water line.

Authority G.S. 95-69.14.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to adopt rules cited as 13 NCAC 19 .0101 - .0102, .0201, .0301 - .0302, .0401 - .0402, .0501 - .0502, .0601 - .0605, .0701 - .0702. Notice of

Rule-making Proceedings was published in the Register on August 3, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 10:00 a.m. on November 9, 1998 at Administrative Office of the Courts Classroom, 322 Chapanoke Road, Raleigh, NC 27603.

Reason for Proposed Action: To adopt a set of guidelines for the initiation, processing, and closing of complaints filed pursuant to the Retaliatory Employment Discrimination Act, found at Article 21 of Chapter 95 of the North Carolina General Statutes.

Comment Procedures: Written comments will be accepted through 5:00 p.m. on November 16, 1998. Written comments must be delivered or mailed to Ann B. Wall, NC Department of Labor, 4 West Edenton Street, Raleigh, NC 27601.

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

CHAPTER 19 - RETALIATORY EMPLOYMENT DISCRIMINATION

SECTION .0100 - GENERAL PROVISIONS

.0101 WORKPLACE RETALIATORY DISCRIMINATION OFFICE

The main office of the Workplace Retaliatory Discrimination (WORD) Office, which administers the provisions of Article 21 of G.S. 95, the Retaliatory Employment Discrimination Act (REDA), is maintained in the Raleigh office of the Department of Labor (the Department) at the Old Revenue Building, 2 South Salisbury Street, Raleigh, North Carolina. The WORD Office maintains branch offices in Greensboro and Charlotte, North Carolina. The mailing address of the main office is:

Workplace Retaliatory Discrimination Office
North Carolina Department of Labor
2 South Salisbury Street
Raleigh, North Carolina 27601

Authority G.S. 95-245.

.0102 FORMS

Copies of current forms used by the WORD Office are available from the Raleigh office.

Authority G.S. 95-245.

SECTION .0200 - DEFINITIONS

.0201 DEFINITIONS

The following definitions are applicable throughout this Chapter:

- (1) "Complainant" is a person allegedly aggrieved by a violation of G.S. 95-241, who files a written complaint with the WORD Office.
- (2) "Employee" means those individuals protected from discrimination or retaliation by G.S. 95-241, and includes but is not limited to those individuals defined as employees in G.S. 97-2(2), G.S. 95-25.2(4), G.S. 95-127(9), miners as defined in G.S. 74-24.2, temporary, leased, or loaned employees, former employees, jointly employed employees, common law employees, and applicants.
- (3) "Interview" as used in these Rules includes privately speaking with an employee or witness on company time on the company premises.
- (4) "Open or pending in the trial court division" as set forth in G.S. 95-242(e) means the period beginning with the filing of a written complaint with the Department and ends with either the Commissioner's receipt of a final determination by the trial court on the Commissioner's civil action or closure of the file according to these Rules, whichever occurs later.
- (5) "Protected activity" or "activity" shall mean and include all the actions set forth in G.S. 95-241(a) and G.S. 127A-111.
- (6) "Respondent" is a person, as defined in G.S. 95-240(1), against whom a REDA complaint is filed.

Authority G.S. 95-245.

SECTION .0300 - INITIATION OF COMPLAINT

.0301 CONTENTS OF COMPLAINT

(a) A complaint filed by or on behalf of a complainant must contain the following information:

- (1) Name and address of the complainant;
- (2) Name and address of the respondent, or other information which sufficiently identifies the respondent;
- (3) Description of protected activity, trait or status covered by REDA;
- (4) Description of alleged retaliatory or discriminatory action;
- (5) Approximate date of alleged retaliatory or discriminatory action; and
- (6) Signature of complainant either on complaint form or on supporting documentation allowing the complaint to be filed on behalf of complainant.

(b) The complaint may be amended as needed to meet these requirements.

(c) Complaints and amendments may be filed on a WORD form or other document containing the information in Paragraph (a) of this Rule.

Authority G.S. 95-245.

.0302 FILING OF COMPLAINTS

(a) A complaint is filed when it is received by the WORD Office. The complaint, faxed complaint, amendments, written authorizations, and faxed authorizations must be received by the WORD Office within 180 days of the alleged violation.

(b) A complaint may be filed by facsimile as long as a signed paper copy is received by the WORD Office within 10 calendar days of transmittal of the fax. If a signed paper copy of the complaint is not received as set forth in this Rule, the faxed complaint is subject to administrative closing as set out in these Rules.

(c) If a complaint is filed by anyone other than the complainant, including an attorney, the WORD Office must receive a written authorization, dated and signed by the complainant allowing such person to file the complaint on the complainant's behalf. The written authorization must be received by the WORD Office within 10 calendar days of receipt of the complaint. Such complaints not followed by written authorization are subject to administrative closing as set out in these Rules.

(d) A written authorization may be filed by facsimile as long as a signed paper copy is received by the WORD Office within 10 calendar days of transmittal of the fax. If a signed paper copy of the written authorization is not received as set forth in this Rule, the complaint is subject to administrative closing as set out in these Rules.

(e) Computation of time for filing and other deadlines shall be in accordance with G.S. 1A-1, Rule 6(a).

Authority G.S. 95-245.

SECTION .0400 - CONDUCT OF INVESTIGATIONS

.0401 INVESTIGATION

(a) The Commissioner may, in addition to other actions, interview witnesses, examine and obtain copies of documents, and visit workplaces in determining whether or not there is reasonable cause to believe that the allegations of the complaint are true.

(b) The respondent has 30 days from notification of the complaint to respond to the allegations of the complaint. The respondent's failure to timely respond shall not prevent the investigation from proceeding to a determination.

(c) The complainant shall cooperate during the course of the investigation. Cooperation shall include, but is not limited to:

- (1) notifying the WORD Office, as soon as possible, of changes in address, name or telephone number;
- (2) providing all information requested by the investigator in the time and manner specified by the investigator;
- (3) attending all meetings or conferences scheduled by the investigator;
- (4) meeting reasonable deadlines established by the investigator;
- (5) returning required forms; and
- (6) returning telephone calls.

Failure to cooperate may result in dismissal of the complaint pursuant to Rule .0603 of this Chapter.

Authority G.S. 95-245.

.0402 INTERVIEWS

(a) All witnesses shall be interviewed in private, except as provided in Paragraphs (b) and (c) of this Rule.

(b) Witnesses may be accompanied by their own attorney, representative, or interpreter.

(c) Witnesses whose statements can legally bind the respondent may also be accompanied by the respondent's attorney, at the option of the witness.

Authority G.S. 95-245.

SECTION .0500 - RIGHT TO SUE LETTERS

.0501 RIGHT TO SUE LETTERS

A right-to-sue letter may be requested by the complainant after a determination of reasonable cause to believe that the allegations of the complaint are true and notice of conciliation failure. The request may be granted unless the Commissioner intends to seek an injunction. If the request for a right-to-sue letter is granted, the case shall be closed.

Authority G.S. 95-245.

.0502 REQUESTS FOR RIGHT-TO-SUE LETTERS

Requests for right-to-sue letters made under G.S. 95-242(c) shall not be accepted until 180 days after the filing of the complaint.

Authority G.S. 95-245.

SECTION .0600 - CLOSING OF CASES

.0601 ADMINISTRATIVE CLOSINGS

A complaint may be administratively closed without investigation if it does not contain the information specified in Rule .0301 of this Chapter. In the event that the case is administratively closed, the intended respondent shall not be notified and the complainant shall not receive a right-to-sue letter.

Authority G.S. 95-245.

.0602 WITHDRAWALS

The complainant may withdraw the complaint, in writing, at any time prior to the Department's determination that there is reasonable cause to believe that the allegations of the complaint are true.

Authority G.S. 95-245.

.0603 RIGHT-TO-SUE DISMISSALS

Complaints may be dismissed and a right-to-sue letter issued for the following reasons:

- (1) Insufficient evidence to support the allegations of the complaint; or

- (2) Complainant's failure to cooperate during the investigation.

Authority G.S. 95-245.

.0604 RIGHT-TO-SUE CLOSURE

Upon the issuance of a right to sue letter, the Commissioner shall close the case file.

Authority G.S. 95-245.

.0605 SETTLEMENTS

Upon settlement of the case and compliance with the terms of any approved settlement agreement, the Commissioner shall close the case file.

Authority G.S. 95-245.

SECTION .0700 - SETTLEMENT AND LITIGATION

.0701 SETTLEMENT

Except in those cases where the complaint has been withdrawn, or a right-to-sue letter has been issued, the Commissioner shall be made a party to all settlements. Upon compliance with the terms of a settlement agreement, the Commissioner shall issue notification to all parties and close the case file.

Authority G.S. 95-245.

.0702 LITIGATION

In determining whether to file a civil action or issue a right-to-sue letter, the Commissioner shall consider the interests of both the public and the individual complainant. If the Commissioner elects to file a civil action, the Commissioner shall control all aspects of the litigation, which shall include the acceptance of any proposed settlement.

Authority G.S. 95-245.

TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the DENR - Soil and Water Conservation Commission intends to amend rule cited as 15A NCAC 6E .0107. Notice of Rule-making Proceedings was published in the Register on April 15, 1998.

Proposed Effective Date: April 1, 1999

Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): Any person requesting that the Soil and Water Conservation Commission conduct a public hearing on this proposed amendment must submit a written request by October 30, 1998 to Vernon Cox,

Division of Soil & Water Conservation, PO Box 27687, Raleigh, NC 27611. The request must specify which rule the hearing is being request on. Written requests submitted by mail must be postmarked no later than October 30, 1998.

Reason for Proposed Action: *The rules for the Agriculture Cost Share Program require an annual spot check of all animal waste systems funded by the Program for the first five years after implementation. Because the Division of Soil and Water Conservation and the Division of Water Quality are already conducting an annual review and inspection of systems required to have a certified waste management plan, the annual check by the District is no longer necessary to ensure their proper operation and maintenance. This rule change would include waste management systems as part of the annual five percent spot checks that are currently conducted of all cost shared practices, unless the operation does not have a certified waste management plan. Cost shared waste management practices for operations under the threshold for requiring annual inspections and operation reviews, and any other systems not requiring a certified plan, would continue to be reviewed annually for the first five years after implementation.*

Comment Procedures: *All persons interested in this proposed amendment are encouraged to submit written comments. Comments must be postmarked by November 16, 1998 and submitted to Vernon Cox, Division of Soil & Water Conservation, PO Box 27687, Raleigh, NC 27611.*

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

CHAPTER 6 - SOIL AND WATER CONSERVATION COMMISSION

SUBCHAPTER 6E - AGRICULTURE COST SHARE PROGRAM FOR NONPOINT SOURCE POLLUTION CONTROL

SECTION .0100 - AGRICULTURE COST SHARE PROGRAM

.0107 COST SHARE AGREEMENT

(a) The landowner shall be required to sign the agreement for all practices other than conservation tillage and land application of animal wastes. An applicant who is not the landowner may submit a long term written lease or other legal document, indicating control over the land in lieu of the landowner's signature, provided the control runs the length of the life of the practice as listed in the respective Program Year's Implementation Plan. Signature on the agreement constitutes responsibility for BMP maintenance and continuation.

(b) As a condition for receiving cost share or cost share

incentive payments for implementing BMP's, the applicant shall agree to continue and maintain those practices for the minimum life as set forth in the Detailed Implementation Plan, effective the date the BMP's are implemented.

(c) As a condition for receiving cost share payments, the applicant shall agree to submit a soil test sample for analysis and follow the fertilizer application recommendations as close as reasonably and practically possible. Soil testing shall be required a minimum of every two years on all cropland affected by cost share payments. Failure to soil test shall not constitute noncompliance with the cost share agreement.

(d) As a condition for receiving cost share payments for waste management systems, the applicant shall agree to have the waste material analyzed once every year to determine its nutrient content. If the waste is land applied, the applicant shall agree to soil test the area of application and to apply the waste as close as reasonably and practically possible to recommended rates. When waste is land applied, waste analysis and soil testing shall be conducted annually.

(e) The technical representative of the district shall determine if the practice(s) implemented have been installed according to specifications as defined for the respective program year in the USDA-Natural Resources Conservation Service Technical Guide, Section IV, Raleigh, North Carolina, or according to specifications approved by the division for district BMP's. The district shall be responsible for making an annual spot check of five percent of all the participating farms to ensure proper maintenance. ~~Waste management systems will receive annual status reviews for five years following implementation.~~ Waste management systems shall be included as part of the annual five percent check except for systems on farms without certified waste management plans. In those cases, the systems will receive annual status reviews for five years following implementation.

(f) If the technical representative of the district determines that a BMP for which program funds were received has been destroyed or has not been properly maintained, the applicant will be notified that the BMP must be repaired or re-implemented within 30 working days. For vegetative practices, applicants are given one calendar year to re-establish the vegetation. The district may grant a prescribed extension period if it determines compliance can not be met due to circumstances beyond the applicants control.

(g) If the practices are not repaired or reimplemented within the specified time, the applicant shall be required to repay to the division a prorated refund for cost share BMP's as shown in Table 1 and 100 percent of the cost share incentive payments received.

Table 1
PRORATED REFUND SCHEDULE FOR NONCOMPLIANCE
OF COST SHARE PAYMENTS

Percent Age of Practice Life	Percent Refund
0	100
10	95
20	89
30	82
40	74
50	65
60	55
70	44
80	31
90	17
100	0

(h) An applicant, who has been found in noncompliance and who does not agree to repair or reimplement the cost shared practices, and a District may jointly request the commission to informally mediate the case. To invoke this method of mediation, both parties must stipulate that the commission mediation is binding.

(i) An applicant shall have a maximum of 180 days to make repay, sent to the division following the final appeals process.

(j) The inability to properly maintain cost shared practices or the destruction of such practices through no fault of the applicant shall not be considered as noncompliance with the cost share agreement.

(k) When land under cost share agreement changes owners the new landowner shall be strongly encouraged by the district to continue and maintain practice(s) previously implemented.

Authority G.S. 139-8; 143-215.74.

TITLE 17 - DEPARTMENT OF REVENUE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Revenue intends to amend rules cited as 17 NCAC 4B .0302, .0306, .0308, .0310 - .0312, .2902, .2903; 4E .0201, .0302, .0703; 4F .0005; and repeal 4B .0102, .0104 - .0107, .0301, .0309, .0403, .0405, .4301, .4302; 4E .0102, .0103, .0202, .0203.

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

Proposed Effective Date:

17 NCAC 4B .0102, .0104 - .0107, .0301, .0302, .0306, .0308 - .0312, .0403, .0405, .2902 - .2903, .4301 - .4302 - July 1, 1999
17 NCAC 4E .0102 - .0103, .0201 - .0203, .0302, .0703; 4F

.0005 - May 1, 1999

Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): A person may request a public hearing by sending a written request for a hearing to Mr. Jay Hare, Corporate, Excise, and Insurance Tax Division, PO Box 871, Raleigh, NC 27602-871, by November 16, 1998. Notice of any hearing scheduled on these proposed repeals will be published in the Register.

Reason for Proposed Action:

17 NCAC 4B .0102, .0104 - .0107 - Senate Bill 1252 revised the State privilege license taxes. The revisions repealed the pro-ration of tax, repealed the license tax (but not the gross receipts tax associated with the license), and consolidated the exemptions into one statute. The rules that are repealed here either conflict with or restate the revisions and are therefore either obsolete or unnecessary.

17 NCAC 4B .0301 - Senate Bill 1252 revised the State privilege license taxes. The revisions repealed the pro-ration of tax, effective July 1, 1999. This rule will therefore be obsolete on that date.

17 NCAC 4B .0302 - Senate Bill 1252 revised the State privilege license taxes. The revisions repealed the pro-ration of tax, repealed the license tax (but not the gross receipts tax associated with the license), and consolidated the exemptions into one statute. Many privilege license rules are no longer needed as a result of that legislation. This amendment consolidates this rule and 4B .0403 and .0405 so the remaining rules will not be so scattered in the Code.

17 NCAC 4B .0306 - Senate Bill 1252 consolidated and revised the exemptions to the State privilege license taxes. This amendment reflects those changes.

17 NCAC 4B .0308, .0310 - .0312 - Senate Bill 1252 repealed the State license tax for most of the privilege license taxes, leaving the gross receipts tax on amusements. These rules are amended to delete references to the obsolete license tax.

17 NCAC 4B .0309 - Senate Bill 1252 revised the State privilege license taxes. The revisions repealed the pro-ration of

tax, repealed the license tax (but not the gross receipts tax associated with the license), and consolidated the exemptions into one statute. Many privilege license tax rules are no longer needed as a result of that legislation. Some of the remaining rules are being consolidated so the rules will not be so scattered. This rule is repealed because it is incorporate in amended 4B .0308.

17 NCAC 4B .0403, .0405 - Senate Bill 1252 revised the state privilege license taxes. The revisions repealed the pro-ration of tax, repealed the license tax (but not the gross receipts tax associated with the license), and consolidated the exemptions into one statute. Many privilege license tax rules are no longer needed as a result of that legislation. These rules are repealed because their content is consolidated with revised rule 4B. 0302 so the remaining rules will not be so scattered in the code.

17 NCAC 4B .2902 -.2903 - Senate Bill 1252 revised the State privilege license taxes. The revisions repealed the license portion of the installment paper tax and increased the installment paper percentage tax rate to keep the tax revenue from the tax the same. The changes to these rules reflect the changes made by the legislation.

17 NCAC 4B .4301 - .4302 - Senate Bill 1252 revised the State privilege license taxes. The revisions repealed the pro-ration of tax, repealed the license tax (but not the gross receipts tax associated with the license), and consolidated the exemptions into one statute. As a result of that legislation, all the privilege license tax rules were reviewed. These two rules repeat the statutes for the most part and are unnecessary even if they were not repetitious.

17 NCAC 4E .0102 - .0103 - Senate Bill 1252 repealed the beer and wine privilege license taxes, effective May 1, 1999, and left in place the beer and wine excise taxes. These rules address the beer and wine privilege license taxes and are therefore obsolete.

17 NCAC 4E. 0201 - Senate Bill 1252 repealed the State beer and wine privilege taxes, effective May 1, 1999, and left the beer and wine excise taxes. This rule needs to be changed to reflect these changes and to correct the name of the Division within the Department that receives the beer and wine tax reports.

17 NCAC 4E .0202 - .0203 - Senate Bill 1252 repealed the beer and wine privilege license taxes, effective May 1, 1999, and left in place the beer and wine excise taxes. As a result of that legislation, all of the beer and wine privilege license and excise tax rules were reviewed. These two rules are repetitious of the statutes for the most part and the part in .0202 about the Examiner's report is out-of-date. The rules therefore need to be repealed.

17 NCAC 4E .0302 - This is a technical change to eliminate the double reference to taxpaid beverages.

17 NCAC 4E .0703 - This amendment deletes the word "malt" and substitutes the word "beer".

17 NCAC 4F .0005 - This amendment revises the statute to reflect changes made to the law since 1991.

Comment Procedures: Written comments may be submitted to Mr. Jay Hare at North Carolina Department of Revenue, Corporate, Excise, and Insurance Tax Division, PO Box 871,

Raleigh, NC 27602. Comments received will be taken into consideration. If you have questions, you may call Mr. Hare at 919-733-1352.

CHAPTER 4 - LICENSE AND EXCISE TAX DIVISION

SUBCHAPTER 4B - LICENSE TAXES

SECTION .0100 - GENERAL ADMINISTRATION

.0102 TRANSFER FEE

The five dollar (\$5.00) transfer fee cannot be prorated.

Authority G.S. 105-33; 105-262.

.0104 REFUNDS

Privilege licenses to be refunded for overpayment of tax shall be returned with the refund request if in the possession of the taxpayer.

Authority G.S. 105-33; 105-262; 105-266; 105-266.1.

.0105 CHURCHES OR CHARITABLE ORGANIZATIONS

No church or charitable organization is exempt from payment of privilege license tax when engaging in an otherwise taxable activity.

Authority G.S. 105-33; 105-262.

.0106 CEDED AREAS

The state has no power to collect privilege license taxes on businesses carried on entirely within an area ceded by the State of North Carolina to the federal government.

Authority G.S. 105-33; 105-262.

.0107 BLIND PERSONS

Blind persons who qualify under G.S. 105-249 are exempt from the payment of privilege licenses. The State Commission for the Blind certifies to the Revenue Department all persons who qualify with said commission for this exemption. While we do not actually issue an exempt license, we honor the commission's certificate to us and also the certificate issued by a qualified physician or optometrist, as provided under Subsection (d) of G.S. 105-249.

Authority G.S. 105-33; 105-249; 105-262.

SECTION .0300 - AMUSEMENTS NOT OTHERWISE TAXED

.0301 NOT PRORATED

Licenses for amusements not otherwise taxed may not be prorated and issued for one-half year.

Authority G.S. 105-37.1; 105-262.

.0302 COMPUTATION AND PAYMENT OF GROSS RECEIPTS TAXES

(a) The three percent gross receipts tax is computed upon the entire admission price less the federal tax, if any. The three percent is not to be deducted in order to arrive at the tax base.

(b) Form B-205, Report of Gross Receipts Tax, is used to remit the three percent gross receipts tax on amusements. This report shall be filed within the first 10 days of each month covering gross receipts for the preceding month, unless the operation is of a temporary nature, then the tax is due at the close of operation.

(a) Computation. -- The gross receipts taxes imposed by G.S. 105-37.1 and 105-38 on amusements are computed on the admission price of the amusements, less any federal tax included in the admission price. Gross receipts taxes are not deducted from the admission price to determine the tax base. When an amusement does not charge an admission price but those admitted are asked to make a voluntary contribution, the gross receipts taxes apply to the voluntary contributions received.

(b) Payment. The gross receipts taxes imposed by G.S. 105-37.1 and 105-38 must be reported to the Secretary on Form B-205. Taxes payable by a continuing amusement are due by the 10th day after the end of each month. Taxes payable by a temporary amusement are due when the amusement closes.

Authority G.S. 105-37.1; 105-38; 105-262.

.0306 CIVIC ORGANIZATION AMUSEMENTS

Exemption of the gross receipts tax on The exemption in G.S. 105-40 for the first one thousand dollars (\$1,000) of receipts derived from dances and other amusements actually promoted and managed by civic organizations and private and public secondary schools is applicable to each such dance or amusement as a separate event, by a civic organization from a dance or another amusement promoted and managed by the organization applies separately to each dance or other amusement.

Authority G.S. 105-37.1; 105-38; 105-40; 105-262.

.0308 DRAG STRIPS AND GO-CART RACES

A drag strip operation or a go-cart race for which an admission is charged to the spectators is subject to liability the gross receipts tax imposed under G.S. 105-37.1. The license fee under this Section is treated as an advance payment upon the three percent gross receipts tax due on the admission charges. Form B-205, Report of Gross Receipts Tax, is due monthly, not later than the tenth of the month. When If a person operates a drag strip is operated or a go-cart track where spectator fees are not charged, but a fee is charged to the individuals for the use of the strip or track for their own entertainment, the fees are not subject to the gross receipts tax.

Authority G.S. 105-37.1; 105-262.

.0309 GO-CART RACES

(a) A go-cart race for which an admission is charged to the spectators is subject to the license and three percent gross receipts tax imposed under G.S. 105-37.1.

(b) If a person operates a go-cart track where spectator fees are not charged, but a fee is charged to individuals for the use of the track for their own entertainment, the fees are not subject to the gross receipts tax.

Authority G.S. 105-37.1; 105-262.

.0310 FISHING PIERS

If spectators are charged admission to a fishing pier, liability will be due under G.S. 105-37.1 for the license and three percent gross receipts tax on such spectator admission fees. Where admission charged is for fishing, no part of such charge is subject to liability under G.S. 105-37.1. If a charge is made for fishing and a separate charge made for the spectators, the spectator fee only shall be subject to tax under G.S. 105-37.1. An admission charge to a fishing pier is subject to the gross receipts tax imposed under G.S. 105-37.1 if the charge is for being a spectator on the pier. An admission charge to a fishing pier is not subject to the tax if the charge is for fishing on the pier. If one charge is imposed for being a spectator and another is imposed for fishing, only the charge for being a spectator is subject to the tax.

Authority G.S. 105-37.1; 105-262.

.0311 HORSE AND DOG SHOWS

Conducting a horse or dog show for which an admission fee is charged is subject to the privilege license and gross receipts tax under G.S. 105-37.1 unless the event qualifies for exemption under G.S. 105-40. An admission charge to a horse or dog show is subject to the gross receipts tax imposed under G.S. 105-37.1.

Authority G.S. 105-37.1; 105-262.

.0312 RATTLESNAKE MILKINGS

A rattlesnake milking exhibition for which a fee is charged is subject to license and the gross receipts tax imposed under G.S. 105-37.1.

Authority G.S. 105-37.1; 105-262.

SECTION .0400 - AMUSEMENTS: CIRCUSES: MENAGERIES: WILD WEST: DOG AND PONY SHOWS: ETC.

.0403 REPORT OF GROSS RECEIPTS TAX

Form B-205, Report of Gross Receipts Tax, is used to remit the three percent gross receipts tax on amusements under G.S. 105-38. This report shall be filed within the first 10 days of each month covering gross receipts for the preceding month, unless the operation is of a temporary nature, then the tax is due at the close of operation.

Authority G.S. 105-38; 105-262.

.0405 EXPECTED CONTRIBUTION

The license and gross receipts tax levied under G.S. 105-38 is applicable to traveling shows and exhibitions which, instead of an admission charge, requests spectators to make a voluntary contribution.

Authority G.S. 105-38; 105-104; 105-262.

SECTION .2900 - INSTALLMENT PAPER DEALER

.2902 LIABILITY FOR DIRECT LOANS

If a person ~~A person~~ who makes direct loans and who also buys installment paper, he paper is subject to privilege licenses under both G.S. 105-83 and G.S. 105-88.

Authority G.S. 105-83; 105-88; 105-262.

.2903 QUARTERLY REPORT

Form B-203, Installment Paper Dealer Quarterly Report, is used to remit the tax of ~~.275~~ .277 percent of the total face value of paper subject to liability under G.S. 105-83.

Authority G.S. 105-83; 105-262.

SECTION .4300 - MANNER OF OBTAINING LICENSES FROM SECRETARY OF REVENUE

.4301 APPLICATION FOR PRIVILEGE LICENSE

Form B-202, the preaddressed application for privilege license, is mailed the early part of June to the address of the preceding year's license. Form B-202A, the nonpreaddressed application for privilege license, may be obtained either by writing to North Carolina Department of Revenue, Business License and Returns Unit, PO Box 25000, Raleigh, NC 27640, or by contacting a branch office of the Department of Revenue. Either form may be used in making an application for a privilege license. Remittance of tax due must accompany any application for license.

Authority G.S. 105-104; 105-262.

.4302 PRIVILEGE LICENSE

A privilege license is issued for each type license purchased. Such a license is evidence that the privilege license tax is paid for the privilege of carrying on the business as described on the license. However, this license alone does not authorize the

practice of any profession, business or trade for which a state qualification license is required.

Authority G.S. 105-33; 105-104; 105-262.

SUBCHAPTER 4E - ALCOHOLIC BEVERAGES TAX

SECTION .0100 - LICENSES

.0102 APPLICATION FOR LICENSE

~~Application for State alcoholic beverage commercial licenses under G.S. 105-113.74, State beer and wine retail licenses under G.S. 105-113.75, and State railroad alcoholic beverage sales license under G.S. 105-113.76 shall be filed with the North Carolina Department of Revenue, Office Examination Division, Business License and Returns Unit, Raleigh, North Carolina, on or before May 1 of each year with remittance of license tax applicable. In the case of new operations beginning after May 1, licenses shall be purchased before sales are made.~~

Authority G.S. 105-113.70 through 105-113.79; 105-262.

.0103 PENALTY

~~Penalty accrues at the rate of five percent for each and every 30 days or fraction thereof (not to exceed 50 percent) that the license tax remains unpaid from the date due and payable. Application for renewal of license should be filed on or before May 1 in order to avoid penalty.~~

Authority G.S. 105-113.89; 105-262.

SECTION .0200 - MONTHLY REPORTS: PAYMENT OF TAX

.0201 FILING OF MONTHLY REPORTS

Monthly reports, as follows, provided by the Secretary of Revenue, shall must be filed with the North Carolina Department of Revenue, license and excise tax division, Office Examination Division, Business License and Returns Unit, Raleigh, North Carolina, on or before the 15th day of each month covering transactions in alcoholic beverages for the preceding month by those licensees taxpayers required to file, together with remittance of tax where applicable:

	Report Form	To Be Filed By	With Tax
(1)	B-C-710	Resident beer wholesaler and importer,	X
(2)	B-C-715	Beer manufacturer and nonresident wholesaler,	
(3)	B-C-761	Dealers on trains (beer sales),	X
(4)	B-C-775	A.B.C. Boards,	X
(5)	B-C-776	Dealers on trains (spirituous liquor sales),	X
(6)	B-C-780	Dealers on trains (unfortified wine sales),	X
(7)	B-C-783	Resident unfortified wine wholesaler and importer,	X
(8)	B-C-784	Resident fortified wine wholesaler and importer,	X

- (9) B-C-787 Unfortified wine manufacturer and nonresident wholesaler.
- (10) B-C-788 Fortified wine manufacturer and nonresident wholesaler.
- (11) B-C-796 Nonresident shippers of bulk wine to authorized resident bottlers.

Authority G.S. 105-113.76; 105-113.83; 105-113.84; 105-262.

.0202 EXAMINER'S REPORT

Monthly excise tax reports are examined. ~~The Beverage Tax Examiner's Report, Form B-C-711, is mailed the taxpayer to indicate errors and the effect the errors have on the tax liability. Additional tax liability is subject to penalty according to G.S. 105-236 and interest at the rate authorized under G.S. 105-241.1(i) per month or fraction of a month.~~

Authority G.S. 105-113.89; 105-262.

.0203 SEPARATE REPORTS FOR WINES

~~Separate reports shall be filed by the resident wholesaler or importer since both the tax rates and the portion of the tax distributed to local governments differ.~~

Authority G.S. 105-113.80 through 105-113.83; 105-262.

SECTION .0300 - SPOILAGE: BREAKAGE AND DESTRUCTION

.0302 SPOILAGE OF TAXPAID BEER OR WINE

~~Spoilage or breakage of any "taxpaid" beer or wine or Spoilage, breakage, or other losses of any taxpaid beer or wine in any other manner cannot be claimed as a deduction from the excise tax due.~~

Authority G.S. 105-113.81; 105-262.

SECTION .0700 - DISTRIBUTION OF MALT AND WINE EXCISE TAX TO LOCAL GOVERNMENTS

.0703 QUESTIONNAIRES

Annual questionnaires are mailed to each county (Form B-C-798) and each municipality (Form B-C-797) in order to obtain information necessary to determine their distributable share of ~~malt, beer,~~ unfortified wine, and fortified wine excise taxes.

Authority G.S. 105-113.82; 105-262.

SUBCHAPTER 4F - EXCISE STAMP TAX ON CONVEYANCES

.0005 CONVEYANCE TAX (EXCISE TAX ON DEEDS) REPORT

The county finance officer shall ~~must~~ file Form R-1 [Conveyance Tax (Excise Tax on Deeds) Report] ~~with the Department on or before the 20th day of each month with remittance covering one-half of the net proceeds received from the conveyance tax for the preceding month, after the end of each calendar quarter and remit the tax due under G.S. 105-~~

228.30. The address for mailing the report is: North Carolina Department of Revenue, Business License and Returns Unit, Conveyance Tax Section, PO Box 25000, Raleigh, NC 27640-0001.

Authority G.S. 105-228.30; 105-262.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Revenue intends to repeal rule cited as 17 NCAC 6B .0105.

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

Proposed Effective Date: April 1, 1999

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): A person may request a public hearing by sending a written request for a hearing to Mr. Sam McEwen, Personal Tax Division, PO Box 871, Raleigh, NC 27602, by November 16, 1998. Notice of any public hearing scheduled on this proposed repeal will be published in the register.

Reason for Proposed Action: The Department is revising its forms so they can be processed on new equipment, and this rule is not needed.

Comment Procedures: Written comments may be submitted to Mr. Sam McEwen at North Carolina Department of Revenue, Personal Tax Division, PO Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Mr. McEwen at 919-733-3565.

CHAPTER 6 - INDIVIDUAL INCOME TAX DIVISION

SUBCHAPTER 6B - INDIVIDUAL INCOME TAX

SECTION .0100 - FILING INDIVIDUAL INCOME TAX RETURNS

.0105 REPRODUCED COPIES

The department will accept reproduced copies of the North Carolina individual income tax, fiduciary, and partnership

returns provided the reproductions meet the following requirements:

- (1) The color must be white or the color of the department's forms.
- (2) The paper weight must be equal to or better than the department's forms.
- (3) The form may be reproduced on one side or both sides of the paper, but the pages shall be stapled together at the top.
- (4) The taxpayer must sign the reproduced form. A reproduction of the signature is not acceptable.
- (5) The information must be legible and must be of a type that will not fade for a period of at least 10 years. The department reserves the right to reject any reproductions with poor legibility.

Authority G.S. 105-155; 105-251; 105-252; 105-262.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Revenue intends to repeal rules cited as 17 NCAC 7B .0124 - .0125.

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

Proposed Effective Date: April 1, 1999

Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): A person may request a public hearing by sending a written request for a hearing to Mr. Timothy Holmes, Sales and Use Tax Division, PO Box 871, Raleigh, NC 27602, by November 16, 1998. Notice of any public hearing scheduled on this proposed repeal will be published in the Register.

Reason for Proposed Action: 17 NCAC 7B .0124 - This rule repeats the holding in the court case of Henderson v. Gill, and is therefore unnecessary.

17 NCAC 7B .0125 - This rule repeats G.S. 105-164.4 and is therefore unnecessary.

Comment Procedures: Written comments may be submitted to Mr. Tim Holmes at North Carolina Department of Revenue, Sales and Use Tax Division, PO Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Mr. Holmes at 919-733-2151.

CHAPTER 7 - SALES AND USE TAX

SUBCHAPTER 7B - STATE SALES AND USE TAX

SECTION .0100 - GENERAL PROVISIONS

.0124 ERRONEOUS INFORMATION

The state is not stopped to collect the retail sales or use tax levied by G.S. 105-164.4 by reason of an agent of the Department of Revenue erroneously advising the merchant that certain sales are not subject to the tax.

Authority G.S. 105-164.4; 105-164.6; 105-262.

.0125 FLEA MARKETS

(a) Every person who sells tangible personal property at a flea market, other than his own household personal property, is required to obtain a Merchants Certificate of Registration License to engage in and conduct such business. When making sales at the flea market such person shall conspicuously display the license or shall display a receipt from the Department of Revenue showing that he has applied for the license in cases where he has not yet received the license. Every person who sells only his own household personal property at a flea market must certify in writing to the person from whom he leases or rents space that he will sell only his own household personal property and when selling tangible personal property at the flea market must conspicuously display a copy of the written statement.

(b) A person who leases or rents space to others at a flea market shall keep records of retailers to whom he has leased or rented space at the flea market. Such records shall include:

- (1) the date;
- (2) the name and address of the lessee;
- (3) the sales and use tax registration number of the lessee or the receipt number and the name of the Revenue Officer issuing the receipt in cases where the lessee has applied for but has not yet received the Merchants Certificate of Registration License; and
- (4) a copy of the certified statement of vendors who sell only their own household personal property wherever applicable.

Authority G.S. 105-164.3(1); 105-164.4; 105-164.6; 105-262.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Revenue intends to repeal rule cited as 17 NCAC 9K .0601.

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

Proposed Effective Date: April 1, 1999

Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): A person may request a public hearing by sending a written request for a hearing to Ms. Jan Slusser, Motor Fuel Tax Division, at PO Box 871, Raleigh, NC 27602, by November 16, 1998. Notice of any public hearing scheduled on this proposed repeal will be published in the Register.

Reason for Proposed Action: The rule repeats G.S. 105-449.94 and is therefore unnecessary.

Comment Procedures: Written comments may be submitted to Ms. Jan Slusser at North Carolina Department of Revenue, Motor Fuel Tax Division, PO Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Ms. Slusser at 919-733-4629.

CHAPTER 9 - MOTOR FUELS TAX DIVISION

SUBCHAPTER 9K - GASOLINE, DIESEL AND BLENDS

SECTION .0600 - ENFORCEMENT AND ADMINISTRATION

.0601 RECORDS OF EXEMPT SALES

To enable the Department of Revenue to identify the sales made to exempt purchasers of motor fuels, a licensed distributor shall provide such information on a quarterly basis. A licensed distributor may use its Quarterly Reconciling Report to provide the required information.

Authority G.S. 105-251; 105-252; 105-262; 105-449.61(c).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 8 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC State Board of CPA Examiners intends to amend rules cited as 21 NCAC 8A .0301, .0308, .0310, .0315; 8F .0107, .0504; 8H .0001, .0002; 8I .0004; 8J .0007 - .0008, .0010 - .0011; 8K .0104 - .0105; 8M .0102 - .0104, .0201 - .0202, .0204, .0206 - .0207, .0301 - .0306, .0401 - .0403; 8N .0202, .0208, .0302 - .0303, .0306 - .0307; and repeal rule cited as 21 NCAC 8J .0002. Notice of Rule-making Proceedings was published in the Register on August 3, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 10:00 a.m. on

November 16, 1998 at the NC State Board of CPA Examiners, 1101 Oberlin Road, Suite 104, Raleigh, NC 27605.

Reason for Proposed Action: To amend and adopt language resulting from the amended Uniform Accountancy Act, which is a document that the Board uses as guidance to reflect current protection of the public and uniform regulation of its licensees. To amend and repeal rules relevant to reciprocal certification, firm registration and ownership, professional ethics and conduct, and definitions, as needed.

Comment Procedures: Any person interested in these Rules may submit comments by mailing the comments to Robert N. Brooks, Executive Director, NC State Board of CPA examiners, PO Box 12827, Raleigh, NC 27605.

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

SUBCHAPTER 8A - DEPARTMENTAL RULES

SECTION .0300 - DEFINITIONS

.0301 DEFINITIONS

(a) The definitions set out in G.S. 93-1(a) shall apply when those defined terms are used in 21 NCAC 8.

(b) In addition to the definitions set out in GS 93-1(a), the following definitions and other definitions in this Section apply when these terms are used in 21 NCAC 8:

- (1) "Active," when used to refer to the status of a person, describes a person who possesses a North Carolina certificate of qualification and who has not otherwise been granted "Retired," "Inactive," or "Conditional" status;
- (2) "Agreed upon procedure" means a client has engaged a CPA to issue a report of findings based on specific procedures performed on specific subject matter of specified elements, accounts, or accounting information that is part of but significantly less than a financial statement;
- (3) "AICPA" means the American Institute of Certified Public Accountants;
- (4) "Applicant" means a person who has applied to take the CPA examination;
- (5) "Attest service" means:
 - (A) any audit.
 - (B) any review of a financial statement.
 - (C) any compilation of a financial statement when the CPA expects, or reasonably might expect, that a third party will use the compilation and the CPA does not disclose a lack of independence, and
 - (D) any examination of prospective financial information; information, and
 - (E) any agreed upon procedure.

- (6) "Audit" means an examination of financial statements of a person by a CPA, conducted in accordance with generally accepted auditing standards, to determine whether, in the CPA's opinion, the statements conform with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;
- (7) "Board" means the North Carolina State Board of Certified Public Accountant Examiners;
- (8) "Calendar year" means the 12 months beginning January 1 and ending December 31;
- (9) "Candidate" means a person whose application to take the CPA examination has been accepted and who may sit for the CPA examination;
- (10) "Client" means ~~one a person~~ who orally or in writing agrees with a ~~person or firm holding out pursuant to 21 NCAC A .0308 to receive any services included in 21 NCAC A .0307;~~ licensee to receive any professional services;
- (11) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person;
- (12) "Compilation of a financial statement" means presenting in the form of a financial statement information that is the representation of any other person without the CPA's undertaking to express any assurance on the statement;
- (13) "Conditional," when used to refer to the status of a person, describes a person who holds a North Carolina certificate of qualification under certain conditions as imposed by the Board, such as additional requirements for failure to complete the required CP hours in a calendar year;
- (14) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service;
- (15) "CPA" means certified public accountant;
- (16) "CPA" firm" means a sole proprietorship, a partnership, a professional corporation, a professional limited liability company, or a registered limited liability partnership which uses "certified public accountant(s)" or "CPA(s)" in or with its name or offers to or renders any attest services in the public practice of accountancy;
- (17) "CP" means continuing professional education;
- (18) "Disciplinary action" means revocation or suspension of, or refusal to grant, membership, or the imposition of a reprimand, probation, constructive comment, or any other penalty or condition;
- (19) "Disclosure" means ~~a written statement of the service to be rendered with the contingent fee to be charged and which is dated and signed by the client;~~
- (20) "FASB" means the Financial Accounting Standards Board;
- (21) "Firm" means ~~an individual proprietor, a partnership, a professional corporation, a professional limited liability company, or a registered limited liability partnership;~~
- (22) "Forecast" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects to exist and the course of action it expects to take;
- (23) "GAS" means the Governmental Accounting Standards Board;
- (24) "Inactive," when used to refer to the status of a person, describes one who has requested inactive status and been approved by the Board and who does not use the title "certified public accountant" nor does he or she allow anyone to refer to him or her as a "certified public accountant," and neither he or she nor anyone else refers to him or her in any representation as described in 21 NCAC A .0308(b);
- (25) "IRS" means the Internal Revenue Service;
- (26) "Jurisdiction" means any state or territory of the United States or the District of Columbia;
- (27) "License year" means the 12 months beginning July 1 and ending June 30;
- (28) "Member of a CPA firm" means any CPA who has an equity ownership interest in a CPA firm including owners, partners and shareholders; ~~firm;~~
- (29) "NASA" means the National Association of State Boards of Accountancy;
- (30) "NCACPA" means the North Carolina Association of Certified Public Accountants;
- (31) "North Carolina office" means any office physically located in North Carolina;
- (32) "Participating CPA firm" means a CPA firm participating in the SQR program. It does not include CPA firms exempt by reason of 21 NCAC 8M .0102(a) or deemed in compliance pursuant to 21 NCAC 8M .0104;
- (33) "Person" means any natural person, corporation, partnership, professional limited liability company, registered limited liability partnership, unincorporated association, or other entity;
- (34) "Professional" means arising out of or related to the

particular knowledge or skills associated with CPAs:

- (33)(34) "Projection" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions;
- (34)(35) "Referral fee" means compensation for recommending or referring any service of a CPA to any person;
- (35)(36) "Retired," when used to refer to the status of a person, describes one possessing a North Carolina certificate of qualification who verifies to the Board that the applicant does not receive or intend to receive in the future any earned compensation for current personal services in any job whatsoever and will not return to active status. However, retired status does not preclude volunteer services for which the retired CPA receives no direct nor indirect compensation so long as the retired CPA does not sign any documents, related to such services, as a CPA;
- (36)(37) "Revenue Department" means the North Carolina Department of Revenue;
- (37)(38) "Review" means to perform an inquiry and analytical procedures that permit a CPA to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;
- (38)(39) "SQR Advisory Committee" means the State Quality Review Advisory Committee to the Board;
- (39)(40) "SQR Program" means the State Quality Review Program of the North Carolina State Board of Certified Public Accountant Examiners;
- (40)(41) "SQR Review team" means that team of CPAs which reviews a CPA firm pursuant to the requirements of Subchapter 8M. A review team may be comprised of one or more members;
- (41)(42) "SQR Review team captain" means that member of a review team who is responsible for the review and supervises the other members of the team;
- (42)(43) "SQR Reviewer" means a member of a review team including the review team captain;
- (43)(44) "Suspension" means a revocation for a specified period of time. A CPA may be reinstated after a specific period of time if the CPA has met all conditions imposed by the Board at the time of suspension; and
- (44)(45) "Trade name" means a name used to designate a business enterprise.

Authority: G.S. 93-1; 93-12(8c).

.0308 HOLDING OUT TO THE PUBLIC

(a) The phrase "holds himself out to the public as a certified public accountant," as used in defining "public practice of accountancy" in G.S. 93-1(a)(5) and in these Rules, means any representation that a person holds a certificate of qualification, if that representation is made in connection with an offer to perform or the performance of accountancy services for the public, regardless of whether that representation is made by the person, someone associated with that person, or someone serving as that person's agent. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate in connection with the professional services offered to be performed or performed by the person.

(b) For purposes of this Rule, a representation shall be deemed to include any oral or written communication indicating that the person holds a certificate, including without limitation the use of titles or legends on letterheads, reports, business cards, brochures, resumes, office signs, telephone directories or any other advertisements, news articles, publications, listings, tax return signatures, signatures on experience or character affidavits for exam or certificate applicants, displayed membership in CPA associations, displayed CPA licenses from this or any other state, and displayed certificates or licenses from other organizations which have the designation "CPA" or "Certified Public Accountant" by the licensee's name.

~~(c) Faculty members licensed by the Board are not considered to be in the public practice of accountancy when they use the title "certified public accountant" only for identification as faculty members in an educational institution, for purposes of functioning in the capacity as such faculty members.~~

~~(d) Authors licensed by the Board are not considered to be in the public practice of accountancy when they use the title "certified public accountant" only for identification as authors of books, articles or other publications, provided that such publications do not offer the performance of services or the sale of products (other than books, articles or other publications) of any kind.~~

~~(e) Licensees are not considered to be in the public practice of accountancy when their licensure is published in licensee or society membership directories, or is included in the sale of mailing labels, or when licensure or membership status is confirmed.~~

~~(f) Use of the title in the form of a disclosure, when a licensee is required by law to disclose the fact of certification as a CPA, is not "holding out" for the purposes of this Rule.~~

Authority: GS 93-1(a)(5); 93-12.

.0310 DIRECT SUPERVISION DEFINED

(a) "Direct supervision" "Supervision" means:

- (1) having jurisdiction and oversight authority over the process of planning, coordinating, guiding, inspecting, controlling, and evaluating on a continuing basis the activities and accomplishments of the employees under one's command;
- (2) having the power of direction and decision in implementing activities to meet the objectives of one's

stewardship; and

- (3) having authority delegated by higher management to hire, transfer, suspend, recall, promote, assign, or discharge an employee under one's charge or to recommend such action through the proper administrative chain of ~~command~~; command;
- (4) having authority to supervise the employee in the usual line of authority unrestricted by multiple positions of influence; and
- (5) having authority to verify the employee's experience in a notarized experience affidavit.

(b) "Direct supervision" means that the person supervised is next below in the usual line of authority or is in a staff position reporting to the supervisor and there is a clear cut personal connection between employee and supervisor characterized by a direct, first hand association ~~unrestricted by an intervening position of influence.~~

Authority G.S. 93-12(5).

.0315 NEW CPA FIRM, ONGOING CPA FIRM

(a) When the members of a CPA firm elect to divide the CPA firm such that two or more CPA firms are created, one CPA firm may be the ongoing CPA firm and the other CPA firms may be new CPA firms, or all may be new CPA firms. The ongoing CPA firm, if any, is the CPA firm the members of which represent own more than 50 percent of the ownership of the predecessor CPA firm prior to the division.

(b) When two or more CPA firms merge, the resulting CPA firm may be an ongoing CPA firm (successor to one of the predecessor CPA firms) or it may be a new CPA firm. The resulting CPA firm is an ongoing CPA firm if any percentage of ownership greater than 50 percent of one of the predecessor CPA firms end up owning a percentage of the resulting CPA firm greater than 50 percent.

(c) For purposes of this Rule, "percentage of ownership" refers to the percentage of the CPA firm owned aggregately by the group of CPA firm members in question. Percentage of ownership is determined based upon the number of shares held by the group if the CPA firm is a professional corporation or a professional limited liability company, or, if the CPA firm is a partnership or registered limited liability partnership, the percentage of capital owned by the group.

(d) A change in an entity's form (for example, incorporation of what was a partnership) does not create a new CPA firm. ~~A new firm is not created by the addition of a member(s) not acquiring a percentage of ownership greater than 50 percent. Neither is a new firm created by the loss of a member(s) by retirement or death, provided the remaining members have purchased or are purchasing the retired or deceased members' ownership, regardless of whether the retired or deceased member(s) owned more than 50 percent of the firm.~~

(e) A new CPA firm is not created by the addition of a member(s) not acquiring a percentage of ownership greater than 50 percent. Neither is a new CPA firm created by the loss of a member(s) by retirement or death, provided the remaining members have purchased or are purchasing the retired or

deceased members' ownership, regardless of whether the retired or deceased member(s) owned more than 50 percent of the CPA firm.

Authority G.S. 93-1; 93-12(8c).

SUBCHAPTER 8F - REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANT EXAMINATION AND CERTIFICATE APPLICANTS

SECTION .0100 - GENERAL PROVISIONS

.0107 COMMUNICATION OF RESULTS OF CPA EXAMINATIONS

(a) The Board shall communicate to candidates in writing the result achieved in each of their examinations. ~~Numerical grades~~ Grades awarded to candidates shall not be released to third parties except by written consent of the candidate.

(b) In no event shall any information concerning answers of candidates be given to anyone other than the candidate.

(c) Examination grades shall be mailed on the uniform national release date agreed to with the NASA and the AICPA. However, candidates may receive their grades personally at the offices of the Board on the release date by notifying the Executive Director in writing not later than five days prior to the release date.

(d) Information prepared by the Board's staff about the results of the examination and intended for public information shall be made available no earlier than the day after the uniform national release date.

Authority G.S. 93-12(2); 93-12(3).

SECTION .0500 - APPLICATIONS FOR CERTIFICATES

.0504 CANDIDATES' ACCOUNTANCY LAW COURSE REQUIREMENT

(a) Within one year prior to applying for certification, all candidates for certification must pass an open book examination on the North Carolina Accountancy Statutes and Rules, including the Rules of Professional Ethics and Conduct contained therein.

(b) In lieu of taking the examination, a candidate may complete an eight-hour CP course on the subject of the examination within one year prior to applying for the CPA certificate. Such course or examination must meet the requirements of 21 NCAC 8G .0404(a). This course may count toward the candidate's annual CP requirement.

(c) A non-resident candidate for a reciprocal application must comply with Paragraph (a) or (b) of this Rule within 120 days of receiving his or her CPA certificate or the certificate shall expire and the individual shall reinstate the certificate pursuant to 21 NCAC 8J .0006.

Authority G.S. 93-12(a).

SUBCHAPTER 8H - RECIPROCITY

.0001 RECIPROCAL CERTIFICATES

(a) ~~Persons who meet the requirements of G.S. 93-12(6) may apply to the Board for a reciprocal certificate. A person from another jurisdiction who desires to offer or render professional services as a CPA to his or her employer or a client in this state shall meet all the requirements imposed on an applicant under G.S. 93-12(5) or the requirements of G.S. 93-12(6).~~

(b) ~~The fee for a reciprocal certificate shall be the maximum amount allowed by statute.~~

(c) ~~An applicant for a reciprocal certificate shall meet all of the current requirements imposed on an applicant under G.S. 93-12(5) or the following requirements, which the Board considers to be substantially equivalent to those the following requirements:~~

(1) ~~The applicant has the unrestricted privilege legal authority to use the CPA title and to practice public accountancy in any state or territory of the United States, or the District of Columbia, a jurisdiction.~~

(2) ~~The applicant: applicant has received a score of at least 75 on each part of the Uniform CPA Examination.~~

(A) ~~within ten years immediately preceding the filing date of the application, has had four years of experience in the field of accounting under the direct supervision of a CPA who held a valid license during the period of supervision in any state or territory of the United States or the District of Columbia; or~~

(B) ~~has ten years of experience in the field of accounting, or ten years of experience teaching accounting as defined and calculated in 21 NCAC 8F .0409, or any combination of such experience earned within the 12 years immediately preceding the filing date of the application.~~

(3) ~~The applicant received a score of at least 75 on each part of the Uniform CPA Examination.~~

(4) ~~During the two years preceding the applicant's filing date for a reciprocal certificate, the applicant has completed 80 hours of CP in courses meeting the requirements of 21 NCAC 8G .0401(a). However, applicants who received their initial CPA license within four years from the filing date of their application for a reciprocal certificate are exempt from this CP requirement.~~

(d) ~~An applicant for change in status, reissuance, or reinstatement of a reciprocal certificate that was inactive, forfeited, or retired more than 10 years before the date of reapplication, shall comply with all current requirements for a reciprocal certificate, applying for a reciprocal certificate under G.S. 93-12(6) must meet the following requirements which the Board considers to be substantially equivalent to those of G.S. 93-12(5):~~

(1) ~~The applicant shall have 150 semester hours of college or university education including a bachelors~~

or higher degree with a concentration in accounting and other courses that the Board may require from a college or university that is acceptable to the Board and one year of experience in the field of accounting verified by a certified public accountant who was the applicant's direct supervisor; or

(2) The applicant:

(A) within 10 years immediately preceding the filing date of the application, has had four years of experience in the field of accounting under the direct supervision of a CPA who held a valid license during the period of direct supervision in any state or territory of the United States or the District of Columbia; or

(B) has 10 years of experience in the field of accounting, or 10 years of experience teaching accounting as defined and calculated in 21 NCAC 8F .0409, or any combination of such experience earned within the 12 years immediately preceding the filing date of the application; and

(3) During the two years preceding the applicant's filing date for a reciprocal certificate, the applicant has completed 80 hours of CP in courses meeting the requirements of 21 NCAC 8G .0401(a). However, an applicant who received his or her initial CPA license within four years from the filing date of the application for a reciprocal certificate is exempt from this CP requirement.

(e) An applicant for change in status, reissuance, or reinstatement of a reciprocal certificate that was inactive, forfeited, or retired more than 10 years before the date of reapplication, must comply with all current requirements for a reciprocal certificate.

Authority G.S. 93-12(6); 93-12(a).

.0002 TEMPORARY PERMIT

(a) The Board may grant temporary permits only to applicants for reciprocal certificates pending their qualification under 21 NCAC 8H .0001, .0001 and application to the Board on forms provided by the Board.

(b) An out-of-state CPA who does not have a certificate from this Board but desires to use the CPA title within this state must first:

(1) apply to the Board for a temporary permit and reciprocal certificate on forms provided by the Board;

(2) furnish the Board with an affidavit signed by an official of the CPA licensing board of a state in which the CPA is currently licensed to practice public accounting, showing both the certificate number and that the applicant is in good standing; and

(3) furnish the Board with evidence of the applicant's CPA examination grades through an affidavit signed by an official of a CPA licensing board which can verify the grades;

(e)(b) Upon approval of a temporary permit, the Board will

issue the applicant a statement confirming that the CPA is in good standing in the state issuing the CPA's certificate and is entitled temporarily to use the CPA title and engage in the public practice of accountancy in North Carolina for a stated period. The stated period shall expire 120 days after issue or upon issuance of the individual's reciprocal certificate, whichever comes first.

Authority G.S. 93-12(6); 93-12(a).

SUBCHAPTER 8I - REVOCATION OF CERTIFICATES AND OTHER DISCIPLINARY ACTION

.0004 MODIFICATION OF DISCIPLINE AND NEW CERTIFICATE

(a) A person or CPA firm that has been disciplined by the Board may apply to the Board for modification of the discipline at any time after the effective date of the Board's decision imposing it; however, if any previous application has been made with respect to the same discipline, no additional application shall be considered before the lapse of one year following the Board's decision on that previous application. Provided, however, that an application to modify permanent revocation shall not be considered until after five years from the date of the original discipline, nor more often than three years after the Board's last decision on any prior application for modification.

(b) The application for modification of discipline or for a new certificate shall be in writing, shall set out and, as appropriate, shall demonstrate good cause for the relief sought. The application for an individual shall be accompanied by at least three supporting recommendations, made under oath, from CAPS who have personal knowledge of the activities of the applicant since the discipline was imposed. The application for a CPA firm shall be accompanied by at least three supporting recommendations, made under oath, for each CPA partner, CPA member, or CPA shareholder from CAPS who have personal knowledge of the activities of the CPA partner, CPA member, or CPA shareholder since the discipline was imposed.

(c) "Good cause" as used in Paragraph (b) of this Rule means that the applicant is completely rehabilitated with respect to the conduct which was the basis of the discipline. Evidence demonstrating such rehabilitation shall include evidence:

- (1) that such person has not engaged in any conduct during the discipline period which, if that person had been licensed or registered during such period, would have constituted the basis for discipline pursuant to G.S. 93-12(9);
- (2) that, with respect to any criminal conviction which constituted any part of the previous discipline, the person has completed the sentence imposed; and
- (3) that, with respect to a court order, restitution has been made to any aggrieved party.

(d) In determining good cause, the Board may consider all the applicant's activities since the disciplinary penalty was imposed, the offense for which the applicant was disciplined, the

applicant's activities during the time the applicant was in good standing with the Board, the applicant's rehabilitative efforts, restitution to damaged parties in the matter for which the penalty was imposed, and the applicant's general reputation for truth and professional probity. For the purpose of this Paragraph, "applicant" shall, in the case of a CPA firm, include CPA partners, CPA members, or CPA shareholders.

(e) Any person who applies for a modification of discipline and for a new certificate after revocation shall, in addition to the other requirements of this Section, comply with all qualifications and requirements for initial certification which exist at the time of the application.

(f) No application for a new certificate or for modification of discipline shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or suspended sentence, any of which are imposed as a result of having been convicted or plead to a criminal charge.

(g) An application shall ordinarily be ruled upon by the Board on the basis of the recommendations and evidence submitted in support thereof. However, the Board may make additional inquiries of any person or persons, or request additional evidence it deems appropriate.

(h) As a condition for a new certificate or modification of discipline, the Board may impose terms and conditions it considers suitable.

Authority G.S. 55B-12; 93-2; 93-12(a); 93-12(7b); 93-12(9).

SUBCHAPTER 8J - RENEWALS AND REGISTRATIONS

.0002 SUPERVISION OF CPA OFFICES

~~Every CPA office or firm which uses any words, letters, abbreviations, symbols or other means of identification to indicate that the office is engaged in the practice of public accountancy shall be actively and locally supervised by a CPA whose primary responsibility and a corresponding amount of time shall be work performed in that office. No person shall be designated as the supervisor or manager of any such office unless he or she is the holder of a North Carolina CPA certificate in good standing.~~

Authority G.S. 93-12(a)(5); 93-12(9).

.0007 MAILING ADDRESSES OF CERTIFICATE HOLDERS AND CPA FIRMS

All certificate holders and CPA firms shall notify the Board in writing within 30 days of any change in address or business location.

Authority G.S. 55B-12; 93-12(7b)(5); 93-12(9).

.0008 CPA FIRM REGISTRATION

(a) All CPA firms shall register with the Board within 30 days after opening a North Carolina office or beginning a new CPA firm unless they are a professional corporation, professional

limited liability company, or registered limited liability partnership, in which case they shall register prior to formation pursuant to 21 NCAC 8K .0104 and .0301.

(b) In addition to the initial registration required by Paragraph (a) of this Rule, all CPA firms shall register annually by January 31 with the Board upon forms provided by the Board.

(c) The information provided by the registration shall include:

- (1) Either an application for exemption from SQR, a request to be deemed in compliance with SQR or registration for SQR, pursuant to 21 NCAC 8M .0102 and .0104;
- (2) For all CPA firms not exempt from the SQR program, with the registration immediately following its review, the affidavit required by 21 NCAC 8M .0102(d);
- (3) For all North Carolina offices, an office registration form indicating the name of the office supervisor, the location of the office and its telephone number;
- (4) For all partnerships or registered limited liability partnerships, a list of all resident and nonresident partners of the partnership;
- (5) For all professional limited liability companies, the information set forth in 21 NCAC 8K .0104(d);
- (6) For all incorporated CPA firms, the information set forth in 21 NCAC 8K .0104(d);
- (7) For all CPA firms, the appropriate registration fees as set forth in 21 NCAC 8J .0010; and
- (8) For all new CPA firms, the percentage of ownership held individually by each ~~partner, shareholder, or member, owner:~~
 - (A) in the new CPA firm; and
 - (B) at the year-end in each CPA firm in which that ~~partner, member, or shareholder was a partner, member, or shareholder~~ owner was an owner during the preceding two years.

(9) For all changes in ownership of a CPA firm, the percentage of ownership held individually by each ~~partner, shareholder, or member, owner,~~

(d) All information provided for registration with the Board shall pertain to events of and action taken during the year preceding the year of registration. The last day of the preceding calendar year is the "year-end".

(e) With regard to Paragraph (c)(3) of this Rule, one representative of a CPA firm may file all documents with the Board on behalf of the CPA firm's offices in North Carolina. However, responsibility for compliance with this Rule shall remain with each office supervisor.

(f) With regard to Paragraph (c)(4) or (c)(5) of this Rule, one annual listing by a representative of the partnership, registered limited liability partnership, or professional limited liability company shall satisfy the requirement for all ~~partners or members~~ owners of the CPA firm. However, each ~~partner or member~~ owner shall remain responsible for compliance with this Rule. The absence of a filing under Paragraph (c)(4) or (c)(5) of this Rule shall be construed to mean that no partnership, registered limited liability partnership, or professional limited liability company exists.

(g) Notice that a CPA firm has dissolved or any change in the

information required by Paragraph (c)(3) of this Rule shall be delivered to the Board's office within 30 days after the change or dissolution occurs. A professional corporation or professional limited liability company which is dissolving shall deliver the Articles of Dissolution to the Board's office within 30 days of filing with the Office of the Secretary of State.

(h) Upon written petition by a CPA firm, the Board may, in its discretion, grant the CPA firm a conditional registration for a period of 60 days or less, if the CPA firm shows that circumstances beyond its control prohibited it from registering with the Board, completing a quality review or notifying the Board of change or dissolution pursuant to Paragraphs (a), (b), (c), and (g) of this Rule. The Board may grant a second extension under continued extenuating circumstances.

(i) A complete registration, as required by 21 NCAC 8J .0008(b) and (c), shall be postmarked with proper postage not later than the last day of January unless that date falls on a weekend or federal holiday, in which case the registration shall be postmarked or received in the Board office on the next business day. Only a U.S. Postal Service cancellation shall be considered as the postmark. If a registration is sent to the Board office via a private delivery service, the date the package is received by the delivery service shall be considered as the postmark.

Authority: G.S. 55B-10; 55B-12; 57C-1; 57C-2; 78-4.2; 93-12(a); 93-12(8c).

.0010 REGISTRATION AND SQR FEES

The annual registration fees shall be as follows:

- (1) For participation within SQR or for a request to be deemed in compliance with SQR, seventy-five dollars (\$75.00) plus five dollars (\$5.00) for each additional North Carolina office of the CPA firm not excused from SQR by 21 NCAC 8M .0204;
- (2) For all professional corporations or professional limited liability companies, twenty-five dollars (\$25.00); and
- (3) For all non-incorporated CPA firms which have offices both within and outside the state of North Carolina, whether sole proprietorships, partnerships, or registered limited liability partnerships, an amount equal to two thousand five hundred dollars (\$2,500.00) or the number of ~~owners~~ CPA members of the CPA firm multiplied by ten dollars (\$10.00), whichever is less.

Authority: G.S. 55B-11; 55B-12; 57C-1; 57C-2; 59-84.2; 93-12(b); 93-12(a); 93-12(8c).

.0011 COMPLIANCE WITH CPA FIRM AND SQR REGISTRATION

If a CPA firm fails to comply with any part of 21 NCAC 8J .0008, 8J .0010 or 8M .0102, the Board may take disciplinary action against the CPA firm's members. Such discipline may include:

- (1) a conditional license upon such conditions as the

Board may deem appropriate for non-compliance of less than 60 days;

- (2) a conditional license and one hundred dollar (\$100.00) civil penalty for non-compliance in excess of 60 days but not more than 120 days;
- (3) a suspension of each member's CPA certificate for a period of not less than 30 days for non-compliance in excess of 120 days.

Authority G.S. 55B-12; 57C-1; 57C-2; 59-84.2; 93-12(8c); 93-12(9).

SUBCHAPTER 8K - PROFESSIONAL CORPORATIONS AND PROFESSIONAL LIMITED LIABILITY COMPANIES

SECTION .0100 - GENERAL PROVISIONS

.0104 REGISTRATION AND RENEWAL

(a) Domestic CPA professional corporations or professional limited liability companies must be formed and all CPA professional corporations or professional limited liability companies must be operated in accordance with the requirements set out in G.S. 55B and 57C. Before any CPA professional corporation or professional limited liability company can offer to perform or perform any professional services in this state, it must register with the Board.

(b) Initial registration.

- (1) Domestic CPA Corporation or Professional Limited Liability Company. In order to register initially with this Board, the incorporators of a domestic CPA corporation or professional limited liability company, prior to incorporation of the CPA firm, must:
 - (A) prepare and file with the Board the articles of incorporation along with any supporting documents and appropriate checks for fees payable to the Secretary of State;
 - (B) complete and file with the Board the application for professional corporation or professional limited liability company registration form along with any supporting documents; and
 - (C) pay to the Board an initial registration fee of fifty dollars (\$50.00).
- (2) Foreign CPA Corporation or Foreign Limited Liability Company. To register initially with the Board, the officers of a foreign corporation or foreign limited liability company, prior to performing services or offering to perform services in North Carolina, must submit to the Board:
 - (A) on an application for registration form provided by the Board, a list of its present shareholders or members and the state or territory issuing the CPA certificate, or the equivalent, of each shareholder or member and the number of each certificate or equivalent;

and

- (B) the documents required by G.S. 55A-61, 55A-62, and 57C-7.

(c) In addition to its initial registration, every CPA corporation or professional limited liability company, whether domestic or foreign, must register annually pursuant to 21 NCAC 8J .0008.

(d) The application for registration by a CPA corporation or professional limited liability company shall provide the following information:

- (1) the name and address of the professional corporation or professional limited liability company;
- (2) the address of each office operated or maintained by the corporation or professional limited liability company;
- (3) the names and addresses of all the officers, directors, shareholders, or members; and
- (4) the names and addresses of all the employees and managers of the corporation or professional limited liability company licensed by the Board under the provisions of G.S. 93.

Authority G.S. 55B-11; 57C-1; 57C-2; 59-84.2; 93-8; 93-12(7b); 93-12(8c).

.0105 SUPPLEMENTAL REPORTS

(a) The Board may request in writing such supplemental reports as it deems appropriate from any professional corporations or professional limited liability companies registered with the Board pursuant to G.S. 55B, 57C, and these Rules. The professional corporation or professional limited liability company shall file such reports with the Board's office within 30 days from the date it received the request.

(b) In addition to the supplemental reports required by 21 NCAC 8J .0008(g), professional corporations or professional limited liability companies registered with the Board pursuant to G.S. 55B and 57C shall file a certified copy of all amendments to the articles of incorporation or articles of organization ~~within 30 days after~~ prior to the effective date of each amendment. They shall also file a copy of any amendment to the by-laws, certified to be a true copy by the Secretary or an assistant secretary of the corporation or professional limited liability company, ~~within 30 days after~~ prior to adoption of the amendment.

Authority G.S. 55B-11; 57C-1; 57C-2; 93-12(3).

SUBCHAPTER 8M - STATE QUALITY REVIEW PROGRAM

SECTION .0100 - GENERAL SQR REQUIREMENTS

.0102 REGISTRATION REQUIREMENTS

(a) A CPA firm which has not performed any audits, reviews, compilations, or agreed upon procedures during the 12 months prior to the year-end of the registration required by 21 NCAC 8J .0008(a) and (b) shall be exempt from the SQR program for the

12 months following the year-end but not from registering with the Board.

(b) Unless exempt under Paragraph (a) of this Rule, each ongoing CPA firm shall complete an SQR within 24 months following the year-end of each registration unless it has completed an SQR within 24 months prior to the year-end.

(c) Unless exempt under Paragraph (a) of this Rule, a new CPA firm shall complete its initial SQR within 24 months of the date of its initial registration pursuant to 21 NCAC 8J .0008(a).

(d) Every CPA firm not exempt from SQR by Paragraph (a) of this Rule, after completion of a quality review, shall procure a statement signed by the review team captain, a statement signed by a member of the CPA firm being reviewed, or letter of acceptance from an approved review program, stating that the CPA firm has completed an SQR or one of the review programs listed or referred to in 21 NCAC 8M .0104. The CPA firm shall submit the statement or documentation with the annual registration following the review as set forth in 21 NCAC 8J .0008(c)(2).

(e) For purposes of this Rule, an SQR is complete when the review team has delivered its report required by 21 NCAC 8M .0306 to the reviewed CPA firm. Any quality review other than SQR is complete when the review team has delivered its final report to the reviewed CPA firm. If mailed, a report shall be deemed delivered when postmarked.

Authority G.S. 93-12(7b); 93-12(8c).

.0103 PROHIBITION OF ABUSE

Firms CPA firms shall not rearrange their structure or act in any other manner with the intent to avoid participation in SQR.

Authority G.S. 93-12(8c).

.0104 FIRMS DEEMED IN COMPLIANCE

(a) Firms CPA firms which have participated in one of the review programs set forth in either Paragraph (b) of this Rule or the list referred to in Paragraph (c) of this Rule, rather than SQR, within the applicable time period prescribed by 21 NCAC 8M .0102(b) and (c) are deemed to be in compliance with the SQR program.

(b) The following quality review programs are found by the Board to be of the type required by the Board in its SQR program:

- (1) AICPA Division for CPA Firms SEC Practice Section, and
- (2) AICPA Peer Review Program.

(c) Other quality review programs may be of the type required by the Board in its SQR program, which is equivalent to the guidelines of the AICPA Peer Review Program. A list of such programs will be maintained at the Board offices and mailed to any CPA firm upon request.

(d) Pursuant to G.S. 93-12(8c), a CPA firm which contemplates undergoing a quality review program other than the SQR program or those listed or referred to in Paragraphs (b) and (c) of this Rule may request a determination from the Board whether the quality review program is of the type required by the

Board in the SQR program, which is equivalent to the guidelines of the AICPA Peer Review Program. The CPA firm shall supply all information requested of it by the Board and, within two months of the month all information requested has been received by the Board, the Board shall make its determination and notify the CPA firm.

Authority G.S. 93-12(8c)(e).

SECTION .0200 - DUTIES OF THE REVIEWED FIRM

.0201 SELECTION OF ENGAGEMENTS TO BE REVIEWED

(a) Each office of the reviewed CPA firm not excused under 21 NCAC 8M .0204 shall select a set of engagements to be submitted for review as required by the programs listed in 21 NCAC 8M .0104(b)(1) and (2).

(b) A set of engagements for review shall include the accountant's report and financial statements for one audit, one review, one compilation, and one agreed upon procedure, if these levels of service have been performed by the office within the 12 months preceding the year-end. If one or more levels of service have not been performed, the office shall select reports of the next highest level of service for reports required to be submitted. If, of the levels of service, only compilations have been performed by the office, the set of engagements shall include at least one compilation report on a complete set of financial statements which includes disclosures and one compilation report on a financial statement where management has elected to omit substantially all of the disclosures normally required by generally accepted accounting principles set forth in 21 NCAC 8N .0209, if both types of compilations are performed.

(c) The set of engagements, if possible, shall include clients operating in different industries. For example, submission of one governmental audit, one manufacturing review and one contractor compilation would satisfy this requirement.

(d) If a CPA firm to be reviewed does a governmental audit, at least one shall be included in the set of engagements.

(e) An office of the reviewed CPA firm not participating in the programs listed in 21 NCAC 8M .0104(b)(1) and (2) shall select a set of engagements to be submitted for review as required by the applicable AICPA Peer Review Program.

Authority G.S. 93-12(8c).

.0202 NOTICE TO CLIENTS

The participating CPA firm may advise its clients that it will participate in a quality review required by the Board and that the client's accounting or auditing work may be part of the review process.

Authority G.S. 93-12(8c).

.0204 CERTAIN OFFICES EXCUSED

The following offices of participating CPA firms are not

required to participate in the SQR program:

- (1) offices which are not North Carolina offices, and which have not performed any audits, reviews, compilations, or agreed upon procedures for clients in North Carolina; and
- (2) North Carolina offices which have not performed any audits, reviews, compilations, or agreed upon procedures for the 12 months prior to the year-end set forth in 21 NCAC 8J .0008.

Authority G.S. 93-12(8c).

.0206 SELECTION OF A REVIEW TEAM

(a) A participating CPA firm shall select the review team which will perform the CPA firm's SQR.

(b) The participating CPA firm shall see that the review team is qualified under 21 NCAC 8M .0301 and engaged to perform the review in accordance with the standards for the performance of SQR set forth in 21 NCAC 8M .0302-.0306.

Authority G.S. 93-12(8c).

.0207 DUTY TO RESPOND TO QUESTIONS

(a) The participating CPA firm shall respond promptly to questions raised during the review process by any member of the review team, whether oral or written.

(b) The participating CPA firm shall respond in writing to questions raised by the SQR report required by 21 NCAC 8M .0306 within 30 days from the date the report is delivered to it. The letter of response shall be addressed to the SQR Committee and a copy sent to the review team captain.

Authority G.S. 93-12(8c).

SECTION .0300 - REVIEW TEAM: QUALIFICATIONS AND DUTIES

.0301 QUALIFICATIONS OF REVIEWERS AND TEAM CAPTAINS

(a) A reviewer must be a CPA on active status licensed in any state of the United States, be in good standing with the CPA boards by which (s)he is licensed to practice public accounting, possess current knowledge of the code of professional ethics and conduct, and possess current knowledge of the accounting and auditing standards applicable to the engagements to be reviewed by him/her. However, (s)he need not possess knowledge of the applicable accounting and auditing standards with regard to every engagement involved in the review, unless (s)he is the only member of a review team.

(b) A reviewer shall not have been disciplined for violation of 21 NCAC 8N .0202 or .0408 within the five years preceding the date the review engagement is entered.

(c) The review team captain:

- (1) must have five years' experience or more as a CPA in the accounting and auditing function;
- (2) must be a member or employee of a CPA firm which has completed an SQR or other quality review listed

or referred to in 21 NCAC 8M .0104 within the last three years but which has not received an adverse report on its most recent quality review;

- (3) must be a manager (or the equivalent) within his/her CPA firm; and
- (4) must have day-to-day involvement in auditing and accounting procedures which is sufficiently comprehensive to enable him/her to perform and oversee the SQR with professional expertise.

Authority G.S. 93-12(8c).

.0302 INDEPENDENCE FROM A REVIEWED CPA FIRM

(a) A reviewer shall be independent with respect to the reviewed CPA firm.

(b) Independence is impaired if a reviewer:

- (1) performs an SQR of a CPA firm which performed the most recent quality review of the reviewer's CPA firm;
- (2) performs an SQR of a CPA firm an employee or member of which performed or participated in the performance of the most recent quality review of the reviewer's CPA firm; or
- (3) has any direct or indirect financial interest in a reviewed CPA firm's client and reviews engagements performed for that client.

(c) Paragraph (b) of this Rule does not include all instances where a reviewer's independence would be impaired. In considering whether independence is impaired, the reviewer shall consider the effect of family and other relationships and the possible appearance of loss of independence as a result of those relationships.

Authority G.S. 93-12(8c).

.0303 CONFLICT OF INTEREST

(a) A reviewer shall not have a conflict of interest with respect to the reviewed CPA firm or the clients whose engagements are selected for review.

(b) A reviewer shall avoid contacts with the reviewed CPA firm's clients or personnel that could be asserted to be evidence of a conflict of interest.

Authority G.S. 93-12(8c).

.0304 PERFORMING THE REVIEW - REVIEWER'S DUTIES

(a) The objective of the review shall be to determine that the financial statements and related accountant's report on the audit, review or compilation engagements submitted for review do not depart in a material respect from the requirements of professional standards set forth in 21 NCAC 8N .0209-.0211, .0304, and .0403-.0406.

(b) The review team shall read the financial statements submitted by the participating CPA firm and the accountant's audit, review or compilation report thereon.

(c) The review team must determine whether each of the accountant's report and financial statements conform with the applicable professional standards set forth in 21 NCAC 8N .0209-.0211, .0304, and .0403-.0406.

(d) Before issuing its SQR report pursuant to 21 NCAC 8M .0306, the review team may raise questions with the participating CPA firm either orally or in written form to resolve questions which come to their attention during a review.

(e) The review team shall document the work performed using programs and checklists which provide a reasonable basis for their SQR report.

(f) A review team shall not issue an SQR report, pursuant to 21 NCAC 8M .0306, unless it has complied with the applicable review standards and requirements.

Authority G.S. 93-12(8c).

.0305 CONFIDENTIALITY

Information concerning the participating CPA firm or its clients or personnel that is obtained as a consequence of the review is confidential and must not be disclosed to anyone not involved in the SQR process.

Authority G.S. 93-12(8c).

.0306 REPORTING REQUIREMENTS

(a) The review team shall deliver an SQR report and the statement required by 21 NCAC 8M .0102(d) to the participating CPA firm within 60 days after all of the engagements which are to be reviewed have been delivered to it. Beginning January 1, 1996, the review team shall also deliver its SQR report to the SQR Advisory Committee by the same date.

(b) The SQR report and a letter of comment, if any, shall be written and issued on the letterhead of the team captain's CPA firm and shall either be unmodified, modified, or adverse.

(c) It is suggested that a letter of comment be issued if the report is modified or adverse. A letter of comment, if issued, shall provide reasonably detailed recommendations for remedial, corrective actions by the participating CPA firm so that the SQR Committee can evaluate whether the CPA firm's response to significant deficiencies noted in the review is a positive one, consistent with the objectives of the SQR program, and whether the actions taken or planned by the participating CPA firm appear appropriate in the circumstances.

(d) The SQR report shall describe the limited scope of the review and shall not express an opinion or any form of assurance about the reviewed CPA firm's quality control policies and procedures for its accounting practice. It shall state whether anything came to the attention of the review team which caused them to believe that any of the engagements submitted for review did not conform with the requirements of professional standards in all material respects and, if applicable, describe the general nature of significant departures from those standards.

(e) An unmodified report includes the review team's conclusion that nothing came to its attention that caused its members to believe that the engagements submitted for review did not conform with the requirements of professional standards

in all material respects.

(f) A modified report includes the review team's conclusion that nothing came to its attention that caused its members to believe that the engagements submitted for review did not conform with the requirements of professional standards in all material respects with the exception of certain reservations which are noted in the report.

(g) An adverse report includes the review team's conclusion that the participating CPA firm did not have reasonable assurance of conforming with professional standards in the conduct of its accounting practice during the year under review.

Authority G.S. 93-12(8c).

SECTION .0400 - SQR ADVISORY COMMITTEE

.0401 SQR ADVISORY COMMITTEE – MEMBERS AND DUTIES

(a) The SQR Advisory Committee shall consist of six CAPS appointed by the Board and one Board member appointed by the Board's President.

(b) The SQR Committee shall:

- (1) beginning January 1, 1996, review all modified and adverse SQR reports and letters of comments, if any, submitted by review team captains under the SQR program;
- (2) consider all objections filed pursuant to 21 NCAC 8M .0402(a); and
- (3) make recommendations to the Board consistent with these Rules concerning each of Subparagraphs (b)(1) and (2) of this Rule.

(c) Prior to making any recommendations to the Board, the Committee shall give notice of its proposed recommendation to the CPA firm to which the recommendation pertains.

(d) The Committee shall also recommend remedial action to participating CPA firms receiving modified or adverse reports which, if followed, could increase the participating CPA firm's ability to perform quality services in the public practice of accounting.

(e) The Committee shall report at least annually to the Board on its activities and, further, at any time the Board requests a special report.

Authority G.S. 93-12(2); 93-12(8c).

.0402 OBJECTIONS TO SQR ADVISORY COMMITTEE

(a) A participating CPA firm may file an objection with the SQR Advisory Committee with regard to an SQR report within 30 days from the date the report is delivered pursuant to 21 NCAC 8M .0306(a). In any other matter before the Committee, a CPA firm to which a proposed recommendation pertains may file an objection within 30 days from notice of the Committee's recommendation.

(b) All objections shall be in writing and shall be addressed to the Committee at the Board's address set forth in 21 NCAC 8A .0102. Objections are filed when received by the Board.

- (c) An objection concerning an SQR report shall contain:
- (1) the name of the reviewed CPA firm;
 - (2) the name of the review team captain;
 - (3) the date the review was completed;
 - (4) the conclusions made in the report to which the participating CPA firm objects; and
 - (5) in sufficient detail, the participating CPA firm's reasons for objecting to the report's conclusions.
- (d) Objections to proposed recommendations of the Committee shall identify the proposed recommendation and shall state the CPA firm's reasons for disagreeing with the Committee's proposed recommendation in sufficient detail.

Authority G.S. 93-12(2); 93-12(8c).

.0403 REVIEW OF PROTEST

(a) Within 60 days of receiving an objection from a CPA firm, the SQR Advisory Committee shall render its determination in response to the objection. It may, in its discretion, propose to recommend to the Board that the SQR report be amended or alter the recommendation it has proposed to make to the Board.

(b) During its review of any matter raised by an objection, the SQR Advisory Committee may gather information (including any review team's work papers, checklists, and all other information submitted to a review team by a participating CPA firm) and conduct interviews, including interviews of members of a review team or the objecting CPA firm.

(c) If the CPA firm and the Committee are unable to resolve the matter informally, the Committee shall submit its recommendation to the Board with notice to the objecting CPA firm. The objecting CPA firm then has 30 days from such notice to object to such recommendation by filing an objection with the Board. The objection shall comply with the requirements of 21 NCAC 8M .0402(d) and is filed when received by the Board.

(d) The Board shall review the recommendation of the Committee and the objection and then, if the matter is not resolved informally, the Board or the CPA firm may set the matter for hearing pursuant to Article 3A of G.S. Chapter 150B.

Authority G.S. 93-12(2); 93-12(8c); 150B-2(2); 150B-41(c).

SUBCHAPTER 8N – PROFESSIONAL ETHICS AND CONDUCT

SECTION .0200 – RULES APPLICABLE TO ALL CPAs

.0202 DECEPTIVE CONDUCT PROHIBITED

(a) Deception Defined. A CPA shall not engage in deceptive conduct. Deception includes fraud or misrepresentation and representations or omissions which a CPA either knows or should know have a capacity or tendency to deceive. Deceptive conduct is prohibited whether or not anyone has been actually deceived. Deception includes not only deceptive statements but also includes the knowing failure to disclose material facts.

(b) Prohibited Deception. Prohibited conduct under this

Section includes but is not limited to deception in:

- (1) obtaining or maintaining employment;
- (2) obtaining or keeping clients;
- (3) obtaining or maintaining certification, retired status, or exemption from SQR;
- (4) reporting CP credits;
- (5) certifying the character or experience of exam or certificate applicants;
- (6) implying abilities not supported by valid education, professional attainments, or licensing recognition;
- (7) asserting that services or products sold in connection with use of the CPA title are of a particular quality or standard when they are not;
- (8) creating false or unjustified expectations of favorable results;
- (9) using or permitting another to use the CPA title in or with a form of business not permitted by the accountancy laws or rules;
- (10) permitting ~~a person or firm~~ anyone not certified in this state (including one licensed in another state) to unlawfully use the CPA title in this ~~state; or state or to~~ unlawfully operate as a CPA firm in this state; or
- (11) falsifying a review, report, or any required program or checklist of any quality review program.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

.0208 REPORTING CONVICTIONS, JUDGMENTS, AND DISCIPLINARY ACTIONS

(a) Criminal Actions. A CPA shall notify the Board within 30 days of any conviction or finding of guilt of, or pleading of *nolo contendere* to:

- (1) a felony; or
- (2) any crime an essential element of which is dishonesty, deceit, fraud, a violation of federal or state tax law, or a violation of the rules of Professional Ethics and Conduct contained in this Subchapter.

(b) Civil Actions. A CPA shall notify the Board within 30 days of any judgment or settlement in a civil suit, bankruptcy action, administrative proceeding, or binding arbitration, the basis of which is grounded upon an allegation of gross negligence, dishonesty, fraud, misrepresentation, ~~incompetency, incompetence,~~ or violation of any federal or state tax law and which was brought against either the CPA or a North Carolina office of a CPA firm of which the CPA was a managing partner.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

SECTION .0300 - RULES APPLICABLE TO ALL CAPS WHO USE THE CPA TITLE IN OFFERING OR RENDERING PRODUCTS OR SERVICES TO CLIENTS

.0302 FORMS OF PRACTICE

(a) Authorized Forms of Practice. A CPA ~~shall not directly or indirectly offer or render accounting services (including tax and management advisory services) who uses CPA in or with the~~

name of the business or offers or renders attest services in the public practice of accountancy to clients shall do so only to clients—except through a duly authorized CPA sole proprietorship, partnership of CAPS, partnership, CPA Professional Corporation, Professional Limited Liability Company, or Registered Limited Liability Partnership.

(b) Authorized Partners. Ownership. A CPA shall not engage in the public practice of accountancy with a partner who is anyone other than the holder of an unrevoked and currently valid CPA certificate. A CPA firm, with the exception of Professional Corporations organized under G.S. 55B or Professional Limited Liability Companies organized under G.S. 57C, shall comply with the respective ownership requirements of those laws and may have a minority ownership of up to 49 percent owned by non-CPA employees. A CPA firm shall have majority ownership of at least 51 percent and be controlled in law and fact by holders of valid CPA certificates who have the unrestricted privilege to use the CPA title and to practice public accountancy in a jurisdiction and at least one whom shall be licensed by this Board.

(c) Ancillary Practice. A CPA may, through another lawful form of professional practice, offer or render such non-attest accounting services as are ancillary to another learned profession regulated by a statutorily authorized licensing board in this state; further provided, the CPA is licensed by the respective licensing board and offers or renders those services through a business form authorized by the respective licensing board and does not hold out the non-CPA firm as a CPA firm. Any such CPA must nevertheless register for SQR as an exempt individual practitioner.

(d)(c) CPA Firm Registration Required. A CPA shall not engage in the public practice of accountancy offer or render professional services through a CPA firm which is in violation of the registration requirements of 21 NCAC 8J .0008, 8J .0010, or the SQR requirements of 21 NCAC 8M .0102.

(e)(d) Supervision of CPA Offices. Firms. Every CPA office or CPA firm and each registered office in North Carolina shall be actively and locally supervised by a designated actively licensed North Carolina CPA currently licensed by this Board whose primary responsibility and a corresponding amount of time shall be work performed in that office.

(e) CPA Firm Requirements for Non-CPA Ownership. A CPA firm and its managing CPA partner shall be held accountable for the following in regard to a non-CPA owner:

- (1) a non-CPA owner shall be a natural person;
- (2) a non-CPA owner shall be actively engaged in providing services to the CPA firm or its clients as his or her principal occupation;
- (3) a non-CPA owner shall comply with all applicable accountancy statutes and the administrative code;
- (4) a non-CPA owner shall be of good moral character and shall be dismissed and disqualified from ownership for any conduct that, if committed by a licensee, would result in a discipline pursuant to G.S. 93-12(9);
- (5) a non-CPA owner shall report his or her name, home address, home phone number, social security number,

and percentage of ownership of the CPA firm on the CPA firm's registration;

- (6) a non-CPA owner's liability in a registered limited liability partnership; and
- (7) a non-CPA owner's name may not be used in or with the name of the CPA firm or held out to clients or the public that the non-CPA owner is a CPA.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

.0303 OBJECTIVITY AND CONFLICTS OF INTEREST

(a) Personal Financial Interest in Advice. When offering or rendering accounting or related financial, tax, or management advice, a CPA shall be objective and shall not place the CPA's own financial interests nor the financial interests of a third party ahead of the legitimate financial interests of the CPA's client or the public in any context in which a client or the public can reasonably expect objectivity from one using the CPA title.

(b) Expectation of Objectivity Presumed. If the CPA uses the CPA title in any way to obtain or maintain a client relationship, the Board will presume the reasonable expectation of objectivity.

(c) Acceptance of a Commission or Referral Fee. A CPA shall not pay be prohibited from paying a commission to obtain a client, nor accept from accepting a commission for a referral to a client, of product or services of others; others except when the CPA or CPA firm also performs attest services, during the period of the attest services engagement and the period covered by any historical statements involved in such attest services. This Rule shall not prohibit payments for the purchase of an accounting practice, retirement payments to individuals formerly engaged in the practice of public accounting, or payments to heirs or estates.

(d) Acceptance of a Contingent Fee.

- (1) The offering or rendering of professional services for, or the receipt of, a disclosed contingent fee by a CPA is not prohibited except for engaging to render or rendering by a CPA for a contingent fee:
 - (A) of professional services for, or the receipt of such a fee from, any person for whom the CPA also performs attest services, during the period of the attest services engagement and the period covered by any historical financial statements involved in such attest services; and
 - (B) for the preparation of original or amended tax returns or claims for tax refunds.

(2) Fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies formally adopted findings that are binding upon the governmental agencies that make the findings.

(e) For the purposes of this Rule, a CPA shall provide disclosure to a client in accepting a commission, referral, or contingent fee. A CPA shall provide disclosure in a written statement of the service or product to be rendered or referred with the contingent fee, commission, or referral fee to be

charged or received. The written statement shall be dated; signed by the CPA and client in advance of any sale, referral, or service provided; and a copy given to the client.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

.0306 ADVERTISING OR OTHER FORMS OF SOLICITATION

(a) Deceptive Advertising. A CPA shall not seek to obtain clients by advertising or using other forms of solicitation in a manner that is deceptive.

(b) Specialty Designations. A CPA may advertise the nature of services provided to clients but the CPA shall not advertise or indicate a specialty designation or other title unless the CPA has met the requirements of the granting organization for the separate title or specialty designation and the individual is currently on active status and in good standing with the granting organization for the separate title or specialty designation.

(c) The CPA firm shall offer to perform or advertise professional services only in the exact name of the CPA firm as registered with the Board.

(d) Any CPA or CPA firm offering to or performing professional services via the internet shall include the following information on the internet:

- (1) CPA business or CPA firm name;
- (2) principal place of business;
- (3) business phone; and
- (4) North Carolina certificate number and North Carolina as state of certification.

(e) The use of the phrase "certified public accountant(s)" or "CPA(s)" in or with the name of any business entity on letterhead, reports, business cards, brochures, office signs, telephone directories, or any other advertisements or forms or solicitation is prohibited except for registered CPA firms.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

.0307 CPA FIRM NAMES

(a) Deceptive Names Prohibited. A CPA or CPA firm shall not trade upon the CPA title through use of any name that would have the capacity or tendency to deceive. The name of one or more former members of the CPA firm, as defined in 21 NCAC 8A .0301, may be included in the CPA firm name. The name of a non-CPA owner in a CPA firm name is prohibited.

(b) Style of Practice. It is considered misleading if a CPA firm practices under a name or style which would tend to imply the existence of a partnership or registered limited liability partnership or a professional corporation or professional limited liability company of more than one CPA shareholder or CPA member or an association when in fact there is no partnership nor is there more than one CPA shareholder or CPA member in the of a CPA firm. For example, no CPA firm having just one CPA owner may have as a part of its name the words "associates" or "company" or their abbreviations. It is also considered misleading if a CPA renders non-attest professional services through a non-CPA firm using a name that implies any non-licensees are CPAs or that is confusingly similar to the

name of a CPA firm.

(c) Assumed Names Subject to Approval. Before any CPA firm uses an assumed name (as described in G.S. 66-68; 75-1.1) it must submit the proposed name for Board approval in order to assure that such name is not misleading or deceptive to the public. Any CPA firm that has continuously used an assumed name approved by the Board prior to April 1, 1999, may continue to use the assumed name, so long as the CPA firm is only owned by the individual practitioner, partners, or shareholders who obtained Board approval for the assumed name. A CPA firm (or a successor firm by sale, merger, or operation of law) may continue to use the surname of a retired or deceased partner or shareholder in the CPA firm's name so long as that use is not deceptive.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to adopt the rules cited as 21 NCAC 32M .0015; 21 NCAC 32R .0001-.0004; 21 NCAC 32S .0001-.0018, amend the rules cited as 21 NCAC 32F .0103; 21 NCAC 32M .0001-.0012 and repeal the rules cited as 21 NCAC 32O .0001-.0021. Notice of Rule-making Proceedings was published in the Register on January 1, 1998 for 21 NCAC 32F .0003. Notice of Rule-making Proceedings was published in the Register on April 1, 1998 for 21 NCAC 32M .0001-.0012, .0015; 21 NCAC 32R .0001-.0004. Notice of Rule-making Proceedings was published in the Register on December 16, 1996 for 21 NCAC 32O .0001-.0021 and 21 NCAC 32S .0001-.0018.

Proposed Effective Date:

May 1, 1999 - 21 NCAC 32F .0003; 21 NCAC 32M .0001-.0012, .0015; 21 NCAC 32O .0001-.0021; 21 NCAC 32S .0001-.0018.

January 1, 2000 - 21 NCAC 32R .0001-.0004

A Public Hearing will be conducted on October 30, 1998 at the North Carolina Medical Board, 1201 Front Street, Raleigh, NC 27609 at the following times:

- 21 NCAC 32F .0003 - 5:00 p.m.
- 21 NCAC 32R .0001-.0004 - 3:00 p.m.
- 21 NCAC 32M .0001-.0012, .0015 - 1:00 p.m.
- 21 NCAC 32O .0001-.0021; 32S .0001-.0018 - 9:00 a.m.

Reason for Proposed Action:

21 NCAC 32F .0103 - This rule will allow compliance with 1997 NC Session Laws which states each physician's registration fee is to be paid annually on each physician's birthday, effective January 1, 1998.

21 NCAC 32M .0001-.0012, .0015 - The change in rules was necessary in order to reflect actual process, to improve agency

responsiveness, to clarify rules and definitions for licensees in order to maximize comprehension and thereby compliance.

21 NCAC 320 .0001-.0021 - These rules will clarify the licensing, discipline, and practice guidelines for physician assistants and the physician assistant's supervising physicians.

21 NCAC 32R .0001-.0004 - The statute allows the NC Medical Board to write rules requiring physicians to complete no more than 150 hours of continuing medical education in a three year period.

21 NCAC 32S .0001-.0018 - These rules will clarify the licensing, discipline, and practice guidelines for physician assistants and the physician assistant's supervising physicians.

Comment Procedures: Comments may be mailed to Helen Meelheim, Rule-making Coordinator at the NC Medical Board, 1201 Front Street, Raleigh, NC 27609. Verbal comments may be presented at the public hearing.

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

SUBCHAPTER 32F - ANNUAL REGISTRATION

SECTION .0100 - REGISTRATION

.0103 FEE

Each physician shall pay ~~a biennial~~ an annual registration fee of ~~two one hundred dollars (\$200.00)~~ \$100.00 to the Board every ~~odd-numbered~~ year in accordance with G.S. 90-15.1; except, each physician holding a resident's training license shall pay ~~a biennial~~ an annual registration fee of ~~twenty-five fifteen~~ ten dollars (~~\$25.00~~) (\$10.00) and every physician who holds a special volunteer license shall pay a biennial an annual registration fee of ten dollars (\$10.00).

Authority G.S. 90-15.1; 90-18(13); 90-18.1.

SUBCHAPTER 32M - APPROVAL OF NURSE PRACTITIONERS

.0001 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Medical Board" means the North Carolina Medical Board.
- (2) "Board of Nursing" means the Board of Nursing of the State of North Carolina.
- (3) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and Members of the Medical Board to whom responsibility is given by G.S. 90-6 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.
- (4) "Nurse Practitioners or NP" means a currently licensed registered nurse approved to perform medical

~~acts who functions at the direction of or under the supervision of~~ under an agreement with a licensed physician for ongoing supervision, consultation, collaboration and evaluation of the those medical acts performed. Only a registered nurse approved by the Medical Board and the Board of Nursing may legally identify oneself as a Nurse Practitioner. It is understood that the nurse practitioner, by virtue of RN licensure, is independently accountable for those nursing acts which he or she may perform.

- (5) "Nurse Practitioner Applicant" means a registered nurse who may function prior to full approval as a Nurse Practitioner in accordance with Rule .0003(e) (b)(4) of this Subchapter.
- (6) "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.
- (7) "Collaborative practice agreement" means the arrangement for nurse practitioner-physician continuous availability to each other for on-going supervision, consultation, collaboration, referral and evaluation of care provided by the nurse practitioner.
- (8)(7) "Primary Supervising Physician" means the licensed physician approved by the Medical Board who, by signing the nurse practitioner application, is held accountable for the on-going supervision supervision, consultation, collaboration and evaluation of the medical acts performed by the nurse practitioner as defined in the site specific written protocols.
 - (a) The primary supervising physician shall assume the responsibility of assuring the Boards that the nurse practitioner is qualified to perform those medical acts described in the site specific written protocols.
 - (b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.
 - (c) A physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation if fully licensed and approved to be a supervising physician by the Medical Board.
 - (d) All physicians who may be a primary supervising physician of nurse practitioner(s) in any manner shall be approved in accordance with this Subchapter.
- (9)(8) "Back-up Supervising Physician" means the licensed physician who, by signing an agreement with the nurse practitioner and the primary supervising physician(s), is shall be held accountable for supervising the performance supervision, consultation, collaboration and evaluation of medical acts by the nurse practitioner in accordance with the site specific written protocols when the Primary Supervising Physician is not available.

- (a) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.
- (b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.
- (c) A physician in a graduate medical education program who is also practicing in a non-training situation may be a back-up supervising physician to a nurse practitioner in the non-training situation if fully licensed and has signed an agreement with the nurse practitioner and the primary supervising physician.

(10)(9) "Approval" means authorization by the Medical Board and the Board of Nursing for a registered nurse to practice as a nurse practitioner in accordance with this Subchapter.

(11)(10) "Written ~~standing~~ protocols" means the signed and dated set of written practice guidelines maintained at each practice site which describe the prescribing privileges, treatments, tests and procedures that define the scope of the nurse practitioner's medical acts in that setting. Clinical practice issues that are not covered by the written protocols require nurse practitioner/physician consultation, and documentation related to the treatment plan.

(12) "Volunteer practice" means practice without expectation of compensation or payment (monetary, in kind or otherwise) to the nurse practitioner either directly or indirectly.

(13) "Disaster" means a state of disaster as defined in G.S. 166A-4(3) and proclaimed by the Governor, or by the General Assembly pursuant to G.S. 166A-6.

(14) "Interim Status" means the privilege that is given to a new graduate of an approved nurse practitioner educational program or a registered nurse seeking initial approval in North Carolina with limited privileges, as defined in Rule .0003(b)(4) of this Subchapter, while awaiting final approval to practice as a nurse practitioner.

(15) "Temporary Approval" means authorization by the Medical Board and the Board of Nursing for a registered nurse to practice as a nurse practitioner in accordance with this Rule for a period not to exceed 18 months while awaiting notification of successful completion of the national certification examination.

Authority G.S. 90-6; 90-18(14); 90-18.2.

.0002 SCOPE OF PRACTICE

The nurse practitioner shall be responsible and accountable for the continuous and comprehensive management of a broad range of personal health services for which the nurse practitioner is educationally prepared and for which competency has been maintained, with physician supervision and collaboration as described in 21 NCAC 32M .0010; 32M .0009. These services

include but are not restricted to:

- (1) promotion and maintenance of health;
- (2) prevention of illness and disability;
- (3) diagnosing, treating and managing acute and chronic illnesses;
- (4) guidance and counseling for both individuals and families;
- (5) prescribing, administering and dispensing therapeutic measures, tests, procedures and drugs;
- (6) planning for situations beyond the nurse practitioner's expertise, and consulting with and referring to other health care providers as appropriate; and
- (7) evaluating health outcomes.

Authority G.S. 90-18(14).

.0003 NURSE PRACTITIONER APPROVAL

(a) Qualifications for nurse practitioner approval. A registered nurse shall be approved by the Medical Board and the ~~Board of Nursing Board~~ before the ~~individual applicant~~ may practice as a nurse practitioner. The Boards may grant approval to practice as a nurse practitioner to an ~~individual applicant~~ who:

- (1) is currently licensed as a registered nurse by the Board of Nursing;
- (2) has successfully completed an approved educational program as outlined in Rule .0004 of this Subchapter; or, as of January 1, 2000, meets the certification requirements set forth in Rule .0004(c) of this Subchapter;
- (3) has an unrestricted license to practice as a registered nurse and, if applicable, an unrestricted approval to practice as a nurse practitioner unless the Boards consider such condition and agree to approval;
- (4) submits any information deemed necessary to evaluate the application;
- (5) has a collaborative practice agreement with a primary supervising physician-agreement; physician; and
- (6) pays the appropriate fee.

(b) Application for nurse practitioner approval.

- (1) Application for nurse practitioner approval shall be made upon the appropriate forms and ~~must~~ shall be submitted jointly by the nurse practitioner and primary supervising physician(s).
- (2) Applications for first-time approval in North Carolina shall be submitted to the ~~Board of Nursing Board~~ and then ~~processed~~ approved by both Boards as follows:
 - (A) the ~~Board of Nursing Board~~ will verify compliance with Subparagraphs (a)(1) - (4) of this Rule;
 - (B) the Medical Board will verify compliance with Subparagraphs (a)(4) - (6) of this Rule; and
 - (C) the appropriate Board will notify applicant of final approval status.
- (3) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:
 - (A) addition or change of primary supervising

physician shall be submitted to the Medical Board;

(B) request for change(s) in the scope of practice shall be submitted to the Nursing Board; ~~Joint Subcommittee~~; and

(C) the appropriate Board will notify applicant of final approval status.

(4) Interim status for nurse practitioner applicant may be granted as follows:

(A) a registered nurse who is a new graduate of an approved nurse practitioner educational program as set forth in Rule .0004 of this Subchapter; or

(B) a registered nurse seeking first time approval to practice as a nurse practitioner in North Carolina who has worked previously as a nurse practitioner in another state and who meets the nurse practitioner educational requirements as set forth in Rule .0004 of this Subchapter; and

(C) the ~~Boards~~ ~~Nursing Board~~ has ~~have~~ issued interim approval with the following limitations:

(i) no prescribing privileges;

(ii) ~~primary or back-up physicians~~ ~~physician on-site~~ shall be continuously available for appropriate ongoing supervision, review consultation, collaboration and countersigning of notations of medical acts in all patient charts within ~~24 hours~~ two working days of nurse practitioner applicant-patient contact; and

(iii) face-to-face consultation with the primary supervising physician shall be weekly with documentation of consultation consistent with Rule .0009(d)(4) of this Subchapter; and

(iv)(iii) may not exceed a period of six months.

(5) Beginning January 1, 2000, first time applicants who meet the qualifications for approval, but are awaiting certification from a national credentialing body approved by the Board of Nursing, may be granted a temporary approval to practice as a nurse practitioner. Temporary approval is valid for a period not to exceed 18 months from the date temporary approval is granted or until the results of the applicant's certification examination are available, whichever comes first.

(6)(5) The registered nurse who was previously approved to practice as a nurse practitioner in this state shall:

(A) meet the nurse practitioner approval requirements as stipulated in Subparagraphs (a)(1), (a)(3) - (a)(6);

(B) complete the appropriate application; and

(C) receive notification of approval from the appropriate ~~Board~~ ~~Board~~; and

(D) meet the consultation requirements as outlined in Rule .0009(d)(3) and (4) of this Subchapter.

(7) ~~(6)~~ If for any reason a nurse practitioner

discontinues working ~~in~~ within the approved ~~supervision physician(s) nurse practitioner-supervising physician(s)~~ arrangement, the Boards shall be notified in writing and the nurse practitioner's approval shall automatically terminate or be placed on an inactive status until such time as a new application is approved in accordance with this Subchapter. Special consideration may be given in an emergency situation.

(8) Volunteer Approval for Nurse Practitioners. The Boards may grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications as outlined in Rule .0003(a)(1) - (6) of this Subchapter.

Authority: G.S. 90-18(13), (14); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.42.

.0004 REQUIREMENTS FOR APPROVAL OF NURSE PRACTITIONER EDUCATIONAL PROGRAMS

(a) The Joint Subcommittee shall establish the requirements for approval of nurse practitioner educational programs.

(b) A nurse practitioner applicant who completed a nurse practitioner educational program prior to December 31, 1999 shall provide to the Board of Nursing evidence of successful completion of a course of formal education which contains a core curriculum including 400 contact hours of didactic education and 400 contact hours of preceptorship or supervised clinical experience.

(1) The core curriculum shall contain as a minimum the following components:

(A) health assessment and diagnostic reasoning including:

- (i) historical data;
- (ii) physical examination data;
- (iii) organization of data base;

(B) pharmacology;

(C) pathophysiology;

(D) clinical management of common health care problems and diseases related to:

- (i) respiratory system;
- (ii) cardiovascular system;
- (iii) gastrointestinal system;
- (iv) genitourinary system;
- (v) integumentary system;
- (vi) hematologic and immune systems;
- (vii) endocrine system;
- (viii) musculoskeletal system;
- (ix) infectious diseases;
- (x) nervous system;
- (xi) behavioral, mental health and substance abuse problems;

(E) clinical preventative services including health promotion and prevention of disease;

(F) client education related to Parts (b)(1)(D) and (E) of this Rule; and

(G) role development including legal, ethical, economical, health policy and interdisciplinary collaboration issues.

(2) Nurse practitioner applicants who may be exempt from components of the core curriculum requirements listed in Subparagraph (b)(1) of this Rule are:

(A) Any nurse practitioner approved in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.

(B) A nurse practitioner certified by ~~the National Certification Corporation of the Obstetrics, Gynecology and Neonatal Specialists; Association of Womens Health of Neonatal Nurses; American Nurses Credentialing Commission; American Nurses Association and National Certification of Pediatric Nurse Practitioners and Nurses~~ a national credentialing body approved by the Board of Nursing who also provides evidence of satisfying Parts (b)(1)(A) - (C) of this Rule shall be exempt from core curriculum requirements in Parts (b)(1)(D) - (G) of this Rule. Evidence of satisfying Parts (b)(1)(A) - (C) of this Rule shall include, but may not be limited to:

- (i) a narrative of course content; and
- (ii) contact hours.

(C) A nurse practitioner seeking initial approval after January 1, 1998 shall be exempt from the core curriculum requirements if certified as a nurse practitioner in his/her specialty by a national credentialing body approved by the Board of Nursing as set forth in Subparagraph (b) of this Rule and when initial certification was obtained after January 1, 1998.

~~(D)(E)~~ A nurse practitioner applicant, whose formal education does not meet all of the stipulations in Subparagraph (b) of this Rule, may appeal to the Board of Nursing Joint Subcommittee on the basis of other education and experience.

(c) Instead of educational program approval, all nurse practitioner applicants who are applying for or have received, first time approval to practice as a nurse practitioner on or after January 1, 2000 shall be certified by a national credentialing body approved by the Board of Nursing or be awaiting initial certification by a national credentialing body approved by the Board of Nursing for a period not to exceed 18 months from date temporary approval is granted.

Authority G.S. 90-18(14); 90-171.42.

.0005 ANNUAL RENEWAL

(a) Each registered nurse who is approved as a nurse practitioner in this state will, upon notification from the Medical Board, annually renew said approval by:

- (1) Verifying current RN licensure;

(2) Submitting the fee required in Rule .0012 of this Subchapter; and

(3) Completing the renewal form.

(b) For the nurse practitioner who had first time approval to practice after January 1, 2000, provide evidence of certification or recertification by a national credentialing body approved by the Board of Nursing.

~~(b)(c)~~ If the nurse practitioner has not renewed within 30 days of renewal date, set by the Medical Board, the approval to practice as a nurse practitioner will lapse.

Authority G.S. 90-6; 90-18(14); 90-171.23(b).

.0006 CONTINUING EDUCATION (CE)

In order to maintain nurse practitioner approval to practice, beginning no sooner than two years after initial approval has been granted, the nurse practitioner ~~must~~ shall earn 30 hours of continuing education every two years. At least three hours of continuing education every two years shall be the study of the medical and social effects of substance abuse including abuse of prescription drugs, controlled substances, and illicit drugs. Continuing Education hours are those hours for which approval has been granted by the American Nurses Credentialing Center (ANCC) and Accreditation Council on Continuing Medical Education (ACCME), or other national credentialing bodies approved by the Board of Nursing ~~consistent with Rule .0004(2)(B) of this Section.~~ Nursing. Documentation shall be maintained by the nurse practitioner at each practice site and made available upon request to either Board.

Authority G.S. 90-6; 90-18(14); 90-171.23(14).

.0007 INACTIVE STATUS

(a) Any nurse practitioner who wishes to place his or her approval on an inactive status may notify the Boards by completing the form supplied by the Boards.

(b) The registered nurse with inactive nurse practitioner status shall not practice as a nurse practitioner.

(c) The registered nurse with inactive nurse practitioner status who reapplies for approval to practice shall be required to meet the qualifications for approval as stipulated in Rule .0003(a)(1), ~~(a)(3) - (a)(5) (a)(6)~~ and (b) of this Subchapter.

Authority G.S. 90-18(13); 90-18.2; 90-171.36.

.0008 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in the rules apply to writing prescriptions and ordering the administration of medications.

(b) Prescribing and dispensing stipulations are as follows:

- (1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site ~~must~~ shall be included in the written standing protocols as outlined in Rule ~~.0009(2)~~ .0009(b) of this Subchapter.
- (2) Controlled Substances (Schedules 2, 2N, 3, 3N, 4, 5) defined by the State and Federal Controlled Substances Acts may be procured, prescribed or

ordered as established in written ~~standing~~ protocols, providing all of the following ~~restrictions~~ requirements are met:

- (A) the nurse practitioner has an assigned DEA number which is entered on each prescription for a controlled substance;
 - (B) dosage units for schedules 2, 2N, 3 and 3N are limited to a ~~one week's supply~~; except Dextroamphetamine, Methylphenidate and Pemoline for the treatment of Attention Deficit Disorder or Attention Deficit Disorder with Hyperactivity (ADHD) which are limited to a 30 day supply; and
 - (C) the prescription or order for schedules 2, 2N, 3 and 3N may not be refilled.
- (3) The nurse practitioner may prescribe a drug not included in the site-specific written ~~standing~~ protocols only as follows:
- (A) upon a specific written or verbal order obtained from the ~~supervising a primary or back-up supervising~~ physician before the prescription or order is issued by the nurse practitioner; and
 - (B) the written or verbal order as described in Part (b)(3)(A) of this Rule ~~must shall~~ be entered into the patient record and signed by ~~the nurse practitioner with a notation that it is issued on the specific order of the supervising physician; a primary or back-up supervising physician and signed by the nurse practitioner and the physician.~~
- (4) Refills may be issued for a period not to exceed one year except for schedules 2, 2N, 3 and 3N controlled substances which may not be refilled.
- (5) Each prescription ~~must shall~~ be noted on the patient's chart and include the following information:
- (A) medication and dosage;
 - (B) amount prescribed;
 - (C) directions for use;
 - (D) number of refills; and
 - (E) signature of nurse practitioner.
- (6) The prescribing number assigned by the Medical Board to the nurse practitioner must appear on all prescriptions issued by the nurse practitioner.
- (7) Prescription Format:
- (A) All prescriptions issued by the nurse practitioner shall contain the supervising physician(s) name, the name of the patient, and the nurse practitioner's name, telephone number, and prescribing number.
 - (B) The nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.
- (c) The nurse practitioner must obtain approval to dispense the drugs and devices included in the written ~~standing~~ protocols for each practice site from the Board of Pharmacy, and shall ~~carry out the function of dispensing~~ dispense in accordance with

21 NCAC 46 .1700, which is hereby incorporated by reference including subsequent amendments of the referenced materials.

Authority G.S. 90-6; 90-18(14); 90-18.2; 90-171.23(14); 90-171.42; 58 Fed. Reg. 31,171 (1993) (to be codified at 21 C.F.R. 1301).

.0009 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT

Supervision shall be provided by the approved physician(s) as follows:

(1) ~~Availability:~~

- (a) ~~The supervising physician shall be continuously available for direct communications by radio, telephone, or telecommunications.~~
- (b) ~~The supervising physician shall be readily available for consultation or referrals of patients from the nurse practitioner.~~
- (c) ~~If the nurse practitioner is to perform duties at a site away from the supervising physician, the application must clearly specify the circumstances and the supervisory arrangements.~~

(2) ~~Written Standing Protocols:~~

- (a) ~~Written standing protocols approved and signed by both the supervising physician(s) and the nurse practitioner shall be maintained in each practice site;~~
- (b) ~~The written standing protocols shall include the drugs, devices, medical treatments, tests and procedures that may be prescribed, ordered and implemented by the nurse practitioner consistent with Rule .0008 of this Subchapter, and which are appropriate for the diagnosis and treatment of the most commonly encountered health problems in that practice setting;~~
- (c) ~~The written standing protocols shall include a pre-determined plan for emergency services;~~
- (d) ~~The written standing protocols shall specify the process by which the nurse practitioner shall refer a patient to a physician other than an approved supervising physician;~~
- (e) ~~The nurse practitioner shall be prepared to demonstrate upon request to a member of either the Board of Nursing or the Medical Board, or an agent, the ability to perform medical acts as outlined in the site-specific written standing protocols.~~

(3) ~~Countersigning of Medical Acts:~~

- (a) ~~The maximum time interval between the nurse practitioner's contact with the patient and medical record review and countersigning of medical acts by the supervising physician is seven days for outpatient (clinic/office) nurse practitioner-patient contacts.~~
- (b) ~~The time interval for countersigning of~~

notations of medical acts in the medical records of inpatients (hospital, long-term care institutions) by the supervising physician shall comply with the rules and regulations of the institution, but at a minimum:

- (i) the initial workup, medical orders and treatment plan, shall be countersigned within seven days of the time of the nurse practitioner-patient contact; and
 - (ii) in the acute inpatient setting, the initial work-up, medical orders and treatment plan shall be countersigned and dated within two working days of the nurse practitioner-patient contact.
- (c) The time interval between the nurse practitioner-patient contact and countersigning by the supervising physician of the nurse practitioner's notations of medical acts in the medical records of patients in special community-based care programs, such as dialysis and hospice, shall comply with the rules and regulations of the specific care program.

(4) Supervising Physicians:

- (a) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a supervising physician.
- (b) A physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation if fully licensed and approved to supervise by the Medical Board.
- (c) All physicians who may supervise the nurse practitioner in any manner shall be approved in accordance with this Subchapter before nurse practitioner supervision occurs.
- (a) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.

(b) Written Protocols:

- (1) Written protocols shall be agreed upon and signed by both the primary supervising physician and the nurse practitioner, and maintained in each practice site.
- (2) Written protocols shall be reviewed at least yearly, and this review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the written protocol and available for inspection by members or agents of either board.
- (3) The written protocols shall include the drugs, devices, medical treatment, tests and procedures that may be prescribed, ordered and implemented by the nurse practitioner consistent with Rule .0008 of this Subchapter, and which are appropriate for the diagnosis and treatment of the most commonly

encountered health problems in that practice setting.

- (4) The written protocols shall include a pre-determined plan for emergency services.
- (5) The nurse practitioner shall be prepared to demonstrate the ability to perform medical acts as outlined in the written protocols upon request by members or agents of either Board.

(c) Quality Improvement Process:

- (1) The primary supervising physician and the nurse practitioner shall develop a process for the on-going review of the care provided in each practice site to include a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.
- (2) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time-frame.
- (3) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:
 - (A) identify clinical problems discussed, including progress toward improving outcomes as stated in Subparagraph (c)(2) of this Rule, and recommendations, if any, for changes in treatment plan(s);
 - (B) be signed and dated by those who attended; and
 - (C) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and physician.

(d) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner/primary or back-up supervising physician(s):

- (1) The nurse practitioner with temporary approval shall have:
 - (A) review and countersigning of notations of medical acts by a primary or back-up supervising physician within seven days of nurse practitioner-patient contact for the first six months of collaboration. This time-frame includes the period of interim status.
 - (B) face-to-face consultation with the primary supervising physician on a weekly basis for one month after temporary approval is achieved and at least monthly throughout the period of temporary approval.
- (2) The nurse practitioner with first time approval to practice shall have:
 - (A) review and countersigning of notations of medical acts by a primary or back-up supervising physician within seven days of nurse practitioner-patient contact for the first six months of collaborative agreement. This

time-frame includes the period of interim status.

(B) face-to-face consultation with the primary supervising physician on a weekly basis for one month after full approval is received and at least monthly for a period no less than the succeeding five months.

(3) The nurse practitioner previously approved to practice in North Carolina who changes primary supervising physician shall have face-to-face consultation with the primary supervising physician weekly for one month and then monthly for the succeeding five months.

(4) Documentation of consultation shall:

(A) identify clinical issues discussed and actions taken;

(B) be signed and dated by those who attended; and

(C) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and physician.

Authority G.S. 90-6; 90-18(14); 90-18.2; 90-171.23(14).

.0010 METHOD OF IDENTIFICATION

The nurse practitioner shall wear an appropriate name tag spelling out the words "Nurse Practitioner. Practitioner".

Authority G.S. 90-18(14).

.0011 DISCIPLINARY ACTION

The approval of a nurse practitioner may be restricted, denied or terminated by the Medical Board and the registered nurse license may be restricted, denied, or terminated by the Board of Nursing, Nursing Board, if, after due notice and hearing in accordance with provisions of Article 3A of G.S. 150B, the appropriate Board shall find one or more of the following:

(1) that the nurse practitioner has held himself himself out or permitted another to represent him him her as a licensed physician;

(2) that the nurse practitioner has engaged or attempted to engage in the performance of medical acts other than according to the written protocols and collaborative practice agreement; at the direction of, or under the supervision of, a physician licensed by the Medical Board who is approved by the Board to be that nurse practitioner's supervising physician;

(3) that the nurse practitioner has performed or attempted to perform medical acts not approved in the site-specific standing protocols or for which the nurse practitioner is not qualified by education and training to perform;

(3)(4) that the nurse practitioner has been convicted in any court of a criminal offense;

(4)(5) that the nurse practitioner is adjudicated mentally incompetent or that the nurse practitioner's mental or physical condition renders the nurse practitioner unable to safely function as a nurse practitioner; or

(5)(6) that the nurse practitioner has failed to comply with any of the provisions of this Subchapter.

Authority G.S. 90-18(14); 90-171.37.

.0012 FEES

(a) An application fee of one hundred dollars (\$100.00) shall be paid at the time of initial application for approval and each subsequent application for approval to practice. ~~The one hundred dollar (\$100.00) All initial, subsequent and volunteer application fee fees~~ shall be equally divided between the Board of Nursing and the Medical Board. No other fees shall be shared. Application fee shall be twenty dollars (\$20.00) for the volunteer approval.

(b) The fee for annual renewal of approval, due July 1, shall be fifty dollars (\$50.00).

(c) The fee for annual renewal of volunteer approval, due July 1, shall be ten dollars (\$10.00).

(d)(e) No portion of any fee in this Rule shall be refundable.

Authority G.S. 90-6.

.0015 PRACTICE DURING A DISASTER

A nurse practitioner approved to practice in this State or another state is authorized to perform medical acts, tasks, or functions as a nurse practitioner under the supervision of a physician licensed to practice medicine in North Carolina during a disaster within a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared. The nurse practitioner shall notify the Boards in writing of the names, practice locations and telephone numbers for the nurse practitioner and each primary supervising physician within 15 days of the first performance of medical acts, tasks, or functions as a nurse practitioner during the disaster. Teams of physician(s) and nurse practitioner(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required pursuant to Rules .0008 and .0009 of this Subchapter.

Authority G.S. 90-18(13), (14); 90-18.2; 90-171.20(-); 90-171.23(b); 90-171.42.

SUBCHAPTER 320 - PHYSICIAN ASSISTANT REGULATIONS

.0001 DEFINITIONS

The following definitions apply to this Subchapter:

(1) "Board" means the North Carolina Medical Board.

(2) "Physician Assistant" means a person licensed by and registered with the Board to perform medical acts, tasks, or functions under the supervision of a physician licensed by the Board, who performs tasks traditionally performed by the physician, and who has graduated from a physician assistant or surgeon assistant program accredited by the Commission on Accreditation of Allied Health Education Programs.

or its predecessor or successor agencies.

- (3) "Physician Assistant License" means the document issued by the Board showing approval for the physician assistant to perform medical acts, tasks, or functions under North Carolina law.
- (4) "Registering" means paying the annual fee and providing the information requested by the Board as outlined in Rule .0005 of this Subchapter.
- (5) "Supervising Physician" means a physician who is licensed by the Board and who is not prohibited by the Board from supervising physician assistants. The physician may serve as a primary supervising physician or as a back-up supervising physician.
 - (a) The "Primary Supervising Physician" is the physician who, by signing the application to the Board, accepts full responsibility for the physician assistant's medical activities and professional conduct at all times, whether the physician personally is providing supervision or the supervision is being provided by a Back-up Supervising Physician. The Primary Supervising Physician shall assume total responsibility for assuring the Board that the physician assistant is qualified by education and training to perform all medical acts required of the physician assistant and shall assume total responsibility for the physician assistant's performance in the particular field or fields in which the physician assistant is expected to perform medical acts.
 - (b) The "Back-up Supervising Physician" means the physician who, by signing the statement required in Rule .0010 of this Subchapter, accepts the responsibility for supervision of the physician assistant's activities in the absence of the Primary Supervising Physician. The Back-up Supervising Physician is responsible for the activities of the physician assistant only when providing supervision.
- (6) "Supervising" means overseeing the activities of, and accepting the responsibility for, the medical services rendered by a physician assistant.

Authority G.S. 90-18(13); 90-18.1.

.0002 QUALIFICATIONS FOR LICENSE

Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Board before the individual may practice as a physician assistant. The Board may grant a license as a physician assistant to an applicant who has met all the following criteria:

- (1) submits a completed application on forms provided by the Board;
- (2) pays the fee established by Rule .0021(1) in this Subchapter;
- (3) has successfully completed an educational program for physician assistants or surgeon assistants

accredited by the Commission on Accreditation of Allied Health Education Programs or its predecessor or successor agencies and; if licensed in North Carolina after June 1, 1994, has successfully completed a licensing examination approved by the Board;

- (4) certifies that he or she is mentally and physically able to engage safely in practice as a physician assistant;
- (5) has no license, certificate, or registration as a physician assistant currently under discipline, revocation, suspension or probation for cause resulting from the applicant's practice as a physician assistant;
- (6) has good moral character; and
- (7) submits to the Board any other information the Board deems necessary to evaluate the applicant's qualifications.

Authority G.S. 90-11; 90-18(13); 90-18.1.

.0003 TEMPORARY LICENSE

The Board may grant a temporary license to an applicant who meets the qualifications for a license except that the applicant has not yet taken a Board-approved certifying examination or the applicant has taken a Board-approved certifying examination and is awaiting the results. A temporary license is valid:

- (1) for one year from the date of issue; or
- (2) until the results of an applicant's examination are available; or
- (3) until the Board meets and considers the applicant's request for a license. The Board may extend a temporary license in the event an applicant fails to pass the certifying exam, upon a majority vote of the Board members, for a period not to exceed one year. This option is available to only those applicants who have met all other criteria. Under no circumstances may the Board grant more than one extension of a temporary license.

Authority G.S. 90-18(13); 90-18.1.

.0004 INACTIVE LICENSE STATUS

By notifying the Board in writing any physician assistant may elect to place his or her license on an inactive status. A physician assistant with an inactive license shall not practice as a physician assistant. Any physician assistant who engages in practice while his or her license is on inactive status shall be considered to be practicing without a license, which shall be grounds for discipline under G.S. 90-14 (a) (7). A physician assistant requesting reactivation from inactive status shall be required to pay the current renewal fee, to provide documentation to the Board verifying completion of continuing medical education during the preceding two years as required in Rule .0006 of this Subchapter, and shall be required to meet the criteria for renewal as specified in 21 NCAC 32O .0005.

Authority G.S. 90-18(13); 90-18.1.

.0005 ANNUAL REGISTRATION

Each person who holds a license as a physician assistant in this state shall, upon notification from the Board, annually register the license at such time as directed by the Board by:

- (1) submitting the fee required in Rule .0021 of this Subchapter;
- (2) completing the Board's registration form.

Authority G.S. 90-15; 90-18(13); 90-18.1.

.0006 CONTINUING MEDICAL EDUCATION

In order to maintain physician assistant licensure, documentation must be maintained by the physician assistant of 100 hours of continuing medical education (CME) completed for every two year period, at least 40 hours of which must be American Academy of Physician Assistants Category I CME or the equivalent. CME documentation must be available for inspection by the Board or an agent of the Board upon request.

Any physician assistant who prescribes controlled substances shall complete at least three hours of CME every two years on the medical and social effects of the misuse and abuse of alcohol, nicotine, prescription drugs (including controlled substances), and illicit drugs.

Authority G.S. 90-18(13); 90-18.1.

.0007 EXEMPTION FROM LICENSE

Nothing in this Subchapter shall be construed to require licensure under 21 NCAC 320 of:

- (1) a physician assistant student enrolled in a physician assistant or surgeon assistant educational program accredited by the Commission on Accreditation of Allied Health Education Programs or its successor organizations; or
- (2) a physician assistant employed in the service of the federal government while performing duties incident to that employment; or
- (3) agents or employees of physicians who perform delegated tasks in the office of a physician but who are not rendering services as a physician assistant or identifying themselves as a physician assistant.

Authority G.S. 90-18(13); 90-18.1.

.0008 SCOPE OF PRACTICE

Physician assistants perform medical acts, tasks or functions with physician supervision. Physician assistants perform those duties and responsibilities, including the prescribing and dispensing of drugs and medical devices, that are delegated by their supervising physician(s). Physician assistants shall be considered the agents of their supervising physicians in the performance of all medical practice-related activities, including but not limited to, the ordering of diagnostic, therapeutic and other medical services.

Authority G.S. 90-18(13); 90-18.1.

.0009 PRESCRIPTIVE AUTHORITY

A physician assistant is authorized to prescribe, order and administer drugs and medical devices subject to the following conditions:

- (1) The physician assistant has been assigned a license number by the Board which shall be shown on the written prescription.
- (2) The physician assistant has received from the supervising physician written instructions for prescribing drugs and a written policy for periodic review by the physician of the drugs prescribed.
- (3) In order to compound and dispense drugs, the Physician Assistant must obtain approval from the Board of Pharmacy and must carry out the functions of compounding and dispensing in accordance with 21 NCAC 46 .1700.
- (4) In order to prescribe controlled substances, the primary supervising physician and the physician assistant must sign the statement that they have read and understand the DEA MID-LEVEL PRACTITIONERS MANUAL and the information sheet provided by the Board. The Board also strongly suggests that the physician and physician assistant continue to update their knowledge of the indications for these substances and their abuse potentials. All prescriptions for substances falling within the categories 2, 2N, 3 and 3N shall not exceed a legitimate seven day supply.
- (5) The physician assistant shall comply with other relevant laws and regulations.
- (6) A prescription issued by a physician assistant shall display the name and telephone number of the responsible supervising physicians (primary or back up); the name, practice address, telephone number, and prescribing number of the physician assistant, as well as all information required by law.
- (7) Physician assistants may request, receive, and sign for professional samples and may distribute professional samples to patients complying with appropriate federal and state regulations.

Authority G.S. 90-18(13); 90-18.1; 90-171.23(14); 58 Fed. Reg. 31,171(1993) (to be codified at 21 C.F.R. 1301).

.0010 SUPERVISION OF PHYSICIAN ASSISTANTS

A physician assistant may perform medical acts, tasks, or functions only under the supervision of a physician. Supervision shall be continuous but, except as otherwise provided in these rules, shall not be construed as requiring the physical presence of the supervising physician at the time and place that the services are rendered.

It is the obligation of each team of physician(s) and physician assistant(s) to ensure that the physician assistant's scope of practice is identified; that delegation of medical tasks is appropriate to the skills of the supervising physician(s) as well as the physician assistant's level of competence; that the relationship of, and access to, each supervising physician is

defined; and that a process for evaluation of the physician assistant's performance is established. A statement clearly describing these supervisory arrangements in all settings must be signed by each supervising physician and the physician assistant and shall be kept on file at all practice sites. This statement describing supervisory arrangements and instructions for prescriptive authority shall be available upon request by the Board or its representatives.

The time interval between the physician assistant's contact with the patient and the chart review and countersigning by the supervising physician may be a maximum of seven days for outpatient (clinic/office) charts. Entries by a physician assistant into patient charts of inpatients (hospital, long-term care institutions) must comply with the rules and regulations of the institution; but, at a minimum, the initial work up and treatment plan and the discharge summary must be countersigned by the supervising physician within seven days of the time of generation of these notes. In the acute inpatient setting, the initial work up, orders, and treatment plan must be signed and dated within two working days.

Authority G.S. 90-18(13); 90-18.1.

.0011 SUPERVISING PHYSICIANS

(a) A physician wishing to serve as a primary supervising physician must:

- (1) be licensed to practice medicine by the Board and not prohibited by the Board from supervising physician assistant;
- (2) notify the Board of the physician's intent to serve as a primary supervising physician for a physician assistant; and;
- (3) submit a statement to the Board that the physician will exercise supervision over the physician assistant in accordance with any rules adopted by the Board and that the physician will retain professional and legal responsibility for the care rendered by the physician assistant.

(b) A physician wishing to serve as a back-up supervising physician must be licensed to practice medicine by the Board and not prohibited by the Board from supervising a physician assistant and approved by the primary supervising physician as a person willing and qualified to assume responsibility for the care rendered by the physician assistant in the absence of the primary supervising physician. An ongoing list of all approved back-up supervising physicians, signed and dated by each back-up supervising physician, the primary supervising physician, and the physician assistant, must be retained as part of the inspectable supervisory arrangements statement described in Rule .0010 of this Subchapter.

(c) It is the responsibility of the supervising physicians to ensure that the physician assistant has adequate back-up for any procedure performed by the physician assistant, in any practice location (office, home, hospital, etc.).

Authority G.S. 90-18(13); 90-18.1.

.0012 NOTIFICATION OF INTENT TO PRACTICE

(a) Prior to the performance of any medical acts, tasks, or functions, a physician assistant approved by the Board shall submit notification of such intent on forms provided by the Board. The physician assistant applicant may be provisionally approved by the Board's administrative staff to begin performing medical acts, tasks, and functions upon receipt of the application form in the Board's office subject to final approval by the Board. Such notification shall include:

- (1) the name, practice address, and telephone number of the physician assistant; and
- (2) the name, practice address, and telephone number of the primary supervising physician(s).

(b) The physician assistant shall notify the Board of any changes or additions in a previously approved practice setting within 15 days of the occurrence.

(c) Intent to practice forms must be submitted for each additional job under a new primary supervising physician.

Authority G.S. 90-18(13); 90-18.1.

.0013 SATELLITE SETTINGS

Nothing contained in this Subchapter shall be construed to prohibit the rendering of services by a physician assistant in a setting geographically remote from the supervising physician.

Authority G.S. 90-18(13); 90-18.1.

.0014 EXCLUSIONS OF LIMITATIONS ON EMPLOYMENT

Nothing herein shall be construed to limit any lawful employment arrangement of a physician assistant approved under this Subchapter.

Authority G.S. 90-18(13); 90-18.1.

.0015 ASSUMPTION OF PROFESSIONAL LIABILITY

The supervising physician(s) shall be responsible for the supervision of the physician assistant's patient care activities, including when the physician assistant provides care and treatment for patients who are in health care facilities.

Authority G.S. 90-18(13); 90-18.1.

.0016 VIOLATIONS

The Board may, following the exercise of due process, in accordance with provisions of Article 3A of G.S. 150B, discipline any physician assistant who:

- (1) fraudulently or deceptively obtains or attempts to obtain a license;
- (2) fraudulently or deceptively uses a license;
- (3) is convicted of a felony;
- (4) is an habitual user of intoxicants or drugs to such an extent that the physician assistant is unable to safely perform medical acts;
- (5) has been adjudicated as mentally incompetent or has a mental condition that renders the physician assistant

unable to safely perform medical acts:

- (6) — has committed an act of moral turpitude;
- (7) — represents himself or herself as a physician;
- (8) — any violation of the Federal Controlled Substances law; or
- (9) — lacks professional competence to perform medical acts with a reasonable degree of skill and safety for patients. In this connection, the Board may consider action of a physician assistant indicating failure to properly treat a patient and may require such physician assistant to submit to inquiries or examinations, written or oral, by members of the Board or by others licensed to practice in this State, as the Board deems necessary to determine the professional qualifications of such physician assistant.

Authority G.S. 90-14(a)(11); 90-18(13); 90-18.1.

.0017 DISCIPLINARY AUTHORITY

The Board, upon finding that a physician assistant has committed any offense described in Rule .0016 of this Subchapter, may after due process:

- (1) — refuse to grant a license; or
- (2) — revoke, suspend, limit, or otherwise restrict a license.

Authority G.S. 90-1, 90-18(13); 90-18.1.

.0018 LOCUM TENENS PERMIT

Locum tenens means the temporary provision of services at a specific site by a substitute physician assistant provider. The Board may grant a locum tenens permit to any applicant who is approved by the State. The permit may be granted by an authorized representative of the Board. Such applications for locum tenens permits shall be reviewed at the next regularly scheduled Board meeting. The duration of a locum tenens permit shall be finite and shall not exceed six months.

Authority G.S. 90-18(13); 90-18.1.

.0019 TITLE AND PRACTICE PROTECTION

(a) Any person not approved under this Subchapter is in violation of G.S. 90-18 and is subject to penalties applicable to the unlicensed practice of medicine if he or she:

- (1) — holds himself or herself out as a physician assistant;
- (2) — uses any combination or abbreviation of the term "physician assistant" to indicate or imply that he or she is a physician assistant; or
- (3) — acts as a physician assistant without being approved by the Board.

(b) An unlicensed physician shall not be permitted to use the title of "physician assistant" or to practice as a physician assistant unless he or she fulfills the requirements of this Subchapter.

Authority G.S. 90-18(13); 90-18.1.

.0020 IDENTIFICATION REQUIREMENTS

Physician assistants approved under this Subchapter shall keep proof of current approval available for inspection at their primary place of practice and shall, when engaged in their professional activities, wear a name tag identifying themselves as a "physician assistant."

Authority G.S. 90-18(13); 90-18.1.

.0021 FEES

The Board is empowered to charge the following fees:

- (1) — Physician Assistant License Fee — one hundred and fifty dollars (\$150.00).
- (2) — Annual Registration Fee — seventy five dollars (\$75.00).

Authority G.S. 90-18(13); 90-18.1.

SUBCHAPTER 32R - CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS

.0001 CONTINUING MEDICAL EDUCATION (CME) REQUIRED

(a) CME is defined as knowledge and skills generally recognized and accepted by the profession as within the basic medical sciences, the discipline of clinical medicine, and the provision of healthcare to the public. CME should maintain, develop, or improve the physician's knowledge, skills, professional performance and relationships which physicians use to provide services for their patients, their practice, the public, or the profession.

(b) Each person licensed to practice medicine in the State of North Carolina shall complete no less than 50 hours of practice relevant CME annually in order to enhance current medical competence, performance or patient care outcome. 20 hours shall be in the physician-initiated category and 30 hours shall be in the educational provider-initiated category. General medical reading is not applicable to physician-initiated CME.

Authority G.S. 90-14(a)(15).

.0002 APPROVED CATEGORIES OF CME

(a) Physician-Initiated CME:

- (1) Practice based self-study;
- (2) Colleague consultations;
- (3) Office based outcomes research;
- (4) Study initiated by patient inquiries;
- (5) Study of community health problems;
- (6) Successful specialty board examination for certification or recertification;
- (7) Teaching (professional, patient/public health);
- (8) Mentoring;
- (9) Morbidity and Mortality (M&M) conference;
- (10) Journal clubs;
- (11) Creation of generic patient care pathways and guidelines;
- (12) Competency Assessment.

(b) Educational Provider-Initiated CME: All education

offered by institutions or organizations accredited by the Accreditation Council for Continuing Medical Education (ACCME) and reciprocating organizations or American Osteopathic Association (AOA).

- (1) Formal Courses;
- (2) Scientific/clinical presentations, or publications;
- (3) Enduring material (Audio-Video);
- (4) Skill development.

Authority G.S. 90-14(a)(15).

.0003 EXCEPTIONS

(a) A licensee currently enrolled in an AOA or Accreditation Council on Graduate Medical Education (ACGME) accredited graduate medical education program is exempt from the requirements of Rule .0001 of this Subchapter.

(b) A licensee shall have one year of exemption from the requirements of Rule .0001 of this Subchapter after having received initial licensure.

Authority G.S. 90-14(a)(15).

.0004 REPORTING

At the time of annual registration each Licensee shall report on the Board's annual registration form the number of hours of practice-relevant CME obtained in compliance with Rule .0001 of this Subchapter. CME hours must be documented by categories for three consecutive years and may be inspected by the Board or its agents.

Authority G.S. 90-14(a)(15).

SUBCHAPTER 32S - PHYSICIAN ASSISTANT REGULATIONS

.0001 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Board" means the North Carolina Medical Board.
- (2) "Physician Assistant" means a person licensed by and registered with the Board to perform medical acts, tasks, or functions under the supervision of a physician licensed by the Board, who performs tasks traditionally performed by the physician, and who has graduated from a physician assistant or surgeon assistant program accredited by the Commission on Accreditation of Allied Health Education Programs, or its predecessor or successor agencies.
- (3) "Physician Assistant License" means the document issued by the Board showing approval for the physician assistant to perform medical acts, tasks, or functions under North Carolina law.
- (4) "Registering" means paying the annual fee and providing the information requested by the Board as outlined in Rule .0005 of this Subchapter.
- (5) "Supervising Physician" means a physician who is licensed by the Board and who is not prohibited by the Board from supervising physician assistants. The

physician may serve as a primary supervising physician or as a back-up supervising physician.

(a) The "Primary Supervising Physician" is the physician who, by signing the application to the Board, accepts full responsibility for the physician assistant's medical activities and professional conduct at all times, whether the physician personally is providing supervision or the supervision is being provided by a Back-up Supervising Physician. The Primary Supervising Physician shall assume total responsibility for assuring the Board that the physician assistant is qualified by education and training to perform all medical acts required of the physician assistant and shall assume total responsibility for the physician assistant's performance in the particular field or fields in which the physician assistant is expected to perform medical acts.

(b) The "Back-up Supervising Physician" means the physician who, by signing the statement required in Rule .0010 of this Subchapter, accepts the responsibility for supervision of the physician assistant's activities in the absence of the Primary Supervising Physician. The Back-up Supervising Physician is responsible for the activities of the physician assistant only when providing supervision.

- (6) "Supervising" means overseeing the activities of, and accepting the responsibility for, the medical services rendered by a physician assistant.
- (7) "Volunteer practice" means performance of medical acts, tasks, or functions without expectation of any form of payment or compensation.
- (8) "Examination" means the Physician Assistant National Certifying Examination or another examination as approved by the Board.

Authority G.S. 90-18(13); 90-18.1.

.0002 QUALIFICATIONS FOR LICENSE

Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Board before the individual may practice as a physician assistant. The Board may grant a license as a physician assistant to an applicant who has met all the following criteria:

- (1) submits a completed application on forms provided by the Board;
- (2) pays the fee established by Rule .0021(1) in this Subchapter;
- (3) has successfully completed an educational program for physician assistants or surgeon assistants accredited by the Commission on Accreditation of Allied Health Education Programs or its predecessor or successor agencies and; if licensed in North Carolina after June 1, 1994, has successfully completed a licensing examination approved by the

Board:

- (4) certifies that he or she is mentally and physically able to engage safely in practice as a physician assistant;
- (5) has no license, certificate, or registration as a physician assistant currently under discipline, revocation, suspension or probation for cause resulting from the applicant's practice as a physician assistant;
- (6) has good moral character; and
- (7) submits to the Board any other information the Board deems necessary to evaluate the applicant's qualifications; and
- (8) if two years or more have passed since graduation from an approved program, the applicant must submit documentation of the completion of at least 100 hours of continuing medical education (CME) during the preceding two years.

Authority G.S. 90-11; 90-18(13); 90-18.1.

.0003 TEMPORARY LICENSE

(a) During the year prior to 2002, the Board may grant a temporary license, valid for a period not to exceed one year, to an applicant who meet the qualifications for a license except that the applicant has not yet passed a licensing examination approved by the Board. The Board shall not grant a temporary license to an applicant who has twice failed a licensing examination approved by the Board.

(b) A temporary license becomes void at the time the Board grants the physician assistant a full license or at the expiration date shown on the temporary license.

(c) A temporary license shall expire 30 days after the physician assistant receives notice of non-passing scores on the second attempt of taking a licensing examination approved by the Board or at the expiration date of the temporary license, whichever is sooner. The licensee must notify the Board within 15 days upon the receipt of scores.

Authority G.S. 90-18(13); 90-18.1.

.0004 INACTIVE LICENSE STATUS

By notifying the Board in writing any physician assistant may elect to place his or her license on an inactive status. A physician assistant with an inactive license shall not practice as a physician assistant. Any physician assistant who engages in practice while his or her license is on inactive status shall be considered to be practicing without a license, which shall be grounds for discipline under G.S. 90-14(a)(7). A physician assistant requesting reactivation from inactive status shall be required to pay the current renewal fee, to provide documentation to the Board verifying completion of continuing medical education during the preceding two years as required in Rule .0006 of this Subchapter, and shall be required to meet the criteria for renewal as specified in 21 NCAC 32S .0005.

Authority G.S. 90-18(13); 90-18.1.

.0005 ANNUAL REGISTRATION

Each person who holds a license as a physician assistant in this state shall, upon notification from the Board, annually register the license at such time as directed by the Board by:

- (1) completing the Board's registration form; and
- (2) providing any other information required by the Board; and
- (3) submitting the fee required in Rule .0017 of this Subchapter.

Authority G.S. 90-15; 90-18(13); 90-18.1.

.0006 CONTINUING MEDICAL EDUCATION

In order to maintain physician assistant licensure, documentation must be maintained by the physician assistant of 100 hours of continuing medical education (CME) completed for every two year period, at least 40 hours of which must be American Academy of Physician Assistants Category I CME or the equivalent. CME documentation must be available for inspection by the Board or an agent of the Board upon request.

Any physician assistant who prescribes controlled substances shall complete at least three hours of CME every two years on the medical and social effects of the misuse and abuse of alcohol, nicotine, prescription drugs (including controlled substances), and illicit drugs.

Authority G.S. 90-18(13); 90-18.1.

.0007 EXEMPTION FROM LICENSE

Nothing in this Subchapter shall be construed to require licensure under 21 NCAC 32S of:

- (1) a physician assistant student enrolled in a physician assistant or surgeon assistant educational program accredited by the Commission on Accreditation of Allied Health Education Programs or its successor organizations; or
- (2) a physician assistant employed in the service of the federal government while performing duties incident to that employment; or
- (3) agents or employees of physicians who perform delegated tasks in the office of a physician but who are not rendering services as a physician assistant or identifying themselves as a physician assistant.

Authority G.S. 90-18(13); 90-18.1.

.0008 SCOPE OF PRACTICE

(a) Physician assistants perform medical acts, tasks or functions with physician supervision. Physician assistants perform those duties and responsibilities, including the prescribing and dispensing of drugs and medical devices, that are delegated by their supervising physician(s).

(b) Physician assistants shall be considered the agents of their supervising physicians in the performance of all medical practice-related activities, including but not limited to, the ordering of diagnostic, therapeutic and other medical services.

Authority G.S. 90-18(13); 90-18.1.

.0009 PRESCRIPTIVE AUTHORITY

A physician assistant is authorized to prescribe, order, procure, dispense and administer drugs and medical devices subject to the following conditions:

- (1) The physician assistant and the supervising physician(s) shall acknowledge that each is familiar with the laws and rules regarding prescribing and shall agree to comply with these laws and rules by incorporating the laws and rules into the written prescribing instructions required for each approved practice site; and
- (2) The physician assistant has received from the supervising physician written instructions for prescribing, ordering, and administering drugs and medical devices and a written policy for periodic review by the physician of these instructions and policy; and
- (3) In order to compound and dispense drugs, the physician assistant must obtain approval from the Board of Pharmacy and must carry out the functions of compounding and dispensing by current Board of Pharmacy rules and any applicable federal guidelines; and
- (4) In order to prescribe controlled substances, both the physician assistant and the supervising physician must have a valid DEA registration and the physician assistant shall prescribe in accordance with information provided by the Medical Board and the DEA. All prescriptions for substances falling within schedules II, IIN, III, and IIIN, as defined in the federal Controlled Substances Act, shall not exceed a legitimate 30 day supply; and
- (5) Each prescription issued by the physician assistant shall contain, in addition to other information required by law, the following:
 - (a) the physician assistant's name, practice address, telephone number; and
 - (b) the physician's assistant's license number and, if applicable, the physician assistant's DEA number for controlled substances prescription; and
 - (c) the responsible supervising physician's (primary or back-up) name and telephone number; and
- (6) Documentation of each prescription must be noted on the patient's record and must include the following information:
 - (a) medication name and dosage, amount prescribed, directions for use, number of refills; and
 - (b) signature of physician assistant with supervising physician's co-signature according to the site specific rule in 21 NCAC 32S .0010.
- (7) Physician Assistants who request, receive, and dispense professional medication samples to patients

must comply with all applicable state and federal regulations.

Authority G.S. 90-18(13); 90-18.1; 90-171.23(14); 58 Fed. Reg. 31,171(1993) (to be codified at 21 C.F.R. 1301).

.0010 SUPERVISION OF PHYSICIAN ASSISTANTS

A physician assistant may perform medical acts, tasks, or functions only under the supervision of a physician. Supervision shall be continuous but, except as otherwise provided in these Rules, shall not be construed as requiring the physical presence of the supervising physician at the time and place that the services are rendered.

It is the obligation of each team of physician(s) and physician assistant(s) to ensure that the physician assistant's scope of practice is identified; that delegation of medical tasks is appropriate to the skills of the supervising physician(s) as well as the physician assistant's level of competence; that the relationship of, and access to, each supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established. A statement clearly describing these supervisory arrangements in all settings must be signed by each supervising physician and the physician assistant and shall be kept on file at all practice sites. This statement describing supervisory arrangements and instructions for prescriptive authority shall be available upon request by the Board or its representatives.

The time interval between the physician assistant's contact with the patient and the chart review and countersigning by the supervising physician may be a maximum of seven days for outpatient (clinic/office) charts. Entries by a physician assistant into patient charts of inpatients (hospital, long term care institutions) must comply with the rules and regulations of the institution; but, at a minimum, the initial work up and treatment plan and the discharge summary must be countersigned by the supervising physician within seven days of the time of generation of these notes. In the acute inpatient setting, the initial work-up, orders, and treatment plan must be signed and dated within two working days.

Authority G.S. 90-18(13); 90-18.1.

.0011 SUPERVISING PHYSICIANS

(a) A physician wishing to serve as a primary supervising physician must:

- (1) notify the Board of the physician's intent to serve as a primary supervising physician for a physician assistant; and
- (2) submit a statement to the Board that the physician is willing and qualified to exercise supervision of the physician assistant in accordance with rules adopted by the Board and that the physician will retain professional responsibility for the care rendered by the physician assistant within the scope of the supervisory arrangements established pursuant to Rule .0010 of this Subchapter.

(b) A physician wishing to serve as a back-up supervising

physician must be licensed to practice medicine by the Board and not prohibited by the Board from supervising a physician assistant and be approved by the primary supervising physician as a person willing and qualified to assume responsibility for the care rendered by the physician assistant in the absence of the primary supervising physician. An ongoing list of all approved back-up supervising physicians, signed and dated by each back-up supervising physician, the primary supervising physician, and the physician assistant, must be retained as part of the inspectable supervisory arrangements statement described in Rule .0010 of this Subchapter.

(c) It is the responsibility of the supervising physicians to ensure that the physician assistant has adequate back-up for any procedure performed by the physician assistant in any practice location (office, home, hospital, etc.).

Authority G.S. 90-18(13); 90-18.1.

.0012 NOTIFICATION OF INTENT TO PRACTICE

(a) Prior to the performance of any medical acts, tasks, or functions under the supervision of any primary supervising physician, a physician assistant licensed by the Board shall submit notification of such intent on forms provided by the Board. The physician assistant shall not commence practice until acknowledgment of the notification of intent to practice form is received from the Board. Such notification of intent to practice shall include:

- (1) the name, practice addresses, and telephone number of the physician assistant; and
- (2) the name, practice addresses, and telephone number of the primary supervising physician(s).

(b) The physician assistant shall notify the Board of any changes or additions in a previously approved practice setting within 15 days of the occurrence.

Authority G.S. 90-14(a)(11); 90-18(13); 90-18.1.

.0013 VIOLATIONS

(a) The Board may deny, annul, suspend, or revoke the license, or other authority to function as a physician assistant in this State, of any person who has been found by the Board to have committed any of the following acts of misconduct or violations, or for any of the following reasons:

- (1) Immoral, dishonorable, or unethical conduct;
- (2) Failure to function in accordance with the rules of this Subchapter or with the applicable laws of the State of North Carolina governing physician assistants;
- (3) Making false statements or representations to the Board, or willfully concealing from the Board material information in connection with an application for a license or notification of intent to practice as a physician assistant;
- (4) Representing oneself as a physician;
- (5) Being unable to function as a physician assistant with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material, or by reason

of any physical or mental abnormality. The Board may require a licensed physician assistant to submit to a mental or physical examination by physicians designated by the Board before or after charges may be presented against the physician assistant. The results of the examination shall be admissible in evidence in a hearing before the Board;

- (6) Any departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of practice or otherwise and whether committed within or without North Carolina;
- (7) Conviction in any court of a crime involving moral turpitude, or the violation of a law involving the practice of medicine or practice as a physician assistant, or a conviction of a felony;
- (8) By false representations has obtained or attempted to obtain professional practice as a physician assistant, money, or anything of value;
- (9) Has advertised or publicly professed to treat human ailments under a system or school of treatment or practice other than that for which the physician assistant has been educated;
- (10) Adjudication of mental incompetency;
- (11) Lack of professional competence to practice as a physician assistant with a reasonable degree of skill and safety for patients. The Board may, upon reasonable grounds, require a physician assistant to submit to inquiries or examinations, written or oral, by members of the Board, physician assistants, or physicians licensed to practice medicine, as the Board deems necessary to determine the qualifications of such licensee;
- (12) Promotion of the sale of drugs, devices, appliances or goods for a patient, or providing services to a patient, in such a manner as to exploit the patient and/or the entity providing compensation to the physician assistant or the employer of the physician assistant on behalf of the patient;
- (13) Having a license or other authority to practice as a physician assistant revoked, suspended, restricted, or acted against, or having a license denied by a licensing authority of any jurisdiction. For purposes of this Subchapter, any other licensing authority's acceptance of a license or other authority to practice which was voluntarily relinquished or surrendered by a physician assistant is considered an action against a license or the authority to practice as a physician assistant;
- (14) The failure to respond, within a reasonable period of time and in a reasonable manner, as determined by the Board, to inquiries from the Board concerning any matter affecting the license or practice of the physician assistant.

Authority G.S. 90-14; 90-14.2.

.0014 DISCIPLINARY AUTHORITY

(a) For any of the foregoing reasons, the Board may deny the issuance of a license to an applicant, may revoke a license issued to the physician assistant, may suspend such a license for a period of time, and may impose conditions upon the continued practice of the physician assistant.

(b) The Board may also, after such period of suspension as the Board may deem advisable, limit the physician assistant's practice with respect to the scope or location of his/her practice. The Board may, in its discretion and upon such terms and conditions and for such period of time as it may prescribe, restore a license so revoked or rescinded.

(c) The Board shall refer to the North Carolina Academy of Physician Assistants Health Committee all physician assistants whose health and effectiveness have been significantly impaired.

Authority G.S. 90-14(a)(11); 90-18(13); 90-18.1.

.0015 TITLE AND PRACTICE PROTECTION

(a) Any person not approved under this Subchapter is in violation of G.S. 90-18 and is subject to penalties applicable to the unlicensed practice of medicine if he or she:

- (1) falsely identifies himself or herself as a physician assistant;
- (2) use any combination or abbreviation of the term "physician assistant" to indicate or imply that he or she is a physician assistant; or
- (3) acts as a physician assistant without being approved by the Board.

(b) An unlicensed physician shall not be permitted to use the title of "physician assistant" or to practice as a physician assistant unless he or she fulfills the requirements of this Subchapter.

Authority G.S. 90-18(13); 90-18.1.

.0016 IDENTIFICATION REQUIREMENTS

A physician assistant licensed under this Subchapter shall keep proof of current licensure and registration available for inspection at the primary place of practice and shall, when engaged in professional activities, wear a name tag identifying the licensee as a "physician assistant."

Authority G.S. 90-18(13); 90-18.1.

.0017 FEES

The Board requires the following fees:

- (1) Physician Assistant License Fee - one hundred and fifty dollars (\$150.00), except that an applicant for a physician assistant limited volunteer license pursuant to G.S. 90-12.1 need not submit an application fee.
- (2) Annual Registration Fee - seventy-five dollars (\$75.00), except that any physician assistant who holds a limited volunteer license issued pursuant to

G.S. 90-12.1 or who submits a statement to the Board confirming that the physician assistant is currently exclusively engaged in volunteer practice and has engaged exclusively in volunteer practice during the preceding year shall submit a reduced registration fee of twenty-five dollars (\$25.00).

Authority G.S. 90-18(13); 90-18.1.

.0018 PRACTICE DURING A DISASTER

A physician assistant licensed in this State or in any other state is authorized to perform acts, tasks, or functions as a physician assistant under the supervision of a physician licensed to practice medicine in North Carolina during a disaster within a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared (in accordance with G.S. 166A-4(3) or G.S. 166A-6). The physician assistant shall notify the Board in writing of the names, practice locations, and telephone numbers for the physician assistant and each primary supervising physician within 15 days of the first performance of medical acts, tasks, or functions as a physician assistant during the disaster. A team of physician(s) and physician assistant(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required in Rules .0009 and .0010 of this Subchapter.

Authority G.S. 166A-4(3); GS 166A-6.

CHAPTER 36 - BOARD OF NURSING

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Nursing intends to amend rule cited as 21 NCAC 36 .0227. Notice of Rule-making Proceedings was published in the Register on September 2, 1997.

Proposed Effective Date: May 1, 1999

A Public Hearing will be conducted at 1:00 p.m. on October 30, 1998 at the North Carolina Medical Board, 1201 Front Street, Raleigh, NC..

Reason for Proposed Action: The Board of Nursing and North Carolina Medical Board are recommending that a change be made in the current rule to allow more flexibility in how physician supervision of the nurse practitioner's performance of medical acts is implemented and validated. We are also recommending changes in the requirements for first-time approval to practice as a nurse practitioner beginning January 1, 2000.

Comment Procedures: Comments regarding this action should be directed to Jean H. Stanley, APA Coordinator, North

Carolina Board of Nursing, PO Box 2129, Raleigh, NC 27602-2129. Comments must be received in the Board of Nursing office by 4:30 p.m. on November 16, 1998.

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

SECTION .0200 - LICENSURE

.0227 APPROVAL AND PRACTICE PARAMETERS FOR NURSE PRACTITIONERS

(a) Definitions:

- (1) "Medical Board" means the North Carolina Medical Board.
- (2) "Board of Nursing" means the Board of Nursing of the State of North Carolina.
- (3) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and Members of the Medical Board to whom responsibility is given by G.S. 90-6 and G. S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.
- (4) "Nurse Practitioner or NP" means a currently licensed registered nurse approved to perform medical acts ~~who functions at the direction of or under the supervision of under an agreement with a licensed physician for ongoing supervision, consultation, collaboration and evaluation of the those medical acts, acts performed.~~ Only a registered nurse approved by the Medical Board and the Board of Nursing may legally identify oneself as a Nurse Practitioner. It is understood that the nurse practitioner, by virtue of RN licensure, is independently accountable for those nursing acts which he or she may perform.
- (5) "Nurse Practitioner Applicant" means a registered nurse who may function prior to full approval as a Nurse Practitioner in accordance with Part (c)(2)(D) of this Rule.
- (6) "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.
- (7) "Collaborative practice agreement" means the arrangement for nurse practitioner-physician continuous availability to each other for on-going supervision, consultation, collaboration, referral and evaluation of care provided by the nurse practitioner.
- (8) (7) "Primary supervising Physician" means the licensed physician approved by the Medical Board who, by signing the nurse practitioner application, is held accountable for the on-going supervision, supervision, consultation, collaboration and evaluation of the medical acts performed by the nurse practitioner as defined in the site specific written protocols.

- (A) The primary supervising physician shall assume the responsibility of assuring the Boards that the nurse practitioner is qualified to perform those medical acts described in the site specific written protocols.
- (B) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.
- (C) A physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation if fully licensed and approved to be a supervising physician by the Medical Board.
- (D) All physicians who may be a primary supervising physician of nurse practitioner(s) in any manner shall be approved in accordance with this Rule.
- (9) (8) "Back-up Supervising Physician" means the licensed physician who, by signing an agreement with the nurse practitioner and the primary supervising physician(s) shall be held accountable for the supervising performance supervision, consultation, collaboration and evaluation of medical acts by the nurse practitioner in accordance with the site specific written protocols when the Primary Supervising Physician is not available.
- (A) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.
- (B) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.
- (C) A physician in a graduate medical education program who is also practicing in a non-training situation may be a back-up supervising physician to a nurse practitioner in the non-training situation if fully licensed and has signed an agreement with the nurse practitioner and the primary supervising physician.
- (10) (9) "Approval" means authorization by the Medical Board and the Board of Nursing for a registered nurse to practice as a nurse practitioner in accordance with this Subchapter.
- (11) (10) "Written standing protocols" means the signed and dated set of written practice guidelines maintained at each practice site which describe the prescribing privileges, treatments, tests and procedures that define the scope of the nurse practitioner's medical acts in that setting. Clinical practice issues that are not covered by the written protocols require nurse practitioner/physician consultation, and documentation related to the treatment plan.
- (12) "Volunteer practice" means practice without expectation of compensation or payment (monetary,

in kind or otherwise) to the nurse practitioner either directly or indirectly.

(13) "Disaster" means a state of disaster as defined in North Carolina G.S. 166A-4(3) and proclaimed by the Governor, or by the General Assembly pursuant to North Carolina G.S. 166A-6.

(14) "Interim Status" means the privilege that is given to a new graduate of an approved nurse practitioner education program or a registered nurse seeking initial approval in North Carolina with limited privileges, as defined in Part (c)(2)(D) of this Rule while awaiting final approval to practice as a nurse practitioner.

(15) "Temporary Approval" means authorization by the Medical Board and the Board of Nursing for a registered nurse to practice as a nurse practitioner in accordance with this Rule for a period not to exceed 18 months while awaiting notification of successful completion of the national certification examination.

(b) Scope of Practice. The nurse practitioner shall be responsible and accountable for the continuous and comprehensive management of a broad range of personal health services for which the nurse practitioner shall be educationally prepared and for which competency has been maintained, with physician supervision and collaboration as described in Paragraph (i) of this Rule. These services include but are not restricted to:

- (1) promotion and maintenance of health;
- (2) prevention of illness and disability;
- (3) diagnosing, treating and managing acute and chronic illnesses;
- (4) guidance and counseling for both individuals and families;
- (5) prescribing, administering and dispensing therapeutic measures, tests, procedures and drugs;
- (6) planning for situations beyond the nurse practitioner's expertise, and consulting with and referring to other health care providers as appropriate; and
- (7) evaluating health outcomes.

(c) Nurse Practitioner Approval.

(1) Qualifications for nurse practitioner approval. A registered nurse shall be approved by the Medical Board and the Board of Nursing Board before the individual applicant may practice as a nurse practitioner. The Boards may grant approval to practice as a nurse practitioner to an individual applicant who:

- (A) is currently licensed as a registered nurse by the Board of Nursing;
- (B) has successfully completed an approved educational program as outlined in Paragraph (d) of this Rule; or, as of January 1, 2000, meets the certification requirements set forth Subparagraph (d)(3) of this Rule.
- (C) has an unrestricted license to practice as a registered nurse and, if applicable, an unrestricted approval to practice as a nurse practitioner unless the Boards consider such

condition and agree to approval:

(D) submits any information deemed necessary to evaluate the application;

(E) has a collaborative practice agreement with a primary supervising physician agreement; physician; and

(F) pays the appropriate fee.

(2) Application for nurse practitioner approval.

(A) Application for nurse practitioner approval shall be made upon the appropriate forms and shall be submitted jointly by the nurse practitioner and primary supervising physician(s).

(B) Applications for first-time approval in North Carolina shall be submitted to the Board of Nursing Board and then processed approved by both Boards as follows:

- (i) the Board of Nursing Board will verify compliance with Parts (c)(1)(A) - (D) of this Rule;
- (ii) the Medical Board will verify compliance with Parts (c)(1)(D) - (F) of this Rule; and
- (iii) the appropriate Board will notify applicant of final approval status.

(C) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:

- (i) addition or change of primary supervising physician shall be submitted to the Medical Board;
- (ii) request for change(s) in the scope of practice shall be submitted to the Nursing Board; Joint Subcommittee; and
- (iii) the appropriate Board will notify applicant of final approval status.

(D) Interim status for nurse practitioner applicant maybe granted as follows:

- (i) a registered nurse who is a new graduate of an approved nurse practitioner educational program as set forth in Paragraph (d) of this Rule; or
- (ii) a registered nurse seeking first time approval to practice as a nurse practitioner in North Carolina who has worked previously as a nurse practitioner in another state and who meets the nurse practitioner educational requirement as set forth in Paragraph (d) of this Rule; and
- (iii) the Boards Nursing Board has have issued interim approval with the following limitations:
 - (I) no prescribing privileges;
 - (II) primary or back-up physicians

- physician—on-site shall be continuously available for appropriate ongoing supervision. ~~review consultation, collaboration and countersigning of notations of medical acts in all patient charts within 24 hours two working days of nurse practitioner applicant-patient contact; and~~
- (III) face-to-face consultation with the primary supervising physician shall be weekly with documentation of consultation consistent with Part (i)(4)(D) of this Rule; and
- (IV) ~~(HH)~~ may not exceed period of six months.
- (E) Beginning January 1, 2000, first time applicants who meet the qualifications for approval, but are awaiting certification from a national credentialing body approved by the Board of Nursing, may be granted a temporary approval to practice as a nurse practitioner. Temporary approval is valid for a period not to exceed 18 months from the date temporary approval is granted or until the results of the applicant's certification examination are available, whichever comes first.
- (F) ~~(E)~~ The registered nurse who was previously approved to practice as a nurse practitioner in this state shall:
- (i) meet the nurse practitioner approval requirements as stipulated in Parts (c)(1)(A), (C) - (F) of this Paragraph;
 - (ii) complete the appropriate application; and
 - (iii) receive notification of approval from the appropriate ~~Board, Board;~~ and
 - (iv) meet the consultation requirements as outlined in Parts (i)(4)(C) - (D) of this Rule.
- (G) ~~(F)~~ If for any reason a nurse practitioner discontinues working ~~in~~ within the approved supervision—~~physician(s)~~ nurse practitioner-supervising physician(s) arrangement, the Boards shall be notified in writing and the nurse practitioner's approval shall automatically terminate or be placed on an inactive status until such time as a new application is approved in accordance with this Subchapter. Special consideration may be given in an emergency situation.
- (H) Volunteer Approval for Nurse Practitioners. The Boards may grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications as outlined in Parts
- (c)(1)(A) - (F) and (2)(A) - (G) of this Rule.
- (d) Requirements for Approval of Nurse Practitioner Educational Programs.
- (1) The Joint Subcommittee shall establish the requirements for approval of nurse practitioner education programs.
 - (2) A nurse practitioner applicant who completed a nurse practitioner educational program prior to December 31, 1999 shall provide to the Board of Nursing evidence of successful completion of a course of formal education which contains a core curriculum including 400 contact hours of didactic education and 400 contact hours of preceptorship or supervised clinical experience.
- (A) The core curriculum shall contain as a minimum the following components:
- (i) health assessment and diagnostic reasoning including:
 - (I) historical data;
 - (II) physical examination data;
 - (III) organization of data base;
 - (ii) pharmacology;
 - (iii) pathophysiology;
 - (iv) clinical management of common health care problems and diseases related to:
 - (I) respiratory system;
 - (II) cardiovascular system;
 - (III) gastrointestinal system;
 - (IV) genitourinary system;
 - (V) integumentary system;
 - (VI) hematologic and immune systems;
 - (VII) endocrine system;
 - (VIII) musculoskeletal system;
 - (IX) infectious diseases;
 - (X) nervous system;
 - (XI) behavioral, mental health and substance abuse problems;
 - (v) clinical preventative services including health promotion and prevention of disease;
 - (vi) client education related to ~~Parts (b)(1)(D) and (E)~~ Subparts (d)(2)(A)(iv) and (v) of this Rule; and
 - (vii) role development including legal, ethical, economical, health policy and interdisciplinary collaboration issues.
- (B) Nurse practitioner applicants who may be exempt from components of the core curriculum requirements listed in ~~Subparagraph (b)(1) Part (d)(2)(A)~~ of this Rule are:
- (i) Any nurse practitioner approved in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.
 - (ii) A nurse practitioner certified by a national credentialing body approved by

the Nursing Board who also provides evidence of satisfying Subparts ~~(b)(1)(A)-(C)~~ (d)(2)(A)(i) - (iii) of this Rule shall be exempt from core curriculum requirements in Subparts ~~(b)(1)(D)-(G)~~ (d)(2)(A)(iv) - (vii) of this Rule. Evidence of satisfying Subparts ~~(b)(1)(A)-(C)~~ (d)(2)(A)(i) - (iii) of this Rule shall include, but may not be limited to:

- (I) a narrative of course content; and
- (II) contact hours.

(iii) A nurse practitioner seeking initial approval after January 1, 1998 shall be exempt from the core curriculum requirements if certified as a nurse practitioner in his/her specialty by a national credentialing body approved by the Board of Nursing as set forth in Part (d)(2)(A) of this Rule and when initial certification was obtained after January 1, 1998.

(iv) ~~(iii)~~ A nurse practitioner applicant, whose formal education does not meet all of the stipulations in Subparagraph (d)(2) of this Rule, may appeal to the ~~Board of Nursing Joint Subcommittee~~ on the basis of other education and experience.

(3) Instead of educational program approval, all nurse practitioner applicants who are applying for or have received, first time approval to practice as a nurse practitioner on or after January 1, 2000 shall be certified by a national credentialing body approved by the Board of Nursing or be awaiting initial certification by a national credentialing body approved by the Board of Nursing for a period not to exceed 18 months from date temporary approval is granted.

(e) Annual Renewal.

- (1) Each registered nurse who is approved as a nurse practitioner in this state will, upon notification from the Medical Board, annually renew said approval by:
 - (A) Verifying current RN licensure;
 - (B) Submitting the fee required in Paragraph (l) of this Rule; and
 - (C) Completing the renewal form.

(2) For the nurse practitioner who had first time approval to practice after January 1, 2000, provide evidence of certification or recertification by a national credentialing body approved by the Board of Nursing.

(3) (2) If the nurse practitioner has not renewed within 30 days of renewal date, set by the Medical Board, the approval to practice as a nurse practitioner will lapse.

(f) Continuing Education (CE). In order to maintain nurse practitioner approval to practice beginning no sooner than two years after initial approval has been granted, the nurse

practitioner shall earn 30 hours of continuing education every two years. At least three hours of continuing education every two years shall be the study of the medical and social effects of substance abuse including abuse of prescription drugs, controlled substances, and illicit drugs. Continuing Education hours are those hours for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME) or other national credentialing bodies approved by the Board of Nursing and consistent with Subpart ~~(d)(2)(B)(ii)~~ of this Rule, Nursing. Documentation shall be maintained by the nurse practitioner at each practice site and made available upon request to either Board.

(g) Inactive Status.

- (1) Any nurse practitioner who wishes to place his or her approval on an inactive status may notify the Boards by completing the form supplied by the Boards;
- (2) The registered nurse with inactive nurse practitioner status shall not practice as a nurse practitioner;
- (3) The registered nurse with inactive nurse practitioner status who reapplies for approval to practice shall be required to meet the qualifications for approval as stipulated in Parts (c)(1)(A), (c)(1)(C) - ~~(E)~~ (F) and Part (c)(2)(A) of this Rule.

(h) Prescribing Authority.

- (1) the prescribing stipulations contained in this Paragraph apply to writing prescriptions and ordering the administration of medications;
- (2) Prescribing and dispensing stipulations are as follows:
 - (A) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the written standing protocols as outlined in Paragraph (i). Subparagraph (2) of this Rule.
 - (B) Controlled Substances (Schedules 2, 2N, 3, 3N, 4, 5) defined by the State and Federal Controlled Substances Acts may be procured, prescribed or ordered as established in written standing protocols, providing all of the following restrictions requirements are met:
 - (i) the nurse practitioner has an assigned DEA number which is entered on each prescription for a controlled substance;
 - (ii) dosage units for schedules 2, 2N, 3 and 3N are limited to a one week's supply, except ~~except~~ Dextroamphetamine, Methylphenidate and Pemoline for the treatment of Attention Deficit Disorder (ADD) or Attention Deficit Disorder with Hyperactivity (ADHD) which are limited to a 30 day supply; and
 - (iii) the prescription or order for schedules 2, 2N, 3 and 3N may not be refilled.
 - (C) The nurse practitioner may prescribe a drug not included in the site-specific written standing protocols only as follows:
 - (1) upon a specific written or verbal order

- obtained from the supervising a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and
- (ii) the verbal or written order as described in Subpart (h)(2)(C)(1) of this Rule shall be entered into the patient record and signed by the nurse practitioner with a notation that it is issued on the specific order of the supervising a primary or back-up supervising physician and signed by the nurse practitioner and the physician.
- (D) Refills may be issued for a period not to exceed one year except for schedules 2, 2N, 3 and 3N controlled substances which may not be refilled.
- (E) Each prescription shall be noted on the patient's chart and include the following information:
- (i) medication and dosage;
 - (ii) amount prescribed;
 - (iii) directions for use;
 - (iv) number of refills; and
 - (v) signature of nurse practitioner.
- (F) The prescribing number assigned by the Medical Board to the nurse practitioner shall appear on all prescriptions issued by the nurse practitioner.
- (G) Prescription Format:
- (i) all prescriptions issued by the nurse practitioner shall contain the supervising physician(s) name, the name of the patient, and the nurse practitioner's name, telephone number, and prescribing number;
 - (ii) the nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Paragraph (h) Part (B) of this Rule; and
- (3) The nurse practitioner may obtain approval to dispense the drugs and devices included in the written standing protocols for each practice site from the Board of Pharmacy, and shall carry the function of dispensing dispense in accordance with 21 NCAC 46 .1700, which is hereby incorporated by reference including subsequent amendments of the referenced materials.
- (i) Physician Supervision. Supervision shall be provided by the approved physician(s) as follows:
- (1) Availability:
 - (A) The supervising physician shall be continuously available for direct communication by radio, telephone, or telecommunications;
 - (B) The supervising physician shall be readily available for consultation or referrals of patients from the nurse practitioner; and
 - (C) If the nurse practitioner is to perform duties at a site away from the supervising physician, the application shall clearly specify the circumstances and the supervisory arrangements.
 - (2) Written Standing Protocols:
 - (A) Written standing protocols approved and signed by both the supervising physician(s) and the nurse practitioner shall be maintained in each practice site;
 - (B) The written standing protocols shall include the drugs, devices, medical treatments, tests and procedures that may be prescribed, ordered and implemented by the nurse practitioner consistent with Paragraph (h) of this Rule, and which are appropriate for the diagnosis and treatment of the most commonly encountered health problems in that practice setting;
 - (C) The written standing protocols shall include a pre-determined plan for emergency services;
 - (D) The written standing protocols shall specify the process by which the nurse practitioner shall refer a patient to a physician other than an approved supervising physician; and
 - (E) The nurse practitioner shall be prepared to demonstrate upon request to a member of either the Board of Nursing or the Medical Board, or an agent, the ability to perform medical acts as outlined in the site-specific written standing protocols.
 - (3) Countersigning of Medical Acts:
 - (A) The maximum time interval between the nurse practitioner's contact with the patient and medical record review and countersigning of medical acts by the supervising physician is seven days for outpatient (clinic/office) nurse practitioner-patient contacts.
 - (B) The time interval or countersigning of notations of medical acts in the medical records of inpatients (hospital, long-term care institutions) by the supervising physician shall comply with the rules and regulations of the institution, but at a minimum:
 - (i) the initial workup, medical orders and treatment plan, shall be countersigned within seven days of the time of the nurse practitioner-patient contact; and
 - (ii) in the acute inpatient setting, the initial work-up, medical orders and treatment plan shall be countersigned and dated within two working days of the nurse practitioner-patient contact.

- (C) ~~The time interval between the nurse practitioner-patient contact and countersigning by the supervising physician of the nurse practitioner's notations of medical acts in the medical records of patients in special community-based care programs, such as dialysis and hospice, shall comply with the rules and regulations of the specific care program.~~
- (4) ~~Supervising Physicians:~~
- (A) ~~A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, cannot be named as a supervising physician.~~
- (B) ~~A physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation if fully licensed and approved to supervise by the Medical Board.~~
- (i) Quality Assurance standards for a Collaborative Practice Agreement.
- (1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.
- (2) Written Protocols:
- (A) Written protocols shall be agreed upon and signed by both the primary supervising physician and the nurse practitioner, and maintained in each practice site.
- (B) Written protocols shall be reviewed at least yearly, and this review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the written protocol and available for inspection by members or agents of either board.
- (C) The written protocols shall include the drugs, devices, medical treatment, tests and procedures that may be prescribed, ordered and implemented by the nurse practitioner consistent with Paragraph (h) of this Rule, and which are appropriate for the diagnosis and treatment of the most commonly encountered health problems in that practice setting.
- (D) The written protocols shall include a pre-determined plan for emergency services.
- (E) The nurse practitioner shall be prepared to demonstrate the ability to perform medical acts as outlined in the written protocols upon request by members or agents of either Board.
- (3) Quality Improvement Process.
- (A) The primary supervising physician and the nurse practitioner shall develop a process for the on-going review of the care provided in each practice site to include a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems; and
- (B) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time-frame.
- (C) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:
- (i) identify clinical problems discussed, including progress toward improving outcomes as stated in Part (i)(3)(B) of this Rule, and recommendations, if any, for changes in treatment plan(s);
- (ii) be signed and dated by those who attended; and
- (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and physician.
- (4) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner/primary or back-up supervising physician(s):
- (A) The nurse practitioner with temporary approval shall have:
- (i) review and countersigning of notations of medical acts by a primary or back-up supervising physician within seven days of nurse practitioner-patient contact for the first six months of collaborative agreement. This time-frame includes the period of interim status.
- (ii) face-to-face consultation with the primary supervising physician on a weekly basis for one month after temporary approval is achieved and at least monthly throughout the period of temporary approval.
- (B) The nurse practitioner with first time approval to practice shall have:
- (i) review and countersigning of notations of medical acts by a primary or back-up supervising physician within seven days of nurse practitioner-patient contact for the first six months of collaborative agreement. This time-frame includes the period of interim status.
- (ii) face-to-face consultation with the primary supervising physician on a weekly basis for one month after full

approval is received and at least monthly for a period no less than the succeeding five months.

- (C) The nurse practitioner previously approved to practice in North Carolina who changes primary supervising physician shall have face-to-face consultation with the primary supervising physician weekly for one month and then monthly for the succeeding five months.

- (D) Documentation of consultation shall:

- (i) identify clinical issues discussed and actions taken;
- (ii) be signed and dated by those who attended; and
- (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and physician.

(j) Method of Identification. The nurse practitioner shall wear an appropriate name tag spelling out the words "Nurse Practitioner."

(k) Disciplinary Action. The approval of a nurse practitioner may be restricted, denied or terminated by the Medical Board and the registered nurse license may be restricted, denied, or terminated by the Board of Nursing, Nursing Board, if after due notice and hearing in accordance with provisions of Article 3A or G.S. 150B, the appropriate Board shall find one or more of the following:

- (1) that the nurse practitioner has held himself or herself out or permitted another to represent the nurse practitioner as a licensed physician;
- (2) that the nurse practitioner has engaged or attempted to engage in the performance of medical acts other than according to the written protocols and collaborative practice agreement; at the direction of, or under the supervision of, a physician licensed by the Medical Board who is approved by the Board to be that nurse practitioner's supervising physician;
- (3) ~~that the nurse practitioner has performed or attempted to perform medical acts not approved in the site specific standing protocols or for which the nurse practitioner is not qualified by education and training to perform.~~
- (3) (4) that the nurse practitioner has been convicted in any court of a criminal offense;
- (4) (5) that the nurse practitioner is adjudicated mentally incompetent or that the nurse practitioner's mental or physical condition renders the nurse practitioner unable to safely function as a nurse practitioner; or
- (5) (6) that the nurse practitioner has failed to comply with any of the provisions of this Rule.

(l) Fees:

- (1) An application fee of one hundred dollars (\$100.00) shall be paid at the time of initial application for approval and each subsequent application for

~~approval to practice. The one hundred dollar (\$100.00) All initial, subsequent and volunteer application fee fees shall be equally divided between the Board of Nursing and the Medical Board. No other fees are shared. Application fee shall be twenty dollars (\$20.00) for volunteer approval.~~

- (2) The fee for annual renewal of approval, due July 1, is fifty dollars (\$50.00).

- (3) The fee for annual renewal of volunteer approval, due July 1, shall be ten dollars (\$10.00).

- (4) (3) No portion of any fee in this Rule is refundable.

(m) Practice During a Disaster. A nurse practitioner approved to practice in this State or another state is authorized to perform medical acts, tasks, or functions as a nurse practitioner under the supervision of a physician licensed to practice medicine in North Carolina during a disaster with a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared. The nurse practitioner shall notify the Boards in writing of the names, practice locations and telephone numbers for the nurse practitioner and each primary supervising physician within 15 days of the first performance of medical acts, tasks, or functions as a nurse practitioner during the disaster. Teams of physician(s) and nurse practitioner(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required pursuant to Paragraphs (h) and (i) of this Rule.

Authority: G.S. 90-6; 90-18(13),(14); 90-18.2; 90-171.20(4); 90-171.20(7); 90-171.23(b); 90-171.36; 90-171.37; 90-171.42;

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

**TITLE 10 - DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

Rule-making Agency: DHHS-Division of Medical Assistance

Rule Citation: 10 NCAC 26H .0212-.0213

Effective Date: September 16, 1998

Findings Reviewed and Approved by: Beecher R. Gray

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

Reason for Proposed Action: *This change is necessary to ensure the continuing availability of an adequate level of services to Medicaid and uninsured persons.*

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.*

CHAPTER 26 - MEDICAL ASSISTANCE

SUBCHAPTER 26H - REIMBURSEMENT PLANS

**SECTION .0200 - HOSPITAL INPATIENT
REIMBURSEMENT PLAN**

.0212 EXCEPTIONS TO DRG REIMBURSEMENT

(a) Covered psychiatric and rehabilitation inpatient services provided in either specialty hospitals, Medicare recognized distinct part units (DPU), or other beds in general acute care hospitals shall be reimbursed on a per diem methodology.

- (1) For the purposes of this Section, psychiatric inpatient services are defined as admissions where the primary reason for admission would result in the assignment of DRGs in the range 424 through 432 and 436 through 437.

For the purposes of this Section, rehabilitation inpatient services are defined as admissions where the primary reason for admissions would result in the assignment of DRG 462. All services provided by specialty rehabilitation hospitals are presumed to come under this definition.

- (2) When a patient has a medically appropriate transfer from a medical or surgical bed to a psychiatric or rehabilitative distinct part unit within the same hospital, or to a specialty hospital the admission to the distinct part unit or the specialty hospital shall be

recognized as a separate service which is eligible for reimbursement under the per diem methodology.

Transfers occurring within general hospitals from acute care services to non-DPU psychiatric or rehabilitation services are not eligible for reimbursement under this Section. The entire hospital stay in these instances shall be reimbursed under the DRG methodology.

- (3) The per diem rate for psychiatric services is established at the lesser of the actual cost trended to the rate year or the calculated median rate of all hospitals providing psychiatric services as derived from the most recent as filed cost reports.
- (4) Hospitals that do not routinely provide psychiatric services shall have their rate set at the median rate.
- (5) The per diem rate for rehabilitation services is established at the lesser of the actual cost trended to the rate year or the calculated median rate of all hospitals providing rehabilitation services as derived from the most recent filed cost reports.
- (6) Rates established under this Paragraph are adjusted for inflation consistent with the methodology under Rule .0211 Subparagraph (d)(5) of this Section.

(b) To assure compliance with the separate upper payment limit for State-operated facilities, the hospitals operated by the Department of Human Resources and all the primary affiliated teaching hospitals for the University of North Carolina Medical Schools shall be reimbursed their reasonable costs in accordance with the provisions of the Medicare Provider Reimbursement Manual. This Manual referred to as, (HCFA Publication #15-1) is hereby incorporated by reference including any subsequent amendments and editions. A copy is available for inspection at the Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC. Copies may be obtained from the U.S. Department of Commerce, National Technical Information Service, Subscription Department, 5285 Port Royal Road, Springfield, VA 22161 at a cost of one hundred forty seven dollars (\$147.00). Purchasing instructions may be received by calling (703) 487-4650. Updates are available for an additional fee. The Division shall utilize the DRG methodology to make interim payments to providers covered under this Paragraph, setting the hospital unit value at a level which can best be expected to approximate reasonable cost. Interim payments made under the DRG methodology to these providers shall be retrospectively settled to reasonable cost.

(c) When the Norplant contraceptive is inserted during an inpatient stay the current Medicaid fee schedule amount for the Norplant kit shall be paid in addition to DRG reimbursement. The additional payment for Norplant shall not be paid when a cost outlier or day outlier increment is applied to the base DRG payment.

- (d) Hospitals operating Medicare approved graduate medical

education programs shall receive a per diem rate adjustment which reflects the reasonable direct and indirect costs of operating these programs. The per diem rate adjustment shall be calculated in accordance with the provisions of Rule .0211 Paragraph (f) of this Section.

(c) ~~For the 12-month period ending September 30, 1995, hospitals licensed by the State of North Carolina and reimbursed under the DRG methodology for more than 50 percent of Medicaid inpatient discharges shall be entitled to an additional payment in an amount determined by the Director of the Division of Medical Assistance, subject to the following provisions: Hospitals licensed by the State of North Carolina and reimbursed under the DRG methodology for more than 50 percent of their Medicaid inpatient discharges for the 12-month period ending September 30, 1998 shall be entitled to an additional payment for inpatient and outpatient hospital services in an amount determined by the Director of the Division of Medical Assistance, subject to the following provisions:~~

- (1) ~~The maximum payments authorized by this Paragraph for public hospitals that qualify under the criteria in Part (A) of this Subparagraph shall be calculated by ascertaining the reasonable cost of inpatient and outpatient hospital Medicaid services, plus the reasonable direct and indirect costs attributable to Medicaid services of operating Medicare approved graduate medical education programs, less Medicaid payments received or to be received for these services. With respect to qualifying hospitals that are not public hospitals qualified under Part (A) of this Subparagraph, the maximum payment authorized by this Paragraph shall be calculated by ascertaining 64.71 percent of the unreimbursed reasonable cost calculated by use of the methodology described in the preceding sentence, not to exceed in the aggregate for all such hospitals fifty one million seven hundred thousand dollars (\$51,700,000). For purposes of this Subparagraph: To ensure that the payments authorized by this Subparagraph for qualified public hospitals that qualify under the criteria in Part (A) of this Subparagraph, do not exceed the upper limits established by 42 CFR 447.272, the maximum payments authorized for qualified public hospitals shall be determined for all such qualified public hospitals for the 12-month period ending September 30, 1998 by calculating the "Medicaid Deficit" for each hospital. The Medicaid Deficit shall be calculated by ascertaining the reasonable costs of inpatient and outpatient hospital Medicaid services; plus the reasonable direct and indirect costs attributable to inpatient and outpatient Medicaid services of operating Medicare approved graduate medical education programs; less Medicaid payments received or to be received for these services. For purposes of this Subparagraph:~~

(A) A qualified public hospital is a hospital that meets the other requirements of this Paragraph and:

- (i) was owned or operated by a State (or by

an instrumentality or a unit of government within a State) from September 8 through and including September 30, 1995; 1998;

- (ii) ~~indicated its legal entity status as a government unit on the Hospital License Renewal Application filed with the Division of Facility Services North Carolina Department of Human Resources for the 1995 calendar year; and verified its status as a public hospital by certifying State, local, hospital district or authority government control on the most recent version of Form HCFA-1514 filed with the Health Care Financing Administration, U.S. Department of Health and Human Services on or before September 8, 1998; and~~

- (iii) ~~submits to the Division of Medical Assistance on or before September 20, 1995 by use of a form prescribed by the Division, a certificate of public expenditures to support the non-federal share of the payment it shall receive pursuant to this Paragraph, files with the Division on or before September 8, 1998 by use of a form prescribed by the Division a certificate of public expenditures to support a portion of the non-federal share of the payment it shall receive pursuant to this Subparagraph.~~

(B) Reasonable costs shall be ascertained in accordance with the provisions of the Medicare Provider Reimbursement Manual Manual. This Manual, referred to as HCFA Publication #15-1, is hereby incorporated by reference including subsequent amendments and editions. A copy of this Manual is available for inspection at the Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC. Copies may be obtained from the US Department of Commerce, National Technical Information Service, Subscription Department, 5285 Port Royal Road, Springfield, VA 22161, at a cost of one hundred forty seven dollars (\$147.00). Purchasing instructions may be received by calling (703) 487-4650. Updates are available for an additional fee, as defined in Paragraph (b) of this Rule.

- (C) The phrase "Medicaid payments received or to be received for these services" shall exclude all Medicaid disproportionate share hospital payments received or to be received, received except for payments received or to be received pursuant to 10 NCAC 26H .0213(d).

- (2) Should 64.71 percent of the unreimbursed reasonable cost of Medicaid services for qualifying hospitals that

are not qualified public hospitals be determined by the Director of the Division of Medical Assistance to exceed the sum of fifty one million seven hundred thousand dollars (\$51,700,000). the maximum payment of fifty one million seven hundred thousand dollars (\$51,700,000) to such hospitals authorized by this Paragraph shall be prorated among such hospitals based on unreimbursed reasonable costs. Qualified public hospitals shall receive a payment under this Paragraph in an amount (including the public expenditures certified to the Division by each hospital for the non-federal share) not to exceed each hospital's Medicaid Deficit.

- (3) Payments authorized by this Paragraph shall be made on or before September 30, 1995 solely on the basis of an estimate of costs incurred and payments received for Medicaid services during the 12 months ending September 30, 1995. The Director of the Division of Medical Assistance shall determine the amount of the estimated payments to be made by analysis of costs incurred and payments received for Medicaid services as reported on cost reports for fiscal years ending in 1994 filed before September 15, 1995 and supplemented by such additional financial information as is available to the Director when the estimated payments are calculated if and to the extent that the Director concludes that such additional financial information is reliable and relevant. Hospitals licensed by the State of North Carolina and reimbursed under the DRG methodology for more than 50 percent of their Medicaid inpatient discharges for the 12-months ending September 30, 1998 that are not qualified public hospitals as defined in this Paragraph shall be entitled to an additional payment under this Subparagraph for the Medicaid Deficit calculated in accordance with Subparagraph (1) of this Paragraph in an amount not to exceed the Medicaid Deficit.

- (4) Solely to ensure that estimated payments pursuant to Subparagraph (3) of this Paragraph do not exceed the hospital specific and state aggregate upper limits to such payments established by applicable federal law and regulation, such payments shall be cost settled as determined by an independent CPA furnished by the provider, based on cost reports covering the 12 months ending September 30, 1995, and hospital recipients of such payments shall promptly refund such payments if and to the extent that such payments exceed the applicable upper limit. No additional payments shall be made in connection with the cost settlement. Payments authorized by this Paragraph shall be made solely on the basis of an estimate of costs incurred and payments received for inpatient and outpatient Medicaid services during the payment fiscal year 1998. The Director of the Division of Medical Assistance shall determine the amount of the estimated payments to be made by analysis of costs incurred and payments received for Medicaid services

as reported on cost reports for fiscal year ending in 1997 filed before September 8, 1998 and supplemented by additional financial information available to the Director when the estimated payments are calculated if and to the extent that the Director concludes that the additional financial information is reliable and relevant.

- (5) The payments authorized by this Paragraph shall be effective in accordance with G.S. 108A-55(e). To ensure that estimated payments pursuant to this Paragraph do not exceed the State aggregate upper limits to such payments established by applicable federal law and regulation (42 CFR 447.272), such payments shall be cost settled within 12 months of receipt of the completed cost report covering the 12-month period ending September 30, 1998. There shall be a separate cost settlement procedure for inpatient and outpatient hospital services. In addition, for both inpatient and outpatient hospital services, there shall be a separate cost settlement procedure for state-operated hospitals and for non-state operated hospitals. As to each of these separate cost settlement procedures, if it should be determined that aggregate payments under this Paragraph exceed aggregate upper limits for such payments, any hospital that received payments under this Paragraph in excess of unreimbursed reasonable costs as defined in this Paragraph shall promptly refund its proportionate share of aggregate payments in excess of aggregate upper limits. The proportionate share of each such hospital shall be ascertained by calculating for each such hospital its percentage share of all payments to all members of the cost settle ment group that are in excess of unreimbursed reasonable costs, and multiplying that percentage times the amount by which aggregate payments being cost settled exceed aggregate upper limits applicable to such payments. No additional payments shall be made in connection with these cost settlements.
- (6) The payments authorized by this Paragraph shall be effective in accordance with G.S. 108A-55(c).

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

Eff. February 1, 1995;

Filed as a Temporary Amendment Eff. September 15, 1995, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 1, 1996;

Temporary Amendment Eff. September 25, 1996;

Temporary Amendment Eff. September 30, 1997;

Temporary Amendment Expired July 31, 1998;

Temporary Amendment Eff. September 16, 1998.

.0213 DISPROPORTIONATE SHARE HOSPITALS

(a) Hospitals that serve a disproportionate share of low-income patients and have a Medicaid inpatient utilization rate of not less than one percent are eligible to receive rate

adjustments. The cost report data and financial information that is required in order to qualify as a disproportionate share hospital effective April 1, 1991 is based on the fiscal year ending in 1989 for each hospital, as submitted to the Division of Medical Assistance on or before April 1, 1991. The cost report data and financial information to qualify as a disproportionate share hospital effective July 1, 1991 is based on the fiscal year ending in 1990 for each hospital, as submitted to the Division of Medical Assistance on or before September 1, 1991. In subsequent years, qualifications effective July 1 of any particular year are based on each hospital's fiscal year ending in the preceding calendar year. The patient days, costs, revenues, or charges related to nursing facility services, swing-bed services, home health services, outpatient services, or any other service that is not a hospital inpatient service cannot be used to qualify for disproportionate share status. A hospital is deemed to be a disproportionate share hospital if:

- (1) The hospital has at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals eligible for Medicaid. In the case of a hospital located in a rural area, the term obstetrician includes any physician with staff privileges at the hospital to perform non-emergency obstetric services as of December 21, 1987 or to a hospital that predominantly serves individuals under 18 years of age; and
- (2) The hospital's Medicaid inpatient utilization rate, defined as the percentage resulting from dividing Medicaid patient days by total patient days, is at least one standard deviation above the mean Medicaid inpatient utilization rate for all hospitals that receive Medicaid payments in the state; or
- (3) The hospital's low income utilization rate exceeds 25 percent. The low-income utilization rate is the sum of:
 - (A) The ratio of the sum of Medicaid inpatient revenues plus cash subsidies received from the State and local governments, divided by the hospital's total patient revenues; and
 - (B) The ratio of the hospital's gross inpatient charges for charity care less the cash subsidies for inpatient care received from the State and local governments divided by the hospital's total inpatient charges; or
- (4) The sum of the hospital's Medicaid revenues, bad debts allowance net of recoveries, and charity care exceeds 20 percent of gross patient revenues; or
- (5) The hospital, in ranking of hospitals in the State, from most to least in number of Medicaid patient days provided, is among the top group that accounts for 50 percent of the total Medicaid patient days provided by all hospitals in the State; or
- (6) It is a Psychiatric hospital operated by the North Carolina Department of Human Resources, Division of Mental Health, Developmental Disabilities, Substance Abuse Services (DMH/DD/SAS) or UNC Hospitals operated by the University of North Carolina.

(b) The rate adjustment for a disproportionate share hospital is 2.5 percent plus one fourth of one percent for each percentage point that a hospital's Medicaid inpatient utilization rate exceeds one standard deviation of the mean Medicaid inpatient utilization rate in the State. The rate adjustment is applied to a hospital's payment rate exclusive of any previous disproportionate share adjustments.

(c) An additional one time payment for the 12-month period ending September 30, 1995, in an amount determined by the Director of the Division of Medical Assistance, may be paid to the Public hospitals that are the primary affiliated teaching hospitals for the University of North Carolina Medical Schools less payments made under authority of Paragraph (d) of this Rule. The payment limits of the Social Security Act, Title XIX, Section 1923(g)(1) applied to this payment require that when this payment is added to other Disproportionate Share Hospital payments, the additional disproportionate share payment will not exceed 100 percent of the total cost of providing inpatient and outpatient services to Medicaid and uninsured patients less all payments received for services provided to Medicaid and uninsured patients. The total of all payments may not exceed the limits on DSH funding as set for the State by HCFA.

(d) Effective July 1, 1994, hospitals eligible under Subparagraph (a)(6) of this Rule shall be eligible for disproportionate share payments, in addition to other payments made under the North Carolina Medicaid Hospital reimbursement methodology, from a disproportionate share pool under the circumstances specified in Subparagraphs (1), (2) and (3) of this Paragraph.

- (1) An eligible hospital will receive a monthly disproportionate share payment based on the monthly bed days of services to low income persons of each hospital divided by the total monthly bed days of services to low income persons of all hospitals items allocated funds.
- (2) This payment shall be in addition to the disproportionate share payments made in accordance with Subparagraphs (a)(1) through (5) of this Rule. However, DMH/DD/SAS operated hospitals are not required to qualify under the requirements of Subparagraphs (a)(1) through (5) of this Rule.
- (3) The amount of allocated funds shall be determined by the Director of the Division of Medical Assistance, but not to exceed the quarterly grant award of funds (plus appropriate non-federal match) earmarked for disproportionate share hospital payments less payments made under Subparagraphs (a)(1) through (5) of this Rule divided by three. In Subparagraph (d)(1) of this Rule, bed days of services to low income persons is defined as the number of bed days provided to individuals that have been determined by the hospital as patients that do not possess the financial resources to pay portions or all charges associated with care provided. Low income persons include those persons that have been determined eligible for medical assistance. The count of bed days used to determine payment is based upon the month immediately prior to the month that payments are

made. Disproportionate share payments to hospitals are limited in accordance with The Social Security Act as amended, Title XIX section 1923(g), limit on amount of payment to hospitals.

(e) Subject to the availability of funds, hospitals that: qualify as disproportionate share hospitals under Subparagraphs (a)(1) through (5) of this Rule for the fiscal years ended September 30, 1995, 1996 and 1997; operate Medicare approved graduate medical education programs and reported Medicaid costs attributable to such programs to the Division on cost reports for fiscal years ending in 1995, 1996 and 1997; and incur for the 12-month period ending September 30, 1997 unreimbursed costs (calculated without regard to payments under either this Paragraph or Paragraph (f) of this Rule) for providing inpatient and outpatient services to uninsured patients in an amount in excess of two million five hundred thousand dollars (\$2,500,000) shall be eligible for disproportionate share payments for such services from a disproportionate share pool under the circumstances specified in Subparagraphs (1) through (7) of this Paragraph.

- (1) Qualification for the 12 month period ending September 30, 1996 shall be based on cost report data and uninsured patient data certified to the Division by hospitals on or before September 23, 1996 for fiscal years ending in 1995, in connection with the disproportionate share hospital application process. Qualification for subsequent 12 month periods ending September 30 of each year shall be based on cost report data and uninsured patient data certified to the Division by hospitals on or before September 1 of each subsequent year, for the fiscal year ending in the preceding calendar year.
- (2) Any payments made pursuant to this Paragraph shall be calculated and paid no less frequently than annually, and prior to the calculation and payment of any disproportionate share payments pursuant to Paragraph (f) of this Rule.
- (3) For the 12 month period ending September 30, 1996 a payment shall be made to each qualified hospital in an amount determined by the Director of the Division of Medical Assistance based on a percentage (not to exceed a maximum of 23 percent) of the unreimbursed costs incurred by each qualified hospital for inpatient and outpatient services provided to uninsured patients.
- (4) In subsequent 12 month periods ending September 30th of each year, the percentage payment shall be ascertained and established by the Division by ascertaining funds available for payments pursuant to this Paragraph divided by the total unreimbursed costs of all hospitals that qualify for payments under this Paragraph for providing inpatient and outpatient services to uninsured patients.
- (5) The payment limits of the Social Security Act, Title XIX, section 1923(g)(1) applied to the payments authorized by this Paragraph require that when this payment is added to other disproportionate share hospital payments, the total disproportionate share

payments shall not exceed 100 percent of the total costs of providing inpatient and outpatient services to Medicaid and uninsured patients for the fiscal year in which such payments are made, less all payments received for services to Medicaid and uninsured patients. The total of all disproportionate share hospital payments shall not exceed the limits on disproportionate share hospital funding as established for this State by HCFA.

- (6) To ensure that payments pursuant to Paragraph (e) do not exceed the State aggregate upper limits to such payments established by applicable federal law and regulation (42 C.F.R. 447.272), such payments shall be cost settled within 12 months of receipt of the completed cost report covering the period for which such payments are made. If any hospital receives payments, pursuant to this Subparagraph in excess of the percentage established by the Director under Subparagraph (d)(3) of this Rule, ascertained without regard to other disproportionate share hospital payments that may have been received for services during the 12-month period ending September 30, 1996, such excess payments shall promptly be refunded to the Division. No additional payment shall be made to qualified hospitals in connection with the cost settlement.

- (7) The payments authorized by Subparagraph (6) shall be effective in accordance with G.S. 108A-55(c).

(f) An additional one-time disproportionate share hospital payment during the 12-month period ending September 30, 1997 1998 (subject to the availability of funds and to the payment limits specified in this Paragraph) shall be paid to qualified public hospitals. For purposes of this Paragraph, a qualified public hospital is a hospital that qualifies for disproportionate share hospital status under Subparagraphs (a)(1) through (5) of this Rule; does not qualify for disproportionate share hospital status under Subparagraph (a)(6) of this Rule; was owned or operated by a State (or by an instrumentality or a unit of government within a State) from September ~~1, 1997~~ 8, 1998 through and including September 30, ~~1997~~; 1998; verified its status as a public hospital by certifying state, local, hospital district or authority government control on the most recent version of Form HCFA-1514 filed with the Health Care Financing Administration, U.S. Department of Health and Human Services on or before September ~~1, 1997~~ 8, 1998; files with the Division on or before September ~~1, 1997~~ 8, 1998; by use of a form prescribed by the Division a certification of its unreimbursed charges for inpatient and outpatient services provided to uninsured patients during the fiscal year ending in ~~1996~~; 1997; and submits to the Division on or before September ~~1, 1997~~ by use of a form prescribed by the Division a certificate of public expenditures.

- (1) The payment to qualified public hospitals pursuant to this Paragraph for the 12-month period ending September 30, ~~1997~~ 1998 shall be based on and shall not exceed the unreimbursed charges certified to the Division by each such hospital by use of a form prescribed by the Division for inpatient and outpatient

services provided to uninsured patients for the fiscal year ending in ~~1996, 1997~~, to be converted by the Division to unreimbursed cost by multiplying unreimbursed charges times the cost-to-charge ratio established by the Division for each hospital for the fiscal year ending in ~~1996, 1997~~. Payments authorized by this Paragraph shall be made no less frequently than annually.

- (2) Any payments pursuant to this Paragraph shall be ascertained and paid after any disproportionate share hospital payments that may have been or may be paid by the Division pursuant to Paragraphs (d) and (e) of this Rule.
- (3) The payment limits of the Social Security Act, Title XIX, Section 1923(g)(1) applied to this payment require that when this payment is added to other disproportionate share hospital payments, the total disproportionate share hospital payments will not exceed 100 percent of the total costs of providing inpatient and outpatient services to Medicaid and uninsured patients for the fiscal year in which such payments are made, less all payments received for services to Medicaid and uninsured patients for that year. The total of all DSH payments by the Division may not exceed the limits on disproportionate share hospital funding as established for this State by HCFA for the fiscal year in which such payments are made.
- (4) To ensure that estimated payments pursuant to Paragraph (f) do not exceed the State aggregate upper limits to such payments established by applicable federal law and regulation (42 C.F.R. 447.272), such payments shall be cost settled within 12 months of receipt of the completed cost report covering the 12 month period for which such payments are made. No additional payments shall be made in connection with the cost settlement.
- (5) The payments authorized by Paragraph (f) of this Rule shall be effective in accordance with G.S. 108A-55(c).
- (g) Effective with dates of payment beginning October 31, 1996, hospitals that provide services to clients of State Agencies are considered to be a Disproportionate Share Hospital (DSH) when the following conditions are met:
 - (1) The hospital has a Medicaid inpatient utilization rate not less than one percent and has met the requirements of Subparagraph (a)(1) of this Rule; and
 - (2) The State Agency has entered into a Memorandum of Understanding (MOU) with the Division of Medical Assistance (Division); and
 - (3) The inpatient and outpatient services are authorized by the State Agency for which the uninsured client meets the program requirements.
- (A) For purposes of this Paragraph, uninsured patients are those clients of the State Agency that have no third parties responsible for any hospital services authorized by the State Agency.

(B) DSH payments are paid for services to qualified uninsured clients on the following basis:

- (i) For inpatient services the amount of the DSH payment is determined by the State Agency in accordance with the applicable Medicaid inpatient payment methodology as stated in Rule .0211 of this Section.
 - (ii) For outpatient services the amount of the DSH payment is determined by the State Agency in accordance with the applicable Medicaid outpatient payment methodology as stated in Section 24 of Chapter 18 of the 1996 General Assembly of North Carolina.
 - (iii) No federal funds are utilized as the non-federal share of authorized payments unless the federal funding is specifically authorized by the federal funding agency as eligible for use as the non-federal share of payments.
- (C) Based upon this subsection DSH payments as submitted by the State Agency are to be paid monthly in an amount to be reviewed and approved by the Division of Medical Assistance. The total of all payments may not exceed the limits on Disproportionate Share Hospital funding as set forth for the state by HCFA.

(h) An additional disproportionate share hospital payment during the 12-month period ending September 30, 1998 (subject to the availability of funds and to the payment limits specified in this Paragraph) shall be paid to Hospitals that qualify for disproportionate share hospital status under Subparagraphs (a)(1) through (5) of this Rule and provide inpatient or outpatient hospital services to Medicaid Health Maintenance Organizations ("HMO") enrollees during the year ending September 30, 1998. For purposes of this Paragraph, a Medicaid HMO enrollee is a Medicaid beneficiary who receives Medicaid services through a Medicaid HMO; a Medicaid HMO is a Medicaid managed care organization, as defined in Section 1903 (m)(1)(A), that is licensed as a HMO and provides or arranges for services for enrollees under a contract pursuant to Section 1903 (m)(2)(A)(i) through (xi). To qualify for a DSH payment under this Paragraph, a hospital must also file with the Division on or before September 8, 1998 by use of a form prescribed by the Division a certification of its charges for inpatient and outpatient services provided to Medicaid HMO enrollees during the fiscal year ending in 1997. The payment to qualified hospitals pursuant to this Paragraph for the 12-month period ending September 30, 1998 shall be based on charges certified to the Division by each hospital by use of a form prescribed by the Division for inpatient and outpatient Medicaid HMO services for the fiscal year ending in 1997, converted by the Division to cost by multiplying charges times the cost-to-charge ratio established by the Division for each hospital for the fiscal year ending in 1997.

- (1) The payment shall then be determined by multiplying the cost times a percentage determined by the Division. The payment percentage established by the Division will be calculated to ensure that the Medicaid HMO DSH payment authorized by this Paragraph is equivalent (as a percentage of reasonable cost) to the Medicaid supplemental payment authorized by Paragraph (e) of this Rule.
- (2) Payments pursuant to this Paragraph shall be ascertained and paid after any other disproportionate share hospital payments that may have been paid by the Division for the 12-month period ending September 30, 1998.
- (3) The payment limits of the Social Security Act, Title XIX, Section 1923(g)(1) applied to this payment require that when this payment is added to other disproportionate share hospital payments, the total disproportionate share hospital payments will not exceed 100 percent of the total costs of providing inpatient and outpatient services to Medicaid and uninsured patients for the fiscal year in which such payments are made, less all payments received for services to Medicaid and uninsured patients for that year. The total of all DSH payments by the Division may not exceed the limits on Disproportionate Share hospital funding as established for this State by HCFA for the fiscal year in which such payments are made.
- (4) To ensure that estimated payments pursuant to this Paragraph do not exceed the State aggregate upper limits to such payments established by applicable federal law and regulation (42 CFR 447.272), such payments shall be cost settled within 12 months of receipt of the completed cost report covering the 12 month period for which such payments are made. No additional payments shall be made in connection with the cost settlement.
- (5) The payments authorized by this Paragraph shall be effective in accordance with G.S. 108A-55(c).

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

Eff. February 1, 1995;

Amended Eff. July 1, 1995;

Filed as a Temporary Amendment Eff. September 15, 1995, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Filed as a Temporary Amendment Eff. September 29, 1995, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 1, 1996;

Temporary Amendment Eff. September 25, 1996;

Temporary Amendment Eff. April 15, 1997;

Temporary Amendment Eff. September 30, 1997;

Temporary Amendment Eff. September 16, 1998.

TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Rule-making Agency: DENR - Marine Fisheries Commission

Rule Citation: 15A NCAC 3J.0103; 3M.0501

Effective Date: October 22, 1998

Findings Reviewed by Beecher R. Gray: *Approved*

Authority for the rule-making: G.S. 113-134; 113-182; 113-221; 143B-289.52

Reason for Proposed Action: *The recent stock status report lists red drum as stressed-declining. MFC Guidelines for Fishery Management Plans require provisional plans within 90 days of the release of a stock status report indicating a species is determined to be stressed-declining or depressed. This temporary rule will protect the existing spawning stock, allow for rebuilding to target levels, reduce recreational harvest mortality, protect abundant year classes, restrict the directed commercial fishery for red drum and reduce the bycatch of undersized red drum by insuring all nets are fished frequently and fish are effectively released.*

Comment Procedures: *Written comments may be submitted to the Marine Fisheries Commission, Attention Juanita Gaskill, PO Box 769, Morehead City, NC 28557. Comments will be accepted through December 15, 1998.*

CHAPTER 3 - MARINE FISHERIES

SUBCHAPTER 3J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

SECTION .0100 - NET RULES, GENERAL

.0103 GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS

(a) It is unlawful to use a gill net with a mesh length less than 2½ inches.

(b) The Fisheries Director may, by proclamation, limit or prohibit the use of gill nets or seines in coastal waters, or any portion thereof, or impose any or all of the following restrictions on the use of gill nets or seines:

- (1) Specify area.
- (2) Specify season.
- (3) Specify gill net mesh length.
- (4) Specify means/methods.
- (5) Specify net number and length.

(c) It is unlawful to use fixed or stationary gill nets in the Atlantic Ocean or any gill nets in internal coastal waters unless such nets are marked by attaching to them at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. Gill nets which are not connected

together at the top line shall be considered as individual nets, requiring two buoys at the end of each individual net. Gill nets connected together at the top line shall be considered as a continuous net requiring two buoys at each end of the continuous net. Any other marking buoys on gill nets shall be yellow except that one additional identification buoy of any color or any combination of colors may be used at either or both ends. The owner shall always be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include one of the following:

- (1) Owner's N.C. motor boat registration number, or
 - (2) Owner's U.S. vessel documentation name, or
 - (3) Owner's last name and initials.
- (d) It is unlawful to use gill nets:
- (1) Within 200 yards of any pound net with lead and pound or heart in use;
 - (2) From March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.
- (e) It is unlawful to use gill nets within 100 feet either side of the center line of the Intracoastal Waterway Channel south of Quick Flasher No. 54 in Alligator River at the southern entrance to the Intracoastal Waterway to the South Carolina line, unless such net is used in accordance with the following conditions:
- (1) No more than two gill nets per boat may be used at any one time;
 - (2) Any net used must be attended by the fisherman from a boat who shall at no time be more than 100 yards from either net; and
 - (3) Any individual setting such nets shall remove them, when necessary, in sufficient time to permit unrestricted boat navigation.
- (f) It is unlawful to use drift gill nets in violation of 15A NCAC 3J .0101(2) and Paragraph (d) of this Rule.
- (g) It is unlawful to use gill nets from May 1 through October 31 with a mesh length of less than five inches in internal coastal waters (including joint waters) unless attended. In order to be considered attended, the fishermen must be within 100 yards of any net employed by that fisherman.

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. August 1, 1998; March 1, 1996; March 1, 1994;
July 1, 1993; September 1, 1991.
Temporary Amendment Eff. October 22, 1998.

SUBCHAPTER 3M - FINFISH

SECTION .0500 - OTHER FINFISH

.0501 RED DRUM

- (a) The Fisheries Director, may by proclamation, impose any or all of the following restrictions on the taking of red drum:
- (1) Specify areas.
 - (2) Specify seasons.
 - (3) Specify quantity for fish taken by commercial gear.

(4) Specify means/methods.

(5) Specify size for fish taken by commercial gear.

(b) It is unlawful to ~~possess sell or offer for sale~~ red drum greater than 27 inches total length.

(c) It is unlawful to remove red drum from any type of net with the aid of any boat hook, gaff, spear, gig, or similar device.

(d) It is unlawful to possess red drum less than 18 inches total length.

(e) It is unlawful to possess more than one five red drum per person per day taken by hook-and-line, ~~hook-and-line of which no more than one may be larger than 27 inches total length.~~

(f) It is unlawful to possess more than 100 pounds of red drum per vessel per day taken by commercial fishing equipment.

(g) The annual commercial quota (January through December) for red drum is 250,000 pounds. If the quota is projected to be taken, the Fisheries Director shall, by proclamation, prohibit possession of red drum taken by commercial fishing equipment.

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. March 1, 1996; October 1, 1992; September 1, 1991;
Temporary Amendment Eff. October 22, 1998.

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, October 22, 1998, 12:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, October 19, 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

Teresa L. Smallwood, Vice Chairman
 Jim Funderburke
 Vernice B. Howard
 Philip O. Redwine
 David Twiddy

Appointed by House

Paul Powell, Chairman
 Anita White, 2nd Vice Chairman
 Mark Garside
 Steve Rader
 George Robinson

RULES REVIEW COMMISSION MEETING DATES

October 22, 1998
 November 19, 1998

December 17, 1998
 January 21, 1999

MEETING DATE: SEPTEMBER 17, 1998

LOG OF FILINGS

RULES SUBMITTED: AUGUST 20, 1998 THROUGH SEPTEMBER 20, 1998

AGENCY/DIVISION	RULE NAME	RULE CITATION	ACTION
DEPARTMENT OF COMMERCE/BANKING COMMISSION			
	Name	4 NCAC 3A .0101	Amend
	Petitions	4 NCAC 3B .0101	Amend
	Notice	4 NCAC 3B .0102	Amend
	Hearings	4 NCAC 3B .0103	Amend
	Declaratory Rulings	4 NCAC 3B .0105	Amend
	Request for Hearing	4 NCAC 3B .0203	Amend
	Intervention of a New Party	4 NCAC 3B .0215	Amend
	Subpoenas	4 NCAC 3B .0217	Amend
	Public Inspection of Files	4 NCAC 3B .0218	Amend
	Application	4 NCAC 3C .0101	Amend
	National Bank conversion	4 NCAC 3C .0111	Amend
	Establishment of Branches	4 NCAC 3C .0201	Amend
	Discontinuance	4 NCAC 3C .0202	Amend
	Conversion of Branch	4 NCAC 3C .0204	Amend
	Change of Location	4 NCAC 3C .0301	Amend
	Application	4 NCAC 3C .0401	Amend
	Examining Committee Report	4 NCAC 3C .0701	Amend
	Reports of Condition	4 NCAC 3C .0702	Amend
	Publisher's Copy	4 NCAC 3C .0703	Amend
	Oath of Directors	4 NCAC 3C .0801	Amend
	Depository Banks	4 NCAC 3C .0802	Amend
	Other Real Estate	4 NCAC 3C .0803	Amend
	Suspension of Investment	4 NCAC 3C .0804	Amend

Limitations	4 NCAC 3C .1502	Amend
Application	4 NCAC 3D .0101	Amend
Examining Committee Report	4 NCAC 3D .0201	Amend
Report of Trust Department	4 NCAC 3D .0202	Amend
Application	4 NCAC 3E .0101	Amend
Operation of Other Business	4 NCAC 3E .0201	Amend
Annual Report	4 NCAC 3E .0302	Amend
Definitions	4 NCAC 3F .0201	Amend
Regional Bank Holding Company	4 NCAC 3H .0002	Amend
Bank Holding Company	4 NCAC 3H .0003	Amend
Definitions	4 NCAC 3I .0101	Amend
Definitions	4 NCAC 3J .0101	Amend
Definitions	4 NCAC 3K .0101	Amend

DHHS/MEDICAL CARE COMMISSION

Replacement Equipment	10 NCAC 3R .0214	Amend
Applicability of Rules	10 NCAC 3R .3051	Amend
Applicability of Rules	10 NCAC 3R .6101	Adopt
Certificate of Need	10 NCAC 3R .6102	Adopt
Certificate of Need Review Schedule	10 NCAC 3R .6103	Adopt
Multi-County Groupings	10 NCAC 3R .6104	Adopt
Service Areas	10 NCAC 3R .6105	Adopt
Reallocations and Adjustments	10 NCAC 3R .6106	Adopt
Acute Care Bed Need Determination	10 NCAC 3R .6107	Adopt
Rehabilitation Bed Need Determination	10 NCAC 3R .6108	Adopt
Ambulatory Surgical Facilities	10 NCAC 3R .6109	Adopt
Open Heart Surgery Services Need	10 NCAC 3R .6110	Adopt
Heart-Lung Bypass Machines	10 NCAC 3R .6111	Adopt
Fixed Cardiac Catheterization	10 NCAC 3R .6112	Adopt
Mobile Cardiac Catheterization	10 NCAC 3R .6113	Adopt
Burn Intensive Care Services Need	10 NCAC 3R .6114	Adopt
Positron Emission Tomography Scanners	10 NCAC 3R .6115	Adopt
Bone Marrow Transplantation	10 NCAC 3R .6116	Adopt
Solid Organ Transplantation Services	10 NCAC 3R .6117	Adopt
Gamma Knife Need Determination	10 NCAC 3R .6118	Adopt
Lithotripter Need Determination	10 NCAC 3R .6119	Adopt
Radiation Oncology Need Determination	10 NCAC 3R .6120	Adopt
Nursing Care Bed Need	10 NCAC 3R .6121	Adopt
Demonstration Project	10 NCAC 3R .6122	Adopt
Home Health Agency Office	10 NCAC 3R .6123	Adopt
Dialysis Station Need	10 NCAC 3R .6124	Adopt
Hospice Need Determination	10 NCAC 3R .6125	Adopt
Hospice Inpatient Facility Bed Need	10 NCAC 3R .6126	Adopt
Psychiatric Bed Need	10 NCAC 3R .6127	Adopt
Chemical Dependency Treatment	10 NCAC 3R .6128	Adopt
Intermediate Care Beds	10 NCAC 3R .6129	Adopt
Policies for General Acute Care	10 NCAC 3R .6130	Adopt
Policies for Inpatient Rehabilitation	10 NCAC 3R .6131	Adopt
Policy for Ambulatory Surgical Facilities	10 NCAC 3R .6132	Adopt
Policy for Provision of Hospital	10 NCAC 3R .6133	Adopt
Policy for Nursing Care Beds	10 NCAC 3R .6134	Adopt
Policy for Determination of Need	10 NCAC 3R .6135	Adopt
Policy for Relocation	10 NCAC 3R .6136	Adopt
Policy for Home Health Services	10 NCAC 3R .6137	Adopt
Policy for End-Stage Renal Disease	10 NCAC 3R .6138	Adopt
Policies for Psychiatric Inpatients	10 NCAC 3R .6139	Adopt
Policy for Chemical Dependency	10 NCAC 3R .6140	Adopt
Policies for Intermediate Care	10 NCAC 3R .6141	Adopt

RULES REVIEW COMMISSION

DHHS/SOCIAL SERVICES COMMISSION

Advisory to Counties	10 NCAC 24A .0508	Adopt
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DHHS/DIVISION OF MEDICAL ASSISTANCE

Home Health Services	10 NCAC 26B .0103	Amend
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DHHS/SOCIAL SERVICES COMMISSION

The License	10 NCAC 42C .3401	Amend
Termination of License	10 NCAC 42C .3403	Amend
Denial and Revocation of License	10 NCAC 42C .3404	Amend
Administrative Penalty	10 NCAC 42C .3601	Amend
Nature and Purpose of State Adult Day Care	10 NCAC 42R .0201	Amend

DHHS/SECRETARY OF DHHS

Two-Parent Families	10 NCAC 49B .0315	Adopt
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JUSTICE/CRIMINAL JUSTICE EDUCATION & TRAINING STANDARDS COMMISSION

Location	12 NCAC 9A .0101	Amend
Definitions	12 NCAC 9A .0103	Amend
Minimum Standards	12 NCAC 9B .0101	Amend
Basic Training-LEO	12 NCAC 9B .0205	Amend
Criminal Justice Instructor Training	12 NCAC 9B .0209	Amend
Radar Instructor Training	12 NCAC 9B .0210	Amend
Radar Instructor Training	12 NCAC 9B .0210	Amend
Criminal Justice TD/SMI Instructor	12 NCAC 9B .0211	Amend
Criminal Justice TD/SMI Instructor	12 NCAC 9B .0211	Amend
Certification Training	12 NCAC 9B .0212	Amend
Certification Training	12 NCAC 9B .0212	Amend
Certification Training	12 NCAC 9B .0213	Amend
Certification Training	12 NCAC 9B .0213	Amend
Certification Training	12 NCAC 9B .0214	Amend
Certification Training	12 NCAC 9B .0214	Amend
Supplemental Training	12 NCAC 9B .0215	Amend
Re-Certification Training	12 NCAC 9B .0218	Amend
Re-Certification Training	12 NCAC 9B .0219	Amend
Re-Certification Course	12 NCAC 9B .0220	Amend
Re-Certification Course	12 NCAC 9B .0221	Amend
Re-Certification Course	12 NCAC 9B .0222	Amend
Specialized Instructor Training	12 NCAC 9B .0226	Amend
Specialized Instructor Training	12 NCAC 9B .0227	Amend
Specialized Instructor Training	12 NCAC 9B .0232	Amend
Specialized Instructor Training	12 NCAC 9B .0233	Amend
Certification of Instructors	12 NCAC 9B .0301	Amend
Radar and TD Speed Measurement	12 NCAC 9B .0309	Amend
Terms and Conditions	12 NCAC 9B .0310	Amend
Certified Instructors	12 NCAC 9B .0311	Amend
Trainee Attendance	12 NCAC 9B .0404	Amend
Comprehensive Written Exam	12 NCAC 9B .0408	Amend
Satisfaction of Minimum Training	12 NCAC 9B .0409	Amend
Comprehensive Written Exam	12 NCAC 9B .0414	Amend
Satisfaction of Minimum Training	12 NCAC 9B .0416	Amend
Levels of Approval	12 NCAC 9B .0603	Amend
Instrument Operators Certification	12 NCAC 9C .0308	Amend
Approved Speed-Measuring Instruments	12 NCAC 9C .0601	Amend
Minimum Training Specifications	12 NCAC 9E .0105	Amend
In-Service Firearms	12 NCAC 9E .0106	Amend
Filing and Fees	12 NCAC 9F .0107	Amend

DENR/SOIL AND WATER CONSERVATION COMMISSION

Cost Share	15 NCAC 6E .0105	Amend
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DENR/WILDLIFE RESOURCES COMMISSION

General Provisions	15 NCAC 10F .0301	Amend
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DENR/COMMISSION FOR HEALTH SERVICES

General	15 NCAC 16A .0101	Amend
Eligible Migrants	15 NCAC 16A .0106	Amend
Authorization	15 NCAC 16A .0108	Repeal

DENR/COMMISSION FOR HEALTH SERVICES

Definitions	15 NCAC 18A .2508	Amend
Sewage Systems	15 NCAC 18A .2513	Amend
Design Details	15 NCAC 18A .2515	Amend
Diving Equipment	15 NCAC 18A .2517	Amend
Circulation System	15 NCAC 18A .2518	Amend
Decks	15 NCAC 18A .2522	Amend
Dressing & Sanitary Facilities	15 NCAC 18A .2526	Amend
Fences	15 NCAC 18A .2528	Amend
Safety Provisions	15 NCAC 18A .2530	Amend
Wading Pools	15 NCAC 18A .2531	Amend
Spas and Hot Tubs	15 NCAC 18A .2532	Amend
Water Quality Standards	15 NCAC 18A .2535	Amend
Maintenance and Operation	15 NCAC 18A .2537	Amend
Suction Hazard Reduction	15A NCAC 18A .2539	Amend
Water Recreation Attractions	15A NCAC 18A .2543	Adopt
Definitions	15 NCAC 18A .2801	Amend
Approval of Construction Plans	15 NCAC 18A .2802	Amend
Inspections and Reports	15 NCAC 18A .2803	Amend
Food Supplies	15 NCAC 18A .2804	Amend
Food Service	15 NCAC 18A .2808	Amend
Specifications for Kitchens	15 NCAC 18A .2810	Amend
Manual Cleaning	15 NCAC 18A .2812	Amend
Mechanical Cleaning	15 NCAC 18A .2813	Amend
Water Supply	15 NCAC 18A .2815	Amend
Toilets	15 NCAC 18A .2817	Amend
Diapering and Diaper Changing	15 NCAC 18A .2819	Amend
Storage	15 NCAC 18A .2820	Amend
Furniture and Toys	15 NCAC 18A .2822	Amend
Personnel	15 NCAC 18A .2823	Amend
Floors	15 NCAC 18A .2824	Amend
Walls and Ceilings	15 NCAC 18A .2825	Amend
Communicable Diseases	15 NCAC 18A .2827	Amend
Handwashing	15 NCAC 18A .2828	Amend
Wastewater	15 NCAC 18A .2829	Amend
Solid Wastes	15 NCAC 18A .2830	Amend
Animal and Vermin Control	15 NCAC 18A .2831	Amend
Outdoor Areas	15 NCAC 18A .2832	Amend
Swimming and Wading Pools	15 NCAC 18A .2833	Amend
Compliance	15 NCAC 18A .2834	Amend

DENR/COMMISSION FOR HEALTH SERVICES

General	15 NCAC 24A .0101	Amend
Definitions	15 NCAC 24A .0102	Amend
Authorizations	15 NCAC 24A .0302	Amend
Reimbursement	15 NCAC 24A .0402	Amend
Reimbursement	15 NCAC 24A .0403	Amend

RULES REVIEW COMMISSION

Reimbursement

15 NCAC 24A .0404 Amend

STATE BOARDS/NC MEDICAL BOARD

Annual Registration

21 NCAC 32F .0003 Adopt

RULES REVIEW COMMISSION**September 17, 1998
MINUTES**

The Rules Review Commission met on September 17, 1998, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners in attendance were Chairman Paul Powell, Teresa L. Smallwood, Stephen P. Rader, George S. Robinson, David R. Twiddy, Vernice B. Howard, Jim R. Funderburk, Anita A. White, and Mark P. Garside.

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

The following people attended:

Valerie Chaffin	Hunton & Williams
Bud McCarty	DENR/Hazardous Waste
Jill Burton	DENR/Hazardous Waste
Linda Culpepper	DENR/Hazardous Waste
Bill Breeze	N C Medical Board/Athletic Trainers
Emily Lee	Transportation
Dedra Alston	DENR
Dee Williams	Cosmetic Art Examiners
Jackie Sheppard	DHHS/DFS
Mark Sisak	State Budget
Jessica Gill	DENR/DCM
Jennie Dorsett	Athletic Trainers

APPROVAL OF MINUTES

The meeting was called to order at 10:02 a.m. with Chairman Powell presiding. He asked for any discussion, comments, or corrections concerning the minutes of the August 20, 1998 meeting. There being none, the minutes were approved.

LOG OF FILINGS

Chairman Powell presided over the review of the log and all rules were unanimously approved with the following exceptions:

12 NCAC 11 .0501: JUSTICE/NC Alarm Systems Licensing Board – The Commission objected to this rule due to lack of necessity. There are no requirements or authorizations in .0501 and it is thus unnecessary.

12 NCAC 11 .0502: JUSTICE/NC Alarm Systems Licensing Board – The Commission objected to this rule due to lack of necessity. The term "accredited sponsor" is not used in these rules so the definition in .0502 is unnecessary.

12 NCAC 11 .0504: JUSTICE/NC Alarm Systems Licensing Board – The Commission objected to this rule due to lack of statutory authority and ambiguity. There is no authority cited for the board to set occupational qualifications for instructors, thus there is no authority to inquire into the qualifications in .0504(a)(4) or determine their competency in (b)(2). It is also not clear what would constitute competency. In .0504(c), it is not clear what standards the full board will use in determining if a course will be sanctioned.

12 NCAC 11 .0505: JUSTICE/NC Alarm Systems Licensing Board – The Commission objected to this rule due to ambiguity. In .0505, it is not clear what standards the board will use in determining if out of state courses will be sanctioned.

14A NCAC 7.0313: DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY - The Commission objected to this rule due to ambiguity. It is not clear what standards the Governor's Crime Commission is to use in determining matching fund ratios.

15A NCAC 7H .1705: DENR Coastal Resources Commission - The Commission objected to this rule due to ambiguity. In (c)(1)(C), it is not clear what standards will be used in allowing dredging for fill material to protect highways or other structures of public interest. It is also not clear what is meant by "structures of public interest." This objection applies to existing language in the rule.

15A NCAC 13B .1624: DENR Commission for Health Services - The Commission objected to this rule due to ambiguity. In (b)(1)(A), it is not clear what will make a model "acceptable to the Division." In (b)(1)(A)(iv), it is not clear what will make a "two-phase modeling approach" be acceptable to the Division. In (b)(4), it is not clear what standards the Division will use in approving materials for separation materials. In (b)(7), it is not clear what constitutes "adequately specified." In (b)(7)(A), it is not clear what constitutes "adequately free of organic material." It is also not clear when a "select fill" will be approved by the Division. In (b)(7)(B)(i), it is not clear what standards the Division will use in approving grading plans and specifications. In (b)(7)(C)(i), it is not clear what standards the Division will use in approving engineering plans. In (b)(7)(C)(iii), it is not clear what standards the Division will use in approving plans. In (b)(8)(B)(i), it is not clear what standards the Division will use in approving an alternative "in situ test." In (b)(8)(B)(v), it is not clear what constitutes adequate protection from environmental degradation. In (b)(8)(C)(ii), it is not clear what standards the Division will use in approving tests. In (b)(9)(B)(ii), it is not clear what standards the Division will use in approving placing materials on top of the GCL. In (iii), it is not clear what standards the Division will use in approving removing, repairing, and replacing material. In (b)(9)(C)(i), it is not clear what standards the Division will use in approving geosynthetic clay installation. In (ii), it is not clear what standards will be used in approving the placement of materials. In (v), it is not clear what standards will be used in approving retesting. In (v)(III), it is not clear what standards the Division will use in approving engineering plans. In (b)(10)(C), it is not clear what standards will be used in approving retesting. In (b)(11)(B)(i), it is not clear what standards will be used in approving the installation of leachate collection piping. In (b)(11)(C), it is not clear what standards will be used in approving retesting. In (b)(12)(B)(i), it is not clear what standards the Division will use in approving placement of drainage layer material. In (b)(12)(C), it is not clear what standards will be used in approving retesting. In (b)(13)(B), it is not clear what standards will be used in approving the installation of filter layers. In (b)(13)(C), it is not clear what standards will be used in approving retesting. This objection applies to existing language in the rule.

19A NCAC 2D .0816: TRANSPORTATION Division of Highways - The Commission objected to this rule due to lack of statutory authority. There is no authority for the Department to disqualify a contractor from bidding because of the recruitment of department employees for employment as the rule does in (a)(6).

DIRECTOR'S REPORT

Commissioner Funderburk made a motion that the election of officers be postponed until November and reviewed again at that time if new Commissioners have not been appointed. Commissioner Rader seconded the motion, although he did note that elections could be held if the new commissioners were in place. The vote was unanimous. The meeting next month is a change from the third Thursday to the fourth Thursday. A proposed budget is being prepared for 1999-2000. Our lease should remain the same for at least next year.

COMMISSION PROCEDURES AND OTHER MATTERS

The next meeting will be on October 22, 1998.

The meeting adjourned at 10:38 a.m.

Respectfully submitted,
Sandy Webster

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698. Also, the Contested Case Decisions are available on the Internet at the following address: <http://www.state.nc.us/OAH/hearings/decision/caseindex.htm>.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Brenda B. Becton
Sammie Chess Jr.
Beecher R. Gray
Melissa Owens

Meg Scott Phipps
Robert Roosevelt Reilly Jr.
Dolores O. Smith

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
ALCOHOLIC BEVERAGE CONTROL COMMISSION				
Alcoholic Beverage Control Commission v. Kenneth Jerome	97 ABC 1205	Phipps	07/23/98	
Alcoholic Beverage Control Commission v. Jesse Jacob Joyner, Jr.	97 ABC 1438	Phipps	06/19/98	
Alcoholic Beverage Control Commission v. Trade Oil Company, Inc.	98 ABC 0033	Reilly	08/21/98	
Alcoholic Beverage Control Comm v. Partnership T/A C & J's Shipwreck	98 ABC 0296	Morrison	08/19/98	
Alcoholic Beverage Control Commission v. Axis Entertainment	98 ABC 0357*	Reilly	07/02/98	
Sokha Huor Ramadneh v. Alcoholic Beverage Control Commission	98 ABC 0382	Smith	06/30/98	13.03 NCR 350
Alcoholic Beverage Control Commission v. Delores Williams Alnaqib	98 ABC 0392	Chess	07/30/98	
Alcoholic Beverage Control Commission v. Axis Entertainment	98 ABC 0401*	Reilly	07/02/98	
Alcoholic Beverage Control Commission v. James Aubrey Stephenson	98 ABC 0494	Chess	09/01/98	
Alcoholic Beverage Control Commission v. Bridgette Dee Williams	98 ABC 0501	Reilly	08/11/98	
Alcoholic Beverage Control Commission v. Robert Lee, Inc.	98 ABC 0518	Gray	08/11/98	
Tarus Jackson v. Alcoholic Beverage Control Commission	98 ABC 0768	Smith	07/13/98	
BOARD OF CONTRACTORS				
Heritage Pointe Builders, Inc. & Patrick Hannon v. Bd. of Contractors	97 LBC 0243	Phipps	08/17/98	
CRIME CONTROL AND PUBLIC SAFETY				
Loretta Battle v. Crime Victims Compensation Commission	97 CPS 0654	Gray	08/10/98	
Cynthia Austin v. Crime Victims Compensation Commission	97 CPS 1499	Reilly	08/12/98	13.05 NCR 533
Marcella Skaggs v. Crime Victims Compensation Commission	98 CPS 0065	Owens	06/05/98	
Talmadge E. McHenry v. Crime Victims Compensation Commission	98 CPS 0116	Gray	06/24/98	
Linda Caldwell Wiggins v. Crime Victims Compensation Commission	98 CPS 0153	Chess	08/27/98	
Kenneth T. Lytle v. Crime Victims Compensation Commission	98 CPS 0176	Reilly	07/06/98	
Shirley Henryhand v. Crime Victims Compensation Commission	98 CPS 0263	Morrison	08/11/98	
Brenda Jean Thomas v. Crime Victims Compensation Commission	98 CPS 0314	Morrison	08/11/98	
Tareyton L. Johnson v. Crime Victims Compensation Commission	98 CPS 0327	Reilly	09/02/98	
Mia Thompson-Clark v. Crime Victims Compensation Commission	98 CPS 0349	Chess	05/14/98	
Faye E. Powell v. Crime Victims Compensation Commission	98 CPS 0808	Owens	08/28/98	
Shirley P. Chen v. Crime Victims Compensation Commission	98 CPS 1015	Phipps	09/17/98	
ENVIRONMENT AND NATURAL RESOURCES				
Ladane Williamson and Odell Decarol Williamson v. DENR	96 EHR 1926	Gray	09/01/98	13.07 NCR 609
Teresa Heflin v. Department of Environment and Natural Resources	97 EHR 0409	Morrison	07/29/98	
Ronald Prater v. Department of Environment and Natural Resources	97 EHR 0451	Reilly	07/02/98	

CONTESTED CASE DECISIONS

AGENCY	CASE NUMBER	ALJ	DATE OF DECISION	PUBLISHED DECISION REGISTER CITATION
James F. Smith v. Department of Environment and Natural Resources	97 EHR 1365	Chess	07/17/98	
Hickory Alliance v. Department of Environment and Natural Resources and Godfrey Lumber Company, Inc.	97 EHR 1607	Reilly	07/17/98	
John M. Silvia v. Department of Environment and Natural Resources	97 EHR 1646	Chess	06/03/98	
Godfrey Lumber Company, Inc. v. Dept. of Environment & Natural Resources and Hickory Alliance	97 EHR 1676	Reilly	07/17/98	
Gregory B. Jackson, Brenda R. Jackson v. Greene Cty. Hlth. Dept., ENR	98 EHR 0042	Reilly	07/02/98	
Robert G. Goff, Sr. v. Department of Environment and Natural Resources	98 EHR 0072*2	Gray	06/25/98	
Scotland Water, Cedar Circle v. Environment and Natural Resources	98 EHR 0236	Smith	06/09/98	
Eric Glenn Harrison v. Environment and Natural Resources	98 EHR 0373	Reilly	08/28/98	
Robert G. Goff, Sr. v. Department of Environment and Natural Resources	98 EHR 0448*2	Gray	06/25/98	
Division of Environmental Management				
Save Our Rivers, Inc., et al v. Town of Highlands, EHN.R. Env. Mgmt., William W. Cobey, Jr., Secretary	91 EHR 0377	Gray	07/30/98	
US Dept. of the Interior Nat'l. Park Svce. v. Environmental Mgmt. Comm.	98 EHR 0410	Smith	08/20/98	13-06 NCR 578
Division of Marine Fisheries				
Lady LaShanda Melvin Bryant v. EHN.R. Division of Marine Fisheries	97 EHR 1459	Gray	07/20/98	
Division of Solid Waste Management				
Steve Aldridge, et al v. DENR, Division of Solid Waste Management	98 EHR 0665	Chess	09/09/98	13-07 NCR 617
Division of Water Quality				
Raymond L. Martin v. DENR, Division of Water Quality	98 EHR 0590	Gray	09/21/98	
Worsley Oil Companies, Inc. v. DENR, DWQ, Groundwater Section	98 EHR 0735	Chess	08/24/98	
Silver Bullet, Inc. v. DENR, Division of Water Quality	98 EHR 0931	Chess	08/20/98	
HEALTH AND HUMAN SERVICES				
Stanley C. Ochulo v. Of. of Administrative Hearings, Mr. R. Marcus Lodge	98 DHR 0021	Reilly	06/24/98	
Oliver C. Johnson, Haze, Johnson v. Health and Human Services	98 DHR 0090	Gray	07/08/98	
Louise Streater v. Health and Human Services	98 DHR 0196	Gray	06/03/98	
Richard E. Lawrence, Rebecca A. Lawrence v. Health and Human Services	98 DHR 0209	Phipps	07/15/98	
John David Brinson v. Department of Human Resources	98 DHR 0369	Owens	08/17/98	
Stephanie Wade v. Department of Health and Human Services	98 DHR 0666	Reilly	08/19/98	
Carolyn L. Freeman v. Department of Human Resources	98 DHR 0721	Gray	08/05/98	
Otis L. Mack, Jr. v. Office of Administrative Hearings	98 DHR 0729	Phipps	09/09/98	
Christopher Germano, Lee Germano v. Department of Health	98 DHR 0780	Owens	07/28/98	
Division of Child Development				
Dulatown Presbyterian Children's Ctr. v. DHHS, Child Development	98 DHR 0654	Gray	08/06/98	
Cassandra Myers v. Division of Child Development	98 DHR 0948	Owens	09/03/98	
Dora's Child Development Center v. Mecklenburg Cty. DSS, and DHR	98 DHR 1184	Phipps	09/25/98	
Division of Facility Services				
Pearlie W. Lawson v. DHHS, Facility Svcs., Health Care Personnel Reg.	97 DHR 1034	Becton	07/30/98	
Annie K. Morgan v. Health & Human Services, Facility Services	97 DHR 1046*6	Phipps	07/23/98	
Mooresville Hospital Mgmt. Associates, Inc. d/b/a Lake Norman Regional Medical Center v. DHR, Facility Services, Certificate of Need Section and Autumn Corporation and McKinley V. Jurney	97 DHR 1209	Reilly	06/23/98	
Warren Moore & Catherine Moore v. DHR, Div. of Facility Services	97 DHR 1279	Mann	09/08/98	
Constellation Health Services, Inc. and Constellation Senior Services, Inc. v. DHR, Facility Services, Group Care Licensure Section and Diversified Health Group, L.L.C. and The Innovative Health Group, Inc.	97 DHR 1529	Gray	06/24/98	
Dialysis Care of NC, LLC, d/b/a Dialysis Care of Rowan County v. DHR, Division of Facility Services, Certificate of Need Section v. Biomedical Applications of NC, Inc. d/b/a BMA of Kannapolis d/b/a Metrolina Kidney Center of Kannapolis (Lessee) and Metrolina Nephrology Associates, P.A. (Lessor)	97 DHR 1588	Phipps	08/31/98	
Robin Annette Reavis v. Health and Human Svcs., Div. of Facility Svcs.	97 DHR 1672	Reilly	08/12/98	
Jennifer Blofeld v. DHHS, Facility Svcs., Health Care Personnel Registry	98 DHR 0096	Gray	08/21/98	
Sunlite Retirement Home, Winnie Jane Johnson v. DHR, Facility Services	98 DHR 0124	Phipps	06/11/98	
Helen Shokoti v. Health and Human Services, Div. of Facility Services	98 DHR 0173	Chess	08/26/98	
Ann Davis Rest Home v. Group Care Licensure Section	98 DHR 0197	Phipps	06/23/98	
Diane Lingard v. DHR, Facility Svcs., Health Care Personnel Reg.	98 DHR 0214	Becton	06/22/98	
Kimberly Annette Smith Hull v. DHHS, Division of Facility Services	98 DHR 0239	Phipps	06/23/98	
Deborah Ann Holt v. DHHS, Division of Facility Services	98 DHR 0348	Phipps	06/22/98	
Terri Michelle Tyler v. Health & Human Svcs., Div. of Facility Services	98 DHR 0458	Gray	08/21/98	
Doris Jones Holmes v. DHHS, Facility Svcs., Health Care Personnel Reg.	98 DHR 0463	Gray	08/21/98	
Annie K. Morgan v. Health & Human Services, Facility Services	98 DHR 0496*6	Phipps	07/23/98	

CONTESTED CASE DECISIONS

AGENCY	CASE NUMBER	ALJ	DATE OF DECISION	PUBLISHED DECISION REGISTER CITATION
Johnnie E. Williams v. DHHS, Division of Facility Services	98 DHR 0639	Reilly	07/02/98	
Tracey Deirde Galloway v. DHHS, Facility Svcs., Health Care Per. Reg.	98 DHR 0824	Gray	09/24/98	
<i>Division of Medical Assistance</i>				
Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Medical Ctr. and Harry Mahannah, M.D. v. DHHS, Division of Medical Assistance	97 DHR 0621	Smith	07/08/98	
<i>Division of Social Services</i>				
William & Crystal Steakley v. DHHS, Division of Social Services	98 DHR 0076	Gray	07/20/98	
Raji Abdus-Salaam v. Department of Human Resources, DSS-DCA	98 DHR 0771	Owens	07/30/98	
<i>Child Support Enforcement Section</i>				
Dorman E. Drake v. Department of Human Resources	96 CRA 1717	Smith	08/25/98	
Robert Alan Davis v. Department of Human Resources	96 CRA 1781*	Phipps	08/20/98	
Michael W. White v. Department of Human Resources	96 CRA 1784	Gray	09/25/98	
Troy R. Emmons, Jr. v. Department of Human Resources	96 CRA 1798	Reilly	08/25/98	
Marvin A. Pike v. Department of Human Resources	96 CRA 1814	Chess	09/24/98	
Mary Putnam Avery v. DSS, Durham County Child Support Enforcement	96 CRA 1849	Morrison	09/01/98	
Dale W. Hutchinson v. Department of Human Resources	96 CRA 1981	Mann	08/26/98	
Jeffery Lee Graves v. Department of Human Resources	98 CRA 0137	Becton	06/23/98	
Donald L. Carr, Jr. v. Department of Human Resources	98 CRA 0545	Reilly	06/08/98	
Marvin Diggs v. Department of Human Resources	98 CRA 0588	Reilly	06/24/98	
Michael Patrick Dyme v. Department of Health & Human Services	98 CRA 0787	Gray	09/17/98	
Dennis Lee McNeill v. Department of Human Resources	96 CSE 1305	Gray	06/22/98	
Byron O. Ashby II v. Department of Human Resources	96 CSE 1435	Mann	07/15/98	
Hubert L. Morrison v. Department of Human Resources	96 CSE 1649	Reilly	08/12/98	
Robert Alan Davis v. Department of Human Resources	96 CSE 1780*	Phipps	08/20/98	
Darryl C. Thompson v. Department of Health & Human Services	96 CSE 1854* ¹³	Chess	09/01/98	
Darryl C. Thompson v. Department of Health & Human Services	96 CSE 1902* ¹³	Chess	09/01/98	
Michael Anthony Hill v. Department of Human Resources	96 CSE 2028	Mann	08/26/98	
Michael A. Wilder v. Department of Human Resources	97 CSE 1301	Chess	07/17/98	
Billy Anthony Jr. v. Department of Human Resources	97 CSE 1393	Reilly	06/24/98	
Alton D. Bagley v. Department of Human Resources	97 CSE 1424	Chess	06/02/98	
Bernel B. Berry Jr. v. Department of Human Resources	97 CSE 1435	Smith	06/12/98	
Darryl Simpkins v. Department of Health & Human Services	97 CSE 1436	Chess	08/11/98	
Anthony Montgomery v. Department of Human Resources	97 CSE 1442	Phipps	06/17/98	
Terry Letterman v. Department of Human Resources	97 CSE 1492	Smith	06/22/98	
William E. Mines v. Department of Human Resources	97 CSE 1527	Mann	09/08/98	
Annette Chipman v. Department of Human Resources	97 CSE 1545	Phipps	07/23/98	
Paul J. Mobley, Jr. v. Department of Human Resources	97 CSE 1568	Phipps	06/17/98	
Robert A. Sherer v. Department of Human Resources	97 CSE 1605	Mann	07/15/98	
Gregory Andre Brown v. Department of Health & Human Services	97 CSE 1656	Gray	08/27/98	
Rodger Hazen II v. Department of Human Resources	97 CSE 1666	Chess	07/17/98	
Wade A. Burgess v. Department of Human Resources	98 CSE 0071	Morrison	06/12/98	
Robert L. Robinson v. Department of Human Resources	98 CSE 0130	Reilly	07/15/98	
Jamie A. Hunt v. Department of Health & Human Services	98 CSE 0307	Morrison	07/06/98	
Renardo Jenkins v. Department of Human Resources	98 CSE 0310	Smith	06/23/98	
Anthony Love v. Department of Human Resources	98 CSE 0312	Phipps	06/23/98	
Steven Kent Gold v. Department of Human Resources	98 CSE 0333	Morrison	07/01/98	
Leroy J. Poole v. Department of Human Resources	98 CSE 0375	Reilly	07/02/98	
Hoyal A. McLean v. Department of Health & Human Services	98 CSE 0420	Smith	07/29/98	
Michael Bernard Hill v. Department of Health & Human Services	98 CSE 0421	Becton	07/15/98	
Charlie Ratliff Jr. v. Department of Health & Human Services	98 CSE 0449	Mann	07/15/98	
John B. Hall v. Department of Human Resources	98 CSE 0506	Chess	07/20/98	
Derrick A. Brinton v. Department of Human Resources	98 CSE 0555	Smith	08/07/98	
Tabatha D. Pate v. Department of Human Resources	98 CSE 0556	Becton	06/23/98	
Amanda F. Blount v. Department of Human Resources	98 CSE 0560	Chess	07/29/98	
Gregory Carty (IV #1564206) v. Department of Human Resources	98 CSE 0561* ¹⁴	Phipps	09/23/98	
Gregory Carty (IV #1564166) v. Department of Human Resources	98 CSE 0562* ¹⁴	Phipps	09/23/98	
John L. Bullard v. Department of Human Resources	98 CSE 0569	Morrison	08/06/98	
Charlie Gray Hunt Jr. v. Department of Human Resources	98 CSE 0607	Smith	06/22/98	
Willie R. Cruse v. Department of Health & Human Services	98 CSE 0653	Mann	08/26/98	
Thomas H. Lotze, Jr. v. Department of Health & Human Services	98 CSE 0658	Phipps	08/31/98	
Robert L. Williams v. Department of Human Resources	98 CSE 0682	Smith	06/22/98	
Patrick Bass v. Department of Health & Human Services	98 CSE 0689	Owens	09/18/98	
Timothy Kinney v. Department of Health & Human Services	98 CSE 0728	Smith	09/17/98	
Teresa L. Galloway v. Department of Health & Human Services	98 CSE 0769	Becton	07/30/98	
Michael A. Looper v. Department of Health & Human Services	98 CSE 0783	Chess	09/08/98	
Kenneth E. Strickland v. Department of Health & Human Services	98 CSE 0817	Mann	09/08/98	
Hoyt H. Bunt Jr. v. Department of Health & Human Services	98 CSE 0818	Morrison	09/15/98	
Vernon Reginald Pinkney v. Department of Health & Human Services	98 CSE 0833	Owens	07/29/98	
Elijah G. Deans v. Department of Health & Human Services	98 CSE 0867	Phipps	07/20/98	
James Howard Alexander v. Department of Health & Human Services	98 CSE 0869	Reilly	08/06/98	
Lee J. Coggins v. Department of Human Resources	98 CSE 0894	Smith	08/20/98	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Mark J. Houlbrook v. Department of Health & Human Services	98 CSE 0949	Smith	09/08/98	
Henry A. Harnel, Jr. v. Department of Health & Human Services	98 CSE 0975	Chess	09/01/98	
Denitra Jeffries v. Department of Health & Human Services	98 CSE 1036	Morrison	09/15/98	
Vickie E. Lane v. Michael L. Adams, Department of Human Resources	96 DCS 2105	Gray	07/08/98	
Rachel D. Farmer v. Department of Health & Human Services	97 DCS 0251	Phipps	08/31/98	
Janice Scott Padgett (Fisher) v. Department of Human Resources	97 DCS 1219	Smith	07/29/98	
Barbara Fanta-Blandine v. Department of Human Resources	97 DCS 1486	Morrison	06/22/98	
Sharon Brim v. Department of Health & Human Services	97 DCS 1574	Gray	08/04/98	
Tertia M. Sharpe v. Department of Human Resources	98 DCS 0468	Morrison	06/09/98	
Ruth McFadden v. Department of Human Resources	98 DCS 0675	Reilly	07/15/98	
<i>Division of Women's and Children's Health</i>				
Khamis A. Sirhan v. DHHS, Women's/Children's Health, Nutrition Svcs	98 DHR 0219	Reilly	08/11/98	
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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 = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. * = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

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1 NCAC 15 .0208	13-02 NCR 175		13-08 NCR 640	*						
1 NCAC 15 .0209	13-02 NCR 175		13-08 NCR 640	*						
1 NCAC 15 .0210	13-02 NCR 175		13-08 NCR 640	*						
1 NCAC 15 .0211	13-02 NCR 175		13-08 NCR 640	*						
1 NCAC 15 .0212	13-02 NCR 175									
1 NCAC 15 .0213	13-02 NCR 175									
1 NCAC 15 .0214	13-02 NCR 175		13-08 NCR 640	*						
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1 NCAC 40 .0103		13-05 NCR 521								
1 NCAC 40 .0201		13-05 NCR 521								
1 NCAC 40 .0202		13-05 NCR 521								
1 NCAC 40 .0203		13-05 NCR 521								
1 NCAC 40 .0204		13-05 NCR 521								
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1 NCAC 05B .0305	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05B .0306	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05B .0309	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05B .0310		12.17 NCR 1611	13.08 NCR 627	*						
1 NCAC 05B .0314	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05B .0315	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05B .0316		12.17 NCR 1611	13.08 NCR 627	*						
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1 NCAC 05B .0905	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05B .0906	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05B .1101	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05B .1102	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05B .1105	13.04 NCR 360		13.08 NCR 627	*						
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1 NC/AC 05B 1505	13 04 NCR 360		13 08 NCR 627	*						
1 NC/AC 05B 1507	13 04 NCR 360		13 08 NCR 627	*						
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1 NC/AC 05B 1519		12 17 NCR 1611	13 08 NCR 627	*						
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1 NC/AC 05B 1601	13 04 NCR 360		13 08 NCR 627	*						
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1 NCAC 05D	13:04 NCR 360									
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1 NCAC 35 .0101	13:04 NCR 360		13:08 NCR 647	*						
1 NCAC 35 .0103	13:04 NCR 360		13:08 NCR 647	*						
1 NCAC 35 .0202	13:04 NCR 360		13:08 NCR 647	*						
1 NCAC 35 .0304	13:04 NCR 360		13:08 NCR 647	*						
1 NCAC 35 .0308	13:04 NCR 360		13:08 NCR 647	*						
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26 NCAC 01 .0102	N/A	N/A	N/A	N/A	Approve	06/18/98			13:03 NCR 334	
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26 NCAC 04 .0101		12:12 NCR 1071	12:16 NCR 1508	*	Approve	04/15/98			13:01 NCR 43	
26 NCAC 04 .0201		12:12 NCR 1071	12:16 NCR 1508	*	Approve	04/15/98			13:01 NCR 43	
26 NCAC 04 .0202		12:12 NCR 1071	12:16 NCR 1508	*	Approve	04/15/98	*		13:01 NCR 43	
26 NCAC 04 .0202	N/A	N/A	N/A	N/A	Approve	07/23/98				
26 NCAC 04 .0203		12:12 NCR 1071	12:16 NCR 1508	*	Approve	04/15/98			13:01 NCR 43	
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2 NCAC 34 .0302	12:09 NCR 743		12:14 NCR 1234	*	Approve	04/15/98	*		13:01 NCR 43	
2 NCAC 34 .0303	12:09 NCR 743		12:14 NCR 1234	*	Approve	04/15/98	*		13:01 NCR 43	
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2 NCAC 34 .0313	12.09 NCR 743		12.14 NCR 1234	S/L	Approve	04/15/98	*		13.01 NCR 43	Addendum NCR 1419
2 NCAC 34 .0323	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98			13.01 NCR 43	
2 NCAC 34 .0325	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0328	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0401	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0402	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98			13.01 NCR 43	
2 NCAC 34 .0403	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0404	12.09 NCR 743		12.14 NCR 1234	*	Object	04/15/98			13.01 NCR 43	
2 NCAC 34 .0406	12.09 NCR 743		12.14 NCR 1234	*	Approve	05/21/98	*		13.02 NCR 249	
2 NCAC 34 .0501	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98			13.01 NCR 43	
2 NCAC 34 .0502	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0503	12.09 NCR 743	11.21 NCR 1651	12.06 NCR 455	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0503	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0504	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0505	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0506	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0507	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0508	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98			13.01 NCR 43	
2 NCAC 34 .0601	12.09 NCR 743									
2 NCAC 34 .0602		11.21 NCR 1651	12.06 NCR 455	*						
2 NCAC 34 .0602	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0604		11.21 NCR 1651	12.06 NCR 455	*						
2 NCAC 34 .0604	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0605		11.21 NCR 1651	12.06 NCR 455	*						
2 NCAC 34 .0605	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0701	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0702	12.09 NCR 743									

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					Action	Date				
2 NCAC 34 .0703	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0803	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0902	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .0904	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
2 NCAC 34 .1101	12.09 NCR 743		12.14 NCR 1234	*	Approve	04/15/98	*		13.01 NCR 43	
APPRAISAL BOARD										
21 NCAC 57A .0101	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0102	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0201	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0202	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0203	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0204	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0205	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0206	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0207	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0208	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0210	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0301	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0302	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0303	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0304	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0305	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0306	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0401	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0402	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0403	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0404	13.01 NCR 3		13.05 NCR 513	*						
21 NCAC 57A .0405	13.01 NCR 3		13.05 NCR 513	*						

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					Action	Date				
21 NCAC 57A 0406	13 01 NCR 3		13 05 NCR 513	*						
21 NCAC 57A 0407	13 01 NCR 3		13 05 NCR 513	*						
21 NCAC 57A 0501	13 01 NCR 3		13 05 NCR 513	*						
ARCHITECTURE, BOARD OF										
21 NCAC 02 0208	12 04 NCR 244									
21 NCAC 02 0210	12 04 NCR 244									
21 NCAC 02 0904	12 04 NCR 244		12 09 NCR 795	S/L/SE	Object	03/20/98	*		13 01 NCR 43	
					Approve	04/15/98				
21 NCAC 02 0906	12 04 NCR 244		12 09 NCR 795	S/L/SE	Object	03/20/98	*		13 01 NCR 43	
					Approve	04/15/98				
ATHLETIC TRAINER EXAMINERS, BOARD OF										
21 NCAC 03 0101		12 18 NCR 1714	12 22 NCR 2007	S	Approve	09/17/98				
21 NCAC 03 0102		12 18 NCR 1714	12 22 NCR 2007	S	Approve	09/17/98				
21 NCAC 03 0103		12 18 NCR 1714	12 22 NCR 2007	S	Approve	09/17/98				
21 NCAC 03 0201		12 18 NCR 1714	12 22 NCR 2007	S	Approve	09/17/98				
21 NCAC 03 0301		12 18 NCR 1714	12 22 NCR 2007	S	Approve	09/17/98				
21 NCAC 03 0302		12 18 NCR 1714	12 22 NCR 2007	S	Approve	09/17/98				
21 NCAC 03 0303		12 18 NCR 1714	12 22 NCR 2007	S	Approve	09/17/98				
21 NCAC 03 0304		12 18 NCR 1714	12 22 NCR 2007	S	Approve	09/17/98				
21 NCAC 03 0401		12 18 NCR 1714	12 22 NCR 2007	S	Approve	09/17/98				
ATHLETIC TRAINER EXAMINERS/MEDICAL BOARD COMMITTEE										
21 NCAC 03 0501		12 18 NCR 1714	12 22 NCR 2007	*	Approve	09/17/98	*			
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS										
21 NCAC 08A 0301	12 08 NCR 619		12 13 NCR 1138	*	Approve	04/15/98	*		13 01 NCR 43	
21 NCAC 08A 0301	13 03 NCR 269		13 08 NCR 696	*						
21 NCAC 08A 0308	13 03 NCR 269		13 08 NCR 696	*						
21 NCAC 08A 0309	12 08 NCR 619		12 13 NCR 1138	*	Approve	04/15/98	*		13 01 NCR 43	
21 NCAC 08A 0310	13 03 NCR 269		13 08 NCR 696	*						
21 NCAC 08A 0315	13 03 NCR 269		13 08 NCR 696	*						

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					Action	Date				
21 NCAC 08F .0103	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 08F .0105	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 08F .0107	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08F .0302	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 08F .0401	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 08F .0410	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 08F .0504	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08G .0404	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 08H .0001	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 08H .0001	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08H .0002	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08I .0004	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 08I .0004	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08I .0005	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 08J .0001	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 08J .0002	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08J .0005	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 08J .0006	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 08J .0007	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08J .0008	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 08J .0008	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08J .0010	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 08J .0011	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08K .0104	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08K .0105	13-03 NCR 269		13-08 NCR 696	*						
21 NCAC 08K .0301	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 08M .0101	12-08 NCR 619		12-13 NCR 1138	*	Approve	04/15/98	*		13-01 NCR 43	

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					Action	Date				
21 NC'AC' 08M 0102	12-08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NC'AC' 08M 0102	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0103	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0104	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0201	12-08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NC'AC' 08M 0201	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0202	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0204	12-08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NC'AC' 08M 0204	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0206	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0207	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0301	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0302	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0303	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0304	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0305	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0306	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0401	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0402	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08M 0403	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08N 0202	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08N 0208	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08N 0302	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08N 0303	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08N 0306	13-03 NCR 269		13.08 NCR 696	*						
21 NC'AC' 08N 0307	13-03 NCR 269		13.08 NCR 696	*						

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12.23 NCR 2098

21 NC'AC' 10 0203

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					Action	Date				
COMMERCE										
4 NCAC 01E .0104	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01E .0202	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01E .0205	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01E .0206	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01E .0207	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01E .0303	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01E .0306	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01F	11:09 NCR 569									
4 NCAC 01H	11:09 NCR 569									
4 NCAC 01H .0101	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0102	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0201	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0202	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0301	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0302	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0303	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0304	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0401	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0402	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0403	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0404	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0405	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0501	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0502	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0503	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0601	11:09 NCR 569		13:08 NCR 652	*						
4 NCAC 01H .0701	11:09 NCR 569		13:08 NCR 652	*						

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4 NCAC 01J	11 09 NCR 569									
4 NCAC 01K .0101	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0102	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0103	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0104	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0105	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0202	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0203	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0204	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0205	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0206	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0301	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0302	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0401	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0402	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0404	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0501	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0502	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0503	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0504	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0505	11 09 NCR 569		13 08 NCR 652	*						
4 NCAC 01K .0506	11 09 NCR 569		13 08 NCR 652	*						
Community Assistance										
4 NCAC 19J .0805	11 09 NCR 569									
4 NCAC 19L .1900	11 09 NCR 569									

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23 NCAC 02C .0307

13 05 NCR 524

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21 NCAC 14A .0104	N/A	N/A	N/A	N/A	Approve	07/23/98				
21 NCAC 14H .0105	12-06 NCR 453		12-11 NCR 925	*	Object	03/20/98	*		13-01 NCR 43	
21 NCAC 14I .0107	12-22 NCR 1981		13-02 NCR 246	*	Approve	04/15/98	*			
21 NCAC 14I .0501	12-06 NCR 453		12-11 NCR 925	*	Approve	09/17/98				
21 NCAC 14K .0103	12-06 NCR 453		12-11 NCR 925	*	Object	03/20/98	*		13-01 NCR 43	
21 NCAC 14L .0105	12-06 NCR 453		12-11 NCR 925	*	Approve	03/20/98	*		13-01 NCR 43	
21 NCAC 14N .0102	12-06 NCR 453		12-11 NCR 925	*	Approve	04/15/98	*		13-03 NCR 334	
21 NCAC 14N .0103	12-06 NCR 453		12-11 NCR 925	*	Object	03/20/98	*		13-01 NCR 43	
21 NCAC 14N .0107	12-06 NCR 453		12-11 NCR 925	*	Approve	04/15/98	*			
21 NCAC 14N .0113	12-06 NCR 453		12-11 NCR 925	*	Approve	09/17/98	*		13-01 NCR 43	
					Object	03/20/98	*		13-01 NCR 43	
					Approve	04/15/98	*			
					Approve	09/17/98	*			
					Object	03/20/98	*		13-01 NCR 43	
					Approve	04/15/98	*		13-01 NCR 43	
					Approve	03/20/98	*		13-01 NCR 43	
					Approve	04/15/98				
					Object	03/20/98	*			
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DENTAL EXAMINERS										
21 NCAC 16H 0101	12-24 NCR 2203	Temp Expired 12-16 NCR 1511	12-16 NCR 1511	S/L	Approve	04/15/98			13-01 NCR 43	
21 NCAC 16H 0102	12-24 NCR 2203									
21 NCAC 16H 0103	12-24 NCR 2203									
21 NCAC 16H 0104	12-24 NCR 2203									
21 NCAC 16H 0201	12-24 NCR 2203									
21 NCAC 16H 0202	12-24 NCR 2203									
21 NCAC 16H 0203	12-24 NCR 2203									
21 NCAC 16H 0204	12-24 NCR 2203									
21 NCAC 16H 0205	12-24 NCR 2203									
21 NCAC 16H 0206	12-24 NCR 2203									
21 NCAC 16I 0004	11-20 NCR 1538									
21 NCAC 16I 0005	11-20 NCR 1538									
21 NCAC 16Q 0101	12-24 NCR 2203									
21 NCAC 16Q 0201	12-24 NCR 2203									
21 NCAC 16Q 0301	12-24 NCR 2203									
21 NCAC 16R 0002	11-20 NCR 1538									
21 NCAC 16R 0003	11-20 NCR 1538									
21 NCAC 16R 0005	11-20 NCR 1538									
21 NCAC 16V 0102	N/A	N/A	N/A	N/A	Approve	08/20/98				
ELECTRICAL CONTRACTORS, EXAMINERS OF										
21 NCAC 18B 0108	12-22 NCR 1982		13-05 NCR 502	*						
21 NCAC 18B 0201	12-22 NCR 1982		13-05 NCR 502	*						
21 NCAC 18B 0202	12-22 NCR 1982		13-05 NCR 502	*						
21 NCAC 18B 0203	12-22 NCR 1982		13-05 NCR 502	*						
21 NCAC 18B 0209	N/A	N/A	N/A		Approve	04/15/98			13-01 NCR 43	
21 NCAC 18B 0402	12-22 NCR 1982		13-05 NCR 502	*						

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21 NCAC 18B .0404	N/A	N/A	N/A		Approve	04/15/98			13.01 NCR 43	
21 NCAC 18B .0406	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .0501	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .0504	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .0505	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .0701	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .0702	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .0703	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .0704	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .0706	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .0802	N/A	N/A	N/A		Approve	04/15/98			13.01 NCR 43	
21 NCAC 18B 1001	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .1002	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .1003	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B 1004	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .1101	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .1102	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .1104	12.22 NCR 1982		13.05 NCR 502	*						
21 NCAC 18B .1105	12.22 NCR 1982		13.05 NCR 502	*						
EMPLOYEE ASSISTANCE PROFESSIONALS, BOARD OF										
21 NCAC 11 .0101	12.19 NCR 1764	12.21 NCR 1884	13.03 NCR 313	S/L						
21 NCAC 11 .0102	12.19 NCR 1764	12.21 NCR 1884	13.03 NCR 313	S/L						
21 NCAC 11 .0103	12.19 NCR 1764	12.21 NCR 1884	13.03 NCR 313	S/L						
21 NCAC 11 .0104	12.19 NCR 1764	12.21 NCR 1884	13.03 NCR 313	S/L						
21 NCAC 11 .0105	12.19 NCR 1764	12.21 NCR 1884	13.03 NCR 313	S/L						
21 NCAC 11 .0106	12.19 NCR 1764	12.21 NCR 1884	13.03 NCR 313	S/L						
21 NCAC 11 .0107	12.19 NCR 1764	12.21 NCR 1884	13.03 NCR 313	S/L						
21 NCAC 11 .0108	12.19 NCR 1764	12.21 NCR 1884	13.03 NCR 313	S/L						

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21 NCAC 11 0109	12 19 NCR 1764	12 21 NCR 1884	13 03 NCR 313	S/L						
21 NCAC 11 0110	12 19 NCR 1764	12 21 NCR 1884	13 03 NCR 313	S/L						
21 NCAC 11 0111	12 19 NCR 1764	12 21 NCR 1884	13 03 NCR 313	S/L						
21 NCAC 11 0112	12 19 NCR 1764	12 21 NCR 1884	13 03 NCR 313	S/L						
ENVIRONMENT AND NATURAL RESOURCES										
Notice of Intent to Redevelop a Brownfields Property										
15A NCAC 01J 0401	12 08 NCR 614	12 09 NCR 833	12 14 NCR 1266	*	Approve	04/15/98			13 01 NCR 43	13 06 NCR 537
15A NCAC 01J 0402	12 08 NCR 614	12 09 NCR 833	12 14 NCR 1266	*	Approve	04/15/98			13 01 NCR 43	
15A NCAC 01K 10 19 NCR 2506										
15A NCAC 01M 0101		11 19 NCR 1439	Temp Expired							
15A NCAC 01M 0102		11 19 NCR 1439	Temp Expired							
15A NCAC 01M 0201		11 19 NCR 1439	Temp Expired							
15A NCAC 01M 0202		11 19 NCR 1439	Temp Expired							
15A NCAC 01M 0301		11 19 NCR 1439	Temp Expired							
15A NCAC 01M 0302		11 19 NCR 1439	Temp Expired							
15A NCAC 01M 0303		11 19 NCR 1439	Temp Expired							
15A NCAC 01M 0304		11 19 NCR 1439	Temp Expired							
15A NCAC 01M 0305		11 19 NCR 1439	Temp Expired							
15A NCAC 01M 0306		11 19 NCR 1439	Temp Expired							
15A NCAC 01N 0101	12 08 NCR 614	12 16 NCR 1511	13 04 NCR 362	*						
15A NCAC 01N 0102	12 08 NCR 614	12 16 NCR 1511	13 04 NCR 362	*						
15A NCAC 01N 0103	12 08 NCR 614	12 16 NCR 1511	13 04 NCR 362	S						
15A NCAC 01N 0201	12 08 NCR 614	12 16 NCR 1511	13 04 NCR 362	S						
15A NCAC 01N 0202	12 08 NCR 614	12 16 NCR 1511	13 04 NCR 362	S						
15A NCAC 01N 0203	12 08 NCR 614	12 16 NCR 1511	13 04 NCR 362	S						
15A NCAC 01N 0301	12 08 NCR 614	12 16 NCR 1511	13 04 NCR 362	S						
15A NCAC 01N 0302	12 08 NCR 614	12 16 NCR 1511	13 04 NCR 362	S						
15A NCAC 01N 0303	12 08 NCR 614	12 16 NCR 1511	13 04 NCR 362	S						

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15A NCAC 01N .0304	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0401	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0402	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0403	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0501	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0502	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0503	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0601	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0602	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0603	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0604	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0605	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0606	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0701	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0702	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0703	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0704	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0705	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0801	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0802	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0901	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01N .0902	12.08 NCR 614	12.16 NCR 1511	13.04 NCR 362	S						
15A NCAC 01O .0101	12.16 NCR 1482	12.17 NCR 1617	13.07 NCR 588	*						
15A NCAC 01O .0102	12.16 NCR 1482	12.17 NCR 1617	13.07 NCR 588	*						
15A NCAC 01O .0103	12.16 NCR 1482	12.17 NCR 1617	13.07 NCR 588	*						
15A NCAC 01O .0104	12.16 NCR 1482	12.17 NCR 1617	13.07 NCR 588	*						
15A NCAC 01O .0105	12.16 NCR 1482	12.17 NCR 1617	13.07 NCR 588	*						
15A NCAC 01O .0106	12.16 NCR 1482	12.17 NCR 1617	13.07 NCR 588	*						

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15A NCAC 010 .0107	12.16 NCR 1482	12.17 NCR 1617	13.07 NCR 588	*						
15A NCAC 010 .0108	12.16 NCR 1482	12.17 NCR 1617	13.07 NCR 588	*						
15A NCAC 010 .0109	12.16 NCR 1482	12.17 NCR 1617	13.07 NCR 588	*						
15A NCAC 12B .0901	12.13 NCR 1097	12.03 NCR 209	13.05 NCR 495	L						
Temp Expired										
Coastal Resources Commission										
15A NCAC 07	11.04 NCR 183									
15A NCAC 07H .0208	11.19 NCR 1408		11.27 NCR 2058	*						
15A NCAC 07H .0208	12.21 NCR 1873									
15A NCAC 07H .0209	12.21 NCR 1873									
15A NCAC 07H .0210	12.02 NCR 52									
15A NCAC 07H .0300	13.05 NCR 436									
15A NCAC 07H .0306	11.04 NCR 183		11.11 NCR 907	*						
15A NCAC 07H .0306	12.19 NCR 1763									
15A NCAC 07H .0308	12.16 NCR 1489		13.01 NCR 26	S	Approve	09/17/98	*			
15A NCAC 07H .0310	12.11 NCR 919		12.20 NCR 1828	S	Approve	08/20/98	*			
15A NCAC 07H .1100	12.21 NCR 1873									
15A NCAC 07H .1200	12.21 NCR 1873									
15A NCAC 07H .1300	12.21 NCR 1873									
15A NCAC 07H .1400	12.21 NCR 1873									
15A NCAC 07H .1500	12.21 NCR 1873									
15A NCAC 07H .1600	12.21 NCR 1873									
15A NCAC 07H .1600	11.15 NCR 1200									
15A NCAC 07H .1601	11.15 NCR 1200		11.27 NCR 2071	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 07H .1604	11.15 NCR 1200		11.27 NCR 2071	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 07H .1605	11.15 NCR 1200		11.27 NCR 2071	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 07H .1700	12.21 NCR 1873									
15A NCAC 07H .1705	12.16 NCR 1489		13.01 NCR 26	S	Object	09/17/98				
15A NCAC 07H .1805		13.07 NCR 593								

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15A NCAC 0711 .2100	13:05 NCR 436									
15A NCAC 0711 .2400	13:05 NCR 436									
15A NCAC 071 .0200	12:24 NCR 2202									
15A NCAC 071 .0204		13:07 NCR 593								
15A NCAC 071 .0405	12:24 NCR 2202									
15A NCAC 07K .0203	12:21 NCR 1873									
15A NCAC 07K .0208	12:21 NCR 1873									
15A NCAC 07L .0202	12:21 NCR 1874									
15A NCAC 07L .0203	12:21 NCR 1874									
15A NCAC 07L .0206	12:21 NCR 1874									
15A NCAC 07L .0302	12:21 NCR 1874									
15A NCAC 07L .0304	12:21 NCR 1874									
15A NCAC 07L .0401	12:21 NCR 1874									
15A NCAC 07L .0405	12:21 NCR 1874									
15A NCAC 07M .0300	12:24 NCR 2202									
15A NCAC 07M .0401	13:04 NCR 361									
15A NCAC 07M .0402	13:04 NCR 361									
15A NCAC 07M .0403	13:04 NCR 361									
15A NCAC 07O .0105	13:02 NCR 176		13:06 NCR 551	S						
15A NCAC 07O .0202	13:02 NCR 176		13:06 NCR 551	S						
Environmental Management Commission										
15A NCAC 02	10:24 NCR 3045									
15A NCAC 02	11:04 NCR 183									
15A NCAC 02	11:19 NCR 1408									
15A NCAC 02B .0100	13:08 NCR 621									
15A NCAC 02B .0101	11:24 NCR 1818		11:30 NCR 2303	*						
15A NCAC 02B .0200	13:08 NCR 621									

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15A NCAC 02B 0202	11-24 NCR 1818		11-30 NCR 2303	*						
15A NCAC 02B 0223	11-02 NCR 75									
15A NCAC 02B 0223	11-03 NCR 109									
15A NCAC 02B 0227	10-18 NCR 2400		11-12 NCR 973	*						
15A NCAC 02B 0230	11-24 NCR 1818		11-30 NCR 2303	*						
15A NCAC 02B 0231	11-02 NCR 75		11-10 NCR 824 11-14 NCR 1136	L/SF						
15A NCAC 02B 0233	11-02 NCR 75		11-10 NCR 824	L	Object Approve	01/15/98 02/19/98			12-22 NCR 2012	Pending Leg. Action
		12-02 NCR 77 12-14 NCR 1348 12-20 NCR 1836	11-14 NCR 1136	L						
15A NCAC 02B 0245	12-23 NCR 2088		12-06 NCR 462 13-04 NCR 368	S/L/SF						
15A NCAC 02B 0246	12-23 NCR 2088		13-04 NCR 368	*						
15A NCAC 02B 0247	12-23 NCR 2088		13-04 NCR 368	L/SF						
15A NCAC 02B 0248	12-23 NCR 2088		13-04 NCR 368	*						
15A NCAC 02B 0249	12-23 NCR 2088		13-04 NCR 368	SF						
15A NCAC 02B 0250	12-23 NCR 2088		13-04 NCR 368	L/SF						
15A NCAC 02B 0251	12-23 NCR 2088		13-04 NCR 368	L/SF						
15A NCAC 02B 0308	12-12 NCR 993		12-21 NCR 1879 12-23 NCR 2091 12-19 NCR 1769	*						
15A NCAC 02B 0308	12-14 NCR 1233									
15A NCAC 02B 0308	12-16 NCR 1489		12-19 NCR 1769	*						
15A NCAC 02B 0309	12-14 NCR 1233		12-20 NCR 1825	*						
15A NCAC 02B 0311	12-10 NCR 865		13-04 NCR 368	*						
15A NCAC 02B 0311	12-23 NCR 2088		12-20 NCR 1825	*						
15A NCAC 02B 0313	12-10 NCR 865			*						
15A NCAC 02B 0316	11-26 NCR 1976		12-01 NCR 6	*	Approve	01/15/98	*		12-21 NCR 1886	Extend Com. Period 12-13 NCR 1095 Pending Leg. Action
15A NCAC 02D 0101	12-02 NCR 52									

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15A NCAC 02D .0101	12:16 NCR 1482	N/A	N/A		Approve	04/15/98			13:01 NCR 43	
15A NCAC 02D .0105	N/A									
15A NCAC 02D .0108	11:15 NCR 1200			*						
15A NCAC 02D .0307	11:15 NCR 1200			*						
15A NCAC 02D .0405	12:16 NCR 1482		13:03 NCR 270	*						
15A NCAC 02D .0409	12:16 NCR 1482		13:03 NCR 270	*						
15A NCAC 02D .0410	12:16 NCR 1482		13:03 NCR 270	*						
15A NCAC 02D .0501	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .0501	11:15 NCR 1200									
15A NCAC 02D .0501	11:04 NCR 183									
15A NCAC 02D .0503	10:24 NCR 3045		13:03 NCR 270	*						
15A NCAC 02D .0504	10:24 NCR 3045		13:03 NCR 270	*						
15A NCAC 02D .0518	11:19 NCR 1408									
15A NCAC 02D .0521	11:15 NCR 1200									
15A NCAC 02D .0524	11:15 NCR 1200									
15A NCAC 02D .0524	13:08 NCR 621									
15A NCAC 02D .0525	11:15 NCR 1200									
15A NCAC 02D .0535	10:18 NCR 2317		12:08 NCR 650	*	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 02D .0540	13:04 NCR 356									
15A NCAC 02D .0541	13:08 NCR 621									
15A NCAC 02D .0601	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .0602	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .0604	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .0605	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .0606	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .0607	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .0608	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .0610	10:18 NCR 2318		12:22 NCR 1983	*						

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15A NCAC 02D 0610	11-15 NCR 1200									
15A NCAC 02D 0611	10-18 NCR 2318		12-22 NCR 1983	*						
15A NCAC 02D 0611	11-15 NCR 1200									
15A NCAC 02D 0612	10-18 NCR 2318		12-22 NCR 1983	*						
15A NCAC 02D 0612	11-15 NCR 1200									
15A NCAC 02D 0613	10-18 NCR 2318		12-22 NCR 1983	*						
15A NCAC 02D 0613	11-15 NCR 1200									
15A NCAC 02D 0614	10-18 NCR 2318		12-22 NCR 1983	*						
15A NCAC 02D 0614	11-15 NCR 1200		12-22 NCR 1983	*						
15A NCAC 02D 0615	10-18 NCR 2318									
15A NCAC 02D 0615	11-15 NCR 1200									
15A NCAC 02D 0806	11-26 NCR 1976									
15A NCAC 02D 0902	11-19 NCR 1408									
15A NCAC 02D 0903	10-18 NCR 2318		12-22 NCR 1983	*						
15A NCAC 02D 0903	11-15 NCR 1200									
15A NCAC 02D 0909	11-19 NCR 1408									
15A NCAC 02D 0912	11-15 NCR 1200									
15A NCAC 02D 0917	11-19 NCR 1408									
15A NCAC 02D 0918	11-19 NCR 1408									
15A NCAC 02D 0919	11-19 NCR 1408									
15A NCAC 02D 0920	11-19 NCR 1408									
15A NCAC 02D 0921	11-19 NCR 1408									
15A NCAC 02D 0922	11-19 NCR 1408									
15A NCAC 02D 0923	11-19 NCR 1408									
15A NCAC 02D 0924	11-19 NCR 1408									
15A NCAC 02D 0927	10-18 NCR 2317		12-08 NCR 650	*	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02D 0934	11-19 NCR 1408									
15A NCAC 02D 0948	11-19 NCR 1408									

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					Action	Date				
15A NCAC 02D .0949	11:19 NCR 1408									
15A NCAC 02D .0950	11:19 NCR 1408									
15A NCAC 02D .0951	11:19 NCR 1408									
15A NCAC 02D .0952	12:16 NCR 1482									
15A NCAC 02D .0954	11:15 NCR 1200									
15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1102	11:08 NCR 442		12:08 NCR 650	SE	Approve	04/15/98			13:01 NCR 43	
15A NCAC 02D .1103	11:08 NCR 442		12:08 NCR 650	SE	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 02D .1103	13:04 NCR 356									
15A NCAC 02D .1104	11:08 NCR 442		12:08 NCR 650	SE	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 02D .1104	12:02 NCR 52	12:02 NCR 77								
15A NCAC 02D .1104	13:04 NCR 356									
15A NCAC 02D .1105	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .1105	11:15 NCR 1200									
15A NCAC 02D .1106	11:08 NCR 442		12:08 NCR 650	SE	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 02D .1106	11:26 NCR 1976									
15A NCAC 02D .1201	10:18 NCR 2317		12:08 NCR 650	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 02D .1201	12:16 NCR 1482		13:03 NCR 270	L						
15A NCAC 02D .1202	12:16 NCR 1482		13:03 NCR 270	L						
15A NCAC 02D .1203	11:15 NCR 1200									
15A NCAC 02D .1203	12:16 NCR 1482		13:03 NCR 270	L						
15A NCAC 02D .1204	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .1204	12:16 NCR 1482		13:03 NCR 270	L						
15A NCAC 02D .1205	10:18 NCR 2317		12:08 NCR 650	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 02D .1205	12:16 NCR 1482		13:03 NCR 270	L						
15A NCAC 02D .1206	12:16 NCR 1482		13:03 NCR 270	L						
15A NCAC 02D .1208	12:16 NCR 1482		13:03 NCR 270	L						
15A NCAC 02D .1209	12:16 NCR 1482		13:03 NCR 270	L						

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					Action	Date				
15A NCAC 02D .1404	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .1404	11:15 NCR 1200									
15A NCAC 02D .1501	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .1502	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .1503	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .1504	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .1601	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .1700	12:02 NCR 52									
15A NCAC 02D .1903	12:16 NCR 1482									
15A NCAC 02D .1904	12:16 NCR 1482									
15A NCAC 02D .2001	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .2002	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .2003	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .2004	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .2005	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02D .2100	13:04 NCR 356									
15A NCAC 02D .2200	11:26 NCR 1976									
15A NCAC 02H .0226	12:20 NCR 1817	13:04 NCR 426	13:05 NCR 491	*						
15A NCAC 02H .0610	10:18 NCR 2317		12:08 NCR 650	*	Approve	09/17/98				
15A NCAC 02H .0610	12:02 NCR 52	12:02 NCR 77 Temp Expired 04/11/98								
15A NCAC 02H .0800	13:04 NCR 356									
15A NCAC 02H .0800	13:08 NCR 621									
15A NCAC 02H .1202	11:15 NCR 1200									
15A NCAC 02H .1203	11:15 NCR 1200									
15A NCAC 02H .1204	11:15 NCR 1200									
15A NCAC 02H .1205	11:15 NCR 1200									
15A NCAC 02L	11:15 NCR 1200									
	11:15 NCR 1204									

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					Action	Date				
15A NCAC 02L 0106		10:19 NCR 2508	11:21 NCR 1639	*	Approve	12/18/98	*		12:17 NCR 1620	Pending Leg. Action
15A NCAC 02L 0106		12:08 NCR 713								
15A NCAC 02L 0115	11:15 NCR 1200		11:21 NCR 1639	1.	Object	12/18/97	*		12:22 NCR 2012	Pending Leg. Action
15A NCAC 02L 0115	11:15 NCR 1204	12:08 NCR 713			Approve	02/19/98				
15A NCAC 02L 0202	10:20 NCR 2591									
15A NCAC 02L 0202	13:04 NCR 356									
15A NCAC 02N	11:15 NCR 1200									
15A NCAC 02N	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	Pending Leg. Action
15A NCAC 02N 0707	11:15 NCR 1204	12:08 NCR 713	11:21 NCR 1639	*	Object	12/18/97	*		12:22 NCR 2012	Pending Leg. Action
15A NCAC 02P	11:15 NCR 1200				Approve	12/18/97			12:17 NCR 1620	Pending Leg. Action
15A NCAC 02P 0402	11:15 NCR 1204	10:19 NCR 2512	11:21 NCR 1639	*	Approve	02/19/98	*		12:22 NCR 2012	Pending Leg. Action
15A NCAC 02P 0402	11:15 NCR 1204	12:08 NCR 713			Approve	12/18/97			12:17 NCR 1620	Pending Leg. Action
15A NCAC 02Q 0101	10:18 NCR 2317		12:08 NCR 650	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 02Q 0102	10:18 NCR 2317		12:08 NCR 650	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 02Q 0102			11:06 NCR 350	*						
15A NCAC 02Q 0102	11:19 NCR 1408									
15A NCAC 02Q 0102	12:02 NCR 52		13:03 NCR 270	*						
15A NCAC 02Q 0102	12:16 NCR 1482									
15A NCAC 02Q 0102	13:08 NCR 621									
15A NCAC 02Q 0103	12:16 NCR 1482		13:03 NCR 270	*						
15A NCAC 02Q 0103	12:20 NCR 1817									
15A NCAC 02Q 0107	12:16 NCR 1482		13:03 NCR 270	*						
15A NCAC 02Q 0304	11:26 NCR 1976		13:03 NCR 270	*						
15A NCAC 02Q 0306	11:26 NCR 1976		13:03 NCR 270	*						
15A NCAC 02Q 0309	11:26 NCR 1976		13:03 NCR 270	*						
15A NCAC 02Q 0314	11:26 NCR 1976		13:03 NCR 270	*						
15A NCAC 02Q 0315	12:20 NCR 1817		13:03 NCR 270	*						
15A NCAC 02Q 0301	10:18 NCR 2317		12:08 NCR 650	*	Approve	04/15/98			13:01 NCR 43	

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					Action	Date				
15A NCAC 02Q 0401	12-04 NCR 240		13-03 NCR 270	*						
15A NCAC 02Q 0402	12-04 NCR 240		13-03 NCR 270	*						
15A NCAC 02Q 0501	10-18 NCR 2317		12-08 NCR 650	*	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q 0508	13-08 NCR 621									
15A NCAC 02Q 0511	12-20 NCR 1817		13-03 NCR 270	*						
15A NCAC 02Q 0700	11-08 NCR 442									
15A NCAC 02Q 0701	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q 0702	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q 0703	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q 0703	13-04 NCR 356									
15A NCAC 02Q 0704	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q 0705	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q 0706	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q 0707	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q 0708	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q 0709	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q 0710	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q 0711	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q 0711	13-04 NCR 356									
15A NCAC 02Q 0712	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q 0713	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q 0801	12-02 NCR 52		13-03 NCR 270	*						
15A NCAC 02Q 0803	12-02 NCR 52		13-03 NCR 270	*						
15A NCAC 02Q 0808	12-16 NCR 1482		13-03 NCR 270	*						
15A NCAC 02R 0101	12-02 NCR 52		12-14 NCR 1267	*	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02R 0102	12-02 NCR 52		12-14 NCR 1267	*	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02R 0201	12-02 NCR 52		12-14 NCR 1267	*	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02R 0202	12-02 NCR 52		12-14 NCR 1267	S	Approve	04/15/98	*		13-01 NCR 43	

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					Action	Date				
15A NCAC 02R .0203	12.02 NCR 52		12.14 NCR 1267	S	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0204	12.02 NCR 52		12.14 NCR 1267	S						
15A NCAC 02R .0205	12.02 NCR 52		12.14 NCR 1267	S						
15A NCAC 02R .0301	12.02 NCR 52		12.14 NCR 1267	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0302	12.02 NCR 52		12.14 NCR 1267	S	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0401	12.02 NCR 52		12.14 NCR 1267	S	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0402	12.02 NCR 52		12.14 NCR 1267	S	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0403	12.02 NCR 52		12.14 NCR 1267	S	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0501	12.02 NCR 52		12.14 NCR 1267	S	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0502		11.27 NCR 2075	12.14 NCR 1267	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0503		11.27 NCR 2075	12.14 NCR 1267	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0504		11.27 NCR 2075	12.14 NCR 1267	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02R .0600	12.02 NCR 52									
Health Services, Commission for										
15A NCAC 13A .0100	12.02 NCR 52									
15A NCAC 13A .0109	12.07 NCR 509		12.22 NCR 2000	*	Approve	09/17/98				
15A NCAC 13A .0110	12.07 NCR 509		12.22 NCR 2000	*	Approve	09/17/98				
15A NCAC 13A .0111	12.07 NCR 509		12.22 NCR 2000	*	Approve	09/17/98				
15A NCAC 13B .1301		12.12 NCR 1064	12.24 NCR 2211	*	Approve	09/17/98				
15A NCAC 13B .1624	11.19 NCR 1764	13.03 NCR 325	12.24 NCR 2211	L	Object	09/17/98				
15A NCAC 13B .1627	11.08 NCR 442		11.13 NCR 1055	*						
15A NCAC 13B .1800	11.08 NCR 442									
15A NCAC 13B .1800	11.26 NCR 1976									
15A NCAC 18A	11.04 NCR 183									
15A NCAC 18A .0425		12.14 NCR 1352								
15A NCAC 18A .0432		13.06 NCR 566	13.06 NCR 566	*						
15A NCAC 18A .1601		12.14 NCR 1352	13.06 NCR 566	*						
15A NCAC 18A .1611		13.06 NCR 566	13.06 NCR 566	*						
15A NCAC 18A .1611		12.21 NCR 1882								
15A NCAC 18A .1611		12.21 NCR 1882								

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15A NCAC 18A .1720	12.16 NCR 1482	12.18 NCR 1713 12.21 NCR 1882 12.24 NCR 2228								
15A NCAC 18A .1808	13.08 NCR 621									
15A NCAC 18A .1810										
15A NCAC 18A .1812	13.08 NCR 621									
15A NCAC 18A .2308	12.03 NCR 168									
15A NCAC 18A .2309	12.03 NCR 168		12.07 NCR 519	*	Ext. Review Object	12/18/97 01/15/98				
15A NCAC 18A .2508	12.08 NCR 614		12.07 NCR 519	*	Ext. Review Object	12/18/97 01/15/98				
15A NCAC 18A .2513	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2515	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2517	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2518	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2522	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2526	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2528	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2530	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2531	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2532	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2535	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2537	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2539	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2543	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2600	12.04 NCR 240		13.01 NCR 31	*						
15A NCAC 18A .2612		12.14 NCR 1352 13.06 NCR 566								
15A NCAC 18A .2801	12.16 NCR 1482	12.19 NCR 1782	13.06 NCR 566 13.02 NCR 235	*						
15A NCAC 18A .2802	12.16 NCR 1482	12.19 NCR 1782	13.02 NCR 235	*						
15A NCAC 18A .2803	12.16 NCR 1482	12.19 NCR 1782	13.02 NCR 235	*						
15A NCAC 18A .2804	12.16 NCR 1482	12.19 NCR 1782	13.02 NCR 235	*						

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15A NCAC 18A .2805	12:16 NCR 1482									
15A NCAC 18A .2806	12:16 NCR 1482									
15A NCAC 18A .2807	12:16 NCR 1482									
15A NCAC 18A .2808	12:16 NCR 1482									
15A NCAC 18A .2809	12:16 NCR 1482		13:02 NCR 235	*						
15A NCAC 18A .2810	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2811	12:16 NCR 1482									
15A NCAC 18A .2812	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2813	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2814	12:16 NCR 1482									
15A NCAC 18A .2815	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2816	12:16 NCR 1482									
15A NCAC 18A .2817	12:16 NCR 1482		13:02 NCR 235	*						
15A NCAC 18A .2818	12:16 NCR 1482									
15A NCAC 18A .2819	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2820	12:16 NCR 1482		13:02 NCR 235	*						
15A NCAC 18A .2821	12:16 NCR 1482									
15A NCAC 18A .2822	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2823	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2824	12:16 NCR 1482		13:02 NCR 235	*						
15A NCAC 18A .2825	12:16 NCR 1482		13:02 NCR 235	*						
15A NCAC 18A .2826	12:16 NCR 1482									
15A NCAC 18A .2827	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2828	12:16 NCR 1482		13:02 NCR 235	*						
15A NCAC 18A .2829	12:16 NCR 1482		13:02 NCR 235	*						
15A NCAC 18A .2830	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2831	12:16 NCR 1482	12:19 NCR 1782	13:02 NCR 235	*						
15A NCAC 18A .2832	12:16 NCR 1482		13:02 NCR 235	*						

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15A NCAC 18A .2833	12-16 NCR 1482	12-19 NCR 1782	13-02 NCR 235	*						
15A NCAC 18A .2834	12-16 NCR 1482	12-19 NCR 1782	13-02 NCR 235	*						
15A NCAC 18A .2835	12-16 NCR 1482									
15A NCAC 18A .2836	12-16 NCR 1482									
15A NCAC 18A .3101	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Object	07/23/98	*			
15A NCAC 18A .3102	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Approve	08/20/98				
15A NCAC 18A .3103	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Object	07/23/98	*			
15A NCAC 18A .3104	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Approve	08/20/98				
15A NCAC 18A .3105	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Approve	07/23/98	*			
15A NCAC 18A .3106	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Object	07/23/98	*			
15A NCAC 18A .3107	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Approve	08/20/98				
15A NCAC 18A .3108	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Approve	07/23/98	*			
15A NCAC 18A .3109	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Object	07/23/98	*			
15A NCAC 18A .3110	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Approve	08/20/98				
15A NCAC 18A .3111	12-11 NCR 920	12-12 NCR 1064	12-20 NCR 1829	\$	Object	07/23/98	*			
15A NCAC 18C	13-04 NCR 356				Approve	07/23/98				
15A NCAC 19A .0101	12-02 NCR 52	12-02 NCR 88			Object	07/23/98	*			
15A NCAC 21H .0110	12-20 NCR 1822		13-07 NCR 591	\$	Approve	08/20/98				
15A NCAC 21H .0111	12-20 NCR 1822		13-07 NCR 591	\$	Object	07/23/98	*			
15A NCAC 21H .0113	12-20 NCR 1822		13-07 NCR 591	*	Approve	08/20/98	*			
15A NCAC 26C .0001	11-19 NCR 1408				Approve	07/23/98				
15A NCAC 26C .0002	11-19 NCR 1408				Approve	07/23/98				
15A NCAC 26C .0003	11-19 NCR 1408				Approve	07/23/98				
15A NCAC 26C .0004	11-19 NCR 1408				Approve	07/23/98				
15A NCAC 26C .0005	11-19 NCR 1408				Approve	07/23/98				
15A NCAC 26C .0006	11-19 NCR 1408				Approve	07/23/98				
15A NCAC 26C .0007	11-19 NCR 1408				Approve	07/23/98				

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Land Resources/Land Quality										
15A NCAC 04B .0006	12-20 NCAC 1817									
15A NCAC 04B .0007	12-20 NCAC 1817									
15A NCAC 04B .0027	12-20 NCAC 1817									
Marine Fisheries Commission										
15A NCAC 03	11-11 NCR 881									
15A NCAC 03	11-20 NCR 1537									
15A NCAC 03	11-26 NCR 1985									
15A NCAC 03H .0103	12-23 NCR 2089									
15A NCAC 03I .0101	12-23 NCR 2089		13-03 NCR 303	*						
15A NCAC 03I .0103		13-08 NCR 739								
15A NCAC 03I .0107	12-23 NCR 2089		13-03 NCR 303	*						
15A NCAC 03I .0109	12-23 NCR 2089		13-03 NCR 303	*						
15A NCAC 03I .0202	11-07 NCR 407		11-11 NCR 888	*						
15A NCAC 03I .0202	11-26 NCR 1976	12-12 NCR 1063	12-05 NCR 418	*	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 03I .0102	11-07 NCR 407		12-12 NCR 1002	*	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 03M .0501		13-08 NCR 739	11-11 NCR 888	*						
15A NCAC 03M .0503	12-19 NCR 1762	12-23 NCR 2094	13-03 NCR 303	*						
15A NCAC 03M .0507	12-23 NCR 2089	12-23 NCR 2094	13-03 NCR 303	*						
15A NCAC 03M .0513	11-26 NCR 1976		12-05 NCR 418	*						
15A NCAC 03M .0513	11-26 NCR 1985		12-12 NCR 1002	*	Approve	04/15/98			13-01 NCR 43	
15A NCAC 03M .0515	12-23 NCR 2089		13-03 NCR 303	*						
15A NCAC 03O .0303		12-23 NCR 2094	13-03 NCR 303	*						
15A NCAC 03O .0306		12-19 NCR 1780	13-03 NCR 303	*						
		12-23 NCR 2094	13-03 NCR 303	*						
15A NCAC 03P .0103	12-23 NCR 2089		13-03 NCR 303	*						
15A NCAC 03P .0201	12-23 NCR 2089		13-03 NCR 303	*						
15A NCAC 03P .0202	12-23 NCR 2089		13-03 NCR 303	*						
15A NCAC 03P .0203	12-23 NCR 2089		13-03 NCR 303	*						

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15A NCAC 03P .0301	12.23 NCR 2089		13.03 NCR 303	*						
15A NCAC 03P .0302	12.23 NCR 2089		13.03 NCR 303	*						
15A NCAC 03P .0303	12.23 NCR 2089		13.03 NCR 303	*						
15A NCAC 03P .0304	12.23 NCR 2089		13.03 NCR 303	*						
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	12.13 NCR 1097									
15A NCAC 12B .0106	12.13 NCR 1097									
15A NCAC 12B .0203	12.13 NCR 1097									
15A NCAC 12B .0401	12.13 NCR 1097									
15A NCAC 12B .0402	12.13 NCR 1097									
15A NCAC 12B .0501	12.13 NCR 1097									
15A NCAC 12B .0602	12.13 NCR 1097									
15A NCAC 12B .0701	12.13 NCR 1097									
15A NCAC 12B .0702	12.13 NCR 1097									
15A NCAC 12B .0802	12.13 NCR 1097									
15A NCAC 12B .1001	12.13 NCR 1097									
15A NCAC 12B .1004	12.13 NCR 1097									
15A NCAC 12B .1102	12.13 NCR 1097									
15A NCAC 12B .1201	12.13 NCR 1097									
Radiation Protection										
15A NCAC 11 .0104	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0111	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0117	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0305	12.22 NCR 1979		13.04 NCR 378	*						

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15A NCAC 11 .0317	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0318	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0321	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0323	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0339	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0353	12.22 NCR 1979		13.04 NCR 378	S						
15A NCAC 11 .0359	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0360	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0364	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0362	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0502	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0503	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0506	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0507	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0508	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0509	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0510	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0511	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0512	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0513	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0515	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0516	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0517	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0520	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0521	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0522	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0523	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 .0524	12.22 NCR 1979		13.04 NCR 378	*						

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					Action	Date				
15A NCAC 11 0525	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 0702	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 0703	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 1003	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 1100	12.04 NCR 240									
15A NCAC 11 1400	12.04 NCR 240									
15A NCAC 11 1633	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 1635	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 1647	12.22 NCR 1979		13.04 NCR 378	*						
15A NCAC 11 1653	12.22 NCR 1979		13.04 NCR 378	*						
Soil & Water Conservation										
15A NCAC 061 0105	12.20 NCR 1817		13.01 NCR 25	*						
15A NCAC 061 0107	12.20 NCR 1817		13.08 NCR 688	*						
Water Pollution Control System Operators Certification Commission										
15A NCAC 08A 0101	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08A 0202	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08A 0301	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08A 0302	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08A 0303	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08B 0101	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08B 0102	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08B 0103	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08B 0104	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08B 0105	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08B 0106	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08B 0108	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08B 0109	11.26 NCR 1976		13.02 NCR 204	*						
15A NCAC 08B 0201	11.26 NCR 1976		13.02 NCR 204	*						

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					Action	Date				
15A NCAC 08B .0202	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0203	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0204	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0205	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0207	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0208	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0209	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0210	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0211	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0212	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0213	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0214	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0301	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0302	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0303	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0304	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0402	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0404	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0405	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0406	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0502	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08B .0506	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08C .0002	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08C .0004	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08C .0005	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08C .0006	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08C .0007	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08C .0008	11:26 NCR 1976		13:02 NCR 204	*						

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					Action	Date				
15A NCAC 08D .0002	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08D .0004	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08D .0005	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08D .0006	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08E	11:26 NCR 1976									
15A NCAC 08F	11:26 NCR 1976									
15A NCAC 08G .0101	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0102	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0201	11:26 NCR 1976		13:02 NCR 204	S/L						
15A NCAC 08G .0202	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0203	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0204	11:26 NCR 1976		13:02 NCR 204	S/L						
15A NCAC 08G .0205	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0301	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0302	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0303	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0304	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0305	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0306	11:26 NCR 1976		13:02 NCR 204	S/L						
15A NCAC 08G .0307	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0308	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0401	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0402	11:26 NCR 1976		13:02 NCR 204	S/L						
15A NCAC 08G .0403	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0404	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0405	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0406	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0407	11:26 NCR 1976		13:02 NCR 204	*						

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15A NCAC 08G .0408	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0409	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0501	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0502	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0503	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0504	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0505	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0601	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0602	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0603	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0604	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0701	11:26 NCR 1976		13:02 NCR 204	S/L						
15A NCAC 08G .0801	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0802	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0803	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0804	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0901	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .0902	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .1001	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .1002	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .1101	11:26 NCR 1976		13:02 NCR 204	*						
15A NCAC 08G .1102	11:26 NCR 1976		13:02 NCR 204	*						
Wildlife Resources Commission										
Public Notice - 15A NCAC 10B .0105										
15A NCAC 10B .0100	13:08 NCR 625									
15A NCAC 10B .0105		13:07 NCR 595								
15A NCAC 10B .0113	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98	*		13:01 NCR 43	13:04 NCR 353
15A NCAC 10B .0200	13:08 NCR 625									

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					Action	Date				
15A NCAC 10B .0202	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10B .0203	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10B .0207	12.06 NCR 445	13.01 NCR 427	12.24 NCR 2205	*	Approve	09/17/98	*			
15A NCAC 10B .0209	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10B .0216	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10B .0300	13.08 NCR 625									
15A NCAC 10C .0100	13.08 NCR 625									
15A NCAC 10C .0200	13.08 NCR 625									
15A NCAC 10C .0203	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10C .0205	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10C .0212	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10C .0300	13.08 NCR 625									
15A NCAC 10C .0302	13.01 NCR 3		13.05 NCR 492	*						
15A NCAC 10C .0304	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10C .0305	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10C .0305	13.01 NCR 3		13.05 NCR 492	*						
15A NCAC 10C .0400	13.01 NCR 3									
15A NCAC 10C .0400	13.08 NCR 625									
15A NCAC 10C .0401	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10C .0402	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10C .0404	12.06 NCR 445		12.12 NCR 1004	*						
15A NCAC 10C .0405	13.01 NCR 3		13.05 NCR 492	*						
15A NCAC 10C .0407	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10D	12.18 NCR 1694									
15A NCAC 10D .0002	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10D .0002	13.08 NCR 625									
15A NCAC 10D .0003	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10D .0003	12.18 NCR 1694		12.24 NCR 2205	*						

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15A NCAC 10D .0003	13:08 NCR 625									
15A NCAC 10D .0004	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 10F .0102	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 10F .0103	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 10F .0104	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 10F .0105	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 10F .0109	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 10F .0301	12:19 NCR 1763	12:24 NCR 2224	12:24 NCR 2224	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 10F .0303	12:19 NCR 1763									
15A NCAC 10F .0303	N/A		N/A		Approve	05/21/98			13:02 NCR 249	
15A NCAC 10F .0305	12:10 NCR 865	12:16 NCR 1518	12:16 NCR 1518	*	Approve	07/23/98				
15A NCAC 10F .0310	12:19 NCR 1763	12:24 NCR 2224	12:24 NCR 2224	L						
15A NCAC 10F .0310	13:07 NCR 595									
15A NCAC 10F .0311	12:11 NCR 920	12:24 NCR 2224	12:17 NCR 1608	L	Approve	07/23/98				
15A NCAC 10F .0314	12:19 NCR 1763									
15A NCAC 10F .0317	12:11 NCR 920	12:24 NCR 2224	12:17 NCR 1608	L	Approve	07/23/98				
15A NCAC 10F .0317	13:08 NCR 625									
15A NCAC 10F .0318	12:06 NCR 445									
15A NCAC 10F .0327	12:11 NCR 920	12:24 NCR 2224	12:17 NCR 1608	L	Approve	07/23/98	*			
15A NCAC 10F .0330	13:03 NCR 269	13:07 NCR 595	13:07 NCR 595	S/L						
15A NCAC 10F .0342	13:07 NCR 585									
15A NCAC 10F .0345	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 10F .0347	12:06 NCR 445	12:19 NCR 1781	12:12 NCR 1004	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 10F .0359	12:19 NCR 1763	12:19 NCR 1781								
15A NCAC 10G .0402	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 10G .0403	12:06 NCR 445		12:12 NCR 1004	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 10G .0404	12:06 NCR 445		12:12 NCR 1004	*	Extend Review Object	04/15/98 06/18/98				

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15A NCAC 101.0802 12.06 NCR 445

15A NCAC 101.0810 12.06 NCR 445

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Voting Rights Act

Voting Rights Act

Voting Rights Act

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21 NCAC 12.0204 11.28 NCR 2117

21 NCAC 12.0204 13.06 NCR 568

21 NCAC 12.0503 11.28 NCR 2117

21 NCAC 12.0504 11.28 NCR 2117

21 NCAC 12.0902 11.28 NCR 2117

21 NCAC 12.0905 11.28 NCR 2117

21 NCAC 12.0906 11.28 NCR 2117

21 NCAC 12.0907 11.28 NCR 2117

21 NCAC 12.0908 11.28 NCR 2117

21 NCAC 12.0909 11.28 NCR 2117

21 NCAC 12.0910 11.28 NCR 2117

21 NCAC 12.0911 11.28 NCR 2117

21 NCAC 12.0912 11.28 NCR 2117

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Number 136 - Eff 06/05/98

Number 137 - Eff 08/11/98

Number 138 - Eff 08/25/98

Number 139 - Eff 08/26/98

HEALTH AND HUMAN SERVICES

Aging

Approve 07/23/98

Approve 04/15/98

Approve 04/15/98

Approve

Approve 04/15/98

13.01 NCR 43

13.01 NCR 43

13.02 NCR 173

13.04 NCR 354

13.07 NCR 583

13.01 NCR 43

13.01 NCR 1

13.06 NCR 535

13.07 NCR 581

13.07 NCR 581

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					Action	Date				
10 NCAC 22	10:23 NCR 2956									
Child Day Care Commission										
10 NCAC 03U .0102	12:21 NCR 1873		13:06 NCR 539	*						
10 NCAC 03U .0302	12:08 NCR 617		12:13 NCR 1098	*	Object	03/20/98 04/15/98			13:01 NCR 43	
10 NCAC 03U .0305	12:21 NCR 1873		13:06 NCR 539	*						
10 NCAC 03U .0602	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0604	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0605	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0605	12:08 NCR 710		12:13 NCR 1098	S/L	Approve	03/20/98	*		12:23 NCR 2100	Pending Leg. Action
10 NCAC 03U .0703	12:08 NCR 617		12:13 NCR 1098	*	Approve	03/20/98	*		12:23 NCR 2100	Pending Leg. Action
10 NCAC 03U .0704	12:08 NCR 617		12:13 NCR 1098	*	Object	03/20/98 04/15/98	*		13:01 NCR 43	Pending Leg. Action
10 NCAC 03U .0705	11:14 NCR 1108		11:27 NCR 2054	*	Approve					
10 NCAC 03U .0705	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0707	12:08 NCR 617		12:13 NCR 1098	*	Approve	03/20/98	*		12:23 NCR 2100	Pending Leg. Action
10 NCAC 03U .0708	12:08 NCR 617		12:13 NCR 1098	*	Approve	03/20/98	*		12:23 NCR 2100	Pending Leg. Action
10 NCAC 03U .0710	12:08 NCR 617		12:13 NCR 1098	*	Approve	04/15/98	*		13:01 NCR 43	Pending Leg. Action
10 NCAC 03U .0806	12:08 NCR 617		12:13 NCR 1098	*	Approve	04/15/98	*		13:01 NCR 43	Pending Leg. Action
10 NCAC 03U .0901	11:08 NCR 449		11:17 NCR 1338	*	Object	03/20/98				
10 NCAC 03U .1601	12:21 NCR 1873		13:06 NCR 539	*						
10 NCAC 03U .1602	12:21 NCR 1873		13:06 NCR 539	*						
10 NCAC 03U .1606	12:21 NCR 1873		13:06 NCR 539	*						
10 NCAC 03U .1612	12:21 NCR 1873		13:06 NCR 539	*						
10 NCAC 03U .1701	12:21 NCR 1873		13:06 NCR 539	*						
10 NCAC 03U .1720	12:08 NCR 617		12:13 NCR 1098	*	Object	03/20/98 04/15/98	*		13:01 NCR 43	
10 NCAC 03U .2000	12:21 NCR 1873									
10 NCAC 03U .2500	12:21 NCR 1873									
10 NCAC 03U .2801	12:21 NCR 1873		13:06 NCR 539	S						

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10 NCAC 03U .2802	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2803	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2804	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2805	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2806	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2807	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2808	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2809	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2810	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2811	12.21 NCR 1873		13.06 NCR 539	S						
10 NCAC 03U .2812	12.21 NCR 1873		13.06 NCR 539	S						
Facility Services										
Certificate of Public Advantage (COPA)										
Public Notice - Draft 1999 State Medical Facilities Plan										
Abbreviated Notice of Temporary Rule-Making										
10 NCAC 03R .0214	12.08 NCR 617		13.03 NCR 270	*						13.03 NCR 261
10 NCAC 03R .3000	11.23 NCR 1780									13.02 NCR 171
10 NCAC 03R .3001	10.23 NCR 2956		11.06 NCR 328	S/L/SE						13.06 NCR 536
10 NCAC 03R .3030	10.23 NCR 2956		11.06 NCR 328	S/L/SE						
10 NCAC 03R .3032	10.23 NCR 2956		11.06 NCR 328	S/L/SE						
10 NCAC 03R .3040	10.23 NCR 2956		11.06 NCR 328	S/L/SE						
10 NCAC 03R .3050	10.23 NCR 2956		11.06 NCR 328	S/L/SE						
10 NCAC 03R .3051		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .3053		11.22 NCR 1713								
10 NCAC 03R .3053		12.06 NCR 481								
10 NCAC 03R .3060		12.06 NCR 481								
10 NCAC 03R .3061		12.06 NCR 481								
10 NCAC 03R .3063		12.06 NCR 481								

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10 NCAC 03R .3065		12.06 NCR 481								
10 NCAC 03R .3072		12.06 NCR 481								
10 NCAC 03R .6001	11.22 NCR 1704									
10 NCAC 03R .6101		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6102		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6103		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6104		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6105		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6106		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6107		12.15 NCR 1431	13.02 NCR 178	S/L/SE						
10 NCAC 03R .6108		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6109		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6110		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6111		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6112		12.15 NCR 1431	13.02 NCR 178	S/L/SE						
10 NCAC 03R .6113		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6114		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6115		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6116		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6117		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6118		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6119		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R .6120		12.15 NCR 1431	13.02 NCR 178	S/L/SE						
10 NCAC 03R .6121		12.15 NCR 1431	13.02 NCR 178	S/L/SE						
10 NCAC 03R .6122		12.15 NCR 1431	13.02 NCR 178	S/L/SE						
10 NCAC 03R .6123		12.15 NCR 1431	13.02 NCR 178	S/L/SE						
10 NCAC 03R .6124		12.15 NCR 1431	13.02 NCR 178	S/L/SE						
10 NCAC 03R .6125		12.15 NCR 1431	13.02 NCR 178	*						

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					Action	Date				
10 NCAC 03R 6126		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6127		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6128		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6129		12.15 NCR 1431	13.02 NCR 178	S/I/SI						
10 NCAC 03R 6130		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6131		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6132		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6133		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6134		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6135		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6136		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6137		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6138		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6139		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6140		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03R 6141		12.15 NCR 1431	13.02 NCR 178	*						
10 NCAC 03S 12.24 NCR 2194										
Health Services										
15A NCAC 16A 0101	12.22 NCR 1979		13.02 NCR 234	*						
15A NCAC 16A 0106	12.22 NCR 1979		13.02 NCR 234	*						
15A NCAC 16A 0108	12.22 NCR 1979		13.02 NCR 234	*						
15A NCAC 19C 0206		12.15 NCR 1451	13.05 NCR 496	S						
15A NCAC 24A 0101	12.22 NCR 1979		13.02 NCR 244	*						
15A NCAC 24A 0102	12.22 NCR 1979		13.02 NCR 244	*						
15A NCAC 24A 0302	12.22 NCR 1979		13.02 NCR 244	*						
15A NCAC 24A 0402	12.22 NCR 1979		13.02 NCR 244	*						
15A NCAC 24A 0403	12.22 NCR 1979		13.02 NCR 244	*						
15A NCAC 24A 0404	12.22 NCR 1979		13.02 NCR 244	*						

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Medical Assistance										
10 NCAC 26B .0103	12:18 NCR 1694		13:01 NCR 5	*						
10 NCAC 26D .0110	12:06 NCR 444		12:21 NCR 1875	*						
10 NCAC 26H .0101	11:14 NCR 1108									
10 NCAC 26H .0102	11:14 NCR 1108									
10 NCAC 26H .0102	12:09 NCR 743	12:14 NCR 1341	12:18 NCR 1696	S/L/SE	Approve	07/23/98				
10 NCAC 26H .0211	12:09 NCR 743	12:14 NCR 1341	12:18 NCR 1696	S/L/SE	Approve	07/23/98				
10 NCAC 26H .0212		12:09 NCR 827 Temp Expired 7/31/98 12:13 NCR 733								
10 NCAC 26H .0213		11:26 NCR 1997								
10 NCAC 26H .0213		12:09 NCR 827								
		13:08 NCR 733								
10 NCAC 26H .0304		13:03 NCR 316	13:08 NCR 668	S/L						
10 NCAC 26H .0401	12:08 NCR 618	12:14 NCR 1341	12:21 NCR 1875	S/L	Approve	07/23/98				
10 NCAC 26H .0401		13:02 NCR 248								
10 NCAC 26H .0602		12:04 NCR 313	12:15 NCR 1419	S/L	Approve	04/15/98	*		13:01 NCR 43	
10 NCAC 26I .0101	13:02 NCR 175		13:07 NCR 588	*						
10 NCAC 26K .0106	12:05 NCR 337		12:21 NCR 1875	*						Ext. Com. Period 13:05 NCR 435
10 NCAC 26K .0106	12:06 NCR 444		13:01 NCR 5	*						Ext. Com. Period 13:05 NCR 435
10 NCAC 26M .0201	12:06 NCR 444		13:01 NCR 5	*						
10 NCAC 26M .0202	12:06 NCR 444									
10 NCAC 26M .0203	12:05 NCR 337									
10 NCAC 26M .0203	12:06 NCR 444		13:01 NCR 5	*						Extend. Com. Period 13:05 NCR 435
10 NCAC 26M .0204	12:06 NCR 444		13:01 NCR 5	*						Extend. Com. Period 13:05 NCR 435
10 NCAC 26M .0305	13:02 NCR 175		13:07 NCR 588	*						
10 NCAC 50A .0604	12:06 NCR 444		12:21 NCR 1875	*						Extend. Com. Period 13:05 NCR 435
10 NCAC 50B .0202	12:06 NCR 444		12:21 NCR 1875	*						

Ext Com Period
13:05 NCR 435
Ext Com Period
13:05 NCR 435

Extend Com Period
13:05 NCR 435
Extend Com Period
13:05 NCR 435

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Medical Care Commission										
10 NCAC 50B .0302	13.02 NCR 175									
10 NCAC 50B .0311	13.03 NCR 268									
10 NCAC 50B .0313	13.02 NCR 175									
Mental Health, Developmental Disabilities and Substance Abuse Services										
10 NCAC 03D .1500	11.23 NCR 1779									
10 NCAC 03H .2210	N/A		N/A	N/A	Approve	09/17/98				
10 NCAC 14G .0102		12.12 NCR 1060	12.19 NCR 1766	*	Object	06/18/98	*			
10 NCAC 14V .0800	12.20 NCR 1820									
10 NCAC 14V .3800	12.20 NCR 1820									
10 NCAC 14V .4000	12.20 NCR 1820									
10 NCAC 14V .4301	12.19 NCR 1762			*						
10 NCAC 14V .4302	12.19 NCR 1762			*						
10 NCAC 14V .4303	12.19 NCR 1762			*						
10 NCAC 14V .4304	12.19 NCR 1762			*						
10 NCAC 14V .4305	12.19 NCR 1762			*						
10 NCAC 14V .4306	12.19 NCR 1762			*						
10 NCAC 14V .5000	12.20 NCR 1820									
10 NCAC 45H .0201	N/A	N/A	N/A	N/A	Approve	08/20/98				
10 NCAC 45H .0205	11.19 NCR 1762	12.24 NCR 2223	13.05 NCR 487	*						
Secretary of Health and Human Services										
10 NCAC 14C 11.51	12.20 NCR 1820			*						
10 NCAC 11V .7006		12.01 NCR 31	12.07 NCR 511	*						
10 NCAC 11V .7201	13.05 NCR 436									
10 NCAC 21B .0117		12.17 NCR 1616	12.21 NCR 1875	S	Approve	07/23/98				
10 NCAC 40B .0315		12.18 NCR 1703	13.02 NCR 203	*						
Social Services Commission										
10 NCAC 24A .0508	12.12 NCR 993	12.13 NCR 1180	12.23 NCR 2090	*						

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10 NCAC 29C .0103		13:06 NCR 566									
10 NCAC 30 .0207	12:11 NCR 919	12:14 NCR 1347	12:15 NCR 1420	*	Approve	05/21/98				13:02 NCR 249	
10 NCAC 41A .0107		12:11 NCR 938	12:15 NCR 1420	*	Object	05/21/98	*				
					Approve	07/23/98					
10 NCAC 41E .0401	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0403	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0404	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0405	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0406	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0501	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0502	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0503	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0504	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0505	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0506	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0507	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0508	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0509	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0510	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0511	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0512	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0513	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0514	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0515	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0516	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0517	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0518	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0601	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41E .0602	12:11 NCR 919		13:05 NCR 438	*							

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10 NCAC 41F .0603	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41F .0604	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41F .0605	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41F .0606	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41F .0701	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41F .0702	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41F .0703	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41F .0704	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41F .0707		12.11 NCR 938	12.15 NCR 1420	S	Approve	05/21/98			13.02 NCR 249	
10 NCAC 41F .0813		12.11 NCR 938	12.15 NCR 1420	S	Approve	05/21/98			13.02 NCR 249	
10 NCAC 41G .0501	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0502	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0504	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0505	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0506	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0507	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0508	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0509	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0510	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0511	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0512	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0513	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0601	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0602	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0603	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0604	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0605	12.11 NCR 919		13.05 NCR 438	*						
10 NCAC 41G .0606	12.11 NCR 919		13.05 NCR 438	*						

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10 NCAC 41G .0701	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0702	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0703	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0704	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0705	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0706	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0707	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0708	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0801	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0802	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0803	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0804	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0805	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0806	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0807	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0808	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0809	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .0902	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1001	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1002	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1004	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1005	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1006	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1007	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1008	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1009	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1010	12:11 NCR 919		13:05 NCR 438	*							
10 NCAC 41G .1011	12:11 NCR 919		13:05 NCR 438	*							

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10 NCAC 41G .1012	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1013	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1101	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1102	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1103	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1104	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1105	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1106	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1201	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1202	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1203	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1204	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1205	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1206	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1207	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1208	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1301	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1302	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1303	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1304	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1305	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1306	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1307	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1308	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1309	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 41G .1402	12-11 NCR 919		13-05 NCR 438	*						
10 NCAC 411 .0100	10-17 NCR 2228									
10 NCAC 411 .0102	10-17 NCR 2228		10-21 NCR 2687	*						

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10 NCAC 41R .0101	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41R .0102	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41R .0103	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41R .0104	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41R .0105	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41R .0106	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41R .0107	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0101	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0102	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0201	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0202	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0203	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0204	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0301	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0302	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0303	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0304	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0305	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0306	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0307	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0401	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0402	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0403	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0404	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0405	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0406	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0407	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0501	12:11 NCR 919		13:05 NCR 438	*						

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10 NCAC 41S .0502	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0503	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0504	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0505	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0506	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0601	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0602	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0603	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0604	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0605	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0606	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0607	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0608	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0609	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0610	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0611	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0612	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0613	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0614	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0615	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0701	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0702	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0703	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0704	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0705	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0706	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0707	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0708	12:11 NCR 919		13:05 NCR 438	*						

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10 NCAC 41S .0709	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0710	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0711	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0712	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41S .0713	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0101	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0102	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0103	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0104	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0105	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0106	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0201	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0202	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0203	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0204	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0205	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41T .0206	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 42C .2301	12:22 NCR 1979		13:05 NCR 438	*						
10 NCAC 42C .3401		12:13 NCR 1180	13:02 NCR 200	*						
10 NCAC 42C .3403		12:13 NCR 1180	13:02 NCR 200	*						
10 NCAC 42C .3404		12:13 NCR 1180	13:02 NCR 200	*						
10 NCAC 42C .3601		12:13 NCR 1180	13:02 NCR 200	*						
10 NCAC 42E	13:07 NCR 585									
10 NCAC 42R .0201	12:11 NCR 919	12:13 NCR 1180	12:23 NCR 2090	S/L						
10 NCAC 42S	13:07 NCR 585									
10 NCAC 42Z	13:07 NCR 585									
10 NCAC 47A .0502		12:11 NCR 938	12:15 NCR 1420	*	Approve	05/21/98			13:02 NCR 249	
10 NCAC 47B .0102		12:11 NCR 938	12:15 NCR 1420	*	Object Approve	05/21/98 06/18/98	*			13:03 NCR 334

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					Action	Date				
10 NC AC 47B 0303		12 11 NCR 938	12 15 NCR 1420	*	Approve	05/21/98			13 02 NCR 249	
10 NC AC 47B 0304		12 11 NCR 938	12 15 NCR 1420	*	Approve	05/21/98			13 02 NCR 249	
10 NC AC 47B 0305		12 11 NCR 938	12 15 NCR 1420	*	Approve	05/21/98	*		13 02 NCR 249	
10 NC AC 47B 0403		12 11 NCR 938	12 15 NCR 1420	*	Approve	05/21/98	*		13 02 NCR 249	
10 NC AC 49B 0608	12 20 NCR 1822	13 03 NCR 320	13 06 NCR 549	*						
Vocational Rehabilitation Services										
10 NC AC 20C 0125	12 24 NCR 2202		13 06 NCR 547	S						
10 NC AC 20C 0206	12 24 NCR 2202		13 06 NCR 547	S						
INSURANCE										
11 NC AC 06	12 09 NCR 744									
11 NC AC 12	12 09 NCR 744									
11 NC AC 12 0840	13 01 NCR 2	13 03 NCR 323	13 08 NCR 673	*						
11 NC AC 12 0841	13 01 NCR 2	13 03 NCR 323	13 08 NCR 673	*						
11 NC AC 12 0842	13 01 NCR 2	13 03 NCR 323	13 08 NCR 673	*						
11 NC AC 12 1003	13 01 NCR 2		13 05 NCR 489	*						
11 NC AC 12 1025	13 01 NCR 2		13 05 NCR 489	*						
11 NC AC 12 1026	13 01 NCR 2		13 05 NCR 489	*						
11 NC AC 12 1212	13 01 NCR 2		13 05 NCR 489	*						
11 NC AC 12 1801		12 11 NCR 942	12 15 NCR 1424	*	Approve	04/15/98			13 01 NCR 43	
11 NC AC 12 1802		12 11 NCR 942	12 15 NCR 1424	*	Approve	04/15/98			13 01 NCR 43	
11 NC AC 12 1803		12 11 NCR 942	12 15 NCR 1424	*	Approve	04/15/98	*		13 01 NCR 43	
11 NC AC 12 1804		12 11 NCR 942	12 15 NCR 1424	*	Approve	04/15/98	*		13 01 NCR 43	
11 NC AC 13	12 09 NCR 744									
11 NC AC 14	12 09 NCR 744									
11 NC AC 15	12 09 NCR 744									
11 NC AC 16	12 09 NCR 744									
11 NC AC 17	12 09 NCR 744									
11 NC AC 20	12 09 NCR 744									

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11 NCAC 21	12:09 NCR 744									
North Carolina Manufactured Housing Board										
11 NCAC 8 .0912	13:01 NCR 2		13:05 NCR 488	*						
JUSTICE										
Alarm Systems Licensing Board										
12 NCAC 11	11:30 NCR 2300									
12 NCAC 11 .0204	12:12 NCR 993									
12 NCAC 11 .0210	12:08 NCR 618		12:20 NCR 1823	*						
12 NCAC 11 .0501	11:30 NCR 2300		12:20 NCR 1823	*	Object	09/17/98				
12 NCAC 11 .0502	11:30 NCR 2300		12:20 NCR 1823	*	Object	09/17/98				
12 NCAC 11 .0503	11:30 NCR 2300		12:20 NCR 1823	*	Approve	09/17/98				
12 NCAC 11 .0504	11:30 NCR 2300		12:20 NCR 1823	*	Object	09/17/98				
12 NCAC 11 .0505	11:30 NCR 2300		12:20 NCR 1823	*	Object	09/17/98				
12 NCAC 11 .0506	11:30 NCR 2300		12:20 NCR 1823	*	Approve	09/17/98				
12 NCAC 11 .0507	11:30 NCR 2300		12:20 NCR 1823	*	Approve	09/17/98				
Criminal Justice Education and Training Standards Commission										
12 NCAC 09A .0103	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0101	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0210	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0211	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0212	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0213	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0214	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0215	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0218	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0219	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0220	12:21 NCR 1873		13:01 NCR 6	*						
12 NCAC 09B .0221	12:21 NCR 1873		13:01 NCR 6	*						

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12 NCAC 09B .0222	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09B .0301	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09B .0309	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09B .0310	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09B .0311	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09B .0404	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09B .0408	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09B .0409	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09B .0414	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09B .0416	12.21 NCR 1873		13.01 NCR 6	*						
12 NCAC 09C .0308	12.21 NCR 1873		13.01 NCR 6	*						
Private Protective Services Board										
12 NCAC 07D .0204	11.14 NCR 1108		12.08 NCR 622	*	Object	03/20/98			13.03 NCR 334	
12 NCAC 07D .1106	11.14 NCR 1108		12.08 NCR 622	*	Approve	06/18/98	*			
12 NCAC 07D .1201	11.10 NCR 818		12.14 NCR 1263	*	Object	03/20/98			13.03 NCR 334	
12 NCAC 07D .1202	11.10 NCR 818		12.14 NCR 1263	*	Approve	06/18/98	*			
12 NCAC 07D .1301	11.16 NCR 1268		12.14 NCR 1263	*						
12 NCAC 07D .1302	11.16 NCR 1268		12.14 NCR 1263	*						
12 NCAC 07D .1303	11.16 NCR 1268		12.14 NCR 1263	*						
12 NCAC 07D .1304	11.16 NCR 1268		12.14 NCR 1263	*						
12 NCAC 07D .1305	11.16 NCR 1268		12.14 NCR 1263	*						
12 NCAC 07D .1306	11.16 NCR 1268		12.14 NCR 1263	*						
12 NCAC 07D .1307	11.16 NCR 1268		12.14 NCR 1263	*						
Sheriffs' Education and Training Standards Commission										
12 NCAC 10B .0206	12.07 NCR 508	12.18 NCR 1703	12.18 NCR 1703	*	Approve	06/18/98			13.03 NCR 334	
12 NCAC 10B .1103	12.07 NCR 508	12.18 NCR 1703	12.08 NCR 624							
12 NCAC 10B .1104	12.07 NCR 508	12.18 NCR 1703	12.08 NCR 624							

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13 NCAC 13 .0406	13-03 NCR 269		13-08 NCR 685	*						
13 NCAC 13 .0409	13-03 NCR 269		13-08 NCR 685	*						
Occupational Safety and Health										
13 NCAC 07A .0900	11-11 NCR 881									
13 NCAC 07F	11-03 NCR 106									
13 NCAC 07F	13-02 NCR 176									
13 NCAC 07F .0201	11-03 NCR 106									
13 NCAC 07F .0301	11-03 NCR 106									
Retaliatory Employment Discrimination										
13 NCAC 19 .0101	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0102	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0201	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0301	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0302	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0401	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0402	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0501	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0502	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0601	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0602	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0603	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0604	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0605	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0701	13-03 NCR 268		13-08 NCR 686	*						
13 NCAC 19 .0702	13-03 NCR 268		13-08 NCR 686	*						
Wage and Hour Division										
13 NCAC 12 .0101	13-03 NCR 268		13-08 NCR 676	*						

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13 NCAC 12 .0104	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0303	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0304	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0305	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0306	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0307	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0308	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0309	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0310	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0501	13.03 NCR 268									
13 NCAC 12 .0502	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0602	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0603	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0604	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0605	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0701	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0702	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0801	13.03 NCR 268									
13 NCAC 12 .0802	13.03 NCR 268									
13 NCAC 12 .0803	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0804	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0805	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0806	13.03 NCR 268		13.08 NCR 676	*						
13 NCAC 12 .0807	13.03 NCR 268		13.08 NCR 676	*						

LANDSCAPE ARCHITECTS, BOARD OF

21 NCAC 26 .0104	12.08 NCR 730
21 NCAC 26 .0105	12.08 NCR 730
21 NCAC 26 .0302	12.08 NCR 730

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21 NCAC 26 .0506		12:08 NCR 730								
21 NCAC 26 .0507		12:08 NCR 730								
21 NCAC 26 .0508		12:08 NCR 730								
21 NCAC 26 .0509		12:08 NCR 730								
MEDICAL BOARD										
21 NCAC 32	13:06 NCR 538									
21 NCAC 32B	11:18 NCR 1369									
21 NCAC 32B	12:04 NCR 245									
21 NCAC 32F .0003		11:18 NCR 1386 Temp Expired 12:14 NCR 1354	12:04 NCR 294	*						
21 NCAC 32F .0003			12:21 NCR 1881 13:08 NCR 709	*						
21 NCAC 32H .0402		12:04 NCR 314		*						
21 NCAC 32M .0001	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0002	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0003	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0004	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0005	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0006	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0007	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0008	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0009	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0010	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0011	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0012	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32M .0015	12:19 NCR 1765		13:08 NCR 709	*						
21 NCAC 32O .0001	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32O .0002	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32O .0003	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32O .0004	11:18 NCR 1369		13:08 NCR 709	*						

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					Action	Date				
21 NCAC 320 .0005	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0006	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0007	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0008	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0009	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0010	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0011	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0012	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0013	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0014	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0015	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0016	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0017	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0018	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0019	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0020	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 320 .0021	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 32R .0001	12 19 NCR 1765		13 08 NCR 709	*						
21 NCAC 32R .0002	12 19 NCR 1765		13 08 NCR 709	*						
21 NCAC 32R .0003	12 19 NCR 1765		13 08 NCR 709	*						
21 NCAC 32R .0004	12 19 NCR 1765		13 08 NCR 709	*						
21 NCAC 32S .0001	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 32S .0002	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 32S .0003	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 32S .0004	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 32S .0005	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 32S .0006	11 18 NCR 1369		13 08 NCR 709	*						
21 NCAC 32S .0007	11 18 NCR 1369		13 08 NCR 709	*						

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21 NCAC 32S .0008	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0009	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0010	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0011	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0012	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0013	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0014	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0015	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0016	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0017	11:18 NCR 1369		13:08 NCR 709	*						
21 NCAC 32S .0018	11:18 NCR 1369		13:08 NCR 709	*						
MORTUARY SCIENCE, BOARD OF										
21 NCAC 34A .0201		12.07 NCR 556								
21 NCAC 34C	12:09 NCR 745									
MUNICIPAL INCORPORATIONS PETITION										
NURSING, BOARD OF										
21 NCAC 36 .0227	12:05 NCR 338		13:08 NCR 725	*						
OPTICIANS, BOARD OF										
21 NCAC 40 .0108		12.07 NCR 557								
OPTOMETRY, BOARD OF										
21 NCAC 42	12:06 NCR 453									
21 NCAC 42E .0102		12:06 NCR 487	12:12 NCR 1058	*	Approve	04/15/98			13:01 NCR 43	
PHARMACY, BOARD OF										
21 NCAC 46 .1317	13:01 NCR 3		13:06 NCR 559	*						
21 NCAC 46 .1414	N/A	N/A	N/A		Approve	04/15/98			13:01 NCR 43	
21 NCAC 46 .1414	12:24 NCR 2203		13:06 NCR 559	*						
21 NCAC 46 .1601	12:03 NCR 168		12:07 NCR 527	*						
			12:09 NCR 797	*	Approve	03/20/98			12.23 NCR 2100	Pending Leg. Action

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					Action	Date				
21 NCAC 46 1601	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 1606	13:01 NCR 3		13:06 NCR 559	*						
21 NCAC 46 1608	12:24 NCR 2203									
21 NCAC 46 1609	12:24 NCR 2203									
21 NCAC 46 1612	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 1703	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 1706	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 1804	12:03 NCR 168		12:07 NCR 527	*						
			12:09 NCR 797	*						
			13:02 NCR 246	SE						
			13:04 NCR 419	*	State Budget	03/20/98				
21 NCAC 46 1809	12:24 NCR 2203		N/A							
21 NCAC 46 1813	N/A	N/A	N/A		Approve	04/15/98			13:01 NCR 43	
21 NCAC 46 1814	13:01 NCR 3		13:06 NCR 559	*						
21 NCAC 46 2103	12:03 NCR 168		12:07 NCR 527	*						
			12:09 NCR 797	*						
21 NCAC 46 2301	12:03 NCR 168		12:07 NCR 527	*						
			12:09 NCR 797	*						
21 NCAC 46 2304	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 2306	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 2502	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 2506	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 2604	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 2609	12:24 NCR 2203		13:04 NCR 419	*						
21 NCAC 46 2611	N/A	N/A	N/A		Approve	04/15/98			13:01 NCR 43	
21 NCAC 46 2611	12:24 NCR 2203		13:04 NCR 419	*						
PHYSICAL THERAPY EXAMINERS										
21 NCAC 48A 0103	12:08 NCR 619		12:13 NCR 1150	*	Object	03/20/98				
					Approve	04/15/98	*		13:01 NCR 43	
21 NCAC 48A 0105	12:08 NCR 619		12:13 NCR 1150	*	Object	03/20/98				
					Approve	04/15/98	*		13:01 NCR 43	
21 NCAC 48C 0401	12:08 NCR 619		12:13 NCR 1150	*	Object	03/20/98				

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21 NCAC 48D .0102	12.08 NCR 619		12.13 NCR 1150	*	Approve Object	04/15/98 03/20/98	*		13.01 NCR 43	
21 NCAC 48D .0105	12.08 NCR 619		12.13 NCR 1150	*	Approve Object	04/15/98 03/20/98	*		13.01 NCR 43	
21 NCAC 48D .0112	12.08 NCR 619		12.13 NCR 1150	*	Approve Object	04/15/98 03/20/98	*		13.01 NCR 43	
21 NCAC 48F .0102	12.08 NCR 619		12.13 NCR 1150	*	Approve Object	04/15/98 03/20/98	*		13.01 NCR 43	
21 NCAC 48G .0203	12.08 NCR 619		12.13 NCR 1150	*	Approve Object	04/15/98 03/20/98	*		13.01 NCR 43	
21 NCAC 48G .0404	12.08 NCR 619		12.13 NCR 1150	*	Approve Object	04/15/98 03/20/98	*		13.01 NCR 43	
21 NCAC 48G .0601	12.08 NCR 619		12.13 NCR 1150	*	Approve Object	04/15/98 03/20/98	*		13.01 NCR 43	
PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, EXAMINERS OF										
21 NCAC 50 .0106	12.07 NCR 509									
21 NCAC 50 .0202	12.07 NCR 509									
21 NCAC 50 .0301	12.07 NCR 509	12.07 NCR 557	12.16 NCR 1490	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 50 .0306	12.07 NCR 509	12.07 NCR 557	12.16 NCR 1490	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 50 .0404	12.07 NCR 509	12.07 NCR 557	12.16 NCR 1490	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 50 .0405	12.07 NCR 509		12.16 NCR 1490	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 50 .0506	12.07 NCR 509	12.07 NCR 557								
21 NCAC 50 .0510	12.07 NCR 509		12.16 NCR 1490	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 50 .0511	12.07 NCR 509	12.07 NCR 557	12.16 NCR 1490	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 50 .1102	12.07 NCR 509	12.07 NCR 557	12.16 NCR 1490	S	Approve	04/15/98			13.01 NCR 43	
21 NCAC 50 .1104	12.07 NCR 509		12.16 NCR 1490	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 50 .1201	12.07 NCR 509									
21 NCAC 50 .1205	12.07 NCR 509									
21 NCAC 50 .1206	12.07 NCR 509									
21 NCAC 50 .1210	12.07 NCR 509									
21 NCAC 50 .1212	12.07 NCR 509									
21 NCAC 50 .1302	12.07 NCR 509									

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PROFESSIONAL ENGINEERS AND LAND SURVEYORS										
21 NC AC 56.0103	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0104	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NC AC 56.0401	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0403	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0404	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NC AC 56.0405	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NC AC 56.0501	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0502	12-08 NCR 619		12-16 NCR 1492	S	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0503	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0505	12-08 NCR 619		12-16 NCR 1492	S	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0601	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0602	12-08 NCR 619		12-16 NCR 1492	S	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0603	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0606	12-08 NCR 619		12-16 NCR 1492	S	Approve	04/15/98			13-01 NCR 43	
21 NC AC 56.0701	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0702	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NC AC 56.0901	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.0902	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NC AC 56.1102	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.1103	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NC AC 56.1104	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.1105	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.1106	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NC AC 56.1201	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.1203	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.1205	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NC AC 56.1301	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	

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21 NCAC 56 .1302	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1403	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 56 .1409	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1411	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1602	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1603	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1604	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 56 .1703	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1704	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1705	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1711	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	

PSYCHOLOGY BOARD

21 NCAC 54 .1611	12-05 NCR 338									
21 NCAC 54 .1612	12-05 NCR 338									
21 NCAC 54 .1613	12-05 NCR 338									
21 NCAC 54 .2006	12-05 NCR 338									
21 NCAC 54 .2010	12-05 NCR 338									
21 NCAC 54 .2104	12-05 NCR 338									
21 NCAC 54 .2301	12-05 NCR 338									
21 NCAC 54 .2302	12-05 NCR 338									
21 NCAC 54 .2303	12-05 NCR 338									
21 NCAC 54 .2304	12-05 NCR 338									
21 NCAC 54 .2305	12-05 NCR 338									
21 NCAC 54 .2306	12-05 NCR 338									
21 NCAC 54 .2307	12-05 NCR 338									
21 NCAC 54 .2308	12-05 NCR 338									
21 NCAC 54 .2309	12-05 NCR 338									
21 NCAC 54 .2310	12-05 NCR 338									

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21 NCAC 54 .2311	12.05 NCR 338									
21 NCAC 54 .2312	12.05 NCR 338									
21 NCAC 54 .2313	12.05 NCR 338									
21 NCAC 54 .2314	12.05 NCR 338									
21 NCAC 54 .2401	12.05 NCR 338									
21 NCAC 54 .2402	12.05 NCR 338									
21 NCAC 54 .2501	12.05 NCR 338									
21 NCAC 54 .2502	12.05 NCR 338									
21 NCAC 54 .2503	12.05 NCR 338									
21 NCAC 54 .2504	12.05 NCR 338									
21 NCAC 54 .2505	12.05 NCR 338									
21 NCAC 54 .2601	12.05 NCR 338									
21 NCAC 54 .2602	12.05 NCR 338									
21 NCAC 54 .2704	12.05 NCR 338									
21 NCAC 54 .2705	12.05 NCR 338									
21 NCAC 54 .2706	12.05 NCR 338									
PUBLIC EDUCATION										
16 NCAC 06C .0310		12.03 NCR 210	12.01 NCR 18	*						
16 NCAC 06C .0502		12.09 NCR 834	12.19 NCR 1773	N/A	Approve	08/20/98				
16 NCAC 06C .0602			12.12 NCR 1050	*	Object	03/20/98				
					Approve	04/15/98	*		13.01 NCR 43	
16 NCAC 06D .0103		12.22 NCR 2010	12.19 NCR 1773	N/A	Approve	08/20/98	*			
16 NCAC 06E .0105		12.05 NCR 433								
16 NCAC 06E .0301		13.05 NCR 523								
16 NCAC 06G .0305			12.19 NCR 1773	N/A	Approve	08/20/98	*			
16 NCAC 06G .0310			12.19 NCR 1773	N/A	Approve	08/20/98	*			
16 NCAC 06G .0311		12.22 NCR 2010								
16 NCAC 06G .0501		12.12 NCR 1071	12.19 NCR 1773	N/A	Approve	08/20/98				

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					Action	Date				
Public School Administration, Standards Board for										
16 NCAC 07 .0202		12.07 NCR 533	12.12 NCR 1052	*	Approve	04/15/98	*		13.01 NCR 43	
REAL ESTATE COMMISSION										
21 NCAC 58A .0101	N/A	N/A	N/A	N/A	Approve	08/20/98				
REVENUE										
17 NCAC 04B .0102	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0104	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0105	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0106	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0107	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0301	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0302	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0306	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0308	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0309	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0310	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0311	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0312	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0403	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .0405	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .2902	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .4301	N/A		13.08 NCR 690	N/A						
17 NCAC 04B .4302	N/A		13.08 NCR 690	N/A						
17 NCAC 04D .0204			13.05 NCR 496	S/SE						
17 NCAC 04D .0303			13.05 NCR 496	S/SE						
17 NCAC 04D .0305			13.05 NCR 496	S/SE						
17 NCAC 04D .0401			13.05 NCR 496	S/SE						
17 NCAC 04D .0402			13.05 NCR 496	S/SE						

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					Action	Date				
17 NCAC 04D 0501			13:05 NCR 496	S/SE						
17 NCAC 04D 0505			13:05 NCR 496	S/SE						
17 NCAC 04D 0506			13:05 NCR 496	S/SE						
17 NCAC 04D 0508			13:05 NCR 496	S/SE						
17 NCAC 04D 0610			13:05 NCR 496	S/SE						
17 NCAC 04D 0901			13:05 NCR 496	S/SE						
17 NCAC 04D 0902			13:05 NCR 496	S/SE						
17 NCAC 04D 0903			13:05 NCR 496	S/SE						
17 NCAC 04D 0907			13:05 NCR 496	S/SE						
17 NCAC 04D 0908			13:05 NCR 496	S/SE						
17 NCAC 04D 1001			13:05 NCR 496	S/SE						
17 NCAC 04D 1003			13:05 NCR 496	S/SE						
17 NCAC 04E 0102	N/A		13:08 NCR 690	N/A						
17 NCAC 04E 0103	N/A		13:08 NCR 690	N/A						
17 NCAC 04E 0201	N/A		13:08 NCR 690	N/A						
17 NCAC 04E 0202	N/A		13:08 NCR 690	N/A						
17 NCAC 04E 0203	N/A		13:08 NCR 690	N/A						
17 NCAC 04E 0302	N/A		13:08 NCR 690	N/A						
17 NCAC 04E 0703	N/A		13:08 NCR 690	N/A						
17 NCAC 04E 0805	N/A		13:08 NCR 690	N/A						
17 NCAC 05B 1304	N/A	N/A	N/A	N/A	Approve	09/17/98				
17 NCAC 05B 1402	N/A	N/A	N/A	N/A	Approve	04/15/98			13:01 NCR 43	
17 NCAC 05B 1703	N/A	N/A	N/A	N/A	Approve	04/15/98			13:01 NCR 43	
17 NCAC 05C 0102			12:14 NCR 1285	*						
17 NCAC 05C 0703			12:14 NCR 1285	*						
17 NCAC 06B 0105	N/A		13:08 NCR 694	N/A						
17 NCAC 06B 3204			12:17 NCR 1610	*	Approve	06/18/98				13:03 NCR 334
17 NCAC 07B 0124	N/A		13:08 NCR 695	N/A						

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					Action	Date				
17 NCAC 07B .0125	N/A		13-08 NCR 695	N/A						
17 NCAC 07B .5401	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5402	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5403	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5404	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5405	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5406	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5408	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5409	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5410	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5411	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5412	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5414	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5415	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5416	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5417	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5418	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5419	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5420	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5421	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5422	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5423	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5424	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5428	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5429	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5430	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5431	N/A		13-06 NCR 552	N/A						
17 NCAC 07B .5432	N/A		13-06 NCR 552	N/A						

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					Action	Date				
17 NCAC 07B .5433	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5434	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5435	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5438	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5440	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5442	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5443	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5444	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5447	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5448	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5449	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5450	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5451	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5452	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5453	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5454	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5455	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5456	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5457	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5458	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5460	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5461	N/A		13.06 NCR 552	N/A						
17 NCAC 07B .5463	N/A		13.06 NCR 552	N/A						
17 NCAC 09K .0601	N/A		13.08 NCR 695	N/A						
17 NCAC 09L .0302			12.17 NCR 1610	*	Approve	06/18/98			13.03 NCR 334	13.03 NCR 262
Fax Review Board										
SECRETARY OF STATE										
18 NCAC 06 .1104		12.07 NCR 534	12.14 NCR 1312	*	Object	03/20/98				
					Approve	04/15/98	*		13.01 NCR 43	

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SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGIST, BOARD OF EXAMINERS

STATE PERSONNEL COMMISSION

25 NCAC 01B .0354	13-05 NCR 436
25 NCAC 01B .0437	13-05 NCR 436
25 NCAC 01D .2516	
25 NCAC 01D .2517	
25 NCAC 01H .0602	13-05 NCR 436
25 NCAC 01H .0605	13-05 NCR 436
25 NCAC 01H .0606	13-05 NCR 436
25 NCAC 01J .0503	13-05 NCR 436
25 NCAC 01J .0512	13-05 NCR 436

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					Action	Date				
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25 NCAC 01J .0603	13 05 NCR 436									
21 NCAC 68	12 09 NCR 745									
21 NCAC 68 .0101		12 11 NCR 944	12 15 NCR 1426	S/L	Approve	04/15/98	*		13 01 NCR 43	
21 NCAC 68 .0102	N/A	N/A	N/A		Approve	04/15/98			13 01 NCR 43	
21 NCAC 68 .0301		12 11 NCR 944	12 15 NCR 1426	S/L	Approve	04/15/98	*		13 01 NCR 43	
21 NCAC 68 .0302		12 11 NCR 944	12 15 NCR 1426	S/L	Approve	04/15/98			13 01 NCR 43	
21 NCAC 68 .0303		12 11 NCR 944	12 15 NCR 1426	S/L	Approve	04/15/98	*		13 01 NCR 43	
21 NCAC 68 .0304		12 11 NCR 944	12 15 NCR 1426	S/L	Approve	04/15/98			13 01 NCR 43	
21 NCAC 68 .0305		12 11 NCR 944	12 15 NCR 1426	S/L	Object	04/15/98			13 02 NCR 249	
21 NCAC 68 .0306		12 11 NCR 944	12 15 NCR 1426	S/L	Approve	05/21/98	*		13 01 NCR 43	
21 NCAC 68 .0307		12 11 NCR 944	12 15 NCR 1426	S/L	Approve	04/15/98			13 01 NCR 43	
21 NCAC 68 .0602	12 09 NCR 745	12 11 NCR 944	12 15 NCR 1426	S/L	Approve	04/15/98			13 01 NCR 43	
21 NCAC 68 .0603	12 09 NCR 745		12 15 NCR 1426	S/L	Approve	04/15/98	*		13 01 NCR 43	
21 NCAC 68 .0608	12 09 NCR 745		12 15 NCR 1426	S/L	Approve	04/15/98			13 01 NCR 43	
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Highways, Division of										
19A NCAC 02D .0406	12 22 NCR 1980		13 05 NCR 501	*						
19A NCAC 02D .0415	12 18 NCR 1694		12 24 NCR 2219	*	Approve	09/17/98				
19A NCAC 02D .0415	13 08 NCR 626									
19A NCAC 02D .0816	12 19 NCR 1764		13 01 NCR 41	*	Object	09/17/98				
19A NCAC 02E .0221	13 04 NCR 361									
19A NCAC 02E .0222	13 04 NCR 361									
Motor Vehicles, Division of										
19A NCAC 03I .0100	11 19 NCR 1413									
19A NCAC 03I .0200	11 19 NCR 1413									
19A NCAC 03I .0202	12 18 NCR 1695		12 24 NCR 2220	*	Approve	08/20/98	*			
19A NCAC 03I .0203	12 18 NCR 1695		12 24 NCR 2220	*	Approve	08/20/98	*			

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					Action	Date				
19A NCAC 031 .0300	11:19 NCR 1413									
19A NCAC 031 .0400	11:19 NCR 1413									
19A NCAC 031 .0500	11:19 NCR 1413									
19A NCAC 031 .0501	12:18 NCR 1695			*	Approve	08/20/98	*			
19A NCAC 031 .0502	12:18 NCR 1695		12:24 NCR 2220	*	Approve	08/20/98	*			
19A NCAC 031 .0503	12:18 NCR 1695		12:24 NCR 2220	*	Approve	08/20/98	*			
19A NCAC 031 .0600	11:19 NCR 1413									
19A NCAC 031 .0700	11:19 NCR 1413									
19A NCAC 031 .0800	11:19 NCR 1413									
Rail Division										
19A NCAC 06B .0401	12:22 NCR 1981		13:06 NCR 557	*						
19A NCAC 06B .0404	12:22 NCR 1981		13:06 NCR 557	*						
19A NCAC 06B .0405	12:22 NCR 1981		13:06 NCR 557	*						
19A NCAC 06B .0409	12:22 NCR 1981		13:06 NCR 557	*						
19A NCAC 06B .0410	12:22 NCR 1981		13:06 NCR 557	*						
19A NCAC 06B .0412	12:22 NCR 1981		13:06 NCR 557	*						
19A NCAC 06B .0413	12:22 NCR 1981		13:06 NCR 557	*						
19A NCAC 06B .0414	12:22 NCR 1981		13:06 NCR 557	*						
19A NCAC 06B .0417	12:22 NCR 1981		13:06 NCR 557	*						
19A NCAC 06B .0418	12:22 NCR 1981		13:06 NCR 557	*						

VETERINARY MEDICAL BOARD

21 NCAC 66 .0207	12:23 NCR 2089
21 NCAC 66 .0208	12:23 NCR 2089

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